

9.3.2

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

PUBLIC ADVISORY GROUP

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

December 2, 1992
9:30 a.m.

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EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER
Designated Federal Officer

Department of the Interior

RUPERT ANDREWS
JAMES CLOUD
RICHARD ELIASON
JOHN FRENCH
JAMES KING
VERN C. McCORKLE
JOHN McMULLEN

PAMELA BRODIE
JAMES DIEHL
DONNA FISCHER
PAUL V. GAVORA
RICHARD KNECHT
GERALD McCUNE
BRAD PHILLIPS
CHARLES TOTEMOFF

KIM BENTON for JOHN STURGEON
LLEWELLYN W. WILLIAMS, JR.

TRUSTEE COUNCIL MEMBERS in attendance:

State of Alaska

MR. CHARLES COLE
Attorney General

State of Alaska Department
of Environmental Conservation

MR. JOHN SANDOR
Commissioner

United States Department
of the Interior

MR. CURTIS McVEE
Special Assistant to the
Secretary

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

OTHERS IN ATTENDANCE:

SANDY RABINOWITCH	National Park Service
ALEX SWIDERSKI	Alaska Department of Law
CRAIG TILLERY	Alaska Department of Law
DAVID BRUCE	Alaska Department of Environmental Conservation
SHEP DALE	Alaska Department of Environmental Conservation
JEFF GUARD	Cordova District Fishermen United
CHRIS DILLON	Cook Inlet Regional Citizens' Advisory Council
L.J. EVANS	Oil Spill Information Office

P R O C E E D I N G S

(On record 9:40 a.m.)

MR. MUTTER: I believe we have a quorum. Since we've got some new faces here that weren't at the previous meeting, why don't we take a minute and go around the table, then around the room, and have everyone introduce themselves, and then we'll talk a little bit about the handouts that you've got in front of you.

My name is Doug Mutter. I'm with the Department of the Interior, and I'm the designated federal officer for the public advisory group.

SENATOR ELIASON: I'm Dick Eliason. I'm from the banana belt in southeast Alaska, Sitka.

MR. ANDREWS: I'm Rupert Andrews. I'm the other half of the banana belt in Juneau, and I guess I'm representing sport hunting and sport fishing here.

MS. BRODIE: I'm Pam Brodie. I'm representing the environmental interests and I'm from Anchorage.

MR. CLOUD: I'm Jim Cloud. I'm from Anchorage, representing the public-at-large.

MR. DIEHL: Jim Diehl, recreational and (inaudible).

DR. FRENCH: John French. I represent science interests for the School of Fisheries and Ocean Sciences, University of Alaska Fairbanks.

MR. GAVORA: Paul Gavora from Fairbanks -- public-at-large.

MR. KING: I'm Jim King from Juneau for conservation.

1 MR. KNECHT: I'm Rick Knecht. I'm an archeologist
2 working for Kodiak Area Native Association and I'm representing
3 subsistence.

4 MR. McCORKLE: Vern McCorkle of Anchorage -- the public-
5 at-large.

6 MR. McCUNE: Jerry McCune, representing commercial
7 fishing interests.

8 MR. McMULLEN: John McMullen from Cordova -- aquaculture.

9 MR. PHILLIPS: Brad Phillips from Anchorage representing
10 commercial tourism.

11 MS. BENTON: Kim Benton, sitting in for John Sturgeon
12 today, representing the forest products industry.

13 MR. TOTEMOFF: Chuck Totemoff representing native
14 landowners of Chenega Bay.

15 MR. WILLIAMS: Lew Williams -- Ketchikan public member.

16 DR. GIBBONS: I'm Dave Gibbons, the interim
17 administrative director for the restoration team, and I apologize
18 for not attending the last meeting but weather kept me out of
19 Juneau. I was on a hunting trip and couldn't get back into Juneau.
20 It looks like the weather's following me around again -- pretty
21 nasty out there. Glad to be here.

22 MR. MUTTER: Byron?

23 MR. MORRIS: I'm Byron Morris. I'm with the National
24 Marine Fisheries Service, and I'm the NOAA representative on the
25 restoration team.

26 MS. RUTHERFORD: Marty Rutherford. I'm on the

1 restoration team too. I work for the Department of Natural
2 Resources, and I represent Charlie Cole.

3 KEN RICE: I'm Ken Rice. I represent Mike Barton on
4 the restoration team -- Department of Agriculture.

5 MR. BRODERSEN: I'm Mark Brodersen. I'm representing
6 John Sandor from the Department of Environmental Conservation.

7 MR. SWIDERSKI: I'm Alex Swiderski from the Alaska
8 Attorney General's Office.

9 MR. DILLON: Chris Dillon. I'm a member of the
10 environmental monitoring committee of the Cook Inlet RCAC.

11 MR. BRUCE: I'm David Bruce. I'm with the Department
12 of Environmental Conservation.

13 MS. EVANS: I'm L. J. Evans. I'm the public
14 information officer for the Trustees Council.

15 MR. McVEE: Curt McVee, Department of Interior
16 representative to the Trustees Council.

17 MR. GUARD: I'm Jeff Guard -- Cordova District
18 Fishermen United, concerned citizen.

19 MR. MUTTER: Sandy, do you want to introduce yourself?

20 MR. RABINOWITCH: Sandy Rabinowitch, National Park
21 Service, restoration planning worker.

22 MR. MUTTER: Okay, we've got some new paper in front of
23 you today -- surprise. Marty, do you want to explain what the blue
24 book is that ...

25 MS. RUTHERFORD: Oh

26 MR. MUTTER: that was created.

1 MS. RUTHERFORD: At the last advisory group meeting,
2 we discussed briefly this document which you've got in front of you
3 now. It's the options for identifying and protecting strategic
4 fish and wildlife habitats and recreations sites. Basically, it's
5 a document that will be used extensively as we proceed with habitat
6 protection opportunities in -- we discussed it, and you folks said
7 you'd like copies, so we had them made for you, and once you've
8 done read it -- reading it, we will test you on it. (Collective
9 laughter) No, it's a document for your information. If you've got
10 any questions about it, let us know.

11 MR. RICE: I'd like to comment on the book there, the
12 Nature Conservancy -- if you need additional copies, we've got a
13 limited budget for being able to produce more of those, so I would
14 suggest contacting the Nature Conservancy and buying them at their
15 cost for reproduction for -- for the record, this is Ken Rice.

16 MR. MUTTER: Dave, do you want to review the rest of
17 the pile?

18 DR. GIBBONS: Sure. I -- let's start with the small
19 packages here and -- there's a corrected budget sheet for your
20 white binder. It's in your stack here. It's on page --
21 correction. There is a also a flow chart explaining the payments
22 and the money that will be received or parts of the settlement.
23 There's a November 19th copy of final working group operating
24 procedures that goes into your white book to replace the other one
25 which is dated November the third -- and the two big packages. The
26 largest package is a copy of the public comments. We -- the

1 closing date was the 20th, the last comment we got in was on Friday
2 after Thanksgiving. It was postmarked the 20th, so we accepted it,
3 and we have now put a package together, the Trustee Council has a
4 copy of these, and now that you do. We have 216 responses, and
5 they are all included in there. There's some summary tables that
6 might help you a little bit about how many people commented on each
7 project, and those type of things, but the direction the Trustee
8 Council gave us was to not do a synthesis, I mean, not do a summary
9 of these. They wanted to read all the comments. The other package
10 -- I got a request from one of the public advisory group members to
11 include the look-up tables from all the project ideas received in
12 1992. That's the first half of this package. There's four series
13 of tables, and it will identify if somebody submitted an idea, what
14 happened to it, where it went, and the -- status of it. The last
15 pack -- half of the package -- I got a request too on the
16 documentation of the actions of the restoration team concerning the
17 1992 work plan and that's in the back, that's the last half of this
18 package. It talks about our discussions, about the merits of each
19 one of the project ideas, our vote on the technical merit, and then
20 our recommendations on a package to the 1993 work plan to the
21 Trustee Council, and that's included in this package here. That
22 puts -- that's what you have in front of you.

23 MR. MUTTER: Okay. The -- a couple of changes on the
24 agenda, here. Craig Tillery from the state Department of Law will
25 be here this afternoon to talk about the state open meetings law,
26 so we're going to move that item down to about 2:45, after an

1 afternoon break, and, Dave, is Dr. Spies going to be here this
2 afternoon?

3 DR. GIBBONS: No. Bob -- Bob called me late yesterday
4 and has a severe case of the flu. He can barely talk. He did say
5 that if there was some specific questions that the public advisory
6 group had of him that we could get him on a teleconference, and he
7 would try to respond. He apologizes for not being here, but it
8 sounded like he was about ready to die, so

9 MR. MUTTER: Okay. And, Sandy? I understand you're
10 going to be giving the report in place of John Strand (ph) this
11 afternoon? (No audible response.)

12 Okay. The next item on the agenda is the election of
13 officers, and there are two officers that have been identified for
14 the public advisory group, a vice -- a chairperson and a vice
15 chairperson. Each of those officers is to serve a one-year term,
16 which is renewable if the group so desires, and what I propose we
17 do at this point is take nominations for the position of
18 chairperson, and then after -- after we've gotten all the nominees,
19 we'll close those and hear -- let each person nominated talk a
20 little bit about why they think they should be the chairperson, and
21 then we'll have a secret ballot that we'll pass around, and Sherry
22 and I'll count the votes, and whoever gets the majority votes will
23 be the chairperson. Then I suggest we do the same for vice chair,
24 and then I'll turn the gavel over to the chair. Is that
25 acceptable? Pam?

26 MS. BRODIE: I would like to suggest an alternative

1 because we don't know each other very well at this point. I
2 certainly don't know most of the people here, and I suspect that's
3 true of other people, and I would like to suggest that we have
4 rotating chairs for the first few meetings. Maybe the next two
5 meetings, I think, would probably be enough for us to get to know
6 each other, and we have someone acting as chair this meeting,
7 another person next meeting and -- and maybe a third meeting, and
8 then we elect the longer term chair after that.

9 MR. McCORKLE: I could support that suggestion.

10 MR. ELIASON: Mr. Chairman?

11 MR. MUTTER: Yes.

12 MR. ELIASON: I could also suggest that maybe we -- we
13 hold this election as the last order of business of the day so
14 we'll have that opportunity to know each other better, and I'm not
15 sure whether rotating chairs would be all that important, but I
16 think that we should have the opportunity to meet, especially at
17 lunch, during coffee or during our breaks or during this process
18 before we jump into elections so early on in the meeting -- of any
19 type.

20 MR. MUTTER: Any other discussion?

21 MR. McMULLEN: I think that's a reasonable suggestion --
22 sounds a good plan, Mr. Chairman. I would think that we ought to
23 go through with the election at that time.

24 MR. McCORKLE: Alternative work plan -- that's a certain
25 you've got to call a vote on that.

26 (Laughter)

1 MR. MUTTER: Hopefully, we can just work by consensus
2 on this issue, but we'll do it either way.

3 MR. WILLIAMS: I'll make a motion that we put off the
4 election of officers till 3:30 when we schedule our next meeting.
5 My name is Lew Williams.

6 MR. MUTTER: Is there a second to the motion?

7 MR. CLOUD: Second.

8 MR. MUTTER: Any discussion?

9 MR. McCORKLE: Question.

10 MR. MUTTER: Question. All those in favor say aye.

11 COLLECTIVE VOICES: Aye.

12 MR. MUTTER: Opposed?

13 MS. BRODIE: Aye -- nay.

14 MR. MUTTER: Okay. You're going make me sit here and
15 chair the meeting then, darn it. (Laughter).

16 Okay. Next item on the agenda, approval of the minutes, which
17 is the meeting summary that was sent out after the last meeting.
18 Do I hear a motion to accept those as a summary of the meeting?

19 UNIDENTIFIED VOICE: So moved.

20 UNIDENTIFIED VOICE: Second.

21 MR. MUTTER: Any discussion?

22 UNIDENTIFIED: Question.

23 MR. MUTTER: I presume that we have a consensus on this
24 -- these are acceptable.

25 Okay. Next item on the agenda, PAG operating guidelines.
26 Those are in your white notebook, tab 4C. These were sent out

1 previously as a draft, and there are some sections in there that
2 are clearly mandated by the charter and the laws of who it needs to
3 operate under, but there are some areas that the PAG may want to
4 adjust or change to fit their needs, and I believe that from time
5 to time if you wish the revisit the procedures, that that's
6 entirely in order. So, what we say now, if we find out it doesn't
7 work, why, we can always make a change later. Anything you want to
8 change that affects the charter, however, has to go to the Trustee
9 Council as a recommendation from the group. What I'd like to do is
10 just go through -- okay, the operating procedures, when we approve
11 those, go to the Trustees also -- the Trustee Council. What I'd
12 like to do is just go through section by section and see if there
13 are any changes or modifications that you have at this time, and
14 when we get through then open the floor for recommendation that
15 this be passed on to the Trustee Council as your recommended
16 operating procedures.

17 Okay. Part one, introduction -- basically, background
18 information about the situation. Any comments or changes to that?
19 (No audible response.) Okay. Part two, membership. Most of this
20 is pretty much set in the charter. There is one change on
21 paragraph D, term and removal. The first term officially begins
22 October 23rd, when the Secretary of Interior signs the letters of
23 appointment. A question has come up previously about possibly
24 setting up staggered terms of office for, say, half the members of
25 the public advisory group. You want to discuss that? Or is that
26 something you'll consider at this point?

1 MR. CLOUD: I think we should leave it the way it is
2 and see what happens after the first term. Most courts of this
3 size or groups of this size have some changes in it during the
4 period anyway.

5 MR. MUTTER: Anyone disagree with that?

6 MR. McCUNE: I just think we should leave it the way it
7 is because a group this size -- at lot of meetings that we are
8 having, its a big burden just trying to catch up on the paperwork
9 you have now and trying to get up to speed without changing four or
10 five members in a year or two. I think we should leave it the way
11 it is and see what happens (inaudible) or a big public outcry or
12 something or someone has a burning desire to get in my seat.

13 MR. MUTTER: Okay. Then we'll leave it as is at this
14 time. One other item that we may want to deal with is alternates
15 to the members, and -- we don't have anything in the procedures
16 about what the alternates can or can't do, and I've a suggestion
17 that if someone can't attend the meeting that they can designate an
18 alternate, but that the alternate would not have a vote on items
19 that the public advisory group had to bring to a vote. Does that
20 sound reasonable? Discussion about that? Brad?

21 MR. PHILLIPS: I'm just curious about the reason for not
22 having the vote. If you don't have a vote, then why would somebody
23 bother to even come to the meeting.

24 MR. MUTTER: Well, on the other hand, if your
25 alternates can vote, why be a member of the public advisory group?

26 MR. PHILLIPS: As I understand it your alternate would be

1 here if you were unable to come yourself. Is that correct? If
2 there's no vote in that particular seat, then that interest has no
3 representation on the group. It seems only logical to me that an
4 alternate, if they're there to consider and to give advice, ought
5 to be able to vote for that constituency.

6 MR. CLOUD: Well, I agree in principle with Brad, but
7 we could handle it by requiring the proxy be given in writing.

8 MR. MUTTER: Mr. McCune?

9 MR. McCUNE: I hate to disagree, but I disagree with
10 both of you. I don't like proxies. For one, I don't think they --
11 they constitute anything (inaudible) deny your vote or anything,
12 and the other part of this is that is a very -- unless you're
13 really going to be up to speed on this -- let's say something
14 happened and I'd have to send somebody in here -- I have Jeff here
15 from CDFU that's probably up to speed more than any other
16 fisherman, I've been talking to fishermen in the whole state and
17 they have no clue about what's going on, and so if I just said,
18 okay, well, I can't make it and find somebody, I'm not very
19 confident myself in their vote unless they were really up on the
20 issues and what was going on. So, it'd have to be a person that's
21 really tied into you and what's happening in all of it to be
22 effective to have them vote for me.

23 MR. WILLIAMS: Yeah, my name's Lew Williams. I think we
24 ought to continue for -- where, if you don't up, you don't get to
25 vote because, otherwise, if we starting having alternates, you
26 know, one person get three or four alternates before the thing's

1 done, and I think that kind of dilutes the value of board
2 membership, and I think if you don't show up -- that would kind of
3 encourage people to make the meeting too. Otherwise, it might be
4 too easy to say, well, I don't want to go to Anchorage this week,
5 let somebody else there represent me.

6 DR. FRENCH: This ties into another issue I was going
7 to bring up later and -- anyway, the quorum, but I personally think
8 we should have -- allow, say, one designated alternate, and that
9 that person have a full vote. In other words, they'd be fully
10 entitled to represent that interest group or that person, in the
11 case of the public-at-large. I think it's important that we try to
12 get at least two-thirds membership at this group. So, when we come
13 to quorum, I intend to move that we increase that to twelve. The
14 reason for that is that I think it is more important that everybody
15 be represented -- all the interest groups be represented, than it
16 is the individuals be here. Some of us can bring other people up
17 to speed more readily than others. I recognize that. I -- it's
18 regrettable. I work with (inaudible) a lot myself and sympathize
19 completely with the problem, but I think we do need to try to
20 incorporate as many people into the process as possible, and I
21 think having the single, designated, voting alternate is probably
22 a reasonable compromise.

23 MR. McCORKLE: I could support that idea too because
24 it comes from the foundation that, first of all, the group knows
25 who this delegate or alternate is because it is stated, and it is
26 the responsibility of the seated member to make sure that that

1 alternate is always kept up to date. But there are occasional
2 times, I suppose, when you can't get here, and that person should
3 represent that interest. I fresh my memory when we wrote the
4 bylaws for CIRCAC, the -- in the Prince William -- I mean, Cook
5 Inlet, and we incorporated that into the bylaws of that advisory
6 council. I think that is helpful to allow for those occasional
7 times when someone can't attend, but it is then -- it prevents that
8 revolving door of a series of people marching through the chairs
9 that doesn't really lend much to the deliberation of the group.

10 MR. KING: I'm wondering a little bit about what the
11 nature of these votes we're talking about is going to be because,
12 as I understand it, we represent independent constituencies and in
13 our advisory capacity there could be as many as seventeen minority
14 opinions. So, when we're talking about voting, it seems to me
15 we're just talking about housekeeping. Things like we voted on
16 this morning. I guess this is in the form of a question -- it
17 wouldn't make a whole lot of difference, one way or another,
18 whether a substitute voted or not on housekeeping matters.

19 MR. MUTTER: Well, I'm not sure what all you're going
20 to end up voting on. However, I could envision where you would
21 vote on what you wanted to recommend to the Trustee Council, and
22 you may have minority reports, but you may also have a
23 recommendation from a majority of the members also. So there maybe
24 substantive votes. I don't know.

25 MR. PHILLIPS: It seems to me that if we adopt a position
26 that the alternate could not vote, we might be putting ourselves in

1 a position as outlined on page seven on quorum that it says that a
2 quorum is -- shall be nine voting members, and if there are
3 alternates here that can't vote, then I would think that it's
4 possible that we couldn't even act because we wouldn't have a
5 quorum of voting members, and that's a possibility, and I think we
6 ought to consider that.

7 MR. McCUNE: There are pretty good arguments all
8 the way around. I kind of agree with a lot of them. I just
9 wonder, now, see, we're appointed to this position out of all the
10 candidates that put in for this position, so if -- myself, if I was
11 going to appoint somebody to my seat, I'd probably go back to my
12 board and get somebody to do it, and then is that really
13 representing the whole public. If I'm representing up and down the
14 coast -- do you understand what I'm getting at here? And I'm
15 appointed in this seat by the Secretary of Interior -- the next
16 person -- and then I get to go and appoint somebody else to sit in
17 this seat, then that's not necessarily the -- that everybody's
18 going to agree with.

19 MR. CLOUD: Do the Trustees have alternates?

20 UNIDENTIFIED VOICE: Yes.

21 MR. CLOUD: Are alternates allowed for the Trustees?

22 UNIDENTIFIED VOICE: Yes, they do.

23 MR. CLOUD: Do they have to have a written proxy to
24 act or are they just written nominations? Is it a single alternate
25 or can it be anybody that they chose?

26 DR. GIBBONS: It's a single alternate, and it's in

1 writing. Each trustee submits it in writing.

2 MR. WILLIAMS: I'd go along with the alternate plan if
3 that's what we did -- everybody named the alternate so that
4 everybody knew who the alternate was. In my case, out of
5 Ketchikan, I'd probably name somebody -- a public member out of
6 Anchorage, if I had the authority to name them, so that if a plane
7 doesn't get here, there's somebody here to fill the seat. But it
8 should be the same person instead of, as I mentioned earlier, that
9 at every meeting you have a different alternate. It could get
10 pretty confusing, and probably, I don't know, maybe the alternates
11 ought to be approved by the main group that -- the same authority
12 that approved us.

13 MR. MUTTER: I'm not familiar with any rules about
14 alternates. I'll have to take a look at that no matter what we
15 decide.

16 I might mention that we've just been joined by another member
17 of the Trustee Council, Mr. Charlie Cole.

18 Well, do we have a motion then?

19 MR. McCORKLE: Perhaps, short of a motion, we might refer
20 this to staff to ask for opinions both from the Trustees themselves
21 and other authorities that might give us a little guidance and --
22 put this off just one more meeting. May we have no power.

23 MR. MUTTER: Okay. I'll take that as an assignment
24 then. Is that satisfactory?

25 DR. FRENCH: Shouldn't us -- we be taking a position to
26 take a recommendation forward to the Trustees in their next --

1 because they need to take official actions at the official
2 meetings, right? Which is December 11th. And if we're going to
3 (inaudible -- coughing) this document and -- otherwise it won't be
4 at least until the January meeting that we can even start to
5 address this issue on any official capacity, if we do go the
6 direction of naming designated alternates.

7 MR. MUTTER: I think you can go ahead and present your
8 procedures that you agree on, with questions about what other --
9 like alternates, and we can amend those procedures at the next
10 meeting that we have. So, you are able to operate.

11 DR. FRENCH: I would recommend we take an advisory vote
12 on it. I move that we instruct staff to amend section 2, paragraph
13 A, to include a single, designated alternate -- voting alternate,
14 for each member of the public advisory board.

15 MR. PHILLIPS: Second.

16 SEN. ELIASON: What's the procedures going to be used to
17 appoint? We, as members, appoint our alternate? or do we ask our
18 advisers to appoint them for us or the Secretary of the Interior,
19 whoever it might be? I think that we're -- if we're going to
20 accept that responsibility on our own, we might be treading in
21 areas that possibly we shouldn't be doing.

22 DR. FRENCH: I have a feeling whatever we want to do,
23 we're gonna get instructions from the Trustees what -- how -- that
24 we should do it.

25 MR. McCORKLE: Mr. Chairman, I must speak in opposition
26 to the motion because I don't think this is going to matter a whit

1 to put this off another month or so. It has nothing whatever to do
2 with the adoption of the document. It's an addition, and I would
3 feel much more comfortable if we had a little bit of at least
4 intelligence as to what the Trustees might think, perhaps, what the
5 Attorney General or others might think, and just talk about it
6 amongst ourselves. I don't think it will impede our actions today.

7 MR. MUTTER: Any other discussion?

8 MR. ANDREWS: Make a motion to table this.

9 UNIDENTIFIED VOICE: Second.

10 MR. MUTTER: I think it's tabled, right? Someone who
11 knows the rules.

12 UNIDENTIFIED VOICE: Actually, tabled the
13 (Inaudible -- simultaneous talking).

14 MR. MUTTER: So, is there an objection to table this
15 motion for later discussion.

16 DR. FRENCH: The motions is not

17 MR. ANDREWS: The motions to table are not debatable
18

19 UNIDENTIFIED VOICE:the point being, you can ask for
20 unanimous consent. If there's no objection, it's tabled.

21 MR. PHILLIPS: There's a point of information, however,
22 over here.

23 MS. BENTON: As an alternate here today, what are my
24 rules? (Laughter)

25 Sorry.

26 (More laughter.)

1 MR. MUTTER: Well, right now, there's no accommodation
2 for alternates to attend or vote, so I guess you can't vote.
3 MR. McCORKLE: Nor is there a prohibition, Mr. Chairman.
4 MR. MUTTER: Well, that's true.
5 (Inaudible -- coughing and simultaneous talking.)
6 I will see if we have anything when we break in our
7 documentation here that deals with this issue. I don't think we
8 will, but I'll take a look and see. Okay, so this discussion is
9 tabled for this time then.
10 UNIDENTIFIED VOICE: Not necessarily.
11 MR. MUTTER: We need to vote on it? Help me out here.
12 UNIDENTIFIED VOICE: You have to vote on it. You have to
13 call a vote on the motion.
14 MR. PHILLIPS: I think if the motion is unanimous
15 consent, there is no objection, it passes.
16 UNIDENTIFIED VOICE: I don't think -- I didn't hear
17 unanimous consent
18 MR. MUTTER: Okay, who wants to object to this? Any
19 objection to this?
20 MS. BRODIE: I'm sorry. Are we objecting to
21 MR. MUTTER: To table
22 MS. BRODIE: tabling?
23 UNIDENTIFIED VOICE: To tabling
24 UNIDENTIFIED VOICE: To the tabling of the motion.
25 UNIDENTIFIED VOICE: That's right.
26 MR. PHILLIPS: (Inaudible) Mr. Chairman, you ought to

1 just call a vote on the -- it's the simplest.

2 MR. McCUNE: You can't (inaudible) of the motions.

3 MR. PHILLIPS: It hasn't been tabled until we vote on it.
4 The motion is before us, but you have to vote on the motion

5 MR. McCUNE: unless somebody objects to the table
6 of the motion. The motion, under Robert's Rules of Order, is
7 tabled until somebody says, okay, I don't agree, and then you vote.

8 MR. MUTTER: Let's have a vote on the motion to table
9 then. All those in favor of tabling the motion say aye.

10 COLLECTIVE VOICES: Aye.

11 MR. MUTTER: All those opposed?

12 COLLECTIVE VOICES: Aye.

13 MR. MUTTER: Sounds likes the ayes have it. Right?
14 (Inaudible -- laughter). Does it have to be unanimous?

15 UNIDENTIFIED VOICE: tabled

16 MR. MUTTER: The chair -- I need a parliamentarian here
17 to help me out.

18 UNIDENTIFIED VOICE: Simple majority.

19 MR. MUTTER: Simple majority. Okay. It's tabled.

20 This is going to be harder than I thought.

21 (Laughter)

22 I knew I wanted the election right off the bat. Okay, let's
23 turn to page -- shall we continue through the procedures. Page
24 six, duties. These are pretty much straightforward. Any comments
25 or changes here? (No audible response.) Okay, page seven,
26 operations. Mr. French, I believe you had a question about the

1 quorum?

2 DR. FRENCH: Yes. I personally deal -- especially with
3 teleconference participation acceptable -- why a quorum of nine is
4 unreasonable in a public advisory group of this -- or a composition
5 of where of the group is representing specific identified
6 constituencies. For that reason, I move that we modify the quorum
7 requirement from nine to twelve, which represents roughly two-
8 thirds of the board.

9 MR. MUTTER: Is there a second to that motion?

10 MR. PHILLIPS: I'll second it for purpose of discussions.

11 MR. MUTTER: That's okay. Discussion?

12 MR. ELIASON: Mr. Chairman, I was absent from -- last
13 meeting, but I do -- we can teleconference these meetings? and
14 work by teleconference acceptable?

15 DR. FRENCH: That's what it says under the last
16 sentence. I didn't realize that was an alternative, but our rules
17 say that.

18 MR. MUTTER: Any other discussions?

19 MR. McCORKLE: Mr. Chairman, I would be assisted greatly
20 if the maker of the motion could tell me why he felt that a two-
21 thirds majority is necessary to conduct simple business. I see why
22 a super majority is necessary in certain action, but I'm having a
23 hard time relating that to what we'll do, so maybe you could give
24 us a little bit more elucidation, about sixty seconds' worth.

25 DR. FRENCH: Well, in most cases actions of this board
26 can be passed by a simple majority, which means with a quorum of

1 nine they can be passed by five members if there's a bare quorum
2 present at any given meeting. As I said, since the board is made
3 up of constituent -- representatives of constituency groups as
4 opposed to representatives of the public-at-large or in toto, why
5 many of us are -- represent individual areas, and it would be much
6 easier for a limited constituency to dominate the meetings if we
7 let -- stay with a quorum of nine. In other words, a simple
8 majority of five. I guess I'm working under the pretext, at least
9 an assumption, that most of our meetings are going to be called
10 because there are substantive agenda items, and that we will not be
11 meeting simply, at least not very often, for simple business
12 purposes.

13 MR. McCORKLE: And you want twelve?

14 DR. FRENCH: I would like to see twelve, yes.

15 MR. McCORKLE: So seven would be required

16 DR. FRENCH: Yes.

17 MR. McCORKLE: seven voting, seven

18 DR. FRENCH. Yes.

19 MR. McCORKLE: Thank you very much.

20 MR. MUTTER: Any other discussion?

21 MR. ANDREWS: Call the question.

22 MR. MUTTER: Do you want to repeat the motion once
23 more?

24 DR. FRENCH: Well, the motion was simply to change the
25 paragraph that deals with a quorum from reading nine voting members
26 to reading twelve voting members. It was the simple substitution

1 of one word.

2 MR. MUTTER: Okay. All those in favor, say aye.

3 COLLECTIVE VOICES: Aye.

4 MR. MUTTER: Opposed? (No audible response). Twelve.

5 Any other suggestions on the operations on page -- operations
6 section, page seven and eight? Depending on what we do with the
7 alternates question, we may make a change on that later. I have a
8 suggested change on page 8, paragraph 8 -- F, excuse me. The
9 public advisory group may create ad hoc subcommittees -- I would
10 suggest we add 'of the membership' to make that clear,
11 subcommittees of the members.

12 MR. PHILLIPS: So moved.

13 UNIDENTIFIED VOICE: Second.

14 MR. MUTTER: All those in favor of that change?

15 MS. BRODIE: I'd like to discuss that. Mr. McCorkle,
16 you have some experience with the RCACs, which do not have
17 subcommittees of the members but rather have working groups that
18 include other people. Could you tell us about why the RCACs made
19 that decision and how it worked and what you recommend for this.

20 MR. McCORKLE: Yes, ma'am, I can do that. The RCAC
21 wanted to make sure it had the capacity to bring outside experts to
22 work groups or ad hoc committees to assist them in gaining their --
23 some background on a given topic. That seemed to be their primary
24 reason. They had a budget which allowed them to hire experts from
25 any field of endeavor, in some cases from all around the world, to
26 come and actually give them background on any -- a range of topics.

1 That was why it was included in the citizen advisory council. I'm
2 not sure we have a parallel need. Perhaps, we do. If we -- it's
3 one way to -- for a work group or ad hoc committee of this -- of an
4 advisory group to bring to a subcommittee experts from a range of
5 fields to effectively testify in front of that group or present
6 information, bring study or knowledge. It had the effect of
7 expanding their work. Presumably the activities are in the good
8 work done by the citizen advisory group.

9 MR. CLOUD: Is there anything to preclude a
10 subcommittee that is comprised only of the members of this group
11 from getting expert testimony from other sources without having
12 them be members of the subcommittee? I guess I don't see a real
13 need to include outside people as members of subcommittees made up
14 of this group.

15 MS. BRODIE: I think that -- it seems to me that if you
16 could have some extra people in the working group that it in fact
17 helps get more work done, because if you are just inviting
18 somebody, well, they don't have much responsibility, but if they
19 really are a member of the working group, and I think that with
20 this group we will want to have working committees because it's a
21 pretty unwieldy group to investigate things in depth that they
22 need, and if we are able to share the work among more interested
23 people, I think it will be more effective.

24 MR. McCUNE: I think Pam has a good point. (Inaudible)
25 point out to me that committees like this have a tendency to burn
26 out real quick, and we have a big discussion, let's say, on inner

1 tidal damage by oil, we -- I mean, how many people know about inner
2 tidal damage. So, you might want to include a guy that's an expert
3 on that in that field on your committee just to have for discussion
4 purposes and to give you a little insight to that particular thing
5 that you're discussing. So, it leaves the door open to invite some
6 people, maybe the chief scientist, all kinds of people to these
7 different committees so they can be part of it, of the discussion.

8 MR. McMULLEN: Mr. Chairman, possibly the question
9 is one of our ability to pay travel expenses for individuals that
10 we might request that participate but subcommittee members from
11 this group in particular discussions, and maybe that has already
12 been stated as being permissible. I think we're going to be
13 talking about a budget for this group's activities, and the
14 question may be, once again, that of including in that budget funds
15 for bringing experts, as it were, in -- you know -- into a
16 committee -- committee meeting location, you know, at our desire.

17 MR. McCORKLE: Mr. Chairman, the language as it now
18 stands doesn't prohibit the bringing on of ad hoc experts. The
19 language which you're suggesting be added, limits. Maybe you could
20 suggest why you recommend that.

21 MR. MUTTER: Umm ...

22 MR. McCORKLE: Maybe you know something that we haven't
23 read into yet back here in the stack.

24 MR. MUTTER: No. I guess my thought was that the
25 actual members of the committees should be members of public
26 advisory group. That if they wanted to invite people to present

1 expert testimony or something, they would. But it's at your
2 pleasure. Whatever you want to recommend in terms of this issue.
3 If you want to -- yes, Pam?

4 MS. BRODIE: I don't really think that the
5 subcommittees or committees should be taking formal testimony. I
6 think they're more a matter of informal people investigating things
7 and working, and coming up with recommendations for the larger
8 group, and I think that other people who aren't members could be
9 very helpful in that, but that it should not -- it shouldn't be a
10 matter of inviting those people to give formal testimony, but
11 rather to try to get them to help us.

12 MR. McCORKLE: I have to apol -- I think that my use of
13 the word 'public testimony' was ill-advised. But what Pam is
14 talking about, and what I think we might want to consider, is
15 getting that kind of expert help. If it's just having people come
16 to a talking session or bring literature they have or research they
17 might know about, that might be helpful. But I think it should be
18 encouraged.

19 MR. McCUNE: Mr. Chairman, all we're saying is that --
20 I think we can clear this up, I think, is that other public persons
21 or people can be put on the subcommittees beside the public
22 advisory group, basically, instead of just limiting it to the
23 public advisory group.

24 MR. DIEHL: I -- (inaudible) I think this group needs
25 to open itself to the public as much as possible. That would be a
26 way of doing it to allow people in.

1 MR. McCUNE: So we need to restructure this sentence
2 just a little, then I think we'll clear up the whole thing.

3 MR. MUTTER: Well, my understanding was that original
4 language would accommodate that, and that the motion on the floor
5 is to change the original language to restrict it to the
6 membership. Shall we vote on that? All those in favor of the
7 motion, say aye.

8 MR. McCORKLE: What was the motion?

9 MR. MUTTER: To insert the words 'of the membership' to
10 make it more restrictive. All those in favor of the motion, say
11 aye.

12 COLLECTIVE VOICES: Aye.

13 MR. MUTTER: Those opposed?

14 COLLECTIVE VOICES: Aye.

15 MR. MUTTER: Motion fails. Okay. Any other suggested
16 actions, changes, on part four, operations?

17 MS. BENTON: I'd -- maybe under the public information,
18 put some stronger guidelines. I think that's an awful lot of
19 pressure for the chairperson to have to be the spokesperson and be
20 held accountable for the whole PAG opinion. We've been blessed so
21 far with not a lot of media presence, but I think may change.

22 MR. MUTTER: Would you like to suggest a change?

23 MS. BENTON: I just would hate to be in the position of
24 a chair. I would hate to have to answer a question without having
25 an opportunity to bring it before the group, and it -- I don't

26 UNIDENTIFIED VOICE: Go for it.

1 DR. FRENCH: I think that the need for language like
2 this is related to that because if anybody can speak for the group,
3 you get a lot of people expressing opinions that are not approved
4 opinions of the group, and if you leave that responsibility to the
5 officers, they may be stuck in a position of saying the (inaudible
6 -- coughing) hasn't taken a position on that more often than the
7 press would like, but at least then it's only two people that the
8 pressure is being focused on.

9 MS. BENTON: Right, but as it's written, it's really
10 ambiguous, and there's no guidelines for them to follow. If they
11 want to offer an opinion, they can. This is -- this is really
12 loose. If they want to offer an opinion, and maybe it hasn't been
13 discussed by the group, they don't have to say we haven't discussed
14 it.

15 MR. DIEHL: We can always call them to task at the
16 next meeting.

17 MR. MUTTER: Mr. McCune?

18 MR. McCUNE: Well, usually, what groups have -- that
19 I've been involved with -- is that the group makes a statement
20 themselves, or even have a press release. The group makes that
21 press release. An officer is responsible for reading that press
22 release or whatever. And things are already clear cut and already
23 done and said and passed by the group, and it's clear that the
24 officer can comment on those -- if he steps out of bounds on his
25 own -- his own comments and starts commenting off the wall, then,
26 obviously, you've got a problem, 'cos usually the group -- it

1 speaks on a press release or something like that, it's written up
2 by somebody designated -- you can designate somebody in here and
3 have the PR relations that you want out as a group, and we can
4 review 'em, and then it's pretty simple.

5 MR. McCORKLE: Mr. Chairman, the language does restrict
6 itself to the official position of a group which indicates that's
7 been voted on as the official position. I think any chairman who
8 would speak outside that, does so at his peril.

9 MR. WILLIAMS: Mr. Chairman, from my years in the
10 newspaper business, this is fine. You're not going to be able to
11 change it, because if a reporter calls -- wants to call one of us
12 and ask us, we're on our own. You can't tell the reporter -- no,
13 I can't talk to you because they said so -- because there is a
14 constitutional protection of free speech. Some people are going to
15 get mad and talk all over the place (inaudible -- laughter).
16 They're gonna talk to a reporter, all we have to do is try to use
17 our best judgment, but you can't restrict

18 MR. MUTTER. Any other discussion on this issue? We
19 don't have a motion to change it on the table, so

20 MR. ANDREWS: Mr. Chairman, I -- I really think there
21 needs to be someone that can direct the public and the press to for
22 statements.

23 UNIDENTIFIED VOICE: That's right.

24 MR. ANDREWS: This clarifies it for me, anyway.

25 MR. MUTTER: That's what this does.

26 MR. ANDREWS: Yeah, and you can't fire a volunteer, so

1 (laughter) -- and you certainly don't want to appoint another
2 public information officer.

3 SEN. ELIASON:need a media center.

4 UNIDENTIFIED VOICE: Yeah. (Laughter.)

5 MR. MUTTER: I think it's time to move on. Section
6 five, meetings, on page nine -- nine and ten. Any corrections or
7 changes here? (No audible response.) Okay. Page eleven is
8 reports. These are all pretty straightforward. Any corrections or
9 changes? (No audible response.) Page twelve, sport -- any
10 corrections or changes here?

11 MR. McMULLEN: Mr. Chairman, could you just expand upon
12 the administrative services provided to the group by your office or
13 to the Trustees.

14 MR. MUTTER: Maybe I could ask Dave to do that. He's
15 in charge of the administrative services.

16 DR. GIBBONS: Yeah. I think that what they had in mind
17 here was support of the activities. If you need a press release
18 (inaudible) those types of things -- support of this group's
19 activities, the meeting's base, and those types of things. I'm not
20 sure what further I can

21 MR. McMULLEN: Secretarial services and all occasional
22 work, meeting summaries, minutes are all supplied by?

23 MR. MUTTER: Any corrections or changes? Okay, page
24 thirteen?

25 MS. BRODIE: I have something I'd like to bring up, and
26 I'm not sure if this is the right place to do it, but this part is

1 talking about administrative director, and it's come to my
2 attention that the Trustee Council is going to be considering
3 changes in the structure of the staff, and, I think, considering
4 changing the nature of the administrative director and what sort of
5 staff that person has, and I think that that could have a
6 tremendous effect on the workings of this group and on what the
7 Trustee Council does. So, I would like to move that any changes to
8 the structure of the staff that the Trustee Council makes that --
9 that before they make decisions, they provide adequate time for the
10 public to comment on the proposed changes -- for this group to talk
11 about it -- advise them.

12 MR. McCORKLE: I'll second the motion.

13 MR. MUTTER: As I understand your motion, it's a
14 recommendation to the Trustee Council that prior to making staff
15 changes, they bring that information out to the public for comment
16 -- before the public advisory group?

17 MS. BRODIE: Yes. And in fact I'll expand and give --
18 if they are going to hire a new director, that that should be open
19 to applications, and that the public advisory group should be able
20 to review the applications and give advice if we so choose.

21 MR. MUTTER: Are you amending your original motion or
22 making?

23 MS. BRODIE: Yes. I'd like to amend my original
24 motion.

25 MR. McCORKLE: Mr. Chairman, while we're doing that, I
26 wonder if the maker would allow another friendly amendment which

1 would be to insert someplace the word 'substantive' changes. I'm
2 not sure we even want to be advised on changing janitorial services
3 or coffee supplies, whatever. An executive director or something
4 significant that might assist us in doing our job of advisors, I
5 think might be the kind of thing that we'd like to be advised of --
6 or talk about.

7 MS. BRODIE: I could certainly accept that.

8 MR. MUTTER:insert the word 'substantive.

9 MR. McCORKLE: I would feel comfortable with that.

10 MR. McMULLEN: Mr. Chairman, perhaps I could be more in
11 agreement with it if I understood more fully what your concerns
12 are.

13 MS. BRODIE: Well, what I have heard is that there is
14 at least one member of the Trustee Council that is suggesting the
15 administrative director position become much more stronger -- a
16 much stronger position, with staff reporting to that person, as
17 opposed to the current system where the different agencies are more
18 in control of -- working cooperatively. I'm not sure that I even
19 have it accurately because I'm not -- I don't know what they're
20 doing, but I understand that they will be discussing it at the next
21 meeting. So, I'd like the public to have a good sense of what it
22 is that they're discussing and recommending with positions.

23 SEN. ELIASON: Mr. Chairman, I'm not quite sure whether
24 we are charged with that responsibility of advising that particular
25 -- maintain their business and conduct their business. I think
26 that's (inaudible) deal with (inaudible) advice might be.

1 (Inaudible.) And I'm not quite sure, that's our responsibility.
2 Either show me somewhere, its our responsibility -- it's part of
3 our charge or

4 MR. MUTTER: Paragraph six, b, the public advisory
5 group shall advise the Trustee Council and its Restoration Team on
6 the operation of the restoration program's related activities,
7 including the process of obtaining public input as may be
8 appropriate to recommendations passed the public input

9 MR. CLOUD: These sort of decisions are made at their
10 official meeting that is open to the public, and that can be taken
11 care of there (inaudible) if one of us would like to -- but, I
12 could probably second Senator Eliason's comments that it is --
13 probably isn't a material item for us to call unless we
14 individually choose to attend the Trustees Council meeting.

15 MR. MUTTER: Let me ask Dave a question about that.
16 The Trustees will make the personnel decisions?

17 DR. GIBBONS: Well, I think -- I gather what you're
18 talking about -- you're talking about the restoration process
19 (inaudible) and the operations, they'll do that in a public forum,
20 but it is my understanding that personnel matters are conducted in
21 executive session.

22 MR. MUTTER: Pam, I think your amendment was you wanted
23 to send out people's resumes for public review for the position of
24 executive director?

25 MS. BRODIE: I think, yes, that the public advisory
26 group -- likely the boards of fish and game, I believe, actually

1 choose people to recommend, (inaudible) people at this point, and
2 I'm not suggesting that, but that we do have an ability to take a
3 look at the people, and we may only want to suggest criteria of the
4 decision-making to the Trustee Council, but that we should be able
5 to take a look at these applying and give advice if we choose.

6 MR. McCORKLE: As I understand the motion, correct me if
7 I'm wrong, we don't ask to have -- to take any action, we ask to be
8 advised of what action they mean to take. The rules and
9 regulations we have to operate under give us certainly the right to
10 comment on it, but if suddenly we read in the paper what may have
11 been decided and done, I think that might be a little unfair to us.
12 So, I can support the motion to the extent it's strictly advisory
13 to us, mostly courtesy to us. I don't think any of us feel that we
14 have any right at all to participate in the personnel process.
15 That's not what advisors are for, and certainly when it comes to
16 personnel -- rules and regulations -- the council will have to
17 advise us, but I think that's mostly in the spirit of courtesy. I
18 think that we should expect notification from the Trustees as to
19 what their intentions are. Then, if we wish to respond or question
20 further, I think we could assume that fact.

21 SEN. ELIASON: (Inaudible) how would this work? Say,
22 they were going to replace the executive director, how would we
23 have a say if it's done in executive session? Are they going to
24 tell us or (inaudible). How does it work?

25 MS. BRODIE: Well, for instance, if they are planning
26 to hire an administrative director, I would like to see them -- to

1 a public process at which it goes out for applications, ads, media.
2 People who apply are exposed to the public, or if they decide to
3 change the structure of it, that would be put out -- a plan to
4 change would be put out for a certain amount of time for public
5 comment, rather than coming to a meeting and having already chosen
6 a director and hired that person on the spot, or something, or
7 decide at a particular meeting, well, we're gonna make a change in
8 the staff, we'll simply make that decision a fact. Although you
9 could say, well, the meetings are open to the public, in fact,
10 there aren't a lot of people who are able to be at the Trustees
11 Council meetings and listen to them and make public comment at that
12 time.

13 UNIDENTIFIED: Right.

14 MS. BRODIE: They usually need the extra time of
15 finding out, right now, then come back and comment.

16 SEN. ELIASON: I'm not sure that what would be the
17 purpose of having executive session then if, in fact, we're going
18 to bring this out to the public. Why do they allow executive
19 session?

20 MS. BRODIE: I think that -- we're not hiring the
21 person, and the Trustee Council in making their actual choice
22 (inaudible) in executive session, but that the public should be
23 able to make that advisory board (inaudible) situation.

24 MR. DIEHL: But, (inaudible - simultaneous talking).

25 MR. MUTTER: My understanding is that when we get to
26 the point of hiring an executive director that that would be

1 broadly advertised -- public process, I don't know.

2 DR. FRENCH: One thing that's not -- frequently not
3 included in the public process, and that's the basic decision-
4 making that leads up to finding what that position is -- your
5 position announcement, whatever you want to call it. If, indeed,
6 as Pam has indicated, and I don't have a feedback -- there's some
7 major administrative changes contemplated on how the work plans are
8 developed, which is part of the responsibility or could be part of
9 the responsibility for the new administrative director, it directly
10 affects our responsibility, and I think it would be courtesy, and
11 they would probably do it anyway, but it certainly would be
12 appropriate to advise us on the development of that position
13 announcement -- that the responsibilities of that -- that that
14 person's going to have. The actual personnel decision -- no, I
15 think it's the responsibility of the Trustees, and that it's
16 appropriate that it be done in executive session.

17 MR. McCORKLE: Mr. Chairman, I wonder if -- Pam, if you'd
18 feel comfortable if we make this kind of action, where we would
19 support the public process and all of the actions that the council
20 -- that the trustees maintain in filling staff positions
21 (inaudible), and sort of leave it at that, and really sort of
22 reinforces what is now being done. It puts us on record as having
23 an interest in continuing to be at least informed of what is likely
24 to be (inaudible). I think the discussions are very noble because
25 it does underscore the fact that we do see -- we do see the
26 possibility that a future executive director or staff, be it large

1 or small, expert or not, could have some impact on our ability to
2 do a good job as advisors. They may want to take away an awful lot
3 of our opportunities to sit, meet, so I support the idea of letting
4 the Trustees know that we continue to support their action of
5 advising us of important details.

6 MS. BRODIE: I guess I don't understand what you're
7 saying. It sounds like you're suggesting that I withdraw the
8 motion.

9 MR. McCORKLE: Or soften it some. As we've amended it
10 more and more, I think it puts us more in the position of being
11 party to the subject. If I understand what you would like to
12 achieve, you'd simply like to encourage and foster the public
13 process as much as possible, and I think that's laudable. But I
14 also think we'd be careful not to go outside our boundaries, and
15 I'm trying to suggest we fashion a motion or an actual
16 recommendation (inaudible) feeling, rather than a -- you-gotta-
17 tell-us kind of thing, and I don't want us to go too far that way.
18 But I agree with the idea.

19 MS. BRODIE: I think that -- we're only an advisory
20 group. We can't require the Trustees to do anything. So, what I'm
21 suggesting is advisory, like everything else. I'm suggesting that
22 we advise them that if they are making substantive (inaudible) or
23 hiring a new person that they give us and the public the
24 opportunity to comment. I think that I would like to stick with
25 that.

26 MR. McCUNE: Mr. Chairman, what is the procedures for

1 the Trustees if they're gonna hire an executive director? Do they
2 have to publicize the meeting fifteen days in advance? What else
3 is the procedure if they're gonna hire somebody? What is there
4 procedure? Does anybody know that?

5 MR. MUTTER: Dave?

6 DR. GIBBONS: That's a -- the job description for the
7 administrative director was approved in the late spring or early
8 summer. They're working on it -- some modification to that now,
9 and that's where it stands. There's a topic on the 11th meeting to
10 look at the restoration organization process to see if we can -- if
11 they can strengthen -- that's about where we are with it.

12 MR. McCUNE: So, basically they're doing their own
13 administration work. I sympathize with what you're saying, Pam,
14 but part of the problem is -- I mean, I want to see as much public
15 involvement in this whole process as possible -- beyond this group.
16 You know, the public should be aware. Some public is never going
17 to be aware because it's not interested, but I think we're getting
18 too deep into this -- what the Trustees do. I mean, if the
19 Trustees do something outrageous, you know, certainly myself will
20 say something and I certainly know others of the public that will
21 say something -- either that -- we don't think you're taking the
22 right kind of direction in the public interest -- otherwise, our
23 duties are pretty well set on this page here, that I can see, that
24 we're involved in -- is what -- how I think this group should be
25 involved.

26 MR. WILLIAMS: Question.

1 SEN. ELIASON: Mr. Chairman?

2 MR. MUTTER: Yes.

3 SEN. ELIASON: One further comment -- I think that Pam
4 probably knows something some of us don't, and I feel like I'm sort
5 of working in a vacuum. Maybe you could tell us about this thing,
6 and we'll try to resolve it. You stated originally that you heard
7 some rumors about some changes being made and you want to make sure
8 that the public process is involved in those changes. Is that
9 basically what you said?

10 MS. BRODIE: That's right.

11 SEN. ELIASON: Can you tell us what you know -- what
12 we're voting on.

13 MS. BRODIE: Well, I can -- I (inaudible), I don't know
14 if this is true but I've heard that they, the Trustee Council, may
15 hire someone without going through -- opening up the position to
16 advertising -- to application, but rather to choose an executive
17 director without that kind of an open process. I would

18 MR. McCUNE: Mr. Chairman, aren't we under the same set
19 of rules here? Maybe -- uh -- is this a given set of rules?
20 Because most rules that I know of, federal or state rules -- have
21 to advertise this job. Are the Trustees under a different set-up?
22 Most of the time -- are there any criteria that you're using to do
23 this?

24 MR. MUTTER: I believe that -- that in this case,
25 they're following federal and state rules.

26 MR. McCUNE: So, they (inaudible -- simultaneous

1 talking).

2 MR. MUTTER: We have three Trustees in the back of the
3 room.

4 MR. McVEE: (Inaudible) federal personnel actions have
5 no choice at advertising for a lateral transfer (inaudible). That
6 assures, of course, that the individual selected is qualified and
7 the requirements of the position is strictly enforced (inaudible).

8 MR. DIEHL: What is a lateral transfer?

9 MR. McVEE: The lateral transfer would be if they
10 selected someone (inaudible).

11 MR. DIEHL: (Inaudible.)

12 MR. McVEE: (Inaudible.)

13 MR. MUTTER: Mr. Sandor?

14 MR. SANDOR: If I could just add another perspective,
15 as (inaudible) trustee (inaudible) of the state of Alaska, the
16 potential background (inaudible - coughing). I think it's
17 important to go back to the process (inaudible), and the operating
18 procedures (inaudible), the present executive director was
19 appointed as an interim executive director. The job description
20 for (inaudible) has been circulated and attempted (inaudible).
21 Because this unique organization has federal and state ties, both
22 the federal and state bureaucracies (inaudible) have been
23 classified by the U.S. Forest Service (inaudible). State
24 procedures are somewhat different (inaudible) executive director
25 but also after the first year of operation, analyze how effectively
26 the organization is functioning in terms of whether or not there

1 are ways of even strengthening the process, the organization, and
2 then as well as advertise for the executive director position
3 itself. In the -- what I see coming out of the December 11th
4 meeting and the item four item on the agenda that alludes to this
5 is really several things, a proposal which I -- perhaps others were
6 intending to introduce is a formal evaluation of the process by
7 which we've been functioning for the last year to identify ways of
8 strengthening -- certainly, we've heard all sorts of criticism in
9 the public comments of ways of strengthening the organization and
10 making it more efficient. At the Attorney General's insistence,
11 all of our meetings have been held in an open public forum, and
12 although we do have an option of meeting in executive session, and,
13 indeed, the interim executive director was appointed in executive
14 session, our case -- our guidance of the Attorney General is that
15 all of our meetings be open. At our December 11 meeting, I would
16 expect, and I think you've -- or the interim executive director has
17 or will be circulating to the other Trustees, all the Trustees, all
18 the proposed changes in the executive director position, and that
19 process is underway. On December 11, I suspect that we will
20 hopefully approve the final recommended position description of the
21 executive director position, direct that it be advertised -- will
22 publish by the state and federal governments and that -- I believe
23 that requires at least thirty days, but I'm not sure about that.
24 Anyway, we're going to follow very closely the process, and I'm
25 sure that Charlie (inaudible), the Attorney General are going to
26 (inaudible) full action. All of these things have to be done in

1 open session. So, I urge you not to -- well, certainly you want to
2 listen to rumors, but don't act on the problem in the sense that
3 we're trying to do something that's going to be outside the bounds
4 of existing federal or state procedures. So, in summary, at our
5 December 11 meeting, we are going to deal with the proposal to
6 evaluate and strengthen our organization by process (inaudible -
7 coughing) director position itself, hopefully get out the position
8 description and call for candidates on both the federal and state
9 side, and then at our next meeting or a follow-up meeting, again in
10 open session, handle it in that way.

11 UNIDENTIFIED VOICE: Is that what you'd be directing us
12 to do.

13 MR. COLE: Well, let's put it this way, that's what I
14 would suggest that (Laughter.)

15 MR. MUTTER: I believe Mr. Williams called the
16 question.

17 UNIDENTIFIED VOICE: Could there be any restatement of the
18 motion?

19 MR. MUTTER: Let me see if I can take a shot at this
20 then. The recommendation of the public advisory group is that they
21 recommend the public and the PAG be given the opportunity to review
22 and comment on proposed actions of the Trustee Council on
23 substantive staff and organizational changes, including a review of
24 applications for the administrative director position. Is that
25 accurate? All those in favor, say aye.

26 COLLECTIVE VOICES: Aye.

1 MR. MUTTER: Opposed?

2 COLLECTIVE VOICES: Aye.

3 MR. MUTTER: Maybe we'd better do a hand vote. All
4 those in favor, please raise your hand. (Hands raised.) All those
5 opposed? (Hands raised.) Motion fails. I didn't get the -- hold
6 up your hands, those oppose -- opposing. (Eleven hands raised.)
7 Eleven.

8 Moving on to page thirteen -- there are a couple of
9 corrections to be made on who the contacts are at the bottom of the
10 page, and I'll take care of those -- those administrative things.
11 Are there any other comments or suggestions regarding the
12 background guidelines at this time -- changes or corrections?
13 Well, I have a question for Senator Eliason. Maybe he can help me
14 out. Can we at this point then solicit a motion to approve the
15 procedures as recommendation to the Trustee Council even though
16 we've tabled one item of discussion?

17 SEN. ELIASON: Yes.

18 MR. MUTTER: Well, the Chair would be open to a motion
19 to approve the procedures for recommendation to the Trustee Council
20 at this time.

21 MR. CLOUD: So moved.

22 UNIDENTIFIED VOICE: Second.

23 MR. MUTTER: Any discussion?

24 MR. ANDREWS: Question.

25 MR. McCORKLE: I understand that it -- that you said
26 earlier today that in the event that the advisers and the advisory

1 group which to modify or suggest modifications in the future, that
2 that was not prohibited from adopting these procedures today. Is
3 that correct?

4 MR. MUTTER: Right.

5 MR. McCORKLE: Thank you.

6 MR. MUTTER: The question's been called. All those in
7 favor of recommending these to the Trustee Council, please say aye.

8 COLLECTIVE VOICES: Aye.

9 MR. MUTTER: Opposed? (No audible response.) Motion
10 passes.

11 Shall we take a ten minute break at this time? We will
12 reconvene in about ten minutes.

13 (Off record)

14 (On record)

15 MR. TOTEMOFF: Mr. Chairman, before we begin on the
16 agenda again, I'd like to pass out a couple of hand-outs so the
17 public advisory group members have a chance to read and digest the
18 material before we have discussion on them.

19 MR. MUTTER: Okay. Sherry, Sherry, could you hand
20 these out.

21 Okay, the next item on the agenda is a presentation on the
22 status and some of the elements of the draft restoration plan, and
23 that's to be given by Sandy Rabinowitch. Sandy, do you want to
24 come up here to the microphone up here.

25 MR. RABINOWITCH: Good morning. I have a couple of
26 hand-outs for you, and I'll pass them around (inaudible). I'll

1 pass them around (inaudible). Again, I'm Sandy Rabinowitch. I'm
2 with the National Park Service, which is part of the Department of
3 the Interior, and foreseeable future I've been asked by the
4 restoration planning group -- and I'll probably call that ripwig
5 (ph) occasionally, so if you don't remember, stop me -- umm -- to
6 function as the liaison person between the planning group and the
7 public advisory group here. So, you'll probably see me sitting in
8 the back here most of your meetings, and I'll try to help provide
9 answers that might come up from time to time, and occasionally
10 orchestrate presentations like this as you have interest in things
11 that we're working on.

12 On the agenda you have two things that I was going to talk
13 about, and I'm going to vary from that just a little bit, and I'll
14 explain why. The first item was labeled as key elements. We're
15 not really prepared to talk about that -- and I will explain why
16 with one of the hand-outs as we go through. The other is schedule.
17 The schedule part is really pretty easy, and I'll do verbally. Our
18 schedule calls for a draft document to be available to the public-
19 at-large, with essentially public meetings going on throughout the
20 month of April. That's still our target. I think in all honesty
21 I would say we are slipping right now, a little bit, you know, sort
22 of behind our production -- we have a zillion different little
23 things to do that all have to, you know, get pulled together and
24 come forward in a product. In the past, we've slipped behind and
25 made up time, and in the past we've slipped behind and not made up
26 time. So, it's hard for me to predict if this sort of a slippage

1 is potentially going to delay things or not. Certainly, our goal
2 is for it not to do so. And then the schedule calls for a final
3 restoration plan in September and October. Parallel to that,
4 although not something I'm going to speak about today, is the
5 environmental impact statement. A draft, with the draft plan, and
6 a final, with a final plan. Okay. There's a separate work group
7 that you're probably aware of that deals with that. (Inaudible --
8 traffic noise) -- you know, work closely together.

9 The first hand-out I'm going to give you -- and I'll come back
10 to the key elements in a minute -- is a outline of the plan, of the
11 draft restoration plan. Probably, there'll be extra copies when
12 they get to the middle, here. We'll -- I'll collect them at the
13 end. And what I'm going to do, once copies get around, just try to
14 hit what I think are some of the high points and leave you to read
15 this on your own. This particular hand-out was given to the
16 Trustee Council a couple of months. If any of you -- you may
17 actually have picked it up if you attended some of their meetings.
18 It's meant to be a simple, understandable guide to the plan as we
19 see it. And I would encourage anybody to interrupt me at any time
20 with questions. You can put the extras behind you in the chair,
21 and I'll gather them up.

22 On the first page, what I thought I would do is just sort of
23 touch on what I think the -- kind of the key elements are here.
24 The purpose of the document is really pretty straightforward, but
25 it's to provide the overall direction for the planning process, and
26 in some ways really will continue throughout the settlement period

1 and, importantly of course, the actual implementation of the plan.
2 Dropping down -- that was really number 1A -- dropping down to C,
3 still on page 1, there's some very important guidance in the
4 settlement documents -- that's pretty much how we refer to them --
5 and there's both the civil and the criminal -- document will
6 contain explanations of the guidance from those documents.
7 Flipping to page 2, probably a relatively short section -- this is
8 D at the top -- that will explain the relationship between the
9 draft plan and the draft environmental impact statement. Okay.
10 They're separate documents. The intent is for them to be stand-
11 alone documents, and by definition there will be some repetition
12 between them, but you can hold one or hold the other and see the
13 whole picture, and that's a goal. Roman numeral number II, injured
14 resources and services -- an extremely critical part of this and
15 something that in some ways seems simple and maybe even obvious, is
16 anything but that, and that is figuring out what was injured.
17 Backing up, figuring out -- how do you agree to what was injured.
18 And there's a hundred different questions we've sort of chugged
19 through over the last couple of years. And when it boils all down
20 where we've landed is to suggest that we have criteria -- we've
21 established criteria to the point of injury, that we explain how
22 those criteria are applied, and then ultimately we make decision.
23 Okay? The draft of those criteria are in this publication which
24 you got last time -- I don't know that you've all had time to read
25 through this volume of material, but in the framework document --
26 there's two light green documents like this that you've got, I

1 believe -- the framework, which is volume one, the draft what
2 (inaudible) are in here. Okay? And we've gotten public comment
3 on those and, of course, all the other things in here and, you
4 know, we're adjusting and modifying those criteria as we go. But,
5 extremely important in what we're trying to do is put it all up
6 front, all out in the open, and avoid what I like to think of as
7 sort of black box planning -- you know, just sort of got figured
8 out, and here it is. We're trying to avoid that. Lay out, and
9 people might disagree about the criteria, for instance, and those
10 are the kinds of things that you and everyone else could have a lot
11 of (inaudible).

12 Now, one of the items -- back to the thing I said I wasn't
13 going to completely talk about this morning -- key elements, roman
14 numeral II C, which is the conclusions of this -- that's one of the
15 key elements that we were hoping to provide you with that are not
16 ready this morning. The simple answer is, we're not done yet.
17 It's really no more complicated than that. A lot of people are
18 working very hard at this, including Bob Spies who (inaudible --
19 noise) yesterday, and it's a very big task.

20 You're making this easy. No questions so far. I'm going to
21 keep going fairly quickly then. Roman numeral III, restoration
22 options. You'll hear -- you heard that term a little bit when John
23 Strand (ph) was before you last time, the federal chair of the
24 restoration group. You'll continue to hear that term, options.
25 Again, I'll hold up this framework book, in the back of it, and say
26 I marked -- its appendix B -- is a list, a draft list of options.

1 Okay? So, what the plan will do is explain what an option is,
2 where they came from -- a lot of them came from public comment,
3 okay? -- and we can actually track all that and did track all that
4 through meetings that go back several years now that myself and
5 others have conducted. We can actually take an original comment
6 that somebody made at a public meeting, and we can run you all the
7 way through and say it ended up being option 4C or whatever. So,
8 we've lay that out, not in an overly detailed way, but we'll make
9 the connection where they started it -- how they got to become an
10 option. We then, again, go into criteria, okay? So, we evaluate
11 the options, and basically is it a good idea or not. If it's a
12 good idea, how does it rate against the other good ideas, and so on
13 and so forth. What kind of funding priority might it have, where
14 might the option apply geographically, okay? Because all things
15 don't apply to all places within the oil spill area. You may have
16 one kind of resource that's -- I'll just say that's in Prince
17 William Sound -- I can't think of a good example here, but in
18 Prince William Sound -- and that same resource may not be in
19 Kodiak, or vice-versa. So, we have those kind of multiple things
20 to keep in mind. And then the last -- the last item, again, was
21 how the criteria applied and, again, where do you take this.

22 Down toward the bottom of page 3, roman numeral IV,
23 restoration plan alternatives -- a pretty common term for anybody
24 who's seen lots of government planning documents, which probably
25 most of you have I would bet. Do you like option one, two or
26 three, a, b or c? Okay? That's the kind of thing we're talking

1 about here, it's the package of material that is kind of wrapped
2 up, maybe like a Christmas present, and to say which, you know,
3 which approach do you like, and the second hand-out I'm gonna give
4 you is some more information on that. (Inaudible.) We'll describe
5 the options in, hopefully, plain English that everybody can
6 understand -- I don't know how many there will be yet. We're sort
7 of aiming at three to five. On the sheet I'll give you, you're
8 gonna see six. We talked about seven or eight. We're still really
9 working at that. But one of our goals is just not to overwhelm
10 people. You know, we don't want to give you fourteen alternatives
11 to sit there and try to make sense of it because we think it will
12 probably just overwhelm people. It's probably not a practical
13 thing to do. You may not agree with that though. You may -- when
14 you look at all this material -- excuse me -- you may tell us, I'd
15 really like to see fourteen options. So, obviously, as we go
16 along, tell us what you think. The last step in the alternatives
17 is really a pretty simple comparison, and I imagine actually this
18 will be -- I'm at the bottom of page four, that this will be some
19 kind of a side-by-side chart that will try to highlight sort of the
20 key features of variables. In fact, the hand-out I'm gonna give
21 you kind of does this, and so in a couple of pages, maybe, you can
22 take a lot of text that will be written about these and kind of
23 boil it down and compare the important things and see what you get
24 and what you don't get. Again, if all we're trying to --
25 basically, trying to give good communication.

26 The last parts of the plan -- there's a lot of them tied to

1 implementation, the process for the life of the settlement -- I'm
2 at the top of page five now, and I'll just run through this really
3 quickly. Developments of annual budgets and work plans -- you've
4 gotten some information about that, and I believe you're gonna hear
5 more this afternoon about the 93 work plan, and ultimately in the
6 short time be making comments to the Trustee Council about that 93
7 work plan. The operation and dependent administration of this
8 whole organization -- the funding mechanisms, and this is funding
9 mechanisms for alternatives. In the simplest terms, we see --
10 well, to say two approaches is too simplistic, but on this piece of
11 paper we have two approaches. One is the current funding
12 mechanism. Exxon Corporation writes its annual check, it goes to
13 the court registry account in Houston, Texas, I believe -- Mark
14 Brodersen, if you're here somewhere, correct me if I'm wrong -- and
15 then the organization essentially makes the petitions -- I think
16 the court for x amount of dollars on an annual basis based on a
17 work plan -- and funds come in that way. There are other
18 alternatives, and I know that all of you certainly have heard about
19 the concept of endowments -- there's also many kinds of endowments.
20 So, we are gonna try to lay that out in a not overwhelming array
21 of choices and, again, try to show that the -- basically the
22 differences between those and what kinds of opportunities you can
23 provide, and what kinds of things you wouldn't provide. I'm
24 confident there will be a lot of discussion by many, many people
25 about those issues in the future.

26 The other elements then -- monitoring and evaluation, is

1 something that most people in most agencies involved feel is
2 important to give strong consideration to, public participation and
3 education -- you all are part of that one -- and then I'm on to the
4 sixth page here -- amendments to the final restoration plan -- we
5 don't envision this being a book where the ink dries and it's never
6 touched because we think there is just a whole lot of things that
7 will come along that we just haven't been bright enough to foresee,
8 so we want to make sure there's an amendment process to simplify
9 that so we don't have to do major heart surgery every time if there
10 is something that needs a modification, perhaps, and then like most
11 plans, there's a series of appendices, and if anything, from my
12 experiences, this will probably grow. I would predict -- I think
13 we're down to E at the moment, and you can read those over.
14 Questions at all about any of this? I know you haven't been able
15 to read it. Okay.

16 MS. BENTON: How does the contract with the Nature
17 Conservancy going to fit in with this?

18 MR. RABINOWITCH: Their work -- if you flip to -- let
19 me get the right thing here. I saw it, but now I cannot find it.
20 Here we are -- page three -- center of the page, the letter C

21 MS. BENTON: Okay.

22 MR. RABINOWITCH: Their work is -- support of this
23 piece -- their habitat protection options. Is that enough of an
24 answer?

25 MS. BENTON: Yeah.

26 MR. RABINOWITCH: Okay.

1 MR. KING: I'm wondering how the restoration plan
2 relates to the 1993 spending plan that we are supposed to comment
3 on later today, and more specifically, how we've been attempting to
4 look at the proposals in the 93 document. I haven't seen the
5 restoration document, and I suspect others as well as I have
6 thought that some of the things in the 93 should be evaluated and
7 a longer term context in the restoration plan and should probably
8 be deferred, and I wonder if you could comment on that

9 MR. RABINOWITCH: Well, a little

10 MR. KING: ... how we should deal with it.

11 MR. RABINOWITCH: That's a -- I don't know that I have
12 a great answer for that. One, I have not sat down and -- not only
13 just sort of doing my homework -- and made that comparison that you
14 ask about, okay? I'm not sure -- I'm not actually sure it's real
15 safe to predict what I think I would find if I did that, but I
16 guess the best advice that I could give you on how to get to an
17 answer to your question is back to the framework here, okay? And
18 this is appendix B, where -- and this goes back to -- you know,
19 this was an April publication and probably our thinking was
20 occurring in February and March -- the fact that it got printed in
21 April -- so we're almost back -- sort of ten or eleven months in
22 terms of information and thinking, but this list of options -- and
23 there's, as I say, around 40 -- 35 here -- what's our best thinking
24 at what the -- sort of the kernel of the work would be -- almost
25 about a year right now. Okay? So, I can -- I can -- I think the
26 best thing I can do is direct you to this, and there's about a half

1 page of description of each of these 35 in here, and, you know,
2 what you might like doing is take -- particularly those that you're
3 not comfortable with for whatever reasons and compare them to this
4 list and see how you think they line up -- and if they look like
5 they line up pretty or not, and then go from there. I think that's
6 the most - the most help I can offer at this point.

7 MR. KING: So, in essence, you're saying these
8 subjects are dealt with in that -- this line one framework, but the
9 specifics haven't really been

10 MR. RABINOWITCH: These are -- these are -- I guess I'd
11 say they're fairly specific but they're generic in nature. For
12 example, if -- and I don't have all these 35 in memory -- but if
13 you wanted to do something for -- I don't know, pink salmon, and
14 you -- somebody says, well, let's build a fish ladder, okay.
15 That's the right thing to do for pink salmon in Prince William
16 Sound or whatever. What you would see in here is not something
17 that said, let's build fish ladders in these ten streams of Prince
18 William Sound. You'd just say, let's build some fish ladders. It
19 would just stop right there. Stay generic. So, if you compare a
20 very specific project in the '93 work plan to do a fish ladder on
21 these ten creeks, you won't find the exact comparison in here.
22 Alright? I need to add though that the options -- that we have 35
23 in here -- there is also actually a list of 14 in here that we
24 rejected at this point in the process. We said we've been
25 considering 14 others for, I don't know, a year and a half or
26 whatever, and we just finally came to the conclusion it's time to

1 say these don't -- these don't make the grade, they don't, for a
2 variety of reasons, make sense, they don't fit the terms of the
3 settlement or whatever, and so we said, we're gonna reject these
4 from this point on, and, to the best of my recollection, we did not
5 get any public comments that sort of rescued any that we were
6 saying let's cut these off at this point and, you know, keep going
7 forward. But the restoration planning group is continuing to work
8 on these options, and I believe we are actually up to about 40.
9 We've added a few more in the last few months, and I know on the
10 subject of services, particularly with recreation and also
11 subsistence, we are working pretty hard to improve on that because
12 through some peer review of some of our process, and I'll mention
13 that in a minute, some of our peer reviewers have made some pretty
14 strong suggestions in those areas, so we are trying to be
15 responsive and basically do a better job.

16 DR. GIBBONS: I think I can add a little bit to that
17 discussion. Since the restoration plan was not done, the premise
18 for the 1993 work plan was based on a fact that, is the project
19 time-critical? Does it need to be done this year or can we defer
20 until '94 and a restoration plan is done and work with it under
21 that framework? So that was the basic premise of what the '93 plan
22 was based on. Is it time-critical? Is it -- this our last
23 opportunity for some work that we might miss? And then, is it a
24 long-term commitment? We didn't want to make any real long-term
25 commitments until we have a restoration plan done. So, those were
26 the three basic ideas that the '93 plan was based on. I'd like to

1 clarify that fact.

2 MR. McCORKLE: Just a bit of a follow-on to that, and I
3 certainly want to commend whoever it is that's done all this work
4 all these years. However, tendace uget (ph), as they say, and
5 we're going to be having to look at the 1994 plan almost
6 immediately. And I'm troubled by your comments that we slipped a
7 little bit here, and we could slip a few months there, maybe four
8 or five months, and pretty soon a year's gone by, and we sort of
9 faced -- I guess what I'm concerned about is that we don't get
10 faced in the future with having to sort of rubber-stamp a program
11 a program that's already in chute, and I guess maybe I'm wondering
12 if you have enough help. How -- how long will this process really
13 take? I mean, I've been involved with environmental impact
14 statements for ten or more years. I know how long they are and
15 critically important they are. Do you feel that this can be timely
16 done so that it will be a document worth having or will it just be
17 a lovely volume that is produced, and your staff will feel very
18 fulfilled in all, but it won't do much? What -- do you need more
19 people? What's the time frame you're faced with?

20 MR. RABINOWITCH: You ask me a diff -- a difficult
21 question. I withdraw for -- for maybe more interest than anything,
22 I'm actually the longest surviving member of the group
23 (simultaneous laughter) -- which may mean I'm the dumbest too
24 (inaudible), 'cause I can't figure out how to earn a living some
25 other way here, but I too actually, like all of you at the table,
26 actually volunteered for the job a couple of years ago.

1 MR. McCORKLE: Thank you. (Simultaneous laughter.)

2 MR. RABINOWITCH: My short answer, and probably
3 slightly controversial, is, no, I don't think we do have enough
4 help. I'm sure that everybody wouldn't agree with my answer, but
5 I think that we have mainly stayed on schedule because for the most
6 part we have people who spend a lot of nights and weekends -- not
7 every night, not every weekend by any means, but over time, to
8 catch up those periods where you slip. So, I'm just trying to be
9 straightforward and candid here, and we're slipping, and I'm gonna
10 tell you we're slipping. If we're ahead, I'll tell you we're
11 ahead. I'm not alarmed about the slippage that we have right now,
12 but we need to do some catching up pretty quick, and if we don't
13 then I think we'll certainly have lost some ground permanently
14 here.

15 MR. McCORKLE: If I could have just a follow-up comment.
16 Because of the critical importance of environmental impact systems
17 and then, of course, the restoration plan itself, that's what we're
18 here for, and maybe somebody much more wise than myself needs to
19 ask if there's any reasonable way this program can be brought back
20 to schedule or even advanced a bit because I think the -- the
21 Trustees have a very critically important job that is one that
22 passes. That money will be gone pretty quickly. It's easy to
23 fritter away a million here and a million there, and I just wish to
24 express my concern that we don't dally, and if there is money
25 available to speed up the process so that we get viable documents
26 earlier, maybe that should be considered.

1 MR. RABINOWITCH: I would -- if I could add a comment
2 to that, and Dave wants to add too. To clarify one thing, it's not
3 always a matter of money. At times it may be. But it's also a
4 matter of priorities. And I give you one example, just something
5 I asked about the other day, where's such and such. One of the
6 things we're working on, and its one of the key elements that we
7 don't have to hand you today, is an injury summary, okay, one of
8 the things I saw I thought was quite critical here. One of our, of
9 course, key players is the chief scientist, Bob Spies. His logic
10 sort of the dictate.... What I hear, and the last thing I'm trying
11 to do is to say anything bad about Bob, -- he -- I'm sure he has a
12 lot more work than I can ever dream of, but one of the things he
13 has is work that our group has done on the injury summary. Another
14 thing he has that he's working on is, if I even get it right, are -
15 - we do a manuscript for the February symposium that I think you're
16 all aware of -- well, apparently, the symposium work took
17 precedence over the injury work. So, our stuff sat, and that one
18 went forward. I'm not saying that's right or wrong, but the work
19 we needed, we didn't get when we thought we would. So, that's an
20 example of priorities, not mine. Dave, you want to

21 DR. GIBBONS: Yeah. I might shed a little light on this
22 now. I just talked to the co-chair of the restoration planning
23 group on Monday on this very concern, and he assured me that the
24 plan would be done in late March.

25 MR. McCORKLE: Late March?

26 DR. GIBBONS: The twenty-sixth

1 MS. RUTHERFORD: Could I -- could I add something
2 here. This is Marty Rutherford. I -- I guess I just want to add
3 a couple things because your -- your -- comments are really
4 important and are comments we've discussed a lot on the restoration
5 team. One of the problems that's been hindering us is that the
6 restoration plan work group was not fully staffed, and that's the
7 responsibility of some of the restoration team members, and we just
8 have recently got them fully staffed, and I think in the last two
9 months because of that they've made tremendous progress, and I
10 think that that's going to make all the difference in the world
11 from here on out, and I really don't expect the slippage that's
12 been occurring before because of -- of their not being staffed
13 adequately like the rest of the Trustee Council.

14 UNIDENTIFIED VOICE: You don't need any more money?

15 MS. RUTHERFORD: I -- I think at this point in time
16 that they are well capable of accomplishing what needs to be done
17 by the dates that they set out. I think they've given us a
18 realistic timetable, and I think that -- that's what they tell me.

19 MR. McCORKLE: Well, when Marty says that, that's good
20 enough for me. (Simultaneous laughter.) Thank you very much.

21 DR. FRENCH: Yeah, I was just concerned about the --
22 the priorities here. If -- if the restoration plan is getting a
23 back seat to peer review on the upcoming symposium, why -- partly
24 I think that priorities are backward, but also I know for a fact
25 that Bob Spies was offered the peer review services of Alaska Sea
26 Grant (ph) and turned them down. So, that's a pretty lame excuse

1 from my point of view.

2 DR. GIBBONS: This is the first time I've heard of this,
3 so I'll do some checking into this situation. I was not aware that
4 Bob was doing the symposium first and the other one second. I'll
5 work with Bob on that.

6 MR. RABINOWITCH: Any questions or shall we go to the
7 second handout? I'll let go around the table here. Just put the
8 extras in the back there. I'll collect them.

9 Okay. What you're looking at is kind of a one-page, sneak
10 preview, is the way I'll categorize it, to what alternatives might
11 be. When we -- we're gonna talk about key elements. We talked
12 about -- a little wordy -- the draft sketch alternatives.
13 Obviously, the top of this is entitled draft alternative themes.
14 The difference in what we hope to give you and what we're giving
15 you for the moment is that you have to envision here a little bit,
16 back to the framework that I keep holding up and the options, that
17 these 40 or so options, if you want to sort of think of them as
18 sort of -- sort of x's that can get dropped boxes -- that you could
19 take any number of these options, or really any of these options
20 and put them into alternatives one through six here. The point
21 being that you don't have to do all things for all species and
22 services in all places at an equal magnitude of both time or money.
23 Okay? So, that's sort of the big picture, and the next round --
24 that's exact from us, the material -- that's exactly what you'll
25 see is -- you'll see a range of alternatives, and you'll see that
26 restoration options 2, 7, 9, etc., are in option 1, you know, so on

1 and so forth. So, it'll really be meat kind of the meat on the
2 bone. But this is a meatless -- meatless chart here. No meat on
3 the bone.

4 Now, let me try to explain what we've got. This is -- this is
5 the document as we gave it to the restoration team. I actually
6 forget if we gave it to them on the 30th of October or a couple of
7 days later, but it was right about this time, and we've had one
8 detailed session -- the planning work group and the restoration
9 team -- we spent, I think, an entire morning going through this,
10 and we are actually working to modify this a little bit as we
11 speak, and the next generation of this will be, I believe, and
12 maybe you can help me on this possibly, will be given to the
13 Trustee Council on the 11th? Do I look like I'm on track there?
14 So, the next version will be out soon. So, what do you have, what
15 do we have here? Across the top, six different alternatives.
16 That's pretty easy. On the left hand column, we have the first
17 block of theme. I really not going to -- kind of spend too much
18 time with that. More important I think is the second, where we
19 have the word, variables, and then following is the 1, 2, 3, and 4
20 below it. These are variables essentially that one can tinker
21 with. I'm going to take just a couple of minutes and try to
22 explain -- give a couple of examples of how we did it, how you
23 could do it, how anybody might use the -- then at the very bottom,
24 we have the settlement characteristics, bottom left-hand box. The
25 settlement, again, a very important document. There is a lot of
26 clear -- items in there, and throughout the plan we fully intend to

1 always look back to the settlement documents and make sure we're
2 being consistent with the guidance those provide. I'm not going to
3 talk very much about that one today, I don't -- take it on faith
4 for a moment -- for -- 'till the next time you see, as it were,
5 we're doing what we're supposed to do here in terms of settlement.

6 So, what you really have here then -- I'll run through the 1
7 to 6 quickly. The first alternative, natural recovery, is
8 essentially mandated by the NEPA process -- the EIS process -- the
9 Natural Environmental Policy Act that we need to follow. And it's
10 relatively straightforward. People call on a variety of things
11 that's no action alternative, you know, we refer to as natural
12 recovery -- actually natural recovery, natural action sometimes --
13 and in this alternative what we essentially say is, monitor and
14 that's it. No active restoration. Just go monitor what's going
15 on. Okay? Pretty simple alternative.

16 The second alternative -- I might add, as you can see, there's
17 big implications about how your money would be spent, what kind of
18 work would occur or not occur, and what happens to the injured
19 resources and services as we go throughout this. Okay. The second
20 alternative is labelled protection. This one is really meant to be
21 responsive to a huge block of public comment that is interested in
22 protection and acquisition of habitat. Okay? So, in the theme
23 part -- protect injured resources and services from further
24 degradation -- because if you buy, if you will -- if you buy some
25 non-government land, you're not directly restoring an injured
26 resource, you are more likely preventing further degradation --

1 okay -- to a resource or its habitat, in order to complement
2 natural recovery. Then in the variables, all injured resources and
3 services -- the word 'all' is a super important word. All.
4 Everything that we agree is injured, you aim toward with this
5 alternative. Okay? Knowledge of re -- recovery, known and
6 unknown. In spite of all our bright scientists, we don't know all
7 the answers about recovery. So, we're saying we would deal with
8 that as a realdoc (ph) and those that we don't know about -- a big
9 variable. And then -- I'm gonna hop around a little bit here down
10 to the fourth one, geographic constraint within the EVOS area only,
11 within the oil spill area only. Now, we've actually yet to
12 strictly define that area -- what is the oil spill area -- but
13 we're hard at work at it, I promise you. And I imagine we will
14 have a map with a line on it saying, inside the line is the area,
15 and outside isn't. In my own mind, we've ultimately got to boil it
16 down to something that simple, and everybody can debate where the
17 line should be, but at some point you've gotta make decisions, and
18 this is a key one that has to come along. Okay, I'll keep going
19 along until you all ask questions.

20 Alternatives 3 and 4, I would suggest you think of kind of as
21 a pair, alright? Then alternatives 5 and 6, they come as a pair.
22 I'll go through these separately now, but 3 and 4 is a pair, and 5
23 and 6 is a pair. The key thing that makes 3 and 4 pairs are the
24 population injury. I'm reading in the theme box the last couple of
25 words above, says, "resources" -- "services and resources injured
26 at a population level." That -- I'm not a biologist, and I don't

1 think all of you are -- I know a few of you are -- but population-
2 level injury is a pretty big thing. It's a lot of damage; it's a
3 very big scale. It's pretty hard to prove. So when you prove it,
4 you've come a long way with information, you know, you've really
5 got a good case. And the point is, we don't have that case made in
6 all resources concerned -- okay -- all resources. So, that pairs -
7 - that pairs those. On the knowledge of recovery, in 3 you have
8 known, in 4 you have known and unknown. It's like a switch, on --
9 you know, on or off here. Then in effectiveness of restoration
10 activities, the first two words under 3 are "most certain to
11 produce greatest improvement," and in the fourth, "reasonably
12 certain to produce at least moderate improvement." I think of this
13 as just a higher or lower standard. Okay? The reality is that as
14 you have a higher standard, you'll probably deal with fewer things.
15 Alright? Fewer species, for example. That may be exactly what you
16 want to see happen; it may not be what you want to see happen.
17 Again, we think of these as variables. Alright? And then the last
18 variable on those two within the area and outside the area. I'm
19 going to stop myself and just say that as you can imagine, there's
20 probably a hundred different ways that one could organize all this.
21 This is where we've landed. There's clearly no right or wrong to
22 any of this, and I would encourage you as you all have time to read
23 this, advise us, if you have thoughts and suggestions, we'd love to
24 hear 'em. We do not have any (inaudible - coughing) the right
25 answer here, and we'd really love to have all your ideas. We'd
26 truly love to have all your ideas.

1 Okay. I'll jump over to 5 and 6 now. Both of them show all
2 injured resources and services. Alright? Five refers to the most
3 effective techniques. Six refers to reasonable, and it says
4 "actions" -- actions or techniques. So, again, a little higher
5 standard or a little lower standard. Or one could think, more
6 narrow or more broad. Okay? Try to use your own adjectives here.
7 I don't want to, you know, kind of arbitrarily pigeon-hole some of
8 these. Both of them deal with injuries, including sub-lethal
9 effects, and that's dramatically different than 3 or 4 where we
10 talk about population injury only -- dramatically different. Okay?
11 Because what you get in those is that you add quite a number of
12 species -- I can't tell you how many that is -- but quite a number
13 of species where we have smaller effects, we have smaller growth of
14 organisms, perhaps, we -- I'm not a great expert at sub-lethal
15 effects here, but just a whole variety of chronic problems that
16 we're pretty certain are tied to the oil spill, but it's not a
17 population-level injury -- you know, you're not gonna see,
18 probably, say, big die-offs, or you're not gonna -- you know, you
19 don't have lots of bodies of critters in the water -- things like
20 that. In terms of knowledge or recovery, in this case we've said
21 both known and unknown, and then under effectiveness of
22 restoration, most certainty, reasonable certainty. The same thing
23 that I said a moment ago about the differences between 3 and 4.
24 Geographic constraints are shown one in the area, one that includes
25 outside the area. I'm going to stop there. We spent four hours
26 talking about this piece paper with the restoration team, and

1 probably could have spent a lot more on it, and I'm sure we will
2 spend more, so for me to do this (inaudible). I know it's an awful
3 lot to digest, but I'm going to stop anyway, and try to help

4 MR. McMULLEN: The question one more time, alternative 2
5 and alternative 5, effectiveness of restoration of activities, your
6 statement is that this produces the greatest improvement in each of
7 these cases, whereas what looks like a larger program produces
8 moderate improvement. Would you say this is because that the group
9 that developed this -- this sheet here, believed that projects
10 which were more focused would be more successful? Is that what
11 you're saying?

12 MR. RABINOWITCH: No. (Inaudible - laughter) The
13 question -- let me try to explain it. One -- let me start with one
14 correction, on alternative 2 under effectiveness, we are talking
15 about prevention of degradation or decline. We're not talking
16 about improvement to an injured species.

17 MR. McMULLEN: Did I say two? I meant three.

18 MR. RABINOWITCH: I believe you said two. Okay, you
19 meant three.

20 MR. McMULLEN: I'm talking about three and five, as
21 opposed to four and six, and why it is limited restoration provides
22 greatest improvement, where moderate restoration provides less
23 improvement. I'm mean -- I've got to look down at this table to
24 keep you straight. If I was to make this table, I would have
25 switched those.

26 MR. RABINOWITCH: That's the kind of comment that we're

1 interested in. The key -- I think the best answer that I can give
2 you, understanding that you -- as I say, you can arrange this study
3 in a million -- a hundred ways, a million ways, is that on three,
4 you're dealing with two things. Under injury -- population-level
5 injury, which is sort of a narrow constraint, and then under
6 knowledge of recovery, you're dealing with known. That, again, is
7 a narrow constraint. Net effective in alternative 3, you're gonna
8 deal with a list of species which is shorter than you would deal
9 with in 5. Now, one of the other things to keep in mind then is,
10 we have a given amount of money, and in theory, if you apply that
11 same amount of money to a lesser number of species, it may be
12 stretching it, but maybe you could do a better job because you have
13 more money. You know, it doesn't always hold true to that, but
14 that's part of the sum difference. Does that help?

15 MR. RABINOWITCH: Yes. That comes right back to what
16 I -- I thought you said in the first place. I was just trying to
17 get an understanding of that by further analysis of the project.

18 DR. GIBBONS: If I can give you a little insight into
19 it, is that you've got a narrow list of species, they've been
20 injured, larger injury, and you're -- we're -- we're real confident
21 we can do something for those species to bring them back. We have
22 the greatest rate of recovery because they are injured the
23 furthest. Whereas, if you've got some sub-lethal and some other
24 effects that are not so great, you know, we're probably not so
25 concerned if we can increase the rate of recovery, and that's -- I
26 think that's the difference.

1 MR. RABINOWITCH: A very good point

2 UNIDENTIFIED VOICE: Yes.

3 MS. BRODIE: Could you explain what number four,
4 geographic constraints, why most of them are EVOS-area only, that
5 moderate restoration recovery (inaudible). Is that just arbitrary?

6 MR. RABINOWITCH: Not completely, but there's no magic.
7 There's no magic to why (inaudible) without. I think the reason
8 that it leaves more the within than the without is that is our
9 sense that there is a real strong interest -- again, where in a
10 sense we've come. It's pretty collective of -- six people's sense
11 and everybody else's sense that they'd like to see the money spent
12 sort of close-to-home, if you will, within the spill area, within
13 Alaska, in fact. That kind of thing. No match, in the collective
14 sense of

15 MS. BRODIE: I can understand that. I was more
16 confused by why moderate restoration (inaudible -- coughing)
17 outside, and others don't

18 MR. RABINOWITCH: More trying to show choices here.
19 There's just not a -- a -- a big slug of --- a big slug of
20 materials saying why you would take, you know, three, and you would
21 only within, and the others without. Let's say, continuing along
22 the comments made a moment ago about number three where you have
23 this narrow constraint, one -- one certainly could say, well, in
24 terms of geographic extaint (sic) -- extent, you have a narrow
25 constraint, so let's use the narrow geographic constraints on that
26 one. But, you just -- there just isn't magic here. (Inaudible)

1 DR. FRENCH: Along those same lines, nobody's --
2 several bird, fish, mammal species move in and out of the spill
3 area. Did your discussions about geographic constraints help with
4 that issue at all? How those would be covered on a line that might
5 or might not be drawn.

6 MR. RABINOWITCH: The answer is yes. In fact, a
7 definite yes because it was -- three members of our group, and we
8 are only a six-member group, three members of our group that are
9 working on that exact question as to where does the line go, and
10 that is one of the concerns. That, I know for a fact, is one of
11 the issues they are wrestling with -- how do you deal with those
12 migratory species. I don't know what they're gonna to come back to
13 -- our whole group -- how we -- we tend to split off into small
14 groups and work and come back to the whole. I don't know exactly
15 where they're gonna land on that, but at some point, probably
16 birds, probably fishermen have it too, but I thought of birds when
17 I think of an example, clearly we know the variety of birds that
18 come to the spill area, spend their winters, you know, in
19 California or Mexico, and so on and so forth, just a long way away
20 from Alaska

21 DR. FRENCH: we catch Puget Sound salmon up here,
22 or vice-versa.

23 MR. RABINOWITCH: Yeah, I'm not trying to knock fish,
24 I just am a little more aware of birds that fly far away than I do
25 fish (inaudible). At some point, that line is, I think, going to
26 clearly cut out migrants that go a long way away. In my own mind,

1 if you draw a line at some point, there's going to be some fish
2 that go so far away, they are not going to fall within there. Now,
3 whether that ultimately is acceptable to everybody or not
4 (inaudible -- simultaneous talking), of course, I think is a good
5 point.

6 DR. FRENCH: a very serious question

7 MR. RABINOWITCH: Sure.

8 DR. FRENCH: respect to both nesting habitat, but
9 also with respect to breeding habitat for a few little fish. One
10 of the -- one of the most susceptible life stages of the fish are
11 in the fry stage (inaudible).

12 MR. RABINOWITCH: I mean, the point you make, I suggest
13 would be a good argument for two different things. One is that a
14 line on a map should -- could be drawn very, very probably to make
15 sure that those areas are included. The other approach -- these
16 aren't mutually exclusive -- the other approach would be -- I'm not
17 trying to put words in your mouth, but for you to comment and say,
18 I just want to see everything allowed within and outside of the
19 spill area in terms of (inaudible). You know, off the top of my
20 head, there are two different ways to approach the -- you may well
21 (audible).

22 MR. KING: I -- I was just gonna -- I detect that you
23 already have done some thinking about the seabirds. I want to
24 mention that the seabird people that I've been in touch with are
25 very strong on the defense that the way to restore seabirds numbers
26 by doing some restoration of habitat outside the spill area. They

1 are coming out very strong in that regard, and this would be some
2 of the places in Alaska that (inaudible) build up numbers. So, I
3 don't know how that would directly affect the grouping here. I'll
4 have to think about it a little bit more, but I would say that
5 perhaps we wouldn't want to get too rigid on it -- within, outside
6 -- at this juncture.

7 MR. RABINOWITCH: Thank you. I understand what you're
8 saying clearly, and (inaudible) agents Parks and Fish and Wildlife
9 Service and the Department of the Interior (inaudible) -- I don't
10 think in years past included the various species that were hit real
11 hard in terms of maybe trying to figure out why (inaudible) took
12 place. I don't know the background (inaudible) in the San
13 Francisco area, some from the Puget Sound area, and so on and so
14 forth. (Inaudible) I think I understand your point. Another
15 thing, that's a good example of the kind of comment that will help
16 us

17 MS. BRODIE: My question, which is related to these, is
18 how flexible the system is going to be. For instance, for some
19 resources and injuries that -- that they might be best served by
20 simple protection alternatives. Others might be better served by
21 a more active restoration. For instance, seabirds might be best
22 served by removing (inaudible) predators from (inaudible) outside
23 the EVOS area, large -- some seabirds. Something else -- marbled
24 murrelets might be better served by protecting habitat. If you --
25 the Trustee Council adopts one of these alternatives, does that
26 mean it has to stick to everything as that alternative is applied,

1 even though something else might make more sense in specific case?

2 MR. RABINOWITCH: The last thing I'll ever do is try to
3 speak for the Trustees Council, but where we're trying to come from
4 is to provide a couple of things. One, and I hope I (inaudible)
5 this -- a range of alternatives. And there's more words, there's
6 more adjectives than I can keep track of to describe what either
7 end of this range is, but if you want to, for the sake of this
8 discussion, think of one end as a very narrow type to define, it
9 might go to something like alternative 3, where I said, for
10 example, various variables are narrowly focused, they tend to
11 eliminate species, they tend to eliminate areas, and so on and so
12 forth, because our knowledge of what it is, the number of species,
13 population-level injury is less than those with lesser (inaudible).
14 The other end of the spectrum would be all species, all services.
15 Draw the list as big as you want -- you want to make it the state
16 of Alaska, you want to make it the West Coast -- I don't think
17 there's really any rules -- I mean, there is some in the settlement
18 documents, but -- so, our notion is to try to provide a range, and,
19 in fact, there is a word -- I think it's in law or regulation --
20 NEPA -- that requires we provide a reasonable range. That's our
21 bottom-line goal -- reasonable range. In my mind, and I've got,
22 you know, one voice, and it's small voice in all this, I personally
23 tend to lean more toward more options for the Trustees, rather than
24 fewer options, and if six Trustee Council members sat me down and
25 said, Sandy, what do you think? I'd said, leave the gate open
26 rather than close it, because, frankly, I think we're smart enough,

1 but we haven't figured it out yet. So, I'd rather provide
2 opportunity for kind of anybody to come to the group and make their
3 case, and let the Trustees make their decisions on the merits, sort
4 of next year's (inaudible). I'm not saying, nail the gate open and
5 let anything come in, but, you know, set up some parameters, stick
6 to the -- but have a lot -- have the flexibility there. That's
7 just my own

8 MS. BRODIE: The proposed (inaudible -- simultaneous
9 talking)

10 MR. RABINOWITCH: my own

11 MS. BRODIE: would be alternative 6?

12 MR. RABINOWITCH: Umm. In terms of this piece of
13 paper, yes. But -- but, you know, to me, more flexible would be
14 all injured resources and services, as opposed to only those of the
15 population level. Okay? Or it would be known and unknown
16 knowledge of recovery, as opposed to known. Now, clearly, there's
17 a lot of people that disagree with what I just said my personal
18 opinion was. Okay? I mean, there's lots of people that would just
19 say, no way. They'll spend money something that maybe it's
20 recovering just fine, but we just don't know it, or we don't how to
21 figure it out. So, in effect, we waste money. None of us want to
22 waste money. We want to utilize wisely. So, there's just a great
23 variety of opinions about all this. I certainly don't claim to
24 have divine knowledge of how to come up with the right answers.

25 MR. MUTTER: I think a couple more questions, then
26 we'll take a lunch break.

1 MR. PHILLIPS: Your voice may be small, but I find it
2 extremely articulate. In regard to your group, have you given any
3 thought at all instead of drawing a line to designate the spill
4 area, of multiple lines, maybe one for fish, one for sea mammals,
5 one for birds, and these could be superimposed over the West Coast
6 or Alaska or Prince William Sound, or whatever it is, so that it
7 could be utilized to -- when we're dealing with specific projects
8 dealing with one or more of those different species that may need
9 attention, where they could be different, and they are kind of like
10 an overlay. If we're dealing with fish like is what we should be
11 looking at versus -- have you given any thought to that?

12 MR. RABINOWITCH: The short answer, I think is no.
13 But, I find it an extremely interesting suggestion, and I'll make
14 sure that the people who dealing with it hear that -- real quickly,
15 because that's a real interesting suggestion. They may, and I'm
16 just, you know, not up to speed, but I've not heard them mention
17 it.

18 MR. McCORKLE: I could support that concept too of -- I'm
19 familiar with a concept which is called zones of impact, and they
20 tend to move back and forth, either the species or associated or
21 related populations. What I am -- I am encouraged to see there is
22 latitude in each of the alternatives, but I guess my question is,
23 once these alternatives are adopted, is there no chance for
24 modification if -- if it should be proven desirable after some
25 research or some experience?

26 MR. RABINOWITCH: I'm offering a lot of opinions today.

1 In my own opinion

2 MR. McCORKLE: A simple yes or no

3 MR. RABINOWITCH: This one isn't that simple. I've
4 given you a few yes and noes. I think it is. I would hope that --
5 I think as -- if there's room for modification. I've been involved
6 with a lot plans for the essential parts of three decades here now,
7 and I can't say I've ever seen one go in and how it looking the
8 same. I can't imagine that we're going to do such a perfect job on
9 this plan that what we put in is going to be back in the same way
10 it came out. I think it's gonna -- I think there will be
11 modifications, and I think there'll be modification on the
12 alternatives as we go

13 MR. McCORKLE: Not to delay lunch, but maybe what you're
14 -- is it your goal to say that once we get this matrix in
15 operation, then we don't need to decide how (inaudible --
16 extraneous sound) -- that's it, go boys and do it? That might not
17 be

18 MR. RABINOWITCH: I mean, it's not in my view, one --
19 of how its doing. Certainly, at some point, indeed at every point
20 that something moves through an organization, you have to cut the
21 line and move on, and we certainly need to do those kinds of
22 things. In our own group, one of the key things that will drive
23 these alternatives -- of course, as the injury -- the list of
24 injured resources and services (inaudible) out, we've got a data
25 base where we have all our stuff, and I'm not a great computer
26 expert here, but we've got it all in there, and basically when we

1 get these things firmed up, we sort of adjust all those switches,
2 we ask the computer a question -- the computer has to know what we
3 put -- but -- and it will spit out these options that match these
4 themes. Okay?

5 MR. McCORKLE: And that's what you'll do?

6 MR. RABINOWITCH: We've gone through it once. We've
7 had it peer-reviewed, and we've had suggestions for changes, which
8 were taken straight away. We're taking them to heart, but, not
9 only do you spend your money for it

10 MR. McCORKLE: question. Thank you.

11 MR. RABINOWITCH: I'll stop.

12 MR. MUTTER: We'll get an opportunity to grill Sandy
13 some more in upcoming meetings.

14 MR. RABINOWITCH: I'll try to be around -- I won't be
15 around this around this afternoon, but I will try to be around
16 (inaudible - extraneous noises).

17 MR. MUTTER: Shall we reconvene at 1:30? Is that
18 acceptable?

19 UNIDENTIFIED VOICE: Yes.

20 (Off record 12:30 p.m.)

21 (On record 1:45 p.m.)

22 MR. MUTTER: Shall we go ahead and resume the meeting
23 now. What I'd like to do is have Craig Tillery, who is with the
24 state Department of Law, start off this afternoon's session, and
25 he's going to talk a little bit about the state open meetings law.
26 Craig?

1 MR. TILLERY: We were asked whether the state open
2 meetings law applies to this body, and also whether two of you
3 could talk about what you're doing over coffee, or whatever,
4 without having an open meeting. The answer to the first question
5 is real simple. This body is subject to the state Open Meetings
6 Act. It has to give reasonable and so forth and so on. If --
7 subcommittees, committees, and so forth, of this body are subject
8 to the Open Meetings Act. The more difficult question is informal
9 contacts between two or more of you under the Open Meetings Act.
10 There is -- are a variety of opinions on that. There are a couple
11 of different, in fact, superior court cases on it. State court has
12 been reasonably strict, although, as usual, they tend to look at
13 the exact facts of the case before they make the decision. But
14 most recently, a Fairbanks superior court judge held that when two
15 city council people get together and chat, that it has to be an
16 open meeting. That's on appeal on to the supreme court. I think
17 it's a very difficult application of the law. If I were guessing,
18 I would say that that decision is gonna get reversed, but until
19 that decision is reversed, our advice to you would be that you
20 should not talk each other (simultaneous laughter) except in open
21 meetings

22 MR. McCORKLE: Boo. Hiss. Cabbages. (Simultaneous
23 laughter.)

24 MR. TILLERY: I think that's a terrible result. I don't
25 think government can function that way, but that is -- that is the
26 way that -- that's the safe course.

1 Now, if you don't it, then what happens? Well, your actions
2 are void. Well, you don't take any action, so -- however, in an
3 unused Alaska case, they voided the actions of the people who made
4 the decision that the advisory committee gave advice on. Again, I
5 think the chances are that if two of you get together for coffee
6 and talk about something, I don't believe that a court is gonna
7 find that to be subject to the Open Meetings Act requirement, but
8 there is at least one superior court in this state that would
9 appear to rule to the contrary.

10 MR. McCORKLE: Did that apply specifically to members of
11 an advisory group that were not elected? The last instance you
12 cited?

13 MR. TILLERY: It was -- no -- but was an elected body,
14 but the statute makes no distinction. Advisory groups are subject
15 to Open Meetings Act. Federal, state advisory groups under the
16 North Slope Borough v. Hammond are subject to the Open Meetings
17 Act. I know, I lost that case.

18 MR. ANDREWS: Didn't the conversation between two
19 members of an advisory committee or some public body have to deal
20 intimately, you know, with the activities of that committee?

21 MR. TILLERY: It has to deal with

22 MR. ANDREWS: If the two people are just talking about
23 the weather or football

24 MR. TILLERY: You can talk about the weather or
25 football.

26 MR. ANDREWS: Right. So in other words, someone has to

1 prove that you're actually talking about material or something that
2 you have an activity with.?

3 MR. TILLERY: The instruction this court gave the jury
4 was, "to deliberate means to examine, weigh or reflect upon the
5 reasons for or against the questions under consideration." You can
6 talk to -- you know, if you were -- you want to go talk to somebody
7 about wolf hunting or something, that's fine, but it's when you get
8 into Exxon Valdez restoration that you're getting into a danger
9 zone.

10 UNIDENTIFIED VOICE: Wolves are precious.

11 MS. BRODIE: You mean, even talking to one other person
12

13 MR. TILLERY: There was a number of this -- go ahead.

14 MS. BRODIE: It's like if I want to talk to Vern or
15 Jerry, and call them up on the telephone to say, gee, I've got an
16 idea on, that we could maybe discuss at the meeting. That's
17 forbidden?

18 MS. FISCHER: Yes.

19 MR. TILLERY: In my view, the supreme court will
20 eventually rule that that is not forbidden. However, the superior
21 court in Fairbanks used a jury instruction that would say that is
22 forbidden.

23 MS. FISCHER: At AML this fall, in November, the AML
24 body fully supported taking the Open Meetings Act back to the house
25 and to the senate to have it clarified, defined, and worked on, and
26 work with a quorum. You know, like if there's more than quorum,

1 yeah, they're violating. If there's less than a quorum, such as
2 two people like in the Fairbanks case, or even the Cordova case is
3 another good example, that it won't violate a law, and hopefully
4 that'll pass, and I think it's really important for everybody here
5 to call your legislators and talk to them and make sure that they
6 do pass that.

7 MR. TILLERY: Yes. I think -- yes, you're right. In
8 this body you might want to think about talking to the legislature.
9 One model is the -- you know -- last year for the Trustees, they
10 passed a specific section, a new section, of the Open Meetings Act
11 that said that two trustees could get together and talk so long as
12 they weren't agreeing to cast their vote in a particular way. And
13 that is not unreasonable way to implement the Open Meetings Act,
14 but, in looking at that, it only applies to the Trustees or to
15 someone to whom they delegate authority, and our view is that this
16 body is not delegated authority by the Trustees, therefore, you
17 don't come under that provisions. But, you know, that's another
18 way the legislature could deal with this particular (inaudible).

19 MS. FISCHER: Another thing I know Gordon Tans, you
20 know, did an outline, a nice booklet, on the Open Meetings Act
21 since then, and one of the things that he had said or suggested,
22 and I don't, and he said it's really up for debate, depending on
23 how someone looks at, and if two people mate -- meet and decide a
24 law (simultaneous laughter) and decide a law -- and decide a law or
25 a financial responsibility or the cost of somebody's job, then they
26 have definitely violated the Open Meetings Act. If it's a decision

1 on how money's to be spent, say, if three people decide, like Pam
2 said, maybe she'd like a closed hearing, you know, and say
3 something (inaudible) and it could relate to how the money would be
4 spent, we would be violating that law. It's interesting, you know.

5 MR. McCORKLE: I think the longer we discuss this, the
6 higher our liability rises, and therefore I suggest the discussion
7 be closed. (Simultaneous laughter.)

8 MR. McCUNE: We don't appreciate (inaudible --
9 simultaneous laughter).

10 MS. FISCHER: Sorry about that Sherry. That was close
11 to home.

12 MS. BRODIE: What about committees? We were talking
13 earlier in the day about having committees of this group.

14 MR. TILLERY: Committees are clearly subject to the Open
15 Meetings Act. It talks about all means -- the legislative body,
16 board, "for reasons for the administrative body, board, commission,
17 committee, subcommittee, (inaudible) council, agency," blah, blah,
18 blah, "advisory or otherwise."

19 MS. BRODIE: So it might be -- what -- what does a
20 committee do to make sure that it is not violating the?

21 MR. TILLERY: Well, you know, you get into -- the
22 biggest problem you have is reasonable notice, because by and large
23 nobody cares. I mean, nobody's gonna come to it, but if -- but if
24 somebody wants to overturn a decision, then they're gonna use this
25 as a technical basis for a plan to throw it out. Reasonable notice
26 is not something that's been defined a lot. I don't think it means

1 that you have to put an ad in the newspaper. You know, we don't --
2 that's unreasonable because for one thing you get committees --
3 subcommittees (inaudible), but, secondly, it costs a lot of money
4 to do those kinds of things (inaudible). So, what I was thinking
5 that, you know, you might want to do is have a place, maybe out
6 here in lobby or some place because of boards, that you could put
7 up announcements of meetings and, again, it's a loose thing, and
8 you're never going to have a course in the rule, but if the public
9 knows it can come here and check that board and find out when your
10 subcommittee or whoever is meeting, then I think there's a -- at
11 least a good argument that that was reasonable public notice under
12 the terms of the Act. And if the public comes, you've gotta let
13 'em in.

14 MS. BRODIE: Oh, yeah.

15 MR. TILLERY: Most of the people have -- don't see a
16 problem with that. The problem is the notice. It's too onerous.

17 MR. MUTTER: Any other questions for Craig?

18 MR. CLOUD: You said that when two people get together
19 and discuss an item of question, does that mean that the discussion
20 is relative to -- we're limited from discussing questions that are
21 being raised, or just anything that has to do with the business of
22 the Trustee advisory group.

23 MR. TILLERY: Well, this particular jury instruction
24 talks about "examine, weigh or reflect upon the reasons for or
25 against the questions under consideration," and it talks
26 "deliberations include two or more members of the city council

1 gathering and exchanging information concerning the merits of the
2 question under consideration or the votes to be cast on that
3 question." So, it appears that even under this interpretation,
4 it's gotta be something that's before this body.

5 MR. MUTTER: Marge?

6 MS. RUTHERFORD: Perhaps -- let me ask a question
7 here. If the -- my (inaudible) just had a presentation on the
8 draft restoration plan, and there's really no question in front of
9 them, is there anything to preclude them going off and talking
10 about different alternatives? I mean, it's not necessarily
11 directed towards to some suggestions they're going to give the
12 restoration -- the Trustee Council, it's just

13 MR. TILLERY: This body's not going to have any input on
14 the draft restoration plan?

15 UNIDENTIFIED VOICE: But there's no question

16 MS. RUTHERFORD: Yes, there is. They will. But, I
17 mean, there's no question pending on it. It's more of a discussion
18 of the pros and cons and, you know, the ways of looking at it.
19 It's not

20 MR. TILLERY: But eventually, I mean, the bottom line is
21 the body is going to get around to giving its recommendations, I
22 suspect, or its views, you know, and the court's not going to

23 MS. RUTHERFORD: So, it doesn't have to be a specific
24 question?

25 MR. TILLERY: No. It doesn't have to be Roberts' Rules
26 of Order question on the floor.

1 MS. RUTHERFORD: Okay.

2 MR. TILLERY: If it's something that you're dealing with
3 out of this case, you shouldn't talk about it. But, again, like I
4 say, I -- you know, I don't believe a court, at least in this
5 situation, I don't believe a court's gonna buy it, but there's a
6 risk. And, actually, I don't even know what the timetable is on
7 deciding this, but probably within six months or more we should
8 know something.

9 MR. GAVORA: What are the penalties besides getting
10 fired? (Simultaneous laughter.)

11 MR. TILLERY: Actually, I don't think you're get fired.
12 I think your city goes bankrupt. (Simultaneous laughter.) The
13 action is void, and at least in one case, the actions of the people
14 to whom the advisory committee was advising was voided. I think it
15 was a firing case as I recall.

16 MR. MUTTER: Anything else?

17 SEN. ELIASON: Who was the judge?

18 MR. TILLERY: I think it was Hodges. But -- I don't
19 have that down here, but I think I remember from the newspapers.

20 Well, does anybody want a report on our views of what you can
21 do with the money?

22 MR. CLOUD: No.

23 MR. TILLERY: Okay.

24 MR. CLOUD: Just kidding. (Simultaneous laughter.)

25 MR. TILLERY: Well, the last meeting -- at the last
26 meeting of the Trustee Council, I think Charlie indicated that we

1 were working on a legal opinion of exactly what restoration funds
2 could be spent for. At that time, we promised we would have
3 something within ten days. Since they just got the response back
4 from the Justice Department yesterday, they don't have anything
5 written, but I do have sufficient agreement from the Justice
6 Department on their views, that I think what I can at least give
7 you is the views of the Department of Law and the knowledge that
8 the Department of Justice, at least, has already concurred in those
9 views.

10 COLLECTIVE VOICES: Please do.

11 MR. TILLERY: Okay. Well, the use of the money needs to
12 be directed at restoration, replacement, rehabilitation, and
13 enhancement, okay, of the -- sort of the first level -- of injured
14 resources or affected services, and there's -- under this -- there
15 appears to be no distinction between those two, resources or
16 services. You know, they're sort of fully equal. You don't have
17 to favor one of those over the other. It also then talks about "or
18 the acquisition of equivalent injured resources or affected
19 services." In our view looking at the laws, regulations, and the
20 one or two cases that if not exactly come down on this point but
21 are somewhat similar, there is something of a hierarchy here where
22 the first items, the restoration, replacement, rehabilitation, and
23 enhancement, are a priority use of the fund. The latter, the
24 acquisition of equivalent injured resources or affected services,
25 is a second priority and one that you would only get to after you
26 had determined that you had finished with your first priority and

1 no more of those actions you could take or you -- you still had
2 money left over. But, it's important to understand what those
3 first ones are, and just because the word "acquisition" is kind of
4 a loaded word -- I only use that as an example -- acquisition of
5 habitat can, and in most instances would come within the first
6 priority, okay? If you had a marbled murrelet and -- this is going
7 to make a lot of scientific assumptions, most of which are probably
8 wrong -- but if knew the marbled murrelets needed to nest in old-
9 growth forests, you knew that marbled murrelets were definitely
10 injured by the oil spill, you knew that if you prevented -- you
11 bought some land and prevented logging that it would definitely
12 cause a rise in the marbled murrelet population. If you went out
13 and used money to purchase habitat that those marbled murrelets
14 that were affected by the spill -- the ones in that spill area --
15 the ones that died -- those populations, the ones that breed among
16 themselves -- that they use, then that would be an example of
17 direct restoration. If, on the other hand, you went and took the
18 money and bought marbled murrelet habitat near Sitka and, I'm
19 further assuming and I have no scientific basis, but there is no
20 interaction between that population and the population up here,
21 then you're involved in the acquisition of equivalent resources,
22 and you can't get -- in our view, you can't get to that until you
23 first deal with the populations and the species that were injured
24 up here. Okay? Is that somewhat ...?

25 MR. WILLIAMS: Give us

26 MR. TILLERY: We are going to try to get it finalized in

1 writing, and it will probably be some kind of a statement from the
2 Trustee Council. Now, I would note that there is -- all these
3 things are committed to essentially to the discretion of the
4 Trustees. They are entitled -- they are supposed to use their best
5 professional judgment. There may be some instances -- I can
6 foresee an instance where you -- a -- the Trustees, and you guys
7 could come to that conclusion, that a resource -- we're gonna have
8 more money than we can use for direct restoration. Okay? And if
9 you reasonably believe that, and you know there's an alternative --
10 there's an acquisition project that is just absolutely time-
11 critical, and it's incredibly important -- you know, when you start
12 loading up those factors like that, then this is not such an
13 immutable priority system that you can't go to that second
14 priority, you know, essentially ahead of time. It's just that all
15 things being equal, you look to that first priority first unless
16 you've got an awfully good reason to get into -- to go outside the
17 spill-affected populations. When you are actually looking at a
18 proposed project, and again we will get you something that'll have
19 a list, so -- you never know with justice -- the factors that you
20 should consider in doing that are the technical feasibility of the
21 project, the cost-benefit of a particular project, and sort of
22 under that cost-benefit -- is this the least costly alternative
23 that you could do to achieve that particular benefit? The
24 potential for additional injury to the resource if you don't act to
25 help it -- what would be the natural recovery period absent no
26 action? And, again, all of these -- most of these really come, if

1 you think about it, get rolled into cost-benefit -- that analysis.
2 Whether there is an ability to recover under some alternative
3 actions or, again, no action. One that you need to consider is the
4 affect on human health and safety. You know, we don't want to be
5 approving any projects that are ultimately going to harm on humans.
6 Consistency with federal and state laws -- that -- should be able
7 to advise you on that. In fact, those projects shouldn't really
8 get that far. The resource has to be one injured by the spill or
9 it has to be related to a service that was affected by the spill.
10 You should consider the public value of the resource, and the
11 public value of the resource can come from, you know, a number of
12 different ways that you can think -- you can figure it up yourself,
13 what's -- why the public would value the resource. But an example
14 that the public might value a resource is because it might be an
15 endangered species, and the public has traditionally placed a very
16 high value on endangered species, and therefore, all things being
17 equal, it might deserve a project that if it were not an endangered
18 species, you wouldn't do it. By the same token, a commercial
19 species is one that would have a high public value because it has
20 a tremendously high service. So, there's kind of a wide range of
21 things in there, but just basically you look at -- look at what are
22 the -- when you prioritize and you try to figure out your projects,
23 you can take into account the value to the public, not all segments
24 of the public. And finally, do they -- does the project,
25 particularly for services, does it restore the services to the
26 original user group?

1 MR. PHILLIPS: Could you give an example of a service?

2 MR. TILLERY: Sport fishing.

3 MR. PHILLIPS: Sport fishing?

4 MR. TILLERY: Yeah. And let me -- let me give you an
5 example. Let's say somebody is -- loves to rockfish off of Seward,
6 and so rockfish got decimated -- I'm making all this up -- the
7 rockfish got decimated by the spill; we can't rehabilitate
8 rockfish. Alright? You could deal with that by providing that
9 sport fisherman a different kind of sport fishing experience, and
10 it could be by putting in a dolly varden run somewhere near Seward
11 or so forth. If also you know, because you've looked into it, that
12 that sport fishing population that goes out of Seward to fish
13 rockfish are the same people that if they're not down in Seward,
14 they're gonna be over on the Kenai River or the Russian River
15 looking for rainbow trout, then you could move over there and do a
16 sport fishing project to do rainbow trout. As long as you're
17 returning that service which is sport fishing time to that user
18 group -- you can't go in and provide services to the sport
19 fishermen in Western Alaska unless you can show that it was those
20 people that used to go to Prince William Sound to fish have all
21 since shifted their efforts to Western Alaska. And, I don't think,
22 you know, we'll be able show that.

23 MR. DIEHL: I'm having a problem, you know, you're
24 talking about things that are very concrete, but I represent
25 recreational users, and, you know, what they do is they -- a lot of
26 us go to Prince William Sound to service, like, ourselves, our

1 souls. Is there anything, you know, in the law that would allow
2 some kind of a reciprocal thing that?

3 MR. TILLERY: Yeah. Well, an example would be, well --
4 it's much easier for me to deal in concrete things -- but if you
5 are a recreational kayaker, and I don't want to go out there, and
6 like, I get time to going out on the beaches, I level the beach so
7 I can put my tent out, and I keep getting oil on the bottom of my
8 tent, you know, as to right an alternative service, you could
9 purchase a strip of coastal land and -- and have it acceptable to
10 the public for camping off the beach. You know, level, or
11 something like that. In the alternative, you know, if your soul is
12 satisfied by seeing -- I don't know -- eagles flying around, then
13 a project that tends to restore eagles, being an injured species,
14 and tends to satisfy your need for

15 MR. DIEHL: There's -- there's no way that, like, a
16 work of art could be used to replace a service that was lost by a
17 wide user group in not being able to go certain entire areas of
18 Prince William Sound?

19 MR. TILLERY: Like if we created a monument in downtown
20 that people could look at and feel good about instead of going out
21 paddling?

22 MR. DIEHL: Yes. Something in memoriam of how the
23 sound was.

24 MR. TILLERY: You're getting

25 MR. DIEHL: Something to remind people that such a
26 thing, you know

1 MR. TILLERY: I told you that

2 MR. DIEHL: Something to remind people that the people
3 of Alaska are very -- very adamant in seeing that it doesn't happen
4 again. Just a -- just a reminder of what happened. Do you see
5 what I mean?

6 MR. TILLERY: Yes.

7 MR. DIEHL: Almost an educational reminder of what
8 happened.

9 MR. TILLERY: I can see the argument, but -- but when
10 you start getting away from species and resources, you're getting
11 close to the edge. I --

12 MR. DIEHL: Well, that's the whole thing. How do you
13 value these species? A wolf is valued, you know, for its fur, you
14 know.

15 MR. McCUNE: Can you put in a different value though,
16 like, let's say for the proposal for the killer whales? We all
17 know there's a problem; we're not sure what that problem with the
18 killer whales are in the interim. I'm sure, then, everybody goes
19 to Prince William Sound loves to see whales. You know, I see them
20 all the time but I appreciate them every time I see them. So you
21 put a value on doing the project on what is going on with the
22 killer whales? How can we, you know, preserve them more so that
23 when people come to the sound, such as kayakers or any kind of
24 boaters, they can see that resource. And the resource to me --
25 reestablishing some of the resources, the bald eagle damage, the
26 river otters and all the damages that going over there, it's the

1 beauty of going over there and going around the sound. You don't
2 want to go over to the sound there and never see a sea otter or
3 never see a bird. It would be kind of like a wasted trip, besides
4 looking at the mountains, you know, all those things blend together
5 to make the sound what it is. The beauty of doing some of the
6 restoration projects that you're talking about would make a lot of
7 people's minds at ease if you're restoring those

8 MR. DIEHL: To restore the actual thing

9 MR. McCUNE: natural things.

10 MR. DIEHL: Yes. I -- you know, I'm also a member of
11 the Girdwood Center for the Visual Arts, and I was just wondering
12 if -- the natural thing for me to think about when I think about
13 the spill is great emotional upset and its art, and I see that a
14 problem of this group in relating to the public is taking that very
15 emotional upset into account. It's not being taken into account,
16 but it could by a work of art downtown, but -- so, I don't
17 understand how (inaudible) have a very visible thing somewhere,
18 perhaps, but that's -- this is not, you know, I'm just asking
19 legally there is no way to do this, you're saying?

20 MR. TILLERY: Legally, I think it's getting in very
21 treacherous waters.

22 MR. DIEHL: Yeah. Okay.

23 MR. WILLIAMS: You mentioned getting close to the edge.
24 Who determines the edge, and if we go over it what happens? Does
25 somebody -- a disgruntled person file a suit?

26 MR. TILLERY: Somebody sues either to -- well, here's

1 the possibilities. One, they sue -- propose to do something,
2 somebody says I don't want that to happen. They sue to stop it,
3 and the judge can enjoin the (inaudible) from happening. Secondly,
4 you do, if you spend the money, and somebody sues the Trustees
5 personally for breach of their fiduciary obligations for approving
6 something that was clearly outside that.

7 MR. WILLIAMS: Then the court determines the edge that
8 they went over? Are you gonna give us an edge in the meantime, or
9 is your edge only good for?

10 MR. TILLERY: For the -- when we get -- the projects
11 come through, they'll get run by us, and we will say, we think this
12 one's good, we don't think -- we think this one's got a legal
13 problem, you know, but, hey, we're all guessing, you know.

14 MR. WILLIAMS: Until the supreme court acts?

15 MR. TILLERY: Until the supreme court acts, you don't
16 know.

17 MR. WILLIAMS: Thanks.

18 MS. BRODIE: Craig, I have another question that is
19 related to work plans. There are some projects that went out for
20 public review with the federal attorneys, without the Department of
21 Justice, but with the federal attorneys, and some of those specific
22 agencies indicated that there were some legal problems with them.
23 Prior to the December 11 Trustee Council meeting, are you going to
24 give -- the Department of Justice -- the Department of Law, going
25 to give any comments on as to whether they agree or disagree with
26 those federal attorneys and

1 MR. TILLERY: (Inaudible) Yes, we are. (Simultaneous
2 talking) which one?

3 MS. RUTHERFORD: There's a

4 MR. TILLERY: Mariculture?

5 MS. RUTHERFORD: mariculture projects sets an
6 example of them, and I know that there are some public advisory
7 groups interested in some of those projects, and I think that that
8

9 MR. TILLERY: The state's -- the state's initial
10 reaction with the mariculture thing was that -- was that it was --
11 it probably -- it sounded legal to us.

12 MS. RUTHERFORD: The problem is that the restoration
13 team at the time they named their recommendations to the Trustee
14 Council only had the federal agency input on them, and so they're
15 presented in the work plan as being outside of our authority to
16 recommend them for approval, and I think that that's probably been
17 picked up by some of the public advisory group members, and they
18 probably are, you know -- I know some of them are interested in
19 seeing them proceed, and they may feel a little uneasy about that
20 without any kind of input from (inaudible).

21 MR. TILLERY: Is there anything else? any others?

22 UNIDENTIFIED VOICE: I'd like you to share that memo --
23 that -- there's some (inaudible) or concerns.

24 MR. TILLERY: Was it within your project for
25 mariculture.

26 DR. GIBBONS: Yes. It was. It was one concerning

1 partial (inaudible), I think, on subsistence -- questions there.

2 MS. RUTHERFORD: There was also a one -- I can't
3 remember on it, but where you could -- whether or not subsistence
4 users could be transported to a different location for subsistence
5 hunting, fishing, like they did during the response activities. I
6 think they were transported down to Southeast. Out of Chenega,
7 wasn't it? (Inaudible.) But I know there's another project in
8 (inaudible) where the feds said they did not think that was
9 appropriate. We can get you some numbers of the project.

10 MR. MUTTER: Kim?

11 MS. BENTON: If I can go back to the very beginning
12 when you gave -- listed the two priorities, can you tell me the
13 legal basis for having the first priority being the first priority
14 and, only if that fails, going to the second.

15 MR. TILLERY: It's not set out in anything in terms of
16 how you spend money in those priorities, but by looking at the
17 regulations, the statutes, and the so-called Catroni (ph) case, as
18 to how courts -- particularly it talked about how you get money,
19 you know, what you would charge somebody for, presumably which
20 would then have an impact on how you're supposed to spend it, it
21 would appear that there is -- that there is a priority between
22 those two, and, like I said, we will have, I think -- when we come,
23 we get this written opinion, if -- it will list all the various
24 regulations and statutes.

25 DR. FRENCH: Could you elaborate a little bit on the
26 difference between a service and replacement activities -- because

1 replacement activities are in your lower category? With your
2 recreation

3 MR. TILLERY: No. No. Replacement -- we're in the
4 first category.

5 DR. FRENCH: Would your injured resource -- your -- I'm
6 sorry -- your recreational fisheries or your equivalent commercial
7 fisheries, for example, if you're developing an alternative
8 fishery, even if it's not -- on non-injured beaches -- that is
9 presumably then an improvement of the injured service and a high
10 priority, at least a higher priority activity.

11 MR. TILLERY: If it's the same group of service users.
12 In other words, if it's the same people who aren't now allowed to
13 fish where they were before, it would be using this newly developed
14 service if you can, but if it's for people in Southeast, and they
15 never came to Prince William Sound to begin with, then, no, that's
16 the second tier.

17 DR. FRENCH: Well then, for example, with commercial
18 fisheries where most fishermen that stay in the industry today fish
19 more than one fishery. In other words, multiple fisheries are a
20 required life blood of the industry for the most part, at least in
21 many places. Is developing an alternative fishery for salmon,
22 herring, the other injured species a viable activity, or isn't it?

23 MR. TILLERY: If you can -- in our view, if you can
24 demonstrate that the people who lost that service, commercial
25 fishing, as a result of the oil spill, would be the people who
26 would stand to use this newly created service, then that would be

1 a direct restoration project, a direct restoration of a lost
2 service.

3 DR. FRENCH: And it wouldn't have to be exclusively
4 then?

5 MR. TILLERY: No. But as you move between -- between
6 ten percent of them and ninety-five percent of them

7 DR. FRENCH: Oh, yeah. I realize there has to be a
8 cut-off, yeah

9 MR. TILLERY: And, you know, basically

10 DR. FRENCH: Yeah. Yeah.

11 SEN. ELIASON: I assume we're not going to deal with
12 direct compensation of those losses -- monetary compensations.

13 MR. TILLERY: No. Those -- their direct compensation's
14 coming through their litigation. Yes?

15 MR. PHILLIPS: Are there any other examples of a service?
16 The use of that term applied to sport fisheries just doesn't fit in
17 my mind somehow, so can you tell some other services that might be
18 lost or damaged?

19 MR. TILLERY: I mean, killer whales is a service. It's
20 a service provided to kayakers, provided to people who ride on tour
21 boats, you know, the service is recreational. Bird-watching is a
22 service. The birds provide us a service.

23 MS. BRODIE: Commercial tourism is a service.

24 MR. TILLERY: Yeah.

25 MR. PHILLIPS: Yeah. That I understand. (Simultaneous
26 laughter) and what you're talking about, whales, birds, all

1 those things are species, and I

2 MR. TILLERY: Well, it's not the species that's the
3 service, it's the opportunity for viewing or for catching and
4 selling or for catching for fun -- that's the service. Also
5 subsistence.

6 UNIDENTIFIED VOICE: photographing.

7 MR. TILLERY: In other words, the law doesn't just look
8 to restore nature for nature's own sake. It does that, but it also
9 says, you know, people lost here too, and we can find a way to
10 restore what people lost. And we could do that.

11 UNIDENTIFIED VOICE: Resources aren't just species that
12 can be put in water

13 MR. TILLERY: That's right. That's right. Or clean
14 beach, I mean, for camping, is a classic example of a service. You
15 know -- you can't camp any more, you know (Simultaneous
16 talking.)

17 MR. MUTTER: Any other questions?

18 MR. TILLERY: Okay. That's fine by me. The only thing
19 I had was, someone told me, and I don't know if it's true, that --
20 does anyone have any questions about the Alyeska settlement?

21 MS. FISCHER: I would like to have, you know, a copy of
22 that.

23 MR. TILLERY: Would everybody -- I mean, should I just
24 have somebody make a ton of copies? Can you make a ton of copies?

25 MR. CLOUD: Is it bigger than any of these stacks
26 here? (Laughter)

1 MR. PHILLIPS: Not to kill any more habitat.

2 UNIDENTIFIED VOICE: Craig? Why don't you just give a
3 (inaudible) summary of what's in there for most folks, and can we
4 do that?

5 MR. TILLERY: Does everybody understand that -- what are
6 some of the basic components of the settlement, or is anybody?

7 MS. FISCHER: Would you explain to me -- or to us. I
8 think we've heard bits and pieces in the news, and

9 MR. TILLERY: It's essentially -- Alyeska is agreeing to
10 make payments of almost \$31.7 million, and I'll explain why it's
11 almost. Of those -- the monies they're paying, it's going to be
12 paid over three years. They'll be a payment on what someone called
13 the payment due, which I believe is ten days after final approval,
14 and final approval is defined as after (inaudible) period has run,
15 which is 60 days from the date the judge signed. He signed it last
16 Wednesday. So, figure we've got about two months before the first
17 payment comes through. Then there's another payment due on the
18 anniversary date, and then another one on the second anniversary
19 date. So, over two periods -- over two years. There's an
20 acceleration clause that would provide that if you need the money
21 to do one of these projects, then they'll go ahead and pay it. And
22 that could be significant, for example, if some deal is reached
23 earlier instead of -- if you -- most people think you can get
24 there, like some of the docks -- the docks, and so forth, in that
25 period of time. Kachemak Bay is an example where maybe you would
26 need it sooner, and if it's needed, then that money will be made

1 available. The money is broken into various kinds of projects.
2 The first category were response-type projects. \$7.25 million is
3 set for a dock and response storage facility at Chenega, \$7.25
4 million is set for a dock and response storage facility at
5 Tatitlek, \$6 million was set aside for a road from Cordova to
6 Shepherd (ph) Point proposed deep-water port site and response
7 storage facility there at some time if that becomes appropriate,
8 that is when there's enough of a facility there that you could --
9 you could use -- you could get boats in and out to get the stuff
10 on. Those projects, the monies can move back and forth between
11 them to some extent. If you don't need the full \$7.25 million for
12 one dock, but you need money for another dock -- I mean, an example
13 might be Chenega. If you don't need all that money for the
14 Tatitlek dock, but in the Chenega the settlement specifically
15 mentions that, if as a result -- if it's built -- the place where
16 it's likely to be built is right next to the old Chenega saltery
17 (ph), and it might be in the best interests of all concerned to
18 remove that Chenega saltery, which is a toxic problem right now, so
19 we might -- it might be that more money would be -- could be used
20 there to take care of that problem. If there's money left over
21 from the road or the other one, these things can be moved around a
22 little bit. The -- there will be -- the response storage facility
23 is just that. What is envisioned a storage facility; it's not
24 envisioned as a people facility. It's envisioned that there will
25 be something there that will contain pre-positioned, spill-response

1 equipment. So, next time, if there is a next time that there is an
2 oil spill and the people of Chenega want to protect the bay,
3 they're not gonna have to beg Alyeska, they're just gonna have to
4 take a shovel and break the lock on the facility, and they can have
5 the boom and everything right there. There is a provision --
6 Alyeska has previously stated it intended to build a Valdez
7 emergency operation center. It had intended to build it behind the
8 locked gates of the terminal. As part of this agreement, they have
9 reaffirmed their commitment to build that center, at an estimated
10 cost of \$14 million. They have agreed that it will be built in the
11 city of Valdez. They have agreed that it will include space in
12 that facility for state and federal communications center, in the
13 event of an emergency, and they will put \$200,000 towards purchase
14 of equipment for the state and federal government for that
15 communications facility. The center will support the ship escort
16 response vessel system which, under the agreement, will remain in
17 Valdez -- there had been some talk about moving it behind the
18 terminal. Those two -- my understanding is that they will likely
19 be linked; they will be together. That's the plan that -- they may
20 have to come up with a new dock at the emergency operations center
21 where they will keep the boats. The emergency operations center is
22 to be designed so that it can be used for oil spill response
23 training, and construction -- they have committed to begin
24 construction no later than June 1 of 1994. It is possible they
25 could get it going this summer, they didn't know, but in any event
26 no later than June 1 of '94. Okay? In addition to the response

1 projects, there was \$7.5 million for buy-back of Kachemak Bay in-
2 holdings. There was \$1.5 million that will go to the State of
3 Alaska for the fisheries business tax, and the background on that
4 is, in the Exxon settlement, the state accepted from the settlement
5 with Exxon only one item, which was that portion of the fisheries
6 business tax, half of it basically, that would go to the
7 municipalities as a general rule under the statute -- the
8 legislature hasn't appropriated, but they generally always have.
9 That fisheries business tax in the mind of the state is now totally
10 settled. \$1.5 million of the settlement will go to the state
11 solely for the municipalities' share. The legislature last year
12 passed a law that, in essence, went ahead and appropriated receipts
13 to the Department of Law for the fisheries business tax --
14 appropriated to the Department of Law to be distributed to
15 municipalities based upon whatever scheme the municipalities
16 jointly agree upon, and we have been in contact with the
17 municipalities' attorneys, and, presumably, they will be in contact
18 with the municipalities to come up with an agreement on how that's
19 gonna be shared. That, by the way, I would note is supplemental
20 specifically under the agreement -- is supplemental to any recovery
21 that the municipalities get under the TransAlaska Pipeline Fund
22 claim, and at this point I believe the pipeline fund has said that
23 they will pay them \$800,000, and I believe also that the
24 municipalities did not appeal that determination. The federal
25 government is to receive \$2 million. Now, the state money -- the
26 other money, other than this money I'm getting ready to describe,

1 is a complete song. There is no deduction's from it. Exxon
2 agreement required that 20.34 percent of any settlement or court
3 judgment against Alyeska be returned to Exxon because that was the
4 proportion of Alyeska that was owned by Exxon Pipeline Company.
5 With respect to what I just described, that's not to come out of
6 it. With respect to the \$2 million that's going to the state --
7 federal government to pay for their response costs, the 20.34
8 percent is deducted from it, so in reality they get about \$1.596
9 million. Now, the money that is being reimbursed is money that the
10 federal government, as of this settlement, would be getting
11 reimbursed from the trust fund. So, the net effect of that
12 provision is to increase the civil trust fund by that amount. One
13 other provision that was of tremendous importance to the state was
14 that -- it was quite difficult bargaining -- was Alyeska has agreed
15 not to submit any of these costs into its TAPS tariff charges, and
16 I don't think it affects this group particularly, but absent that
17 provision the value of the settlement to the state would have been
18 reduced by 25 percent, or else, another way of putting it is that
19 the state would pay 25 percent of the settlement.

20 MR. McCUNE: Can I ask you a question here at this
21 point? When did the TAPS fund determine that they were going to
22 pay \$800,000 to the municipalities?

23 MR. TILLERY: It seems like -- I'm just guessing --
24 about six months ago, maybe.

25 MR. McCUNE: It wasn't public six months ago that I
26 know of.

1 MR. TILLERY: I don't know if they've

2 MR. McCUNE: On this appropriation to build the road,
3 how was that negotiated out? I mean, they just came out of the
4 blue and said, we're gonna build a road? Get rid of those docks?

5 MR. TILLERY: Negotiated between the Alyeska people,
6 Attorney General Cole, and the Department of Justice.

7 Mr. McCUNE: Interesting.

8 MR. TILLERY: And, obviously -- those were the
9 negotiators for the governor and whoever else were involved.

10 MS. FISCHER: Representative Kubina was involved.

11 MR. TILLERY: Representative Kubina was involved and
12

13 MR. BRODIE: The roughly \$32 million -- how does this
14 number relate to the kind of expert testimony we're getting
15 (inaudible) -- the estimate of the problem caused by (inaudible).
16 Are those depositions available to the public to see what people
17 were

18 MR. TILLERY: Every deposition in the case -- no, I
19 can't say that. Almost all the depositions in the case are public.
20 There's a few that aren't, ones relating to some of the fisheries
21 information and relating to some archeological sites, and stuff
22 like that. Other than that -- and, I guess, maybe Alyeska probably
23 designated some business secrets or something, but, by and large,
24 they are all public -- you can see them. From the perspective of
25 the Department of Law, Alyeska is paying at least 100 percent of
26 the damages we think we would have recovered.

1 MS. BRODIE: Could you say a little more about how
2 they're measuring this

3 MR. TILLERY: Well, let me just tell you what our
4 damages were. The damages that we had claimed included response
5 costs that were payable by Exxon on the Exxon settlement decree,
6 and therefore subject to a claim of double recovery by Alyeska.
7 It's kind of a difficult -- the major damage remaining to the state
8 after the Exxon settlement was loss of oil tax and oil tariff-type
9 revenues -- and, essentially it's deferred, but that's the biggest
10 item -- where for a number of days the Valdez port was closed.
11 That oil that would have gone -- state royalty oil and inter-state
12 oil that would have been subject to severance taxes -- that would
13 have gone didn't flow. At some point in time, either immediately
14 or over the life of the field or at the end of the field -- an
15 experts will disagree about this -- that production would have been
16 made up. In the meantime, the state lost the value -- the present
17 value of that oil. In other words, if it's made up at the end of
18 the field, then it's the difference between -- you just take the
19 present day value and what it would be at the end of the field.
20 Well, and you can imagine the problems in that. First, you have to
21 figure out when you make up the production. Secondly, you've got
22 to figure -- well, what's the value of oil in ten years or so.
23 There were -- it was a very difficult case and, under almost the
24 best scenario, those claims were worth in the \$20 million, maybe
25 \$20 million -- \$20 plus million. The state had a \$650,000 claim
26 for damages to highways -- which we liked, but -- based upon how

1 much extreme volume of traffic went down the road and sort of a
2 generic Department of Transportation estimate of what that would
3 mean in terms of replacing the highway and -- that's about it.

4 MR. CLOUD: This is all very interesting, but I think
5 we should move on to

6 MR. TILLERY: Yes.

7 MR. MUTTER: Thank you very much. The next item on the
8 agenda is the 1993 work plan, and the administrative director, Dave
9 Gibbons, is going to say a few things in a quick overview. We
10 talked a little bit about this at the last meeting. Dave?

11 DR. GIBBONS: Yeah. Like I mentioned this morning, the
12 premise that the 1993 draft work plan was made upon was time-
13 critical loss or lost opportunity as a long-term commitment before
14 the restoration plan is completed. I think you had a briefing at
15 the last meeting on the '93 plan, so I won't really go into that.
16 I'd rather operate -- open it up for questions or comments from you
17 folks, and how we can help you, you know, in any way with the '93
18 draft work plan, your recommendations to the Trustee Council, and
19 those types of things. So, rather than me sit here talking all the
20 time, I'd maybe like to just operate it that way if that's what
21 you'd like to do.

22 UNIDENTIFIED VOICE: It's probably worth mentioning, that
23 one of the documents that you didn't have until today is the 216
24 comments on the '93 work plan. That is -- that is available

25 DR. GIBBONS: (Inaudible) Like I mentioned earlier, we
26 got the last comment on the 27th or so. I haven't had a chance to

1 read them all either. Now, it's kind of good document to refer to
2 if you have questions about how the restoration team feels about
3 the project. It'll will be the last half of this package here, and
4 it talks about each project, the merits of the project, our
5 thoughts on it, and the record of our comments, and then a voting
6 record. So, that will give you some insights on our discussions.

7 MR. MUTTER: Dave, it might be helpful at this time to
8 -- what is the Trustee Council meeting, December 11th? What is it
9 they're going to with this project?

10 DR. GIBBONS: Well, we're still trying to -- trying to
11 orchestrate that a little bit. However, we're going to present to
12 the Trustee Council comments. The Trustee Council has pulled me in
13 and (inaudible) believe they're gonna do it, is read all these
14 public comments to get a feel for what the 216 responses are
15 relating to and look to the public advisory group for some
16 recommendations, I would assume, and then they'll also look for,
17 perhaps, to the restoration team to see if our recommendations have
18 changed with regard to the public comment, and I would imagine that
19 will be the approaches they will take.

20 MR. McCUNE: I have quite a few comments on the whole
21 draft plan, but I can't sit here and tell you what all my comments
22 are on each proposal, plus I haven't had a chance to read what the
23 public comments is that we got. It might change my mind on a few
24 things if I, you know, got through that whole thing, and I know
25 we're out of time on here, but -- but, as an overall group, I don't
26 know if everybody's prepared to do this individually or do we need

1 to discuss each one of these proposals as a group -- or how to
2 approach this -- or wait for a few days and then do the comments
3 individually (inaudible) the Trustees Council meeting.

4 MS. BRODIE: I have a suggestion that might help a
5 little bit, and that's to -- sometime today, before we adjourn, to
6 set up some working groups because we now have the situation where
7 we can't talk to one another without public notice and all, and I
8 think if we formed some working groups, then those groups can set
9 up meetings and -- and help out, and -- it's not ideal since this
10 group won't be getting back together before December 11, but at
11 least some working groups might be able to make recommendations to
12 the Trustees at that time.

13 MS. BENTON: Are the Trustees planning on passing the
14 '93 plan on the 11th?

15 DR. GIBBONS: That's -- that's still up in the air a
16 little bit. I think what the approach is going to be two-phase
17 approach. Some of the projects need environmental NEPA compliance,
18 and they may only approve the authorization of money to prepare a
19 NEPA document -- environmental, assessmental (ph) or whatever it
20 is. And some of them will have that documentation done for the
21 11th meeting, and so they could approve those.

22 MR. KING: Piling through all these '93 proposals
23 took me a certain amount of time to do it, and I'm prepared to --
24 I've made up my mind. I've also talked with other people -- and
25 what my recommendation would be. I haven't -- write it up yet
26 because I wanted to see what was gonna happen here today, but by

1 the time I read through these additional comments, and write up
2 what I feel from a conservation point of view, it looks like it
3 probably isn't gonna be available for distribution to the Council
4 much before they meet, and if each of us do that, it looks like we
5 aren't really in competition. We're out of the ball game before we
6 start here because they will have had all this stuff for well over
7 -- for at least ten days and some of it for two months or so. I
8 don't know. I intend to write it up, but I wonder what's the most
9 effective way to have our comments considered.

10 DR. GIBBONS: It's a -- I -- we really are in a dilemma
11 here because the public comments, you know, like you said, we just
12 can't (inaudible). I haven't read them all. I've got a feel for
13 them. I don't know how we can look at those and then you folks act
14 as a body to make a recommendation.

15 MR. PHILLIPS: I don't think it's possible -- unless
16 there's another meeting, and I don't know whether that's possible,
17 with meeting notices and everything, but when this stuff comes
18 across your desk, how can you tell (inaudible), and I think that
19 the comments have to come from this group as an entity. I don't
20 think it comes from a bunch of individuals because we should have
21 the opportunity to discuss and come to a consensus on what we want
22 to recommend. Physically, how do you do that? I mean, this is
23 like facing bankruptcy at five o'clock this afternoon, and it's
24 already three. What is the possibility of having another meeting
25 before the 11th.

26 MS. FISCHER: We could reconvene without adjourning the

1 meeting, couldn't we, and ...?

2 MR. MUTTER: Yes. I think as long as we allow for
3 public comments today

4 MS. FISCHER: Yeah.

5 MR. MUTTER: and then

6 MS. FISCHER: Right, but carry on with business tomorrow
7 or

8 DR. GIBBONS: Yes, the Trustee Council does that.

9 (Simultaneous talking)

10 MR. TOTEMOFF: Mr. Chairman, earlier I passed out a
11 statement I had prepared for the public advisory group and also a
12 resolution for the public advisory group to consider. I did come
13 prepared to discuss a certain matter, and it sounds like the public
14 advisory group is not prepared to talk about the projects of the
15 1993 draft work plan. It was my hope that we would discuss at
16 least my statement and the resolution today and consideration by
17 this body. We have December 11th coming up very soon, and I'd
18 really like to have the stack of papers looked over, but as far as
19 (inaudible)'s representative, I have come prepare with some
20 materials (inaudible) to present.

21 MR. MUTTER: It's on the '93 work plan?

22 MR. TOTEMOFF: Yes.

23 MR. MUTTER: You want to review the proposed
24 resolution?

25 MR. TOTEMOFF: Okay. Maybe I can just (inaudible). Is
26 it necessary you think?

1 MR. MUTTER: If you could give us a quick summary

2 DR. GIBBONS: I think we need to deal with the other
3 problem that was on the floor, rather than -- then we can bring
4 this up, your resolution. I think we need to come to

5 MR. ANDREWS: Mr. Chairman, I took somebody directly at
6 their word when I looked at this agenda. At five o'clock we are to
7 adjourn. I've got to catch a plane at seven o'clock tonight, and
8 when you plan an agenda, you've got to stick with it, otherwise
9 you've got to tell the people that you're not going to do it. And
10 I agree with Mr. McCune over here, there's a wealth of data here
11 that we haven't had adequate time. I received a letter from
12 Chairman McVay (sic) (ph) only yesterday with four questions that
13 are very good, but it's going to take six months to answer them
14 correctly, or maybe three months to work this out. I don't think
15 there's been adequate review by the whole body on the '93
16 restoration plan or the budgets even, on the adequate or inadequate
17 -- I think these are serious questions which I think that we need
18 more than our time for review on.

19 MR. WILLIAMS: That's what I was gonna ask. Actually,
20 the Trustees have the authority to go ahead and do this with or
21 without our opinion. What we ought to be doing is working on the
22 '94 plan and the budget because there's just no way they're gonna
23 wait for us. How many weeks do we have.

24 MR. McCUNE: Well, I have several questions. One, what
25 is the timeline on this on the draft plan? Are we gonna have any
26 guidelines.

1 DR. MONTAGUE: (Inaudible -- out of range of microphone.)

2 MR. McCUNE: Yeah. I knew we were going to run into
3 this problem. I have comments on (inaudible) -- criteria, but we
4 didn't have any time to get into the restoration of why -- you
5 know, I got some papers why (inaudible) -- the timeline of this
6 thing here is I knew this was going to happen. We're not going to
7 have enough time to really give a good assessment to the Trustee
8 Council on this particular document. So, being unhappy with some
9 of these in here -- I know I'm unhappy with some of them, but just
10 looking at the document itself, for the sake of timeline,
11 (inaudible) by the deadline, there's no way that this group is
12 going to be able to comment on this particular draft plan, and I'm
13 going to prepare myself for the next one and get really involved in
14 what should go in this book, but I just wanted to make sure that we
15 got on -- (inaudible) way agency top heavy, and their budgets, and
16 stuff, and there are very few that don't, and don't feel they fit
17 the criteria of restoration.

18 DR. FRENCH: I concur with most of what was just said.
19 I think there's some serious problems with some of the projects in
20 here, but I don't see how we're going to discuss and reach a
21 consensus at this time. Most of the budgets are written so that,
22 as if it's approved through February 28th already, and starting
23 March 1st -- if that's really timeline, well, can it be extended to
24 some extent and get the decision period going into January.

25 DR. MONTAGUE: Well, what was approved in '92 work plan
26 (inaudible), the '93 projects that are not in any way the projects

1 of '92 (inaudible) -- January 1st (inaudible).

2 DR. FRENCH: Some of these projects, especially some of
3 these (inaudible), I don't really see the time-critical nature of
4 them in terms of this season versus next season.

5 DR. MONTAGUE: (Inaudible) -- I discussed at the last
6 meeting, there was some guidance to have some limited
7 implementations (inaudible) of the projects (inaudible).

8 MS. BRODIE: I would suggest as a practical matter that
9 we decide in our remaining time today that we will discuss not any
10 individual projects, but questions that deal overall with projects,
11 such as what Mr. Totemoff has brought up, that's something that
12 deals with the process questions -- to deal with criteria or
13 process questions -- and then we also need to decide whether to
14 have another meeting, tomorrow or whenever, before the Trustees'
15 meeting to deal with these issues.

16 MR. McCORKLE: With regard to our colleague's comments on
17 budget criteria and propelling inaction, as those who work with
18 federal government know, and probably with the state (inaudible) in
19 Alaska, there is this vehicle -- the device of continuing
20 resolution, until -- let the program go month by month until its
21 reviewed in its entirety. That requires the subcontractors or the
22 agencies involved to provide (inaudible) to do month-by-month
23 things. I'm not sure I'd recommending that -- putting out a --
24 there's a lot of places you could go. I like what Pam has
25 suggested as an alternative. What is the -- I know you don't speak
26 for the Trustees, is it your feeling that the Trustees are prepared

1 to go ahead with this program with or without our suggestions, with
2 or without our advice.

3 DR. GIBBONS: What I would suggest is that if you feel
4 strongly as I am hearing here, you come in with a recommendation to
5 the Trustee Council to extend the time period for your
6 consideration of these. I know that's not -- doesn't make anybody
7 happy, but if that's what your recommendation is, so be it. I
8 mean, that's one option.

9 DR. MONTAGUE: Another thought on that recommendation is
10 that that is exactly what happened in '92 -- wanted more time,
11 there were delays (inaudible -- out of range of microphone) three
12 months, (inaudible) five months, five months lasted for seven
13 months (inaudible), and my reading of the Council is they do not
14 want a repeat of that, and that's why they agreed (inaudible) give
15 us all the comments, we will read 'em, we know you don't have time
16 to (inaudible) -- that's not to say they won't (inaudible).

17 MR. McMULLEN: I believe sincerely that we should comment
18 on the '93 work plan, but having received my letter with questions
19 focusing our attention on certain issues from Mr. McVee, and having
20 received that on the 30th of November, and having received
21 additional documents here, including public comments that probably
22 many of which maybe from the constituency that I represent on the
23 council, this advisory group should -- should take into
24 consideration in my dealings here, and the fact is that my week is
25 fully taken up from this point forward. I can't be meeting
26 tomorrow. I've got -- I've got to go onto other things. I would

1 recommend -- propose that we ask the Trustee Council to give us a
2 chance to work on these issues, these project reviews,
3 individually, then back as a group to condense our comments and
4 summarize them, and give us a chance to make that presentation back
5 to the Trustee Council before they -- before they pass on any of
6 these budget concerns.

7 MR. PHILLIPS: Is it possible we could -- I have the same
8 problem he has. I have something else to do besides this.
9 (Inaudible) and I'm wondering if it's possible, perhaps, to have a
10 meeting after we've had an opportunity to go through all this
11 stuff, prior to the 11th, say the 10th or the 9th, something like
12 that, when we would be prepared to give recommendations? It's just
13 a question, I don't know how anybody else's timeline is.

14 MR. WILLIAMS: Or could we have -- there's a lot of their
15 stuff doesn't start till March, could we have a meeting the first
16 part of January so that -- you know, some of us travel some
17 distance, which I'm not complaining about -- I volunteered, but
18 another meeting again within the next nine days -- we wouldn't
19 (inaudible), much less have time to read this stuff. I think it
20 would be better to have it right after the holidays, you know, it
21 may be a month later for start-up (inaudible).

22 MR. McCORKLE: The wisdom to that is too that as agencies
23 and operating groups go into the coming holiday season, not a whole
24 bunch happens while people are away on annual leave and that kind
25 of thing. I don't think setting it back 20 -- 21 days -- is going
26 to make that much difference. I know that the Trustees have

1 noticed their meeting for next Friday, and I think they should open
2 the meeting, and I think they should say that, if it's the will of
3 the group, that a request has come up that they find some way to
4 put off their final action, maybe they can take public testimony,
5 or whatever, but put off their final action for another date
6 certain, if not just after Christmas, then just after New Year's,
7 or something like that. Maybe they want to have a Christmas
8 shopping tour in -- in Anchorage on the 22nd, or something that --
9 that always happens -- but I do feel that the best seats are going
10 for a very short delay. It's very monetarily foolish to go ahead
11 on a series of shortened budget sessions (inaudible), so I don't
12 think anybody here wants to stretch this out for ever and ever and
13 ever, but I do hear people have a sincere desire to make some
14 commentary in the short term.

15 MR. TOTEMOFF: I realize -- I'm hearing from the PAG that
16 they want more opportunity to speak, but my two letters that I've
17 handed out are policy in nature and they are not projects that are
18 specific. I am requesting that we deal with that at this time.
19 I'd like the opportunity to read the letter to you and have some
20 discussion on the resolution.

21 For those of you that don't know me, my name is Chuck
22 Totemoff. (Mr. Totemoff reads from the distributed letter) "I am
23 the Native Land Owners representative" to the public advisory
24 group. I am from the Village of Chenega Bay. In my capacity as
25 President of Chenega Corporation, and a member of the Chenega Bay
26 IRA Council, I have met with Native representatives of Tatitlek,

1 Port Graham, English Bay, Eyak, Valdez, Seward, Chugach Alaska
2 Corporation, and the regional nonprofit, Chugachmiut, to discuss
3 the 1993 draft work plan. I have shared my views with them, and I
4 now share them with you. The draft work plan is, in my opinion,
5 too heavily weighted toward agency involvement, with little
6 indication that contracts outside the agencies will be awarded. I
7 believe that this Group, which is charged under the MOU with
8 responsibility of advising the Trustees Council, must advise the
9 Trustees Council that a significant population of the residents of
10 the impacted area are ready, willing, and able to undertake many of
11 the projects contained within the 1993 draft work plan. I believe
12 that we should send a message to the Trustees Council that the
13 Native landowners are ready, willing, and able, to carry out many
14 functions which the agencies propose. We can do it, and in the
15 process, cut out a lot of delay, a lot of expense, and involve the
16 local population in many of these projects.

17 Because my interest group is comprised of the largest private
18 landowners in the affected area, it is clear that we can control
19 costs, including logistical support, because we are already there.
20 Timeliness is a key element of the restoration process. I am
21 speaking for my constituents when I say that we can respond in a
22 timely manner to restoration goals for projects which are to be
23 approved by the Trustees. In addition, we have an intimate
24 knowledge of the areas impacted. Our people have been active
25 participants in the response to the oil spill since the first days
26 of the spill. The impacted areas are of vital importance to us.

1 Today, I want to impress upon the public advisory group that
2 the goal of restoration of natural resources and the restoration or
3 replacement of services supplied by those natural resources is one
4 of the highest priority to us. It is our common goal. I am
5 concerned that the 1993 draft work plan, laudable in its purpose,
6 may result in something less in its execution. I am concerned that
7 agencies may change the projects that we recommend in this work
8 plan into supplemental appropriations or additions to their
9 budgets. As the body which is intended to advise the Trustees
10 Council, we must not let this happen. We must let the Trustees
11 Council know that the settlement with Exxon is only the beginning.
12 the restoration process must be timely, cost efficient, and involve
13 the Native landowners. I am requesting that we advise the Trustees
14 Council to direct the agencies to make certain that the Native
15 interests have a significant role in the restoration process to be
16 funded for 1993 and beyond."

17 The second part of my hand-out was a proposed resolution for
18 the public advisory group's consideration. It was my hope that the
19 PAG would pass this resolution and

20 MR. McMULLEN: Mr. Chairman, if we're taking -- going to
21 take any action on the resolution, could we hear what it is.

22 MR. McCUNE: Can I ask you a question. The bottom line
23 here -- is what you're saying is -- that there's other people and
24 there's other -- contracts awarded (inaudible) leaning towards the
25 agencies

26 MR. TOTEMOFF: (Response inaudible.)

1 MR. McCUNE: Well, do you have a way (inaudible)
2 involvement, down at the bottom on the resolution document
3 "therefore be it resolved by the public advisory group that the
4 Trustees direct the restoration team and agencies to work with the
5 Native landowners in the impacted area to be certain that a
6 significant role in 1993 work projects is contracted to such
7 entities." And, then, if you go back to your letter, where it --
8 that there should be other considerations besides state agencies,
9 projects, you know, as such -- the villagers are right, that it
10 doesn't cost any start-up costs, those kinds of things -- that's
11 basically what you're saying, right?

12 MR. McMULLEN: Mr. Chairman, to bring -- to put the
13 business of this resolution on the table for discussion, I move
14 that the public advisory group adopt it.

15 MR. PHILLIPS: Second.

16 MR. MUTTER: Discussion?

17 SEN. ELIASON: John, I guess I'm one of those who really
18 have not had an opportunity to read this thing. You know, you
19 redraft work plans. I don't honestly know if its simply made
20 (inaudible) revision (inaudible), or not. So, back along the same
21 lines as we were originally, because we haven't had opportunity to
22 review this material. So, what I would be hesitant to vote on
23 something I haven't had an opportunity to read, although I do
24 support what you're saying relative to the people involved -- the
25 area should be involved if anything goes on there, but (inaudible)
26 are also involved. How do we deal with those groups?

1 MR. McCUNE: The way I view is that it's gonna come up
2 anyway. Some of these projects should be out to competitive bid
3 instead of just the agencies taking right over and (inaudible) and
4 buying rafts. Some of these companies have some of this equipment
5 that's available already -- that's part of it too, isn't it
6 Charles? the competitive bid system, there?

7 MR. TOTEMOFF: Right.

8 MR. McCUNE: So, I knew that was going to come up
9 today, the competitive bid system on some of the projects, knowing
10 that (inaudible) -- that's true, probably been -- I don't know, how
11 many people haven't (inaudible) -- but there is a lot of purchase
12 things, like travel, a lot of things involved in those projects,
13 which could be cut down by hiring or putting out to competitive
14 bid.

15 MR. KNECHT: I totally agree with that. You know, I'm
16 not convinced at all that the agencies named in there are the right
17 ones to be doing that work. In a lot of cases, they're reinventing
18 the wheel, and I think that the structure, structural matters, may
19 be something we should discuss in (inaudible -- coughing) process.

20 MS. FISCHER: I believe there is a lot of duplication in
21 there, and as far as I can see, there are several areas where there
22 was duplication which shouldn't be -- and I think we need to take
23 a look at some of those areas.

24 DR. FRENCH: Yes. I think this resolution brings up
25 two and very important points. One being there's not a very good
26 mechanism for getting non-agency entities involved in the projects,

1 and I think that's very valid. Just take one project as an
2 example, the scio-genetic (ph) projects, does -- essentially to
3 support the development of a new -- new laboratory system within
4 fish and game. There's at least three (inaudible) already which
5 are (inaudible), but, again, it's a duplication of resources that
6 are available within cities, actually within the (inaudible), but
7 also, to follow up on what Senator Eliason was saying, I think we
8 need to, at least my own personal point of view, that we should be
9 pushing for greater involvement of all the people in the spill area
10 -- involvement of other landowners and other people working and
11 living in the spill area besides just the Native landowners. As
12 long as it specifically says Native landowners, I'm afraid I can't
13 support it on that basis.

14 MR. TOTEMOFF: Okay. In answer to that, the parties that
15 I talked to were other Native landowners. I did not get the
16 opportunity to talk to the other groups.

17 UNIDENTIFIED VOICE: (Inaudible) problem with that.

18 MR. WILLIAMS: I was going to suggest that why don't we
19 table action on this, and the other that we hold a special -- or
20 hold another meeting on January 5th, 6th, or 7th, or maybe all
21 three days, or whatever they want, and at that time then we go --
22 give our comments on the draft work plan and take action on the
23 resolution, and that gets us all a chance to get oriented, because
24 coming from Southeast, I'm (inaudible) on a lot of this stuff. I
25 suggested those dates because we have several legislators who are
26 on this group, and the legislature convenes, I think, on the 11th,

1 so we would be able to get our legislative -- dates, and it's after
2 New Year's, and those that are interested, I am sure, we have
3 plenty of time in the next 30 days to read that over. If there
4 isn't any objection, I'll make a motion at this time that we table.

5 MS. BRODIE: I would like to object to tabling. I
6 think we have to resolve this -- that we're pretty close to being
7 done with this, or at least close to being (inaudible).

8 MR. ANDREWS: I'll second this motion to put it on the
9 table.

10 UNIDENTIFIED VOICE: We've got a motion on the

11 UNIDENTIFIED VOICE: But the motion is to table.

12 UNIDENTIFIED VOICE: Mr. Chairman?

13 MR. McMULLEN: We've all seen the letter from the chief
14 scientist, Mr. Spies -- his statement that it might be reasonable
15 to, you know, contract some remaining studies outside of the
16 governmental agencies, and this -- while I agree with this concept
17 and I -- I know of Mr. Totemoff's concern in -- in deepening
18 involvement since I've them after the oil spill, and agree with
19 their involvement, I am concerned that in projects that deal with
20 resources that are consumed by users -- users and managed by
21 agencies for that controlled consumption, that it might not be the
22 best idea to contract the studies of those organisms to non-agency
23 groups, because it is the agencies that need the information --
24 need to understand those organisms, and, you know, need to develop
25 that information they use as a data base for the management of
26 those species. So, that does concern me when this issue was raised

1 earlier through Mr. Spies' letter and -- end of comment.

2 MR. MUTTER: Well, we've got a motion to table.
3 (Simultaneous talking.) We've got a motion to table the motion, so
4 we need to take a vote on that, is that correct?

5 UNIDENTIFIED VOICE: Yes. It's correct.

6 MR. MUTTER: Okay. All those in favor of tabling the
7 motion, raise your hand please. (Five hands raised.) All those
8 opposed? (Hands raised.)

9 UNIDENTIFIED VOICE: This is on the motion table, right?

10 MR. MUTTER: Okay, the motion is eleven to five to not
11 table it.

12 MR. WILLIAMS: Okay, there's a question on the motion.

13 MR. ELIASON: Mr. Chairman, I vote to table for one
14 specific reason, to get it back before us again in a rewritten
15 form, which Charles said he was willing to do. I don't think I
16 want to vote on -- at least, I'm not going to vote in favor in the
17 way its written because I think it leaves out a lot of people, and
18 you're willing to put it in, and I would suggest that if we're
19 gonna deal with this issue that we either draft up a substitute
20 resolve clause or deal with it in a different than's before us,
21 including other user groups, other landowners, or the people
22 impacted.

23 MS. BRODIE: May I suggest a friendly amendment? That
24 we -- that we start out with the same beginning that "therefore be
25 it resolved by the public advisory group that the Trustees direct
26 the restoration team and agencies" to submit projects for

1 competitive bids.

2 MR. MUTTER: Which paragraph were you on?

3 MS. BRODIE: This is the -- I'm on the actual
4 resolution.

5 UNIDENTIFIED VOICE: On the resolved.

6 UNIDENTIFIED VOICE: Second page.

7 MS. BRODIE: And, therefore, it would be open to
8 competitive bids from Native landowners and anyone else who wants
9 to bid.

10 MR. TOTEMOFF: Mr. Chairman, the intent of the resolution
11 was to specifically involve the Native landowners. I'm not opposed
12 to the competitive bid process, but I -- I fear that it may be lost
13 in the shuffle somewhere -- and that the intent, would this be
14 moot?

15 MR. CLOUD: Just a -- John made a suggestion about
16 people within the impacted area. Wouldn't that cover your
17 situation fairly well?

18 MR. TOTEMOFF: Well, certainly people within the impacted
19 area would have a leg-up on people not within the impacted area.

20 MR. CLOUD: Exactly.

21 MR. TOTEMOFF: So, if we have two things we're concerned
22 about -- one is that more of the work be done on a competitive
23 basis as it could be done -- not all of it, certainly -- and that
24 the people, that live there certainly would have a leg-up in that
25 process -- in a competitive bid process -- because they don't have
26 to travel so far.

1 MR. McCORKLE: I certainly appreciate the spirit of this
2 resolution and the last comments, but in my years of public policy
3 and municipal management in Alaska, I tended to specialize in the
4 areas that the maker of the resolution speaks out, and what I look
5 at the kind of work that is called for in the work plan, none of
6 the towns in which I have worked, or the villages, have people who
7 can do some of that technical work. So to say that we are going to
8 find laboratory specialists in unique fields in St. Paul or
9 Sentelek (ph) or wherever, might be defeating the purpose. I can
10 support the public process. I could even support special
11 consideration for local organizations where they're prepared to do
12 the work, but I -- I am not prepared, I think, to say that you must
13 restrict the work to areas where people may not have the expertise.
14 I think it's very unfair to the people in the areas.

15 MR. TOTEMOFF: Mr. Chairman, I'm going to suggest
16 actually that "wherever feasible."

17 UNIDENTIFIED VOICE: I agree with that.

18 MR. McCUNE: I think part of the struggle here is
19 "direct the restoration team and agencies to work with the Native
20 landowners in the impacted area." And I understand that you
21 probably worked this up, Charles, under the intent that, you know,
22 boats and different jobs are going to be available, that the people
23 that are in that area have a chance to be hired, and I have nothing
24 against that. The only problem I have is if we're being too -- if
25 we're doing one select thing and not including, like, if it got to
26 be "Native landowners and other affected people around." You know,

1 like you have residents out at Chenega that don't live in the
2 village and that also have vessels and stuff.

3 MR. TOTEMOFF: Yeah, yeah. I thought we -- somebody
4 suggested "in the spill zone."

5 MR. McCUNE: Yeah. Something to that effect because I
6 think we're being -- just a little bit too narrow on that.

7 DR. FRENCH: I'd like to propose a specific amendment -
8 - leaving the words as they stand. "Now, therefore, be it resolved
9 by the public advisory group that the Trustees direct the
10 restoration team and agencies to work with the Native landowners
11 and other residents of" In that, insert, "and the other
12 residences (sic) of" Delete the "in" -- "in the" -- in the
13 "impacted area to be certain that" -- and then delete "a
14 significant role" so it reads "that the 1993 work plan projects
15 utilize the services of said -- of these people" or "use the
16 services of these people."

17 UNIDENTIFIED VOICE: Wherever feasible?

18 DR. FRENCH: Where feasible, yes. Where feasible or
19 (inaudible).

20 MR. MUTTER: Mr. French, could you read the whole
21 resolve paragraph again.

22 UNIDENTIFIED VOICE: Into the microphone.

23 MR. McCUNE: Did he say, "all impacted." I kind of
24 liked "the impacted area." I'd like to make sure that you specify
25 the oil-impacted area. Make sure that's the area that we're
26 talking about. (Simultaneous talking.)

1 DR. FRENCH: Okay, take the wording -- this is the
2 final wording as I'm proposing to amend it. "Now, therefore, be it
3 resolved by the public advisory group that the Trustees direct the
4 restoration team and agencies to work with the Native landowners
5 and other residents of the oil-impacted area -- oil spill impacted
6 area to be certain that the 1993 work projects use the services of
7 these individuals where feasible."

8 MR. CLOUD: Are we throwing out the concept of
9 competitive bid now?

10 DR. FRENCH: Competitive bids are a different issue,
11 but I'd like to speak strongly about them if, but I'd

12 MS. BRODIE: A separate motion.

13 DR. FRENCH: I'd like this motion to be acted on -
14 - its amendment.

15 MS. BRODIE: I have a clarification. Should it be
16 "when" feasible, not "where feasible."

17 DR. FRENCH: Yeah. Yeah. It probably should. Yeah.
18 I'll take that as a friendly amendment.

19 MR. PHILLIPS: Regarding the word "residents," are we
20 sure that's the word we want to use. There may be people who have
21 their residence somewhere else but still may be landowners in the
22 impacted area or have an interest in the impacted area and still
23 not be a resident. If they lived in Anchorage, Fairbanks or
24 somewhere else.

25 DR. FRENCH: I guess my preference is residents because
26 it is those individuals who are mostly directly impacted by the

1 spill and those people that frequently have not been involved in
2 the work projects that have resulted from, quote, the damage
3 assessment, and now this restoration.

4 MR. PHILLIPS: Then you could either be a resident or a
5 landowner, is that what you said? The thing is, a Chenega village
6 person who owns land there but doesn't live there -- isn't a
7 resident there, is still far apart

8 DR. FRENCH: Would it help to just make it landowners
9 as opposed to Native landowners? I kind of hate to do that.

10 MR. PHILLIPS: I just want -- I want it clear in my mind
11 how you're gonna treat the word "resident" and whether it actually
12 excludes people or not.

13 MR. McCUNE: I would say that it would be the people
14 that -- "resident" would mean, like, the people that are actually
15 living in the area, the actual -- there's people that live right
16 next to Chenega, there's the hatchery, there's the individuals that
17 live there. Those people would be the people that would be
18 involved in these projects.

19 UNIDENTIFIED VOICE: I agree with Chuck

20 MR. McCUNE: Resident usually means -- can mean several
21 things. One, it means the people of the area.

22 MR. PHILLIPS: Well, there's a legal definition of
23 residence.

24 UNIDENTIFIED VOICE: Yeah.

25 MR. PHILLIPS: There is a legal definition of residence.
26 You can argue in a court of law any time you want to, but I just

1 want to make sure that we're not excluding anyone who may, in fact,
2 have a great interest in land in the area and yet does not live on
3 that land and has a major impact to him, and would he or would he
4 not be qualified under this resolution.

5 MR. CLOUD: I don't think the resolution as it stands
6 disqualifies anybody from getting involved in helping out. So,
7 we're just suggesting in a friendly way that maybe they should do
8 a little more to involve the people that actually live there.

9 MR. PHILLIPS: That's true. Thank you.

10 MR. MUTTER: Mr. Andrews?

11 MR. ANDREWS: There's been so many friendly amendments
12 to this now, I'm not sure Charles recognizes his own resolution,
13 and I call for the question.

14 MR. MUTTER: Well, maybe I should ask Charles -- do you
15 accept this amendment to your motion that Mr. French has read?

16 MR. TOTEMOFF: Just to the last part of that -- now,
17 therefore, be it resolved to the services of the entities --
18 considered individuals?

19 MR. MUTTER: The language, as I understand it, is now
20 "Now, therefore, be it resolved by the public advisory group that
21 the Trustees direct the restoration team and agencies to work with
22 Native landowners and other residents of the oil-impacted area to
23 be certain that the 1993 work project utilizes the services of
24 these people whenever possible." Is that correct?

25 DR. FRENCH: That's fine. I think we wanted the word
26 "feasible" but "possible" is fine.

1 MR. MUTTER: Wherever feasible?
2 DR. FRENCH: That's fine.
3 MR. MUTTER: Did that get a second? Is that
4 acceptable?
5 DR. FRENCH: Yes.
6 MR. WILLIAMS: Question.
7 MS. BRODIE: Second.
8 MR. MUTTER: Any final discussion?
9 UNIDENTIFIED: The question's been called for.
10 MR. MUTTER: All those in favor of the motion, say aye.
11 COLLECTIVE VOICES: Aye.
12 MR. MUTTER: Opposed? (No audible response.) Motion
13 passes.
14 MR. WILLIAMS: Okay. Now, can I make a motion we defer
15 the draft work plan until a meeting on Wednesday, January 6th, at
16 9:30 a.m., on the table.
17 UNIDENTIFIED VOICE: I'll second.
18 MR. WILLIAMS: I'll even add that we also request -- to
19 advise the Trustees that we hope they don't act before we get back
20 to them. (Laughter)
21 MR. GAVORA: (Inaudible -- laughter) at this
22 meeting or a new meeting.
23 MR. WILLIAMS: Yeah. I -- I would say a new meeting. It
24 makes it easier.
25 MR. MUTTER: What was the dates, again?
26 MR. WILLIAMS: Wednesday, January 6th, if I've figured my

1 calendar right.

2 DR. FRENCH: Mr. Chairman?

3 MR. MUTTER: Mr. French?

4 DR. FRENCH: Just to be certain we didn't overlook it,
5 did we pass the amendment to this, or did we pass the whole thing,
6 or did we pass both? (Simultaneous talking)

7 UNIDENTIFIED VOICE: It's still on the floor.

8 DR. FRENCH: So, can we take a vote on this before
9 another motion gets on the floor?

10 UNIDENTIFIED VOICE: Yeah.

11 UNIDENTIFIED VOICE: I stand corrected.

12 UNIDENTIFIED VOICE: That's correct.

13 MR. MUTTER: Is there a motion? Oh, we've already got
14 a mo....

15 MR. McCORKLE: I call for the question on the main
16 motion.

17 MR. MUTTER: All those in favor the resolution
18 presented by Mr. Totemoff, as amended by Mr. French, please signify
19 by saying aye.

20 COLLECTIVE VOICES: Aye.

21 MR. MUTTER: Opposed? (No audible response.)

22 MR. WILLIAMS: Now, can I make my motion to meet again on
23 January 6th?

24 MR. PHILLIPS: The question I have about that, Lew, do
25 you think that one day is adequate to do ...?

26 MR. WILLIAMS: No. That's why I put it the 6th. If we

1 want to extend it 'till Thursday, the 7th, or Friday, the 8th,
2 we've got the latitudes to do it. (Simultaneous talking) If you
3 want it a two-day meeting now, say January 6th and 7th.

4 UNIDENTIFIED VOICE: It might be better for the planning
5 for the members.

6 MR. MUTTER: I have a feeling you're never going to
7 have so little material that you couldn't spend a couple days
8 working on it.

9 UNIDENTIFIED VOICE: No

10 MR. MUTTER: I have a question of Dave while we're on
11 the subject though. The Trustees are going to meet December 11th,
12 and the PAG may present a recommendation to withhold consideration
13 until you've had a chance to meet, but that doesn't mean they have
14 to do that?

15 DR. GIBBONS: That's correct. The flavor I've heard
16 here was there wasn't enough time to credibly review it anyway, so
17 make the resolution to them, appeal to them to see if they'll delay
18 it, if they don't, they don't. That's their decision.

19 MR. MUTTER: We'll start on '94

20 MR. McCORKLE: However, having said that, and having the
21 group taken the action it has, I think it is concomitant upon us to
22 put forth our very best efforts that if Trustees are willing to
23 delay, we do our work, and don't come back as befuddled as before.

24 MS. FISCHER: Is there some type of deadline that they
25 would have to do this on 11th to get -- to make some decisions?
26 You mentioned earlier, in January they -- is it that they have to

1 put contracts out to bid, or what?

2 DR. GIBBONS: Yes. That's part of it. There's some
3 projects that start early in the year that need to get, you know,
4 approval in January so they can start moving down the road. That's
5 some of the RFP -- the restoration team or the agencies have to
6 decide to prepare an RFP or prepare a detailed study plan. You
7 know, which one to go with. And some of these questions are up in
8 the air. I will comment that I will be giving you a letter,
9 probably next week, that does an analysis of the agency versus RFP.
10 You'll find it pretty interesting because there's about 70 percent
11 of it's going outside of the agencies. So, I'll get you that
12 letter to help you out with the analysis.

13 DR. MONTAGUE: Another bit of information is, when they
14 meet, is that 120 days is required from approval project before a
15 contract is let, so what you're really talking about is, you know,
16 if you're not approving the projects until the 15th of January,
17 you're delaying the projects until

18 MS. FISCHER: April, probably.

19 DR. MONTAGUE: April or May. Now, there are a
20 number of cases where that is detrimental. And then for agency
21 projects, it's about 60 days from approval before they can act.

22 MS. FISCHER: So, it wouldn't behoove us to ask them to
23 delay at all?

24 MR. MUTTER: Mr. McCune?

25 MR. McCUNE: Well, I can't just

26 MS. FISCHER: Well, I mean, yeah, we'd like to, but if

1 they have the

2 MR. McCUNE: first of all, the first of all thing
3 is that we haven't had any input into any of this ourselves until
4 right now. The other thing is, I don't want to hold up restoration
5 any longer than I have to, nor does anybody else, but to get their
6 peace of mind going to, but the number two thing is, the public
7 themselves have just now got their comments in here, and we're part
8 of the public process, and we haven't even had any say either. So,
9 to me, beyond everything else, the number one thing is what the
10 public thinks of this '93 work plan, and we should have a chance as
11 a PGA (sic) to have some input into this '93 work plan.

12 DR. GIBBONS: Yes. That was my point.

13 MR. MUTTER: Ms. Bergman?

14 MS. BERGMAN: Two points. One, you may have done stuff
15 before, but there are Sweda (ph) studies that the Trustee Council
16 will not be able to approve on December 11th anyway because NEPA
17 compliance hasn't been done yet, so they would not be able to even
18 -- if you had given them input on everything today, they still
19 would not be able to approve an entire program on the 11th. Now,
20 I'm not sure that that point was understood here by everybody
21 today. Also, Mr. McVee, who was sitting here until just a few
22 minutes ago, said that he, as a Trustees Council representative for
23 the Department of the Interior, he certainly appreciates that you
24 all have received a lot of information and haven't had adequate to
25 review and digest everything, and he certainly is willing to
26 postpone decisions to get input from all you, if you can do it, you

1 know, in a reasonable manner, and he felt that if the PAG could
2 meet in early January and provide some advice then, that that would
3 certainly be something that he is amenable to.

4 MS. BRODIE: I would like to offer what I hope is a
5 friendly amendment, and that's -- I agree with what Mr. Williams
6 has suggested, except that I do hope we can take up the question of
7 competitive bids at this meeting in the next half hour, and I hope
8 that this won't preclude that. So, it's just that deferring the
9 1993 work plan until that day, and I would to just say that we will
10 continue discussions on those dates.

11 MR. WILLIAMS: Yeah. We want to keep -- we want to keep
12 going on it, and have time -- that's fine by me. I just want to
13 get it settled because the bulk of it, we're not going to be able
14 to handle so

15 MR. MORRIS: I just had a couple of things I wanted to
16 say. I want to make sure there isn't any misunderstanding that
17 anything's been decided, administratively, at least on the part of
18 the governments involved. All of the money that's come out
19 (inaudible) processed through an agency. The Council itself
20 doesn't exist as a contract authority. So, when it says lead
21 agency -- fish and game, or whatever, it means that agency would be
22 (inaudible) part of the contract, and the way to tell the
23 difference is to look at, without a contract, just look at the
24 budget for that -- just look at line 300, contracts, and see what
25 proportion of the total budget has been identified as going to the
26 contract, and that helps you get a handle on how much contract is

1 being imposed

2 DR. GIBBONS: And I will also get you this done as
3 quickly as I can and (inaudible - coughing), and it describes the
4 agency funds, professional contracts, the other contracts, and the
5 total budget. So (inaudible)

6 MR. MORRIS: The other thing I wanted to say though is
7 that (inaudible) talks about competitive, and that has a very
8 distinct connotation. Competitive bids have to be open to all
9 parties. (Inaudible) Kind of counter to the resolution you've
10 just passed. Keep that in mind when you discuss competitive bids.

11 MR. ELIASON: You have a motion to act on, Mr. Chairman?

12 MR. MUTTER: Would you read it again?

13 MR. WILLIAMS: My motion is to meet again January 6th at
14 9:30 in this room. A friendly amendment was that we make it 6th
15 and 7th.

16 UNIDENTIFIED VOICE: Second.

17 MR. PHILLIPS: Question.

18 MR. MUTTER: We have a motion to meet next January 6th
19 and 7th in this room.

20 MR. McCORKLE: Oh, I thought it was Honolulu.
21 (Simultaneous laughter)

22 MR. MUTTER: All those in favor, signify by saying aye.

23 COLLECTIVE VOICES: Aye.

24 MR. MUTTER: Opposed. (No audible response.) Jim?

25 MR. KING: I did go through this material pretty
26 carefully, and I have some things that I think ought to be brought

1 to the attention of the Council, and, as somebody mentioned,
2 there's a chance that they won't or will not be able to wait for
3 our January 6th meeting, and I would like to present my -- the
4 things that I have found in here that I think they should consider,
5 to them, before January -- or before December 11th, and I really
6 regret that I don't hold (inaudible -- coughing) the same sort of
7 input that the other members here have. So, I would recommend,
8 perhaps, that we all that are prepared to do so present the Council
9 with the observations that we have now and also make those
10 available to our fellow members for consideration on the 6th. I
11 guess I'm asking for the group's opinion for that.

12 MR. WILLIAMS: We have public comment at four o'clock.

13 MR. McCORKLE: Yes, that's what I was going to comment on
14 too. I think it would be very helpful if we, in a limited debate
15 fashion, could give those of us who have researched a few minutes -
16 - maybe you can't give your -- all your eighty-five points, but you
17 could give your top five or six. I, for one, am not prepared to
18 comment to the extent that you have -- well, my reading hasn't been
19 that thorough. I apologize. But it certainly shall be by the next
20 meeting, but I would benefit from those of you who have scholarly
21 comments on -- viewpoints, if during the public comment if we could
22 find a way to limit debate to whatever minutes you're willing to
23 allow, I'd like to hear those comments.

24 MR. MUTTER: It seems to me that each of you can submit
25 your own ideas to the Trustee Council, and if you want to get
26 copies to Dave or I, we'll make sure that they're distributed to

1 the rest of the public advisory group members. However, it seems
2 like, unless I missed something, we're missing one recommendation
3 that we assumed would take place, and that is I think you want a
4 written recommendation to the Trustee Council not to make final
5 decisions on December 11th until you've met on the 6th. Is that
6 correct?

7 UNIDENTIFIED VOICES: Yeah. (Simultaneous talking)

8 MR. MUTTER: Well, I'd entertain a motion to that
9 effect then.

10 MR. PHILLIPS: So moved.

11 UNIDENTIFIED VOICE: So moved.

12 MS. FISCHER: I'll second.

13 DR. FRENCH: Can we also have that motion indicate that
14 we feel we have some serious concerns about the work plan and we
15 would like to be able to discuss them before communicate to the
16 Trustee Council?

17 UNIDENTIFIED VOICE: Yes.

18 MR. WILLIAMS: Question.

19 MR. MUTTER: Okay. The motion to request that the
20 Trustee Council refrain from final decision on '93 projects because
21 the PAG has serious concerns about the whole process.

22 DR. FRENCH: Elements.

23 MR. MUTTER: Elements?

24 DR. FRENCH: Elements of the work plan. That's a hell
25 of a nice (Simultaneous talking.)

26 MR. MUTTER: Okay. All those in

1 SEN. ELIASON: Mr. Chairman, I think we should also
2 mention the fact that we haven't been given the opportunity and the
3 public hasn't been given opportunity to review this information.
4 So, it's not just -- it's a number of things.

5 DR. GIBBONS: Let me clarify that point. The public's
6 had the 1993 work plan. The only thing that is new and basically
7 here is the public comments, and we just got those -- the comments
8 of the public. But the '93 work plan has been out.

9 MR. MUTTER: Serious concerns, not enough opportunity
10 to review the materials, please postpone final decision until after
11 PAG meeting.

12 MR. McCORKLE: On

13 UNIDENTIFIED VOICE: On.

14 MR. MUTTER: January 6th

15 UNIDENTIFIED VOICE:January 6th and 7th.

16 MR. MUTTER: and 7th -- in Honolulu.
17 (Simultaneous laughter) All those in favor, say aye.

18 COLLECTIVE VOICES: Aye.

19 MR. MUTTER: Opposed? (No audible response). Mark?

20 MR. BRODERSEN: I was going to jump in for a minute in
21 spite of not being asked to do so to talk about some scheduling
22 problems that we're running into here. Jerome Montague alluded to
23 them a little bit, earlier, but didn't really carry on, I think, as
24 far as he should have. Effectively, what you're doing here is
25 saying that you're not to start the program until sometime in July.
26 By doing that, a lot of these studies basically go down the tubes

1 (inaudible -- extraneous noise) restoration projects. Maybe you
2 want to think about, if you want the Trustee Council to hold off,
3 can you get together sooner than that, than your early January
4 meeting? Or, do you want to try and somehow come up with specifics
5 that you'd like them to hold off on, to get going on some of them?
6 That kind of thing. To just say, put off the entire program may
7 not sit all that well when you actually start thinking about what
8 you're requesting here. We've been beaten up terribly in the last
9 year for being so slow at getting restoration in the field, and now
10 we're hearing that you want us to slow down even more. (Inaudible
11 -- coughing). You want to really think in terms of what's going to
12 happen in the '93 year by your request.

13 MR. MUTTER: Senator Eliason?

14 SEN. ELIASON: Mr. Chairman, I'm sure that they're going
15 to choose other options they might wish to do -- that we're just an
16 advisory group, and I think that those things that have to move
17 forward, they will do it. That's their option, and I think if it's
18 necessary, they will. They probably have good reason to do that.
19 Those that can be delayed 'till January 6th or 7th, I think they
20 would delay 'em. I'm sure they're not going to drop the whole
21 program for a month.

22 MR. PHILLIPS: It seems to me only fair to mention that
23 there was a substantial delay in appointing this committee in the
24 first place, and when they asked me to be a spear carrier or to
25 rubber stamp something, you've got the wrong guy on the committee,
26 and I think we have to have adequate time to look at this. If it's

1 put off 'till July, that means then that if we did now, it would be
2 put off 'till June, and what the hell's the difference in 30 days
3 to do it right and to make it cost -- enough this way -- excuse me,
4 and waste a lot of money. So, I don't think that this 6th of
5 January is going to cripple anybody.

6 MR. MUTTER: Okay, I

7 DR. FRENCH: Why would it be July when it's in
8 (inaudible) now?

9 MR. BRODERSEN: If you can put it off until the 6th of
10 January, by the time you put a document together -- I'm now making
11 some assumptions -- that by the time you've put together the
12 document, you've another couple of weeks on that. By the time the
13 Trustees get together to meet on that, there's a time period after
14 that, so that by the time you're actually making decisions, you're
15 sometime into February. After that period, it takes roughly 30
16 days to write an RFP, and then, as Jerome was saying, it takes
17 roughly 120 days' legal requirements to get something out into the
18 field, which then puts you into July if you start adding up all
19 those days. In terms of stuff now, we are already having a
20 difficulty on stuff that would go with December 11th. Some of
21 these projects were -- are -- we're aware that that was going to
22 happen. We are trying to foreshorten the -- both the 30 day period
23 and the 120 day period, so some of it can be done that way, but
24 it's a -- all I'm suggesting is that, do you really want to get
25 into a position of where you are recommending slowing down the
26 restoration process. I wasn't saying don't do this. I'm just

1 saying, think of the ramifications of this group suggesting that
2 you slow down restoration.

3 MR. McCUNE: Well, the counter to that is the -- you
4 know -- everybody's -- there's been a lot of criticism also for not
5 enough public input and the Trustees are just moving on their own
6 agenda. So, you could look at it two ways here. There's a lot of
7 people who have been talking to me that they're real happy that
8 this group is together, and now they have some input into what --
9 what's going to go on, and to say that -- as the public comments
10 here that I haven't got a chance to read, I mean, are we going to
11 do ourselves justice to the public by not saying anything about the
12 '93 plan and just letting that go and going to the '94 plan. I
13 don't feel in my own mind that I'm doing anybody justice if I just
14 let this one slide through and I'm unhappy with some of the
15 projects that are included in this one, and say, well, okay, I'll
16 just let that go. So, I feel the duty that we have is also two
17 ways. There's one -- the public hasn't had much input into this.
18 So, I know -- I don't -- I'm not any more for the delay, except
19 that the public needs to have a say.

20 MR. MUTTER: I'll allow one more comment, and then
21 we've got to get back on our agenda schedule here.

22 MR. McCORKLE: I'll defer to others. I've had plenty to
23 say.

24 MR. MUTTER: Mr. Diehl?

25 MR. DIEHL: I don't see how you -- you can expect us
26 to -- you know -- timing is everything in this, and the timeline is

1 just not there for us to do this -- correctly right now. It may
2 have been -- I was prepared to meet once a week, all through
3 November, to take care of this, to have us catch up, but to try to
4 meet once a month, and have us catch up is kind of bizarre, and,
5 you know, speaking for myself, I had plans for a Christmas
6 vacation, and I'm not gonna change.

7 MR. McCORKLE: You're going on vacation?

8 MR. DIEHL: Yeah. I'm outta here for the whole month.
9 And I told the restoration team members that this is what I was
10 going to do -- do you think we'll have a schedule where we can take
11 care of this -- and I didn't hear anything. I, you know, I thought
12 this whole plan is mute (sic). That was my opinion, coming in
13 here. This is gonna be approved by us because we have no other
14 choice. Now I see there's a rebellion of -- here. (Simultaneous
15 voices) And that's fine. But in order for us to handle this stuff
16 in a timely fashion, you know, the calendar has got to be set up a
17 year in advance, and it's got to be kept, and this goes for '94 too
18 because the same thing will happen in '94 unless we have everything
19 according to a certain calendar.

20 DR. GIBBONS: Let me just respond to that. The group's
21 first meeting was, I believe, the 29th of October. We would have
22 liked to have you involved in it earlier, and we tried to get that
23 going in the summer, and due to some delays, it kept being put off,
24 put off, you know, and so One of the crunches is when the
25 group was finally formed, and the schedule was intact at that time,
26 for the '93. In the '94, I see it differently. We're gonna start

1 in advance, we're gonna get you involved, we've got a group now,
2 we're going to structure it different, we're going to do a lot of
3 things different, but, I mean, we're caught here. So

4 MR. GAVORA: I wonder if there is not a compromise
5 possible here someplace. Could this group meet -- let's say, first
6 of next week? Digest this stuff here, and catch up, and maybe get
7 in sync with the Trustee Council? We're gonna have to do it
8 sometimes.

9 MS. FISCHER: We could recess, couldn't we? Until next
10 week, instead of adjourning?

11 MR. GAVORA: We also have the weekend, and then meet
12 Monday morning and finish it.

13 MR. McCORKLE: I would like to beseech the chair to,
14 perhaps, order a few more minutes of debate on this topic because
15 I think it is crucial. I think there are procedures that can be
16 done to allow it. If you want to meet again -- that -- some way
17 you can do that. But it's important, I think, and -- and our
18 learned colleague here has discussed the rebellion, and so forth,
19 that he sees, and in the spirit of that comment and your vacation,
20 I do wish to say I'm not sure it's a rebellion. Those of us who
21 have expressed a need for more discussion have been commenting
22 towards the public input of this whole program, and with respect to
23 your comments, there is in the public -- in the federal procurement
24 regulations allowances for a -- shortened time; b -- special
25 circumstances. So, what the Trustees must do is say 120 days won't
26 work here; we need to have 60. That can be done. There's

1 processes to do that. So, if prioritization does require that the
2 federal regs be modified, there is (inaudible -- coughing) for
3 doing that, and I do appreciate the comments toward the public
4 input. I think they're

5 MR. MUTTER: It was previously suggested that, perhaps,
6 an ad hoc work group be put together to review some of these
7 issues. Is that still something you want to look at prior to your
8 meeting on January 6th and 7th to put together more detailed
9 information?

10 MR. MUTTER: Mr. McCorkle?

11 MR. MCCORKLE: Yeah, I -- I think that's good, as long as
12 the ad hoc groups don't feel like they wish to or are able to speak
13 for the advisory group. I think it would be very helpful if those
14 who could come together and provide some spearhead discussion for
15 our meetings on January 6th, 7th, for the group to react to, I
16 think that would be very, very helpful.

17 MR. MUTTER: Mr. Totemoff?

18 MR. TOTEMOFF: Mr. Chairman, I can't stress the
19 importance that Mr. Brodersen has brought up about the timeliness
20 of the 1993 work projects. I would be in favor of recessing the
21 meeting and reconvening again next week before December 11th.

22 MR. MUTTER: Any other discussion on that?

23 MR. MORRIS: You may well meet on January 6th and 7th.
24 I think the Trustee Council is not intending to meet until the end
25 of -- end of January -- February. I'm not quite sure of their
26 schedule.

1 UNIDENTIFIED VOICE: I'm not quite sure, but it wasn't
2 going to be soon after your meeting, so really your decision to
3 delay, delays the work plan decision for at least a month and a
4 half. But, on the 11th, they were intending to take up the topic
5 of the restoration plan at the January meeting -- give that further
6 attention -- in which case, they would be precluded from doing that
7 unless they extended their meeting, which is very hard for them to
8 do, to deal with the work plan at that later date. This all starts
9 the logjam and back up on the projects (Inaudible)

10 MR. McCORKLE: So that then, Mr. Chairman, brings us to
11 the point of saying, do pass on the 1993 program, without our
12 recommendations because we will have to focus on 1993 (sic). We're
13 out of time, and I think we'd better face up to that fact. That's
14 where we are.

15 MS. BRODIE: Is there anyone who has a problem with
16 recessing until next week?

17 UNIDENTIFIED VOICE: I won't be here. I'm in Honolulu.

18 MS. BRODIE: So will we. (Laughter)

19 UNIDENTIFIED VOICE: I'll be fully occupied with other
20 meetings too.

21 SEN. ELIASON: I think that's very short notice.

22 MR. McMULLEN: Mr. Chairman, I'll go on record to say
23 that I -- I don't agree with leaving the 1993 work plan behind,
24 both for what's in it, and what's not in it. It just needs our
25 comment.

26 MR. McCUNE: This is a suggestion. Maybe for this

1 first round of the '93 work plan -- I have my comments, and all
2 I've gotta do is write them if -- if everybody just individually
3 sends their comments to the Trustees Council, and then we'll see if
4 they approve anything then or not. So, we have some comments.
5 That the people who have read the book have comments in there
6 because we are behind, and who knows if they're going to delay this
7 or not. I can see that there is going to be a problem there,
8 although I'm kind of along with John, I don't want to give up my
9 right to comment on this first plan now I've got it in my little
10 grasp, but maybe that's the way we should just go at it right now,
11 suggest that they delay, and everybody send their comments that's
12 prepared to send their comments in before the 11th, and we'll see
13 what happens.

14 MR. MUTTER: If you'll get copies of those to me, I'll
15 send them to the rest of the PAG.

16 MS. FISCHER: I think that would be a better to copy
17 Doug with them so they all go together.

18 MR. MUTTER: Another point of clarification, the
19 Trustee Council, the only thing that they have agreed on right now
20 is that they are meeting on the 11th of December. If they need to
21 meet again in December or early January, they can decide to do that
22 if they'd like to do that. If they want to meet two days or three
23 days because they don't have time, you know, to accomplish
24 everything, they can do that. So, the only thing that's set in
25 concrete right now is that there is a meeting on the 11th. The
26 announcements have gone out, but, again, they can meet after that

1 at any point that they choose that they can all get together. Now,
2 obviously, the holidays are going to complicate that a bit, but we
3 can't sit here and assume that the next time they meet will be in
4 late January.

5 MR. MORRIS: I said that because I thought at the last
6 meeting they all looked at their calendars and found out that they
7 were all busy -- many of them were already busy most of January.

8 UNIDENTIFIED VOICE: Most of December, yeah.

9 MR. MUTTER: Senator Eliason?

10 SEN. ELIASON: Yeah. We're not dragging the Council.
11 They -- I'm sure they're gonna do what they think is right. If
12 they have to take action on certain, they'll do it, whether we want
13 them to do it or not. I think the issues that can be delayed, they
14 will delay (inaudible -- coughing), so I think we are making a
15 problem here that really doesn't exist. I think it's proper that
16 we should say that we're not prepared to vote on this.

17 MR. CLOUD: I agree.

18 SEN. ELIASON: That's all we're saying.

19 UNIDENTIFIED VOICE: That's right.

20 UNIDENTIFIED VOICE: I agree.

21 UNIDENTIFIED VOICE: Right on.

22 MR. CLOUD: There isn't anything that precludes any of
23 us from making our comments individually at this point, and then
24 meeting to arrive at a joint statement in January, and I agree with
25 Senator Eliason, we should move on -- to the only area of
26 unfinished business, and that is that we should elect officers

1 before it gets too late today.

2 UNIDENTIFIED VOICE: I like that.

3 MR. MUTTER: Okay. Earlier we postponed the election
4 of officers until 3:30, and we're running a little late. At four
5 o'clock, we have scheduled a period of public comment. We may want
6 to stop at that time and see if there are any members of the public
7 in the audience that wish to offer some comments, and continue
8 after that -- if the election is not completed by then, and adjourn
9 by

10 Okay. Any objection with moving on to the election of
11 officers at this time?

12 Okay. We have some ballots we'll pass around the room, and
13 this will be for the position of chairperson. It's a position that
14 lasts for a year. We'll have another election in a year. The same
15 goes for the vice chairperson. The duties of the chairperson are -
16 - will be to run the meetings, attend the Trustee Council meetings,
17 the first of which will be December 11th in this room, I believe,
18 and to present the report of the public advisory group and
19 recommendations to the Trustee Council meetings, and to carry any
20 questions that the public advisory group has of the Trustee Council
21 to that group. Okay. Let's open the floor for nominations for the
22 position of chair.

23 MS. FISCHER: I'd like to nominate Brad Phillips.

24 MR. ANDREWS: Second that, Mr. Chairman.

25 MR. KNECHT: I nominate John French.

26 MS. BRODIE: Second.

1 MR. McCUNE: You really don't have to second, you just
2
3 MR. MUTTER: Any other nominations for chairperson?
4 MR. ANDREWS: Move that nominations be closed.
5 MR. WILLIAMS: Second.
6 UNIDENTIFIED VOICE: Second that motion.
7 MR. MUTTER: Do we need to vote on that?
8 UNIDENTIFIED VOICE: I would assume we'd vote on that
9 before we'd vote on vice chair.
10 MR. MUTTER: I mean, on the closure of the nominations
11
12 MR. McCUNE: You say three times if -- is there any
13 more nominations? Hearing no more nominations, then nominations
14 are automatically closed.
15 MR. MUTTER: Three times I have to say that?
16 (Simultaneous talking, laughter). Any more nominations? Going
17 once? Twice? Nominations for chairperson are closed.
18 Okay. You have a sheet of paper. Write down your vote.
19 Sherry and I don't vote.
20 UNIDENTIFIED VOICE: That's right.
21 MR. MUTTER: Sherry will pick up the votes.
22 UNIDENTIFIED VOICE: One ballot?
23 MR. MUTTER: Then we've got vice chair.
24 (Simultaneous talking while votes are collected.)
25 DR. GIBBONS: While we're waiting, I've got a couple of
26 things to talk about. The restoration team -- the symposium, the

1 oil spill symposium is coming up on February 2nd and 3rd -- 2nd
2 through the 5th, excuse me -- and we think it would be a good idea
3 for the public advisory group, whoever of you thinks you can, to
4 attend that. It's a session that will bring you up to date on the
5 injury -- you know, to what we know as of February '93, and I think
6 it will be an excellent session. What I propose we do is we'll
7 pick up your travel and your registration for that meeting. We'll
8 cover the cost under the operations of the (inaudible) fund. So,
9 keep your thoughts on that. They have -- let's see, it's here in
10 Anchorage; it's at the Egan Center. February 2nd is a free public
11 session where the public is allowed, without registration fee, in,
12 and there is a synopsis of the injury by category, and then the
13 following days are detailed presentations by the principal
14 investigations on the specific injury to the various resources and
15 services. I -- we've got some registration forms now, and just --
16 your thoughts on attendance.

17 MR. MUTTER: Did we hand those out?

18 DR. GIBBONS: Yes, we have.

19 MR. MUTTER: Well, there's a new version that's been
20 printed then.

21 MS. BRODIE: The ballots are still being counted?

22 MR. MUTTER: They're counted.

23 UNIDENTIFIED VOICE: Could we have the results?

24 UNIDENTIFIED VOICE: Will you send us a letter?

25 UNIDENTIFIED VOICE: We'll send you a letter
26 (inaudible)....

1 MR. MUTTER: Mr. Phillips is the new chairperson.
2 (Applause)
3 MR. MUTTER: Would you like to chair the election of
4 vice chairperson?
5 MR. PHILLIPS: Sure. Please pass out ballot forms for
6 the vice chair. The Chair will entertain nominations for vice
7 chair.
8 UNIDENTIFIED VOICE: I nominate Ms. Fischer.
9 MR. PHILLIPS: Paul? Ms. Fischer has been nominated.
10 Are they are further nominations?
11 MR. ANDREWS: I nominate Lew Williams.
12 MR. PHILLIPS: Mr. Williams' name has been nominated.
13 MR. McCORKLE: I move that nominations be closed.
14 MR. ANDREWS: Second.
15 MR. PHILLIPS: Are there -- I haven't got my Roberts'
16 here, so I'm not going to read this (simultaneous talking),
17 but if there are no other nominations, then if there's no
18 objection, the nominations will be closed, and the members will
19 vote on vice chair.
20 If you'd just stand by until we get
21 MS. BRODIE: I'd like to suggest something while we're
22 awaiting the tally and that is to help be able to talk to one
23 another before January 6th, that we set up some working groups, and
24 would suggest to start with that we have three regional working
25 groups for Prince William Sound, Kenai Peninsula, and Kodiak
26 archipelago.

1 MR. PHILLIPS: How many people are you suggesting would
2 be in a working group?

3 MS. BRODIE: I would suggest that any members of this
4 group who want to be on a working group will be on it, and then
5 amongst themselves they may decide to invite people to try
6 (inaudible).

7 MR. PHILLIPS: You're suggesting then that these working
8 groups operate until our next meeting in January -- make
9 presentations.

10 MS. BRODIE: If -- if they want to get together, then
11 they will give public notice -- give public notice.

12 MR. PHILLIPS: Then they will make a presentation to the
13 group, I imagine?

14 MS. BRODIE: That's up to them. It's just that they
15 will be -- we are giving them the authority to in that.

16 MR. PHILLIPS: If you'd like to make in the form of a
17 motion?

18 MS. BRODIE: I would move -- I would move that we
19 create, within this motion, three working groups: Prince William
20 Sound, Kenai Peninsula, and Kodiak archipelago. That anyone who is
21 a member of this group can join whichever regional group they
22 choose.

23 MR. McCORKLE: Second.

24 MR. PHILLIPS: The motion has been seconded. Is there
25 any discussion?

26 MR. TOTEMOFF: Yes, Mr. Chairman, what will be the

1 purpose of the working group?

2 MR. PHILLIPS: What will be the purpose of the working
3 group?

4 MS. BRODIE: I think that there will be issues of
5 interest to the regions that people are going to want to talk to
6 each other about, and so, getting people used to talking with
7 each(inaudible) -- stopped from doing that as long as they
8 (inaudible).

9 MR. McCORKLE: And, Mr. Chairman?

10 MR. PHILLIPS: Yes.

11 MR. McCORKLE: And presumably, too, between now and that
12 January meeting, which may or may not have an impact, those working
13 groups will get together and review the 1993 work plan so that they
14 could come back and offer whatever advice to us they may have from
15 those regional standpoints.

16 MR. PHILLIPS: It seems to me that the value of the
17 working groups would be that they could do anything that they --
18 wouldn't -- (inaudible) report back to the group for that purpose.

19 MR. CLOUD: I would suggest that if we're going to
20 establish working groups that we should, at this point, establish
21 chairs for each working groups, or at least interim chairs, so that
22 people know who to contact.

23 MR. PHILLIPS: I intended to call for that after -- if we
24 pass the motion. The motion before us is whether or not to have
25 working groups. Is there any further discussion on that? Yes?

26 DR. FRENCH: (Inaudible) already, but one of the areas

1 I feel lacking is interaction between the regional areas, within
2 the region, and I don't

3 MS. BRODIE: I don't intend to stop.

4 DR. FRENCH: Okay.

5 MS. BRODIE: I don't to intend to limit the working
6 groups to that.

7 MR. PHILLIPS: They just need a (inaudible), so they'll
8 be able to talk. Right? Is there any further discussion on
9 whether or not we want to form working groups?

10 MR. McMULLEN: Mr. Chairman, this is a question. These
11 meetings of the working groups have to be properly announced and
12 advertised too, is that correct? Having the working group allows
13 us to talk to each other in this interim period?

14 MR. PHILLIPS: Correct.

15 MS. BRODIE: Yes.

16 MR. CLOUD: So, therefore (inaudible)

17 MR. McCORKLE: And it has to be attended by a
18 representative of the office of(inaudible -- laughter).

19 MR. MUTTER: I need to be called.

20 MR. PHILLIPS: Is it required by rule that there be a
21 designated ...?

22 UNIDENTIFIED VOICE: By law.

23 MR. PHILLIPS: Are there designated people in those three
24 regions?

25 UNIDENTIFIED VOICE: What were the three regions again?

26 MR. PHILLIPS: Kodiak, the Kenai Peninsula, and Prince

1 William Sound.

2 MR. MUTTER: We'll have to look at that and see what we
3 can work out.

4 MR. PHILLIPS: I assume Prince William Sound means also
5 Anchorage, Valdez, Cordova, Whittier, and (inaudible -- laughter).
6 Anyway, the question before us is whether or not we will form
7 working groups for the three areas. If there isn't any more
8 discussion, all those in favor, say aye.

9 COLLECTIVE VOICES: Aye.

10 MR. PHILLIPS: Those opposed? (No audible response.)
11 Then I would suggest -- I would ask that at this time for
12 volunteers in those three different areas. We'll start with
13 Kodiak, for a volunteer for a chairman. Would you consider it,
14 John?

15 DR. FRENCH: Yes. Unless Rick wants it, in which case,
16 (inaudible) to argue.

17 MR. PHILLIPS: We can put him on the committee.

18 MR. KNECHT: Yeah. I'll

19 MR. PHILLIPS: What about the Kenai Peninsula? Is there
20 anybody here that has a sufficient interest to -- do we have
21 anybody from the Kenai area?

22 MR. DIEHL: I'm from Girdwood. I would like to do it
23 but (inaudible).

24 MR. MCCORKLE: Mr. Chairman, having a long-term interest
25 in that general region, since -- hearing no others who wish to --
26 at least for the purpose of getting our organization organized, I

1 will serve as chair of the Kenai group.

2 MR. PHILLIPS: So be it. Prince William Sound -- do we
3 have a volunteer for that general area. Anybody from Valdez?
4 Let's see (Ms. Fischer raised hand) So, the chair would
5 appoint those three as chairmen for the (inaudible), and when you
6 get your organization together, would you, as a courtesy, advise
7 Doug and myself who the members of the committee are and what your
8 plans are for meetings so that we can be sure and have the -- the
9 appropriate notices put out. Pam?

10 MS. BRODIE: I would like to move two more working
11 groups. One on habitat acquisition, and another on science --
12 scientific research.

13 MR. PHILLIPS: You heard the motion. Is there a second?

14 MS. BENTON: Second.

15 MR. PHILLIPS: It's been moved and seconded that two
16 further working groups be established, one on habitat acquisition,
17 and the other on science. Discussion?

18 MR. ANDREWS: Mr. Chairman, would the duties of this
19 group review the projects that have been proposed already in this
20 area of acquisition?

21 MR. PHILLIPS: I would assume that that's primary

22 MR. ANDREWS: (Inaudible -- simultaneous talking).

23 MR. PHILLIPS: That's certainly our number one priority
24 here.

25 MR. ANDREWS: Not to come up with new land acquisitions?

26 MR. PHILLIPS: I think we have our plate full with

1 MR. CLOUD: It seems to me we've already established
2 working groups based on geography, that perhaps this will be
3 overlapping and duplicative. Conceivably, both of those issues --
4 topics are important in all three geographic regions, so you'd have
5 a (inaudible), and I'm not so sure that it's necessary.

6 MS. BENTON: I guess the comment I'd have on that is
7 that the three working groups that we set up by region are to deal
8 with the short-term issues, like the 1993 work plan -- short-term.
9 Habitat acquisition is going to be a long-term effort and deals
10 with a high issue of public concern. It's not a short term, but a
11 longer term, and I think science will apply also for not just the
12 1993 but for a longer term, and I think that's part of the
13 rationale that enters the formation of these additional groups.

14 MS. BRODIE: I also think that -- that it's all right if
15 there's overlap -- the fact that we keep, as Mr. French pointed
16 out, we do need to (inaudible).

17 MR. McMULLEN: Mr. Chairman, I feel that this being after
18 the organizational meeting which I didn't attend -- this is the
19 first meeting we've had together -- and I think we should -- should
20 address the short term first. You know, get to understand
21 ourselves a little bit and come back with our varied comments that
22 we bring together in some kind of consensus statement before we
23 break off down the road with special -- specialty working groups
24 looking at long-range situations. So I would not be in favor of
25 that at this time.

26 MR. PHILLIPS: Further discussion on the motion? If not,

1 those in favor of the motion to establish the two other groups,
2 indicate by saying aye.

3 COLLECTIVE VOICES: Aye.

4 MR. PHILLIPS: Those opposed?

5 COLLECTIVE VOICES: Aye.

6 MR. PHILLIPS: My ear tells me the opposed have it.

7 UNIDENTIFIED VOICE: Mr. Chairman, could we have the
8 result of the election for vice chair?

9 MR. MUTTER: Yes. Donna Fischer is the vice
10 chairperson. (Applause) Mr. Chairman?

11 MR. PHILLIPS: Yes.

12 MR. MUTTER: It's a little bit after four o'clock. I
13 think at this time, it might be wise to see if there is any member
14 of the public who wishes to comment before we proceed with other
15 business.

16 MR. PHILLIPS: I think that's very appropriate. It says
17 so right here on this paper. (Laughter) If there are members of
18 the public who wish to identify yourself, and if you have anything
19 to say, questions to ask us, complaints or -- could you please
20 stand up and identify yourself.

21 MR. MUTTER: There's a microphone.

22 MR. GUARD: Once again, I'm Jeff Guard from CDFU --
23 Cordova District Fishermen United. I guess in the back -- what you
24 guys (inaudible -- out of microphone range).

25 MR. MUTTER: Could you come to this microphone, please?
26 Thank you.

1 MR. GUARD: Okay. I'm Jeff Guard with the Cordova
2 District Fishermen's United, and I guess the comments I've got have
3 to deal with what you folks have been going around with most of the
4 afternoon on, how all-encompassing the '93 draft work plan is, and
5 the quality of all of the stuff in there. I guess I'll just hit on
6 a couple of major ones here. Not being a scientist and having to
7 learn through hard knocks and through the oil spill a lit bit about
8 hydrocarbons and dead fish and things, one of the things we found
9 out is that the Pacific herring, which is one of the most
10 susceptible fish to damage through contact with water-borne
11 hydrocarbons -- and I find it real strange that when we look in
12 summary of injury, we find -- we found a large percentage of
13 abnormalities in the embryo from the fry that emerged the year of
14 the oil spill, up into the oil, and yet we've got -- and this next
15 year's going to be the first year we see these fish, if we see them
16 at all, coming back to spawn, and we've gotten nothing out there to
17 study what's going on here with this. I mean, they're going to
18 total the fishing of the Pacific herring at this point. One of --
19 I guess another one of mine has to do with a coded water tag study
20 that was omitted from the plan that we feel's important to deal
21 with. All this is submitted in a letter here from CDFU. I believe
22 it was passed around, but those are two of the big concerns of
23 ours. The only thing I can tell you is I appreciate the direction
24 you're heading in, and the only comments I can give you is, just
25 (inaudible) try to stay focused. I know that's a hard job to do,
26 but it's easy to get carried away and not much happens.

1 MR. PHILLIPS: Thank you. Is there anybody else -- a
2 member of the public that has anything to contribute? If not, then
3 we'll close off that portion of the agenda. Before we -- is there
4 one -- oh, I'm sorry.

5 MS. RUTHERFORD: I'm hardly a member of the public,
6 but I guess I -- I just was -- I just thought it was important to
7 add a comment from the restoration teams' perspective, and that is
8 that as you begin looking at the '93 work plan, which is sort of a
9 short-term activity, and familiarizing yourself with all of the
10 details of the whole restoration process, I just want to formally
11 say that we'd be very glad to meet with the subgroups, to meet with
12 you as individuals. I think that these are -- it's difficult to
13 talk about the complexities and the comprehensive parameters of
14 some of these activities in these kinds of meetings, and I wanted
15 to offer our assistance, should you want us at any of your
16 meetings, or want to be with us one-on-one. We are very willing
17 and interested in working with you, and it's like (inaudible)
18 formalize.

19 MR. PHILLIPS: Before adjournment, I'd like to make a few
20 comments. I appreciate the confidence in being chosen the chairman
21 for this year, but I'd like to tell you the experience I've had in
22 conducting meetings. I've kind of gotten a little format that I
23 like to hold to, and one of the things, I like to start the meeting
24 on time. So, I would ask you that at meetings in the future, that
25 are set for a time, that you're here, and we'll start that time,
26 because I think we have an awful lot of work to do, and the only

1 way we can do it is to get (inaudible). I'm reasonably familiar
2 with the rules of order, having had some (inaudible) conduct
3 meetings (inaudible), and hopefully I will be able to apply that.
4 I know Masons, but you're not used to that Mason (inaudible) -- the
5 legislature, and I appreciate the support. I hope that all of us
6 can be here, so we won't have a problem over a quorum, and you will
7 find that I try to keep things on track so that we can use our time
8 as expeditiously as possible. I know mine's valuable, and I'm sure
9 yours are. Your time's valuable, and we've got a long ways to do
10 to catch up, and so if you'll just have a little patience with me,
11 we'll find that the meetings will clip right along here. Yes?

12 MR. MUTTER: One final comment.

13 MR. PHILLIPS: Sure.

14 MR. MUTTER: The working group chairpeople do -- any
15 travel that's required needs to be authorized from our office, so
16 when you have meetings and people want to be reimbursed for
17 transportation, you need to contact me ahead of time, so that we
18 can get those approvals squared away and the travel agents lined
19 up, and so on. There is a budget for this organization, but I
20 think that's a topic that you're going to want to take a look at,
21 and we'll probably have to make some recommendations to the Trustee
22 Council because it doesn't account for three, let alone five
23 working groups, and whatever else you do. So, perhaps, at the next
24 meeting that will be something that we could -- you know

25 MR. PHILLIPS: Put that high on the agenda. The only
26 other comment I had, looking through our rules for proceduring and

1 how we work here, I noticed there was one item missing that
2 mandatory for a meeting here, and that's three dozen donuts. So,
3 I have asked the staff to be sure that there are three dozen donuts
4 here at our next meeting.

5 MR. MUTTER: Marty owes us donuts (Simultaneous
6 laughter)

7 MS. RUTHERFORD: (Inaudible)

8 MR. PHILLIPS: It doesn't say who's responsible. It says
9 we have to have them or we can't work without them. (Laughter)
10 Dave?

11 DR. GIBBONS: I've got a quick comment. At the request
12 of the Department of the Interior, I've got some more paper to hand
13 out for you. This is another budget spread. I handed one out this
14 morning. This one shows a little different spin on it. The one
15 this morning displays and Exxon payment of \$150 million being
16 received, then deduct the \$39.9 million for their reimbursement.
17 Now, this one says we get 110.1. It's just a different analysis --
18 but, here's more paper for you.

19 MR. PHILLIPS: Do any of the members have anything to say
20 or any comments for -- anything else before we do adjourn?

21 MS. FISCHER: Brad, I will always be here on time if
22 you'll take care of the Valdez weather. (Laughter) I've been
23 trying since yesterday to get here.

24 MR. PHILLIPS: Well, I -- those things I -- yes
25 Dave?

26 DR. GIBBONS: If you haven't been up to the fourth

1 floor, please come up and see where we -- where we work, and visit
2 the oil spill information center next door. There is -- the door
3 is open. I'm here most of the time. If I'm not here, I'm Juneau
4 where I live, I think, and so

5 MR. PHILLIPS: The Chair would entertain a motion for
6 adjournment if there is not anything else to come before us at this
7 time.

8 UNIDENTIFIED VOICE: So moved.

9 MS. BRODIE: Second.

10 MR. PHILLIPS: If there's no objection, it is so
11 recorded.

12 (Off record 4:20 p.m.)

13 (END OF PROCEEDINGS)

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CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

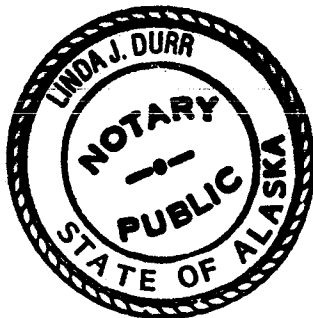
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 165 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council Public Advisory Group meeting taken electronically by me on the 2nd day of December, 1992, commencing at the hour of 9:40 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 8th day of December, 1992.



Linda J. Durr

Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/93