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TRULSTEE COUNCIL  
MTG. TRANSCRIPT

11 DECEMBER 1992

**EXXON VALDEZ OIL SPILL SETTLEMENT  
TRUSTEE COUNCIL**

RESTORATION OFFICE  
Simpson Building  
645 G Street  
Anchorage, Alaska

December 11, 1992  
8:00 a.m.

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EXXON VALDEZ OIL SPILL  
TRUSTEE COUNCIL  
ADMINISTRATIVE RECORD

**TRUSTEE COUNCIL MEMBERS in attendance:**

State of Alaska	<b>MR. CHARLES COLE</b> Attorney General
State of Alaska Department of Environmental Conservation	<b>MR. JOHN SANDOR</b> Commissioner
United States Department of the Interior	<b>MR. CURTIS McVEE</b> Special Assistant to the Secretary
State Department of Fish and Game	<b>MR. CARL ROSIER</b> Commissioner
United States Department of Agriculture - Forest Service	<b>MR. MIKE BARTON</b> Regional Forester
United States Department of Commerce - NOAA	<b>MR. STEVE PENNOYER</b> Director, Alaska Region

**RESTORATION TEAM in attendance**

DAVE GIBBONS	Interim Administrative Director, Trustees Council
PAMELA BERGMAN	Regional Environmental Assistant, United States Department of the Interior
MARK BRODERSEN	Restoration Chief, Alaska Department of Environmental Conservation
JEROME MONTAGUE	Director, Oil Spill Impact Assessment & Restoration Division, Alaska Department of Fish and Game
BYRON MORRIS	Chief, Office of Oil Spill Damage Assessment and Restoration, United States Department of Commerce - NOAA

KEN RICE Deputy Natural Resource Manager, United States  
Department of Agriculture - Forest Service

MARTY RUTHERFORD Assistant Commissioner of EVOS, Alaska  
Department of Natural Resources

**PUBLIC ADVISORY GROUP MEMBERS in attendance:**

DOUGLAS MUTTER Department of the Interior  
Designated Federal Officer

BRAD PHILLIPS Chairman

PAMELA BRODIE

KIM BENTON (substituting for JOHN STURGEON)

CHARLES TOTEMOFF

**OTHERS IN ATTENDANCE**

COMMANDER DENNIS MCGUIRE, United States Coast Guard  
DR. SULLIVAN  
JOHN STRAND  
VIRGINIA GILBERT  
ARTHUR WEINER, Ph.D.  
ALAN H. MEINERS  
MARIA LISOWSKI, Junior Counsel, U.S. Department of Agriculture  
RICK STEINER  
ANNE WIELAND  
CHIP TREINEN  
PHILLIP BRUDIE  
MARY MCBURNEY  
JEROME SELBY  
JIM BURKHOLDER  
PAM MILLER

**VIA TELECONFERENCE**

KARL BECKER  
JEANNINE BULLER  
CHIP THOMA  
ROBERT ARCHIBALD  
NANCY HILLSTRAND  
LARRY MALLOY  
CRAIG PETRICH  
EVELYN BIGGS  
JEFF GUARD



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1 that the Trustee Council and the members of the public could have  
2 that. So, let's add that as item, right after four.

3 UNIDENTIFIED VOICE: (Inaudible.)

4 MR. SANDOR: Okay. Any other proposed changes to the  
5 agenda? (No audible response.) Without objection then, the agenda  
6 is approved.

7 I guess I'd ask at this time, Dr. Gibbons, if you have any  
8 preliminary remarks you'd want to make on items that might carry  
9 over before we begin the formal items of the agenda. Any comments  
10 you want to make?

11 DR. GIBBONS: Not at this time.

12 MR. SANDOR: Let's proceed then with item number one,  
13 the Coast Guard report on the Exxon response costs. Commander  
14 Dennis McGuire is going to be giving this report. Good morning.

15 CDR. MCGUIRE: Good morning. We really appreciate the  
16 opportunity to be here. We're starting to find that there's a  
17 number of issues that the FOSC and the Trustee Council occasionally  
18 find ourselves both jointly interested in, and the major one, to  
19 date, has been our financial review. And, we are very careful to  
20 use the term "financial review" that we did of Exxon so as not to  
21 impinge on the Trustee Council or the government to do -- to  
22 conduct an audit of the terms of the settlement agreement.  
23 Initially, when we came up with our financial management plan, with  
24 the first settlement agreement, the question of audit was somewhat  
25 more ambiguous than in the second settlement agreement. So, what  
26 we did as soon as the first settlement agreement came out was the



1 Coast Guard structured a comprehensive financial management plan  
2 (inaudible -- extraneous noise) heavily on a couple of people with  
3 advanced degrees in business and finance, as well as our legal  
4 counsel, including the Department of Transportation, to put  
5 together the structure that would evaluate not only the relative  
6 value of the work to be done but (inaudible) now that the work has  
7 to provide an environmental incentive, but we brought then into  
8 this point a cost benefit. In terms of summary, what we came up  
9 with to the -- Exxon, what we approved, it came in at \$39,913,000  
10 and change. This figure reflects a shift in Exxon's calculation of  
11 x by over \$1.16 million. In other words, Exxon envisions a larger  
12 x. We conducted the financial review, and x was recalculated. One  
13 of the major areas of disagreement, where Exxon took exception, was  
14 the \$225,000 charge for insurance. In essence, Exxon self-insures,  
15 and they went on an estimated cost of the insurance instead of  
16 (inaudible). This \$225,000 is what it would cost us to otherwise  
17 insure. In conducting the financial review, we did not see that as  
18 an expenditure under the terms of the settlement agreement and  
19 disallowed it. It's an interesting one -- is that all we could say  
20 is that we considered it disallowed for our purposes, but it was  
21 the Department of Justice and the state Attorney General's Office  
22 in its direction to Exxon that said that the -- on behalf of the  
23 Trustee Council that the governments considered the \$225,000  
24 disallowed. Anyway, what I've got in the handout, the first one,  
25 I just basically want to really convey that this was a very  
26 comprehensive program that the Coast Guard conducted. The first

1 one in the handout really does give you an overview of the entire  
2 process. The first portion from the field assessment team to the  
3 TAG, which is the technical advisory group -- the whole function of  
4 this end of the paper flow was to determine what work was  
5 environmentally beneficial. Then we get into a process of taking  
6 in the (inaudible) of land managers -- what are there views on the  
7 proposed work to be done. We also had an extensive loop that  
8 included Exxon, and there's another diagram to explain that, and  
9 how we now implemented this cost benefit loop that we got into as  
10 a result of the settlement agreement. The Coast Guard had to pre-  
11 approve all expenditures of Exxon, and we still had our traditional  
12 role of dealing with all the other federal government agencies.  
13 And, so, all of this was brought into the FOSC decision-making  
14 process before any work went on. The second diagram is a more  
15 detailed display of how we, in the federal on-scene coordinator's  
16 office, flowed the proposals -- the evaluation process, and -- not  
17 to bore you with details, but on the third one -- it gives you an  
18 idea of the decision-making process and the loops that we brought  
19 every proposal through within the Coast Guard, so that we could  
20 assure ourselves that it was not only was it environmentally  
21 needed, but it was classified official, and that -- the important  
22 one was coming up with methods of limiting expenditures to assure  
23 that cost did not go beyond the pre-approved ceiling. So that  
24 meant, in terms of, like, a government agency -- the Fish &  
25 Wildlife Service did a study for us on an eagle nest survey -- when  
26 we got that, we would sit down with them and say, how much



1 helicopter time do you need, how many man-hours do you need, and  
2 other expenditures? And it would be pre-approved at that level.  
3 We would then go to Exxon and say, okay, this project has so many  
4 hours of helicopter time. When that time has been reached, the  
5 helicopter stops moving, and you have to come back to the FOSC. We  
6 implemented these types of cost controls and cost-containment  
7 measures to assure ourselves that the limits that we set were, you  
8 know, were abided by. The fourth one shows you Exxon's process for  
9 evaluating the work requested. Clean-up work request was the  
10 official document used between the Coast Guard and Exxon for work  
11 was to be done, what was the ceiling to be imposed, and other  
12 special conditions that we decided to use.

13 After we would pre-approve it, after the clean-up work request  
14 was signed -- and some of these were fairly large -- the one from  
15 Maysap (ph), last's year's true line assessment, was in the order  
16 of \$22 million. Exxon's accounting system is a real-time system.  
17 In other words, money that's not yet posted until the invoice comes  
18 in, but we'd be spending money much faster than invoices would be  
19 coming in. So, we worked out cost-sensitive indicators. What's  
20 out there that we can monitor to tell us right now if we look like  
21 we're going to be ahead of schedule, behind schedule -- more  
22 importantly behind schedule, because usually behind schedule would  
23 either mean more money or more time to get the job done. A good  
24 example is the fifth one, which was the baseline assessment  
25 program. Every week we would get this feedback from Exxon, and  
26 we've had joint meetings of the state on-scene coordinator and the

1 federal on-scene coordinator and Exxon's general manager, and these  
2 are the things that we would discuss. Exxon would bring this in.  
3 As you can see, we would go along with the actual and the planned.  
4 We had the planned laid out. Everything was tied to the expense,  
5 so we could see where we were and where we were supposed to be. On  
6 5B, you can see it's a chart. The solid line shows the plan. The  
7 solid line, here, shows you the plan where we were supposed to be,  
8 then the different lines, the one on top, is where we were at that  
9 point in time. It's usually not -- at that point, we were ahead of  
10 schedule. Ahead of schedule because we controlled the resources  
11 available -- would say that we're probably under budget. The plan  
12 was if we were under the line, that would mean that we would either  
13 have to add additional resources to finish on schedule or stretch  
14 out, both of which would mean more money, which would tell us let's  
15 go back to Exxon and say what's going on, why are there problems,  
16 and are we in a situation where it's going to cost more funds?  
17 Additionally, the Coast Guard was not just monitoring Exxon, but we  
18 intended to be in a position to independently verify certain  
19 expenditures, so we independently of Exxon monitored other factors.  
20 We have documentation -- high expense items, helicopter time. We  
21 verified all manifests, who was going on, independently verify  
22 whether the trip was directly related to the response effort or  
23 not, and we kept this so that when we had to check, we would have  
24 an independent series of recommendations or fact base to go against  
25 Exxon's figures. When we finally sat down and finished up the  
26 actual clean-up effort, the financial review -- and, again, it



1 really is -- we did a financial review, not an audit, because an  
2 audit is the purview under the settlement agreement of governments,  
3 not the FOSC, but our approach was that it's good business  
4 practice. We were in the business of pre-approving expenditures,  
5 we had estimates, and now we're going in to check the estimates  
6 against the actuals, and the protocols -- this is the protocol that  
7 was used. It was a very extensive financial review. We sent to  
8 each of -- each member of the Trustee Council, the attorney --  
9 state Attorney General's Office, got comments back -- you know, we  
10 implemented the ones that were appropriate because those that were  
11 -- we really didn't do a heavy, detailed -- into Exxon's practices.  
12 We were more interested in the results, the actual invoices, and as  
13 a result of having conducted the review, we have the figures that  
14 we thought comprised the figure that was used by the governments in  
15 determining x. So, that's the financial management plan, financial  
16 review, and we feel it's an extremely comprehensive, and open to  
17 any questions anybody may have on that.

18 MR. SANDOR: Are there any questions of ....?

19 MR. COLE: Mr. Chairman? Commander?

20 MR. SANDOR: They think that the -- you have opinion,  
21 so let me phrase another -- deftly. Would you care to express an  
22 opinion as to whether the Trustee Council should initiate an audit  
23 of these expenditures?

24 CDR. MCGUIRE: I do not believe that if an audit was  
25 conducted that the savings that could possibly be found would even  
26 begin to approach the cost of conducting an audit.

1 MR. SANDOR: Thank you -- one more question, in your  
2 view was the method of conducting the remaining clean-up as  
3 provided in the settlement agreement as sound decision.

4 CDR. MCGUIRE: Absolutely.

5 MR. SANDOR: Would you care to state the reasons for  
6 your opinion?

7 CDR. MCGUIRE: Yeah. In fact, it's interesting. The --  
8 I've been involved in the clean-up since '89, and the efficiency  
9 and effectiveness of the settlement agreement in placing a lot of  
10 the fiscal controls with the FOSC allowed for us to get into  
11 detail, review, establish controls that, I think, made for a more  
12 efficient and effective use of the resources and a much better  
13 accountability.

14 MR. SANDOR: In your view, based upon your experience  
15 with the clean-up since 1989, was it more efficient to have Exxon  
16 wind up, if you will, the clean-up ....?

17 CDR. MCGUIRE: Absolutely. What we failed to realize  
18 occasionally, we just -- we internally look at it when the  
19 settlement agreement was first signed. We said, can we do this  
20 better without Exxon? And what we ended up with is, you know,  
21 things that you don't see, but the permitting process to conduct  
22 these surveys is very, very extensive. Exxon -- Exxon was able to  
23 bring in one person in '91 to do all the survey work because he had  
24 a computer disk and a file that says, okay, here's everybody that  
25 I have to conduct, here's their requirements, and if I was -- as  
26 FOSC -- to start that all over again, I'd have to start at square

1 one. Additionally, Exxon had a lot of the resources already in  
2 place that had been paid for. A lot of the assets that we were  
3 using, Exxon had already paid for, and we had the access to them.  
4 Interesting, on waste disposal, when we were looking at it, we got  
5 an query on how much is the cost clean-up was going to be when  
6 Exxon had estimated it at maybe \$35 million. We went to the Air  
7 Force and said how much do you pay for waste disposal? In essence,  
8 the Air Force should go to Exxon to handle their waste disposal  
9 because Exxon was handling it -- doing it cheaper than the Air  
10 Force was paying for. So, there were never bid period that we  
11 found that Exxon had the infrastructure in place, already had a lot  
12 of the fundamentals that we would have to reinvent, also federal  
13 and state procurement rules usually do not allow for a fast, timely  
14 acquisition of resources and contracting, and Exxon had that  
15 capability. So, I just might strongline (ph) that, you know, it  
16 was appropriate to have Exxon finish the work. It's also, we have  
17 x pass the people that really knew what was going on from Exxon's  
18 side of things, and we had a balance. And the important balance  
19 was always among the people in the field and in the technical  
20 advisory group -- those two decision-making bodies. The people  
21 collecting the information and the experts analyzing it -- we  
22 really did benefit by having a diversity of opinion. So, you had,  
23 you know, land manager out there, State Department of Environmental  
24 Conservation, NOAA, and Exxon, plus the Coast Guard. So, it was --  
25 actually there was this very important interplay of ideas so you  
26 were getting a mix. I think we got a better input into the

1 decision-making process.

2 MR. SANDOR: Thank you, Commander. Any other  
3 questions?

4 MR. BARTON: Mr. Chairman? Yes, this is a -- I have  
5 another area, I guess, but it's kind of -- what -- what will happen  
6 in the future, for example, if -- well, we know that there's still  
7 oil in some of the beach sand of Valdez -- but how, you know, if a  
8 future clean-up is needed, how is that handled? Who does? How's  
9 paid for, and so on?

10 CDR. MCGUIRE: Okay. Future clean-up -- the Coast Guard  
11 has basically ended our involvement. The response dates, or the  
12 clean-up date, is complete. We are now in the restoration phase.  
13 If there's more work to be done out there, it falls upon the  
14 Trustee Council in the restoration process. The -- we have, and  
15 there's one of your projects, is to do an assessment next year.  
16 I'm not in a position to make a pitch for it, but we've denoted  
17 every year almost an order of magnitude improvement. But, as we've  
18 -- we have methods of classifying oil and conditions -- things that  
19 we found in '91 -- you know, we'd dig a ditch and would say this  
20 has heavy oily residue. Well, the next order of magnitude down is  
21 medium, and then low, and then none. You know, we've been finding  
22 since '91, this order of magnitude drop, so the natural cleansing  
23 process that's going in nature is going on. One more survey -- one  
24 confirms that you -- that this is a continuing trend. If there's  
25 a change in trend, it's not continuing. There were a number of  
26 sites that we went out there and said, yeah, there's oil still

1 present here, subsurface oil, but from the rules that the Coast  
2 Guard uses -- environmental benefit, economic benefit -- we were  
3 satisfied that on the tools available to us, that we've done as  
4 much as we should do. That doesn't mean that the oil's all gone.  
5 It's still there. So, taking a look at it another time, gathering  
6 this information, you're in a position of saying -- because as the  
7 Trustee Council, you have a group of other tools available to you  
8 that you can take that we can't -- we are satisfied with what was  
9 done -- very pleased, in fact. So, it's the responsibility of the  
10 Trustee Council should more work be done. The Coast Guard, you  
11 know, the planning of this, we -- we obviously have a lot of  
12 experience, including the shoreline assessments. After four of  
13 them, you get really good at it. We are more than willing to  
14 assist the Trustee Council in planning of this.

15 MS. BERGMAN: Commander McGuire?

16 CDR. MCGUIRE: Yes.

17 MS. BERGMAN: Over here. Pamela Bergman. One question  
18 might be, what happens if the Coast Guard, through your normal  
19 reporting processes, hear of reports of sheening or oil off Knight  
20 (ph) Island, for example, in Prince William Sound? What happens  
21 then?

22 CDR. MCGUIRE: Okay. What we've got, in fact -- we have,  
23 you know, last year when we were winding down, that was an  
24 important element. We had an agreement between us and the 17th  
25 District saying, if we've got a report of oiling, regardless of who  
26 gets it in the Coast Guard, we have sent out to each of the



1 offices, primarily Valdez and Anchorage Coast Guard offices,  
2 detailed maps saying here is where Exxon Valdez oil ended up, and  
3 we've got it for every year. If one of the beaches that shows an  
4 oily concentration is where you're getting report of oiling, you  
5 call the FOSC, we'll do the detailed research -- we've got  
6 comprehensive files, and we can say, pretty clearly, whether or not  
7 there's a high probability of it's Exxon Valdez oil or not, and if  
8 it is Exxon Valdez oil, and it is sheening, we get together with  
9 the Department of Environmental Conservation and the appropriate  
10 Coast Guard office, and they jointly make a decision on how to  
11 proceed with it. So, we do have a procedure in place should there  
12 be, you know, ongoing reports.

13 MS. BERGMAN: And, the follow-up question would be where  
14 the funding would come to deal with that if, in fact, that needs to  
15 occur?

16 CDR. MCGUIRE: That's why we get together with the  
17 Department of Environmental Conservation because the Coast Guard  
18 has determined that the clean-up is complete, so it would in all  
19 probability fall upon the Trustee Council to determine what action  
20 it wanted to -- you know, that this group wants to take with  
21 respect to that oiling condition.

22 MR. SANDOR: It might be worthwhile to take the  
23 additional time to have Mark Brodersen to cover the points that was  
24 covered in the briefing that we had several weeks ago on that  
25 bridging of the gap from the -- as all of us realize, both the  
26 federal and state standards, the clean-up work was completed at the

1 conclusion of the field activity last summer. That was not to say  
2 or suggest that there wasn't oil remaining in different conditions.  
3 A process is in place, in fact, to -- to have these same sites  
4 reviewed and a process in place. Can you just very briefly  
5 summarize what our discussions were and -- and Commander McGuire  
6 pledged at that time, and consistently or insistence of the Coast  
7 Guard in that process? Mark Brodersen?

8 MR. BRODERSEN: I believe you are referring to project  
9 number 38, shoreline assessment, that we've been putting together  
10 with the cooperation of the agencies and the Coast Guard.  
11 Essentially, it's a repeat of the shoreline assessment -- (cough)  
12 excuse me. The shoreline assessment that was done last year is a  
13 joint effort by the agencies, the Coast Guard, and Exxon. With the  
14 addition of a few sites, deletion of a few sites that's to be  
15 determined through a coordinated effort of all the agencies, Coast  
16 Guard, land managers, interested parties, etc., this spring, and  
17 then carried out this summer to actually look at the potential  
18 segments that may or may not still have oil them to just determine  
19 whether winter storms have exposed oil that we are not aware of,  
20 and, more than anything, as Commander McGuire was saying, to verify  
21 that there is this continuing reduction in oil out there so that we  
22 have a handle on just what it is that needs to be restored and what  
23 doesn't. That -- that's a quick summary. I can elaborate a lot  
24 longer -- probably not necessary.

25 MR. SANDOR: The point is, is that the process is place  
26 to continue this process of -- when the definition of clean-up and

1 restoration passes from the phase of this year and into next year,  
2 and it's very orderly, and although the Coast Guard does not have  
3 a formal role in that process, their cooperating and providing  
4 their advice in that process. Any further questions of Commander  
5 McGuire at this time? (No audible response.)

6 Commander, we thank you very much for an excellent  
7 presentation. The book is excellent, and we, again, are very  
8 pleased with the fine work that you -- that the Coast Guard has  
9 done and you, personally, have done over the past three years.

10 CDR. MCGUIRE: Thank you very much.

11 MR. SANDOR: Moving on to item two of the agenda, the  
12 Public Advisory Group report. Brad Phillips is to be making this  
13 report.

14 DR. GIBBONS: Mr. Chairman?

15 MR. SANDOR: Yes.

16 DR. GIBBONS: Before we bring Brad up, section 2E of  
17 their draft operating procedures states that the Public Advisory  
18 Group shall have a chairperson and vice chairperson who shall be  
19 elected annually from the voting membership -- a majority of the --  
20 vote of the majority of the membership and approved by the Trustee  
21 Council. So, before perhaps Brad comes up and talks about  
22 resolutions one, two and three, perhaps the Trustee Council could  
23 act on resolution four, which is the election of officers. They  
24 elected Brad Phillips as the chair and Donna Fischer as the vice  
25 chair. So, that might be a suggestion.

26 MR. PENNOYER: So moved.

1 MR. COLE: Second.

2 MR. SANDOR: It's been moved and seconded that the  
3 officers be appointed as recommended. Any objection?

4 MR. COLE: Is it ....?

5 MR. SANDOR: Any discussion?

6 MR. COLE: Mr. Chairman? The terminology, what -- may I  
7 ask Mr. Gibbons whether we are to appoint him or are we just  
8 approving the election?

9 DR. GIBBONS: Yes. It states that the Trustee Council  
10 will approve with a consultation of the Public Advisory Group  
11 members, the -- the election.

12 MR. COLE: I think just to sharpen the issue a little bit  
13 that the motion is to approve the election of officers made by the  
14 Public Advisory Group.

15 MR. SANDOR: It has been moved and seconded that the  
16 Trustee Council approve the election of officers made by the Public  
17 Advisory Group. Is there any discussion on this motion? (No  
18 audible response.) Any objection? (No audible response.) Without  
19 objection, the election of officers by the Public Advisory Group  
20 are -- are approved, and Brad Phillips, as chair, is to make his  
21 report at this time. Anything further, Dave Gibbons?

22 MR. GIBBONS: No.

23 MR. SANDOR: Mr. Phillips.

24 MR. PHILLIPS: Thank you, Mr. Chairman, and ladies and  
25 gentlemen of the Trustee Council. I must say first that I think  
26 that I'm really pleased to have been appointed to this committee.

1     However, I think it's turned into a second career. Today, there  
2     are a few members of the PAG in the audience, and they'll be here,  
3     and before I touch these things I would like to ask if I -- if it  
4     would be proper for me to be excused after this. I know that are  
5     people taking notes, and the committee will be apprised. Mr.  
6     Gibbons is going to tell us at our next meeting what happened, but  
7     I have a little crisis management of my own in the office this  
8     morning. We are bidding on a major contract, and it has to be  
9     completed today, and I have to catch an airplane. So, with your  
10    permission, I would present this and then ask to be excused.

11           There are four resolutions, one of which you have just  
12    approved, and there are three others that were sent to you shortly  
13    after our meeting, and I would just like to comment on those.  
14    Probably the one that got --

15           MR. PENNOYER:   Do we have copies of those resolutions?  
16    Are they in some of the mailing or do we have....?

17           DR. GIBBONS:    Yes. They were hand carried. You should  
18    have gotten one.

19           MR. SANDOR:     .... have some extra ones for those who do  
20    not have them.

21           MR. PENNOYER:   I don't have it in front of me anyway. If  
22    you have an extra copy? I don't think -- probably four. Three or  
23    four. I believe, Mr. Chairman, I believe Mr. Phillips can proceed  
24    without them rather than hold him up.

25           MR. PHILLIPS:   I can just tell you what they are, and  
26    they are really simple. One had more discussion than the others,



1 but -- the procedure -- there were a couple of suggested changes in  
2 the procedure of the advisory group, and one of them, I think the  
3 main one, was that we would change the requirement of a -- a -- the  
4 numbers of people to be there to vote on anything from nine to  
5 twelve, trying -- in an effort to be sure that we had everybody  
6 there, as close we possibly could.

7 Were there other changes in these procedures besides that one  
8 that you can remember?

9 DR. GIBBONS: Umm -- there .....

10 MR. PHILLIPS: They're not lined in the resolution.  
11 They're almost insignificant, but that was the major one to -- be  
12 sure that we ....

13 MR. COLE: Would it be appropriate at this time to have a  
14 motion to make that change? (Inaudible)

15 MR. SANDOR: Brad, is it ....?

16 MR. PHILLIPS: It's required that you approve our per  
17 .....

18 MR. SANDOR: .... essentially your changing that --  
19 your proposing is the quorum?

20 MR. PHILLIPS: Yeah.

21 MR. SANDOR: The quorum be changed from nine to twelve?

22 MR. PHILLIPS: That's correct, so we can encourage people  
23 to be there so we don't have to come up with opinions from small  
24 groups.

25 MR. SANDOR: Is there a motion for that specific  
26 change?

1 MR. BARTON: Mr. Chairman?

2 MR. SANDOR: Mike Barton?

3 MR. BARTON: I would suggest that we wait and see what  
4 all the changes are. I don't think we've taken any action yet to  
5 actually approve the operating procedures, and there are other  
6 aspects that maybe worth ....

7 MR. PHILLIPS: It's a long document -- the operating  
8 procedures, but that's the only thing that we -- were prescribed  
9 for us, and that's what we suggested as a change.

10 MR. BARTON: I'd rather not deal with it piecemeal.

11 MR. PHILLIPS: Okay. Resolution number two probably got  
12 the most discussion of any of them, and it was submitted by the  
13 Chenega group, and it says, I think -- all the whereases explain  
14 it, but I think that the resolve clause probably tells the whole  
15 story, and it says that "Therefore be it resolved by the Public  
16 Advisory Group to advise that the Trustee Council direct the  
17 Restoration Team and agencies to work with Native landowners and  
18 other residents of the oil spill-impacted area to be certain that  
19 the 1993 work projects utilize the services of these people  
20 whenever feasible." The discussion was that the people who live  
21 there and are on the spot could be a real asset on any of the  
22 projects where they have the ability to carry out these projects  
23 because they're there, the costs would be less, the understand the  
24 country, and they would hate to see somebody coming in from  
25 Oklahoma to do it when they are capable and on the spot to do it.  
26 And that's the general theme of this resolution to bring to your

1 attention our desire to see that Alaskans are employed in any of  
2 these activities as much as possible. That's resolution number  
3 two. You may want to read all the whereases, but ....

4 MR. SANDOR: What we'll do, with the agreement of the  
5 council, is to defer actions on these specific items until we, in  
6 fact, have -- have been totally presented and have them before us,  
7 so that each one of us has a complete record of the resolutions  
8 that were passed. Can you proceed?

9 MR. PHILLIPS: Yes. The last one, resolution number  
10 three, is probably the most difficult one because -- let me give  
11 you a little background -- because the Public Advisory Group was,  
12 for whatever reasons, delayed in the appointment, and because some  
13 of the information that we received to evaluate to advise you on  
14 was given to us at a very late time, some of it within 24 hours of  
15 our meeting, we felt that in order to give you an intelligent  
16 assessment as has been requested from us on the 1993 work plan,  
17 that we needed time to absorb and discuss these things, and it was  
18 physically impossible to get it done in order for us to give you a  
19 complete recommendation at this meeting. So, we have arbitrarily  
20 set another meeting for ourselves on January 6th and 7th, and  
21 resolve clause on resolution number three, says "Therefore be it  
22 resolved by the Public Advisory Group to respectfully request that  
23 the Trustee Council withhold final approval of 1993 projects and  
24 budgets until after the January 6th and 7th, 1993 meeting of the  
25 Public Advisory Group to review the 1993 programs in depth and make  
26 recommendations to the Trustee Council. Now, we know that you can

1 make these decisions anytime you want, but we want you to know that  
2 this group is here to advise and be helpful, and the only way we  
3 can do it is to get -- be given enough time to absorb this. You  
4 know, I've never been buried in so much paper in my life on any  
5 project anywhere, and I -- even at law school it wasn't as bad as  
6 this in reading all this stuff and understanding it. At least in  
7 law school I had a Black's Law Dictionary that I could refer to  
8 some of the words to know what they meant. But what we are asking  
9 for is enough time to advise you, and if you can put off some of  
10 the final decisions, we think in particular the analysis of the  
11 public comments which were given to us within 24 hours of our last  
12 meeting -- I'm taking this on the airplane to read, in depth, and  
13 if they don't me charge me excess baggage for it, and by this  
14 meeting in January we hope to get this information to you.

15 If I may just digress a moment, I remember when I was much  
16 younger and before I had any children, I had a philosophy of  
17 education where you would advise your children not to accept on  
18 face value everything that's told to them in the schools and to  
19 always question and to have their own opinions, and I did this, I  
20 followed this with my daughter, and I found out that I created my  
21 own monster because she rarely agreed with me on those things which  
22 I thought were pretty important to believe. You may have created  
23 your own monster with the public advisory committee because there  
24 are fifteen completely different people with different ideas, and  
25 I hope as a parent group you will have some of the consideration  
26 and tolerance of what you're going to get out of this group,

1 because I've found already in two meetings that they are not  
2 bashful at all in their opinions, and we are going to try to get  
3 consensus for you, and that's my job as chairman to try to make  
4 that run into some kind of a logical theme, which I am going to do  
5 my best to do. If there are any other questions, I'll be glad to  
6 try to answer them, but ....

7 MR. SANDOR: Yes. Mr. Phillips, let me assure you that  
8 I'm confident that the Trustee Council will be as tolerant with the  
9 advisory group as you -- as you were with your daughter.  
10 (Laughter) Is there any questions?

11 MR. McVEE: I attended part of the PAG meeting, and I  
12 guess I was impressed with the -- the quality of the people. I  
13 think that -- that we have on the PAG, and the direction of their  
14 discussions and deliberations, and I appreciate the point that they  
15 make in terms of the amount of material they've had to review. I  
16 guess there's one question -- was it recognition, in drafting this  
17 resolution -- was there some recognition that there maybe a few  
18 projects that -- I would think very few -- that the timing is such  
19 that we may have to do some approvals on that cannot wait through  
20 the January process ....

21 MR. PHILLIPS: Yes. That was discussed, and everybody  
22 recognizes it and understands that, you know, the time is vital to  
23 get things done, and we fully expect that those things that you  
24 have to do, you should by all means do, and those things that can  
25 be put off on final decision until we've given you our evaluation -  
26 - it's just really a request, and we understand what your load is,



1 and you've got a lot on your plate, so we don't want to hold it up  
2 either. We just want to be valuable in advising.

3 MR. SANDOR: Okay. Any other questions of Mr. Phillips  
4 at this time? Yes? Steve Pennoyer?

5 MR. PENNOYER: This is not a question -- a comment. The  
6 package we've got appears to have one resolution and not four, and  
7 I don't know if -- (inaudible - coughing) a copy, or you have it in  
8 your records, but we probably need the other three.

9 MR. PHILLIPS: Here they are. I -- why don't I leave  
10 them with you because I have them in my office.

11 MR. PENNOYER: Thank you very much.

12 MR. SANDOR: Any other questions of .... I guess I  
13 would suggest that the Trustee Council -- that we can act on the  
14 resolutions either at this time or later when we deal with other  
15 procedural matters of the Trustee Council. What is your pleasure?

16 MR. BARTON: I'm not concerned about dealing with the  
17 three resolutions other than the operating procedures. I think  
18 that (inaudible). It's the operating procedures of the whole that  
19 I think we want to look at as a package.

20 MR. SANDOR: Okay. Thank you, Mr. .... Yes? Carl  
21 Rosier.

22 MR. ROSIER: Mr. Chairman, if I might -- I was not here  
23 for that PAG meeting, and I was wondering if it would be possible  
24 for the chairman to, in fact, introduce the members of the PAG that  
25 are here today.

26 MR. SANDOR: Mr. Phillips?

1 MR. ROSIER: Or identify them, anyway?

2 MR. PHILLIPS: I would appreciate that opportunity very  
3 much. Why don't you stand and identify yourself, your affiliation,  
4 category ....

5 MS. BRODIE: Pam Brodie, environmentalist.

6 MR. TOTEMOFF: Chuck Totemoff, Native landowners'  
7 representative.

8 MS. BENTON: Kim Benton, resident alternate for the  
9 forest products industry.

10 MR. PHILLIPS: Those are the three that I saw here today.  
11 There may be others before the day is over.

12 MR. ROSIER: Thank you very much.

13 MR. SANDOR: Curt McVee, you had a question or comment?

14 MR. McVEE: Yes. Not on the chairman's report, but  
15 that -- whether this is the appropriate place or it should be  
16 handled later, I don't know, but that -- that the PAG asked to  
17 schedule a meeting for the 6th and 7th, and are proceeding with  
18 that, with the notice and the development of the preparation of  
19 travel authorizations -- they'd also proposed to organize three  
20 work groups as I understand it, and we're -- the problem is that  
21 we're still operating on the forms that were approved for the '92  
22 operations of the PAG, and -- that's about \$30,000, and I think the  
23 balance that's left is about \$7,800, which enough, we think,  
24 because all costs aren't in on their last two meetings, to fund  
25 their 6th and 7th meeting, but probably not to handle the work  
26 group meetings. So, we've got a bit of a funding problem there.

1 Now, there was, I guess, the RT (ph) did explore the possibility of  
2 funds being reprogrammed from other projects, from other parts of  
3 the operation, yesterday -- the administrative budget or whatever,  
4 and as I understand it that -- that there were no -- everything was  
5 -- had reached its limit -- we just about drained the bank dry. So  
6 we have been notifying the PAG members that we have this difficulty  
7 and suggest that -- that these work groups try to do their work  
8 through teleconference arrangement versus actually getting together  
9 because of a large funding problem.

10 MR. PHILLIPS: Mr. Chairman, it's my understanding that  
11 they'll be no cost to the -- to the project at all for the work  
12 group meetings between now and the next meeting, and we will deal  
13 with that if it's necessary in the budget proposal. So, you don't  
14 have to worry about that at all. We're doing that on our own, and  
15 they will report to us. So, there are no unusual expenses that I  
16 can foresee at all between now and then.

17 MR. SANDOR: Are there any other questions or comments?

18 MR. COLE: Mr. Chairman, can we assure Mr. Phillips  
19 before he leaves that it is the sense of the Trustee Council to  
20 defer action today on these projects until we've received a report  
21 of the Public Advisory Groups (sic), except as might developed  
22 today that are time-critical projects.

23 MR. PHILLIPS: As a courtesy, if we could be told the  
24 ones you've already disposed of, then we won't waste any time on  
25 them -- and go to the rest of them ....

26 MR. COLE: Let me ask this question. Does anyone

1 here know of any projects which for reasons of time we must deal  
2 with today.

3 MR. McVEE: Mr. Chairman?

4 MR. SANDOR: Yes.

5 MR. McVEE: We have one which work would start in  
6 March on it. We do need to deal -- move forward.

7 MR. COLE: Could it wait till January?

8 MR. McVEE: Pam, you know more on that?

9 MS. BERGMAN: Yes. We're talking about project 93045,  
10 which (inaudible - electronic static) surveys of marine (inaudible  
11 - electronic static) in March and August, and so there just  
12 wouldn't be enough time to get the contract (inaudible) and  
13 everything out to do that March survey. So, we would lose that,  
14 but we could still do the August survey. We did lose the  
15 opportunity last year to do these surveys as well because we didn't  
16 have approval to do them in a timely manner.

17 MR. SANDOR: Mr. Pennoyer?

18 MR. PENNOYER: Mr. Chairman, I think I'm well aware --  
19 understand the need to agree to that concept in principle. I'm not  
20 yet ready to say which projects entirely we're going to put in what  
21 category. I haven't yet heard a rescheduling from the RT or from  
22 anybody as to what this delay in approval would cost us in terms of  
23 getting the money from the fund and actually starting the papers.  
24 We have, I think, a March 1 deadline, not just on surveys, but  
25 there are going to be other aspects of the program that have to go  
26 forward at that date. So, with that proviso, I agree with the

1 concept, but I would like to hear a little more deliberation on how  
2 the projects wind up, the time frame for approval, and what we  
3 actually will be looking at if we wait until January 6th and then  
4 whenever the Trustee Council can meet -- I haven't heard that.  
5 Maybe we couldn't meet until -- I don't know when -- and then  
6 you've got the approval. At that point, then you've got to go to  
7 the court. I don't know what the delay -- time we're talking about  
8 is, so I don't know which projects will be affected. But, I agree  
9 in principle, that's what we ought to do.

10 MR. PHILLIPS: It's a judgment you all have to make. We  
11 will live with that.

12 MR. SANDOR: Mr. Phillips, we can assure you that the  
13 number of projects that will be approved will be limited to only  
14 those that require immediate action and will inform you of the  
15 actions that were taken on them so that you, and the other members  
16 of the advisory people, have that information. Any other questions  
17 or comments (inaudible).

18 MR. McVEE: Mr. Chairman, just procedurally, I think  
19 that you can plan on it -- that -- whether the procedure calls for  
20 it or not, but that we should provide a written response to the  
21 advisory group on the (inaudible - coughing).

22 MR. SANDOR: Without objection, then following this  
23 meeting then, Dr. Gibbons will formally convey to the Public  
24 Advisory Group the (inaudible) the recommended to the Public  
25 Advisory Group. Any further questions or comments of Mr. Phillips?  
26 Ms. Brodie.



1 MS. BRODIE: I would just like to say that there was  
2 another resolution passed which was to set up three working groups  
3 in the Kodiak area, Kenai Peninsula, Prince William Sound  
4 (inaudible - coughing).

5 MR. SANDOR: Has that been given (inaudible)

6 MR. PHILLIPS: That one was not included in the package.  
7 As I remember, we did set them up, but it was -- I don't remember  
8 that it was in resolution form. We discussed that earlier and  
9 those groups are working, and it isn't going to cost you anything  
10 to get any benefit out of it. There were three different  
11 appointed.

12 MR. SANDOR: We'll act on these. If there are other  
13 items which we were to deal them, please present them, and ....

14 MR. PHILLIPS: I'm not aware of a resolution form for  
15 that one. I could be wrong, but I don't think so.

16 DR. GIBBONS: I don't think so.

17 MR. SANDOR: Any further questions or comments of...?  
18 Mr. Phillips, we appreciate your acceptance of this leadership  
19 position. We wish you well on your trip then. We appreciate the  
20 tremendous amount of material that you will have to read.

21 MR. PHILLIPS: Thank you. Thank you very much.

22 MR. SANDOR: I've asked the Trustee Council members  
23 that -- if there are any additional comments on the Public Advisory  
24 Group report? Is there any other comments on the Public Advisory  
25 Group...? Let's move on then to the next item on the agenda, but  
26 I would say we would like to -- upon the conclusion of this meeting

1 get -- Dr. Gibbons to -- to be able to respond completely to the  
2 Public Advisory Group report (inaudible -- coughing, simultaneous  
3 talking).

4 MR. PENNOYER: Mr. Chairman, (inaudible) report,  
5 individually look at these resolutions and decide ....

6 MR. SANDOR: The questions has been raised, do we need  
7 to deal with these resolutions?

8 MR. BARTON: Do you want us to speak to it, or do you  
9 want to defer it until (inaudible - coughing).

10 DR. GIBBONS: Do we need to act on any other resolutions  
11 ....?

12 MR. BARTON: Mr. Chairman?

13 MR. SANDOR: Mr. Barton.

14 MR. BARTON: Mr. Chairman, I move that we adopt  
15 resolutions two and three, or approve resolutions two and three.  
16 What do we do with these? Do we approve them or adopt them? Or  
17 whatever the operating procedures say?

18 DR. GIBBONS: I think the Trustee Council approves them.

19 MR. BARTON: Then I move we approve two and three.  
20 We've already approved four. I further move that we table  
21 resolution number one until we've had an opportunity to review in  
22 detail -- it's fairly lengthy, and I think it's fairly critical --  
23 document.

24 MR. SANDOR: Mr. Barton wants to handle these  
25 individually. It's been moved that -- tabled -- that resolution  
26 one be tabled. Is there any objection to tabling that resolution?

1 (No audible response.) The motion is tabled -- the resolution.

2 MR. COLE: I have a question on it. When -- I mean,  
3 not that I mind tabling it, but when do we think we're bring it up  
4 again? In January or earliest date? It makes no difference to me.

5 MR. BARTON: The intent of my motion was that it would  
6 be brought up again January following the -- the meeting following  
7 the PAG. (Inaudible) final disposition on the '93 program work.  
8 My intent was not to research it today.

9 MR. SANDOR: Any objection to that tabling of  
10 resolution number one?

11 MR. PENNOYER: Mr. Chairman, if it doesn't in any way  
12 impede the ability of the PAG to carry out its duties, I have no  
13 objection.

14 MR. SANDOR: Any indication that there would be a  
15 problem?

16 MR. COLE: Conceivably, it could, but the chances are  
17 probably slim, so let's go ahead. I was here during part of that  
18 discussion, and the idea was that if a quorum was only nine  
19 members, that five of the group could adopt a resolution, and that  
20 might mean a very narrow group out of the seventeen. And the  
21 thought was that if the quorum were twelve, it would require a  
22 broader consensus among the various special interests, if that's  
23 the term, in the group to adopt -- to make recommendations about a  
24 project.

25 MR. SANDOR: Mr. Barton?

26 MR. BARTON: Yes. Mr. Pennoyer, concerning all of the

1 merits of that particular piece of proposal, but it's rather --  
2 wanting the opportunity to review the entire operating procedures.  
3 PAG can perhaps suggest some changes.

4 MR. COLE: I agree with that.

5 MR. BARTON: But, in fact, I think the whole package  
6 needs to be approved by the Trustee Council in some formal action.

7 MR. SANDOR: Any further discussion on this question of  
8 tabling? (No audible response.) The action on resolution number  
9 one then is tabled.

10 Resolution number two -- we have a motion for approval by Mr.  
11 Barton.

12 MR. COLE: I move to table number two.

13 MR. SANDOR: Table -- whether or not the -- resolution  
14 number two is "Therefore be it resolved by the Public Advisory  
15 Group to advise that the Trustee Council direct the Restoration  
16 Team and agencies to work with Native landowners and other  
17 residents of the oil spill-impacted area to be certain that the  
18 1993 work projects utilizes the services of these people whenever  
19 feasible." We have a motion that the action on this be tabled. Is  
20 there an objection to that motion?

21 MR. COLE: Let me just state the reasons why. I  
22 think we need to look at this a little more carefully. I agree  
23 with the purpose and intent of the resolution before us. We  
24 shouldn't be employing people from Southern California to perform  
25 the work and projects in the sound, but what I think we should get  
26 some advice from the various agencies to make certain that if this

1 resolution is adopted, we can feasibly and substantively carry it  
2 out. I know there's this -- in my view, one fortunate provision in  
3 law -- that all of these projects must be carried by state  
4 agencies. I just want to see how this resolution would impact on  
5 that. Maybe we would prevail upon the legislature to delete that  
6 requirement. I think, if you read the public comments, there's  
7 much criticism of all the projects not being essentially put out to  
8 public bid, and I think we need to look at it ....

9 MR. PENNOYER: Mr. Chairman, is that all that's being  
10 addressed here, or is it the ability of people in temporary jobs  
11 and things of that nature working on the projects involved? And  
12 there's nothing I'm aware of in state or federal that either  
13 precludes the employment .... Anyway, it's probably a reasonable  
14 thing to step back from it and check our ability to do it.  
15 Agreeing with it in principle and then not carrying it out, would  
16 not be a very good thing to do.

17 MR. COLE: That's what troubles me, that we adopt  
18 something that sounds good, and it looks good, and then we find out  
19 -- out that we really can't follow through with it -- you know,  
20 then we look like chumps.

21 MR. PENNOYER: We've never done that.

22 MR. COLE: That's my thought on it.

23 MR. SANDOR: Mr. McVee.

24 MR. McVEE: Yes. Mr. Chairman, the resolution says  
25 "whenever feasible," and I realize that there are both federal, and  
26 I'm sure, state procurement laws and regulations which will govern

1 us pretty closely, but in the motion to table is it possible to  
2 include directions to the staff to look into the feasibility of  
3 this process -- of adopting this as a philosophy or as a contract.

4 MR. SANDOR: Yes. With the agreement of the council,  
5 implicit with the tabling of all of these motions, the suggestion  
6 is that the staff will have to really do some research and provide  
7 background information to enable us to act. And in the case of the  
8 procedures, integrate the implications of the procedures that --  
9 with the procedures of the Trustee Council Restoration Team. Any  
10 further comment on the proposal to table resolution number two?

11 Yes, Mr. Rosier?

12 MR. ROSIER: Yes. I assume -- would we also be taking  
13 a look see at this one in January as well.

14 MR. COLE: That's what I was going to say, and that's  
15 that also implicit that this will be brought up before this council  
16 again in January, and maybe give us their recommendations earlier  
17 if it's necessary to make some slight revisions, perhaps, to the  
18 resolution, and we could have an opportunity to reflect on that  
19 before the meeting?

20 MR. SANDOR: Yes, indeed, Dr. Gibbons -- if it turns  
21 out there's statutory problems, federal or state, as relate to  
22 this, it would be advisable to give them to the Public Advisory  
23 Group before the January 6th-7th meeting, but it's the intent of  
24 these tabling motions that they be acted on at our January meeting.  
25 Other further comment? Resolution number two then is tabled.

26 MR. COLE: May I say one other thing?

1 MR. SANDOR: Yes ...

2 MR. COLE: One of the problems that I see in this  
3 resolution, so everybody understands what's troubling me about it,  
4 if the agencies have to carry out these projects and we adopt this  
5 resolution, does that mean that the employees who carry them out  
6 should be hired by the state agencies, or does it mean that the  
7 agencies should subcontract out these projects to people who live  
8 in the area of the project? That's the sort of thing I'm having  
9 trouble with here. I think we need to see exactly what we can do  
10 to carry out this, what I think, is constructive law.

11 MR. PENNOYER: Mr. Chairman, I suppose the PAG can speak  
12 for itself, but I would suppose they are saying, go as far as you  
13 can in hiring or -- but you're right, we need to know how far we  
14 can go.

15 MR. SANDOR: Mr. Barton?

16 MR. BARTON: Yes. Mr. Chairman, the federal side has  
17 the same provisions that the state has in regards to the  
18 expenditure of funds, and that is that the various agencies have  
19 that responsibility and obligation. And I don't think we're gonna  
20 change that. You may be able to on the state side, but I'm not  
21 very optimistic about doing that on the federal side. But, I think  
22 the PAG recognized and -- in their resolution -- and -- when they  
23 talked about "whenever feasible," and in some cases there may be  
24 considerable opportunity to do it, and in some cases there may be  
25 no opportunity to do, but I don't think we're going to change the  
26 obligations and responsibilities of the individual agencies.

1 MR. COLE: See if we could change the state law, and  
2 then run the projects through the state agencies rather than  
3 federal agencies.

4 MR. PENNOYER: Why don't we table it to the January  
5 meeting? (Laughter)

6 MR. BARTON: We'd be delightful to see the state do the  
7 NEPA work. (More laughter.)

8 MR. SANDOR: Without further comment then, the motion  
9 to table's approved then. The motion by Mr. Barton was that  
10 resolution number three be approved. "Now, therefore, be it  
11 resolved by the Public Advisory Group to respectfully request that  
12 the Trustee Council withhold final approval of 1993 projects and  
13 budgets until after the January 6th and 7th meeting of the Public  
14 Advisory Group to review 1993 programs in order to make  
15 recommendations to the Trustee Council," and as Mr. Phillips  
16 pointed out, it was understood that emergency or projects that  
17 required some action might be made, and we've agreed that, with the  
18 adoption of this resolution, we would improve the advisory group  
19 what projects in fact, were approved. Is there a second to the  
20 motion to ....

21 MR. PENNOYER: Second.

22 MR. SANDOR: .... formally approve this. It's been  
23 seconded by Steve Pennoyer. Is there any objection to the approval  
24 of this resolution? There being no objection, that resolution is  
25 passed.

26 Resolution number four dealt with approval of the two



1 officers, a chair and chairperson (sic). That motion has already  
2 been and passed. This is simply a reaffirmation of that. Is there  
3 any further action that's necessary on the Public Advisory Group  
4 recommendations or resolutions at this time? (No audible  
5 response.)

6 Let's move on then to item number three on the agenda -- the  
7 1993 work plan. Dave Gibbons and -- we'll take a break at ten  
8 o'clock if -- about that time, if that's fine? Dr. Gibbons? Will  
9 you introduce this topic?

10 DR. GIBBONS: Yes. The little -- a little background --  
11 everybody's I'm sure aware of what's transpired to date, but the  
12 1993 work plan was released to the public in October -- on October  
13 20th, with a 30-day comment period that closed -- October 20th,  
14 excuse me, that closed on November 20th. Comments were received  
15 through November 27th. The package that has been distributed to  
16 the 14 library sites, the teleconference sites, given also to the  
17 Public Advisory Group members, and also to the Trustee Council  
18 Restoration Team, was distributed on December 2nd, and that's where  
19 we stand now. There were 217 comments concerning the 1993 work  
20 plan, and -- just to comment before we get into a proposal I have  
21 for the Trustee Council -- is that the lead agency for each project  
22 is acting as an agent for the Trustee Council and not for itself.  
23 Some people -- I need to make that clear that, you know, the  
24 project is a project of the Trustee Council and not a project of  
25 the agency. I have a document which is presently being reviewed by  
26 the Restoration Team that displays the funding levels for each

1 agency for projects and for -- it compares agency funding versus  
2 professional and non-professional contracting, and we should have  
3 that done next week and distributed for information.

4 The proposal I have to the Trustee Council today is a four-  
5 step process. First, is to remove any projects that the Trustee  
6 Council cannot support or does not meet the restoration criteria.  
7 Under that step, I propose to you to consider two things. One is  
8 to poll each member of the Trustee Council concerning the projects  
9 that it has lead for, and secondly, poll the Trustee Council in  
10 general on support of projects. The second item, NEPA compliance,  
11 there has been a letter released, dated November 25th, to the  
12 Trustee Council concerning NEPA. There's been several -- there's  
13 been an opinion by the federal attorneys on NEPA compliance, and my  
14 proposal here would be to approve funding for NEPA compliance work  
15 on projects that has not satisfied NEPA compliance to date.  
16 There's -- I believe, about ten of those, and there's a handout  
17 prepared on that. The third -- the third step would be to  
18 tentatively approve a 1993 work plan, pending comments from the  
19 Public Advisory Group after their January 7th, 1993, meeting, and  
20 then identify time-critical projects that need to move forward  
21 before that discussion with the Public Advisory Group. The comment  
22 here is that we need to still prepare detailed study plans and  
23 request for proposals. Each agency has to decide on its own if  
24 they want to initiate the preparation of these documents, either  
25 the detailed study plan or the RFP, without Trustee Council  
26 approval to date, to try to make some dates that we have coming up.

1 That's -- that's a consideration the Trustee Council has to make  
2 also. But that's -- that's my proposal.

3 MR. PENNOYER: Mr. Chairman?

4 MR. SANDOR: Mr. Pennoyer.

5 MR. PENNOYER: Mr. Gibbons, before we launch down that  
6 process, can you -- maybe it'd be appropriate for you now to give  
7 me some time frame on how you view the approval of the '93 work  
8 plan would proceed, given the resolution we've just adopted and the  
9 fact that we want to wait for the Public Advisory Group comments.  
10 Do you have an idea of how we would proceed on finally going to the  
11 court and when we actually would be receiving money?

12 DR. GIBBONS: Yeah. The proposal I would have - it --  
13 would be to have a continuation meeting in January and schedule it  
14 after the 7th, but give sufficient time so the Trustee Council can  
15 review the actions of the Public Advisory -- recommendations of the  
16 Public Advisory Group to them, and then approve a final '93 plan at  
17 that time. The petition to the court should not be a lengthy  
18 process. The other one was passed on yesterday -- each one of the  
19 Restoration Team members to pass along to the Trustee Council  
20 members for review. Comments are due back the 16th of this month,  
21 and we intend to, perhaps, go to court that week. Having done  
22 that, the next week -- I don't see the petition the following month  
23 to take -- be that lengthy. That would be my only concern --  
24 comment there. And, then, Judge Holland has been pretty speedy in  
25 his action on the petitions, and within a week he's been acting, so  
26 who knows, perhaps within a week he could act on that petition for

1 the '93 work plan, and then the money could be dispersed to the  
2 federal, into our account, and into the state account.

3 MR. PENNOYER: Mr. Chairman.

4 MR. SANDOR: Mr. Pennoyer.

5 MR. PENNOYER: I understand the general idea, but I  
6 didn't understand the time frames exactly. If we've met in January  
7 sometime, a time that's yet still uncertain, and approved a '93  
8 work plan, how long would it take then to prepare the document to  
9 go to the court?

10 DR. GIBBONS: Well ....

11 MR. PENNOYER: Is that a short time or is that ...?

12 DR. GIBBONS: I -- I would have to say within a week we  
13 could have that document prepared.

14 MR. PENNOYER: So if we approve something -- Mr.  
15 Chairman, if we approve something in January, we could have  
16 something to the court in mid February or that nature?

17 DR. GIBBONS: Yeah. It depends on when you meet in  
18 January. If you met, say, the 20th of January -- around there --  
19 we could have it out by the end of the month.

20 MR. PENNOYER: We might, Mr. Chairman, we might have the  
21 money actually disbursed then, before the start of the March 1st  
22 time (inaudible -- coughing). It will be interesting. Okay.

23 MR. SANDOR: Mr. Cole?

24 MR. COLE: Mr. Gibbons, did I -- I'm not sure I  
25 followed the -- the general idea. Were you proposing that we take  
26 those actions today?

1 DR. GIBBONS: Some of the actions today, yeah. Yeah,  
2 the ones I laid out, I think we can run through, yes. That's what  
3 I'm proposing. The removal of projects, funding NEPA compliance,  
4 where appropriate, and then some time-critical projects.

5 MR. COLE: Mr. Chairman?

6 MR. SANDOR: Mr. Cole.

7 MR. COLE: I don't think I'm willing to agree to the  
8 removal of any projects until or before receiving the Public  
9 Advisory Group's recommendations. I just think that before any  
10 project is removed, we should get the Public Advisory Group's  
11 recommendations. I guess that's all I want to say.

12 MR. SANDOR: Mr. McVee?

13 MR. McVEE: Yes. I have the same concern also. A  
14 second concern is, if you'll bear with me, I guess, I have some  
15 notes here I'd like to read from on the NEPA compliance, and it'll  
16 just take a minute to be sure that we have a common understanding  
17 of what the federal lawyers and the compliance working group have  
18 told us concerning the National Environmental Policy Act. First,  
19 "NEPA applies to decisions to made by the federal members of the  
20 Trustee Council. It does not limit the decisions of state members,  
21 per se. Unanimous requirements of the Trustee Council action do  
22 result in preventing the council from approving projects for  
23 implementation pending there has been compliance with NEPA.  
24 Second, the working group has proposed that for each project the  
25 lead federal agency be identified for NEPA purposes only." This  
26 has been a good effort, I think. "In the case of projects for

1 which a state agency is the lead agency, a federal lead agency will  
2 be identified. Other than for NEPA-compliance purposes, the state  
3 agency remains the lead for the project." Environmental compliance  
4 working group memo, November 19th, signed by Ken Rice, addressed  
5 the projects, which by preliminary review needed documentation of  
6 NEPA compliance. This was followed up on by a November 25th memo  
7 signed by Dave to the Trustee Council requesting concurrence with  
8 recommended lead federal agency for NEPA compliance with state  
9 projects. I think that has generally been accepted. The way this  
10 operates, as I understand it, the state agency on state projects  
11 would prepare the necessary NEPA -- NEPA documentation in  
12 cooperation with the identified federal agency and culminate in the  
13 lead federal agency signing off the NEPA documentation. Third, the  
14 Trustee Council should approve funding for NEPA compliance for  
15 these projects the council concludes merit additional  
16 consideration. We've talked a little bit about that already. And  
17 DOI is prepared to act on funding for such NEPA compliance work.  
18 The practical approach to this is for the lead agency to prepare  
19 proposed NEPA compliance budgets for each project if those costs  
20 were not included in the original budget, and we recommend that  
21 additional funds be provided for preparation of environmental  
22 assessments and EIS's, but not for the categorical exclusions,  
23 since though are generally such a minor item. Since the members of  
24 the environmental compliance work group were most familiar with the  
25 NEPA process, these proposed budgets should be reviewed by them  
26 prior to presentation to the Trustee Council. Fourth, once the

1 necessary NEPA compliance has been performed, the federal members  
2 can then, as we understand it from our lawyers' advice, only then,  
3 legally make a decision on whether to approve the funding to  
4 implement each particular project. In other words, the federal  
5 members of the council are not legally liable -- not legally able  
6 to approve any projects for funding 'till there's been NEPA  
7 compliance. This was my understanding of what we had been asked to  
8 prove and the basis upon which we are prepared to -- DOI is  
9 prepared to move forward. If -- if we all -- I guess, if each of  
10 us understands, agrees to this approach, I don't see that we have  
11 any problem. I think that this process will be a lot simpler once  
12 we have the final restoration plan and EIS, and while further NEPA  
13 compliance may be necessary before recommendation of projects at  
14 that point, that programmatic EIS should facilitate that  
15 requirement. Well, I guess I would have problems in doing a  
16 tentative approval. I don't know what that really means. I have  
17 a problem with that aspect of what we're considering as well as Mr.  
18 -- the same concerns Mr. Cole had.

19 MR. PENNOYER: Mr. Chairman?

20 MR. SANDOR: Mr. Pennoyer.

21 MR. PENNOYER: I have the same concerns Mr. Cole has in  
22 terms of removing or adding or doing anything else to this list if  
23 we're going to wait until after the PAG comments. I would -- I'd  
24 like to have Mr. Gibbons elaborate on what he meant by that, 'cause  
25 I think he understands that concern. I'm not sure whether you  
26 meant there are some things we shouldn't proceed on NEPA because of

1 -- in a screening, or exactly what you meant by dropping some off?

2 DR. GIBBONS: There are some projects in the list that  
3 didn't get a whole lot of public support. It was pretty obvious  
4 that the public was not in favor of the project, and several of  
5 those projects are requiring NEPA compliance. NEPA compliance has  
6 not been completed, and there's some money associated with  
7 developing NEPA compliance, doing NEPA, and then if the project's  
8 not going to go forward, there could be some wasted money. That  
9 was -- that was my concern.

10 MR. SANDOR: Mr. Pennoyer.

11 MR. PENNOYER: From your presentation, you sort of made  
12 that two different items. One was disapproving some projects, and  
13 another was approving NEPA money. So, I -- if all we're dealing  
14 with then is the decision whether to approve a project for NEPA  
15 funding, then, perhaps, we should deal with that here, but if we're  
16 doing -- not doing a project at all, and even then we might not  
17 want to make that decision. We might simply want to delay the  
18 decision on NEPA funding for that project until such time as we get  
19 advice from the PAG. So, you know, you don't have to eliminate it,  
20 you just don't go forward with the NEPA funding at this time on  
21 that ....

22 DR. GIBBONS: Yeah. That was my concern of sort of  
23 expending money for NEPA compliance perhaps when the project that's  
24 ....

25 MR. PENNOYER: .... rather than separate those two items,  
26 maybe you should take them together, the NEPA compliance funding



1 and the question of whether we really want to do it on some of  
2 those projects.

3 MR. SANDOR: Mr. Rosier?

4 MR. ROSIER: Thank you, Mr. Chairman. I'm having a  
5 little bit of trouble here on this. We've got a lot of subjects on  
6 the table here, but we also have apparently a listing, as I  
7 understand it, new projects and re -- reestablishment of projects  
8 that were -- did not survive the original scrutiny of the  
9 Restoration Team, that's come to us as part of the public -- the  
10 public letter process. I guess I -- I'm not sure how we deal with  
11 -- with the -- that listing -- with what the public comments have  
12 in fact provided -- provided us with. Is the PAG going to be the  
13 final word on those subjects as well? Are we going to make a  
14 decision in regards to how we want to deal with new suggestions  
15 that were submitted or reestablishment of the projects that were  
16 dropped and recommended by them?

17 MR. SANDOR: Mr. Rosier's point is well taken, and of  
18 course, it's been reiterated several times by members of the  
19 Trustee Council. I'd like the Trustee Council's permission to deal  
20 with these one at a time and perhaps to clarify both for the  
21 Trustees as well as the public -- members of the public that are  
22 here. The first proposal, as I understand it, is that we would  
23 during the processes or today or following the January 6th and 7th  
24 meeting, and could you clarify this, the first one was to remove  
25 projects not meeting restoration plan criteria? That's the first  
26 segment of your proposal?

1 DR. GIBBONS: Yes. After the discussions here at the  
2 table, I would defer that 'till the January meeting ....

3 MR. SANDOR: Okay.

4 DR. GIBBONS: .... when we deal with the projects not  
5 meeting NEPA compliance to date.

6 MR. SANDOR: Okay. Now let's move to as I understand  
7 the second element of this. I just want to be certain that we  
8 understand and the public understand what's involved here. Could  
9 you restate those projects that either are not or do meet --  
10 obviously none meet NEPA compliance -- what is it -- what is the  
11 specific action, and when would you expect us to take it, and when  
12 were you requesting action on the Trustee Council? Could you  
13 restate item number two and when you propose that the Trustees  
14 would act on it?

15 DR. GIBBONS: Item number two, there's a handout. A  
16 one-page handout dated December 10th, 1992, and it's titled  
17 "Projects Still Requiring NEPA Compliance." And at the request,  
18 at my request, the Restoration Team went through an analysis.  
19 We've gone through the environmental compliance work group, who's  
20 reviewed the projects. We've come up with an estimate of funding  
21 needed to complete either an environmental assessment or a  
22 environmental impact statement for a listing of ten projects. This  
23 was run -- the money was run back through the environmental  
24 compliance work group, and they felt comfortable with the numbers.  
25 So, the one-page handout here is a listing of the projects from the  
26 1993 package that have not, to date, met NEPA compliance.

1 MR. SANDOR: And what, Dr. Gibbons, are you  
2 specifically asking the Trustee Council to take action on this, and  
3 when....?

4 DR. GIBBONS: We're ....

5 MR. SANDOR: .... ten items?

6 DR. GIBBONS: Yes. Excuse me, Mr. Chair. I -- I'm  
7 requesting that the Trustee Council review each one of these  
8 projects and approve funding for NEPA compliance where they feel  
9 comfortable with the project moving forward.

10 MR. SANDOR: At what time would you propose that?

11 DR. GIBBONS: At this meeting.

12 MR. SANDOR: Okay. That clarifies the issues. It also  
13 identifies some problems. Any comments on this proposal? Mr.  
14 Pennoyer.

15 MR. PENNOYER: Mr. Chairman, I -- I think it still is  
16 fair to say that any of these that aren't time-critical, that we  
17 might want to delay the decision even on the NEPA compliance if we  
18 understood what that did relative to the project's final approval.  
19 So while some of these might do something that you have to -- are  
20 going to be in our time-critical phase, and we need to get started  
21 now. Some might be some that are going to become time-critical  
22 immediately -- at the January meeting, you'd like to have the NEPA  
23 document in hand. Some might just be delayed, and relative to our  
24 previous resolution adoption, I would suggest that wherever we can  
25 even delay expenditure of those funds, we may wish to consider  
26 that, but I think we need to do them one at a time.

1 MR. SANDOR: Dr. Gibbons, are -- these ten projects on  
2 this listing, are any time-critical?

3 DR. GIBBONS: Yes. Dr. Montague ....

4 MR. SANDOR: Can you identify them?

5 DR. GIBBONS: Yeah. Dr. Montague, do you want to speak  
6 to those?

7 DR. MONTAGUE: Yes. Thank you, Mr. Chairman. When you  
8 consider the time required to do the NEPA compliance, the seven  
9 projects listed here that are going to require either environmental  
10 assessments or environmental impact statements, with the added time  
11 of the NEPA requirements, would all be considered time-critical.

12 MR. SANDOR: All the projects?

13 UNIDENTIFIED VOICE: Mr. Chairman?

14 DR. MONTAGUE: I said of those that required -- excuse me  
15 -- of those that required environment assessments or EIS's.

16 MR. SANDOR: (Simultaneous talking) Three have no  
17 funding, but -- yes? Mr. Cole.

18 MR. COLE: Well I -- I see if you look at them, two  
19 have \$5,000 worth of EIS funding required, one has \$3,000, another  
20 one -- Red Lake restoration -- has \$8,000. It can't be too  
21 critical to do \$5,000 worth of work for an EIS. If you ask me, at  
22 the rate we seem to go through money, I can't imagine that a \$5,000  
23 EIS is going take very long, but maybe I don't understand the  
24 process. The whole thing's frustrating when you try to get  
25 something done, and you get these projects underway, and now we  
26 find out we have NEPA compliance requirements, it almost seems as

1     though we can't ever get over the hump in this whole business. I  
2     tell you, it's very depressing.

3             MR. SANDOR:     Mr. Barton?

4             MR. BARTON:     Yes. I think it's important to remember  
5     the difference between our environmental assessment and  
6     environmental impact statement -- number one. Number two, project  
7     26, if we're going to have to do an EIS on that, it doesn't seem to  
8     me to make a lot of difference whether we start that tomorrow or  
9     start it after the January meeting in terms of bringing that  
10    project on line should it ever ultimately be approved. The third  
11    thing I'd like to respond to in the interest of clarifying certain  
12    things, at least Mr. McVee's understanding of NEPA compliance, the  
13    process that was laid out by the legal team, as I understand it, is  
14    not necessarily that that is common to all the federal agencies  
15    involved at least, and that some federal agencies believe that  
16    there is a more efficient way to consider NEPA as we go forward,  
17    but what we do have before us is a document that lays out a process  
18    that does meet all the agencies' requirements, some being more  
19    stringent than others. Is that correct, counselor?

20            UNIDENTIFIED AUDIENCE VOICE: That's what we could all  
21    agree upon.

22            MR. BARTON:     Yeah. Okay.

23            MR. SANDOR:     Any further -- yes? Mr. Pennoyer.

24            MR. PENNOYER: Well, I -- I understand Mr. Cole's  
25    comment. I don't understand the time-critical nature of some of  
26    these -- a project that's in time-critical -- in terms of our

1 approving it at this meeting instead of waiting 'til January to a  
2 feel. Additionally, I might say that some of those, I might be  
3 more willing to approve a minor expenditure to go ahead and get  
4 something done to have it in hand, but when it gets to a major  
5 expenditure for this organization, then may I'd like to hear the  
6 final comment and whether we really are going to include it as an  
7 appropriate restoration project. So, if we go through this one at  
8 a time, I think we can deal with that.

9 MR. SANDOR: Yeah, okay. Fine. Mr. Cole?

10 MR. COLE: I got to say, the one that really -- sure gives  
11 us pause is project number 26. That's the Fort Richardson water  
12 hatchery pipeline -- to be proposed either 84 or 240,000. That's  
13 the one that -- I just wonder if you people are maybe following  
14 this -- this discussion. It gives us a little problem, I think,  
15 about tying into that expenditure right now.

16 MR. SANDOR: Any further comments or questions? Mr.  
17 McVee.

18 MR. McVEE: Mr. Chairman, the dilemma we're in, and I  
19 appreciate, you know, the fact that we're concerned about  
20 expenditure of funds for NEPA compliance, and then in January of --  
21 of -- deciding not to go forward with a project, but I guess my own  
22 comment would be that the NEPA process is part of the decision  
23 process, at least for the federal community, and that it's not  
24 unusual that we might -- we might go through and expend money --  
25 monies for NEPA work, and the project never mature. So that does  
26 happen on occasion.

1           MR. PENNOYER: I don't think that's correct. In terms of  
2 discussion among the legal team of the federal agencies, part of  
3 the agreement was that we would have a two-step process. One might  
4 be to approve a project as qualifying under restoration to go  
5 forward for NEPA -- further NEPA work if needed, and then the  
6 second phase would be to approve it after the NEPA work was  
7 completed. I don't think we made a decision on whether these  
8 projects qualified under restoration. So if there is a significant  
9 expenditure attached to it and it's not time-critical, I'm going to  
10 have trouble approving a project at this stage for a significant  
11 amount of monies to even start the NEPA compliance.

12           MR. McVEE: Yes, Mr. Chairman, our interpretation of  
13 how we have to respond to the -- to NEPA, at least in Interior, is  
14 a little bit different.

15           MR. SANDOR: Not surprising. (Laughter) Mr. Rosier?

16           MR. ROSIER: Perhaps we could get a little more  
17 clarifying information here on this. I'd like to know, you know,  
18 on the basis of the immediacy that was attached to each of these  
19 projects -- I think -- let's get that on -- let's deal with one  
20 issue at a time here, and find out what the immediacy was  
21 associated with each of these.

22           MR. RICE: Mr. Chairman?

23           MR. SANDOR: Mr. Rice has a comment.

24           MR. RICE: I'd like to respond to that -- I'd like to  
25 respond to that. I think that the problem with not giving some  
26 indication as to whether these projects should be funded for NEPA

1 or not until January puts us in a time-critical nature because of  
2 the further decisions that need to be made. If you decide in  
3 January to fund the project, it takes -- some of the projects might  
4 have the NEPA compliance work done in two or three weeks. Some of  
5 them might take a couple of months. To do that, then it's at least  
6 February or March before the Trustee Council can then make a  
7 decision to go with a project and secure the funding for it,  
8 detailed study plans would then have to be prepared or RFPs, if  
9 they were going contract, which puts us into April, May or June,  
10 and basically the ability to even do the project for this year gets  
11 compromised by delaying too much longer.

12 MR. SANDOR: Mr. Pennoyer.

13 MR. PENNOYER: Mr. Chairman, I fully understood that. I  
14 guess, we can discuss the generalities for -- all morning, but I  
15 think we probably ought to go back and go through them one at a  
16 time, and, again, a project such as 26 that had 17 public comments  
17 against and 1 for, I'm not sure I'm not going to commit \$84,000 at  
18 this time until I hear from the PAG group and make a decision as to  
19 whether it would like to proceed with it. That may apply to the  
20 Chugach mariculture one as well. So, I think we have to go down  
21 one at a time and reach those decisions based on your comments and  
22 others we've heard here.

23 MR. SANDOR: Okay, gentlemen.

24 MR. COLE: I'd like to say preliminarily, I just get  
25 the sense that we have to impress upon people the absolute need to  
26 get things done. You know, it just takes weeks and weeks and weeks



1 to get anything done. You know, we have to make decisions faster,  
2 and people have to get these assessments done. We can't be --  
3 accept, you know, three months or two months to get a \$5,000  
4 environmental assessment. People have got to do that stuff faster.  
5 The whole thing is breaking down because we're not getting  
6 decisions made, and I'm getting, frankly, very frustrated about the  
7 whole process. I mean, if we can't move faster, I mean, we're  
8 going to have to make some basic changes in the whole organization  
9 in my view. Nothing ever gets done.

10 MR. SANDOR: Thank you, Mr. Cole. Let's -- as Mr.  
11 Pennoyer suggests, for these projects still requiring NEPA  
12 compliance -- Dr. Gibbons, can you or any member of the Trustee  
13 Council identify on a one-by-one basis those projects which are  
14 time-critical and which need action? Can we just go down the list?  
15 There's ten projects here. 93024, Coghill Lake, is that time-  
16 critical?

17 DR. GIBBONS: There's no funding request for that.

18 MR. SANDOR: Okay. 93016 ....?

19 DR. MONTAGUE: Mr. Chairman ....

20 MR. SANDOR: .... Chenega Bay, chinook and silver  
21 salmon. Needs ADF&G. \$5,000.

22 DR. MONTAGUE: Mr. Chairman, when I first indicated that  
23 all seven of that require NEPA compliance were time-critical, I  
24 cross-indexed my chart here, and 93016 did not need to begin until  
25 May, and therefore would not be time-critical for passage today.  
26 93032 is scheduled to begin on the 31st of March. Assuming a

1 decision was made in late January, and then some two weeks -- so  
2 probably February 1st before funds were actually available to begin  
3 the project, then the environmental compliance work could  
4 conceivably be done within a month, say, from March 1st. So that  
5 would leave 31 days for the preparation of detailed project  
6 descriptions, being peer-reviewed by the chief scientists of the  
7 peer review team, and to have -- and if it's decided to use an RFP  
8 process, then it would require even more time than just the  
9 detailed project description process. To be done correctly, with  
10 the adequate review, it would be compromised.

11 MR. SANDOR: So your point is that that is time-  
12 critical and need action -- needs action at this time, and that the  
13 benefits of whatever Public Advisory Group comments are made are  
14 offset by that time delay?

15 DR. MONTAGUE: Yes, sir.

16 MR. PENNOYER: Mr. Chairman?

17 MR. SANDOR: Mr. Pennoyer.

18 MR. PENNOYER: I was wondering in this time-critical if  
19 you're not building in a dose (ph) factor in here, and that is when  
20 you -- after the PAG group meets, if we don't have the EA -- and  
21 Mr. McVee and I may not agree on all NEPA requirement items, but in  
22 this case I think we're in complete agreement -- that the federal  
23 members could not take action on it until the EA was completed. So  
24 you'll also have to have a subsequent meeting after the January  
25 meeting to make final approval, and then the process we're talking  
26 an about would continue. I would guess that May probably would not

1 be a factor, but definitely something in March or even April  
2 probably would be impacted by that double process and then having  
3 to go back to the court a second time. So, if you can give us the  
4 dates for the (inaudible - coughing), we have to factor that into  
5 our decision.

6 MR. SANDOR: Well, okay. 93032 -- Pink and Cold Creek  
7 salmon restoration. \$5,000. Is there an action proposed by any  
8 member of the Trustee Council?

9 MR. COLE: I have a question.

10 MR. SANDOR: Yes. Dr. Montague can help .... Mr.  
11 Cole?

12 MR. COLE: Why does that project need to start on  
13 that date. I mean, this is to build some concrete structures in a  
14 couple of creeks, isn't that right?

15 DR. MONTAGUE: Yes.

16 MR. COLE: I mean, can't we just push the starting  
17 date back 45 days?

18 DR. MONTAGUE: Well, the equipment purchasing and Title  
19 16 permits need to be issued or the equipment available by May  
20 15th.

21 MR. COLE: It just seems to me, you might be able to  
22 set this back 45 days to avoid the problem if I look at the whole  
23 project anyway.

24 MR. SANDOR: Is there any motion on 93 -- 93032?

25 MR. PENNOYER: Yes, Mr. Chairman, I'd like to ask, these  
26 very small amounts of money -- now some of these, like Coghill

1 Lake, needs an EA and no money was requested. Others, like these  
2 where a very small amount is requested, is there some reason some  
3 of these have gotten done even without special action, and others  
4 are requiring additional funding albeit very small amounts.

5 DR. MONTAGUE: Mr. Chairman, since all the projects here  
6 that are requesting money are Fish and Game projects, and using  
7 Coghill Lake as an example -- is a non-Fish and Game project, the  
8 Forest Service, I think, has initiated NEPA compliance work -- I  
9 don't know, maybe Ken should address that, but -- long before even  
10 the '93 work plan was approved.

11 MR. SANDOR: Mr. Rice.

12 MR. RICE: Yes, Mr. Chairman, the Coghill project,  
13 93024, the NEPA compliance was initiated sometime ago. The EA is  
14 in process. I don't have a completion date, but the agency is  
15 basically funding that out of its normal agency management. The  
16 other projects that at least the Forest Service is the lead agency  
17 on for NEPA compliance, the money would go to the Fish and Game to  
18 do the analysis. The Forest Service would review the project or  
19 review the NEPA compliance for adequacy.

20 MR. COLE: Mr. Chairman?

21 MR. SANDOR: Mr. Cole.

22 MR. COLE: Which raises another point. Why can't  
23 this agency just do this \$5,000 work out of its normal funding?  
24 And why do you need \$5,000 to do the environmental assessment? I  
25 mean, who is going to do it, and why is it -- do we need more money  
26 to do this project? Some of these things, it seems to me, like we

1 do them at the Department of Law. We do all this stuff. We don't  
2 ask for any money. We just do it, you know, and it just seems to  
3 me that we're just making too much fuss over this, and we ought to  
4 just get this done out of the normal budget and get on with it.

5 MR. SANDOR: Mr. Rosier?

6 MR. ROSIER: Thank you, Mr. Chairman. Not to take  
7 umbrage with Mr. Cole's statements here regarding -- to agencies  
8 asking for money, but I do know a few -- more than a few hundred  
9 thousand dollars that's been transferred to the Department of Law  
10 from the Department of Fish and Game to get the regulations out on  
11 time and a few things like that. (Laughter)

12 MR. COLE: He doesn't say how much we bring into his  
13 coffers by these clients that we recover. I'll tell you that.  
14 (Laughter)

15 MR. ROSIER: Projected income, Mr. Cole. Thank you.  
16 (Laughter) But all this, I think that in terms of state programs,  
17 we are looking at generally declining budgets in all categories on  
18 this, and so, \$5,000 may not seem like a lot, but when you start  
19 talking in terms of all of the dollars put together here on this,  
20 that -- that does have an impact on the Fish and Game budget. So,  
21 I see nothing at all wrong with the -- the oil spill funding here  
22 helping to pay for these, whether it's our agency or any other  
23 agency. I think that's a legitimate cost of doing business here,  
24 frankly.

25 MR. SANDOR: Mr. Pennoyer.

26 MR. PENNOYER: Well, these two projects initially, '16

1 and '32, both received some public support. They weren't  
2 overwhelmingly against, and there's not much money involved. I'm  
3 a little concerned that if we don't allow those environmental  
4 assessments to proceed, we put ourselves in a position the federal  
5 people has to meet twice on them. I'm not in any way presuming  
6 that -- one more question to address if I might, Mr. Montague --  
7 032, is that going to be something that's time-critical to the  
8 point the Trustee Council has to approve it now or wait for the  
9 PAG, or is only the environmental assessment time-critical?

10 DR. MONTAGUE: Mr. Chairman, it's just the environmental  
11 assessment.

12 MR. PENNOYER: Okay. But that would be time-critical.  
13 I'd be inclined to go ahead and approve that \$5,000 expenditure to  
14 make sure that he's got enough information in hand to ....

15 MR. SANDOR: Is there a motion to that effect? To  
16 approve the expenditure of \$5,000 on 93032 for the environmental  
17 assessment.

18 MR. PENNOYER: I move that.

19 MR. SANDOR: It's been moved by Mr. Pennoyer, seconded  
20 by Rosier.

21 MR. COLE: Mr. Chairman? 032 did not receive broad  
22 public comment. As a matter of fact, there were -- all were  
23 objections -- the comments on that project that I saw were against  
24 it. (Simultaneous talking) ....21, 25042, 25159, and 27... were  
25 all against it.

26 MR. PENNOYER: Excuse me, Mr. Chairman.

1 MR. COLE: There's substantial public opposition to  
2 this project. So, be that as it may, I have no objection to going  
3 ahead with the request.

4 MR. SANDOR: Is there any further discussion on the  
5 approval of the \$5,000 for the environmental assessment on 93032,  
6 Pink and Cold Creek salmon restoration?

7 DR. MONTAGUE: Mr. Chairman?

8 MR. SANDOR: Yes.

9 DR. MONTAGUE: I would like to make one comment which may  
10 -- may enter into your decision and that is, in the '92 work plan,  
11 there were two projects under Fish and Game administration that --  
12 these projects subtitled 5 and subtitle ST2V, and those were  
13 projects that we'd made decisions at the Restoration Team and chief  
14 scientist level not to continue. As a result, there's, I believe,  
15 approximately \$140,000 in our '92 budget which could be used for  
16 this purpose. Otherwise, it would just be turned back to the  
17 council. So, it doesn't require, at least up to about \$140,000 --  
18 doesn't require a request to the court.

19 MR. BARTON: Mr. Chairman?

20 MR. SANDOR: Now, I -- I want to make certain -- now,  
21 93032 is the project that's before us. Now, is there any  
22 opposition to the motion before the floor to approve the \$5,000.

23 MR. BARTON: And that's all it is. It's not a motion  
24 to approve the project.

25 MR. SANDOR: That's right. It's for the environmental  
26 assessment. Without objection, that's approved.

1           Let's continue on down this list to identify just those  
2 projects that are time-critical which requires a NEPA assessments -  
3 - NEPA compliance. 93019. Is it time-critical?

4           DR. MONTAGUE: Yes, Mr. Chairman. It begins the 1st of  
5 March '92, and again, only the NEPA-compliance portion is time-  
6 critical. Decision on the project could be made in January.

7           MR. SANDOR: And this requires an expenditure of  
8 \$30,000 to complete the -- the NEPA compliance requirements?

9           DR. MONTAGUE: Yes, sir.

10          MR. SANDOR: Mr. Pennoyer?

11          MR. PENNOYER: Mr. Chairman, I -- as I recollect, this  
12 has very overwhelming public support, but I also recollect that we  
13 got some document from the legal field saying they didn't know if  
14 this type of expenditure was appropriate under the restoration  
15 fund. Now -- a little bit of a dilemma on this one, and also not  
16 sure -- time-critical? Does that mean the opportunity goes away?  
17 I mean, the idea is to start a process whereby we encourage the  
18 development of an oyster-rearing industry in Prince William Sound  
19 and other areas of the Gulf and some of the communities there, and  
20 I think -- I like the idea, but I'm not sure exactly why starting  
21 the idea is time-critical in the sense that something goes away if  
22 we don't start it at this point. I'm not sure that one can't wait  
23 until January. I'm a little concerned about the legal comment that  
24 this might not be an appropriate expenditure. To go out and spend  
25 \$30,000 on that basis right now gives me some pause.

26          MR. BARTON: Mr. Chairman?



1 MR. SANDOR: Mr. Barton.

2 MR. BARTON: Yes. I have a hard time understanding why

3 it's time-critical also, and I do believe the legal review is a

4 little more definitive than Mr. Pennoyer has ....

5 MR. PENNOYER: I like the project .... (Laughter) ....

6 but I'm not a lawyer.

7 MR. SANDOR: Is there a motion to approve the NEPA

8 funding requirement -- requirements -- NEPA funding required.

9 MR. PENNOYER: I move that we table that determination

10 under the January meeting.

11 MR. BARTON: Second.

12 MR. SANDOR: It's been moved and seconded to table.

13 DR. MONTAGUE: Mr. Chairman?

14 MR. SANDOR: Yes.

15 DR. MONTAGUE: My comment ....

16 MR. SANDOR: Mr. Montague.

17 DR. MONTAGUE: The people in the department indicate that

18 this project would be delayed by one year if it couldn't begin by

19 March 1st. Is there any -- is that incorrect. I'm referring to

20 Dr. Sullivan, our fisheries program manager.

21 DR. SULLIVAN (from audience): Basically, March is

22 typically the time of year that spat (ph) is obtained from sources

23 outside the state. We don't have an oyster hatchery or shellfish

24 hatchery in the state. That's typically the time when people plant

25 oysters, and I think that's why there'd be a delay in moving this

26 project on.

1 MR. SANDOR: It's been moved and seconded that this  
2 project be tabled because of the discussion on legal -- for legal  
3 and other reasons. Any objection to tabling? -- Motion -- the --  
4 proposed funding of -- for NEPA compliance on 93019, the Chugach  
5 mariculture project, is tabled.

6 Is project 93030, Red Lake restoration, time-critical?

7 DR. MONTAGUE: This project would require the purchasing  
8 of incubators and raceways and their installation, beginning the  
9 31st of March, and as a result, at least the NEPA-compliance  
10 portion would be time-critical.

11 MR. SANDOR: This project would require funding of  
12 \$8,000 to meet NEPA requirements. Dr. Montague notes that the  
13 procurement of the supplies, equipment, would make this time-  
14 critical. Is there a motion to approve the funding of \$8,000 to  
15 meet NEPA requirements? This is not, again, approval of the  
16 project, simply assessment. (Whispering) Yes. But Dr. Montague  
17 noted that this would require acquisition of supplies, materials.  
18 If there's no motion to approve, let's move on to 93031, Red Lake  
19 mitigation for red salmon fishery. This needs an environmental  
20 assessment and a funding of \$15,000 to meet that NEPA requirement.  
21 Is there -- is this time-critical? Dr. Montague.

22 DR. MONTAGUE: Mr. Chairman, this project will require  
23 obtaining fish transport permits and Title 16 permits beginning  
24 March 1st '92 -- '93.

25 UNIDENTIFIED VOICE: Who issues those Title 16 permits?

26 DR. MONTAGUE: The department. Fish and Game.

1 MR. PENNOYER: Mr. Chairman, I -- I note this one had --  
2 and, again, I'm not sure how it plays in this process relative to  
3 our wait for PAG recommendations, but it has quite a few more  
4 comments against than for -- a lot more, and I don't -- I'm not  
5 evaluating that at this time as we're not evaluating the project  
6 from a restoration standpoint, but maybe we could have a little  
7 further discussion of the needs and the \$15,000 at this time?

8 MR. SANDOR: Is there a motion to approve the  
9 expenditure of \$15,000 for an environmental assessment, not  
10 approval of the project itself, just the environmental assessment?  
11 Mr. Rosier?

12 MR. ROSIER: Thank you, Mr. Chairman. Jerome, is there  
13 a linkage between '30 and '31 on this -- are they totally  
14 independent or ...?

15 DR. MONTAGUE: Mr. Chairman, yes. They are independent.

16 MR. ROSIER: They are totally independent? Okay.

17 MR. SANDOR: The Chair would entertain a motion for any  
18 action on 93031, Red Lake mitigation for red salmon fishery. It  
19 needs an environmental assessment of \$15,000.

20 MR. ROSIER: Mr. Chairman, I would move approval of the  
21 EA funding requested.

22 MR. SANDOR: Rosier moves. Is there a second? Lacking  
23 the -- yes?

24 MR. PENNOYER: You -- don't get a second so I can't  
25 discuss, so -- going to ask a question .

26 MR. SANDOR: Motion fails for lack of a second. So, no

1 action on 93031 at this time.

2 93038, shoreline assessment, needs some -- more money needed.  
3 Any ...?

4 MR. PENNOYER: Mr. Chairman, has -- the Department of  
5 Environmental Conservation has already done that EA on its own  
6 (inaudible)?

7 MR. SANDOR: Is there any comments on this 93038?  
8 Time-critical?

9 MR. BRODERSEN: It is time-critical. We believe we've  
10 identified enough out-of-project funding to be able to take care of  
11 that EA in time for the next -- for your next January meeting.

12 MR. PENNOYER: Mr. Chairman?

13 MR. SANDOR: Steve?

14 MR. PENNOYER: Was it out of the project funding?

15 MR. BRODERSEN: It's not Exxon Valdez money.

16 MR. PENNOYER: Thank you.

17 MR. SANDOR: Following the Department of Law's and  
18 DEC's (inaudible -- laughter), we just RSA (ph) to Department of  
19 Law and other organizations, but we also get funds. So, anyway,  
20 93038 is taken care of.

21 93046, harbor seals -- needs assess -- environmental  
22 assessment, \$3,000. Is this time-critical?

23 DR. MONTAGUE: Mr. Chairman, this project is time-  
24 critical both for project approval as well as NEPA compliance. It  
25 requires the ordering and thus the commitment of funds for  
26 satellite tags on the 1st of February.

1 MR. SANDOR: Is there a motion to approve the funding  
2 of \$3,000 for an environmental assessment of this project.

3 MR. PENNOYER: Mr. Chairman, I don't think that has too  
4 much public objection. There's a fairly large amount of support.  
5 It's not a lot of money, and it's time-critical, and that is -- the  
6 story to that was basically a project to continue the monitoring  
7 and habitat protection-part of the program?

8 DR. MONTAGUE: Yes, Mr. Chairman.

9 MR. PENNOYER: Sort of a continuation of work that's been  
10 going to monitor harbor seals and protect their critical habitat?

11 DR. MONTAGUE: Mr. Chairman, I don't know if continuation  
12 would necessarily be correct. It wasn't funded in '92. It's  
13 similar to the work that ....

14 DR. PENNOYER: It builds on the work that was done  
15 before.

16 DR. MONTAGUE: Yes. Correct.

17 MR. PENNOYER: Mr. Chairman, harbor seals in Prince  
18 William Sound are one of the two areas of decline of harbor seals  
19 in Alaska that we have identified -- that and the Kodiak area, and  
20 I think that the studies are important to continue in terms of the  
21 possible impacts of the oil spill -- how we might mitigate those,  
22 so I would not delay that one, and have the documents in front of  
23 us of by January so the federal side could take a decision on  
24 those. I would propose that we -- I move we approve this  
25 expenditure.

26 MR. BARTON: I'll second that, Mr. Chairman, but I have

1 a question. Perhaps Dr. Montague can tell us what the consequences  
2 of not ordering by February 1st are.

3 DR. MONTAGUE: Mr. Chairman, as I understand it, there's  
4 some -- you know, these aren't off-the-shelf tags. They need to be  
5 ordered and -- and constructed, and for them to be available for  
6 the opening of the field seasons when they intend to be applied,  
7 February 1st is as late as they can make their order to the  
8 electronics company that produces them.

9 MR. SANDOR: It's been moved and seconded that project  
10 93046, harbor seals environmental assessment of \$3,000, be funded.  
11 Is there any objection? (No audible response.) There being no  
12 objection, then that is approved.

13 93011 project, develop harvest guidelines to aid restoration  
14 of river otters and harlequin ducks -- that's -- no funding  
15 required. I presume that cost of doing any environmental  
16 assessment work will be absorbed by the agency involved, and no  
17 action is necessary by this Trustee Council?

18 DR. MONTAGUE: Correct.

19 MR. SANDOR: 93026, Fort Richardson hatchery water  
20 pipeline. Is that time-critical?

21 DR. MONTAGUE: Mr. Chairman, thank you for the  
22 opportunity to address this one. This is a major construction  
23 project that needs to begin as soon as I assume the grounds are  
24 thawed sufficiently to start, and we've indicated it's going to  
25 require at a minimum a substantial environmental assessment and  
26 potentially an environmental impact statement, and the

1 uncertainties of exactly how long that would take are -- well,  
2 there are uncertainties, and to be comfortable that you would,  
3 indeed, be ready to, you know, have contracts issued so work could  
4 begin during the thaw period, you know, I think we're close, even  
5 now, to have that done and to have contracts issued and the work  
6 potentially begin during break-up.

7 MR. SANDOR: I note, Dr. Montague, \$70,000 EF&G,  
8 \$14,000 Fish & Wildlife for environmental assessment only, \$200,000  
9 ADF&G, \$40,000 Fish & Wildlife for EIS. So, the proposal is an  
10 environmental assessment of \$84,000 and an environmental impact of  
11 two forty. Is that the way this is interpreted?

12 DR. MONTAGUE: No, Mr. Chairman, I believe the way to  
13 interpret that is that if an environmental assessment is all that  
14 is required, it would just be the \$84,000 and ....

15 MR. SANDOR: That's what I meant. Okay. Is there a  
16 motion to approve any funding for either the environment assessment  
17 or environmental impact statement, which, of course, would grow out  
18 of the environmental assessment? Is there any motion to approve  
19 this funding to meet the NEPA compliance?

20 MR. McVEE: Yes. Mr. Chairman?

21 MR. SANDOR: Mr. McVee.

22 MR. McVEE: Yes. It's not a motion at this point in  
23 time -- it seems to me like we're looking at the \$4,000  
24 environmental assessment as being able to get that done at that  
25 level -- that magnitude -- before our January meeting would be  
26 almost impossible by anybody. (Inaudible -- electronic static)

1 .... major, I guess, environmental assessment, much less take  
2 (inaudible -- electronic static) .... table action on this.

3 MR. PENNOYER: Second.

4 MR. SANDOR: It's been moved and seconded. Moved by  
5 McVee, tabled -- seconded by Pennoyer, that this action on 93026 be  
6 tabled? Any objection?

7 MR. ROSIER: I object.

8 MR. SANDOR: You have an objection?

9 MR. ROSIER: Yes, I do, Mr. Chairman. I think on this  
10 particular project (inaudible -- electronic interference) ...  
11 rather interesting that on this particular, the ones ... (inaudible  
12 electronic interference) ... purchasing of habitat, and that's the  
13 basis of the objection (inaudible - electronic interference), ...  
14 I think that there's timeliness issue that's involved here with  
15 this particular project. It's no secret in terms of what we're  
16 anticipating, the returns of reds -- red salmon -- to the Kenai  
17 River in '94, '95, and quite possibly beyond. Having problems with  
18 the returns down there. We're talking about a lot of people from  
19 this whole Cook Inlet bowl area that participate in the  
20 recreational fisheries down there, and that particular group has  
21 basically been denied any access to restoration -- to restoration  
22 of services for this group that enjoyed recreational fishing down  
23 there, and from all appearances will, in fact, not have that  
24 opportunity in '94 and '95. For that very reason, I think we  
25 should look seriously at this moving ahead on the project. This  
26 would -- if we don't do it now, that particular group is not going



1 to have opportunities in '94 and '95 to, in fact, participate in  
2 recreational fisheries. They will be disbursing to other areas,  
3 impacting other residents as a result of this, if we move ahead  
4 now, certainly we could have increased opportunities for those  
5 people to, in fact, replace the -- the service and enjoyment that  
6 they've had on the Kenai River in '94 and '95. Thank you, Mr.  
7 Chairman.

8 MR. SANDOR: Are there any other comments on this  
9 motion to table?

10 DR. MONTAGUE: Mr. Chairman?

11 MR. SANDOR: Yes.

12 DR. MONTAGUE: May I add something?

13 MR. SANDOR: Dr. Montague.

14 DR. MONTAGUE: I think that one point that's important to  
15 make about this a little bit further is that public comments or --  
16 I don't know if seasonal in nature is the way to describe it, but  
17 I think it's important to note that of the 460 ideas to conduct  
18 1993 projects, 51 of those ideas were to do this Fort Rich  
19 pipeline.

20 MR. SANDOR: Any other comments...?

21 MR. BARTON: Mr. Chairman.

22 MR. SANDOR: Mr. Barton.

23 MR. BARTON: Yes. I've heard about the Fort Rich  
24 pipeline it seems like forever. Could somebody -- does this  
25 predate the oil spill -- this proposal? And wasn't this proposal  
26 considered by the legislature at some point in time? Could

1 somebody share with us the history of the Fort Rich hatchery?

2 MR. SANDOR: If it's a brief history..... (Laughter).

3 UNIDENTIFIED VOICE: Mr. Chairman, I'd ask that that be  
4 responded to after your promised ten o'clock break.

5 MR. SANDOR: Seriously, does it predate -- may we have  
6 a comprehensive two minute history?

7 DR. MONTAGUE: Do you want me ...?

8 MR. SANDOR: Go ahead.

9 DR. MONTAGUE: The facility itself at the Fort Richardson  
10 hatchery was originally designed to have a certain volume of water  
11 to be at full production, and -- I'll probably have to ask somebody  
12 here in the audience to see if that exact pipeline was the original  
13 proposed source or whether there was another source of water that  
14 originally proposed. Dr. Sullivan, could you ....

15 DR. SULLIVAN (from audience): What happened was ....

16 MR. SANDOR: Please come forward -- yes. Dr. Sullivan.

17 DR. SULLIVAN: When Fort Richardson -- when Fort  
18 Richardson was renovated in the early '80's, the initial estimate  
19 of ground water supplies was essentially twice what was eventually  
20 wound up with. So, they build raceways and incubators, and so  
21 forth, based on the projected amount of water that we would have  
22 there. At that time and since that time on an occasional basis,  
23 we've gone through environmental -- or EA's and CE's -- based on  
24 predictions of what we would have there, but the water never  
25 materialized. Okay? So, we have, in fact, sought a pipeline in  
26 the past. The city is quite -- with the Eklutna water supplies, is

1 quite willing to do -- get involved in this. They've got plenty of  
2 excess. It's a very short trip from the -- water treatment  
3 facility to Fort Richardson because -- because Fort Richardson is  
4 exclusively a sports fish hatchery, we have in the past had to go  
5 through the NEPA process. Just a few years ago, they got a  
6 categorical exclusion from the Fish & Wildlife Service for our  
7 statewide stocking plan which included Fort Richardson. The  
8 biggest problem that I see as far as environmental presently is the  
9 fact that we're going to have to run a pipeline for probably half  
10 a mile or something like that from the power plant to the hatchery,  
11 and we're gonna inconvenience some moose for a short period of time  
12 until you get the pipe dug and put -- from the water supply to the  
13 hatchery. I don't really see that there's going to be a big  
14 problem. I think an EIS is a worst case scenario. On the basis of  
15 what we have had in the past, which are, like I said, categorical  
16 exclusions and environmental assessments, it doesn't appear to me  
17 that an EIS would actually be necessary, but I think the 84 or  
18 however much we set for an EA is basically what we're looking at.  
19 But, yes, the idea for a pipeline predated the oil spill because we  
20 did not come up with as much water as we thought we would have  
21 there.

22 MR. BARTON: And has the legislature previously  
23 considered this project?

24 DR. SULLIVAN: I believe they have, but I don't -- if  
25 anything, they considered it last year. We were trying to get some  
26 funding from the Trustee Council, some funding from the

1 legislature, and some funding from the \$50 million. None of it  
2 ever came together, but we have tried, yes.

3 MR. COLE: What is the costs of this project if  
4 approved by the Trustee Council?

5 DR. SULLIVAN: Then we're looking at around three and a  
6 half -- or \$3.4 million is how much the pipeline will cost.

7 MR. SANDOR: Any further questions? Thank you, Dr.  
8 Sullivan. Any further comments on the motion to table? Yes, Mr.  
9 Rosier.

10 MR. ROSIER: Yes. Mr. Chairman, in particular the  
11 comments that were made, I was -- there were some concerns  
12 expressed in the public letters relating to disease. There was  
13 comments relating to -- to genetic -- genetics. These were  
14 frequently comments that are, in fact, heard in association with  
15 facilities -- hatchery facilities, but in that regard I am quite  
16 comfortable with the pathological screening capability of the  
17 department and certainly the genetics policies and implementation  
18 of those policies by the department to assure that we're not, in  
19 fact, getting ourselves into problems there with -- with either  
20 disease or genetic -- genetics. So, I think with that, I would  
21 close.

22 MR. SANDOR: Thank you, Mr. Rosier. Mr. Pennoyer?

23 MR. PENNOYER: Mr. Chair -- Mr. Chairman, I'm certainly  
24 not arguing with Mr. Rosier about the project's viability or do-  
25 ability or safety, and I don't think I'm trying to judge the public  
26 comment adequacy from the standpoint of original proposals

1 submitted during the current public comment period. I -- it's --  
2 this is one of those that's fairly expensive and fairly high  
3 profile, and I think the PAG is going to give us some advice on  
4 this. It's rather clearly one of those that -- that we would seek  
5 the advice of the PAG on. And my problem is the amount of money  
6 that's necessary to dedicate to doing the environmental assessment  
7 before I've any idea how we're going to choose this, either  
8 relative to its merits or to its qualifications as a restoration  
9 project. We've not made those decisions, and my motion to table  
10 had nothing to do with the fact that ultimately we might decide to  
11 approve or disapprove this project. It's -- it's just a very large  
12 expenditure for something that we haven't even started to think  
13 about how we're going to take action on it.

14 MR. ROSIER: Mr. Chairman?

15 MR. SANDOR: Mr. Rosier.

16 MR. ROSIER: Yes, if I might -- I guess on that -- my  
17 -- I understand we're -- we're -- where Mr. Pennoyer is coming  
18 from, and again, the time frames that we're in fact looking for  
19 here on this is to ensure that we've got, you know, opportunities  
20 in place in '94 and '95. So, that's where I'm coming from on this.  
21 If we decide to move ahead with the project -- I realize it's a --  
22 you know, it's a significant amount of money associated with this,  
23 but perhaps we need to, you know, deal with the project at this  
24 point in time.

25 MR. COLE: Mr. Chairman?

26 MR. SANDOR: Mr. Cole.

1 MR. COLE: First, underscoring my prior comments, we've  
2 got into this sort of trap last year, if you will recall, when we  
3 had to approve projects because they were, in quote "time-  
4 critical," then we asked for public comment, and after we'd been  
5 spending money and things like that. So, we here are again. You  
6 can -- we can believe it -- almost doing the same thing twelve  
7 months later, it certainly is depressing. But let's -- I think  
8 it's important at this time to get a sense of what the public said  
9 about this project. First -- the first comment I read is this is  
10 a category three project. That means, one, being the most  
11 attractive. Then the next comment was, quote "What next, a  
12 pipeline to California? No way." The next comment was, quote "a  
13 poor project." The next comment was, quote "frivolous and ill-  
14 directed." The next comment was "should not fund -- unrelated to  
15 the spill." The Kodiak Borough said "great exception taken here.  
16 Delete. Little merit and little to do with the oil spill." The  
17 next gentlemen, quote "a less essential project." The next  
18 comment, someone from Homer, said "glad to see this project  
19 dropped. It's beyond the realm of common sense" -- a gentleman  
20 from Homer. Alaska Wilderness & Recreational people said "not in  
21 the spill area -- could inversely impact wild stocks and negatively  
22 impact sport fishing." The next comment was "too much money being  
23 spent on a political-popular projects such as this one" and takes  
24 off on its usual theme about bureaucrats. The next was the Sierra  
25 Club's -- comment was "most deserving of elimination of all the  
26 projects," agrees with Dr. Spies. And one who writes to me other

1 occasions, from Anchorage, says "this is a waste of money and time  
2 -- don't threaten the Anchorage water supply." That's -- that's  
3 the twelve or thirteen comments -- I've finished nearly all of them  
4 -- that I've recorded, and that's what they say. And, you know, my  
5 -- my observation of the comments which are in this book here that  
6 Mr. Pennoyer has is a lot of work and thought has gone into these  
7 projects by a lot of people. It's really quite apparent that a lot  
8 of thought, effort has gone into them. I think we should listen to  
9 them. Otherwise, you know, there's no use sending them out and  
10 asking these people to do these things if we're not going to heed  
11 what the public is saying. That doesn't mean that because we have  
12 twenty adverse comments that we ought to say, well, drop it,  
13 because we still have to exercise judgment, but that's just a  
14 summary of the comments on this project, and for those two reasons  
15 I have a lot of hesitation about going ahead at this time and  
16 spending money.

17 MR. SANDOR: Mr. Pennoyer.

18 MR. PENNOYER: Yeah, I note also that this was not  
19 recommended by the Restoration Team originally, and I didn't -- we  
20 were not necessarily going to consider, but it gives me some pause  
21 to spend \$80,000 on it up front before we actually get into the  
22 nitty-gritty of how we're going to do it.

23 MR. SANDOR: Any other comments? Mr. Rosier.

24 MR. ROSIER: One final comment, Mr. Chairman. Yes. I  
25 think the points are well made here on this. I think in regards to  
26 Attorney General Cole's statements, however, I think that you have

1 to go further than just the comments, but in terms of justification  
2 for that decision -- but that idea -- in reading -- in reading  
3 these and by summary, as I say, I was invariably associated with  
4 the purchase of additional real estate, so ....

5 DR. MONTAGUE: Mr. Chairman?

6 MR. SANDOR: Do you have any further comments?

7 DR. MONTAGUE: Yes, Mr. Chairman.

8 MR. SANDOR: Dr. Montague.

9 DR. MONTAGUE: If I may? I think professionally it's  
10 important that you know all we know about this particular problem.  
11 As Carl has indicated, we anticipate probably a closure of the  
12 sport fishery of sockeye salmon on the Kenai River in '94 or '95.  
13 And that fishery supports 100,000 fishermen days per year, and --  
14 whether that amount to 50 or 75,000 actual people, I think we're  
15 looking at, you know, as an example, 75,000 people that most of  
16 them here in Anchorage that will not be able to do something, so  
17 that they're prevented entirely from doing, you know, what -- what  
18 they've chosen to do, and the same people that would have fished --  
19 not entirely, but there's a large overlap -- the same of the people  
20 of this 75,000 people that would have fished sockeye salmon on the  
21 Kenai River, will be able to take advantage of the results of this  
22 hatchery effort, and -- you know, the council and we rarely have  
23 the opportunity to know that we have an impending problem two or  
24 three years in advance, and to be ready to have anything for '94,  
25 this is the last year to make it -- make a decision. So,  
26 basically, this is it for this project.



1           MR. COLE:       Where's one sports fishing group that  
2 supports this project in the public comments? That's what troubles  
3 me. You say that this is so great for the sports fishermen. I  
4 don't see one sports fishing group who's had this -- these  
5 projects, support it. I mean, that's a -- it's very troubling to  
6 me.

7           DR. MONTAGUE: Mr. Chair, if I could address that?  
8 Perhaps, you all who have fished for sockeyes on the Kenai could  
9 understand this, but for the most part -- you know, there's no  
10 study to show this -- but it's our feeling that people that fish  
11 for sockeyes on the Kenai, probably for the most part do not belong  
12 to organized groups, and that's why they're not represented here.

13          MR. SANDOR:     The Chair asks if there are any further  
14 comments by members of the Trustee Council? The motion on the  
15 floor is to table action, not on the project, but on the funding  
16 for NEPA compliance, and I call for the question. All those in  
17 favor of tabling this motion, raise their hand please. Opposed?  
18 The motion is tabled.

19          UNIDENTIFIED VOICE: I abstain.

20          MR. SANDOR:     The motion is tabled then. We will break  
21 until a quarter to eleven, at which time Dr. Gibbons will continue  
22 his coverage of this item. Thank you.

23          (Off record: 10:25 a.m.)

24          (On record: 10:55 a.m.)

25          MR. SANDOR:     The group is reconvening. On the last  
26 motion that was made to table action on NEPA compliance funding for

1 93026 -- was a motion for tabling, and actions by the Trustee  
2 Council requires unanimous action. The converse decision was, of  
3 course, was to provide funding which couldn't be obtained, so,  
4 however you cut it, that decision was tabled.

5 We have continuing item three on the agenda, 1993 work plan,  
6 and Dr. Gibbons had identified four areas of action that he wanted  
7 to deal with. Dr. Gibbons could you continue with the proposals  
8 regarding the 1993 work plan.

9 DR. GIBBONS: Yes, Mr. Chairman. The -- a final item  
10 would be identification of time-critical projects that have NEPA  
11 compliance presently fulfilled, and I think that the example that  
12 was earlier today was the boat survey by the U.S. Fish & Wildlife  
13 Service. So, that would be the final topic on this. I guess, we  
14 could perhaps could around to the Restoration Team members and ask  
15 them if there are any projects that are time-critical that have  
16 fulfilled NEPA. That would be my recommendation.

17 MR. SANDOR: Do we have -- do all the Trustees have a  
18 listing of those projects that are time-critical for consideration  
19 at this time?

20 DR. GIBBONS: No they don't.

21 MR. SANDOR: Are there any that are critical? Yes? --  
22 Curt McVee?

23 MR. McVEE: I'll think about that. Let me address the  
24 boat survey project and explain what happens there as I understand  
25 it. The survey work that was actually done was small boats, and  
26 during the early survey, which is the March survey, that contract

1 we let for larger boats was to be used as -- as a base of  
2 operations.

3 UNIDENTIFIED VOICE: Mr. Chairman, which project are we  
4 discussing?

5 MS. BERGMAN: 93045.

6 UNIDENTIFIED VOICE: .... '045.

7 MR. McVEE: The contract would be let for the larger  
8 boats which we'd use as a base of operations for the crew doing  
9 this March survey. The later survey in August would be shore-  
10 based. Because of weather and so on, they have to do it from a  
11 boat. It's -- going to be necessary to -- in order to get the  
12 contract for that boat for the base of operations out -- to start  
13 that contract process -- can be advertised -- it can't be  
14 advertised or can't be approved by the contracts officer until  
15 there's money in the bank, so to speak, and the other element of it  
16 is that this work is done by seasonal employees, and I guess maybe  
17 as a side comment on that, I hope that we will look at global hire  
18 option there in terms of the resolution, but it takes sometime to  
19 go through the process of hiring and training those seasonal  
20 employees before the March date -- the kickoff for the boat survey.

21 MR. SANDOR: I'd like to clarify a point of -- I guess  
22 operation -- discussion. How many projects, Dr. Gibbons, are we  
23 talking about as being time-critical at this point?

24 DR. GIBBONS: I'm not quite sure on that. I did feel --  
25 there's probably less than three.

26 MR. McVEE: Interior just has the one.

1 MR. SANDOR: Okay. This is Interior's project, 93045,  
2 contracting small boat work, and -- but NEPA compliance work has  
3 already been done, and your proposal is that this is time-critical  
4 and requires approval -- to what degree? Final approval or  
5 tentative approval?

6 MR. McVEE: I guess it would require final approval of  
7 the project, so that we could go to the court and ask for help,  
8 along with the NEPA -- advanced NEPA funds.

9 MR. SANDOR: Totally funding is blocking this project?

10 UNIDENTIFIED VOICE: 262.

11 UNIDENTIFIED VOICE: 262.4.

12 MR. SANDOR: 262.4. Any -- in other words, what I'd  
13 like to do if there's going to be two here -- two or three projects  
14 -- can I interpret your proposal as a motion that project 93045,  
15 because it is time-critical, be approved by the Trustee Council?  
16 It's a contract for small boat work at 262.4. Is there a second to  
17 the motion that this be approved?

18 MR. PENNOYER: Second, for purposes of discussion.

19 MR. SANDOR: It's been seconded by Mr. Pennoyer for  
20 discussion purposes. Are there any questions? Mr. Pennoyer.

21 MR. PENNOYER: One procedural question, and I don't --  
22 again, I don't have a problem with this project, and probably if  
23 we'd voted in January, would have voted to support it anyway.  
24 Given the action we took with the PAG, are we going to totally  
25 approve the projects or are we going to ask for enough seed money  
26 to get them through the initial part, or -- what is our ....?

1 UNIDENTIFIED VOICE: The ....

2 MR. PENNOYER: I have no problem with this project. I  
3 think I can vote for it right now -- would have, probably today, if  
4 we'd taken action on all the projects, but I don't know what --  
5 also as regards this study, are you going to vote for the total  
6 thing to go to the court? or take the money in phases? or how do we  
7 make this conform to our resolution?

8 MR. SANDOR: Well, yes. That's essentially the  
9 question that I asked, is this tentative approval or final  
10 approval? We are obligated to inform the Public Advisory Group of  
11 actions we've taken that, you know, that -- so that they're not  
12 dealing with any issues on this. I presume this is final approval?

13 MR. McVEE: Yes. That would be the intent of the  
14 motion made -- for final approval, but that was the reason for my  
15 question to the chairman of the PAG was that -- you know, earlier -  
16 - was that recognition of the fact that there may be a few projects  
17 in this category, and based upon his discussions with the PAG, if  
18 that was going to create problems or not. And I guess you heard  
19 his response that they realize that there may a few actions that  
20 would have to -- that have to be taken.

21 MR. SANDOR: Mr. Cole, you have a comment or question?

22 MR. COLE: We should not, in my view, put in seed money  
23 because then we're just trapped. We ought to either just approve  
24 it, finally, right now, or defer it, but not half way. Otherwise,  
25 we're committed anyway, and we're left with a contract that's been  
26 let, and then say, well, we're going to just approve the project.

1 We ought to either do it finally right now or not at all.

2 MR. SANDOR: Mr. Pennoyer, do you have a question or  
3 comment?

4 MR. PENNOYER: No. I think I was going to basically say  
5 about the same thing. I do have one question of Mr. McVee. Under  
6 NEPA compliance, we've made an issue of NEPA compliance having to  
7 be obtained before the federal Trustees vote on item. Is it  
8 satisfactory for us just to ask there was, and you don't look at  
9 the document or make any (inaudible) approval of what was done.

10 MS. BERGMAN: Mr. Chairman?

11 MR. SANDOR: Pam Bergman.

12 MS. BERGMAN: Mr. Chairman, we do have NEPA compliance  
13 completed. It only required a categorical exclusion, and we do --  
14 I have a copy of a memorandum, which we have submitted to Dave  
15 Gibbons, specifying that the appropriate documentation under  
16 Interior's regulations have -- have been completed for this  
17 project, and I'd be happy to get a copy to you.

18 MR. SANDOR: Any other questions? Mr. Barton.

19 MR. BARTON: A comment -- I agree with Charlie Cole  
20 that either approve it or kill it, and not seed it. Secondly, it's  
21 important, I think, that we all understand that implicit in our  
22 approval of this is the determination that this project does meet  
23 the restoration criteria, which we've not really addressed as a  
24 subject unto itself.

25 MR. SANDOR: Any question about this project meeting  
26 the criteria? Dr. Gibbons? Restoration Team members? Anyone?

1 DR. GIBBONS: There was none from the Restoration Team.

2 MR. SANDOR: Any further discussion or comments? Pam  
3 Bergman.

4 MS. BERGMAN: Mr. Chair, I might just say that we've  
5 been talking here among the Trustee Council about that this is for  
6 boat contracting work. It's a larger project than that. The  
7 purpose of the project is to do -- conduct surveys to monitor  
8 marine birds and sea otters within Prince William Sound, but in the  
9 oiled area and outside of the area that was oiled. This is the  
10 best mechanism that we have to monitor the recovery of large  
11 numbers of different kinds species of marine birds in the Sound, as  
12 well as one of our mechanisms for helping to monitor the recovery  
13 of sea otters. It was not funded in 1991 -- I'm sorry -- 1992,  
14 although it has been done in March and in July, as we are proposing  
15 here, in 1989, '90, and '91. I might just add that the chief  
16 scientists gave this a level two, which was the highest level that  
17 he awarded any project, and the Restoration Team did vote six to  
18 zero to support, and as far as I know I did not see any public  
19 comments against the project.

20 MR. SANDOR: Any further comments or questions?

21 MR. BARTON: Mr. Chairman?

22 MR. SANDOR: Mr. Barton.

23 MR. BARTON: Yes. As I recall the discussion of this  
24 project in the ninety -- whatever the last work plan was -- it was  
25 -- the reason we didn't fund it was not because of the merits but  
26 because whether we needed to do it every year or not -- whether

1 it's right for the rationale -- we discussed ....

2 MS. BERGMAN: Mr. Chair?

3 MR. SANDOR: Yes, Ms. Bergman.

4 MS. BERGMAN: Yeah, we lost the window of opportunity  
5 for the March survey last year, but that was also an additional  
6 part of the discussion -- was whether or not we needed -- needed to  
7 do it every year, and the chief scientist, I believe -- I can check  
8 with Bob -- but I think his recommendation was to go ahead and put  
9 it off for one year, not fund it in '92, and fund it again in 1993.

10 MR. BARTON: Was there a survey in last August or not?

11 MS. BERGMAN: No.

12 MR. BARTON: Thank you.

13 MR. SANDOR: Any further comments or questions?

14 MR. COLE: Mr. Chairman?

15 MR. SANDOR: Mr. Cole.

16 MR. COLE: Is this -- this public comment requires me  
17 to ask, is this a multi-year project or is this to be done in one  
18 year?

19 MS. BERGMAN: Mr. Chair, this project will be proposed  
20 in future years, but because it's funded this year doesn't mean  
21 that it has to be funded at every single year. That's something  
22 that we will be looking at when we're developing a monitoring  
23 program, to ask the question, do we need to do this on an annual  
24 basis or every other year or every three years. By funding it this  
25 year, it does not tie you in to having to do the work again next  
26 year. It'll be part of that larger monitoring program.



1 MR. SANDOR: Mr. ...?

2 MR. BARTON: Add to that, also, is that -- I think you  
3 need to look at the results of the survey to see whether we've --  
4 we could adequately project or predict trends. When we reach that  
5 point, then we certainly don't need ....

6 MR. COLE: I just want to say that the Chugach -- the  
7 Forest Service -- the Chugach National Forest opposes this project.

8 MR. SANDOR: Opposes it?

9 UNIDENTIFIED VOICE: Opposes it.

10 UNIDENTIFIED VOICE: ....opposes it.

11 MR. SANDOR: Any other comments or questions,  
12 observations? Yes.

13 MR. McVEE: Mr. Chairman, Chugach National Forest can  
14 be overridden by the Regional Forestry Commission. (Laughter)

15 MR. SANDOR: Any other comments or questions? This is  
16 in response to the motion to approve. This is in final form.  
17 93045.

18 UNIDENTIFIED VOICE: What's that total amount of this  
19 project?

20 MR. SANDOR: For 262.4. Any objection for approval of  
21 this process? (No audible response) The project is approved. Is  
22 there any additional projects among your number of two or three  
23 that requires action at this time? Any other critical projects?  
24 I feel like an auctioneer.

25 DR. MONTAGUE: Mr. Chairman, there was....

26 MR. SANDOR: Dr. Montague.

1 DR. MONTAGUE: The harbor seal project and the satellite  
2 tags that needed something by the 1st of February. If we feel that  
3 we can make the decision prior to the 1st of February, we're okay,  
4 and actually have the funds freed up, but otherwise that one would  
5 be a problem -- should have attention today.

6 MR. PENNOYER: I'm sorry, which project is that?

7 UNIDENTIFIED VOICE: 46.

8 MR. PENNOYER: We don't have an environmental impact  
9 statement yet, anyway.

10 DR. MONTAGUE: Okay.

11 MR. PENNOYER: So we can't take action on it 'til January  
12 anyway.

13 MR. SANDOR: Apparently, there are no other time-  
14 critical projects to be considered at this time. (Inaudible --  
15 electronic interference).

16 UNIDENTIFIED VOICE: Not at this time.

17 MR. SANDOR: Moving on to item four of the agenda --  
18 restoration plan, John Strand.

19 MR. McVEE: Mr. Chairman?

20 MR. SANDOR: Yes.

21 MR. McVEE: While they're getting set up, I might just  
22 talk to you briefing about the '93 draft work plan. We've made a  
23 series of comments concerning the draft work plan -- is that the  
24 problem with the detailed information being available until after  
25 the public comment period was over, and I don't know what kind of  
26 demand there had been for that information. I think there's a

1 couple other problems with it. I say this for the benefit of -- of  
2 the future, I guess, at this stage or at this time, but detailed  
3 budget -- there was no reference in it, except on page 13 of the  
4 first draft -- which was on page 13 of the detailed plan. Another  
5 problem, I guess, in the '93 plan is that you can't tell which  
6 projects continue on into the out years. In the summary budget  
7 information -- there may be information in the narrative part, but  
8 I think in the future that we should show columns in the summary  
9 budget information for the out years, the '94, '95, and so on. So,  
10 I think, you know, people having just the draft plan is somewhat  
11 misleading in that they could look at a project that maybe '94 was  
12 \$700,000, and in the detailed budget, in the out year would total -  
13 - make that project worth \$2½ million. I didn't see that kind of  
14 information, so I think we ought to put the information out to the  
15 public and should show them the whole picture.

16 MR. SANDOR: That point's well taken. Are you ready  
17 for the presentation?

18 MR. ROSIER: Mr. Chairman, I have another comment.

19 MR. SANDOR: Yes, a comment from ....

20 MR. COLE: Mr. Rosier -- Commissioner Rosier had a  
21 comment.

22 MR. ROSIER: That's okay.

23 DR. GIBBONS: Some of the -- one of the criteria we used  
24 in the '93 plan was that if the work was done in 1993 and not  
25 funded in '94, that that work would not be lost, that it would be  
26 useful. So, that was a criteria that we used so it wasn't, in a

1 sense, you know, perpetuating the project into the future.

2 MR. COLE: I had a -- an overall comment on the '93  
3 work plan in light of some public comment, and I saw broad comment  
4 that we do have a -- you know -- unified program for the study for  
5 the Prince William Sound ecology or environment, unifying things.  
6 That comment came largely from, I think, from academicians, but --  
7 and from scientists. Now, I'm just wondering whether the '93 work  
8 plan for that reason misses something. Is there any other council  
9 member have any reaction to those comments? They say that we've  
10 just got sort of isolated, discrete projects, and that we don't  
11 have some project with -- you know, an overall theme, and that  
12 these projects may affect other segments of the Prince William  
13 Sound ecology, etc., etc., and I don't know if there's any to that,  
14 whether it's comment that we should heed and have advice on or not,  
15 but it's certainly re-occurred a number of times.

16 MR. SANDOR: I wondered if the proposed restoration  
17 plan itself might not help solve that, but it is a point. Any  
18 comments? Mr. Rosier.

19 MR. ROSIER: Yes. I guess, I've kind of looked at this  
20 from the standpoint of -- of, you know, the projects that we're  
21 talking about now were those projects that were kind of fill-in  
22 type projects under such time as we did have a restoration plan in  
23 place, and at that time we were going to be looking at this things  
24 in terms of a total program. I kind of agree that -- with some of  
25 the comments that were put forth by the university system here on  
26 this in regards to an overall program, but I'm not sure that the

1 direction that we gave associated with the '93 work plan at this  
2 point, lacking a restoration plan, necessarily missed the mark.

3 MR. SANDOR: Mr. Barton.

4 MR. BARTON: Yes. Yes -- I think the restoration plan,  
5 one of the purposes of that is to provide for that umbrella and  
6 framework, and I guess I don't think we ought to be surprised that  
7 the '93 program misses the mark, since, as I recall our philosophy  
8 was to delay any restoration projects that could be delayed until  
9 completion of the restoration plan itself, which we're going to  
10 take up later. That's what John's sitting there waiting patiently  
11 for, I guess, but -- you know, I don't think it should be a  
12 surprise to us that there is perhaps a disjointedness. On the  
13 other hand, I do think we ought to do whatever we can to correct  
14 that deficiency through the work of the council and Restoration  
15 Team as we finalize the '93 program of work.

16 MR. MORRIS: Mr. Chairman.

17 MR. SANDOR: Okay.

18 MR. MORRIS: I just want to point out, there is a  
19 project in the '93 plan that would develop a long-term plan.  
20 93041, I believe.

21 MR. SANDOR: If there's -- is there further discussion  
22 before we ask John Strand to begin his presentation?

23 DR. MONTAGUE: Mr. Chairman?

24 MR. SANDOR: Yes.

25 DR. MONTAGUE: I think it is important to mention that  
26 Dr. Spies may have some comment on this as well -- is that we gave

1 considerable thought to an integrated, ecosystem-wide research  
2 program and, for two reasons, did not put it forward this year.  
3 One, you know, the accuracy of the cost estimate, I guess, could be  
4 a question, but we envision that there's probably more expensive  
5 than any project proposed in this work plan, other than land  
6 acquisition. That was one reason, and another one, the '93 work  
7 plan process began in May with a draft due at the end August, and  
8 that was reviewed insufficient to develop -- insufficient time to  
9 develop an integrated, ecosystem-wide program.

10 MR. SANDOR: Any other comments? Let's proceed then  
11 with item four on the agenda -- restoration plan, Mr. John Strand.

12 MR. STRAND: Thank you, Mr. Chairman, members of the  
13 Trustee Council. I think we'll do without the view graphs. We do  
14 handouts in the packet that was sent to you on December 4th.  
15 Technology is wonderful. What are the chances of both bulbs  
16 burning out at one time in those new projectors.

17 We appreciate very much the opportunity to talk with you today  
18 regarding the planning group's progress. We look forward to  
19 presenting to you the approach and direction that we've taken thus  
20 far in developing the draft restoration plan. We think by  
21 reviewing the detailed outline for the restoration plan and  
22 entering into a discussion of the alternatives that will be  
23 presented in the plan that will give you a better understanding of  
24 the direction that we've taken and the concepts that we embrace in  
25 the development of the plan. I've asked Veronica Gilbert to help  
26 me today. She will lead the discussion on the alternative themes -

1 - the differences among the alternatives that we recommend  
2 presenting in the draft restoration plan, and I would invite any  
3 other member of the restoration planning work group to enter into  
4 the discussion as they feel necessary as we obviously develop some  
5 dialogue through the presentation.

6 In addition to talking about the detailed outline and our  
7 ideas about alternatives, we also intend to talk about schedule.  
8 I have a handout that I'll send around. I think there's enough  
9 copies for both the Restoration Team members as well as the Trustee  
10 Council members. I'll talk about the schedule between now and  
11 March, at which time it's our intent to have the draft restoration  
12 plan ready for publication. David will then address the schedule  
13 post March, for the rest of 1993. But, we'll get into that after  
14 the first two presentations on the detailed outline and the  
15 alternatives. If you would, perhaps we could turn now to the  
16 handout that I sent to you on the detailed outline. I think it was  
17 probably the second handout in the package that was sent along. It  
18 has a date on it of December 4th. And what I thought we would do -  
19 - we really want your comments and ultimately your approval on the  
20 outline so that we can begin the task of filling out the outline  
21 and completing writing of the drafting of the plan, but before I  
22 get into that, maybe I can go through each section, give you the  
23 highlights of section one, section two, section three, and I can  
24 get your comments on a particular section before moving on to the  
25 next section. That's one way I thought that we might approach  
26 getting some feedback from you all. Is that an appropriate way to

1 do it.

2 MR. SANDOR: Does everybody have a copy of this  
3 December 4 memorandum referred to? I do not have an extra. Okay.  
4 Needing two copies.

5 MR. PENNOYER: There are two December 4th memos from you  
6 on the Restoration Plan Working Group. We're talking about the  
7 second one or the ...?

8 MR. STRAND: The second one that deals with the draft  
9 detailed outline draft restoration plan.

10 MR. PENNOYER: Thank you.

11 MR. SANDOR: Okay. Why don't you proceed?

12 MR. STRAND: Alright. I wanted to indicate that you'll  
13 note that a fair number of people are tasked the - the plan, --  
14 members of the Restoration Team, Restoration Planning Working  
15 Group, other work groups -- the chief scientist is asked to bear a  
16 hand in presenting a draft to us for inclusion in the plan, as well  
17 as the public information officer, and, of course, we've hired an  
18 editor to help us in trying to draft this plan so that it's in one  
19 voice. The plan is -- has undergone a significant amount of  
20 revision -- the draft outline has been reviewed and revised by the  
21 Restoration Planning Work Group and the Restoration Team before you  
22 then receive it. This is not to say that there isn't room for  
23 improvement. We would want your comments on this, and I think we  
24 can effect the changes very quickly. I am hopeful that you'll find  
25 that even the last set of comments that Department of Interior  
26 provided me on the 3rd of December, those have been entered. There



1 may be one point that we will want to discuss in terms of a  
2 concept, but clearly I think we tried to accommodate those final  
3 comments received on the 3rd of December.

4       Turning to the first page, the outline and the plan itself  
5 will be constructed to address a number of what I feel are very  
6 basic questions, and these include what was injured during the  
7 spill, how is it recovering, what can we do to restore the injury  
8 to either the resource or the service, how much money should be  
9 spent and over what duration, and where should restoration be  
10 implemented geographically. I think if we keep those questions as  
11 we go through the outline, the outline itself can be evaluated in  
12 terms of how adequately the outline and the plan will address those  
13 questions. I think those are the basic need and scope of the  
14 document. What we have to do with this document. In section one,  
15 this is the introduction. It deals with the - the why of the plan,  
16 addressing these questions that I just mentioned. It is intended  
17 to include the historical background for the spill, the magnitude  
18 of the spill, the cleanup, the NRDA program, our organization, and  
19 the activities that the Trustees have undertaken to date. It  
20 reviews the level of public involvement that we enjoy at this point  
21 in time, and it provides a detailed accounting, what the provisions  
22 are for both the criminal and civil settlements, and finally in  
23 that section we deal with the relationship to the National  
24 Environmental Policy Act, the compliance with that Act, and the  
25 need for a probamatic (ph) and environmental impact statement that  
26 is to parallel the restoration plan. Are there any points that you

1 would care to make regarding the introductory section of the plan  
2 as we envision it to being developed at this point in time?

3 MR. PENNOYER: This is going to be a big document.

4 MR. STRAND: I believe this will be a big document. I  
5 -- my vision would include and the vision of the rest of the  
6 members of the planning group probably 350 pages. Certainly, the  
7 outline may change slightly as we actually write the document.  
8 This is often the case as we get into preparing large documents,  
9 but I'm interested in any comment or feedback that you would have.

10 MR. SANDOR: Are there any comments or questions with  
11 respect to the introduction section or segment ...?

12 MR. COLE: I have this question because I -- I'd like  
13 to know, what is the general purpose of the restoration plan --  
14 period?

15 MR. STRAND: I think it goes back to those five  
16 questions. The plan will address what is injured, how it's  
17 recovering, and what we can do to restore those injured resources  
18 and services. It will include costs and where to now.

19 MR. COLE: Is it a plan that provides for the  
20 restoration generally for the next -- remaining ten years, or is it  
21 just going to be focused on one or two years? That's what I've  
22 been getting at. I mean, what is the difference, I guess, between  
23 the restoration plan and the '94 work plan?

24 MR. STRAND: I believe -- my answer is that the annual  
25 work plans are the means by which the plan is implemented on a  
26 project-specific basis. The plan itself -- what we're talking

1 about now -- provides the general guidance -- what kind of  
2 restoration can you effect meaningfully, but it will be up to the  
3 restoration annual work plans to deal with on a more detailed basis  
4 -- site A, and this is the particular project developing a fish  
5 pass for a particular river or stream that has had blockage or  
6 somehow impacted by the spill. Does that answer your question?

7 MR. COLE: I think so.

8 MR. SANDOR: Mr. Pennoyer.

9 MR. PENNOYER: Yes, sir. John, just as follow-up, it's  
10 important to decide how you actually go about killing something  
11 instead of just talking the concepts, and I think as you go through  
12 the plan chapter by chapter, we need to understand the relationship  
13 in a time line, actually, in getting something done. And this  
14 provides us some guidance, but how much guidance? How does that  
15 get you to a '94 work plan? How does it get you to a '95 work  
16 plan? So, as you go through the chapters and address that, I think  
17 it will be helpful.

18 MR. STRAND: I'll try to. And, yes, the rest of the  
19 RPWG, the Restoration Planning Work Group has -- help me if I'm not  
20 addressing that adequately. Okay. I'll try to do that.

21 MR. SANDOR: Questions on the introduction?

22 MR. STRAND: Section two, this was at the suggestion of  
23 the Department of Interior, and we have provided in the outline,  
24 and we will provide in the plan for a description of the pre-spill  
25 existing environment. You often see this in an environmental  
26 impact statement, and we would hope to fulfill this requirement by

1 summarizing the information that maybe found in the draft  
2 environmental impact statement in this regard, and by a description  
3 of the pre-existing impact area, the pre-spill area, we would  
4 describe it in terms of natural resources that are found there --  
5 the socio-economic and subsistence uses and needs -- and the  
6 cultural and anthropological resources. This might set the stage  
7 for understanding in total the resources and services that were  
8 there to start with. This might be useful in framing replacement  
9 and acquisition of equivalent resource opportunities.

10 MR. SANDOR: Mr. Pennoyer.

11 MR. PENNOYER: Mr. -- thank you. In that regard -- and  
12 the having been on the North Pacific Council looking at EIS's and  
13 EA's and social economic allocation issues, you can either do that  
14 descriptively or you can go out and do independent studies. I  
15 mean, what is your view or the view of Interior in chapter, and how  
16 much background we've got to do? Is it available, is it -- both in  
17 this and EIS, we are going to have to go back and research all the  
18 socio-economic structure of (inaudible) communities, or how much  
19 depth do you plan to go into in this?

20 MR. STRAND: That's a good question. My assumption is  
21 that the EIS team will be gathering that information for the  
22 environmental impact statement. We will use only the summary of  
23 that information, relying upon the EIS team to provide that  
24 information. I do not know the exact depth of that. Maybe Mr.  
25 McVee or Mr. Rice can provide more detail in the answer.

26 MR. PENNOYER: Mr. Chairman, we may have to get an EIS

1 discussion a little later. I didn't really intend to do that. You  
2 intend to do an independent background?

3 MR. STRAND: We are not, no. The idea was to take  
4 information that was provided by the EIS team, summarize for use in  
5 this sense. I mean, that's how I interpreted the suggestion by the  
6 Department of Interior.

7 MR. SANDOR: Mr. McVee?

8 MR. McVEE: It's my understanding that it would be  
9 utilizing existing information -- and -- they'll probably be gaps,  
10 like there will be all through the plan with the existing  
11 information, but the reason for doing it is that, you know, the  
12 first priority, I think, is to restore the resources and services  
13 -- and that's difficult -- to pre-spill conditions. If you don't  
14 describe what those were in some way, then how do you have a plan?  
15 How can you meet that goal or objective in the plan? So, it seemed  
16 critical to us to have that discussion in there and to the extent  
17 that we can develop it.

18 MR. SANDOR: Mr. Pennoyer?

19 MR. PENNOYER: Mr. -- I agree with the concept. I'm just  
20 hoping we're not building another trap that, to fill it, we're  
21 going to find ourselves somewhere in April or May with somebody  
22 saying, oh, you don't have enough -- a thick enough document here.  
23 Because this could be a whale of a project, and if you're going to  
24 do these descriptions adequately, you could have a lot of field  
25 research, you can have a lot of library -- I mean, you could extend  
26 it quite a ways.

1                   MR. SANDOR:     Mr. Cole?

2                   MR. COLE:       Have you formulated any estimate of the

3 cost of this restoration plan?

4                   MR. STRAND:     Yes. We have produced draft numbers. We

5 just did that this past week. That's being reviewed and revised.

6 Boy, I don't like ...

7                   MR. COLE:       So what'd you come up with?

8                   UNIDENTIFIED VOICE:     .... next question ...

9                   MR. STRAND:     Okay. We can give you a number, but

10 clearly, it's a preliminary number, and I could attach a whole host

11 of caveats ....

12                   MR. SANDOR:     We can brace ourselves for it. (Laughter)

13                   MS. GILBERT:    I could discuss how we are approaching

14 cost ....

15                   MR. COLE:       Well, we think it's a wise thing to tell

16 what .... (laughter) You know, sorry .....

17                   MR. SANDOR:     A ball park estimate?

18                   MS. GILBERT:    It's somewhere around a billion dollars,

19 I guess, is the best -- you know. The cost -- the way we

20 approached cost was largely on the basis of advice that was given

21 to us by the peer review. In October we had -- we had a peer

22 review of the restoration planning process, and in that process the

23 peer reviewers strongly recommended that we include -- and we

24 actually quantify the concept of uncertainty. In other words --

25 and we did that in estimating cost. Of course, there's always the

26 temptation to say, oh, it could go on forever, we have no idea what

1 this is going to cost, and they really urged us to specify -- to  
2 specify a range. The dollar figures that we had requested, and  
3 this was entirely in-house, was for each group of options, group of  
4 planning actions, to specify an expected value of the cost and a  
5 lower and an upper range. Or it could be somewhere between 200 and  
6 300,000, while the expected value would be 250,000. We did,  
7 likewise, on duration. As you've begun to notice, you're seldom in  
8 it for just one year. A lot of these things tend to continue on.  
9 You have a number of policy issues -- will you just construct  
10 facilities, will you also be maintaining them -- are you only going  
11 to be doing the first year, will you have continuation? So, we  
12 have estimates on the expected value, lower range, upper range of -  
13 - lower range, upper range on cost; expected value, lower range,  
14 upper range on duration; and then total costs that come out, we do  
15 not have estimates for everything. For example, most notably,  
16 there is a proposal for visitors' centers. Visitors' centers would  
17 be built various places. We still need to have that proposal  
18 together. Where? Would -- we'd be looking at new construction.  
19 We have no estimates for that kind of an activity. Also, we made  
20 the decision to -- and this at an early stage, okay -- this may all  
21 change. We made the decision to express these dollar values in  
22 1993 dollars. Consequently, if you're looking at these figures,  
23 you'd have to be thinking in terms of the settlement value of  
24 closer to 600 million than a billion. If you prefer to express it  
25 real dollars, we would need to add an inflation value and also,  
26 most importantly, estimate when the project's going to start, so

1 you'd be able to have an accurate one.

2 Marty? Before I get -- I'd like to ask my boss, should I just  
3 give them the figures that we've come up with at this stage? (Ms.  
4 Rutherford gestures in the affirmative -- laughter.) Okay. I want  
5 that on the affirmative because these have a number of assumptions  
6 built into them, one of which by the way ....

7 MR. SANDOR: Excuse me, please. Mr. Pennoyer?

8 MR. PENNOYER: I'm not -- I don't -- from your  
9 description, I don't know if you're going to tell us what the total  
10 it's going to cost to do all the work -- I think Attorney General  
11 Cole was trying to get at the cost of preparing the plan ....

12 MS. GILBERT. Oh ....

13 MR. PENNOYER: .... when you start talking about a  
14 billion dollars to prepare the thing, then ....

15 MS. GILBERT: .... know how much the whole thing was  
16 going to cost.

17 MR. PENNOYER: Well, we're sure it's going to cost \$600  
18 million or a billion dollars -- \$900 million. That's what the  
19 whole thing is going to cost when you get done after ten years.

20 MS. GILBERT: I'm sorry. That was -- I have not done a  
21 cost estimate of developing....

22 MR. STRAND: I don't have a firm figure in my mind of  
23 what it's going to take to complete the plan. Clearly, at this  
24 point in time, the budget is calling for the Restoration Planning  
25 Working Group to be together one more year, I think. And so, that  
26 would be a salary for those folks. There are subcontracts for an



1 editor, \$150,000. Excuse me?

2 MR. COLE: How much are the wages for this group for  
3 a year? We could get close a little bit.

4 MR. STRAND: I think it's the entire year for the  
5 entire group -- the Restoration Planning Working Group.

6 MR. COLE: And that number is approximately?

7 MR. STRAND: There is a -- \$675,000.

8 MS. GILBERT: The summary in the work plan for 1993 for  
9 the restoration planning work team, I believe, is \$670,000.

10 MR. COLE: So it's going to cost us about a million  
11 dollars to prepare this plan? Is that what you're telling ...?

12 MR. STRAND: That's probably a safe estimate, including  
13 the monitoring planning exercise which is a '92 -- or a '93 work  
14 plan project, and that has to be factored in, and the editor and  
15 publication costs. I think that that's a fair estimate.

16 MR. SANDOR: Mr. Strand, does that also include the  
17 cost in environmental impact statement?

18 MR. STRAND: It does not.

19 MR. SANDOR: I was afraid of that.

20 MR. STRAND: It does not. That's ....

21 MR. SANDOR: Dr. Gibbons, do you have any comments?

22 DR. GIBBONS: That's \$316,000.

23 MR. SANDOR: I beg your pardon?

24 DR. GIBBONS: \$316,000.

25 MR. SANDOR: For?

26 DR. GIBBONS: For the NEPA EIS.

1           MR. SANDOR:     Okay. Any other comments or questions at  
2 this point? I -- I've got to raise -- and I don't know at what  
3 point in time we're starting to discuss alternatives, options, and  
4 so forth, and then I was looking last evening at the timetable for  
5 the production of the draft restoration plan -- December, Jan --  
6 February -- and the more startling thing, the environmental impact  
7 statement costs -- and, I guess laying this out up front for  
8 members of the Trustee and the Restoration Team and those working  
9 on this effort, I'm wondering -- well, one schedule I have actually  
10 has this -- it says the -- by March of 1993 the published draft  
11 restoration plan with alternatives will be -- the target date is  
12 March 1993.

13           MR. STRAND:     That's correct.

14           MR. SANDOR:     But then the environmental impact  
15 statement process follows this and actually commences -- well, the  
16 March 24, 1993, is the draft restoration plan with alternatives are  
17 published without the environmental impact statement, and  
18 separately the environmental impact statement process gets under  
19 way, and the end result of this is that the final decision is  
20 February 1994 before we and the public have a restoration plan.  
21 And, I tell you, this disrupted my sleep that entire evening, and  
22 I think is really unacceptable. We've got to look at some  
23 alternatives of integrating these things together. And I guess the  
24 question with respect to development of alternatives in the  
25 restoration planning process, why can't we not integrate these  
26 things so that the alternatives that are developed in the plan

1 actually meet the requirements for the NEPA process and display  
2 these in the environmental impact statements, so we're not having  
3 a separate item that costs \$600,000 here, and then \$350,000 here,  
4 and then gets us the product in February 1994. I should really  
5 relinquish the chairmanship of this -- getting into this sermon,  
6 but anyway, it's unacceptable, and I .... (laughter).

7 MR. McVEE: Mr. Chairman?

8 MR. SANDOR: Mr. McVee.

9 MR. McVEE: Yeah. We have a solution to that, and I  
10 know that it's one of the proposals John mentioned that -- that he  
11 expected us to bring this up, so I won't deny him -- but we think  
12 that there should be a -- either -- whatever you want to call it --  
13 a preferred alternative or a proposed action in the plan. But you  
14 have to have that within the EIS. That's mandatory -- a legal  
15 requirement. And -- and (inaudible -- electronic interference) ...  
16 the public .... in March ....

17 (From here to going off record at page 108, portions of the  
18 taped transcript are inaudible because of electronic interference  
19 from camera and electronic recording equipment of a  
20 television/press camera crew.)

21 MR. STRAND: Certainly, the concept that (inaudible --  
22 electronic interference) want to present the public their comments  
23 on (inaudible -- electronic interference) ... without the  
24 designation of a preferred alternative. And that's what we did,

1 and we were then -- that assumption leads you the requirement that  
2 (inaudible -- electronic interference). That was our concept  
3 (inaudible -- electronic interference) ... more meaningful the  
4 public input in the process, but clearly there is this other way as  
5 well.

6 MR. SANDOR: In follow up to Mr. McVee's question. Is  
7 it possible that the Public Advisory Group for its January 6-7  
8 meeting be given the alternative of having a restoration plan  
9 environmental impact statement process being developed, as this one  
10 alternative does with -- through February 1994, and to the  
11 alternative approach that Mr. McVee outlined, and perhaps there's  
12 other more -- other places to doing this? And then, with that,  
13 identify the total costs associated with doing this -- these two  
14 tasks, and then the question of timeliness. It seems to me, the  
15 Public Advisory Group and the Trustee Council, which is not  
16 scheduled to approve this in final form until February -- it seems  
17 to me that -- that would be helpful. Isn't that the intent or what  
18 is -- what is the -- how are we going to resolve is, and is this  
19 the best way to do this -- these two jobs? I guess that's the  
20 question.

21 MR. STRAND: Well, if understand you correctly, we  
22 certainly could pose that delay -- issue to the Public Advisory  
23 Group and solicit their opinion, but I think this has had a lot of  
24 discussion both at the level of the Restoration Planning Working  
25 Group and the Restoration Team, and it may be at a point where this  
26 is correct form for this discussion, and we're seeking guidance.

1 MR. SANDOR: Mr. Cole.

2 MR. COLE: If you look at the footnote next to that

3 February '94 date, I think the footnote says that there may be a

4 delay in meeting this date. Doesn't it say that there?

5 DR. STRAND: Yes.

6 MR. COLE: Well, if you think about that, and then

7 there is a little delay, then the '94 work plan is going to get

8 jammed up because we said, well, you know, we really don't have the

9 restoration plan done, we can't have the '94 work plan done because

10 you don't have a restoration plan, and you go through all this

11 again. I mean, you know, and we're going to be saying just like

12 we're saying here, gee, we've a an EIS -- you know. I just say

13 this is unacceptable, and to say that we have to get this done --

14 you know, the public is demanding action. I mean, the public --

15 you know, it's nice to (inaudible -- electronic interference).

16 UNIDENTIFIED VOICE: .... EIS ....

17 DR. STRAND: (Inaudible -- electronic interference).

18 DR. GIBBONS: (Inaudible -- electronic interference).

19 MR. BARTON: (Inaudible -- electronic interference).

20 DR. GIBBONS: (Inaudible -- electronic interference).

21 MR. BARTON: (Inaudible -- electronic interference) ...

22 time.

23 MR. McVEE: (Electronic interference) ... I would

24 support that by way (inaudible) ... desirable that you could

25 accomplish both in (inaudible -- electronic interference) ....

26 ... gets an opportunity to either comment on the environmental

1 implications that -- it isn't another document that you have to put  
2 out, it's just recognizing that that's part of the -- part of the  
3 process, part of the meetings, and so on, that -- that we need  
4 another requirement that's included in the schedule.

5 MR. SANDOR: Dr. Gibbons, do you have a comment? Then  
6 Mr. Rice.

7 DR. GIBBONS: Yeah. I can defer to Mr. Rice in a minute  
8 here. I haven't -- there's a couple of other options here that can  
9 reduce months off this schedule also. One is that you release the  
10 draft plan in March as -- and then release the draft environmental  
11 statement after that, but not release the draft plan again. So,  
12 you cut two months off the public comments section there, and then  
13 you could have the EIS and the plan released at the same time, you  
14 know, in late summer -- that's one option. One option is to  
15 (inaudible -- electronic interference) ... on the alternatives,  
16 then meet (inaudible) ... in early June, and one.

17 MR. RICE: (Inaudible -- electronic interference) ...  
18 focus up until now in getting a document out by March, which would  
19 be the most opportune time to get meaningful public involvement.  
20 If we delay release of the document into -- much passed May or so,  
21 then we get into the fishing season, people are not available, and  
22 the opportunity to get meaningful involvement is further delayed.  
23 RPWG had promised a draft plan by March, and they intend to meet  
24 that, but what I hear the Trustee Council say is it's not when you  
25 get the draft out that's important, it's when you get the final out  
26 and we finish this process -- that's important -- and that's what

1 Dave was leading up to as a mechanism for speeding the process up.  
2 The EIS, once they receive the alternatives and sufficient  
3 information to start the analysis of those alternatives and what  
4 the environmental effects of those are, the last schedule that I  
5 received from the contractor was that we could have a draft ready  
6 to go out to the public by June. So how do we get the two  
7 documents in sync? Do we want to provide an informational package  
8 in March and get the two documents in sync so that they go out  
9 together, however, that would mean going out during the summer. To  
10 have a final (inaudible -- electronic interference) ...  
11 documentation ... to go out in draft ... after that ... impossible  
12 to get ...

13 MR. SANDOR: (Inaudible -- electronic interference)

14 MR. BARTON: (Inaudible -- electronic interference)

15 MR. SANDOR: (Inaudible -- electronic interference)

16 MR. PENNOYER: (Inaudible -- electronic interference) ...

17 anyway, the staff get together over the noon hour, revise this ...  
18 go with preparation of final ... don't want to be doing a  
19 restoration in '95 ... restoration plan ... detailed presentation.

20 MR. SANDOR: The Chair would also suggest that you make  
21 some kind of (inaudible -- electronic interference) ... until two  
22 o'clock ... (inaudible).

23 MR. COLE: (Inaudible -- electronic interference).

24 MR. SANDOR: (Inaudible -- electronic interference) ...

25 Dr. Gibbons ... break for lunch and return at 1:15 with a very  
26 positive habitat protection work group.

1 (Off record at 12:00 noon)

2 (On record at 1:20 p.m.)

3 MR. SANDOR: Good afternoon. Good afternoon, this is  
4 a resumption of the meeting of the Exxon Valdez Oil Spill  
5 Settlement Trustee Council meeting, and we are going to resume our  
6 agenda as noted just before our break for lunch -- with Habitat  
7 Protection Work Group status report, but we're going to first of  
8 all have a brief summary of the Alyeska settlement that also  
9 touches on the habitat question, and after that, then the Habitat  
10 Protection Work Group status report, and then we'll return to the  
11 restoration plan, as noted before the lunch break.

12 Attorney General Cole, can you summarize the information  
13 related to the Alyeska settlement.

14 MR. COLE: Thank you, Commissioner Sandor. You will  
15 recall that the state's natural resource damage claim against Exxon  
16 Corporation and others was settled by virtue of a \$900 million  
17 settlement which was approved by Judge Holland in early October of  
18 1991. That litigation did not settle the state's claim against  
19 Alyeska Pipeline Service Company and its constituent members.  
20 However, as I've mentioned, all of the state's claims for natural  
21 resource damages were settled by virtue of the Exxon settlement,  
22 and a fundamental reason for that was that Exxon did not want to be  
23 liable, over, for additional natural resources damages in the event  
24 that the governments pursued further claims of that type against  
25 Alyeska. In addition, the Exxon settlement provided that if the  
26 governments recovered any monies from Alyeska, that 20.34 percent



1 of that recovery would be paid back over to Exxon. The reason for  
2 that was, was that that was the amount which Exxon owned of the  
3 Transalaska Pipeline project, and Exxon did not want to pay twice  
4 in connection with the settlement.

5 Now, the next issue is what remained for the state's claims  
6 against Alyeska. Well, frankly, we had some economic claims which,  
7 in the view of counsel, were -- let's say -- thin, and so, as a  
8 result of extended negotiations between the federal government, the  
9 Department of Justice, the State of Alaska, a settlement was  
10 reached with Alyeska and its constituent members. Under the terms  
11 of that settlement, \$2 million was agreed to be paid by Alyeska to  
12 the federal government, and the 20.34 percent of that \$2 million I  
13 pre -- was to be paid over to Exxon, leaving a net check of a  
14 million six or something like that. I imagine it was simply a net  
15 check, but I'm not familiar with that -- details of how that  
16 settlement was carried out. In addition, to that the state  
17 recovered \$29,700,000 against Alyeska, comprised of the following  
18 generally: \$7,250,000 was to be used for the construction of docks  
19 and related storage facilities at Chenega Bay. Would you mind  
20 pointing it out -- down at Chenega -- at \$7.25 million. In  
21 addition to that, another dock in the amount \$7.25 million is to  
22 have funds at Tatitlek. See that? And the state felt that those  
23 docks would serve purposes in support of spill response should  
24 another spill occur. In addition, it would provide general docking  
25 facilities for the people of Chenega and those operating vessels in  
26 the Sound. It had the related benefit of providing employment in

1 those areas. In addition to that, \$6 million was to be used for  
2 the construction of a road, essentially from -- you might say --  
3 downtown Cordova to Shepherd (ph) Point, which is approximately six  
4 mill -- six miles down the way from Cordova, to a deep water port  
5 area. The port's not been constructed yet. We've got to figure  
6 out the money to construct the port, but at least, we have the  
7 access there. In addition to that, Alyeska committed to build a  
8 response facility in Valdez -- the approximate cost of \$14 million.  
9 That \$14 million is not counted as part of the settlement. Alyeska  
10 had planned to build that facility in the terminal area and,  
11 however, the people of Valdez wanted that facility constructed in  
12 Valdez, not across the way, so we obtained a commitment from  
13 Alyeska to construct that facility in Valdez. In addition to that,  
14 Alyeska agreed to pay \$200,000 for communications facilities to the  
15 state and federal governments for installation in the response  
16 facility. In addition to that, those payments, Alyeska committed  
17 \$7½ million to use for the acquisition of lands in the Kachemak Bay  
18 State Park area. Those payments are really to be paid in  
19 installments in 1993 and 1994, but Alyeska agreed that in the event  
20 we need monies immediately for any one of those projects, that that  
21 money would be available. I think that largely summarizes the  
22 terms of that settlement. Oh, I wanted to say one other thing.  
23 Two things are important in connection with that settlement, and  
24 let me assure you they were hard-bargained elements -- one, the  
25 provision that Exxon would recover 20.34 percent of the \$29.7  
26 million was, let's say, vacated -- will not be enforced. That

1 really would account -- you can do a little math, but a fifth of  
2 30,000,000 is, I guess, what -- \$6 million? So, in addition to  
3 what normally you would consider the \$30 million settlement, in  
4 some ways, you'd have to add another 6,000,000 in order to account  
5 for the money which we persuaded Exxon not to enforce under the  
6 terms of the initial agreement last year. In addition to that, and  
7 I assure that another hard-bargained element was the fact that this  
8 thirty-two million approximately will not be permitted as an  
9 expense in Alyeska's pipeline tariff. As you know, in that  
10 pipeline tariff, the state pays about 20 percent -- 25 percent of  
11 that, so, frankly, we just told Alyeska that it would not be  
12 acceptable to have the state pay 25 percent of its settlement. So,  
13 that was -- hung up the settlement for about six weeks in order  
14 eliminate that tariff provision. So, I think that summarizes  
15 generally the terms of that settlement.

16 MR. SANDOR: Thank you for that summary, and that  
17 provides some -- some helpful information in all of our activities,  
18 and -- any questions? Are there any Trustee Council members --  
19 regarding that? If not, we'll move on to ....

20 MR. COLE: Mr. Chairman, I have another matter ....

21 MR. SANDOR: Yes, Mr. Cole.

22 MR. COLE: I move that the Trustee Council  
23 appropriate the sum of \$7.5 million for restoration and enhancement  
24 of injured natural resources and services to be used to purchase  
25 approximately 7,500 acres of imminently threatened habitat in  
26 Kachemak Bay State Park in-holdings.

1                   MR. SANDOR:     Is there a second to that motion?

2                   The motion's been made and seconded that we purchase -- to  
3 allocate the \$7.5 million for the purchase and acquisition of the  
4 imminently threatened habitat within Kachemak Bay State Park and  
5 ....

6                   MR. COLE:       Mr. Chairman, may I speak in support of  
7 that motion?

8                   MR. SANDOR:     Yes, Mr. Cole.

9                   MR. COLE:       I have here a map, a topographical map, of  
10 the Kachemak Bay State Park and area -- and the other places in the  
11 immediate area. See, Homer is here. The lands which this motion  
12 contemplates in general acquiring, are those lands which are  
13 contained in the cross-section area within the state park area,  
14 excluding the tracts which are marked with a crossed section, and  
15 this little area here which is also to be excluded from the  
16 proposed acquisition in this area. Now, I want to -- I have  
17 another map which I would like to utilize here to show .... This  
18 is a map showing the timber harvest areas within the Kachemay (sic)  
19 -- Kachemak Bay State Park area, and these areas which is in red  
20 here is those areas for which timber harvest permits have been  
21 applied for, and you can see that in this area here is the general  
22 -- and I want to emphasize the general area -- which this motion is  
23 -- addresses. We'll have to do some, you might say, negotiating  
24 and finding out the exact parameters of the lands which are  
25 proposed to be acquired, but you can see that this area in red is -  
26 - first, it's timber, prime timber; second, it's imminently

1 threatened with the pending applications for timber harvest in it.  
2 Now, along the right-hand margin here, we have five small maps, and  
3 the top one is labelled marbled murrelet, the next one is pigeons,  
4 the next one is ducks, the next one's river otter, and the last one  
5 is recreation, cultural and tourism. And this shaded area in each  
6 of these little maps, green here -- I guess that's green or grey --  
7 well, I'm colorblind, sorry, I just have a little trouble, but I  
8 can tell that's red (laughter) -- shows what's observed habitat of  
9 each of these species and the tourism and coastal resource  
10 sections. And as you look at these maps -- I hope you can see them  
11 well -- but you'll notice that each of the murrelets, the pigeons,  
12 and the ducks all have observed habitat, critical habitat, within  
13 the area which this motion proposes to acquire. In addition, you  
14 have these maps with -- show the -- visibility analysis of Kachemak  
15 Bay, as seen from 3,000 feet essentially above or in the Homer  
16 area, and if you look at these wavy lines out there, this will show  
17 the landscape and one would see -- see what I refer to as the  
18 escarpment above Homer. And, in addition that, we have this data  
19 showing the scientifically observed species in this area. Do we  
20 have that down here to hand out? Well, let me just comment briefly  
21 on that.

22 As shown from this memorandum which we compared, this habitat  
23 -- protection of this site is rated as high to moderate potential  
24 to benefit the following species and services in an area affected  
25 by the oil spill. We have high potential as the bald eagle -- or  
26 maybe high potential, but I want to say that the studies do not

1 show the bald eagle much damaged by the spill, furthermore, it  
2 appears to be recovering, but with that caveat I mention that. It  
3 has intertidal and subtidal viata (ph), it has obviously high  
4 recreation and tourism, and also was high potential habitat for the  
5 marbled murrelet. It has moderate potential for the river otter,  
6 for anatomous (ph) fish -- you can see there's these streams which  
7 come right up here and originate in the upper lake -- and for  
8 subsistence then, the harlequin duck. We also have supporting data  
9 in the graph which has been handed for anatomous fish, bald eagle,  
10 black oyster catcher, common murre, the harbor seal, harlequin duck  
11 -- this is on the third page in -- the intertidal and subtidal  
12 viata, and also the species which I put along the right-hand margin  
13 of the second map. Then, in the third page over, we have habitat  
14 protection and acquisition partial summary -- the partial CIK01 --  
15 in the China Poot Bay area, which is this area which is just  
16 beneath the boundary of the acquisition, and we have data there  
17 showing the injured species and service, the potential for benefit  
18 of each of these species and services, and comment in the right-  
19 hand column. That concludes my remarks in support of the motion.

20 MR. SANDOR: Thank you, Mr. Cole. Are there any -- are  
21 there questions or comments from other Trustees? Mr. Pennoyer.

22 MR. PENNOYER: I've thought all along we needed to  
23 consider imminent threat habitat and take some action to try and,  
24 in the short term, ensure that we didn't lose opportunities to --  
25 to restore or to benefit the restoration of injured services or  
26 resources or even to enhance them. I don't have a problem with

1 that. I guess my question, as we just took action on a whole  
2 series of projects for '93 by not taking action, but rather putting  
3 it off until a PAG group had looked at it and we have reconsidered  
4 some of those actions and completed, in some cases, the appropriate  
5 NEPA documents. Is it the intent that we take action here and now  
6 to approve this as a project? For '93?

7 MR. COLE: Yes. Yes, and let me say why because I'd  
8 like to add a couple of other remarks. First, we know, after  
9 having read the - the comments of the public generally with respect  
10 to the restoration plan that the acquisition of habitat is the very  
11 highest priority, I think, of any project or any action which the  
12 Trustee Council can take in support of restoration. We furthermore  
13 know, from having read -- read those comments and having listened  
14 to the public comments in meeting after meeting, that the  
15 acquisition of these imminently threatened lands in Kachemak Bay  
16 State Park are the very highest acquisition project in the entire  
17 state. I think probably the ratio is about ten to one. And,  
18 lastly, I think that this motion is nicely complemented by the  
19 Alyeska settlement. We know, of course, that further lands in  
20 Kachemak Bay State Park, which are not acquired by the intent of  
21 this motion, but we have available now \$7½ million from the Alyeska  
22 settlement to purchase lands which are not necessarily threatened  
23 habitat in the park. That's why this motion is keyed to the  
24 acquisition principally that imminently threatened habitat in the  
25 area is sought to be acquired. The Alyeska monies can be used to  
26 acquire lands within the park where we do not have solid scientific

1 data, as we have here, in support of restoration and enhancement of  
2 injured species and services. So, those are the reasons, and  
3 frankly I think the council was -- has been repeatedly criticized,  
4 as we know so well, for failing to take action. It's generated the  
5 perception that we really don't want to acquire habitat; that  
6 there's something oozing up inside of us which requires us to not  
7 buy habitat. It's really some sort of plot or conspiracy against  
8 the acquisition of habitat, and I think the time has come to just  
9 do it, and -- and to heed the -- the interests of the public, and  
10 to do away with once and for all this pervasive thought that we're  
11 just not going to acquire habitat. I see no reason to delay it  
12 further. Time has come for action.

13 MR. SANDOR: Any further comments or questions? Mr.  
14 McVee.

15 MR. McVEE: I guess -- say, one question, and then  
16 I've got some comments. Is this a fee title acquisition?

17 MR. COLE: Yes. Yes, we have a proposed motion which  
18 we would acquire this land in fee, with the timber rights being  
19 extinguished, and that the state would be the owner in fee.  
20 Furthermore, that this purchase be completed no later than December  
21 of 1993, and that if these funds are not used for that purpose by  
22 that date, that the funds go back into what I'll call the general  
23 fund.

24 MR. McVEE: A follow-up comment -- (inaudible) would  
25 agree that we need to bite the bullet and move forward and that  
26 there is -- obviously, you've established linkage here -- and, I



1 guess I've been thinking for some time that Kachemak Bay might very  
2 well be the best choice for us to initiate the acquisition of  
3 process, and one of those reasons, of course, is the public support  
4 that this has, has had, over -- over the last year from very --  
5 from day one as far as my attendance at Trustee Council meeting.  
6 I guess I think that if the motion were framed in -- in -- as a  
7 proposal to initiate the process of acquisition, then that would  
8 get me by this -- this NEPA problem that I have. The fact that I  
9 have to vote on an expenditure -- you know, an obligation of money  
10 -- without that compliance. But if we were to -- to frame it in  
11 such a way that we start the process which will lead us towards  
12 acquisition, which means, you know, some analysis, negotiation, of  
13 the NEPA compliance, whatever that will amount to, I would be very  
14 favorable to go ahead and vote with -- for the motion.

15 MR. COLE: I think that we should commit the funds --  
16 commit the funds, here and now, and then get underway with the  
17 process. I don't think that this -- committing the funds is  
18 violative of the NEPA requirements. We should commit the funds,  
19 and then we can go to the owners and -- and negotiate. But every  
20 time you go, and you don't have money in your pocket or in your  
21 checkbook, and you're at the top, and the guy says, well, show me  
22 your money, and then you say, well, you know, we're working on it,  
23 and that's what's been going on for the last ten years, I guess, or  
24 certainly years. You know, I think we've got to get the money in  
25 the checking account, and then we can go to these people and start  
26 the process, but you have to have the financial commitment in order

1 to go to these people, because these people say, well, you know,  
2 I've heard this for years, and we're not going to delay our timber  
3 projects any longer waiting for you people to show us your money.  
4 And that's why I think we should do it.

5 MR. SANDOR: Mr. Cole, the process though would, of  
6 course, be in accord with the NEPA requirements.

7 MR. COLE: Well, if there's NEPA requirements to buy  
8 some land. It's pretty hard to imagine that there is, but I'm  
9 surprised every day.

10 MR. SANDOR: Mr. Pennoyer?

11 MR. PENNOYER: I -- I thought for the last couple of  
12 meetings that we ought to do something, and I thought in the case  
13 of Kachemak Bay's park it might have been something to go ahead and  
14 at least start the negotiations, make our interest clear that we're  
15 interested in getting more information, and you have assembled a  
16 large body of information. I think there are ties. I think  
17 enhancement is viable thing. I guess I'm having a little trouble  
18 squaring a vote now with what happened in the last two meetings  
19 when we went from everywhere from spruce bark beetles to the need  
20 to do a restoration plan before we actually acquired any property.  
21 I think this probably is a high priority. I'm not -- I'm just  
22 having a problem right at this minute shifting gears from what I  
23 thought was the perception I was getting at the last two meetings  
24 to an acquisition right now. I would like to hear the imminent  
25 threat presentation too, by the way, and what other opportunities  
26 there are we may have to deal with before we finalize it. Again,

1 are the spruce bark beetles here that are eating up the park like  
2 we saw there was -- we had a problem with the discussion last  
3 meeting? Are we buying -- is that concern beyond us? Do we not  
4 ...?

5 MR. COLE: Yes.

6 MR. PENNOYER: ... is this beyond us?

7 MR. COLE: I'd say it's beyond me. (Laughter)

8 MR. PENNOYER: It was well beyond me before too, but I'm  
9 not ....

10 MR. COLE: I mean -- I mean, if we don't want to do  
11 it, there's all sorts of reasons why people can say let's not do  
12 it. Spruce bark beetle, we can say that. We can say, really we  
13 should talk about trading, you know, lands, and you know, and those  
14 things go on interminably, and like I say, nothing ever gets done.  
15 That's one of my consistent complaints, as you know. We just have  
16 to make some decisions. And, if we put this off, well, you know --  
17 you know, we're subject to more criticism that we really don't want  
18 to buy habitat. Lord, if there's ever habitat that this Trustee  
19 Council ought to buy, this is it. You know -- and the governor has  
20 supported it, we know that, unqualifiably, and -- who's objecting  
21 to it?

22 MR. SANDOR: Any other questions or comments (laughter)  
23 from members of the Trustees Council? Mr. Barton.

24 MR. BARTON: Yes, Mr. Chairman. I share one of those  
25 sentiments that have been expressed earlier about the need to get  
26 on with things, particularly the habitat acquisition and habitat

1 identification and habitat protection. I'm somewhat curious if  
2 these permits have not already been approved. Is there not some  
3 possibility of some protection in the permitting process? We've  
4 talked about that at some length in earlier meetings. The other  
5 thing that frankly distresses me is that, looking at the potential  
6 impact of injured resources and services from timber harvest, would  
7 not reflect well on the state Forest Practices Act, if this were  
8 all to be true. So, that -- that troubles me as well. The package  
9 that you have provided for us, Charlie, is a good package, and it  
10 would be helpful if we had an opportunity to digest it a little  
11 before we move ahead so rapidly, but I understand your concern.

12 MR. SANDOR: Any other questions or comments. I guess  
13 a follow-up to the question that Mr. Pennoyer raised earlier about  
14 the basis and with his suggestion that the habitat protection  
15 examination work by the Restoration Team may be support of  
16 (inaudible), is it not true as well that the Nature Conservancy in  
17 the two projects that were funded by the Trustee Council earlier  
18 this year, that -- that findings of that Nature Conservancy report  
19 either provided a part or much of the basis for the information  
20 that's been outlined here. Is that the case?

21 DR. WEINER (from audience): I can answer that. The  
22 shaded areas that you see depicted on this portion of the map  
23 represent the information that was gleaned from the Nature  
24 Conservancy workshop. The workshop assembled a group of what we  
25 considered to be the recognized experts in their fields regarding  
26 these resources and a number of the other resources, and the

1 analysis of their information indicated that this was the habitat  
2 that was identified in this particular area. For instance, in the  
3 case of the marbled murrelet, the gray-shaded area you can see here  
4 represents areas that are known as feeding habitat for these birds.  
5 In the uplands, the area encompassed by the red, being imminent-  
6 threat lands, is an area which we presume to be nesting habitat for  
7 the marbled murrelet. The experts agree that although we don't  
8 have any hard data in hand documenting the existence of the nest,  
9 it's highly likely that the birds do nest in this area. The  
10 information is a similar -- accordingly right down the line for  
11 these resources. The assembled group of experts concluded  
12 basically that these resources occur in these shaded areas. So,  
13 that's how we used that information. Ancillary information in  
14 addition to the Nature Conservancy, data that we used to determine  
15 the relationship or linkage of the affected resources to this  
16 parcel of land, came from eagle nests, atlases, and address stream  
17 catalogs, all sorts of resources from all of your agencies. So,  
18 this represented the anecdotal information from the Nature  
19 Conservancy catalog. It was supplemented by what we like to call  
20 harder data sources from other scientific studies.

21 MR. SANDOR: One follow-up question, and that is, my  
22 understanding as well that the information from these various  
23 sources included observations that the spruce bark beetle, although  
24 in the general vicinity of the Kachemak Bay Park, that there were  
25 no significant outbreaks of -- of spruce bark beetle within the  
26 park itself. Is that true?

1 DR. WEINER: I can't answer that, but Al Meiners and  
2 Neil Johanson (ph) are in the back of the room. I'm sure they  
3 know.

4 MR. MEINERS (from audience): Yes. The Division of  
5 Forestry looked at that question about a year ago, and there are  
6 bark beetles. The population's generally endemic rather than  
7 epidemic. Because of the areas of Sitka spruce as opposed to white  
8 spruce, the beetles are just not moving very much. There are  
9 little pockets in Mallard (ph) Bay and some small areas, but not a  
10 significant problem.

11 MR. SANDOR: Not presently a significant problem, but  
12 their mere presence may be perhaps a deterrent to any consideration  
13 of escalating the price of the (inaudible) property in acquisition.

14 MR. MEINERS: We have -- forestry outside Southcentral  
15 Alaska have populations of bark beetles (inaudible -- out of  
16 microphone range). So, it's just a question of when that  
17 population gets too big. If there are problems, the beetles start  
18 to ....

19 MR. SANDOR: I think that the question that Mr.  
20 Pennoyer raised earlier about bark beetles is relevant, and it is  
21 my understanding that -- from the -- Mayor Don Gilman -- that  
22 there's something in excess of 500,000 acres of -- of timberland  
23 that has been infested to where the timber is being killed, and  
24 that constitutes a -- actually a much greater threat for the  
25 destruction of a forest than any amount of acreage that's actually  
26 planned for harvest. But insofar as this area's concerned, that

1 question, I think, has been resolved. Someone else? Did you have  
2 an additional question?

3 MR. PENNOYER: Yeah. I had an additional commentary as  
4 well as a question. I, again, I think I agree with Mr. Cole, it is  
5 time to get on with on with some things, and I thought that in  
6 previous meetings, and I guess rather than looking at the reasons  
7 not to do something, I was getting the impression the council was  
8 stating reasons not to do something -- concerns with waiting for  
9 the imminent threat and waiting for the proposed study from the  
10 Nature Conservancy, waiting for the restoration plan before we did  
11 things like land purchase. I think -- I think we probably at the  
12 last meeting should have issued at least some discussions with  
13 landowners in areas like this, and at least indicated our interest,  
14 yet alone specifically the general dollar amount. I have a little  
15 trouble shifting off of that, and I guess my preference would be to  
16 hear the imminent threat discussion, and something along this  
17 restoration schedule, and then come back to this, rather than  
18 deciding on it right this minute.

19 MR. SANDOR: Is there -- I guess Marty Rutherford is on  
20 the agenda to -- to deal with this question of habitat protection.  
21 Is it appropriate at this time -- as referred to -- to make a  
22 presentation and, perhaps, that could be supplemented by anyone  
23 from the Nature Conservancy that may be here that could add to your  
24 comments?

25 MS. RUTHERFORD: Okay, Mr. Chair, this will just be a  
26 brief report on the status of some of Habitat Protection Work

1 Group's activities during the past nine weeks, and more  
2 specifically, what you can expect from us during the next six  
3 weeks. At the end of September, you approved moving ahead with  
4 several of the '93 work plan projects. One of those projects was  
5 93059, which was titled habitat identification workshop, and it  
6 allowed the Forest Service to modify an existing cost-share  
7 agreement with the Nature Conservancy, so that the Nature  
8 Conservancy could quickly -- and it was quickly, eight weeks from  
9 beginning to end -- provide specific short-term information  
10 gathering assistance to the Habitat Protection Work Group. Through  
11 a tremendous amount of commitment and hard work by the Nature  
12 Conservancy, some of the Habitat Protection Work Group, and more  
13 specifically the participants in the project, this project was  
14 completed very successfully, and we now have in hand all the  
15 products. The products that resulted from the cost-share agreement  
16 are the result of, as are indicated earlier, a questionnaire and an  
17 interview. The questionnaire, which was developed by the Nature  
18 Conservancy and the work group, was sent to individuals who were  
19 identified as having significant knowledge about the injured  
20 species and services, and these were both site-specific knowledge  
21 and habitat-characteristic knowledge. Forty-five questionnaires  
22 were sent out, and 27 of those were received, and since this was  
23 somewhat of a daunting questionnaire, that's a pretty good return.  
24 We also feel that was a pretty good indication of the commitment of  
25 the participants, because when I say daunting, I do mean daunting.  
26 The interviews occurred in early November, over a three-day period,



1 and included individuals as having significant site-specific  
2 knowledge about the injured resources and services. Twenty-three  
3 interviews were conducted. Out of those 23, 14 of those  
4 participants had also filled out questionnaires. The products of  
5 the work group received from the Nature Conservancy interviews were  
6 approximately 230 mapped sites that are important to injured  
7 services and species. The process used to identify these sites are  
8 considered a -- sort of a coarse-filter approach, since it is  
9 primarily based upon the best professional judgment of the project  
10 participants. In many cases, some additional fine-filter work will  
11 be necessary to determine the site-specific relationship to the  
12 injured resources and services. The site information was then  
13 compiled into 11 areas that merit special attention. These 11  
14 larger areas are sometimes referred to as polygons, contain  
15 multiple benefits to the injured species and services, and they  
16 encompass a very large part of the oil spill-affected area. Of the  
17 230 sites mapped, 137 of those sites fall within sev -- 11 larger  
18 polygons, and 92 of them fall outside of it -- outside of them. We  
19 also received an excellent start on a data base to use in analyzing  
20 parcels, again, as a coarse filter, and hopefully this data base  
21 will be the beginning of the ability to do a finer analysis as we  
22 gather more information from the projects and from other -- and  
23 from agencies. And we also received 50 sets of excellent  
24 information from the project participants. I want to add here that  
25 the information received from this project is -- is mostly, as Art  
26 indicated also, qualitative information, but oftentimes the

1 individual's best professional judgment was backed up by specific  
2 quantitative information or data. We do have copies of the  
3 project's executive summary, which I can hand out here. The  
4 product itself is -- is large. It's very large. We only currently  
5 have one copy. It's upstairs. Everyone's -- we'd love to show it  
6 to you if you're interested. We will eventually be able to  
7 reproduce parts of it for the public and for anybody else who -- on  
8 the Trustee Council -- who would like a copy.

9 One other issue I want to note here is that the information  
10 that was gathered as part of this project was done so with the  
11 understanding and agreement by all the parties that it would be  
12 applied only if there is willing landowner-participant, or in other  
13 words, a willing seller. We don't want any misunderstandings on  
14 this point, neither did the project participants. So, where --  
15 where does that leave us now? The Nature Conservancy workshop  
16 information, along with a tremendous amount of other work involving  
17 existing agency data, is allowing the Habitat Protection Work Group  
18 to analyze this data. As we indicated to you back in August or  
19 September, I don't remember which month, we were going to analyze  
20 approximately 30,000 acres of imminent-threat lands. These are --  
21 imminent-threat lands occur in Prince William Sound, on Afognak  
22 Island, and in Kachemak. By the end of January -- actually, by the  
23 middle of January, we will mail it out to you -- hopefully, you'll  
24 set a meeting for the end of January -- we hope to present to you  
25 verbally as well as map and a -- coarse-filter, qualitative  
26 analysis of each parcel of this imminent-threat lands. The

1 analysis will include the acreages, an indication of which, if any,  
2 injured species and services are linked to that parcel, how  
3 significant that linkage is, what the adjacent public land  
4 management is, what the imminent threat is, and what, perhaps, the  
5 protection objectives are. We also hope -- hope -- to have for you  
6 by January, some analysis of the lands adjacent to these imminent  
7 threat lands, as well as some analysis of the lands Chenega and  
8 Akiak. These two villages have indicated an interest in  
9 participating in this process to us, and as these lands are not  
10 currently imminent-threat lands, however, we are extremely  
11 appreciative of their willing to participate, and we want to  
12 encourage them and other landowners to offer to work with us prior  
13 to imposing imminent threats to us on their lands, and it also  
14 makes, you know -- hopefully, it will keep down the costs of  
15 eventual protection should we choose to do so.

16 In January, when we present this information, we will be  
17 looking to you for approval to begin discussions -- I want to  
18 emphasize that -- begin discussions with the landowners, so we can  
19 determine if they are willing participants, and, if so, the degree  
20 of that participation interest. If so, we may then have direct  
21 access onto their lands and to their land information, which will  
22 greatly facilitate our analyzing lands using the finer-filter,  
23 quantitative information. I hope that gave you some basic  
24 information. Yes?

25 MR. SANDOR: Any questions? Mr. Pennoyer.

26 MR. PENNOYER: Thank you, Mr. Chairman. This proposal

1 that's been presented us today, how -- have you -- is this part of  
2 the work you've done? Have you seen this? How does this fit in  
3 with your process.

4 MS. RUTHERFORD: The work -- I want to make clear --  
5 the work that we're doing in all the different areas on the  
6 imminent-threat lands is ongoing, and we have done quite a lot of  
7 this work. This work -- this particular area was -- we focused on  
8 this initially. It has not gone back through the Habitat  
9 Protection Work Group, but we hope to be doing that next week, but  
10 we are relatively comfortable with it, it's primarily the result of  
11 hard data from the agencies, and is qualitative data from the  
12 Nature Conservancy.

13 MR. SANDOR: Any other questions?

14 MR. COLE: Do you find imminent-threat in Kachemak  
15 Bay lands within the area sought to be acquired?

16 MS. RUTHERFORD: Yes, we definitely did.

17 MR. COLE: And what imminent threat did you there  
18 find? (Laughter) I have to pull it out -- know what I mean?  
19 (Laughter)

20 MS. RUTHERFORD: The areas in red are in -- are going  
21 to be logged areas, they are in the process of being logged, or are  
22 going to be logged in 1993. Some of the adjacent areas, also,  
23 there are -- the -- the timber rights have been purchased, so we  
24 expect the logging shortly thereafter -- on the areas not indicated  
25 in red. This document that was sent around to you does indicate  
26 those species and services that would benefit from protection on

1 this. Obviously, there's a link to these damaged species and  
2 services. Also, there's a very strong linkage to services -- I  
3 mean, this is -- this is the highest use area in the state in terms  
4 of recreational activities.

5 MR. COLE: Is this one of the areas that your group  
6 thought had high habitat protection interest.

7 MS. RUTHERFORD: Yes. Absolutely. We've gotten  
8 overwhelming indication that there's -- the public would like us to  
9 protect this particular ....

10 MR. COLE: Was there any one higher?

11 MS. RUTHERFORD: No. There was none higher.

12 MR. SANDOR: Mr. Pennoyer.

13 MR. PENNOYER: Are these the appropriate parcels that  
14 we're talking about purchasing here. Yes. In our initial analysis  
15 of the -- the lands, and again, these -- none of these lands have -  
16 - are in final, but you know -- the project we're doing for you in  
17 January is a little more comprehensive than what you've got in  
18 front of you right now, but in our initial analysis of this, those  
19 parcels that are currently addressed in Attorney General Cole's  
20 resolution rated high and high -- moderate high -- and everything  
21 else was below that.

22 MR. PENNOYER: One more question.

23 MR. SANDOR: Mr. Pennoyer.

24 MR. PENNOYER: ... we've discussed -- and again, I think  
25 -- we've heard the testimony on this, I've always thought this was  
26 something we ought to be working with, but having trouble

1 envisioning how we do this. Can I -- if we voted for this, how  
2 would the actual purchase selection proceed? Through our process?  
3 Through some other process? How would we do it?

4 MS. RUTHERFORD: Could I not address the Kachemak --  
5 could I back off for a second and just talk about this process.  
6 One of the things we hope to give you in January is an indication  
7 of our recommendations on how you might choose to begin  
8 negotiations, and how you might begin to look at land management.  
9 We're working very hard and fast on those issues. Now, this has  
10 been separated a little bit, so I think at this point in time I  
11 would ask Attorney General Cole to comment on what -- how he would  
12 foresee this particular resolution being dealt with.

13 MR. SANDOR: Mr. Cole.

14 MR. COLE: One of the conditions in the motion is  
15 that the total purchase for all the Kachemak Bay in-holdings not  
16 exceed \$22 million, not that that's the total amount, but it not  
17 exceed \$22 million. That's a major subject for negotiation, and  
18 actually my thought is -- not yet brought to fruition, obviously --  
19 is, if we have a commitment to go from this Trustee Council, is  
20 then to go the owners of the interests sought to be acquired and to  
21 representatives of the Trustee Council, state and federal  
22 representatives, if you will, to negotiate with the owners for a  
23 definitive contract of acquisition. Like I say, at that time when  
24 we have money in our checkbook that we can address that.  
25 Furthermore, to the extent, if any, additional funds are required,  
26 then we have the state -- I call it the ill-fated 411 Fund money --

1 which I'm confident, (inaudible) the legislature, but reasonably  
2 confident, I might say, that they would see fit to appropriate from  
3 those \$50 million state criminal funds the requisite money to  
4 complete the purchase -- if, perhaps, even by the addition of money  
5 from the general fund. But I think before we go to the land owners  
6 that we have to have, you know, a commitment that these funds will  
7 be available. Otherwise, I imagine they'll say, well, you still  
8 want to talk -- you know -- we've been this before. We have spoken  
9 to those people. There's been extensive negotiations over the  
10 last, maybe, six months, but nobody of the acquirers -- the state  
11 or the Trustee Council -- simply, you know, can't write a check or  
12 have no money, and so it's sort of what comes first, the chicken or  
13 the egg, and I think we need this commitment for \$7½ million to be  
14 able to go to them and begin negotiation of a definitive agreement  
15 for the purchase of their interest, you know, subject to the  
16 availability of the remaining funds. Does that answer your  
17 question?

18 MR. PENNOYER: Very near.

19 MR. SANDOR: Any further questions? Mr. Barton.

20 MR. BARTON: Mr. Cole, I didn't find in the write-up  
21 any discussion of using the permitting process to protect this  
22 habitat. Can you share with us the discussions surrounding that?

23 MR. COLE: I don't have any thoughts on that. I  
24 mean, it didn't occur to me that that was, you know, as they say,  
25 the way to go. I mean, you know ....

26 DR. WEINER (from audience): Mr. Attorney General, I

1 could take a crack at it.

2 MR. COLE: Okay, please do.

3 DR. WEINER: I'm not bashful.

4 MR. COLE: I've not been accused of that myself.

5 (Laughter)

6 MS. RUTHERFORD: Nobody would accuse you of that.

7 (Laughter)

8 DR. WEINER: The context within which we'll be working  
9 in here, at least the way that staff sees it, is different from the  
10 context for which the permit -- permit process was developed and  
11 passed into ordinance. What we are attempting to do here is to  
12 provide the protection over and above that which is afforded by the  
13 regulatory matrix that's in place today. It's our feeling that the  
14 added benefit that habitat protection/acquisition would provide to  
15 these resources is needed over and above that -- that is in place  
16 for the existing regulations. I could provide you with examples,  
17 but that is essentially the conceptual framework within which we're  
18 working. Otherwise we would be able to say, we feel comfortable  
19 that the existing regulatory matrix will protect these resources.  
20 We don't. Quite the contrary. We feel we have a need to  
21 facilitate recovery, and that habitat protection does exactly that  
22 over and above existing regulations.

23 MR. COLE: I think we're dealing with services here  
24 in addition to simply these resources and the habitat of the  
25 species. I mean, we're dealing with the services, and I think of  
26 all the land in the spill-affected area, this is probably the area



1 with the highest service benefits of any, and I think in many ways  
2 this -- that distinguishes essentially all of the other habitat  
3 lands in the spill-affected area, and it's very important. I think  
4 also very important here is that we don't get hung up with the  
5 difficulties of negotiating habitat acquisition where we sort of,  
6 as I say, chase ourself around the Sound or this bay, and then we  
7 buy that, and then the next year it's this bay, and the next year  
8 it's this bay, as you, you know, hopscotch across the Sound,  
9 because here, you see, we can just acquire this area without having  
10 to working about being in the state park boundaries, without having  
11 to worry about someone saying, well, we're going to log -- plans  
12 next door, and then we have to go buy that. I think this  
13 differentiates this, along with the services, from the other  
14 habitat areas that we've been looking at.

15 MR. PENNOYER: I find myself in a position of you trying  
16 to talk me into something I think I've wanted to do all along,  
17 (Laughter) ... and was sort of getting talked out of it by some of  
18 the people making the proposal, in terms of waiting to do very  
19 things and getting procedures down pat, restoration plans, and  
20 decisions on whether we're going fee simple or lease, or what we  
21 were going to do. I happen to believe in fee simple, so I've got -  
22 - I got a distinct feeling from the Trustee Council we haven't made  
23 some of those basic decisions on how we were going to approach  
24 this, even as far as delaying action until certain things happen on  
25 projects that are fairly logical to go forward with. Now, there's  
26 \$7½ million here, and I don't -- and procedurally, I even have a

1 couple of questions. For example, Mr. McVee, can you vote on this  
2 in a final fashion at this meeting?

3 MR. SANDOR: Mr. McVee.

4 MR. McVEE: I figured I would be asked that pretty  
5 quick, but ....

6 MR. PENNOYER: Sorry it took so long. (Laughter)

7 MR. McVEE: Yeah. The -- I guess I have a problem  
8 about voting on something that -- that's, you know, favorably on a  
9 motion that -- that's -- that I'm supportive of because my legal  
10 counsel says I can't -- you know, can't commit at this point in  
11 time. Now, I was thinking that there may be ways around this, and  
12 sitting here thinking about some language that would allow -- allow  
13 to go ahead and get by the NEPA problem that -- that my legal  
14 counsel has said that I'm obligated to comply with. Here's a  
15 thought that we'd authorize the state to proceed with land  
16 acquisition processes for land in Kachemak Bay State Park owned by  
17 Seldovia Native Association, and the Trustee Council is willing to  
18 commit up to \$7.5 million for this -- for this purpose. Final  
19 action by the Trustee Council will be based on negotiations and  
20 compliance with other legal requirements. And then at this  
21 meeting, you know, actually make a commitment of funds for some of  
22 the pre-purchase work. I don't know if that will fly by my legal  
23 people, but I think it's a -- maybe a good stab at it.

24 MR. SANDOR: In follow up -- in follow up to that  
25 comment -- observation, I guess I'll address this to Dr. Gibbons or  
26 Ms. Rutherford. In our previous approval of funding up to \$20

1 million for protection of critical -- acquisition of protection of  
2 critical habitat, is this \$7½ million a part of that fund?

3 MS. RUTHERFORD: There is no reason that it could not  
4 be.

5 MR. SANDOR: I think we already have on the books --  
6 excuse me -- on the transcripts -- action by the Trustee Council,  
7 and nothing at all with regard to the \$20 million ....?

8 MS. RUTHERFORD: You did not pass it.

9 MR. SANDOR: That did not pass?

10 MS. RUTHERFORD: It was not passed early with the  
11 other projects.

12 MR. PENNOYER: What was the question, Mr. Chairman?

13 MR. SANDOR: The question was -- earlier discussion, a  
14 meeting or two ago with respect to the proposal to have up to \$20  
15 million for the acquisition of critical habitat, was not passed in  
16 final form.

17 MR. PENNOYER: As far as our January -- now January --  
18 hopefully at this meeting, but now January, work plan approval.

19 MR. SANDOR: Any further questions? I guess, Mr. Cole,  
20 any comments the point that the suggested money which Curt McVee is  
21 suggesting?

22 MR. COLE: It seems a little fuzzy on the commitment  
23 of the \$7½ million. I think that's the bottom line, is the  
24 commitment of \$7½ million. You know, it's on conditions, it's not  
25 saying, you know, that we're going to pay this much, as your father  
26 would say, irregardless. You know, it's a conditional commitment -

1 - the final price is agreeable and satisfactory, and all the terms  
2 are satisfactory, and subsequently the final contract and  
3 acquisition has to be subject to the approval of the Trustee  
4 Council. What I'm saying is -- frankly, I'm not prepared to  
5 continue with the effort short of a commitment of money from this  
6 Trustee Council. I mean, I think that's the bottom line. If we  
7 get that commitment, then we can move on with the process. Until  
8 we do that, we're just kidding ourselves and everybody else.

9 MR. SANDOR: Ms. Bergman, you may -- have a point to  
10 make.

11 MS. BERGMAN: Excuse me, yes. I think it might be  
12 helpful to get some advice here from some NEPA folks on if this  
13 would require -- if it could be categorically excluded, or if it  
14 would require an EA or and EIS, because I think from the position  
15 here that -- that the federal folks are in are very similar to the  
16 projects that we talked about this morning, that once NEPA  
17 compliance is completed, then you can -- you can take the action to  
18 spend the money, but until NEPA compliance is completed, you can't  
19 take the action. So, I'd like to hear from some NEPA folks on what  
20 would be required on this action.

21 MR. SANDOR: I guess in follow up to Ms. Bergman's,  
22 here, comment, the motion, as I understood, was that -- that the  
23 process was to have -- was to be completed by -- was it November or  
24 December of ...?

25 MR. COLE: '93, yes.

26 MR. SANDOR: .... of '93, and does the question suggest

1 that the NEPA process might not even be completed by that time?

2 MS. BERGMAN: Well, I just -- I think it would be useful  
3 for everyone here to get a feeling from some folks on what NEPA  
4 requirements would be in this particular case.

5 MR. SANDOR: Mr. Pennoyer.

6 MR. PENNOYER: .... completing the NEPA requirements --  
7 is the stuff we talked about earlier, and we supposedly can't vote  
8 on a project, according to the Interior, unless we have the NEPA  
9 documents in hand, and the NEPA has been done. Now, I'm having a  
10 little trouble trying to figure out why it requires a NEPA document  
11 to purchase and protect land, but (Laughter) -- and I'm not saying  
12 it doesn't because I've been surprised before too, like the  
13 Attorney General, but aside from that, it's not the question of  
14 completing the NEPA compliance that you have to do at the time you  
15 actually purchase the land, it's a question of completing it prior  
16 to voting on it.

17 MS. BERGMAN: Right.

18 MR. PENNOYER: And that -- we probably do need an answer  
19 to that.

20 MR. COLE: Before we get done, we're going to need a  
21 NEPA statement before we can go to the restroom. (Laughter)

22 MR. PENNOYER: Speaking thereof .... (Laughter) Are you  
23 getting close? (Laughter) I'll give you an EA if you want.  
24 (Laughter)

25 MR. SANDOR: My alarm goes off at five to three. Is  
26 there anyone -- Dr. Gibbons, Mr. Brodersen, Rice or anyone --

1 wanting to make an observation on NEPA.

2 MS. LISOWSKI (from audience): I guess I will.

3 MR. SANDOR: Please come down ...

4 MR. PENNOYER: Somebody brave enough in the ....

5 MR. SANDOR: ... and have a chair.

6 MS. LISOWSKI: My name's Maria Lisowski, and I'm with the  
7 office of -- junior counsel for the Department of Agriculture. I  
8 think the statement by Pam Bergman is essentially correct. As far  
9 as the federal agencies are concerned, because the funds require --  
10 it requires the federal Trustees to take some action in order to be  
11 able to commit the funds -- that is -- can be perceived as a major  
12 federal action that would be irretrievably committing funds to the  
13 state to purchase property. That being the case, depending on  
14 which of the federal agencies become the lead federal agency for  
15 this project, there may be a need to have complete NEPA compliance  
16 prior to committing the complete amount of the funds, the \$7.5  
17 million that's been requested. Now, that may mean that your NEPA  
18 work may not require an EIS. It may not end up requiring an EA.  
19 It just depends on which agency's regulations are being used, and  
20 that's something that there needs to be a lead federal agency  
21 designated for that.

22 MR. SANDOR: Mr. Cole.

23 MR. COLE: We're not irretrievably committing funds  
24 because ...

25 MS. LISOWSKI: You're committing ....

26 MR. COLE: ... these funds are not going to be

1 expended unless the final contract documents receive approval. So,  
2 it's not an irretrievable commitment. It's a conditional  
3 commitment.

4 MR. SANDOR: Any other comments or ...

5 MS. LISOWSKI: You ....

6 MR. SANDOR: ... observations?

7 MR. PENNOYER: Also, whether land in general can we  
8 settle now? -- if it gets a categorical exception or requires an  
9 EA. If it's a categorical exemption, in general, then maybe all  
10 these questions now on go away. Is there a way of telling that?

11 MS. LISOWSKI: Not without looking at whatever the lead  
12 federal agency's regulations are. We've ended up running into this  
13 problem on all -- each of the federal projects. All the projects  
14 that the state wanted to see in the '93 work plan, there had to be  
15 some federal agency that would take the lead for making sure that  
16 there would be NEPA compliance.

17 MR. PENNOYER: So we need to find the one with the least  
18 restrictive compliance....? (Laughter)

19 UNIDENTIFIED VOICE: You got it. (Laughter)

20 MR. PENNOYER: It sounds like we're volunteering ....

21 MS. LISOWSKI: What you have -- what the Attorney General  
22 has outlined is not -- at least some of the federal agencies have  
23 considered that. The bottom line is that, on the federal side,  
24 there was not complete agreement on the federal legal side what  
25 procedure and what you could commit to, and the opinion that came  
26 out on -- from the federal legal team to the federal Trustee

1 Council is a more conservative approach, making sure that at the  
2 time you are making your decision to commit funds that you have  
3 NEPA compliance. The object in the mandate of NEPA is that you  
4 have, at the time that you're making your decision, you have  
5 effects analysis of how that decision is going to affect the  
6 environment.

7 MR. COLE: I mean -- Can I resist saying that  
8 virtually every environmentalist in the world supports this  
9 acquisition. (Applause)

10 MS. LISOWSKI: I don't disagree with that. It's a matter  
11 of complying with the law.

12 MR. SANDOR: Any further comments or questions. Yes,  
13 Mr. Pennoyer.

14 MR. PENNOYER: I think probably there's some exceptions  
15 in exactly how it's configured and carried out, and which pieces  
16 are purchased, and so forth, because I don't think all that is  
17 entirely clear to me yet. But, probably, we could get consensus in  
18 this group that this -- some part of this -- some approach to this  
19 is a viable thing to do. As I said before, some of us might have  
20 committed to that a couple of meetings ago -- to the process -- and  
21 getting started on it. Is there any way that we can commit here  
22 today to a process, something along the line Mr. McVee said, of  
23 agreeing to this concept, and fleshing it out better, including the  
24 NEPA requirements, to come back at the January meeting and approve  
25 it. In other words, this -- we -- in January, we're probably going  
26 to approve the checkbook -- we haven't decided that yet, it's got



1 \$20 million in it, more than \$7½ million, \$20 million in it -- and  
2 we'll want to have identified the projects and we'll have a  
3 checkbook with a bunch of money in it once the court gives it back  
4 to us, of course, and -- the impression here is that the signal  
5 we'd like to send is stronger than just in January we're going to  
6 take the \$20 million and consider a bunch of different projects.  
7 I really think something in here, maybe all of it, maybe part of it  
8 -- I don't know how it's going to end -- has a high priority, and  
9 we would like to -- I don't know if we would here -- how it's going  
10 to turn out, but I think we'd like to commit to that type of  
11 concept here, more than just saying, well, it sounds like a good  
12 idea, let's take it up in January. What can we, under legal  
13 requirements, do here?

14 MS. LISOWSKI: It would be the same approach that we've  
15 suggested by used for any of the other projects ....

16 MR. PENNOYER: ... (inaudible interruption)

17 MS. LISOWSKI: Initially look at, see if it meets your  
18 restoration criteria. If it does, then you can go forward and fund  
19 whatever portion you need to do the NEPA compliance work. Once the  
20 NEPA compliance work is done, come back and fund the full project.

21 MR. PENNOYER: Would you have an estimate of what type of  
22 NEPA compliance funding we'd even do for a project like this?

23 MR. RICE: Mr. Chairman?

24 MR. SANDOR: Mr. Rice.

25 MR. RICE: Department of Agriculture regulations  
26 allow for categorical exclusions for small tracts and exchanges

1 between agencies. I don't think our regulations would allow -- I  
2 don't know if our regulations would allow for a categorical  
3 exclusion for something of this size. That's something I'd have --  
4 we'd have to look into a little more. I would suspect it would an  
5 EA at the most for this action, and based on just my understanding  
6 of what some of the issues might be, I don't suspect it would be a  
7 large document or take a tremendous amount of time.

8 MS. LISOWSKI: Or funding.

9 MR. RICE: Or funding.

10 MR. PENNOYER: If you gave us an estimate and we  
11 committed funding to it -- I'm not sure Mr. Cole's going along  
12 without the committed funding to it -- if -- at least we would have  
13 made a specific representation, more than just saying we'll take it  
14 up in January.

15 MS. LISOWSKI: You've definitely given the signal that  
16 the project meets your restoration criteria and that you're  
17 committed to pursuing the action, assuming there is no  
18 environmental effect.

19 MR. COLE: Per se, there is an environmental effect.

20 MS. LISOWSKI: No significant negative effect.

21 MR. PENNOYER: If I have to do an environmental  
22 assessment, I promise you I'll do it, but if it's ....

23 MR. SANDOR: The Chair had a question, but are there  
24 any other questions or comments? It's always been my experience  
25 that with some points of law it was helpful sometime to have  
26 opinions of different attorneys .... (Laughter) and somewhere there

1 was usually room for difference of opinion. You yourself  
2 acknowledge that -- that the position you describe as the most  
3 conservative?

4 MS. LISOWSKI: I do indeed, and I guess I can state for  
5 the record that this was not necessarily the way the Department of  
6 Agriculture saw this, but based on my colleagues on the other  
7 federal agencies, this is the more -- the recommended course of  
8 action.

9 MR. SANDOR: Can we, just as a point of clarification,  
10 have an understanding on the motion, which I thought had many  
11 qualifications within it, that really provided the kinds of answers  
12 to the questions the conservative legal opinions have raised,  
13 namely that one, this was a commitment of the Trustee Council to  
14 allocate \$7.5 million out of the settlement funds for the  
15 acquisition in fee of imminently threatened critical habitat that  
16 met the requirements of restoration of damage of resources and  
17 services. So that the whole question of -- of allocating monies  
18 other than imminently threatened or critical-damage resources and  
19 services, you know, isn't an issue, but that this process also took  
20 place over a period of up to December of 1993. It was to have  
21 applied in part with the funds allocated from the Alyeska  
22 settlement of \$7.5 million, and the total amount of money of \$22  
23 million for the estimated value of the in-holdings, with the  
24 balance of the \$15 (million) to be acquired -- sought from the \$50  
25 million criminal settlement funds covered in part by HB411, and  
26 possibly from the general fund, in part. I guess the motion was

1 with this qualification that these monies are allocated for the  
2 purpose of beginning that process. And with all those  
3 qualifications, and I'm thinking as I was listening to the  
4 requirements that the conservative legal points that have been  
5 raised, that those were accommodated. But, it's your professional  
6 judgment that -- that this does not meet this test? I guess I --  
7 I'm just really seriously troubled at this, because partly it is a  
8 matter of the chick -- chicken before the egg or the check before  
9 the whatever (Laughter). Maybe if I keep going, who responds --  
10 Mr. Barton might respond.

11 MR. BARTON: Yes, Mr. Chairman, let me just give Maria  
12 an opportunity to collect her thoughts here and remind you of a  
13 remark -- the remark I made this morning, and that is that the  
14 process that has been recommended to the federal Trustees in  
15 regards to the funding of projects and their relationship to NEPA  
16 and NEPA compliance, is not necessarily -- is not one that is  
17 common to all three federal Trustee agencies. In fact, the three  
18 have different policies in that regard. What we had recommended to  
19 us is a process that meets all three, so -- that there is  
20 difference between the three federal departments and their policies  
21 in this matter. But the policy that was recommended was one that  
22 meets the policy of all three, of course.

23 MR. SANDOR: I see. So then -- in effect then that --  
24 the counsels for the different departments have -- might reach  
25 different conclusions on this very question on the table.

26 MR. BARTON: If those counsels were looking at this

1 strictly from their department's viewpoint, yes. That would be  
2 what I would expect. I understood that this was also discussed  
3 with state counsel, so -- perhaps I'm in error, but that was my  
4 impression.

5 MR. PENNOYER: Mr. Chairman, Mr. Barton, even though it  
6 differed between the three agencies though, if one federal member  
7 couldn't vote because of that restriction, you couldn't pass the  
8 motion, so I'm not clear it makes any difference that there are  
9 three different.

10 MR. SANDOR: On the other hand though, that was  
11 Interior -- but that the qualification that you have made -- you've  
12 -- I understood -- could overcome that hurdle.

13 MR. McVEE: I was hoping it could, yes. I -- I  
14 haven't had an opportunity and I was sort of suggesting that I  
15 might do that if we had a break here before we have to vote.

16 MR. PENNOYER: .... somebody else say that.

17 MR. SANDOR: I guess I must confess that in order to  
18 keep the pressure on but ..... (Laughter) but I have -- do you have  
19 any further comments before we break?

20 MS. LISOWSKI: Well, the question was raised whether we  
21 informed the state of our collective opinion, and, in fact, we did,  
22 and to my knowledge we received no negative sentiment on the part  
23 of the state.

24 MR. PENNOYER: How would the state argue with you. I  
25 mean -- if you say the requirement of a federal agency is to do  
26 thus and such, what would the state have to that ...?

1 MR. COLE: You want it now? (Laughter)

2 MS. LISOWSKI: I think we've heard the negative.

3 MR. BARTON: ... to the various agencies (inaudible)  
4 ... as witnessed some (inaudible) that were served in this forum  
5 ... (Laughter).

6 MR. SANDOR: Any further comments?

7 MS. LISOWSKI: None.

8 MR. SANDOR: Well, we thank you for your opinion.  
9 Attorney General Cole, you want to make any comment before we break  
10 for a variety of purposes? No disrespect to the state, 'cause as  
11 I -- my talk with Craig Tillery and other members of your staff, it  
12 was within the framework and met both federal and state  
13 requirements, and -- I don't know whether Alex or Craig has any  
14 other -- right now -- but in any case, are there any comments  
15 anyone wants to make before the break? We will break at quarter to  
16 -- five minutes. I just want to be sure we're going out for  
17 discussion without everything on the table.

18 We'll reconvene then at 3:15.

19 (Off record: 2:40 p.m.)

20 (On record: 3:40 p.m.)

21 MR. SANDOR: The Exxon Valdez Oil Spill Settlement  
22 Trustee Council will reconvene at this time. I apologize for the  
23 delay. We had a teleconference that was scheduled from 3:00 to  
24 3:30, and I wasn't really trying to keep the pressure on when I  
25 kept delaying -- but rather to try to accommodate that  
26 teleconference on a different subject.

1           The issue before the floor -- on the floor -- on the table --  
2   is a motion to have the Trustee Council commit the expenditure of  
3   \$7.5 million for the acquisition of critical habitat within  
4   Kachemak Bay State Park that's imminently threatened that meets all  
5   of the restoration enhancement provisions of the settlement  
6   agreement, and that are in -- complete requirements of the National  
7   Environmental Policy Act over time, and that this expenditure be  
8   approved for allocation through -- up to December of 1993, in  
9   association with expenditures -- monies allocated from the Alyeska  
10   settlement and from funds anticipated from the criminal settlement  
11   monies and, perhaps, the general fund. So that's -- the motion on  
12   the floor. Is there any further questions or comments on the  
13   motion before the floor? Mr. -- Curt McVee.

14           MR. SANDOR:     Yes. Thank you, Mr. Chairman. You know  
15   over that long recess I found very little relief (Laughter) from  
16   the legal position, I might say, that we had to take. I'm going to  
17   have to vote against the motion, and I'm going to offer up an  
18   alternative that I think would accomplish some of the things we're  
19   trying to do here. I -- I could do that now for discussion  
20   purposes ....

21           MR. PENNOYER:   If you have an amendment to offer, you can  
22   move to amend the motion. If you want to vote against the motion  
23   ....

24           MR. COLE:       Mr. Chairman?

25           MR. SANDOR:     Yes.

26           MR. COLE:       I'll make a suggestion, if I may.

1 MR. SANDOR: Mr. Cole.

2 MR. COLE: In order to -- if we can reach unanimity  
3 here, I will at this time withdraw the motion with the consent of  
4 the second.

5 MR. SANDOR: Mr. Rosier? who seconded.

6 MR. ROSIER: I agree.

7 MR. SANDOR: If I may, Mr. Chairman, then, offer up  
8 this motion. I move that the Trustee Council agrees that the  
9 acquisition of approximately seventy-five hundred acres of the  
10 imminent -- imminently threatened lands in Kachemak Bay State Park  
11 meets our restoration criteria. The Trustee Council approves the  
12 expenditure of up to seventy-five hundred -- seventy-five thousand  
13 dollars (\$75,000) for the completion of NEPA documentation for  
14 spending \$7½ million to acquire the approximately seventy-five  
15 hundred acres of imminently threatened land in Kachemak Bay State  
16 Park. The Trustee Council approves the designation of the U.S.  
17 Forest Service as the lead agency for ensuring that appropriate  
18 NEPA documentation is completed. The Trustee Council requests that  
19 appropriate NEPA compliance be completed as soon as practicable so  
20 the Trustee Council may then take final action.

21 MR. COLE: I'll second that motion.

22 MR. SANDOR: You have heard the motion, and it's  
23 seconded by Attorney General Cole. Is there any discussion of the  
24 motion? Mr. Pennoyer.

25 MR. PENNOYER: Just one question, Mr. Chairman. Mr.  
26 McVee, in terms of the ability to vote the package relative to NEPA



1 compliance then, through you that the NEPA compliance will come  
2 before us at the January meeting, and the final vote will be taken  
3 at that time?

4 MR. McVEE: I would hope that we would reach that  
5 point, yes -- that we would have it by that time.

6 MR. SANDOR: Any other comments or questions by any  
7 members of the Trustee Council?

8 MR. COLE: Mr. Chairman, I would like to say I think  
9 that the motion probably is in order and maybe we got a little  
10 ahead of our process, but I'm satisfied with the proposal offered  
11 by Mr. McVee.

12 MR. SANDOR: Mr. Barton, you have a comment or a  
13 question?

14 MR. BARTON: I have a question in regards to being  
15 designated. (Laughter) I really truly do appreciate the vote of  
16 confidence, but I think it needs to be clear that the Forest  
17 Service designation is simply that of ensuring the compliance with  
18 NEPA, not actually doing the NEPA documentation. As I understand  
19 our procedures, the proposing agency would actually do the NEPA  
20 work. The federal agency, in this case the Forest Service, would  
21 certify then that it had -- it was an adequate document and that  
22 the project was in compliance with NEPA. With that understanding,  
23 Mr. Chairman, I would agree to the motion.

24 MR. SANDOR: Are there any further questions or  
25 comments regarding this motion? Since the motion is written, how  
26 about re-reading it, just to make certain that we understand it?

1 Mr. McVee.

2 MR. McVEE: I move that the Trustee Council agrees  
3 that the acquisition -- acquisition of approximately seventy-five  
4 hundred acres of the imminently threatened lands in Kachemak Bay  
5 State Park meets our restoration criteria. The Trustee Council  
6 approves the expenditure of up to seventy-five thousand dollars for  
7 the completion of NEPA documentation for spending \$7.5 million to  
8 acquire the approximately seventy-five hundred acres of imminently  
9 threatened lands in Kachemak Bay State Park. The Trustee Council  
10 approves the designation of the U.S. Forest Service as the lead  
11 agency for ensuring that appropriate NEPA documentation is  
12 completed. The Trustee Council requests that appropriate NEPA  
13 compliance be completed as soon as practicable so that the Trustee  
14 Council may then take final action.

15 MR. SANDOR: Is there any final comments or questions  
16 on the motion? Mr. Cole.

17 MR. COLE: Could we fix that a date, but no later  
18 than, so we don't find this drifting off into oblivion. I should  
19 think -- I -- therefore, I move that we add to the motion that the  
20 NEPA compliance be completed no later than January 5, 1993. They  
21 (inaudible) least -- more than a hundred days to get this done, let  
22 me tell you. And, therefore, one of the reasons for fixing that  
23 date, obviously, is that we'll then be in a position to submit the  
24 project to the Public Advisory Group for further blessing.

25 MR. SANDOR: Is the -- this is a suggested change, not  
26 a formal amendment. Mr. Barton has a question or comment.

1 MR. BARTON: The Forest Service is so intimately  
2 involved in this thing, I'd like to give my counsel an opportunity  
3 to say something. She's squirming back there.

4 MR. SANDOR: Please step forward, please, and speak  
5 into the microphone.

6 MS. LISOWSKI: Well, there's certain public notice  
7 requirements that would come into effect here with NEPA, which may  
8 not make it possible to meet that deadline by January 5th. Believe  
9 -- we at least have to have 30 days' public notice -- informing the  
10 public of the proposed action and certain scoping requirements.

11 MR. BARTON: We'd be pleased to pass that notice right  
12 along as soon as we got it from the agency that's the proponent.

13 MR. SANDOR: Mr. Pennoyer.

14 MR. SANDOR: Does that make it unlikely then that we  
15 could vote on it -- on the final action at the end of January? It  
16 would have to be done before December -- before Christmas, wouldn't  
17 it?

18 MS. LISOWSKI: It depends on how quickly the state acts  
19 to get its NEPA documentation together.

20 MR. COLE: When is the next meeting, by the way?

21 MR. PENNOYER: We haven't decided that.

22 MR. COLE: Right after the ... (Laughter)

23 MR. SANDOR: The Public Advisory Group meeting is May -  
24 - January 6th, 7th, and ...?

25 MR. PENNOYER: Mr. Chairman?

26 MR. SANDOR: Yes. Mr. Pennoyer.

1 MR. PENNOYER: I'm not sure that you'll have to have the  
2 NEPA documents done before you send to the PAG. They can still  
3 review the proposals on the 6th, and then we can come back and  
4 consider it with their recommendation, plus the NEPA compliance  
5 when it's finished.

6 MS. LISOWSKI: Well, they could certainly get the  
7 information just as everyone else does through the scoping process.

8 MR. SANDOR: Would the maker of the motion, Curt McVee,  
9 and the second, Attorney General Cole, agree to simply add the  
10 phrase "as soon as practicable" or some specific date -- some  
11 specific date like the end of January or February 1 or our meeting  
12 date? Or our next meeting date, we could accomplish two things.  
13 One, essentially not have our next meeting until this thing is  
14 nailed down, or have something that expresses the sense of the  
15 Trustee Council completing this as soon as possible, as soon as we  
16 can meet these NEPA requirements. Mr. Pennoyer.

17 MR. PENNOYER: Mr. Chairman, from both those standpoints,  
18 I'm still not clear on how long it's going to take, either in terms  
19 of deciding when the next meeting might be or we get it to the PAG.  
20 I think -- the PAG can just get the proposal. They don't need the  
21 NEPA documents. I understand the 30-day notice -- scoping is part  
22 of that? Or has to occur before that, and how much scoping?  
23 Scoping in the sense we're sending it out or....?

24 MS. LISOWSKI: Informing the public of the proposed  
25 action, and scoping serves the purpose of coming with what the  
26 issues are that are involved in the proposed action. It's -- it's

1 simply a matter of a means of getting public information on what  
2 they think should be done with the proposed action.

3 MR. PENNOYER: Mr. Chairman, does that require holding a  
4 series of hearings, sending out a notice in the paper? I mean, we  
5 generally know, I think, the reaction in -- in many ways to this  
6 project. We've got a lot of public testimony on it. But we do, I  
7 think, need to know what the total costs -- the state has to know  
8 when they might get it done by. We have to know how long it's  
9 going to take on top of that and -- Mr. Rice is going to tell me.

10 MR. SANDOR: Mr. Barton.

11 MR. BARTON: Mr. Chairman, I think it's difficult to  
12 sit here in this room today and predict when we're going to be done  
13 or pick a date when we're going to be done. I think that the  
14 proposing agency needs to look at the necessary procedures --  
15 required procedures -- and determine how long it's going to take to  
16 comply with those procedures, and then at the end of that, there's  
17 got to be a small amount of time for the time to go through some  
18 sort of certification process in terms of its adequacy in meeting  
19 the requirements of NEPA. That doesn't need to take very long, but  
20 it does need to be some time to have been for that. So, I don't  
21 know what to say in terms of when it's going to be done, but I  
22 think we -- all of us understand our intent in getting on with this  
23 thing, with due diligence, and if we have to pick a date, I suppose  
24 we could pick one, but I think it's pretty tough to do that without  
25 some discussions occurring between the proposing agency and the  
26 certifying agency.

1 MR. SANDOR: The motion, as stated, does not have a  
2 time target on it, and unless there's an amendment to the motion,  
3 we will call for the question on the basic motion. Is there a call  
4 for the question? All those in favor of the motion that was  
5 stated, signify by saying aye.

6 COLLECTIVE VOICES: Aye.

7 MR. SANDOR: Is there any opposition ?

8 MR. COLE: I'm abstaining.

9 MR. SANDOR: The motion passes without objection. Any  
10 further comment on this subject or the process. I think we'll be  
11 able to deal with the obvious frailties, deficiencies, and whatnot,  
12 in organization, etc., etc., etc., later. Let's move back to the -  
13 - anything more on habitat protection?

14 Okay. We move back then to item four on the agenda, the  
15 restoration plan, the report of John Strand, and the progress  
16 report on the action taken during the -- and since the noon hour.

17 DR. GIBBONS: Mr. Chair?

18 MR. SANDOR: Yes.

19 DR. GIBBONS: We're going to have to recess before 4:15  
20 to hook up the teleconferencing sites, so I've got a suggestion for  
21 the Trustee Council -- for them to take a quick look at the revised  
22 schedule for getting a final plan, and that it's going to take  
23 longer than ten or fifteen minutes to run through this outline. If  
24 -- if I can send that out under a cover letter to you folks for  
25 comment back by mid week -- next week, and then finalize it that  
26 way, it might streamline the process some.

1           MR. SANDOR:     Except, Dr. Gibbons and fellow Trustees,  
2     judging from the comments made when the subject was discussed prior  
3     to the -- to noon -- can we have for the record the absolute  
4     assurance that the proposal to not complete the restoration plan  
5     and the accompanying environmental impact statement as projected to  
6     February 1994 is unacceptable, period?

7           DR. GIBBONS:    Yes, yes. We have a revised schedule we'd  
8     like to pass out.

9           MR. RICE:       Mr. Chairman?

10          MR. SANDOR:     Yes.

11          MR. RICE:       Do you want me to briefly go through this  
12     and give you the underlying assumptions on this.

13          MR. SANDOR:     Please do. This is a revised schedule for  
14     the restoration plan and environmental impact statement. Are there  
15     copies for others?

16          MR. RICE:       There should be. There was an earlier  
17     draft that had one typographical error, and I'll point that out for  
18     people who picked up an earlier copy.

19          MR. SANDOR:     Please proceed and summarize as quickly as  
20     you can.

21          MR. RICE:       Basically, this timeline gets us to a  
22     completed restoration plan and environmental impact statement by  
23     the end of calendar year 1993. It requires -- in the bolded  
24     headings that you have in there are basically Trustee Council  
25     decision points. Late February, Trustee Council revises and

1 approves the alternatives. That presupposes that we would have  
2 those to you by January. In May, the Trustee Council would approve  
3 the draft restoration plan and draft environmental impact  
4 statement. It would then be published and distributed for 60-day  
5 public comment period. We do have a date prior to that where we  
6 have on March 24 an alternative information package. Basically,  
7 what we would do is have available to the public the alternatives,  
8 let them know where we're at, at least with the development of the  
9 restoration plan, with the realization that any comments to that  
10 package would not be able to be incorporated until the final  
11 restoration plan. We would go out for a 60-day comment period on  
12 the draft restoration plan, revise it in November, the Trustee  
13 Council would approve the final environmental impact statement and  
14 restoration plan. That would then be published and distributed and  
15 noticed -- a Federal Register notice is required on that. There's  
16 a 30-day notification period that required by NEPA before any final  
17 adoption of a plan of action can take place, so even though you may  
18 be able to approve the plan, you couldn't finally adopt it and  
19 start implementing it until 30 days after the plan is published and  
20 noticed in the Federal Register. The assumptions that we made on  
21 this schedule -- one, that the volume one restoration framework  
22 document constitutes the scoping document for compliance with NEPA.  
23 The second assumption is if the EIS team will receive alternatives  
24 prior to Trustee Council approval of the those alternatives. That  
25 we would get those alternatives to the -- to the EIS team in  
26 January so that they could start their analysis. The March 24



1 information package and associated public involvement -- again, as  
2 I said, they would not be able to incorporate any changes or  
3 suggestions that we receive from the public on that until the  
4 comment period closed on the draft restoration and draft EIS, and  
5 the last assumption is that the Trustee Council can take a vacation  
6 between Christmas and New Year's of next year.

7 MR. BARTON: Mr. Chairman?

8 MR. SANDOR: Is there any questions or comments on  
9 this? Mr. Barton.

10 MR. BARTON: Yes. It's -- it's not clear to me what  
11 the alternatives information package is and what it's supposed to  
12 do, and what impact it has on the timeline. Could you clarify  
13 that?

14 MR. RICE: We would hope that the information package  
15 would not have a signi -- any effect on the ability to complete the  
16 restoration plan or EIS. Basically, it would be a package we send  
17 out to the public with the alternatives as we them developed to the  
18 point that the Trustee Council has approved them. And we  
19 distribute them to the public, basically, saying here's where we're  
20 at with the process, without providing us the opportunity to fully  
21 analyze those comments as they come back in and make any  
22 significant changes before the draft restoration plan came out.

23 MR. BARTON: Mr. Chairman?

24 MR. SANDOR: Mr. Barton.

25 MR. BARTON: If that were eliminated, would that  
26 shorten this timeline?

1 MR. RICE: I don't really think so, and I think it's  
2 the consensus of the Restoration Planning Work Group and most of us  
3 that worked on this schedule, that it would not signi -- it would  
4 not really change the schedule. We -- we took out the --  
5 basically, we saved a lot of time by not going into a formal  
6 analysis of comments received on -- where this date had the first  
7 draft of the restoration plan going out and a very -- very formal  
8 public involvement period with analysis of comments, and we took  
9 that out of the schedule. So, we would take the comments as they  
10 came in, and basically use those to revise the draft, but it would  
11 give some public involvement before the start of the fishing  
12 season.

13 MR. SANDOR: Any further comments or questions?

14 MR. COLE: Mr. Chairman?

15 MR. SANDOR: Yes, Mr. Cole.

16 MR. COLE: What are we doing with this today? Are  
17 you saying we're just looking at it or are we supposed to take  
18 action?

19 MR. SANDOR: The expectation of the -- Dr. Gibbons and  
20 the Restoration Team is what? What action are you anticipating?

21 DR. GIBBONS: This is -- this is an informational  
22 schedule that you can hold us to.

23 MR. SANDOR: Well, does that answer your question ...?

24 MR. McVEE: Mr. Chairman?

25 MR. SANDOR: Yes.

26 MR. McVEE: Couldn't we provide comments back if we

1 have some comments back by the middle of next week on this also? Is  
2 that appropriate?

3 MR. COLE: Mr. Chairman, did you have a comment?

4 MR. SANDOR: With the time moving on, I have a comment  
5 -- yes, I do, Mr. Cole and fellow Trustees. I guess in all candor,  
6 this is not much of an improvement in my judgment over the previous  
7 proposal, although it does shorten by two months the process. But  
8 I guess as demonstrated not only in this continuing schedule of  
9 ongoing planning and -- and use of the environmental impact  
10 statement process, to meet NEPA compliance, that I see constant  
11 signs of opportunities to improve the processes and the way in  
12 which we're dealing with issues, and I guess I'm reluctant to --  
13 just as a Trustee not as chair of this meeting tonight -- to give  
14 anything that suggests an endorsement to this -- this process. I  
15 was hoping, and I do hope that the Public Advisory Group and  
16 perhaps someone in this audience or someone who may get this  
17 information later, can find a more productive and effective way in  
18 which this Trustee Council can do this and other business. It's --  
19 it's a great deal of frustration and in my earlier reference to  
20 this that I saw this last evening, and I'm not taking much more  
21 confidence here. I guess, however, as a Trustee, I would be  
22 satisfied and concur with the actions to comment on this, but I  
23 guess if -- if we go onto the next item of opportunity for  
24 strengthening organization and process, I hope we can incorporate  
25 this as well. So .... Mr. Barton?

26 MR. BARTON: Yes, Mr. Chairman, I would hope that we

1 wouldn't entertain any comments that would lengthen this time in  
2 terms of what might be provided for next week -- mid-week next week  
3 ....

4 MR. SANDOR: Well ....

5 MR. BARTON: .... and then I have one further comment.  
6 Apparently, there's been some confusion or some question as to  
7 which sort of NEPA procedures we are following with this, and I  
8 thought we had agreed a long time ago that we would use the NEPA  
9 procedures of the lead agency, and that whatever NEPA work that was  
10 being done and associated with specific projects, and in this case  
11 -- and I'm asking -- but in this case, it's my understanding that  
12 we are using Agriculture's NEPA procedures since Agriculture is the  
13 lead agency. If that is not correct, we need to get that  
14 straightened out right now.

15 MR. SANDOR: Is there any dispute on that understanding  
16 that the lead agency will follow its NEPA process, so to speak?  
17 Then we are to provide any comments that we want on this -- this is  
18 also to be reviewed by the Public Advisory Group for their  
19 suggestions. Any more on this particular item?

20 MR. COLE: Are we going to get to number six before  
21 we adjourn?

22 MR. SANDOR: Yes. Number six. We've moved up to that  
23 subject on the agenda. Now, opportunities for strengthening the  
24 organization process of this Trustee Council. And we are at about  
25 a year anniversary of -- and had good experience -- and -- and  
26 that's one of the reasons why this is on the agenda. Any -- any

1 comments by members of the Trustees, by members of any of the  
2 Restoration Team members, or Dr. Gibbons, on the desirability of  
3 critiquing the process by which this Trustee Council has been  
4 functioning, and to identify opportunities for improvement of the  
5 organization and process. Dr. Gibbons, any comments or  
6 suggestions?

7 DR. GIBBONS: Yeah. I -- I've got some notes here on  
8 some of my observations on the process. I'm not going to touch on  
9 NEPA. I -- we've hit NEPA very hard today, and it is very  
10 difficult to deal with. Every time we turn around, we -- we've got  
11 a NEPA requirement of some kind that tends to slow the process  
12 down, but -- some of my thoughts on strengthening the process is --  
13 I've got four items here that -- the first item, I -- I would  
14 suggest that each agency really take a hard look at its role in  
15 this process. Look at the people involved with it, look at their  
16 role and how they're operating in the process, and I think that  
17 might be a real help to -- to the restoration process. A next step  
18 too is some more authority should be given to the administrative/  
19 executive director. Examples of this would be authority to release  
20 information that is not policy in nature to the public and Trustee  
21 Council without, perhaps, Restoration Team review. All policies  
22 issues must -- should be run through the Restoration Team, but  
23 these - this would be non-policy related issues. Perhaps more  
24 authority to solve the problems at a staff level than I have now.  
25 Rather than picking everything up to the Trustee Council, perhaps  
26 some level -- some authority to do that at this level. I think --

1 I know this isn't going to be welcome, but the administrative  
2 director or executive director, I think an assistant position would  
3 be extremely helpful. Things tend to build up -- there's a lot of  
4 work load at this position, and I think that would help greatly.  
5 I think a -- a, perhaps, a budget specialist to help the financial  
6 committee, and also the quarterly reports and annual reports  
7 that'll be coming up to the Trustee Council, might -- might help.  
8 And, lastly, the establishment of some scheduled Trustee Council  
9 meetings. Quarterly -- I know Steve Pennoyer is -- has approached  
10 me on this, and I think it's a great idea to try to -- after we get  
11 the issues and policies ironed out a little bit -- is to have  
12 regularly scheduled meetings that the public knows and that you can  
13 deal with issues like budgets to OMB and approval of the annual  
14 work plans and those types of things. But, those are some of my  
15 thoughts on strengthening the process.

16 MR. SANDOR: Any other comments or questions by members  
17 of the Trustees?

18 MR. McVEE: Yes.

19 MR. SANDOR: Mr. McVee.

20 MR. McVEE: Yes. Mr. Chairman. I guess -- giving  
21 this some thought over the last several months and kind of watched  
22 where we've succeeded and where we've failed, I guess my comments  
23 are somewhat similar to -- to Dr. Gibbons -- that I think we should  
24 increase the authority and the responsibility of the executive  
25 (sic) -- executive director, and play -- the individual would play  
26 a very strong coordinating role -- contact with Trustee Council

1 members themselves, and so on, and that -- provide a deputy that  
2 takes care of -- of more of the detail -- maintaining schedule --  
3 developing and maintaining schedules, probably an administrative  
4 officer, probably a budget officer, and maybe even additional  
5 staff. I think that some of our earlier decisions, while very  
6 honorable, I guess, in terms of trying to -- to keep costs down, we  
7 may have, in excess, shot ourselves in the foot to some extent by  
8 doing that. I would change the role of the RT to one of a more  
9 liaison and coordination role versus one of actually like they are  
10 doing a great deal of the staff work, and that -- free them up to  
11 provide support to their Trustee Council member and to do liaison  
12 and coordination. I think that -- but I don't know what additional  
13 staff would be needed. I think that might be something that the  
14 executive director would have to develop that -- a recommendation  
15 or a proposal for us to look at, but I think that we do need some,  
16 you know, some fairly substantial changes there that -- that will -  
17 - will give us quicker response and facilitate the coordination.

18 MR. SANDOR: Any other comments at this time. I'm  
19 going to say that the Chair, with the agreement of the Trustees,  
20 will solicit comments not only as an individual Trustees, the  
21 members of the Restoration Team, others that are on staff, Public  
22 Advisory Group, the public at large on ways in which the  
23 organization process and other operations of the Trustee Council  
24 may be improved, and to have those available, given either to the  
25 Public Advisory Group or to -- and to the Trustees by the next  
26 meeting. Mr. Pennoyer?

1           MR. PENNOYER: Mr. Gibbons mentioned one thing I have  
2 considered and sort of peripherally proposed earlier, and I think  
3 we ought to deal with sooner rather than later, we are getting to  
4 the stage of maturity now and understanding of the schedules  
5 relative to the annual work plans and budgets that I think we  
6 should start to schedule quarterly or three times a year meetings.  
7 Now, I know there's going to be other meetings that are needed, but  
8 our problem isn't -- continually the fact that we have to schedule  
9 around six busy people, and these meetings don't take precedence  
10 because the other meetings are set up already by the time we get to  
11 the point of meeting. I think if you went ahead and scheduled a  
12 year in advance, three or four meetings, put them on the calendar,  
13 then everybody here would have to look when somebody else came  
14 rushing in and said let's do a conference, let's do this or that,  
15 you'll say, I'm sorry I've got a Trustee Council meeting that week.  
16 Instead, it's the other way around now. They come in say we need  
17 a Trustee Council meeting --I'm sorry I've got a negotiation, I've  
18 got North Pacific Council, I've got something else, and I think  
19 this process -- excuse me -- ought to take precedence in the  
20 schedule to the point of setting up those meetings ahead of time,  
21 and I'd rather do that sooner than later, even though we take --  
22 take more time to develop other aspects of this organization.

23           MR. SANDOR: Any other comments or observations at this  
24 time?

25           MR. COLE: Mr. Chairman, where are we with the  
26 executive director?



1           MR. SANDOR:     With regard to the executive director, the  
2 position description for that has been classified by federal  
3 agency, Mr. Barton?

4           MR. BARTON:     Yes. We volunteered to take that on and  
5 it has been -- the agreed upon job description, the one that we  
6 agreed upon -- I forget exactly when that was -- but last August,  
7 has been classified in the federal classification process. The  
8 three federal Trustee agencies, as I understand it, jointly  
9 classified -- which is probably a first in government -- the  
10 federal government anyway. Now, subsequent to that, there's been  
11 some changes suggested, both from some of the state Trustees as  
12 well as other federal Trustees, and we've examined the changes  
13 suggested by the state Trustees and have been told it does not need  
14 to go back through the classification for those. I do not have a  
15 reading yet on the changes proposed some of the other federal  
16 Trustees. And where it is on the state side, I leave to you.

17           MR. SANDOR:     I think Mr. Rosier can report on the state  
18 side.

19           MR. ROSIER:     Thank you, Mr. Chairman. Yes. We should  
20 have approved at the present time the -- the position description  
21 as an exempt position within the state system based on the original  
22 position description. So we are at least on track with the  
23 federal -- with where the federals are at the present time. I  
24 think, you know, in terms of strengthening the organization, it's  
25 getting on with a recruitment and getting a -- getting an executive  
26 director -- this is certainly no reflection on Mr. Gibbons when I

1 say this, but we should have had this resolved several months back,  
2 but I think we're in a position to move ahead at whatever direction  
3 that the council wants to put forth here on advertising at this  
4 time, within the state system.

5 MR. SANDOR: What are the requirements with respect to  
6 advertising for the state and for the federal government?

7 MR. ROSIER: Well, I can't speak for the federal  
8 government, but speaking for the state on this, we can -- we can do  
9 the advertising either in state or we can do it on a national  
10 basis. We've got a network in place to, in fact, to proceed with  
11 those procedures.

12 MR. SANDOR: And the federal side, Mr. Barton?

13 MR. BARTON: I -- I'm not positive on the federal side.  
14 We have talked about a 30-day advertisement originally with this  
15 position, and I've just assumed that that's continued to be what we  
16 want to do, and I know 30 days is within the parameters of the  
17 federal side, but if you wanted to make it one way or another, then  
18 I need to check the (inaudible).

19 MR. SANDOR: The chair would entertain a motion that  
20 the federal and state agencies involved, namely Department of Fish  
21 and Game, and Department of Agriculture, Forest Service, coordinate  
22 the development of a -- an announcement for application of  
23 executive director position, and that that be published for it --  
24 for at least the minimum amount of periods of time required by both  
25 federal and state regulations and procedures.

26 MR. PENNOYER: Mr. Chairman, I'm fully in agreement with

1 that. I'm not exactly sure what we're sending out. I heard Mr.  
2 Barton say there were several different descriptions floating  
3 around, and -- do we have a common one finally that we've agreed  
4 on, or is the state sending out one and the federal government  
5 sending out another or what?

6 MR. SANDOR: Better coordination, Mr. Pennoyer, was the  
7 intent of the Chair's request for a -- for a motion -- and in fact  
8 that be the same that -- that be sent out. And, indeed, in  
9 anticipation of -- of opportunities for strengthening the  
10 organization process and perhaps even the role of the executive  
11 director, the announcement itself ought to, it seems to me,  
12 identify the possibility that the position description would  
13 incorporate changes that might manifest themselves in the analysis  
14 of how to improve the organization, but it's imperative that the  
15 process be the same, and that the announcement be the same, and  
16 that would be coordinated between Fish and Game and the Forest  
17 Service, with the input from the -- Dr. Gibbons and the staff.

18 MR. PENNOYER: Mr. Chairman, is that -- imply that we are  
19 at sometime during this discussion of organization going to change  
20 this and agree upon a new one, or are we going to go back to what  
21 we had in August and get it and get going, and then come back and  
22 change the duties as we think appropriate?

23 MR. SANDOR: It was my understanding, Mr. Pennoyer,  
24 that in fact suggestions that were circulated and solicited and  
25 that, insofar as the classification of the position from the  
26 federal standpoint, the position description that was provided for

1 us in August, and even the changes that were proposed, does not  
2 modify the -- the classification of that position. Is that true?

3 MR. BARTON: The changes that were proposed by the  
4 state Trustees do not. I don't know about those that were proposed  
5 by the federal Trustees.

6 MR. SANDOR: I see.

7 MR. BARTON: I would suggest, Mr. Chairman -- I move  
8 that the council license Mr. Rosier and myself to work out this  
9 problem, and we'll get on with it.

10 MR. SANDOR: Is there a second?

11 MR. PENNOYER: Second.

12 MR. SANDOR: Is there any discussion on that motion?  
13 Any opposition to that motion? (No audible response.) Then the  
14 motion passes.

15 We have now reached the time for public comment period, but  
16 we'd like to set the date of the next meeting -- and is this to be  
17 a new meeting or a continuation of this meeting?

18 MR. PENNOYER: Mr. Chairman, ....

19 MR. SANDOR: Dr. Gibbons, what's your recommendation?

20 MR. PENNOYER: ... continuation of this meeting ....

21 DR. GIBBONS: My suggestion would be a continuation  
22 meeting -- then to deal with the '92 (sic) plan. If you're going  
23 to deal with the imminent-threat analysis and the '93 plan in late  
24 January or early February, then it could be another meeting.

25 MR. SANDOR: Do you want to identify a time?

26 DR. GIBBONS: Well, the timeframe -- the one timeframe

1 we can't meet is the first week of February. That's the oil spill  
2 symposium here in Anchorage, al -- although you could meet February  
3 1st. The last week of January is available, the second week in  
4 February -- if that's for the imminent threat. If you would like  
5 to meet on the continuation meeting before that to deal with the  
6 '93 work plan only, you could also do that.

7 MR. PENNOYER: Mr. Chairman?

8 MR. SANDOR: Mr. Pennoyer.

9 MR. PENNOYER: What are the specific dates of the  
10 symposium?

11 DR. GIBBONS: The symposium -- are February 2nd through  
12 5th.

13 MR. SANDOR: Is there any objection to selecting the  
14 last week of January as the target date for a continuation of this  
15 meeting?

16 MR. PENNOYER: Mr. Chairman, if it makes any difference,  
17 the last three weeks in January I'm going to be gone, but that's --  
18 I -- I can provide an alternate -- we can discuss it. I can't be  
19 here any of the last three weeks of January.

20 MR. McVEE: Mr. Chairman, I think we have a problem  
21 the last week of January.

22 MR. SANDOR: Identification -- we need a tentative date  
23 -- the first week of -- of ....

24 MR. COLE: Mr. Chairman?

25 MR. SANDOR: Yes.

26 MR. COLE: I -- I think that Mr. McVee, having served

1 on this council for -- since its inception and having spent a lot  
2 of time -- devoted much time to the projects which are before us  
3 for the 1993 work plan, I would like to see a -- him participate in  
4 -- in the decisions with respect to the adoption or rejection of  
5 that 1993 work plan projects. So, therefore, I request that the  
6 meeting be held during the second week of January.

7 MR. SANDOR: This is the week of January 11th?

8 MR. COLE: Yes.

9 MR. SANDOR: Any objection to this meeting be held the  
10 week of January 11th?

11 MR. PENNOYER: Mr. Chairman, once again I won't be there,  
12 but I do have an alternate.

13 MR. ROSIER: When could you be there? Could you be  
14 there on the 8th of January?

15 MR. PENNOYER: I -- I could be there on the 7th and 8th,  
16 yes. I can't -- the last -- from January 11th, I am told, at least  
17 to the 30th.

18 MR. SANDOR: Yes, Mr. Rosier?

19 MR. ROSIER: Yeah, I -- Mr. Chairman, I can't -- I  
20 can't speak specifically for -- I've got to look at two schedules  
21 because -- and I know my schedule will not permit me to be here the  
22 first eighteen days of January approximately. My alternate is  
23 going to be involved, I believe, in (inaudible) at the same time --  
24 without his schedule, I can't tell you when we can participate at  
25 this time.

26 MR. COLE: Is there any procedure here for the

1 appointment of a second alternate?

2 MR. SANDOR: The Chair would entertain a motion that --  
3 that under the circumstance under which the first alternate is not  
4 available as well as the designee -- the designated Trustee -- a  
5 second alternate be authorized and approved. Is there a motion to  
6 that effect?

7 MR. McVEE: So moved.

8 MR. SANDOR: It's been moved and seconded by Pennoyer.  
9 Any objection?

10 MR. PENNOYER: We have discussion. The original  
11 discussion of alternates was that we wanted to have some feeling  
12 and knowledge of who people were and how it was going to work, and  
13 they would be identified ahead of time, so it wasn't sort of a  
14 rotating process, and we knew -- became familiar with a fellow  
15 Trustees. I would say in the process if we feel it's necessary, we  
16 should identify that second alternate as much ahead of time as  
17 possible.

18 MR. SANDOR: Is that understanding clear with that  
19 motion? Any further discussion?

20 MR. BARTON: Is this for the purposes of this upcoming  
21 meeting or is this going to be in perpetuity...?

22 MR. SANDOR: For this and any other purposes until  
23 rescinded by the Trustees.

24 MR. COLE: In the sense of the motion, Mr. Chairman,  
25 it's if the first alternate is unavailable?

26 MR. SANDOR: Yes. Yes. Any further comments or

1 questions on this motion, which is that the Trustee are -- the  
2 Trustees are authorized to designate a second alternate for  
3 participation in the Trustee Council meetings where the first  
4 alternate is not available -- and expected to be in extraordinary  
5 circumstance? Any further discussion or comments? Any objection  
6 to that motion? (No audible response.) The motion is passed.

7 Can we -- given that provision -- identify the week of January  
8 11 as the -- the target date for our next meeting, and you'll  
9 inform and work with the individuals Trustees in picking that date.  
10 Any further business to come before the ....

11 MR. PENNOYER: Mr. Chairman? Yes. Mr. Cole proposed  
12 perhaps ....

13 MR. COLE: I was thinking here that if we did it on  
14 the 7th or the 8th, Mr. Pennoyer could be there, and I believe Mr.  
15 Rosier -- is unavailable the first eighteen days, is it? The  
16 Public Advisory Group will act on the 6th and 7th, so we should  
17 have their response by the 8th. Wouldn't that enable us ...?

18 MR. SANDOR: The 8th would be -- I will be in  
19 Washington, D.C. the 7th and 8th ....

20 UNIDENTIFIED VOICE: You will?

21 MR. SANDOR: ... but I'll have a first alternate  
22 available.

23 MR. COLE: (Inaudible -- laughter and simultaneous  
24 talking.)

25 MR. PENNOYER: I think it speaks to the need for Mr.  
26 Gibbons -- Mr. Gibbons to get together a schedule that we can agree



1 to a year in advance, as it were. We're in '93 already, and we  
2 still can't find a meeting date. I think you're going to have a  
3 problem. I'm going to be gone that week too.

4 MR. COLE: Well, let's keep trying.

5 (Musical interruption)

6 MR. COLE: Let's get a date, no matter what. If we  
7 don't get one before we adjourn, I mean, we'll never ....

8 MR. SANDOR: Well, we must meet, obviously, after the  
9 7th because the Public Advisory Group is providing the information  
10 on the 6th and 7th.

11 MR. PENNOYER: Mr. Chairman, I hate the idea of delay,  
12 but how about the week of -- what do we lose in terms of the court  
13 process in getting the money in time for our March-April period,  
14 and if you're reviewing the environmental assessments, we did it  
15 the week of February 8th.

16 MR. COLE: Well, the reason is -- is because I think  
17 that Mr. McVee ....

18 MR. PENNOYER: I gotcha.

19 MR. SANDOR: The Chair will entertain a motion for  
20 designation of date between January 8th and the 20th for  
21 continuation of this meeting of the Trustee Council.

22 MR. PENNOYER: I guess you go by week and find out when  
23 you're going to have the least number of alternates and most  
24 principals here. I'm gone all those weeks, so you're going to have  
25 to deal with the fact that you'll have one alternate anytime from  
26 the 11th on -- and the 8th's out.

1 UNIDENTIFIED VOICE: The 11th on?

2 MR. PENNOYER: The 11th on, I'm gone. I've got  
3 negotiations -- Washington, D.C., the week of the 11th; I've got  
4 North Pacific Council meeting, the week of the 18th; I've a meeting  
5 in Vancouver of the Halibut Commission, the week of the 25th. I --  
6 I take that back, I could do it the -- on January 22nd. That's  
7 (inaudible). I'm sorry. Can't do it (inaudible). Just go by --  
8 week by week and decide when you are going to have the fewest  
9 number of alternates around (inaudible) discussion -- but one  
10 alternate, no matter what you do.

11 MR. COLE: But we know Commissioner Sandor, you're  
12 out on the 8th and 9th?

13 MR. SANDOR: Yes.

14 MR. COLE: And Commissioner Rosier is out on the 8th  
15 and 9th, so those two aren't very good.

16 MR. PENNOYER: On the 11th, you've got (inaudible) and I  
17 both gone. How about the 19th?

18 MR. COLE: How about the 18th. That's Martin Luther  
19 King's birthday. That's a holiday. Could we all get together that  
20 day.

21 UNIDENTIFIED VOICE: I won't be back from the week of the  
22 11th yet.

23 MR. PENNOYER: I'll be in a North Pacific Council meeting  
24 then. They work over the holiday.

25 (Unidentified inaudible comment -- laughter)

26 UNIDENTIFIED VOICE: I bet you might not want to be there.

1 MR. PENNOYER: How about the 19th? Did you decide that  
2 wasn't amenable?

3 MR. SANDOR: The 19th is fine.

4 MR. PENNOYER: I won't be here, but that's ...

5 MR. SANDOR: We have one individual who cannot -- you  
6 cannot be here on the 19th? There's one person unable to be here.  
7 It appears that the best ....

8 MR. PENNOYER: Mr. Chairman?

9 MR. SANDOR: Yes.

10 MR. PENNOYER: I will be at the North Pacific Council  
11 meeting here in Anchorage, like I was this time, and as this time,  
12 maybe if I can make ....

13 MR. SANDOR: Okay. Is there any objection to the --  
14 January 19th -- continuation of this meeting? This will be  
15 continued on January 19th.

16 MR. PENNOYER: Mr. Chairman

17 MR. SANDOR: Further ...

18 MR. PENNOYER: One additional motion ....

19 MR. SANDOR: Yes.

20 MR. PENNOYER: I move that we ask Mr. Gibbons to draft  
21 for us a schedule of when he thinks the milestone meetings ought to  
22 be in a year, circulate that to us, and each of us before the 19th  
23 look at that calendar and find a timespan within whatever the month  
24 he thinks are the appropriate times for the quarterly meetings, or  
25 whatever, to set these up for the balance of '93 and early '94.

26 MR. SANDOR: Can you accommodate that Dr. Gibbons?

1 DR. GIBBONS: Yes, I can.

2 MR. SANDOR: Any further business to be brought before  
3 the -- before we begin the public comment period of this meeting?  
4 No further busi -- yes?

5 DR. GIBBONS: What time would you like to start the  
6 meeting on?

7 MR. SANDOR: As soon as possible. Oh, umm (Laughter).  
8 The public comment, how long is it going to take to get cranked up.

9 DR. GIBBONS: Five minutes.

10 MR. SANDOR: Okay. Five minutes delay. I anticipated  
11 the wrong question. Eight o'clock. Eight o'clock on the 19th

12 MR. McVEE: Start the meeting at 8 a.m.?

13 MR. SANDOR: 8 a.m. Okay.

14 Okay. A meeting on the 19th of January, continuation of this,  
15 beginning at 8 a.m. in this room. And we'll take a five minute  
16 recess and begin the public comment period at that time. Thank you  
17 very much.

18 (Off record 4:35 p.m.)

19 (On record 4:45 p.m.)

20 MR. SANDOR: Dr. Gibbons, would you summarize the  
21 actions taken at today's Trustee Council meeting. Dr. Gibbons.

22 DR. GIBBONS: Yes. The first motion passed by the  
23 Trustee Council was to approve the election of the Public Advisory  
24 Group officers made at the December 2nd. This is resolution number  
25 four. That was approved by the Trustee Council. They directed the  
26 administrative director to convey to the Public Advisory Group

1 members actions of the Trustee Council concerning all resolutions,  
2 and their actions include, one, tabled resolution number one, which  
3 is the operating procedures of the Public Advisory Group members.  
4 They tabled resolution number two until the next Trustee Council  
5 meeting. This deals with working with landowners in the oil spill-  
6 affected area. They passed resolution number three which was to  
7 delay the approval of the 1993 work plan until after their review -  
8 - or after their comment, and they passed resolution number four,  
9 the selection of officers. The Trustee Council next dealt with  
10 projects that needed NEPA compliance, and they approved funding for  
11 two projects. The first project, 93032, which is a Pink and Cold  
12 Creek ....

13 UNIDENTIFIED VOICE (TELECONFERENCE): We can't hear you  
14 in Juneau.

15 UNIDENTIFIED VOICE (TELECONFERENCE): We can't hear in  
16 Cordova, either.

17 DR. GIBBONS: Can you hear now? Can you hear me at all?  
18 (No audible response)

19 MR. SANDOR: Inasmuch as the mike on which Dr. Gibbons  
20 is functioning may not be operating, can we ...

21 DR. GIBBONS: It's working.

22 MR. SANDOR: Is it working?

23 DR. GIBBONS: Oh, yeah.

24 MR. SANDOR: Juneau, can you hear the following? Dr.  
25 Gibbons?

26 DR. GIBBONS: Juneau, can you hear me now?

1 UNIDENTIFIED VOICE (TELECONFERENCE): We can hear you  
2 now.

3 DR. GIBBONS: Okay. Perhaps I should start over on the  
4 resolutions...

5 MR. SANDOR: Why don't you start over.

6 DR. GIBBONS: .... the motions passed by the Trustee  
7 Council.

8 UNIDENTIFIED VOICE (TELECONFERENCE): Yes, we'd  
9 appreciate if you'd explain those resolutions.

10 DR. GIBBONS: Okay. The first motion passed by the  
11 Trustee Council was to approve the election of the officers elected  
12 by the Public Advisory Group members. This is resolution number  
13 four. The Trustee Council then directed the administrative --  
14 interim administrative director to convey to the Public Advisory  
15 Group members actions of the Trustee Council concerning the four  
16 resolutions they submitted. The first resolution was tabled until  
17 the next Trustee Council meeting. This had to do with the  
18 operating procedures of the Public Advisory Group. They tabled  
19 resolution number two until the next Trustee Council meeting  
20 dealing with working with landowners in the oil spill-affected  
21 area. They passed resolution number three, which is to delay  
22 action on the 1993 work plan until the Public Advisory Group had  
23 additional time to review and discuss this at their January 6th-7th  
24 meeting, and they passed resolution number four as previously  
25 described. The next motion -- action that the Trustee Council took  
26 was to approve two projects -- funding of NEPA compliance only for

1 two projects. The first project, 93032, which is the Pink and Cold  
2 Creek fish ladder, they approved \$5,000 for NEPA work only, and the  
3 second project, 93046, they approved \$3,000 for preparation of an  
4 EA for harbor seals. They took one additional action on the '93  
5 work plan when they approve project 93045, the boat surveys for sea  
6 ducks and sea otters. They approved that project for a figure  
7 \$262,400. The Trustee Council next approved the following  
8 resolution: The Trustee Council agrees that the acquisition of  
9 approximately seventy-five hundred acres of imminently threatened  
10 lands in the Kachemak Bay State Park meets our restoration  
11 criteria. The Trustee Council approves the expenditure of up to  
12 \$75,000 for the completion of NEPA documentation for spending \$7.5  
13 million to acquire approximately seventy-five hundred acres of  
14 imminently threatened lands in Kachemak Bay State Park. The  
15 Trustee Council approves the designation of the U.S. Forest Service  
16 as the lead agency for ensuring that appropriate NEPA documentation  
17 is completed. The Trustee Council requests that appropriate NEPA  
18 compliance be completed as soon as practicable so that the Trustee  
19 Council may then take final action. The Trustee Council approved  
20 the distribution of the restoration outline for review and comment.  
21 They also approved distribution of a revised timeline for the  
22 completion of a draft -- or completion of a restoration plan and a  
23 final environmental impact statement -- for comments. The Trustee  
24 Council approved a motion that Mr. Barton and Mr. Rosier coordinate  
25 the announcement of an application for -- coordinate the  
26 announcement for application of an executive director, using

1 applicable state and federal guidelines. They approved the  
2 continuation of this meeting to be January 19th, starting at 8 a.m.  
3 in Anchorage. They approved a motion that under the circumstance  
4 that the first alternate to the Trustee Council member and the  
5 Trustee Council are not available for a meeting, that the Trustee  
6 Council can appoint a second alternate. They passed the motion --  
7 for the interim administrative director to draft a milestone  
8 meeting calendar for Trustee Council meetings scheduled for 1993  
9 and 1994. That's the actions of the Trustee Council.

10 MR. SANDOR: Any additions by any of the Trustee  
11 Council members -- actions taken? Any questions -- that  
12 individuals on line may have may be queried as we go through the  
13 individual communities. We will now then now go through the  
14 teleconference sites on line, asking that two individuals be --  
15 testify, and then go through the cycle, ending with Anchorage, and  
16 then repeating the cycle.

17 No one on line at Chenega Bay? At Cordova, anyone on the  
18 line?

19 UNIDENTIFIED VOICE (TELECONFERENCE): Yes. Cordova is on  
20 line.

21 MR. SANDOR: Can you have two individuals, and if they  
22 would identify themselves individually as they begin, please.

23 UNIDENTIFIED VOICE (TELECONFERENCE): Okay. Just one  
24 moment please.

25 MR. BECKER: Yes, my name is Karl Becker. Box 1185,  
26 Cordova. Can you hear me okay?



1 MR. SANDOR: Yes. You're coming in loud and clear.  
2 MS. EVANS: Would you spell your name, please, for us.  
3 MR. BECKER: K-A-R-L B-E-C-K-E-R.  
4 MS. EVANS: Thank you very much.  
5 MR. SANDOR: Please continue with your statement.  
6 MR. BECKER: Thank you. Yes, I'd like to restate that  
7 I -- I strongly urge the Trustee Council to minimize the amount of  
8 money that will be spent on administrative duties, hopefully by  
9 combining administrative processes in different projects. And I  
10 realize that you've tabled the 1993 work plan until your January  
11 meeting, but since I won't be here at that time, I'd just like to  
12 point that out right now. And I guess I have some questions as to  
13 what the rationale was for the funding of it -- that you have done  
14 -- for the projects that you mentioned, specifically the NEPA  
15 portions and the sea otter projects. Could you explain those to  
16 us, please?  
17 MR. SANDOR: Dr. Gibbons, will you respond to the  
18 question.  
19 DR. GIBBONS: Yes. The action taken on those three  
20 projects, they were time-critical. If the action did not occur  
21 within the next month or so, that the project could not proceed as  
22 planned in the 1993 work plan.  
23 MR. SANDOR: Any further questions? or comments?  
24 MR. BECKER: Was that also -- also the case with  
25 Kachemak Bay, and if so, what is the remainder of the funding for  
26 that particular project? Where will that money be coming from?

1           MR. SANDOR:     Mr. Becker, the Kachemak Bay action, the  
2 authority to begin the process of completing the NEPA requirements  
3 is one to lead to the authorization of \$7.5 million for acquisition  
4 of critical habitat imminently threatened within Chenega (sic) Bay  
5 State Park, and that the -- the -- excuse me -- Kachemak Bay State  
6 Bay, and that the \$7.5 million that was approved in the Alyeska  
7 settlement, coupled with the \$7.5 million approved -- the process  
8 which was underway here, will be added to or projected to be added  
9 to funding from the \$50 million criminal settlement monies, and  
10 possibly from the general fund. The target date for completion of  
11 the acquisition of -- of lands within Kachemak Bay State Park is by  
12 December of 1993. Any more explanations to be added to that? Is  
13 that understood?

14           MR. BECKER:     That's understood. Does that mean then  
15 that the area of eastern Prince William Sound where logging is  
16 actually underway is not considered a time-critical area to have  
17 habitat acquisition right now?

18           MR. SANDOR:     This means that because of the -- the  
19 study processes that were completed by the Restoration Team, which  
20 identified this as critical habitat -- by the Trustee Council --  
21 that this was at the highest priority for protection purposes. The  
22 -- the process underway, it is just for Kachemak Bay State Park.  
23 The imminently threatened habitat in other areas is under review by  
24 the Restoration Team, the Nature Conservancy, and will follow in  
25 accord with the work plan for 1993. The thing that made this  
26 imminently threatened here was that timber cutting permits were --

1 were already applied for -- Kachemak Bay State Park -- and this is  
2 restricted to that. Mr. Cole?

3 MR. COLE: I would like to say the answer to that  
4 question is, obviously not.

5 MR. SANDOR: Any other questions on this allocation --  
6 agreement on the -- the Kachemak State Park.

7 MR. BECKER: Yes. Could you explain what that remark  
8 was? Obviously not what? And also I'd to know the criteria by  
9 which the council decided that one area was more critical than  
10 another area.

11 MR. SANDOR: Dr. Gibbons, it might be helpful to  
12 outline the process by which all of critical habitat is being  
13 reviewed. Marty Rutherford is not here. We need to explain that,  
14 but perhaps you can do that.

15 DR. GIBBONS: Yes. The process that we're under right  
16 now is to have for the meeting in early February or mid-February,  
17 for the Trustee Council, an analysis of the all imminently  
18 threatened lands within the oil spill-affected area. We've dealt  
19 with Kachemak State Park first. We're dealing with properties in  
20 Afognak and Kodiak, also Chenega area, and other parts of Prince  
21 William Sound. So, at the February Trustee Council meeting, we  
22 will have a anal -- imminently threatened lands analysis for the  
23 Trustee Council to deal with. But that's the process we're under  
24 right now.

25 MR. SANDOR: Any further questions, Mr. Becker?

26 MR. BECKER: Yes. Could you explain why the Nature

1 Conservancy is only being allowed to -- to examine injured  
2 resources?

3 MR. SANDOR: Dr. Gibbons, it might be helpful to  
4 outline the process by which the Nature Conservancy is provided the  
5 information through the Forest Service for the initial study last,  
6 and the framework of the two studies that were approved by the  
7 Trustee Council at earlier meetings.

8 DR. GIBBONS: Yes. Last year, the Trustee Council  
9 approved the development of a habitat protection handbook, so to  
10 speak, that was developed by the Trustee Council, that laid out  
11 options for potential habitat protection. That's been released to  
12 the public and it's readily available. The Trustee Council earlier  
13 approved two projects for the Nature Conservancy. One is a  
14 collection of best -- collection of information from experts in the  
15 area on information concerning the injured resources and services.  
16 This includes -- I mentioned services -- they also did, you know,  
17 they surveyed people for their knowledge of the area, they produced  
18 a document that will be released soon that summarizes that. The  
19 second study that was funded is a -- initiation of a collection of  
20 a data base, and that's targeted for completion in the spring, and  
21 that's basically what the Nature Conservancy is doing. They --  
22 they were not limited to the injured -- the injured speci --  
23 resources only.

24 MR. SANDOR: Any further questions, Mr. Becker?

25 MR. BECKER: Yes. Could you give me a breakdown -- a  
26 percentage -- as to how much of the Trustees' funds to date have

1     been spent on administrative purposes versus restoration purposes.

2             MR. SANDOR:     We probably cannot provide that at this  
3     teleconference this evening. You should know, Mr. Becker, that the  
4     -- in the item that was approved by the Trustee Council to identify  
5     ways of strengthening the organization process and other functions  
6     of the Trustee Council, that we are going to be looking at that  
7     precise item. David, unless you have that information, I presume  
8     it will come out of the -- in that review. We do have for the  
9     current work plan the -- an allocation of approved funding for the  
10    administrative work this. Can you give that?

11            DR. GIBBONS:    Well -- Mr. Becker, if you -- you -- if  
12    you get a copy of the 1993 work plan, that is detailed in here in  
13    spread sheets right at the front, and you can total up the projects  
14    and then total up the administrative portion of the budget, and you  
15    can determine that. It's -- it's roughly ten percent.

16            MR. BECKER:     Is that ten percent, to date, or ten  
17    percent projected budget for the 1993 work plan

18            DR. GIBBONS:    That's from the 1993 work plan.

19            MR. BECKER:     Can you give me some estimate as to how  
20    much has been spent to date on that?

21            MR. SANDOR:     Mr. Becker, I do not believe it will be  
22    possible to give a running compilation of that breakdown, to date,  
23    but that's one of the items that will be examined in the process of  
24    our critique of the work to date. Do you have any additional ...?

25            MR. BECKER:     Okay. I'll be calling Mr. Gibbons and  
26    getting that information, if I could. I think there's other people

1 here who would like to testify right now.

2 DR. GIBBONS: One quick point on that -- there are  
3 detailed budgets at the teleconferencing sites -- probably thicker  
4 than you want to see, but there are detailed budgets in -- in  
5 Cordova.

6 MR. BECKER: We haven't received any of those budgets  
7 at all, and I also would like to ask that in the future that the  
8 teleconference be started during the deliberations of the Trustee  
9 Council, rather than at the very end.

10 MR. SANDOR: Your suggestion will be considered by the  
11 Trustees. Any other comments? If not, can we have the second  
12 person at Cordova -- and because we have a limited amount of time,  
13 try to keep your comments under five minutes.

14 MS. BULLER: My name is Jeanine Buller. I am Acting  
15 President of Cordova District Fishermen United and also chairperson  
16 of the pound division. I am concerned about four different  
17 projects that are time-critical. Two of them -- am I coming in  
18 clear enough.

19 MS. EVANS: Yes, you are, but Jeannie would you please  
20 spell your name for us. Thank you.

21 MS. BULLER: Yes. My spelling is J-E-A-N-N-I-N-E  
22 B-U-L-L-E-R.

23 MR. SANDOR: Please proceed with your statement. Thank  
24 you.

25 MS. BULLER: Thank you. Yes. My four projects that  
26 I'm concerned is -- they were all four left out of your 1993 work

1 plan, and we would like to see them put back in. All four of them  
2 are time-critical projects. Two of them are herring spawn  
3 deposition -- studies that need to be done, and it has been stated  
4 in all of the injury studies that these are two critical years,  
5 1992 and '93, are critical years to be studied to find out the  
6 injuries to the Pacific herring. The other two projects are  
7 salmon-tagging projects that were deleted. One is project 93003,  
8 pink salmon egg to pre-emergent fry survival in Prince William  
9 Sound, and project 93004, documentation, enumeration, and  
10 preservation of genetically discrete wild populations of pink  
11 salmon impacted by the EVOS in Prince William Sound. I would like  
12 to know why these were dropped from the 1993 work project and would  
13 like to see them reinstated.

14 MR. SANDOR: Your request that they be reinstated will  
15 be considered, not only by the Trustees and the Restoration Team,  
16 but the Public Advisory Group, which meets January 6th and 7th,  
17 will also have your recommendation.

18 MS. BULLER: Okay. I'm sure the council is aware how  
19 time-critical these studies are, particularly the herring -- the  
20 Pacific herring projects. We're coming up on the season here real  
21 quick, so if action's going to be taken, it better be soon. Thank  
22 you for your time.

23 MR. SANDOR: Thank you very much. Moving on to  
24 Fairbanks. Do we have two individuals there that would like to  
25 testify? Would you please state your name and spell it please?  
26 Anybody on line? No one. How about Juneau? Anyone on line there

1 that would like to speak, please state your name, spell your name,  
2 and we would like to have two people testify if they are available  
3 at that point.

4 MR. THOMA: Mr. Sandor, there is one person here in  
5 Juneau. My name is Chip -- C-H-I-P -- Thoma -- T-H-O-M-A. I have  
6 a -- I think I'll put my comments as far as these specific projects  
7 on paper. There's no sense in going through all these now, since  
8 you folks have probably properly postponed deliberations on this  
9 work plan til the restoration plan is somewhat in shape. I had  
10 good news today from the Clinton transition team that Mr.  
11 Christopher has taken some direct personal interest in the actions  
12 of the Trustee Council and the hiring of permanent, and I urge Mr.  
13 Rosier and Mr. Barton to make sure to let the transition team and  
14 Mr. Christopher's office in Washington and in Little Rock know  
15 about your deliberations and your advertising for a permanent staff  
16 position. I think it's real important that the new administration  
17 be aware of what you folks are up to. I think my only comment will  
18 be the recent settlement with the state and Alyeska, and I'm very  
19 concerned that the settlement was far too low. I think it's about  
20 a half a billion dollars too low as far as the liabilities of  
21 Alyeska as far as the oil spill, and I made a lot of calls this  
22 last week to DOT, to the engineering division and also to the  
23 commissioner, asking if they aware of the projects that have been  
24 detailed in the settlement, and with the exception of Shepherd (ph)  
25 Point outside of Cordova, neither DOT or DEC's oil spill response  
26 group were aware of the plans for Chenega and Tatitlek. There was



1 concern within DOT because they have a flagship ferry on paper that  
2 they're proceeding to construct that's going to be used as an oil  
3 spill response vessel should this occur again, that there should be  
4 some coordination that these docks are going to have to meet up to  
5 the ferries, and things are going to have to be done by spec, and  
6 I'm a little concerned, at least as far as some of the editorials  
7 go, that there's protected state fund that's being set up, and all  
8 this is being done in lieu of any kind of -- at least as far as I  
9 know -- in lieu of any kind of legislative oversight, and I think  
10 I'll end my comments there. If Mr. Cole's got any comments on that  
11 settlement with Alyeska, I'd appreciate hearing them.

12 MR. SANDOR: Thank you, Mr. Thoma.

13 MR. COLE: Yes, Mr. Thoma, I would like to respond in  
14 this fashion. You know about -- about as much of the settlement  
15 value of the state's claims against Alyeska as I know about the  
16 hydrogen bomb.

17 MR. THOMA: I think that's a very flippant remark, and  
18 I -- I expect it from you, Mr. Cole.

19 MR. SANDOR: Any other comment from Juneau? I guess  
20 that completes the -- the public comments from Juneau. May we go  
21 on to Homer. If anyone is available for testifying there, please  
22 state your name and spell it, please.

23 MR. ARCHIBALD: Excuse me, this is Homer. This is  
24 Robert Archibald speaking. R-O-B-E-R-T A-R-C-H-I-B-A-L-D. I'm  
25 the co-chairperson of the Kachemak Bay Citizens' Coalition, and for  
26 those of you who may not be familiar with this group, we were

1 formed five years ago when the imminent threat of logging Kachemak  
2 Bay State Park arose. Since that time, we have probably  
3 disseminated over a hundred thousand leaflets of information,  
4 trying to get this state park buy-back done. I certainly applaud  
5 what the Trustees have done as far as making this a reality. I'd  
6 like to know what this National Environmental Public (sic) Act  
7 bring into the picture here, and I'm wondering if somebody could  
8 described that for me?

9 MR. SANDOR: Thank you, Mr. Archibald, for that  
10 question which probably would be echoed by a number of people, but  
11 Dr. Gibbons, why don't you .... (Laughter) ... summarize that  
12 please -- not the whole Act. In 1970, the National Environmental  
13 Policy Act was passed requiring environmental assessment or  
14 environmental impact -- formal environmental impact statements, and  
15 the Act proscribes a very specific process by which this assessment  
16 is made, and if it's a major federal action or a major action that  
17 impacts the environment, the -- or is controversial, then a formal  
18 environmental impact statement must be made. That's a layperson's  
19 thumbnail sketch. Do you want to add anything, Dr. Gibbons?  
20 Anyway, this has been a significant issue to deal with here because  
21 there's some variations between interpretations of requirements  
22 between the third federal agencies represented on the Trustee  
23 Council. The state, of course -- of Alaska -- have to be in  
24 compliance. I will say that unless the process of meeting NEPA  
25 requirements is correct, both procedurally as well as  
26 substantively, it's subject to legal challenge. So, it's a matter

1 not to be taken lightly, and as a consequence, the -- the  
2 Restoration Team and the Trustee Council and the Public Advisory  
3 Group is going to want to look at this issue very seriously, and so  
4 the whole purpose of the discussion and our action here today with  
5 regard to beginning the process of -- of acquiring Kachemak Bay  
6 State Park in-holdings -- to be in compliance and to meet both the  
7 process as well as the substantive requirements of that Act. Any  
8 further comments or questions from -- from Homer, Mr. Archibald?

9 MR. ARCHIBALD: I guess the timeline you were looking at  
10 on this was December '93, is that correct?

11 MR. SANDOR: Yes. Our expectation is that this \$7½  
12 million, coupled with the \$7½ million from the Alyeska settlement,  
13 coupled with monies from the -- the criminal settlement monies,  
14 plus the general fund would be within the \$22 million that the land  
15 has been valued. Mr. Cole, do you have anything to add to that?

16 MR. COLE: Yes. I would like to say that one of the  
17 reasons that date was selected is because if it becomes necessary  
18 to seek a legislative appropriation from the state \$50 million  
19 criminal settlement monies, the legislature might not enact such  
20 legislation until June, and maybe it's another 60 days before that  
21 appropriation becomes effective. So, we were really looking at  
22 September in that event. That's the reason we selected that date.  
23 That's not necessarily intended to be the date by which we intend  
24 to complete the acquisition, if we're able to do it. It's simply  
25 an outside date for the completion because we wanted to put some  
26 limitation on the availability of those funds. Thank you.

1 MR. SANDOR: Any further comments, Mr. Archibald?

2 MR. ARCHIBALD: Our coalition is certainly happy to see  
3 this coming to pass, and it certainly makes no other threatened  
4 habitat less important. However, this issue has been going on for  
5 almost twenty years. We, in Homer, we certainly like to see it  
6 wrapped in the -- thank you very much.

7 MR. SANDOR: Your comments are appreciated. Are there  
8 -- is there anyone else at Homer that wishes to make a statement at  
9 this time?

10 MS. HILLSTRAND: Yes. This is Nancy Hillstrand.  
11 H-I-L-L-S-T-R-A-N-D. And I also would like to thank you very  
12 kindly for the money to purchase this land in Kachemak Bay State  
13 Park. I'm also very happy to hear that you plan to look at Prince  
14 William Sound, Kodiak and Afognak islands for habitat acquisition  
15 -- if I heard you right, I think, in February -- is that right?

16 MR. SANDOR: That's correct. All threatened -- all --  
17 all habitat that's proposed or considered to be threatened.

18 MS. HILLSTRAND: Yeah, okay. I'm -- I'm really glad  
19 to hear that because I do still feel that the habitat acquisition  
20 is the highest form of protection we can get here. And one thing  
21 I do not appreciate is some of these projects listed which will  
22 spawn low returns on the money that's put out, and there seems to  
23 be a lot of pork barrel, if you mind me saying so, in this -- this  
24 1993 book. A lot of them seem to be conducted by the agencies, and  
25 I wonder whether some of them are just put in place to enhance the  
26 agencies or to enhance the things were in trouble because of the

1 Exxon Valdez. I wonder, with the studies, whether they are  
2 scientific or not, shouldn't they be -- shouldn't they go out for  
3 competitive bid?

4 MR. SANDOR: That question has been raised before Ms.  
5 Hillebrand (sic), and I under consideration by not only the  
6 Trustees, the Restoration Team, but by Public Advisory Group, and  
7 the option of -- of looking at competitive opportunities for doing  
8 studies is being considered.

9 MS. HILLSTRAND: Yeah. Okay. Well, thank you very  
10 much. I appreciate that. Can I write my comments 'cos I do have  
11 a lot of different comments on the different projects, and I know  
12 you don't have time right now, 'cos I imagine you folks are pretty  
13 numb by now after a long day.

14 MR. SANDOR: Those comments would be appreciated. It  
15 would be helpful if they were received before January 6th, so that  
16 copies could go to the Public Advisory Group that is going to be  
17 looking at these things in great detail.

18 MR. SANDOR: We will move to the Kenai Peninsula,  
19 Soldotna -- and no one there. So at Kodiak, anyone there?

20 MR. MALLOY: Thank you, Mr. Chairman. My name is Larry  
21 Malloy. I'm with the Kodiak Regional Aquaculture Association. My  
22 name is spelled M-A-L-L-O-Y, and our address is Box 3407 in Kodiak.  
23 We're a salmon fishermen's organization, comprised of over -- about  
24 600 members, and would like to point out that we're very active in  
25 rehabilitation of depleted or depressed salmon stocks and also  
26 active with the development of supplemental salmon production

1 throughout the Kodiak area, and especially on Afognak Island. And  
2 I guess, Mr. Chairman, at this point, we would like to reiterate  
3 our whole-hearted support for the following list of proposed  
4 projects recommended by the Restoration Team, and with the special  
5 emphasis, Mr. Chairman, on the Red Lake salmon restoration and  
6 mitigation proposals, namely projects 93030 and 93031,  
7 respectively. The --the Red Lake sockeye salmon stock is of major  
8 importance to -- major importance to Kodiak's commercial salmon  
9 fishermen and has becoming more so for the rapidly expanding sport  
10 fisheries that we're seeing on this system. The projected  
11 potential for lost sockeye production from this system due to the  
12 heavy over-escapement experienced in 1989, when Kodiak's salmon  
13 industry was shut down, would result, we feel, in very significant  
14 economic hardships for all the users of this system. And  
15 additionally, the Red Lake sockeye salmon stock is of major, major  
16 importance to the very large bear and eagle populations which  
17 inhabit the Red Lake drainage in the Kodiak National Wildlife  
18 Refuge. Also, Mr. Chairman, project number 93002, sockeye salmon  
19 overescapement, is another project we support very strongly because  
20 of the overescapement experienced in other Kodiak salmon systems in  
21 1989. We also support project number 93032, which is the Cold  
22 Creek pink salmon restoration on several of Afognak Island's  
23 systems. One other thing, Mr. Chairman, proposed project number  
24 93051, the stream habitat assessment, is very -- very -- is being  
25 supported on the basis of habitat protection. From our standpoint,  
26 our association, again, has been investing in salmon rehabilitation

1 and enhancement projects at several locations on Afognak Island for  
2 several years, and we're definitely concerned about protection for  
3 the salmon spawning, and particularly salmon-rearing habitat found  
4 in those coastal, mature spruce-forested areas and grassland areas  
5 of Afognak Island, and we'd like to emphasize that habitat  
6 protection for Afognak Island is, in our minds, time-critical.  
7 And, finally, Mr. Chairman, we very, very strongly -- would like to  
8 support project number 93064, which could -- excuse me, which would  
9 encompass those situations that the Trustee Council has determined  
10 represent imminently threatened habitat, and particularly -- in  
11 particular those tasks which provide for the acquisition of fish  
12 weir sites. We feel very strongly that these sites are crucial for  
13 continuing of monitoring of salmon trout and char stock status on  
14 those major system directly impacted by the EVOS. Mr. Chairman,  
15 our organization wishes to thank -- thank the council for this  
16 opportunity to really convey our thoughts on these proposed  
17 projects, and we will be providing written comments prior to the  
18 January 6th date. Thank you very much.

19 MR. SANDOR: Thank you, Mr. Malloy, and we do  
20 appreciate the specificity of your comments. We would like to have  
21 them in writing, and anyone else on conference lines, so these can  
22 be transmitted to the Public Advisory Group, which meets January  
23 6th and 7th. Mr. Cole?

24 MR. COLE: Mr. Malloy, there have been objections to  
25 those projects on the grounds that disease from these -- what --  
26 hatchery stocks, I guess, could adversely affect the wild stocks in

1 Red Lake. There were two comments to that effect in connection  
2 with 30 and 31, would you mind expressing your views on that?

3 MR. MALLOY: Yes, Mr. Chairman, I'd be more than glad  
4 to. While I suppose you are aware, the State of Alaska has some  
5 very explicit and, the way I understand it, maybe some of the  
6 strongest fish pathology requirements in the United States in terms  
7 of hatchery outstockings, and, currently, our organization is  
8 conducting egg takes in a depressed sockeye system on Afognak,  
9 namely Malina -- Malina (ph) Lake system, and we're doing egg takes  
10 in that system, we're hauling the eggs into a hatchery, we're using  
11 the very specific state guidelines for incubating those hatcheries,  
12 including isolation, through modulation -- modulization of the  
13 hatchery, and the latest -- the latest hatchery husbandry  
14 techniques to ensure complete compliance with state pathological  
15 guidelines, and then we'll -- following hatching, outstocking those  
16 juveniles back into the lake, and in conjunction with that we're  
17 fertilizing the lake to broaden and -- and enhance the food base to  
18 jump-start the -- that nature stock back into -- into production.  
19 We're doing that over a five year basis, and the state feels --  
20 well, the way I understand it -- they feel strongly that's a  
21 legitimate and proper activity. We're also contemplating doing  
22 that on a couple of other stocks. We felt that the -- the proposed  
23 project for Red Lake was consistent with our current activities  
24 there, Mr. Chairman.

25 MR. SANDOR: Thank you. Is there any other questions  
26 from the members of the Trustee Council or comments? Is there a



1 second person that would wish to testify at -- or provide comments  
2 at Kodiak?

3 MR. PETRICH: Yes, there is. Can you hear me okay?

4 MR. SANDOR: Yes. You're coming in loud and clear.  
5 Please spell your name.

6 MR. PETRICH: My name is Craig Petrich, and the last  
7 name is P-E-T-R-I-C-H, and I represent Kodiak Audubon. I am their  
8 conservation chairman. I -- I've submitted written comments so  
9 it's really stay brief. I think it would be redundant for me - for  
10 me to restate them. I would like to compliment you on taking  
11 action on Kachemak. It's something I'm glad to see. I would also  
12 like you to concentrate on the Seal Bay area and Paul's (ph) Lake  
13 on northeastern Afognak. I believe that those would meet anyone's  
14 criteria for threatened habitat and also areas which have high  
15 recreational value. Other than that, I'd like to restate a comment  
16 that I've made many times before, and that's that I'd like to see  
17 the -- all of the public comment, written comment, compiled and  
18 made available to anyone who wants to see it. I've seen summaries  
19 of my comments, which the Restoration Team has responded to, and  
20 they don't resemble half my (inaudible) or the summaries just  
21 didn't seem to be of the same material I was speaking about. So,  
22 one of the things I've been told the expense of this was -- just  
23 simple photocopies would be perfectly acceptable -- and I've also  
24 heard the comment that some of this material was of such a  
25 technical nature, that it would be too expensive to have compiled  
26 for the public, and I would ask that if that is the case, then we

1 could simply summarize and footnote it, and say it is available, so  
2 that people know the nature of that comment and could approach the  
3 Trustee Council for that information if they thought it was  
4 necessary. As with my written comments, where I cover (inaudible)  
5 projects and in specific detail, and I'd sure like to see the  
6 comments of other folks. Thank you.

7 MR. SANDOR: Thank you, Mr. Petrich. There is a  
8 verbatim transcript made of each of the meetings, including the  
9 public comment period, and summaries are made, but your point on --  
10 summaries of the past not being completely reflective of your  
11 position is noted and we'll try doing a better job of that. We'll  
12 move on to Seward.

13 DR. GIBBONS: Mr. Chairman?

14 MR. SANDOR: Yes.

15 DR. GIBBONS: I've got one point ...

16 MR. SANDOR: ... Dr. Gibbons.

17 DR. GIBBONS: A complete copy of all the public comments  
18 received on the 1993 package have been delivered to fifteen  
19 libraries across the state and the teleconferencing sites, so there  
20 should a copy in Kodiak of all the comments.

21 MR. PETRICH: Of all written comments?

22 DR. GIBBONS: All written comment.

23 MR. PETRICH: Okay. Thank you very much.

24 MR. SANDOR: Thank you, Dr. Gibbons, for clarifying  
25 that -- moving on. Is there anyone on line at Seward? No one at  
26 Seward? No one at Tatitlek? No one -- Valdez? No one --

1 Whittier? Okay. Well, then, may I ask a question of our technical  
2 staff. Will the -- the teleconference be on line beyond 5:45.

3 MS. EVANS: That's up to the operator. Operator, is  
4 the line still free for a bit longer? (No audible response) She  
5 may not be paying attention.

6 CONFERENCE OPERATOR: This is Becky in Juneau. Yes,  
7 we are available. Do you -- do you for about how long?

8 MR. SANDOR: Okay. We -- this was originally set for  
9 5:45 termination, which is fifteen minutes. We have comments -- a  
10 number of people. Could those wanting to make comments here, raise  
11 their hands. We have one, two, three, four, five, six, seven,  
12 eight, nine. What we can do is finish the teleconference sites  
13 because we're running out of time there. If there's anyone who  
14 must make their comments here before six o'clock, if you'll raise  
15 your hands. Okay -- we just have one person -- I guess what we'll  
16 do Pamela is have you make your comments, and then complete the  
17 teleconferencing. So, would you make your comments now, and then  
18 we'll go back on teleconference line.

19 MS. BRODIE: Mr. Chairman, I'm Pamela Brodie. That's  
20 B-R-O-D-I-E, representing the Sierra Club. Thank you for the  
21 opportunity to testify out of order. I would like to extend and  
22 invitation to all members of the Trustee Council, as well as the  
23 other people in this room, at the conclusion of this meeting to  
24 come to the Sierra Club Christmas party which is at Fifth Avenue  
25 and Cordova, above Action Locksmith, and that is -- that's, in  
26 fact, why I wanted to testify early is because I'm supposed to be

1 there now. And, we are very encouraged and pleased at the action  
2 taken today by the Trustee Council regarding Kachemak Bay. It will  
3 certainly mean a merrier Christmas to many Alaskans, and we are  
4 also encouraged that and hopeful that there will be similar  
5 progress made towards acquiring habitat in other parts of the  
6 Alaska, in Prince William Sound, and in the Kodiak area, and other  
7 parts of the Kenai Peninsula. I also appreciate what Attorney  
8 General Cole said that habitat acquisition is the highest priority  
9 of the settlement. I have just one other comment I will make  
10 tonight, and that is regarding the habi -- the restoration plan --  
11 one of the things that has been distributed is the matrix of the  
12 draft alternative themes, and I have puzzled over this matrix and  
13 do not understand it, but I will talk more to staff people to try  
14 to understand it better, and then get to you with comments. One  
15 thing I do want to say now is the geographic constraint number four  
16 on this matrix is -- some of the alternatives say that within --  
17 the restoration should be within the EVOS area only, and others say  
18 may include areas outside of EVOS, and I want to point out that  
19 that is a very vague term -- the oil spill area -- because it is  
20 different depending on what resource or what service you're talking  
21 about. There's, of course, the area that was hit by the oil, but  
22 the populations of people and wildlife which were injured, also  
23 move in and out of that particular oil spill area, and I don't --  
24 it seems to me arbitrary that some of these alternatives are  
25 limited to the EVOS area and some are not. Thank you very much.

26 MR. SANDOR: Thank you, Ms. Brodie, and on behalf of

1 the Trustees we extend best holiday greetings to the Sierra Club  
2 and your associates at this party. Some of us are going to have to  
3 catch the 7:10 plane to -- south and miss that opportunity. We  
4 look forward to your comments from the 6th and 7th January meeting  
5 as well.

6 MR. COLE: The Department of Law's having a Christmas  
7 party starting at six o'clock.

8 MR. SANDOR: Moving back on teleconference line, and  
9 we'll finish the teleconference now. I think Chenega Bay, Cordova,  
10 Fairbanks, Juneau are blank -- Homer? Any participants at Homer.

11 CONFERENCE OPERATOR: Cordova does have two additional  
12 people who would like to testify briefly.

13 MR. SANDOR: Please complete that, if you will,  
14 spelling your names.

15 MS. BIGGS: Yes. This is Evelyn Biggs in Cordova.  
16 Can you hear me?

17 MR. SANDOR: Loud and clear.

18 MS. BIGGS: Okay. The spelling is E-V-E-L-Y-N Biggs  
19 B-I-G-G-S. I'm the principal investigator for the injury of Prince  
20 William Sound herring, NRD study number 11, and I just wanted to  
21 make a point of clarification. I was asked to be here by the CDFU  
22 director. She -- they have written some documents in support of  
23 two of the studies that we had proposed, and one thing I just  
24 wanted to clarify for the Trustees is the time-critical nature of  
25 these is true, and also your being agency folks realize the kind of  
26 time constraints that are involved with putting projects in the

1 water -- keeping within procedural guidelines. We believe at Fish  
2 and Game, if we do not have an answer by January 15 on the spawn  
3 deposition survey, we will not be able to put that in the water in  
4 1993. So, if you have not made a decision by then, it will not be  
5 feasible or possible for us, so we would ask that if a decision  
6 cannot be made by January 15, that we not be given funds to run  
7 that project in 1993 -- we would hope that you would then  
8 resurrect it in 1994. However, I would like to back up a comment  
9 made by Nancy Hillstrand from Homer. She was mentioning the lack  
10 of RFP's and non-agency folks involved with the research process,  
11 we have a project that I believe will be impacted by the lack of  
12 involvement of the third-party contractors. In particular, we  
13 measured a reproductive impairment problem that is a potential  
14 injury in the 1988 year class. The 1988 year class of herring is  
15 currently dominating the population, and if those herring are  
16 impacted reproductively, it will affect the population. We did a  
17 pilot, we observed a difference, we're not sure -- we're not sure  
18 of the actual difference -- the difference is -- is -- the damage  
19 is greater in the oiled areas, and we propose to have a third party  
20 person research that. There has been no entertainment by the  
21 Trustees of research by third parties, and so, therefore, the --  
22 the most important possible project in this program is not even  
23 getting a chance to exist. So that particular project would not  
24 take much lead time, being that it is not an agency project, and I  
25 would encourage the Trustees to go ahead and look toward funding  
26 that as is supported by some other commenters tonight and today --

1 to clear up the damage that was done to the Prince William Sound  
2 population.

3 MR. SANDOR: Thank you for your comments, Ms. Biggs.  
4 I believe Dr. Gibbons has a comment.

5 DR. GIBBONS: One quick comment. There are -- there are  
6 -- many of the studies in the 1993 work plan that are entertaining  
7 third-party contracts, so -- I wanted to put that on the record.

8 MR. SANDOR: And we hope any comments you have Ms.  
9 Biggs will be submitted in writing to be considered by the Public  
10 Advisory Group. May we have the second person -- the remaining  
11 person at Homer testify? Excuse me?

12 MR. GUARD: Yes. This is Cordova. Is it Cordova you  
13 wanted?

14 MR. SANDOR: Yes.

15 MR. GUARD: Yeah. My name's Jeff Guard. J-E-F-F  
16 G-U-A-R-D, and I wanted to talk to -- what we understood to be some  
17 of the problems with killing the four projects we're interested in  
18 -- reintroduced -- and why those projects weren't given the  
19 consideration we thought they needed. It seems to be that, at  
20 least from reading Dr. Spies' comments, that most of these species  
21 here that are used for commercial value, sport value or subsistence  
22 value were considered a static entity of their own, with no other  
23 action with anything else -- (inaudible) sport fishermen,  
24 commercial fishermen, or the subsistence fishermen, and -- Dr.  
25 Spies was real specific about direct restoration values -- I don't  
26 know how much more direct restoration can get than through

1 management. If we don't do these studies to find out exactly how  
2 impacted these stocks we use for commercial, sport or subsistence,  
3 there's no way we can manage for it, and if we can't manage for it,  
4 we could be way back in the same kind of crisis management we  
5 already are with the sealions now. I don't think that's where any  
6 of use want to see this end up as. If those are the things we need  
7 to find out so we can adequately manage these impacted species, we  
8 sure need to get on the ball to do it. Thank you.

9 MR. SANDOR: Thank you for your comments. Now we'll  
10 move on to Homer -- and as I understand it, there's a -- two people  
11 available for presenting comments at that location. Can you step  
12 forward and -- and spell your names -- and provide your testimony.

13 UNIDENTIFIED VOICE (TELECONFERENCE): Were you speaking  
14 to Homer?

15 MR. SANDOR: Yes. We are trying to take two people at  
16 each location, cyclic, and if there's anyone else at Cordova, we  
17 will return.

18 UNIDENTIFIED VOICE (TELECONFERENCE): Yes. The people  
19 at Homer have testified already.

20 MR. SANDOR: Oh, okay. I'm sorry. Kodiak is next on  
21 line. Anyone remaining to testify at Kodiak?

22 UNIDENTIFIED VOICE (TELECONFERENCE): No one else at  
23 Kodiak. Thank you very much.

24 MR. SANDOR: Going back along the line -- Cordova? Is  
25 there anyone remaining at Cordova to provide comments?

26 UNIDENTIFIED VOICE (TELECONFERENCE): That's negative.



1 There's nobody in Cordova.

2 MR. SANDOR: My notes indicate no one remaining on line  
3 to provide public comment. If there's anyone that's joined the  
4 system since the -- we began, would you please identify yourself.

5 UNIDENTIFIED VOICE (TELECONFERENCE): This is Soldotna,  
6 but we just have someone to listen, not to testify.

7 MR. SANDOR: Okay. We appreciate that. Therefore,  
8 there is no one on line, and we appreciate the participation of  
9 those that have taken the time to go to the teleconference sites,  
10 and -- if those that have not made verbal comments want to submit  
11 them oral -- submit them in writing, we'd very much appreciate that  
12 and would extend best wishes of the holiday season to those on  
13 line, and move on to Anchorage for testimony here. And, I think  
14 Mr. Totemoff indicated he had a statement he would want to make.  
15 Charles Totemoff.

16 MR. TOTEMOFF: Thank you, Mr. Chairman, members of the  
17 Trustee Council. My name is Chuck Totemoff. T-O-T-E-M-O-F-F. I'd  
18 like to make a statement on behalf of the Pacific Rim Villages  
19 Coalition. Chenega Corporation, Native Village of Chenega Bay,  
20 English Bay Corporation, Vanwilik (ph) Traditional Council, Port  
21 Graham Corporation, the Native Village of Port Graham, Tatitlek  
22 Corporation, and the Native Village of Tatitlek have submitted a  
23 proposal to the Trustee Council to contract portions of work  
24 projects proposed of the 1993 draft work plan. The four villages  
25 believe that restoration of services injured on account of the  
26 Exxon Valdez oil spill is essential to the existence of their

1 communities and shareholders, and that direct involvement in such  
2 restoration of services is essential to their overall purpose and  
3 responsibility. Indeed, the four village entities, since the Exxon  
4 Valdez oil spill, have reserved their rights to consultation and  
5 participation in all oil response and restoration activities  
6 affecting their communities and lands. The proposal continues this  
7 process of restoration. Representatives of the village entities  
8 have planned the process of directly contracting for restoration  
9 projects and planning for such contracting. The plans include an  
10 identification of specific projects which the village entities  
11 intend to pursue as direct contracts. Further the village  
12 coalition believes that it has a strong management structure,  
13 including technical and management expertise. We do want to work  
14 with you and we seek your support with regard to contracts for  
15 projects work. In order to meaningfully participate, however, we  
16 will need further information from the agencies. We would like to  
17 begin consulting with the agencies soon in order to assist in the  
18 development of draft work plans, detailing with more specificity  
19 requirements for several contracts which ideal for our group. We  
20 are especially interested in subsistence restoration, shoreline  
21 assessment, archeological restoration, stewardship, and site  
22 patrolling, and at Chenega, chinook and coho salmon release  
23 program. The work plans proposed are not sufficiently specific to  
24 allow for decisions on contracting -- service requirements can then  
25 be developed and contracts negotiated. You may have some concern  
26 that the villages may have bitten off more than we can chew. Let

1 me explain briefly our proposal. We want to lay out a program for  
2 involvement of the villages in the restoration process -- our  
3 proposal's response to the programs that most directly impact our  
4 communities. We know and recognize it is not feasible to contract  
5 all parts of the work project. The Pacific Rim Villages Coalition,  
6 PRVC, proposal identifies 23 work projects which it supports. The  
7 PRVC proposal states those goals direct contracting from agencies  
8 of such projects of work as is feasible from that body of projects.  
9 The concept then is to contract projects where feasible to the  
10 PRVC. The PRVC proposal is not intended to obtain each and every  
11 work project listed, but rather seeks contract opportunities where  
12 feasible with the agencies. It is our common goal to work closely  
13 together in order to further the goals of restoration. The PRVC is  
14 a vehicle to encourage implementation of the specific projects,  
15 including projects that further the goals of restoration. The PRVC  
16 is a vehicle to encourage implementation of specific projects,  
17 including projects requiring community involvement, such as a  
18 subsistence restoration project -- work project number 93017 -- and  
19 a spring shoreline assessment project -- work project number 93038.  
20 For instance, under work project number 93038, the DEC proposes to  
21 issue work orders to the community, and under the PRVC an entity  
22 would already be created to receive such work orders for  
23 implementation purposes. You also have a proposal from Chugach  
24 Alaska Corporation, the Chugach Resource Management Agency -- CRMA.  
25 CAC and the villages are in the process of forming the CRMA. CRMA  
26 is a program intended to assist the agencies in logistics. It is

1 also a worthy project proposal. The village groups endorse the  
2 CRMA proposal as a method to assist the region's residents in  
3 gaining an understanding of the restoration projects. The CRMA and  
4 PRVC proposals compliment each other. We seek your approval of  
5 each proposal. We request that the Trustees direct agency  
6 management to work with the PRVC and CRMA to be certain that each  
7 has a significant role in the work projects and restoration goals  
8 of the Exxon Valdez Oil Spill Trustee Council.

9 MR. SANDOR: Thank you. Thank you, Mr. Totemoff, for  
10 the statement. As a member of the Public Advisory Group, you, no  
11 doubt, will have an opportunity to discuss this. Are there any  
12 questions that any Trustees would have at this time? We look  
13 forward then to the Public Advisory Group's comments on this and  
14 any other proposals.

15 MR. TOTEMOFF: Thank you, Mr. Chairman.

16 MR. SANDOR: Thank you. Next, please.

17 MR. STEINER: My name's Rick Steiner. S-T-E-I-N-E-R.  
18 And, someone at RCAC, the Regional Citizens' Advisory Council,  
19 asked because they couldn't be here -- they're in meetings -- that  
20 I read into the record a very brief resolution that they passed  
21 yesterday. Resolution 92-06 -- whereas, Prince William Sound  
22 Regional RCAC supports the concept of long-term, responsible, and  
23 unbiased research being carried out in the EVOS region; and  
24 whereas, state Senator Arliss Sturgulewski has proposed a Exxon  
25 Valdez Marine Science Endowment, which members of the Scientific  
26 Advisory Committee have reviewed and approved; now, therefore, be

1 it resolved that the Prince William Sound RCAC recommend to the Oil  
2 Spill Trustees Council that their restoration plan include a long-  
3 term research endowment, as proposed by Senator Sturgulewski;  
4 further -- this is the last be-it-resolved -- that in particular  
5 the Prince William Sound Regional Citizens' Advisory Council  
6 recommends that the Exxon Valdez Oil Spill Trustees Council fund  
7 research solely on the basis of its scientific merit and encourage  
8 the development of an independent peer review process, which would  
9 lessen the possibility that partisan funding of research projects  
10 can occur. That's December 10th, and I'll leave this with you.

11 Two other quick comments. First of all, I'd like to thank the  
12 council for some positive -- very positive today on habitat  
13 acquisition. I think a -- leadership (inaudible) of all of you.  
14 Secondly, one other comment on reimbursements, I didn't hear -- I  
15 was out part of the day -- but I don't know if you discussed  
16 reimbursements to the governments today, at all, but one point I'd  
17 like to make on that is the federal government has already made  
18 probably four or five hundred million dollars off of this oil  
19 spill, just from personal and corporate taxes paid by those people  
20 that responded on the clean-up -- the fishermen, the corporations  
21 that worked on the clean-up. So, I think it's a little  
22 unreasonable to think that the federal government deserves any more  
23 money out of this restoration fund. So, I'd just like the federal  
24 government to consider very carefully not asking for any more out  
25 of the fund and leaving it in -- at least the feds. It would be  
26 nice if the state did the same, too, but I supposed that would be

1 a different matter. And, lastly, on the Alyeska settlement, I,  
2 too, as Chip Thoma, know nothing about the state's claims, nor do  
3 I know anything about hydrogen bombs. As a matter of fact, I  
4 probably know more about hydrogen bombs than the state's claims.  
5 But I do not what Alyeska had promised the people of the United  
6 States and the people of Alaska before this pipeline was allowed to  
7 be built here, and I also know something about what they did or  
8 rather did not do in response to the spill, and I think everybody  
9 here know something about that as well. We also all know very well  
10 what sort of damage was caused by that failed response, and I think  
11 everybody has a sense of what is just and what is not. \$32 million  
12 is the value of oil that goes through the pipeline every single  
13 day, and for us to think that the seven major influential  
14 corporations of the United States, that this is an adequate, just  
15 resolution -- now, if that's the only legal recourse, which I'm  
16 certain it was, then we ought to do is all of us consider very  
17 carefully going back and changing the laws so that we have more  
18 legal recourse next time. If OPA 90 doesn't do it, if state law  
19 doesn't do it, then something's really wrong. So -- that's the  
20 only comment I have to make on that. Thanks.

21 MR. COLE: Well, let me respond ....

22 MR. STEINER: Certainly.

23 MR. SANDOR: Mr. Cole.

24 MR. COLE: .... so you know. The settlement was not  
25 just the product of my musings. It was the product of a team of  
26 lawyers who have been working on this case for three years now, and

1 carefully evaluating the amount of money on every theory of  
2 recovery which we thought we could obtain if we went to court. I  
3 mean, that's the only way we can evaluate these settlements. We  
4 can't evaluate them on the basis of emotion, we can't evaluate them  
5 on the basis of how much at fault we thought they were, we just  
6 have to be very dispassionate about how much money we thought we  
7 could recover based upon assessments of problems of proof. And I  
8 want to assure you and Mr. Thoma that that settlement - got to be  
9 a little careful what I say -- was highly satisfactory settlement  
10 based upon our analysis. I mean, it exceeded, as a matter of fact,  
11 what we thought we could get if we went to court and were  
12 successful on every one of our claims, and also, in addition, we  
13 were running expenses from the state around \$750,000 a month in the  
14 prosecuting -- prosecution of that case, and one gets to the point  
15 where one must make a very realistic judgment. I mean, am I  
16 spending on behalf of the state taxpayers' and these citizens' --  
17 these monies wisely. I mean, that's the final judgment that's  
18 committed to me, and I have to account, you know, to the  
19 administration, to the legislature, and ultimately to the people in  
20 making that decision, and we sat down, and as I say, negotiated  
21 very hardly -- hard with Alyeska and reached that settlement, and -  
22 - I feel very comfortable about it. If I didn't feel comfortable,  
23 if I didn't have the unanimous support of every lawyer who worked  
24 on that case for the state of -- in the Department of Law and  
25 elsewhere outside of the department -- I would say -- I wouldn't  
26 have done it, but with that support -- that's the reason for the

1 decision. You know, it's just pure unemotional, and I too would  
2 like to have recovered more, but I'm very comfortable with the  
3 settlement, I want to you know that.

4 MR. STEINER: In deference to the folks that are here,  
5 I -- I'll leave with one last question. Do you think we have  
6 adequate laws in place to recover in a just sort of way from --  
7 from a similar sort of wilful negligence in the future? Because  
8 obviously, indeed, we don't. If this is all we can get out of  
9 Alyeska -- one day's worth of through-put -- after they willfully  
10 didn't do what the what the state and federal government asked them  
11 to, then something's wrong.

12 MR. COLE: You've got to look at what we got from  
13 Exxon. I mean, you can't just look at these damage claims in  
14 isolation. Certainly, if we had not these recovered natural  
15 resource damages against Exxon and were our sole claims against  
16 Alyeska, our recovery then would have been, perhaps, vastly  
17 different, but, I mean, you know, we only have so much damage ....

18 MR. STEINER: With them laughing all the way to bank,  
19 I'm sure right now, but ....

20 MR. COLE: I doubt it.

21 MR. SANDOR: Thank you, Mr. Steiner. Are there any  
22 other comments by members of the Trustees.

23 MR. McVEE: Mr. Chairman, I'd like to comment on the -  
24 - Mr. Steiner's comments on the reimbursement. That under the  
25 terms of the agreement as I understand it, that the federal  
26 government could have taken all of the reimbursements at the very



1 beginning -- at the time the first payment was made -- but there  
2 was a decision made to spread out those payments and those  
3 reimbursements over a period of time, so that there would  
4 sufficient dollars to -- to start the restoration process. That --  
5 the dollars that are being reimbursed were dollars that were taken  
6 from the various agencies. For example, refuge management,  
7 waterfowl restoration, wetlands, national park programs, and so on  
8 -- taken from those ongoing programs -- money appropriated for  
9 those -- to put into that work that was ongoing on the oil spill,  
10 the program-type activities, so now we're reimbursing those  
11 agencies so they can -- can go back and do that work that they  
12 postponed.

13 MR. SANDOR: Thank you very much. Any other comments  
14 by Trustees? Although we've passed the scheduled time of public  
15 participation, I'm going to continue for a limited period. How  
16 many would like to testify? One, two, three, four, five, six. Can  
17 we continue? Please provide the written comments, summarize them  
18 if you will. If you can begin. Identify yourself.

19 MS. WIELAND. My name is Anne Wieland, and that's A-N-N-  
20 E. W-I-E-L-A-N-D. I'd just like to thank the Trustees Council for  
21 the intention of beginning to acquire habitat. That means a great  
22 deal -- specifically the Kachemak portion of it, and I'd like to  
23 ask that the NEPA process be expedited as fast as possible, and I  
24 hope -- and I don't know whether that's going to have to happen for  
25 all the other acquisitions that are hoping to happen elsewhere in  
26 the region, that perhaps this process will have to be repeated

1 elsewhere -- that Kachemak going through it will expedite that.  
2 Maybe you can tell me if it's going to have to happen in the rest  
3 of the region? Is that the case?

4 MR. SANDOR: We cannot answer that question at this  
5 point. That -- that is one of the troubling problems of how to  
6 comply with the NEPA which is being examined. Any one want to com  
7 -- respond to that?

8 MR. PENNOYER: One comment, I think, that the restoration  
9 plan we've talked about earlier and the EIS, which is the NEPA  
10 compliance with that plan, should help us substantially as we have  
11 to deal with all projects after -- or in the future after that plan  
12 is completed.

13 MS. WIELAND: Alright. Thank you.

14 MR. SANDOR: Thank you very much. Next please?

15 MR. TREINEN: My name is Chip Treinen. I'm a Kodiak-  
16 area salmon seiner. I'm also on the board of directors of Area K  
17 Seiners Association. That's -- area K -- is the Kodiak area. And  
18 -- so my comments will reflect both my -- my own interests, as well  
19 as the interests of area K seiners. I just want to point out that  
20 there's not a whole lot of Kodiak-specific projects that I've seen  
21 on the list of projects for '93, and I think that doesn't --  
22 there's probably a lot more projects that could be done, but these  
23 are probably the best ones, and so I hope that these are all  
24 considered in '93, and that they're looked at serious projects that  
25 have already passed considerable muster. I -- on that note, I'm --  
26 I guess I'm glad to see that the Cold Creek pink salmon NEPA money

1 was approved. Guess there's a little bit disappointed that the 030  
2 and the 031 money for Red Lake projects, that wasn't -- not  
3 approved. It wasn't very much money, and it -- I guess it kind of  
4 increases the uncertainty on those projects and doesn't help anyone  
5 to continue. So I hope that on the next meeting that those will be  
6 looked at -- at a little bit more seriously, and that -- that the  
7 negative comments can be balanced with positive aspects of these  
8 projects. On another -- you know, I'll keep this real short  
9 because I'd simply be reiterating a lot of things that were said  
10 from the Kodiak group, from Larry Malloy, but on the imminent-  
11 threat habitat protection, I think one of the things that I think  
12 is very critical for us is acquisition of Kodiak weir sites. This  
13 affects management of the fishery critically. Right now, I believe  
14 that money just comes out of the commercial fish management budget,  
15 and we need to have some pretty -- we need to have more money into  
16 management, considering that we do have some problems with the  
17 returns of fish coming back to places like Red Lake and other areas  
18 that had overescapement of salmon. So, I think that it's critical  
19 to have enough money for the Department of Fish and Game to manage.  
20 They can have more money if they don't have to pay for leases of  
21 weir sites that they now have to pay for. So, on that -- I -- I'd  
22 also like to just reiterate the fact that we also are in favor of  
23 acquisitions of habitat on Afognak Island. So, I thank you very  
24 much for the opportunity to speak, and I'll try to get the written  
25 comments in also.

26 MR. SANDOR: Thank you very much for your comments.

1 Next?

2 MR. COLE: It would be nice to get the written  
3 comments because we could put them in the -- you know, the magic  
4 book, and then we have the record.

5 MR. SANDOR: Yes, please. Some of the Trustees are  
6 going to have to be leaving. Who's catching the 7:10 flight.  
7 Okay. Okay. Go ahead.

8 MR. BRUDIE: I'll try to make this fairly brief. My  
9 name is Phillip Brudie. The last name -- B-R-U-D-I-E. I'm  
10 currently the vice president of Cook Inlet Seiners Association. We  
11 represent the 80 lower-inlet seine permit holders. We're probably  
12 the most Alaskan of the state's major fisheries. Only two of the  
13 permits are held by out-of-state residents. I'm here because I  
14 feel that at this point I feel that our area has been completely  
15 overlooked by the restoration process. If you look at the map on  
16 the front of this packet, you'll see that approximately 60 percent  
17 of the affected area is in the lower Cook Inlet seine district.  
18 That includes the outer Kenai Peninsula coast, basically from Day  
19 (ph) Harbor, all the way across to Kamishak Bay, Barren Islands,  
20 and Kachemak Bay is in our seine district. As you probably know,  
21 outside of the Sound itself, the outer Kenai Peninsula coast was  
22 the most highly oil-impacted area in the state. Our salmon  
23 fisheries out there crashed. As an example, Fort Dick (ph), which  
24 twice in the last fifteen years had harvests of over a million pink  
25 salmon, had a commercial harvest of 26 pink salmon this summer. We  
26 haven't even been meeting our escapement goals in our streams out

1 there, let alone having a commercial fishery on it. Our group's  
2 members are suffering extreme economic hardship. We've had three  
3 disastrous seasons in a row, and yet in this '93 book, there's  
4 absolutely nothing dealing with this out there. I guess we've been  
5 remiss in thinking that Fish and Game was going to be the lead  
6 agency, but nothing really has come forth to try alleviate our  
7 situation. While we lament the lack of attention to our plight in  
8 the '93 projects, we certainly look forward to working with the  
9 Trustee Council in the future, trying to identify some projects  
10 that will bring our fishery back to a healthy state because we're  
11 down the tubes the way it is now. Thanks. I guess that's ....

12 MR. SANDOR: Please be certain you have written  
13 comments if you can. The Public Advisory Group is meeting the 6th  
14 and 7th, and they would also be interested in those observations.  
15 Mr. Cole?

16 MR. COLE: Do you have any projects that you think we  
17 should consider?

18 MR. BRUDIE: Well, I can throw a shotgun attempt out at  
19 you.

20 MR. COLE: Take time and put it in writing, and we  
21 will forward it to the Public Advisory Group, give it to  
22 Commissioner Rosier, and, you know, we'll look at it.

23 MR. BRUDIE: Great. We'll certainly have somebody at  
24 that public advisory meeting, but I did want to bring to your  
25 attention what we feel is our pretty sorry plight at the moment.

26 MR. McVEE: The decline in population, was that due to

1 oil spill activities or something associated with it?

2 MR. BRUDIE: Well, all I can tell you, since 1989 our  
3 population's crashed, and there are no studies in here to even  
4 attempt to figure out whether it's -- there's other factors in  
5 play, or whether it's strictly the oil impact. But I can  
6 definitely state that all the fisheries and species out there have  
7 crashed.

8 MR. SANDOR: Thank you very much. And you will then  
9 identify some specific ideas that can be conveyed.

10 MR. BRUDIE: We'll send a letter to your group and also  
11 to the other group. Hopefully, it will be something within the  
12 parameters that we can live with. We will also be talking to the  
13 local Fish and Game office, the regional Fish and Game office.  
14 Hopefully, we can come up with something that meets your  
15 parameters. Thank you very much.

16 MR. SANDOR: Thank you. Any? Yes.

17 MS. MCBURNEY: For the record, my name is Mary McBurney.  
18 M-C-B-U-R-N-E-Y. And I'm executive director for Cordova District  
19 Fishermen United. Before you finalize the 1993 restoration work  
20 plan, CDFU urges you to add two time-critical restoration projects  
21 for Prince William Sound. As we stated in our initial work plan  
22 comments, CDFU is particularly concerned that the 1993 work plan  
23 does not include any restoration projects related to Pacific  
24 herring. The summary of injury in appendix A of the work plan  
25 states that herring resources were impacted by the oil spill, and  
26 it goes on to describe abnormalities observed in the embryonic

1 larval and adult life stages. This summary of injury also states  
2 that quote "whether the adult population had been affected by these  
3 larval injuries and lesions will not be determined until the 1989  
4 and '90 cohorts return to spawn in 1992 and 1993. Considering the  
5 time-critical factor, it's extremely disappointing that the 1993  
6 draft work plan does not include a herring injury study of any  
7 sort. This summary outlines the documented damage sustained by  
8 many marine species, including marine mammals, seabirds and  
9 shellfish, and of all the marine animals demonstrating oil-related  
10 injuries, Pacific herring and rockfish are the only species not  
11 represented by at least one project in the 1993 work plan. Pacific  
12 herring represents and \$11.7 million fishery in Prince William  
13 Sound, but it's also a critical food source for stellar sealions,  
14 seals, killer whales, sea ducks, gulls, and certain migratory  
15 shorebirds. During this past field season, Fish and Game  
16 biologists noted that the '89 year class returning as age three  
17 first-time adult spawners were at the lowest level measured since  
18 1967. This is particularly disturbing when noting that there were  
19 the offspring of the largest spawning population in Prince William  
20 Sound since the early 1970's. The University of Washington  
21 biologists working with Fish and Game found that the 1988 year  
22 class demonstrated significantly reduced reproductive capabilities.  
23 1992 was the first available opportunity to observe reproductive  
24 success in an adult and juvenile herring affected by this spill,  
25 and we feel that these facts should be a wake-up call to the  
26 Restoration Team that there may be some big problems with Pacific

1 herring in Prince William Sound. It's apparent that the low  
2 numbers of fish in the 1989 year class, coupled with the potential  
3 damage in the reproductive capabilities of the '88 year class,  
4 create a situation demanding specific management strategies, and  
5 precise stock assessment is needed to form -- formulate long-range  
6 restoration plans that protect the resource and manage human use.  
7 This process, however, cannot take place in a vacuum, as Fish and  
8 Game must have the data to make informed decisions regarding  
9 herring management. Therefore, we urge you to fund two vital  
10 studies that were proposed for the 1993 work plan but were  
11 subsequently disregarded. Those were document 960615297.3,  
12 entitled "Prince William Sound Herring Spawn Deposition Survey" and  
13 document number 920611234, entitled "Herring Embryo Viability  
14 Evaluation, Natural and Catastrophic Effects." We urge you to  
15 approve and fund these two projects and to correct what we see as  
16 a grievous oversight in planning the recovery of resources damaged  
17 by the Exxon Valdez Oil Spill. We also request that the Trustee  
18 Council consider funding two coded wire tag projects for pink  
19 salmon that were proposed but not included in the '93 work plan.  
20 Again, according to the summary of injury, wild pink salmon  
21 suffered the greatest impact due to the Exxon Valdez oil spill.  
22 The work plan currently includes two studies supported by CDFU  
23 which relate to pink salmon -- project 93003, which is pink salmon  
24 egg to pre-emergent fry survival in Prince William Sound, and  
25 project 93004, documentation, enumeration and preservation of  
26 genetically discrete wild population. Both of these projects will



1 provide valuable information to identify physical and genetic  
2 damage to wild stocks, but they do not provide a mechanism to help  
3 resource managers protect distressed pink salmon populations. We  
4 feel that there's a real need and -- for coded wire tagging project  
5 for pink salmon to identify in-season returns of wild stocks within  
6 the larger mixed stock fishery. Without this information, it's  
7 extremely difficult for resource managers to -- to adjust  
8 management strategies to ensure adequate escapement for damaged  
9 wild stocks. CDFU requests the Trustee Council to fund the  
10 following two projects which were proposed, but again not included  
11 in the '93 work plan. Those were coded wire tagging of wild pink  
12 salmon for wild stock identification, and coded wire tag recoveries  
13 for commercial catches in Prince William Sound of pink salmon  
14 fisheries. Funding of these projects will bridge a critical gap  
15 for effective pink salmon management, and it will also provide a  
16 complete resource picture for wild stock management at all life  
17 stages. And I thank you very much for your time.

18 MR. SANDOR: I guess you will have to leave.  
19 Hopefully, we will be shortly. Mayor Selby, did you have a  
20 statement to make?

21 MR. SELBY: Thank you, Mr. Chairman and members of the  
22 council. I know you need to go, so I'll be real brief. I've given  
23 you some written comments, but we would like to reiterate on the  
24 habitat purchases that the weir sites -- I'd like to request that  
25 at the January meeting, if you could move the NEPA money to  
26 actually do the NEPA studies on those sites, because I'm assuming

1 that they're going to have to go through that same process that we  
2 talked about today. We also have some pink salmon projects that  
3 I'd again like to bring, and I mentioned them in my cover -- in my  
4 letter -- but we talked about them a couple of meetings back, of  
5 course, Marine Lagoon (ph), the project by KRAA at the hatchery in  
6 Katoyie (ph) Bay are still high priority projects, particularly  
7 given the crash of the pink salmon stock, and the fact that, for  
8 some reason, pretty much throughout a lot of the pink salmon area  
9 in the State of Alaska last summer, we didn't get nearly the  
10 returns back that we had anticipated, and I think that -- that  
11 there probably ought to be some priority given to the pink salmon  
12 question given what happened last summer. We would like to also  
13 suggest that on the ground refuge in-holdings that the critical  
14 habitat assessment move forward on that. What's happening with  
15 that is that last month about 70 acres of the habitat within the  
16 bear refuge was reclassified so that it can have hotels, lodges,  
17 and other high density uses put into it. We've got four more of  
18 those applications in front of us at the Kodiak Island Borough. We  
19 have no basis to deny those applications. We have a rush -- land  
20 rush in effect going on into this critical habitat land that we're  
21 talking about trying to acquire back from the Native corporations  
22 inside the bear refuge. So, we're going to try to put a -- a six  
23 month moratorium on -- in processing any more of those applications  
24 here for the short term, but, you know, it is becoming pretty  
25 critical, and I'd just like to relay that to the council. The  
26 other thing that I'd request that you seriously consider FY93

1 funding again \$1 million for the design work on the fish tech  
2 center. I've brought this up before. This is a multiple weir  
3 project, and it's a long-term project. You've cut some new ground  
4 today moving into acquisitions. I'd like to urge you to cut some  
5 additional new ground in your 1993 work program and move into some  
6 long-term projects such as the fish tech center and the museum  
7 project in Kodiak. Again, these are projects that are going to pay  
8 off for Alaska for years to come, and most of the projects that are  
9 in this '93 program are short-term studies, things that are  
10 important but they don't have a long-term return or impact  
11 necessarily for us in the state of Alaska. This one does. We have  
12 now gotten an additional \$100,000 through Congress from the  
13 National Marine Fisheries Services. This is again a joint project  
14 between the University of Alaska and the National Marine Fisheries  
15 Service.

16 MR. COLE: (Inaudible)

17 MR. SELBY: It's the Fisheries Technology Industrial  
18 Center expansion. It's in my letter. Yes. It's in the letter.  
19 So, again, I don't want to take up a lot of your time here. The  
20 one other comment I did want to relate to you is I think that your  
21 restoration plan, your item six here, is seriously flawed from the  
22 prospective -- I think that -- as far as I'm concerned, the only  
23 alternative to be considered is comprehensive restoration, which is  
24 six, but six also has into it that you're going to use the funds  
25 outside of the spill area, and I'm adamantly opposed to that. I  
26 think what you need is a preferred alternative that does

1 comprehensive restoration within the spill area. To me, that's  
2 what the settlement was all about, and that ought to be in here as  
3 an option. It's not here. If you get comprehensive restoration,  
4 you also have to spend the money outside the spill area, according  
5 to this, and I don't think that's right. I think the focus should  
6 be on restoration within the spill area of the damage that was done  
7 to the people and the resources in those areas, and which ....

8 MR. COLE: Would you say that Cordova is in spill  
9 area? So we get a sense of what you're saying.

10 MR. SELBY: Yes. Cordova had some spill impact -- to  
11 their fishery resource. I don't think there's any question about  
12 that. So I'm talking about inside the Sound, the Kenai Peninsula,  
13 including, you know, the Lower Cook Inlet area, the fisheries  
14 impact there, and the Kodiak region is -- what -- if you look at  
15 the map -- is the spill area.

16 MR. COLE: But what about east of Cordova?

17 MR. SELBY: Outside of Cordova? Outside the Sound?

18 MR. COLE: Yes.

19 MR. SELBY: I would say no.

20 MS. EVANS: Mr. Chairman?

21 MR. SANDOR: Yes.

22 MS. EVANS: I understand from our bridge operator in  
23 Juneau that the teleconference network needs to close down, and I  
24 would like to suggest, if that's alright with you at this time,  
25 that we shut off the teleconference and continue with the testimony  
26 in Anchorage as long as you'd like to continue that.

1 MR. SANDOR: Yes. Please do inform the teleconference  
2 operator that the system can be terminated. Thank you.

3 MS. EVANS: Thank you. Thank you, teleconference  
4 operator.

5 MR. SANDOR: Any other comments, Mr. Selby?

6 MR. SELBY: Just -- just to close, Mr. Chairman, again  
7 -- and I've mentioned this before, and I think a couple of  
8 projects, again -- I'll come back to the fish tech center and the  
9 museum, not to hang on you too hard, but are projects that are also  
10 people-impact projects that let the people in the spill area get  
11 something back from the restoration effort. Not that the resources  
12 and the focus on the animals and whatnot isn't important, but these  
13 products would also do that, but in these two projects it let's the  
14 people, some of whom had some real severe problems that they will  
15 never recover from -- from the oil spill. It puts something back  
16 for them too, as well, and I think we need to keep them in mind and  
17 not forget them.

18 MR. SANDOR: Thank you. How many other people need to  
19 testify or wish to testify? Just one? State your testimony,  
20 please.

21 MR. BURKHOLDER: Yes. My name is Jim Burkholder.  
22 B-U-R-K-H-O-L-D-E-R. And I've only got a couple of brief questions  
23 and a comment, I guess. I'd like to congratulate the Trustees for  
24 the decision on Kachemak Bay. After ten plus years of negotiations  
25 by the state legislature, this is the first body that has ever  
26 really moved in a positive way. It looks like it may be at least

1 end to the tunnel, and maybe a light in it. The second part of the  
2 question I would have here is -- it seems that you have  
3 appropriated Trustee money -- one-third of what the former owners  
4 wanted for the land, and the other two-thirds coming from within  
5 what might be called questionable money -- questionable because the  
6 State of Alaska Legislature has control, and perhaps some argument  
7 in the settlement of legal cases as to the disbursement of that.  
8 Does this \$7½ million mean this is all that the Trustees -- can be  
9 looked at for purchase in Kachemak Bay or are -- if the state  
10 legislature does not come forward with the other funding?

11 MR. COLE: It's like never say never. We will  
12 continue to use our efforts on all fronts, as the governor has  
13 said, to acquire Kachemak State Park 23,000 acres. I can't  
14 guarantee anything other than we're going to continue those  
15 efforts. And I think we'll be successful.

16 MR. SELBY: If that other funding doesn't come from  
17 the State of Alaska, would the Trustees look down the road at  
18 further funding for that purchase?

19 MR. COLE: I would hope so.

20 MR. SELBY: On the hand of that, there's other habitat  
21 purchase. Is that going to require matching funds as well, so --  
22 shall we say -- from other sources, State of Alaska, in this case -  
23 -Kodiak Island and Prince William Sound habitat.

24 MR. COLE: I don't know.

25 MR. SELBY: So, you're saying you haven't set a  
26 precedent by only funding, let's say one-third of the cost?

1 MR. COLE: I think there are no precedents in this  
2 area. I think everything is -- you know, independent proposition.  
3 That's what I told Mr. Becker from Cordova. I mean, there's no  
4 precedents in any of this. Each issue in my view is treated  
5 independently and separately, depending on what the scientific data  
6 show, depending on how much money is available, depending on  
7 whether the respective selling price is fair and reasonable. All  
8 those things certainly have to be taken into consideration -- work  
9 every case the best we can.

10 MR. SELBY: Thank you very much.

11 MR. COLE: I hope that meets your hopes and  
12 expectations.

13 MR. SELBY: It does for some of the questions, thank  
14 you.

15 MS. MILLER: Hello, I'm Pam Miller. Is that okay? I'm  
16 Pam Miller with the Wilderness Society, and I do want to commend  
17 the Trustees for taking forward action on Kachemak Bay. That's  
18 good sign, and as far as the restoration plan goes, I submitted  
19 written comments, and those are there and out for you to see. I  
20 did want to emphasize my major point concerning the habitat  
21 protection project number 93064, and that it currently states in  
22 the plan that it is for a maximum of 200 million, and in light of  
23 the fact that the public proposed over \$500 million worth of  
24 projects, it seems that the \$20 million price tag is rather low,  
25 and we also urge that the project be not just for imminently  
26 threatened parcels, and a determination of that, but that there is

1 the project to go forward with other lands, and perhaps if that;s -  
2 - if it's seen that you don't want to mix the two together in one  
3 project, then we definitely need another project, in addition to  
4 Kachemak Bay, of course. Also, I would make the pitch that habitat  
5 protection should generally occur on a broad scale, because  
6 biologists have found that continuous suitable habitats supports  
7 more individuals of species than does fragmented habitat, and we  
8 have a great opportunity unlike almost anywhere else in the world  
9 to try to keep that situation here. I'll speak in support of the  
10 bald eagle habitat identification project. I believe because of  
11 the great immediate loss to bald eagles and some serious questions  
12 by the biologists about how severe (inaudible) ... make  
13 recommendations for other sorts of projects that will be more  
14 effective, and I urge you to look into that issue. Finally, I'd  
15 like to address the question of projects proposed for forest  
16 recovery and projects on Montague Island. Recently the Forest  
17 Service permitted a road to be built which is temp -- for which  
18 construction's temporarily suspended because of severe erosion  
19 problems, saltation (ph) of salmon streams and other problems.  
20 There are projects by the Restoration Team which are supposed to  
21 restore wetlands and chum salmon streams on Montague Island. It  
22 seems like the Forest Service should be looking into proper  
23 management of lands on Montague and protection of old growth forest  
24 there, instead of these other manipulation projects that they're  
25 proposing. Another Forest Service project is second growth  
26 management of old clear cuts from the '70's, and they think they're



1 going to accelerate management to the old growth. If they do want  
2 to do that -- that's a regular agency function they could do, but  
3 for this case, we think just protecting old growth habitat makes a  
4 lot more sense. Thank you for your consideration on this Friday  
5 night. Maybe you'll make it to your party.

6 MR. COLE: It's too bad Mr. Barton wasn't here, but  
7 we'll convey to him your remarks.

8 MR. McVEE: Is there anybody else who had testimony  
9 for this evening? I guess that concludes. Mr. Cole, if you are  
10 agreeable, I guess you and I can agree with adjourning.

11 MR. COLE: Twelve continuous hours on this today.  
12 That's a long, tough day.

13 (Off record at 6:25 p.m.)

CERTIFICATE

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

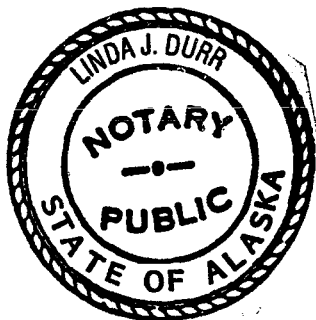
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 229 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by Anita Mowery, PLS, and me on the 11th day of December, 1992, commencing at the hour of 8:10 a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 17th day of December, 1992.



*Linda J. Durr*

Linda J. Durr, Certified PLS  
Notary Public for Alaska

My commission expires: 10/19/93