

9.4.2

PUBLIC ADVISORY
GROUP MEETING

10 FEBRUARY 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

PUBLIC ADVISORY GROUP

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

February 10, 1993
9:30 a.m.

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**EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD**

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

JAMES CLOUD	RICHARD ELIASON
JAMES DIEHL	PAUL GAVORA
JOHN FRENCH	PAMELA BRODIE
VERN C. McCORKLE	RICHARD KNECHT
BRAD PHILLIPS	LLEWELLYN W. WILLIAMS, JR.
CHARLES TOTEMOFF	
MARY McBURNEY (for GERALD McCUNE)	
KIM BENTON (for JOHN STURGEON)	
DAN WARREN (for JOHN McMULLEN)	

HABITAT PROTECTION WORK GROUP in attendance:

ART WEINER	Alaska Department of Natural Resources
KIM SUNDBERG	Alaska Department of Fish and Game
CHARLES GILBERT	National Park Service

RESTORATION PLANNING WORK GROUP in attendance:

ROBERT LOEFFLER	Co-Chairman, Restoration Planning Work Group; Alaska Department of Natural Resources
CAROL GORBICS	Co-Chairman, Restoration Planning Work Group; U.S. Fish and Wildlife Service
CHRIS SWENSON	Alaska Department of Fish and Game

1994 WORK PLAN WORK GROUP in attendance:

JOSEPH SULLIVAN	Alaska Department of Fish and Game
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RESTORATION TEAM in attendance:

DAVE GIBBONS	Interim Administrative Director, Trustee Council
MARK BRODERSEN	Restoration Chief, Alaska Department of Environmental Conservation
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:

JERRY RUSHER	Rusher Services
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P R O C E E D I N G S

(On Record: 9:35 a.m.)

MR. PHILLIPS: Okay, I'd like to bring the meeting to order, please, and ask that the roll be taken.

MR. MUTTER: Rupe Andrews? Pamela Brodie? James Cloud?

MR. CLOUD: Here.

MR. MUTTER: James Diehl?

MR. DIEHL: Here.

MR. MUTTER: Richard Eliason?

SEN. ELIASON: Present.

MR. MUTTER: Donna Fischer? John French?

DR. FRENCH: Here.

MR. MUTTER: Paul Gavora?

MR. GAVORA: Here.

MR. MUTTER: James King? Richard Knecht?

MR. KNECHT: Here.

MR. MUTTER: Vern McCorkle?

MR. MCCORKLE: Here.

MR. MUTTER: Gerald McCune?

MS. MCBURNEY: Gerry McCune is not here but Mary McBurney will be sitting as his alternate.

MR. MUTTER: John McMullen?

MR. WARREN: John McMullen is not here. I'm Dan Warren as an alternate.

MR. MUTTER: Brad Phillips?

MR. PHILLIPS: Here.

1 MR. MUTTER: John Sturgeon?

2 MS. BENTON: John Sturgeon is in Seattle today. I'm Kim
3 Benton. I'll be sitting in as an alternate.

4 MR. MUTTER: Charles Totemoff?

5 MR. TOTEMOFF: Here.

6 MR. MUTTER: Lew Williams?

7 MR. WILLIAMS: Here.

8 MR. MUTTER: We have ten present.

9 MR. PHILLIPS: We have ten present which is not enough
10 for a quorum to do any business. At this time, I'd like to
11 discuss two items in this regard. In our first meeting, we
12 decided to make a quorum of 12 and this is the first time we've
13 run into the problem that is presented by a quorum of 12,
14 particularly in light of the fact that, at least at this time,
15 some attorney has made the decision that our alternates cannot
16 vote. And a quorum means voting members.

17 So, I'd like to address -- have the group that's here
18 address two things. Number one, should we reconsider the quorum
19 factor because it is unfair for people to travel long distances
20 on something like this and not be able to do what we're supposed
21 to be doing. And it is the nature of committees that people
22 don't show up. Or for whatever reason, they are not there. And
23 I think it's noble to tighten the quorum to try to get the people
24 here but the result, unfortunately, is that we can't do anything
25 today until we get a quorum. I'd like to have you talk about
26 that.

1 And then number two item, I'd like to suggest that
2 perhaps we could send back to the trustees or whatever the powers
3 that be, a reconsideration of the rule issued by some attorney
4 that alternates cannot vote. It's completely inconsistent with
5 the way the trustees operate and I don't see why, if the
6 trustees' alternates can vote, why our alternates can't. It
7 would help solve this problem and the logic of not allowing
8 alternates to vote escapes me completely. If the people who are
9 alternates are appointed by the members to be here, obviously
10 they have to be knowledgeable and the member trusts that person's
11 judgment or it's a bloody waste of time, sitting around here,
12 smiling at everybody and not being able to make any decisions of
13 things presented.

14 So, the Chair would entertain any discussion you want to
15 make a) on the quorum thing and I know John, you're the one that
16 brought it up and maybe you have some comments about the quorum
17 thing and then second, we'll go back to the other one.

18 DR. FRENCH: Well, when I brought it up originally, I
19 had hoped we would indeed be able to have designated alternates
20 that were able to serve as full members of the group. And for
21 that reason, I felt -- that reason and the reason that at least
22 12 would represent specific interest areas, I felt it was
23 important that we have a broad quorum. In the face of the ruling
24 that we cannot have voting alternates, we probably need to
25 reconsider it. I agree with you on that.

26 We certainly don't want to be in a situation where -- or

1 particularly in this case, a quick count, I think if the
2 alternates were voting, we'd have a quorum, right?

3 MR. PHILLIPS: Yes, we would.

4 DR. FRENCH: And I would prefer to pursue that track
5 with the trustees. I think it's, as you said, totally
6 inconsistent with the operation of the rest of the groups but
7 also, I think it's the only way that's really consistent with the
8 concept of special interest groups on this group.

9 MR. PHILLIPS: Although we can't officially vote on
10 things or move on things because we don't have a quorum, I think
11 it would be completely appropriate if the group agrees that we
12 send a strong message back to the trustees and I assume that's
13 where we would go with our request for a serious reconsideration
14 of that rule and explain to them why and if this body is to be
15 effective, that we have to have a way to work here. I know there
16 are some members who, you know, don't do it just for the glory
17 and if we have to waste a lot of time traveling and so on, it's
18 really not worth the effort.

19 MR. MUTTER: Mr. Chairman?

20 MR. PHILLIPS: Yes.

21 MR. MUTTER: If I might make a suggestion, you handed
22 out a page with amendments to the operating procedures. It looks
23 like this -- it says page five down at the bottom and it deals
24 with alternate members. And the last sentence addresses what the
25 legal advice was at this point. I would suggest perhaps the way
26 for the PAG to make a recommendation to the Trustee Council would

1 be to change that and say that the alternates can vote for the
2 official member and forward that to the Trustee Council for their
3 approval. And that way, they would have a mechanism to react to
4 that suggestion.

5 MR. PHILLIPS: All right. Are there any other ideas or
6 comments or disagreements with this approach? Or do you have
7 anything to add to it? What's the time frame, Doug, that it
8 would take to get this to them, get it back and somebody make a
9 decision on it?

10 MR. MUTTER: Let me ask Dave what the agenda for the
11 Trustee Council meeting on the 16th contains.

12 MR. GIBBONS: The agenda -- there is an agenda item on
13 the operating procedures of the Public Advisory Group.

14 MR. MUTTER: So, they could take that up at their
15 meeting on February 16th and that doesn't mean that they'll have
16 an answer...

17 MR. PHILLIPS: Well, could we stress the urgency of a
18 decision on this? It's a pretty simple decision. My god, if
19 this is the most complex thing you've got to do in your life, you
20 probably ought to work for the post office. But, could we stress
21 to them that we just have our hands tied with that ruling. And
22 if I read the group right here, that there is no objection to
23 going that direction and point out to them that we could function
24 if we have that in light of our quorum need. And that would
25 solve the problem, I think, John, if we get that ruling back and
26 we will probably always have 12. Yes?

1 MS. McBURNEY: Yeah, I just wanted to make a comment
2 that -- and this is the second time I've sat in as an alternate.
3 Without having a vote, in a lot of ways, it makes it very
4 difficult for the interest group that I represent to have that
5 meaningful input in the public process which the memorandum of
6 agreement had intended. And otherwise, it disenfranchises those
7 folks that the alternates are representing.

8 MR. PHILLIPS: Exactly.

9 MR. WILLIAMS: Brad?

10 MR. PHILLIPS: Yes, Lew.

11 MR. WILLIAMS: I've got one question. I'm not too sure
12 how we appoint alternates. Is there some way we want to tighten
13 up on that so that the trustees will be more inclined to give
14 them a vote? Are alternates approved by the Trustee Council like
15 we were or what?

16 MR. PHILLIPS: I don't think there is a procedure of
17 that manner, especially because they haven't been allowed to
18 vote. I guess you could send your grandmother if you wanted to.
19 But I would think the only restriction be on it that the member
20 of the committee appoint somebody who is in the same field or has
21 the same -- represents the same interest group. And I would
22 think that would be a simple thing.

23 I can't imagine anybody sitting at this table is going
24 to send somebody down here that doesn't have the interest in the
25 thing, so rather than getting a lot of rules and regulations to
26 do it...

1 MR. WILLIAMS: Maybe we should just send the alternate
2 names in to the Trustee Council and if they have no objection,
3 those will be the alternates.

4 MR. GIBBONS: That was going to be my recommendation.
5 They've done that with the Trustee Council and the Restoration
6 Team where the group has named their alternate and run it through
7 and if there's no comment, then they just -- that's your standing
8 alternate.

9 MR. WILLIAMS: Yeah.

10 MR. PHILLIPS: Okay. That sounds like a pretty good
11 solution and if the group has no objection to that, why don't we
12 include that in our recommendation or request from the trustees?
13 Then, that will solve the other problem on quorum if we can get
14 this done. I guess the next thing -- yes, Mr. Eliason.

15 SEN. ELIASON: Before we go on, Mr. Chairman, have we
16 dealt with the ability of our alternate to vote or how are we
17 going to deal with that?

18 MR. PHILLIPS: Well, that's what we're talking about
19 now. We can't do anything now and we're asking them to reverse
20 their decision.

21 MR. MUTTER: We would change that language.

22 SEN. ELIASON: Change the reading here?

23 MR. PHILLIPS: Yeah.

24 MR. MUTTER: And say "can vote for the official member."

25 SEN. ELIASON: Okay, and then the follow-up on that
26 would be for us to submit a letter to the trustees, recommending

1 an alternate?

2 MR. PHILLIPS: Yes. We would all submit our alternates
3 and let it be transmitted to them for approval. I think that
4 would probably be routine, whatever we did.

5 MR. MUTTER: Why don't we have people send those to me
6 and then I can compile them and get them to Dave to present to
7 the Trustee Council?

8 MR. PHILLIPS: Okay. Excellent. And do you want to do
9 it at the same time that this request goes in so we have our
10 alternates now? Today?

11 MR. MUTTER: Probably, the sooner, the better.

12 MR. GIBBONS: I think it would be wise, yes.

13 MR. PHILLIPS: All right. If there's no objection,
14 before the day's over, or at least by the end of the week which
15 is the day after tomorrow -- you've got to transmit this by that
16 time to the trustee for their meeting anyway, don't you? What
17 is your deadline on us getting those names to you?

18 MR. MUTTER: Well...

19 MR. PHILLIPS: Noon, today?

20 MR. MUTTER: I'd say by Friday.

21 MR. PHILLIPS: At the latest.

22 MR. MUTTER: Are you going to be here on the 16th to
23 present...

24 MR. PHILLIPS: No. I am headed for Juneau in the morning
25 and the shipyard on Friday and I won't be back here until the
26 1st.

1 MR. MUTTER: I'd say if those could be sent or faxed to
2 me by Friday, then I'd have that available for Tuesday. Monday's
3 a holiday.

4 MR. PHILLIPS: Yeah, Jim. And then Dick.

5 MR. CLOUD: I had just a couple related comments. One
6 thing we could probably do or Doug could probably do to assure
7 that we have a quorum is to contact members before the meeting
8 and find out whether they're coming. Like today, we're...

9 MR. PHILLIPS: Absolutely.

10 MR. CLOUD: Some of these people probably would have....

11 (Enter Ms. Brodie)

12 MR. McCORKLE: Hey, here's one more voting member.

13 MR. CLOUD: ...made -- like Pam would have made more of
14 an effort...

15 MR. McCORKLE: We need one more.

16 MR. CLOUD: ...to get here on time, had she known we
17 were going to be short a quorum. Secondly and I think more
18 importantly, this meeting, I understood, was set up with the
19 major purpose of reviewing proposed habitat protection for
20 imminent threatened lands. And the date was chosen, based on us
21 getting the information on the 6th. We have it today.

22 MR. GIBBONS: I can walk you through that, if you would
23 like. It was finished yesterday and we're going to walk you down
24 through this package, page by page, so we thought that it was not
25 that critical that, you know...

26 MR. CLOUD: Well, Dave, I don't think that's the point.

1 The point is that when we make such an effort to get here, an
2 expense to get here, we'd like to review the information ahead of
3 time. We certainly should not be qualified to act on any of this
4 information today.

5 MR. PHILLIPS: Then, Dick.

6 SEN. ELIASON: I just want the fax number to follow up
7 on that letter.

8 MR. MUTTER: You want my fax number? 271-4102.

9 SEN. ELIASON: Okay.

10 MR. PHILLIPS: Yes, John. Oh.

11 MS. BENTON: That's all right. I'm Kim. I agree with
12 Mr. Cloud. I know that this was coming up today and as the
13 principal forest products representative, it was my intention to
14 contact all of the landowners and the timber owners that would be
15 identified in this document prior to today's meeting. And when I
16 requested copies of maps or copies of information, I was told
17 that I couldn't have those. I'm here today, looking at this for
18 the first time. I'm just -- I can't imagine that that's
19 productive for anybody.

20 MR. PHILLIPS: Yes, Paul.

21 MR. GAVORA: Mr. Chairman, I want to go back to that
22 alternate situation. I don't see any problems with the people
23 who are representing special groups. They can give the marching
24 orders for their alternate. The public-at-large seems to me like
25 we're going to have a problem, naming our own alternates. The
26 fact that we went through a quote, unquote screening process.

1 That's a little bit of a difficulty.

2 MR. CLOUD: Is there anything that prevents us from
3 naming other public at large representatives to vote on behalf of
4 the public-at-large? For instance...

5 MR. PHILLIPS: I hadn't thought about that category but
6 let's talk about it. What's the answer or what different
7 approaches are there to that particular category? We're talking
8 about the public-at-large appointments which are not identified
9 with special interest groups. Yes.

10 DR. FRENCH: Perhaps, Dave can answer this but were
11 there additional members that the trustees considered
12 disqualified when the appointments for the public-at-large were
13 made and couldn't they go back to that list and contact those
14 people and ask them if they were willing to serve as alternate
15 public-at-large members?

16 MR. GIBBONS: There was additional members on the list.
17 If I recall -- I can pull that out, but the voting, you know,
18 they basically said all members who receive five votes or more
19 were named that way and then there was some other members that
20 had four and then two votes and three votes.

21 MR. WILLIAMS: Brad?

22 MR. PHILLIPS: Yes, Lew.

23 MR. WILLIAMS: What I'd like to do on public-at-large,
24 if I could name somebody that lived in Anchorage to represent me
25 because quite often, you're going to be hurt by the fact that the
26 weather is not going to get me out of Ketchikan. And I could

1 call somebody in Anchorage and say, "Will you run down there and
2 represent me," it would be a bigger help than sending another
3 person from Ketchikan.

4 MR. PHILLIPS: That's not a bad idea. Okay, what
5 recommendations should we make to them? And I find that as an
6 attorney, that if you draft a contract, that everybody else is
7 modifying it and it's still your basic idea whereby if you hand
8 the job to somebody else, then you spend the rest of your life,
9 trying to get it back where you want it. So, in regard to that,
10 I think maybe we should give a suggestion to the trustees on how
11 we want to handle this.

12 MR. McCORKLE: Mr. Chairman, I recommend that the
13 members of the public-at-large or the delegates who represent the
14 public-at-large take a stab at coming up with their own
15 alternates. I'm not at all comfortable with somebody I don't
16 know standing in my stead and recommending [sic] the public, as I
17 would, not that I'm the most competent to do that but I am just a
18 little bit skittish, I think, on having somebody I don't know and
19 who doesn't share my concerns for the public to maybe stand and
20 vote for me.

21 So, with that said, I'd like to recommend that at least
22 we give a try. If we can't come up with somebody by the Friday
23 deadline that's suggested, then we may have to ask staff to do
24 some help or come up with another approach, but I feel very
25 comfortable with the members who represent the public of
26 selecting their own -- or at least, as an example, as our

1 distinguished gentleman from Ketchikan might want to have some
2 recommendations of people in Anchorage who could stand in. I
3 think that's an excellent suggestion.

4 MR. PHILLIPS: The suggestion here is that the category
5 of public-at-large name their own recommended alternates and
6 submit them to the trustees, just as other special interest
7 groups here name theirs and see if it flies. If there is any
8 problem with that, then I suspect that we will hear from the
9 trustees. That seems to be the simplest way to approach this so
10 we can get on and get something done.

11 MR. MUTTER: Mr. Chairman?

12 MR. PHILLIPS: Yes.

13 MR. MUTTER: If I might request that in the letter to
14 me, you include the name, address, phone number and maybe just a
15 few sentences on their background, where they're coming from, so
16 that when you present that to the Trustee Council, they'll know
17 what they've got in front of them.

18 MR. PHILLIPS: Is that okay with everybody here? Then
19 why don't we do that and try to get something to Doug just ASAP
20 to try to get this thing resolved on the 16th.

21 Pam, you weren't here but for your information, we do
22 not have a quorum so that we can't vote on anything today. We
23 voted originally, as you know, on a quorum of 12 and the rules
24 say that they have to be voting members -- membership. And so,
25 we are suggesting to solve that problem, our number one choice is
26 to have them reverse this decision on alternates to allow

1 alternates to be able to vote when they're here in our stead. If
2 we had that situation today, we could go on and do it, but here
3 we sit and we can go through all of this stuff and it probably is
4 valuable to have them feed us some information today but there's
5 nothing we can act on, I'm afraid.

6 MR. GIBBONS: One possibility is the plane from Juneau
7 gets in about 9:30 and by the time that, you know, people get
8 here, it's about 10:00 or a little after, so we might have either
9 Jim King, you know, or Rupe or someone showing up.

10 MR. PHILLIPS: I think Rupe is over in Hawaii.

11 MR. GIBBONS: Oh, that's right. Okay, that's right.

12 MR. MUTTER: Jim's not coming either.

13 MR. GIBBONS: That's right. He wasn't. He was gone
14 too. So much for that idea.

15 MR. PHILLIPS: Vern.

16 MR. McCORKLE: Somebody before me has made the
17 suggestion and I think it's excellent -- I think Jim did -- an
18 excellent one that the staff try and a day or two ahead of time,
19 either by fax and asking for a return fax or a telephone call to
20 try and ascertain if there's going to be a quorum. For example,
21 we only need one more today and I don't know if there's anybody
22 around we could call who maybe could come. Looking at the
23 agenda, I'm not sure there's anything too hot that we really need
24 to decide anyway, is there?

25 MR. PHILLIPS: The main thing is the information on the
26 acquisition of habitat which is probably the hottest subject in

1 the whole oil thing, but...

2 MR. McCORKLE: Is that going to call for a vote today?

3 MR. WILLIAMS: (Indiscernible - simultaneous speech)

4 MR. PHILLIPS: Oh, yes, but we just can't take any
5 action -- official action is all.

6 MR. CLOUD: If you determine that by calling around that
7 we weren't going to have a quorum or if information that we were
8 supposed to consider doesn't -- isn't available in time for us to
9 consider it meaningfully, is it possible to cancel these meetings
10 two or three days in advance?

11 MR. PHILLIPS: I would hope so. It would save a lot of
12 travel and a lot of inconvenience to people.

13 MR. CLOUD: So, there's nothing in the law that says we
14 can't cancel it because we've told the public they could come
15 here and comment at 3:30?

16 MR. GIBBONS: There's some stipulations on that. The
17 Trustee Council, it has to go to the newspaper that the meeting
18 is canceled. We just can't say it's canceled and have the
19 public, you know, show up here and find out. The notification
20 for these meetings, I believe, are just posted on the window out
21 here so we probably could put a cancellation posting out there.

22 MR. CLOUD: So, if you did need to take public comment,
23 you could come here, Dave, and listen to Mr. McKee at 4:30?

24 MR. GIBBONS: Doug can do that.

25 MR. PHILLIPS: I was going to outfox him today and get
26 out of here by 4 o'clock.

1 MR. McCORKLE: Mr. Chairman, it may be just a procedural
2 thing but for those folks who have travelled here and would be
3 turning in travel expenses because they've come some distance,
4 I'm assuming that is going to be an allowable expense, even
5 though we do not have a quorum to meet?

6 MR. PHILLIPS: Oh, absolutely. You did your job.

7 MR. GAVORA: Would the new meeting have to be
8 rescheduled or could we just postpone this meeting for around
9 three or four or five or six days, whatever it...

10 MR. PHILLIPS: I would suggest this, Paul, that we
11 proceed on getting and absorbing as much information as we can
12 today on the presentation that Dave is going to give us and that
13 we generally discuss anything we want to that's on this agenda or
14 anything that isn't. The only prohibition we have, we can't vote
15 on it and make it official as an action of this group.

16 MR. GAVORA: I understand that, but I was talking in
17 terms of future. You find out the day before the meeting that
18 you don't have a quorum, so do you have to cancel or can you just
19 postpone and meet a week later?

20 MR. PHILLIPS: Technically, I think you would have to
21 meet and then continue the meeting. Legally, I think you would
22 have to do that because you have to meet and have a quorum and be
23 duly authorized to carry on the meeting. And then you could
24 postpone it but if you never have the meeting, then you've got to
25 go through a 30-day notice again.

26 MR. MUTTER: Yeah, the meeting notice has to be

1 published in the Federal Register by law.

2 MR. PHILLIPS: As a practical matter, just postponing
3 it two or three days can be an awfully inconvenient thing for a
4 lot of members that have to plan on farther ahead than that.

5 So, I would like to then suggest that we do this
6 informally today, not to the extent that everybody talks at the
7 same time. I would like to follow the same procedure, but
8 knowing that we will not be taking any official stands and votes
9 on things, that we try to get as much out of this as we can and
10 maybe we can get out of here before Mr. McKee comes.

11 Did anybody have a chance to look over the minutes of
12 the January 6th and 7th meeting? Are there any suggestions or
13 changes that we have to have incorporated so that when we do vote
14 on it, it will save us some time? Okay. Yes.

15 DR. FRENCH: Yeah, this is John French. I didn't see
16 the item in the minutes of our meeting but I noticed in the
17 minutes of the Trustee Council meeting that they voted to delete
18 the expenditures for Public Advisory Group hearings. It was my
19 recollection that we recommended increasing the Public Advisory
20 Group budget for our own meetings, not specifically to cover
21 hearings. And if that information -- if it was conveyed to the
22 Trustee Council in that way, either my recollection is incorrect
23 or I would hope that can be corrected because I believe that I
24 was the one who put forward the initial motion to increase the
25 PAG budget and the intent was to be able to cover more PAG
26 meetings, not necessarily -- what I read between the lines on

1 that is working group hearings. And you know, I recognize that
2 some of the Trustee Council are not in favor of working groups,
3 let alone working group hearings, but I do think that the PAG
4 budget as originally put forward by the Restoration Team is
5 insufficient or potentially insufficient. And I still stand by
6 the general working -- of direction of trying to get approval of
7 more dollars than we hope to spend so that the authorization is
8 there so we don't have to go back to the court to get further
9 authorization, if needed.

10 MR. MUTTER: Mr. Chairman?

11 MR. PHILLIPS: Yes, Doug.

12 MR. MUTTER: Yeah, I've taken a look at the budget and
13 we've got -- initially there was some money in fiscal year '92
14 for the PAG but it took so long to get it started that wasn't
15 used, so there are carry over funds so having looked at the
16 budget, I think the PAG has adequate budget to carry out their
17 function for this fiscal year, so I don't think that's a problem.
18 And I think you're right. This other issue was about something
19 different. So, I think you're okay, budget-wise.

20 MR. PHILLIPS: If there isn't anything else that's going
21 to intervene here, the next thing I would ask is that Dave give
22 us a review of the trustee meeting and present us with the
23 information that he has for us. Unfortunately, I was unable to
24 be at the trustee meeting and I'd like to have you tell us what
25 happened there in regard to our suggestions and so on. Is there
26 any objection to doing that? If not, then why don't you proceed?

1 MR. GIBBONS: Okay. Donna Fischer was there and
2 presented -- had a handout and presented some information. I
3 will say candidly that some of the information she presented was
4 not quite, I think, on track. For example, she mentioned that
5 you guys today were going to review -- prioritize the projects
6 for the '93 work plan and that was not the intent, I don't think,
7 your intent to do that today. The intent was to deal with
8 habitat and the things that we've got on the agenda. So, Doug
9 and I both piped up at that point and said no, we didn't think
10 that was the intent of the Public Advisory Group to do that.

11 So, you might want to look at the presentation a little
12 bit to the Trustee Council from the group. You know, you might
13 discuss that as the last item on your agenda. What kind of
14 things do you want to present to the Trustee Council and I think
15 that would solve maybe some of the problems.

16 In your package is a summary -- my summary of the notes.
17 And I gave Brad -- it's from the Restoration Team there and it's
18 just two pages and there's some other attachments with it, but I
19 gave Brad and Donna a copy of the complete transcript, if you
20 want to see them. They're up here. They're 400 and some pages
21 long, I think, or big stacks of material.

22 I'll just walk down through this. The first item they
23 brought up was habitat protection. They moved to accept the
24 Restoration Team recommendation that's, I think, in here and
25 you'll hear it today, too. Threshold Criteria (set B with the
26 addition of one -- of 9C) and that's an interim basis until the

1 restoration planning can get done and the public can comment on
2 it completely.

3 They next approved a motion to reword one threshold
4 criteria. The original wording was that the governments could
5 not pay over fair market value. They reworded that to say "The
6 seller acknowledges that the government cannot purchase the
7 parcel or property rights in excess of fair market value." Their
8 feeling there was that if somebody wants to sell it for fair
9 market value, hey, why not accept it. So, that was the reasoning
10 behind that.

11 The next motion they approved was adopting the interim
12 valuation and ranking criteria. That's in the package, too.
13 That's after a parcel is screened, you're going to go through and
14 do some detail evaluation of that particular piece of land. And
15 those criteria -- I believe, there's nine of them.

16 Next was they approved the motion on Kachemak Bay.
17 That's included in your package here. I won't read it. They
18 approved the 7 1/2 million to go into the Alyeska fund and then
19 to reach closure before December of this year -- before January
20 of '94, I should say.

21 They talked about the Public Advisory Group
22 recommendations and projects. They deferred the Kodiak Museum
23 decision until the 16th and they wanted to get some more detail
24 before they made a decision on that. They also deferred the
25 Chugach Resource Management Agency proposal until the next
26 Trustee Council meeting. And they basically told the Restoration

1 Team to go back and look at those five -- and look at the five
2 proposals again and come in with some recommendations to them at
3 the next meeting and we will do that. We haven't done that yet.
4 We're going to do that tomorrow and we'll look at those projects.

5 Continuing the next day, in the morning, they approved
6 the administrative director to work with the Trust agencies and
7 spill-affected communities to utilize as much as practicable,
8 local labor and personnel; basically, resolution number two, as I
9 read it, from the Public Advisory Group. They approved that.

10 We had much discussion -- I don't know if you followed
11 it in the paper headlines that the Trustee Council fussed and
12 feuded and there was a lot of controversy at the meeting. It
13 wasn't a very smooth meeting. There was agendas on both sides.
14 Some of the discussion items they had was the Trustee Council
15 wants to do restoration work in '94. I brought that one out.
16 Several members said we haven't done any restoration; we want to
17 do restoration in '94. We want to do hard, concrete type things
18 and so, they made that point.

19 Discussion by the Trustee Council and Restoration Team
20 on the '94 work plan process in March. They told us that they'd
21 like to have a working session with us in March, not a decisional
22 meeting, but a working session so, we can bring them along, bring
23 them up to speed on progress of the restoration plan and our
24 thoughts and alternatives and those types of things. And you'll
25 hear some of that today, too, from us.

26 They discussed that individual (federal) Trustee Council

1 members should approach their legal counsel on a need for an
2 environmental impact statement. I think it's -- you know,
3 they're trying to say can we get away with an environmental
4 assessment, less work and get on with it quicker. And that was
5 their reasoning behind that, so the Trustee Council members on
6 the federal side will start talking to their legal counsels.

7 MR. PHILLIPS: Excuse me a minute. Are you talking
8 about having an environmental impact statement to cover the
9 entire plan or...

10 MR. GIBBONS: Right.

11 MR. PHILLIPS: ...for each individual project?

12 MR. GIBBONS: No. For the entire plan. The proposal
13 right now is to come up with a draft restoration plan in June and
14 a draft environmental impact statement together. Same time.

15 The Trustee Council directed the Alaska Department of
16 Environmental Conservation and U.S. Forest Service Restoration
17 Team members to develop a Prince William Sound recreation
18 project. That's in your package here for you to look at.

19 The Restoration Team is to further review all PAG
20 projects by the 16th meeting, if possible and like I said, we're
21 going to try to get at that. Our first goal was to get these
22 packages done and we've been working weekends to try to get this
23 stuff done, so that's our priority -- one of our projects for
24 tomorrow.

25 And the project action table is also included here.
26 This is a summary of the individual projects and what happened

1 with them. The Trustee Council action and the budget. And so,
2 this is the status of the '93 work plan as we know it today.
3 They approved the motion, if additional funds are needed, for
4 data collection and project 93061, that these funds should be
5 taken from the project 93064 which is a 20 million set-aside.

6 MR. PHILLIPS: What's 61?

7 MR. GIBBONS: 61 is a fund set up that if we find out
8 after collecting this information, we need some more information
9 that we don't have, that fund should pay for that collection. And
10 that's what that project is.

11 The Restoration Team needs to review the Public Advisory
12 Group recommended projects, like I said, as soon as possible and
13 report back to the Trustee Council. Delete proposed expenditures
14 for the Public Advisory Group hearings and you hit it right on
15 the head. Some members are -- some Trustee Council members are
16 not in favor of having these regional meetings. The reasoning
17 I've heard was that you're selected as a body to interact as a
18 body and not to interact as small groups in isolated -- or in the
19 three regions.

20 DR. FRENCH: Are they aware that we are able to
21 audioconference into all those regional meetings?

22 MR. GIBBONS: Pardon?

23 DR. FRENCH: Are they aware that we are able to
24 audioconference into those regional working group meetings as Pam
25 Brodie has?

26 MR. GIBBONS: All members?

1 DR. FRENCH: As far as I know. It's hooked up and the
2 numbers are available to the rest of the membership, aren't they,
3 Doug?

4 MR. MUTTER: Yes, I believe people can get in. I'm not
5 so sure it was the mechanics and the cost that was the concern.
6 I think -- correct me if I'm wrong, Dave, the concern was that
7 they wanted this group to function as a group and not break off
8 into isolated small groups, not to say that you couldn't discuss
9 things with constituents of your interest groups, but they didn't
10 want to see separate small meetings set up but to function as one
11 large group. I think that was the issue.

12 MR. CLOUD: The first meetings that we had in December,
13 the whole Public Advisory Group wasn't notified. After that, I
14 think the last meeting or two, we all were, as far as I know.
15 So, we could have patched in to a teleconference.

16 MR. GIBBONS: They approved -- there was a discussion on
17 the organization --- the restoration organization. And they
18 approved the first quarter budget, March 1 through May 31st, of
19 the administrative budget. That includes the Restoration Team
20 and the working groups and also, the Public Advisory Group. And
21 they approved long-term contracting like the building and staff
22 here for the period. Long-term contracts, chief scientists, EIS
23 and the building and staff here through September.

24 On the agenda for the 16th is an organizational
25 discussion of the Trustee Council. What kind of organization do
26 they want. And that's what they're trying to sort out.

1 The last motion was that Charlie Cole and Mike Barton
2 would represent the Trustee Council at the Oil Spill Symposium
3 opening day remarks and they did that. And the next Trustee
4 Council is the 16th and possibly the morning of the 17th.

5 If you want me to, I can walk through these projects but
6 it might be just as -- I think they're pretty self-explanatory
7 what was approved and what was not approved. And if nobody has
8 any discussion, I'll just drop it at that point.

9 MR. PHILLIPS: What piles are those things in?

10 MR. GIBBONS: Pardon?

11 MR. PHILLIPS: What pile of papers is that thing in?

12 MR. GIBBONS: This?

13 MR. PHILLIPS: Is that the one we had before?

14 MR. GIBBONS: It's under your notebook, I think.

15 MR. PHILLIPS: Which notebook? Oh, there it -- okay.
16 Confused by paper.

17 MR. GIBBONS: It says summary recommendation matrix.

18 MR. PHILLIPS: Okay. Any questions?

19 MR. PHILLIPS: May I ask a question. In the
20 presentation before the trustees, did anyone present the concern
21 that was expressed here in this meeting last time by several
22 members about looking at the proposed budgets and the overlay of
23 personnel costs which makes up the bulk of the costs? There were
24 several members that brought this up time after time when we
25 reviewed these budgets and said "Let's talk to the trustees to
26 have somebody examine and see if this isn't triple or quadruple

1 dipping." And was that subject discussed at all?

2 MR. GIBBONS: That was identified on the table. There's
3 a role here that we need to clarify, too. I would hope that the
4 Chair, whoever makes the presentation at the Trustee Council
5 meeting, makes the wishes of this group known to that body and
6 not have me try to decipher what you're trying to say to me and
7 have me try to make it. So, that's a concern. On the table here
8 that I gave them, it had those notes on there from the Public
9 Advisory Group. Unanimously recommended look at reducing budget
10 combined with 92015. Those kind of comments were in there and --
11 plus they had your entire package that you filled out. You know,
12 your voting record and your comments and all that. They had that
13 entire package additionally. So, that information was to them.

14 MR. PHILLIPS: We certainly could have approved
15 projects, but still expressed our concern about the personnel
16 section and whether or not it was necessary and whether or not it
17 was duplication and whether or not it was just padding budgets
18 and that was a very strong thought among several members here.
19 Yes, Vern.

20 MR. McCORKLE: I have to confess guilt for not being
21 able to be with us the second day. Because of prior commitments,
22 I could not get out of. That's not what I intend to do in the
23 future. But along the spirit of the remarks that the Chairman
24 has just made and others, I hope we can find a mechanism,
25 particularly when we're planning for next year's project, to have
26 a much more clear and much more powerful reporting to the

1 council.

2 The specific case in point was made, as you said, many
3 times and I did not see it coming back in the report from the
4 advisors -- I mean from the trustees, not that they didn't listen
5 to it, perhaps but it certainly didn't make a register with them.
6 Maybe one of the things we could discuss at a certain point today
7 is how we want to then summarize the activities of this group
8 when it gets carried onto the council. Now, we can't expect our
9 Chair to do that all the time, but certainly we want to make sure
10 that if we had some miscommunications or some false starts last
11 time, that was last year almost. We've got a whole process ahead
12 of us in '94 and that's where we need to make sure that our views
13 are clearly expressed, not that they'll always be followed, but
14 at least, we want to have that communication take place. So,
15 I'd like to suggest maybe toward the end of the day, we address a
16 few minutes of how we can summarize these meetings or what method
17 we want to carry forward our message to the council.

18 MR. PHILLIPS: Excellent idea.

19 MR. GIBBONS: One other point was made, too, that -- I
20 think you hit on it, too -- is the prioritization of the
21 projects. The Trustee Council would like that from the Public
22 Advisory Group. Put a prioritization on 'em. Which ones are
23 high; which ones are low.

24 MR. PHILLIPS: All right. First, Mr. French, then Mr.
25 Totemoff and then Jim Cloud.

26 DR. FRENCH: Yes. Dave said we need to take it on

1 ourselves to make those presentations to the Trustee Council. We
2 do have official representation through our chair and vice chair.
3 And I think the onus is on us to provide you with a good report,
4 with something that you can take forward effectively -- either
5 you or Donna can take forward effectively and give our position
6 forcefully to the Trustee Council.

7 MR. PHILLIPS: Yes. Chuck.

8 MR. TOTEMOFF: Mr. Chairman, I'd just like to make a
9 couple comments, on the budget for the Public Advisory Group
10 concerning our regional meetings as you've termed it. A few
11 meetings ago, I was under the impression that this body would
12 serve as a focal point for various interest groups. At the last
13 Trustee Council meeting, trustees did not want to see that
14 happen. Some members on this group may have a budget for doing
15 that sort of activity but I don't. And I'm very concerned that
16 as representative of Native landowners that the things that I
17 bring to this table are not representative of the other interests
18 in my class. I don't think my board of directors of Chenega
19 Corporation would approve a budget for me to have some sort of
20 forum and devote a whole bunch of my time to try to bring back
21 the various interests in my class or concerns. I would just like
22 to state as a comment, it's just not happening for my class.

23 MR. PHILLIPS: I think we'll take that up before we
24 finish here today. Jim.

25 MR. CLOUD: Well, I'd just like to comment on
26 prioritization. Weren't we all supposed to prioritize our votes

1 on these -- 1983 [sic] work plan and get them to Doug for his
2 compilation and forwarding and did that not happen, Doug?

3 MR. MUTTER: That did not happen. I received two --
4 well, three. Senator Eliason left his that day and that was a
5 topic of discussion. And as I recall, the group was going to do
6 that but just ran out of time to do that. And since I only had a
7 couple of them in, I didn't think that represented the PAG's
8 priorities.

9 MR. PHILLIPS: That's another thing that we have to make
10 a decision on. It's just -- I didn't get time to do it, I know
11 that. Yes.

12 MR. McCORKLE: Mr. Chairman, maybe one way that we could
13 do that would be for us -- or for staff or somebody who knows how
14 -- I haven't had that kind of experience -- to develop a matrix,
15 a piece of paper that we would keep on the table, right beside us
16 and as we go through, do our own prioritizing as we go and then
17 hand that in at the end of the day. If there was some kind of
18 vehicle that we could do that as we go because sometimes, once we
19 get out of here, it's two or three days before we can get back
20 and go through that but there may be a -- somebody here may know
21 a way we could do this so that by the end of the business day, we
22 could just turn in what our priority is. And that way, we
23 wouldn't lose track of that important feature.

24 MR. PHILLIPS: Yes.

25 MR. KNECHT: This is Rick Knecht. I'd like to suggest
26 that maybe we grade the projects, A, B, C, and D or whatever and

1 then average those grades when they're turned in, just like you
2 would an exam.

3 MR. PHILLIPS: I think that's probably a simpler one
4 than getting a full agreement on what should be number one, two,
5 three and so on. I think that's much more workable. Pam, yes.

6 MS. BRODIE: I guess I had a question for Dave again.
7 At the Oil Spill Symposium and I don't think all the Public
8 Advisory Group members were able to be there but during Charlie
9 Cole's opening comments, he had said that he wasn't as happy with
10 the Public Advisory Group as he would have liked. And I was
11 wondering if you could expand on that and maybe offer some
12 suggestions that the Trustee Council would have for us to be
13 better or more what they hoped.

14 MR. PHILLIPS: If I may, I was there when that happened
15 and as a result, I called Mr. Cole and he called me back on
16 Monday of this week. And we had a long discussion about his
17 concerns and he apologized first that they had not given us
18 enough direction on what they expected from us. And after that,
19 then we talked about several items and his concern about habitat
20 acquisition and some of the problems imminent with that very
21 important thing.

22 And I think the bottom line is he said "We don't expect
23 you guys to be a rubber stamp to the stuff presented to you. We
24 want your very critical analysis of it. And if it isn't in the
25 program, the stuff handed to you, tell us anyway things that are
26 of importance to you. And don't be afraid of getting somebody's

1 nose out of joint because you disagree with the programs that
2 have been kicked around." And he was asking for us to be really
3 analytical and critical of the program.

4 One of the things he talked about which I hope we can
5 get into today on this acquisition was his concern with this big
6 pile of money sitting there that we could be at the hands of
7 Jesse James on acquisition and that some plan probably ought to
8 be suggested whereby a person who is selling that, whatever it is
9 to the State, that a) it be fair market value but b) he doesn't
10 get around the end of the line and come through again with the
11 next plot right next to it and so on. And that some kind of
12 evaluation and plan has to be developed so that the State and
13 this fund gets a fair break and not just enrich people who see an
14 opportunity because the money is sitting there.

15 And so, these are the things he would like to have us
16 consider and get to him. So, I came away from the conversation
17 thinking that they are really receptive to our analytical view of
18 things and not just necessarily sitting here and being spoon fed
19 with things that we stamp or not stamp. That was -- yeah. Vern.

20 MR. McCORKLE: With all great respect to the esteemed
21 Attorney General, I need to point out to him that this group has
22 only been together a couple of months and we would very much like
23 to be able to give that kind of direction, but they have stripped
24 us dry by taking away any bucks to meet and being a little upset
25 about us when we talk about wanting to meet again. And I don't
26 cotton much to that kind of approach. And I would hope the

1 Attorney General would allow us to provide the kind of leadership
2 and direction that he would like from an advisory group but we
3 can't do that in absence of not being able to get together.

4 And so, although I've spoken with some deference to the
5 fact that we've only been together a couple of months, I'm very
6 thrilled with this group, very proud to be a part of it and
7 excited with the talent that's available here. But I do think
8 it's not proper for anybody to expect us to attack -- pardon me,
9 wrong word -- to tackle this kind of a job and not be able to
10 have either some time to get into it or second, the opportunity
11 to have more facilities to work with.

12 I don't know if that facility is more meetings or if
13 it's the subgroups. I've got to think a little bit about that
14 because I certainly don't think we want to have a group of small
15 constituencies that come to this group all lobbying for our
16 specific points of view.

17 I approached our little session in the Kenai as a matter
18 of giving out information and pulling back information rather
19 than trying to develop a lobbying group from that area. But I
20 just think the council is going to have to allow us a few more
21 facilities if we're going to be able to give good and meaningful
22 views on what we think the various interest groups would like the
23 Trustee Council to do.

24 MS. PHILLIPS: Okay, Pam. And then John.

25 MS. BRODIE: I'd like to perhaps try to explain some of
26 the differences in terms of frustration by the Attorney General

1 and the Trustee Council with the Public Advisory Group, based on
2 my experience with this. And that is that although the Public
3 Advisory Group is very new still, the trustees have been meeting
4 for a long time and there has been a tremendous amount of public
5 comment already. For those of us who have been involved in the
6 whole process, we, like the Trustee Council, have been hearing
7 over and over and over again at every meeting and in terms of
8 letters coming in, people saying "Cut these project budgets.
9 This is way too much money going to science, way too much money
10 going to projects."

11 The Trustee Council was coming with that approach from
12 what they've been hearing and then the Public Advisory Group who
13 were supposed to represent these interests were, in fact,
14 approving almost all of these projects, rejecting a few but then
15 approving other projects that were not on the list.

16 And so, our actions were very different from the public
17 comment that they had been getting all along. And although, one
18 way for us to get more input from the public would be to have
19 more hearings and more meetings, another way is to go back and
20 look at the public record for individual members here so that we
21 can find out what's been going on now.

22 And I was frustrated with the last Public Advisory Group
23 meeting. Frustrated with myself as much as anyone else because
24 the process made it very easy to approve all of the projects and
25 very difficult not to, because we didn't do priorities. And I
26 think a lot of people have mentioned the problems with that. One

1 possibility has been mentioned to put grades on them. Another
2 possibility would be similar to what Senator Eliason was saying.
3 We're only going to cut the budget if we have some kind of a
4 ceiling and that we could decide how -- what total amount of
5 money should be spent on these projects and then approve that
6 many which is really more of what the Trustee Council has to do.
7 They have to say yes or no to projects. They don't grade them.

8 And so, at some point, there's a cut-off point and maybe
9 it doesn't matter which way we do it, but the input that we gave
10 to the Trustee Council was, I think, not as useful to them as
11 they would have liked, even though we were trying hard. And like
12 I say, I'm not blaming anybody because I was as much a part of
13 that as everybody else was.

14 MR. PHILLIPS: John.

15 DR. FRENCH: I think a number of us have expressed an
16 interest in being more pro-active. However, for the record, I
17 would like to remind the Trustee Council that they delayed
18 appointment of this group until such time as they were prepared
19 to confront us with a draft work plan with specific deadlines for
20 its proposed implementation. We were never provided with an
21 adequate level of back-up of those various projects to
22 effectively evaluate either their scientific importance or the
23 actual, probable outcomes of those projects. I've said this in
24 writing on several occasions.

25 I don't feel the draft work plan provides an adequate
26 back-up for peer review but even if it's considered to do so, I

1 think the back-up from actual peer review would be very useful,
2 but you know, we were confronted with a fixed set of deadlines.

3 The Trustee Council didn't really give us an opportunity
4 to be pro-active. Now, hopefully, we can become more pro-active.
5 I see the '94 work plan getting put together into a fairly tight
6 package. I hear we're not going to see the restoration plan
7 until it's already prepared as a draft. If we're going to be
8 pro-active, this isn't the way to do things. Now, hopefully by
9 the end of this afternoon, I'll be able to eat my words and
10 we'll, at least, see presentations of enough material that we can
11 provide adequate input before we see a final draft, but let's say
12 I'm going to wait until the end of the afternoon to do so.

13 MR. PHILLIPS: Yes.

14 MS. BENTON: I guess I just have a comment in trying to
15 figure out and make a recommendation. The trustees always say,
16 you know, "Show us how to do it; tell us how to do it." If
17 habitat acquisition is an area that you discussed with the
18 Attorney General and that was an area of concern for him and he
19 wanted us to get more involved in that, a recommendation that I
20 would have just from my principal interest group of forest
21 products would be to try to get us the information prior to
22 today. I can't address this today. I can't be pro-active on
23 this information today.

24 Even if I would have gotten it yesterday, I would have
25 been able to talk to the industry members. I would have been
26 able to get some input from them. I don't -- it doesn't present

1 a whole lot of opportunity for me not to rubber stamp or to be
2 involved in it when I haven't had my chance to do my homework
3 that I think is necessary to adequately represent the forest
4 products industry.

5 MR. GIBBONS: The 6th was a Saturday, if I'll remind
6 you. And the package was done Monday but how do I get the
7 package out to all members of the group, you know, for a meeting
8 on today. I mean they would have still been in the mail
9 somewhere. I'm just saying that there's a reality problem here
10 and we need to talk about when the PAG meets in regards to when
11 the Trustee Council meets and so the package can be analyzed and
12 those types of things.

13 MS. BENTON: I requested this information, Dave, from
14 the Oil Spill Information Office and I was told that I couldn't
15 have it. Yesterday and Monday.

16 MR. GIBBONS: They were sitting on my desk.

17 MS. BENTON: It's just a problem.

18 MR. PHILLIPS: Obviously, there's a problem here. Would
19 you make note of these concerns so that before this day is over,
20 we can address them in our communication?

21 MR. GIBBONS: Part of the problem, too, is I can't give
22 it to you before I give it to the Trustee Council. That's just
23 common practice that they told me they don't want to occur. So,
24 I had to get it to the Trustee Council before I gave it to -- you
25 represent the public -- so, before I gave it to the public.

26 MR. MUTTER: Mr. Chairman?

1 MR. PHILLIPS: Yes.

2 MR. MUTTER: May I make a suggestion since you're not
3 going to be here on the 16th and Donna's not here...

4 MR. PHILLIPS: I might be able to do something on that.
5 I want to talk to you about it but go ahead.

6 MR. MUTTER: Okay. I was just saying perhaps you could
7 appoint a member of the PAG to be here to make a report and they
8 could take note of these issues and present them to the Trustee
9 Council.

10 MR. PHILLIPS: I would like to call for just a brief
11 recess for a few minutes. I'm not going to explain it but ten
12 minutes and then we'll be back here and try to get somewhere
13 before noon. So, without objection, I call a ten-minute recess.

14 (Off Record: 10:30 a.m.)

15 (On Record: 10:45 a.m.)

16 MR. PHILLIPS: We'll call the meeting back to order and
17 we will try to get out of here on time for our noon break. If
18 there's no objection, I think the way we'll proceed here is to
19 have Dave make his presentation. And Dave, would you tell us how
20 you want to handle this? If somebody has questions as you go
21 along, would you object to being interrupted or...

22 MR. GIBBONS: No.

23 MR. PHILLIPS: ...no other questions, then okay. I
24 would appreciate it if you would direct it through the Chair so
25 that we have one person at a time talking, but I guess you're
26 all set if you want to take over and start your presentation.

1 MR. GIBBONS: Yeah. If you'll grab your glossy, high
2 color books here. We're going to do this in stages. You're
3 going to hear the same presentation that the Trustee Council is
4 going to hear so, I'll make that clear, that there's no -- will
5 be no difference. We're going to do it in phases.

6 We have some members of the habitat protection working
7 group with us here. And Art Weiner is going to give you an
8 overview of threshold criteria and the process and all this. And
9 then Kim Sundberg from the Alaska Department -- I should say that
10 Art Weiner is from the Alaska Department of Natural Resources.
11 Kim Sundberg, from the Alaska Department of Fish and Game and
12 they'll walk you through the parcels that we got from the public.
13 And then, Chuck Gilbert from the National Park Service will walk
14 you through -- on some of the questions that we have that the
15 Trustee Council needs to address. So, we'll start off with Art.
16 Here's a nice mike right here for you, Art.

17 MS. RUTHERFORD: Maybe it would be helpful to have all
18 three of them up there, though, I think.

19 MR. GIBBONS: Sure. They can take my spot. Come up
20 here, Kim.

21 MS. RUTHERFORD: And Chuck Gilbert isn't here yet.

22 MR. PHILLIPS: Here's a spot over here, too, for
23 somebody. What -- will there be two or three?

24 MS. RUTHERFORD: Three. Three.

25 MR. PHILLIPS: Three, okay. Here's a spot for the third
26 one over here.

1 MR. WEINER: Good morning. Can you all hear me?

2 MR. PHILLIPS: Would you identify yourself for the
3 record, please?

4 MR. WEINER: My name is Art Weiner. I'm from the
5 Department of Natural Resources and I'm a member of the habitat
6 protection work group. And this morning, we would like to brief
7 you on where we are with the habitat protection work group and
8 the habitat protection acquisition process. The basic goals of
9 this process, I'd like to outline for you, but before I get into
10 that, I'd like to say that the basic process, the fundamental
11 information of the process, was originally put forth to the
12 public in the supplement to the restoration framework document.
13 And we'll oftentimes refer to elements that are in this document.

14 Additional information is in this document that I know
15 you only received today and there's quite a bit of stuff in here,
16 so feel free to ask any of us who are up front here any questions
17 you might have about what's in this binder. But those are the
18 two basic documents that you all need to become familiar with in
19 order to understand where we're going with the habitat protection
20 process.

21 Jess Grunblatt from our staff has produced these maps up
22 here that will be referred to during the course of the
23 presentation and also feel free to ask any questions about the
24 maps, too. We're not going to get into a long, technical
25 discussion regarding the technology that went into the production
26 of these maps. The Afognak image is from a satellite image and

1 we certainly will answer your questions or Jess, who's qualified
2 to answer the questions about the technology that goes into the
3 production of these maps; but we prefer that you all do that
4 privately with Jess or with any of the other members of the staff
5 so we won't, you know, hold up the presentation.

6 The long-term goal of habitat protection is to protect
7 those lands and the habitats that those lands contain to protect
8 the resources that were affected by the oil spill. And when I
9 say resources, I also mean the services. And I won't keep saying
10 resources and services. But we're dealing with both the affected
11 resources and the services that were affected by the oil spill
12 and that's basically the long-term strategy of habitat
13 protection/acquisition.

14 The short-term goal of interim protection, what we're
15 dealing with today and what we'll be presenting to the Trustee
16 Council next week, is to prevent damage to or loss of habitat for
17 those parcels that contain habitats that are linked to the
18 affected resources and services on parcels of land that we
19 believe are imminently threatened by some sort of change in the
20 land use that would adversely affect those habitats. And we'll
21 go into a little bit the kinds of land uses that we perceive
22 would adversely affect those habitats that contain -- or that are
23 linked to the affected resources and services.

24 The immediate goal that we would present to you today
25 and to the Trustee Council is to try to help you understand the
26 process that we've developed in order to protect these habitats.

1 We are going to the Trustee Council to ask them for their
2 authorization to begin discussion with landowners. The results
3 of these discussions or what we hope to get out of these
4 discussions is one), to request from the landowner the permission
5 to work -- to go on their property to obtain information that
6 will help us to build a data base that will help us to make
7 decisions or the Trustee Council to make decisions regarding
8 habitat acquisition. Secondly, we'd like to find out from the
9 landowners whether they're willing to participate in this process
10 and we'd like to be able to sit down with the landowners or their
11 representatives and explain the process to them. Thirdly, we'd
12 like to find out whether or not they'd be willing to sell title
13 to their land or rights less than title to their land to us.

14 So, as part of the discussion and probably the ultimate
15 end that we're looking for with the discussions with the
16 landowner is whether or not we have a willing player on the part
17 of the landowner. Otherwise, we're going to waste a great deal
18 of staff time in holding discussions that won't be fruitful. The
19 element of willing seller is one of the most important, if not
20 the most important, threshold criterion that we have to adhere to
21 in this process. And we'll go over the threshold criteria and
22 the other criteria with you. But it has to be made clear to
23 landowners and to the community in general that this is not a
24 condemnation process. Far from it. We're soliciting
25 participation from the landowners and it must be made very clear
26 to the landowners and to the public that this is a willing seller

1 part of this process. There's no condemnation contemplated in
2 any element of this process.

3 As part of the presentation today, we'd like to be able
4 to describe to you how we identified the lands that we've
5 assessed. And later in the process, after we've done that, we
6 would like to describe to you or Chuck will describe to you --
7 and Chuck hasn't arrived yet -- but we'd like to describe to you
8 the kinds of protection tools that we hope to bring to bear on
9 these lands if, in fact, we get far enough along to be able to
10 exercise some of these protection tools.

11 When I talk about protection tools, we're talking about
12 things like purchase of title, conservation easements, option
13 agreements with landowners. There's a number of things that --
14 or tools that we have at our disposal. A rather lengthy
15 description of these tools is found in the handbook that was
16 prepared for us by the Nature Conservancy last year. And I don't
17 know if you all have copies of that but that's available to you
18 here in the library or upstairs from Dave. It's a rather large
19 blue book, but that contains a rather lengthy description of the
20 tools that are in the tool box.

21 The two classes or suites of lands that we're dealing
22 with in the interim protection process are imminent threat lands
23 and lands that we've chosen to term opportunity lands.

24 Imminent threat lands are those lands that we have
25 identified that will be subject to changes in the land use in the
26 not too distant future and we feel from our threat analysis that

1 Kim will describe to you that these projected changes in land use
2 have the potential for foreclosing restoration opportunities to
3 us. If these changes in land use go forward, we will lose the
4 ability to exercise a restoration opportunity. That's very
5 important to us and that's how we decide that these are
6 imminently threatened lands.

7 Opportunity lands, on the other hand, are those lands
8 wherein the owner has come to us voluntarily -- we didn't solicit
9 the discussions with the owner -- and said to us, "Would you
10 please include us in your process? We believe that you may be
11 interested in exercising your process on our lands. We want you
12 to look at our lands." And that's a separate class of lands, the
13 opportunity lands. Opportunity lands, at this point in time, are
14 not threatened. They are a different class of land.

15 And then we have, which we are not going to discuss
16 today but we'll be dealing with in the future, those lands that
17 we're going to review as part of our comprehensive process. The
18 larger body of lands that are neither imminently threatened by
19 changes in land use nor those lands that owners have already come
20 to us in this point in time and offered up their lands for
21 review. Hopefully, we will see and be able to review some of
22 these lands when the owners become aware of the process and will
23 come to us with an indication of willingness to participate in
24 the process.

25 So, those are basically the three classes of land and
26 today, as part of the interim protection process, we'll deal with

1 the first two classes. The imminent threatened lands and the
2 opportunity lands.

3 Within the context of the restoration process, habitat
4 protection and acquisition occupies a very important place. If
5 you look in this document, you'll see two flow charts. In both
6 of the flow charts that describe the overall restoration process,
7 habitat protection and acquisition are very, very prominent so
8 that the concept of habitat protection and acquisition has, from
9 the beginning of the restoration process, been a very important
10 element. It's very clear in the settlement documents that the
11 authors of the settlement foresaw the need to exercise habitat
12 protection and acquisition as one element of restoration.

13 In the draft restoration plan which I know you're going
14 to get a briefing on today and you've had briefings on in the
15 past, there are in all of the alternatives, except the natural
16 recovery alternative, habitat protection and acquisition is also
17 a very prominent element. And what that translates to is that
18 we're probably going to spend a lot of money on habitat
19 protection and acquisition. It's a very important percentage of
20 the settlement funds that we anticipate being spent as part of
21 the restoration process. So, the context of habitat protection
22 and restoration is embedded both in the settlement and in the
23 restoration plan as it's currently drafted.

24 The interim protection process and the comprehensive
25 habitat protection process has several intents. And I'm talking
26 about the manner or the operational mechanism that we're

1 developing to acquire land or otherwise, protect land. One, we
2 have to establish that a clear linkage exists between the
3 affected resources and services and the habitats on those lands
4 that we're reviewing. If we cannot demonstrate the linkage, that
5 parcel of land is no longer in the ball game for habitat
6 protection and acquisition. That's clearly stated in the
7 settlement. We must demonstrate this that the habitats on a
8 particular piece of land in question contain habitats of affected
9 resources or services.

10 Secondly, the process as we've developed it, we believe
11 fully complies with both the intent in the letter of the
12 settlement. If you review the settlement, you'll probably find
13 for yourselves where habitat protection fits in.

14 Thirdly, we've attempted to create a process that's
15 objectively based on good data or best professional judgment. In
16 many, many cases as you're probably aware, we don't have a lot of
17 data about the lands that we're reviewing and in some of these
18 cases, we've had to use best professional judgment. And
19 fortunately, we've had available to us all of the resource
20 agencies and all of their significant data bases that we've been
21 able to review to acquire information about these lands.

22 It's a very large area that I know most of you are
23 familiar with and much of this area has not been described
24 scientifically, so in many cases, there are data gaps. Where
25 there are data gaps, we've had to use our best professional
26 judgment but what I'd like to convey to you is that we're

1 attempting to be as objective as possible.

2 And lastly and probably, most importantly to the
3 landowners, we believe we've created an equitable process. We
4 believe we've created a process that's going to be fair to all
5 landowners. We believe we've created a process that we think is
6 free of bias and influence. And if the trustees choose to use
7 this process, we believe that everybody will be treated equally.

8 So, those are the four components in a general sense of
9 the protection process.

10 The resources that we've determined and the services
11 that we've determined that are linked to habitat protection are
12 listed in a table in section two of this document. If you turn
13 to section two, there's a table entitled "Criteria for" ranking -
14 - or "Rating Benefit of Parcel to Injured Resources/Services."
15 The left most column includes those resources and services that
16 we, as staff, believe are linked to upland or near shore habitat.
17 There are 15. And if you go down through the table and turn the
18 pages, you'll see a list of affected resources and services. The
19 linkage of these affected resources and services involves two
20 types of analysis. The first is a determination whether or not
21 the changes to the land use would actually result in loss of
22 habitat to affected resources or that loss of habitat would
23 affect services. For instance, removal of nesting habitat by
24 some change in land use would extricate nesting habitat for let's
25 say, a marbled murrelet. That's habitat loss.

26 Another type of analysis that we've done to create this

1 list of affected resources or link of resources and services is
2 to determine whether or not changes in land use would create a
3 disturbance or an otherwise adverse impact to resources and
4 services. A log transfer site, for instance, is a pretty big
5 commercial operation and has the potential to disturb animals.
6 There may be a haul-out for sea lions; that if a log transfer
7 facility were in place near or on a haul-out, that would
8 certainly disturb sea lions. We've also reviewed the regulations
9 that are in existence today that are hopefully designed to
10 prevent those kinds of disturbances, but we've also looked at the
11 sort of extraordinary needs of the affected resources and
12 services in light of the existing regulations.

13 And our analysis included whether or not those existing
14 regulations and policies go far enough to protect the affected
15 resources and services. So, habitat loss and disturbance, either
16 to the animals directly or to their habitat, were two major
17 components of the analysis that helped us to develop this list of
18 affected or potentially affected resources and services.

19 The sources of information that we used, as I mentioned
20 earlier, were the libraries and the expertise that's in the
21 agencies.

22 We also had a workshop recently that was facilitated by
23 the Nature Conservancy. This workshop brought in experts from
24 all over the country. many, many from Alaska who have expertise
25 in those resources and services that you see in this table. We
26 spent a couple of days with these folks. We had them fill out

1 questionnaires. The intent of the workshop was to have these
2 folks tell us or attempt to tell us where in their best
3 professional judgments the habitats for these resources are. And
4 we ended up with a lot of maps, with a lot of grease pencil lines
5 around them where these folks felt that either murrelets nest or
6 harlequin ducks feed and nest, et cetera, et cetera.

7 So, we brought in a lot of people and created a new data
8 base to help us to determine where the habitats of these
9 resources are. So, the data base that we used included some of
10 this new information, information from the damage assessment
11 program and the large body of information that already resides in
12 the resource agencies.

13 The process embodies threshold criteria that the
14 trustees endorsed at their last meeting. They're listed in the
15 packet. These threshold criteria were presented to the public as
16 part of the framework supplement. And we took a good, hard look
17 at what the public said about these threshold criteria as did the
18 trustees. The analysis of public comment is in section one of the
19 document. So, these threshold criteria are not new to the public
20 and we've tried to choose those criteria that had the most public
21 support.

22 The method in which we determined whether or not a
23 parcel is going to be in the not too distant future subject to
24 threat was developed by Kim Sundberg who's sitting next to me.
25 And I'd like him to explain the method that he used to make a
26 determination as to whether or not we're dealing with an imminent

1 threat. And after Kim is finished with describing that method of
2 determining the threat analysis, we will then go into a
3 discussion of the evaluation and ranking criteria which are also
4 found in the document. And these were a set of criteria that we
5 developed as staff to attempt to rank and be able to rate the
6 different parcels, one against the other. Again, remembering
7 that before we get to the stage where we actually evaluate and
8 rank individual parcels, the parcels would have to have already
9 been through the screen of the threshold criteria. So, only
10 those parcels that made it through the first screen of threshold
11 would make it to the level of ranking and analysis.

12 Let me stop and take any questions that you might have
13 at this point in time. It's a pretty dense piece of work and I
14 understand that you only received it today.

15 MR. WILLIAMS: Yeah, I just have one question. There's
16 quite a lot of talk on the acquisition of land. Was there any
17 discussion or is it a reasonable thing to ask if there's any
18 possibilities of land trades?

19 MR. WEINER: I'd leave that to Chuck Gilbert who just
20 arrived from the National Park Service. I don't know whether
21 he'll discuss that in your presentation but probably something we
22 had considered.

23 MR. GILBERT: It is -- I guess I'm on here. Certainly,
24 we considered it. It seems like something that didn't have a
25 whole lot of likelihood of working out in this particular
26 situation. The intent here is to protect habitat and perhaps

1 acquire lands to meet the restoration objectives. So, we'd have
2 to -- to have an exchange, you have to have a piece of land which
3 you've identified which meets that objective but then also give
4 some land someplace else which would be federal or state land
5 which would be available for exchange. Frankly, I guess we
6 haven't looked too far into that. There hasn't been a whole
7 large pool of federal or state lands made available for exchange
8 at this point.

9 MR. WILLIAMS: Well, I think somebody ought to inquire.
10 It sure would be a lot cheaper if whoever is going to get title
11 to some of this habitat land that we exchange something somewhere
12 else and then we can use some of those millions of dollars for
13 another restoration project. I think it would be pretty
14 negligent not looking at it. The public has asked for it. I
15 don't know what the...

16 MR. PHILLIPS: That is certainly without -- not without
17 precedent. Lew, if you'll remember in the 1964 earthquake, when
18 I was in the Senate, we did exactly that on the lands that were
19 affected in Cook Inlet. Portage, as an example, Girdwood, others
20 where land was destroyed for its effective use or the State
21 decided they didn't want used anymore and a program was developed
22 to trade equivalent value of state lands. And it certainly saved
23 megabucks on our restoration after the earthquake. So, that has
24 been done before and I think it's an excellent point to make.

25 Are you all set?

26 MS. BENTON: I'm sorry.

1 MR. SUNDBERG: I think we have another question.

2 MR. PHILLIPS: Okay. I'm sorry.

3 MS. BENTON: I just have a question on the process a
4 little bit. I know this is the first time that we've been able
5 to review this and I -- my question stems from I don't think
6 there's these -- you talk about not condemning and making this a
7 fair process and not biasing anybody and yet, you release maps
8 for the public to review that identifies specific areas that your
9 team will be harvested or your team feels will be changed. And
10 yet, the landowner or the developer or the timber owner has never
11 been contacted to see if those are accurate. And in a way, the
12 public perception, if these are not 100 percent accurate, we are
13 condemned, based on information that the landowner or the timber
14 owner didn't have an opportunity to review or tell you if it was
15 right or wrong. And the answer to that is well, we need to go to
16 the trustees now to ask them permission to call the landowner.
17 And I question why that couldn't have been earlier and why a
18 simple fax or a letter or a note over to, you know, whether it's
19 Afognak Joint Venture or Koncor or any timber holder. Is this
20 right?

21 MR. WEINER: Let me respond by saying that the method
22 that we used to analyze whether or not a land was imminently
23 threatened is something that we're going to discuss right now,
24 and let's relegate your question until after Kim describes the
25 process by which we identified those lands and drew the polygons
26 on the map. And then I think we'll be able to address your

1 question. He may answer it in his discussion of the method. So,
2 if you'll bear with us, let us go that way.

3 MS. BENTON: Oh, I will be happy to.

4 MR. WEINER: Okay. Kim.

5 MR. SUNDBERG: All right. To get right to your
6 question, we did use as much information as we felt we could
7 access in sort of comprehensive fashion. We relied very heavily
8 on forest practices notifications that had been made. Primarily,
9 we -- the way we determined what activities were going on out in
10 the spill-affected area was to look at a data base that the
11 Department of Fish and Game maintains a permit tracking system.
12 And it records all applications for various different land and
13 water use authorizations on it. So, we went back to 1989 and
14 essentially printed out all the applications for permits that had
15 been issued in the spill-affected area for the last four years
16 and went through all those applications -- or went through each
17 one of those authorizations to determine whether it was relevant
18 to identifying lands or resource activities that could have an
19 impact on resources or services that were found to be injured by
20 the spill. And there was about 685 records in that database that
21 we went through.

22 As far as the timber harvest operations go, we primarily
23 got those from forest practices notifications. That information
24 was supplemented also by some input we got from both the
25 Department of Fish and Game, forest practices biologists and the
26 Division of Forestry in the Department of Natural Resources,

1 their regional foresters. Reviewed that information and in some
2 cases, modified information that was in the forest practices
3 notifications because apparently there had been some changes in
4 plans by some of the operators out there.

5 In some cases, we actually contacted operators. Two
6 Moon Bay, for example, we had them review some of the maps. We
7 sent out maps to some other landowners and had them look at them
8 so, we didn't comprehensively contact all the landowners. We
9 feel that we're going to do that in the next phase and we realize
10 that there may be some modifications to those maps but I think in
11 general, they paint a fairly good picture of what's going in the
12 area.

13 MS. BENTON: Is there any way, Kim, when this
14 information is released to the public who might not know that
15 this is not the final answer, to make sure that they know that
16 this is just your best professional judgment and that these
17 aren't necessarily to be taken as gospel so that it's not
18 misinterpreted and we, as timber owners, aren't contacted with
19 irate public who say, "Gosh, I saw on this map that was created
20 by a whole bunch of really professional people that you were
21 going to log in this area and I have a big problem with that"?
22 And I don't know if there's a mechanism. But that's my concern
23 and I think it's the industry's concern is that there aren't
24 perceptions and there aren't errors out there that we have to
25 have come back on us.

26 MR. SUNDBERG: Sure, I -- you know, I don't have any

1 problems putting caveats on these maps. We feel they're still in
2 draft form and they're not perfect. The boundaries need to be
3 adjusted, based on some more input from the landowners and timber
4 operators but I think, in general, they show the areas where
5 these activities are going on and are fairly accurate in terms of
6 what areas are being considered for timber harvest.

7 MS. BRODIE: One concern that I've heard a lot is that
8 if we buy an area that is scheduled to be logged -- I mean if the
9 trustees buy it -- then the timber operator would just move right
10 next to that and log that area this summer. I don't know the
11 time line of permitting to know whether that's possible. That
12 is, for anything that could be logged this summer, has there been
13 a permit application already? Or could it still happen?

14 MR. SUNDBERG: Well, under the Forest Practices Act,
15 timber operators are required to give 30 days notice before they
16 begin operations so they're only required in the law to provide
17 30 days notice. Oftentimes, they'll give a lot more notice.
18 That benefits them because they're sure that they're able to get
19 all the permits in place before they actually commit money to go
20 out and do the harvesting. And so, the answer -- the short
21 answer is we don't know right now if there's applications coming
22 in today for other timber harvest areas.

23 What we're trying to do in this process is not have it
24 driven by this imminent threat where the landowners feel that
25 they have to start up a logging operation or some kind of thing
26 to get the attention of the Trustee Council. What we were asked

1 by the Trustee Council was to tell them where these things are
2 going on and to provide the opportunity to look at those on sort
3 of a priority basis to see if there's any habitats on those lands
4 that might foreclose restoration options. And so, that's kind of
5 where we're at in this process right now. We're trying to get
6 out of this imminent threat mode and get into what we call the
7 comprehensive process to look at all the lands out there and
8 inventory them but that's a more time-consuming process. And
9 from a priority standpoint, I think most people would agree that
10 we should look at these lands where there's some activities going
11 on that might foreclose restoration options.

12 MR. WEINER: I'm going to jump in on this one, too, to
13 help you understand this. If you look in your packet at the
14 Interim Evaluation and Ranking Criteria which is in section two,
15 we've attempted to incorporate in the evaluation of a parcel
16 what's going on or what potentially could go on on adjacent
17 lands. In number three, if you look at those criteria, it reads
18 "Adjacent land uses will not significantly degrade the ecological
19 function of the essential habitat or habitats intended for
20 protection." So, we, in ranking or evaluating a piece of land,
21 we're attempting to look at the larger scheme in which the -- or
22 the larger context in which the parcel, the imminent threat
23 parcel, exists.

24 For instance, if you have imminent threat on a parcel of
25 land that's embedded in a larger watershed, the ecological unit
26 is the watershed, it's not that parcel of land that's proposed

1 for a change in land use. So, in order to purchase a piece of
2 land and protect it from an ecological point of view, we have to
3 consider the entire watershed. And that's the intent of the
4 interim evaluation and ranking criteria, to take a look at both
5 the parcel and the matrix in which it's embedded which may
6 include a considerable larger area of land that the imminently
7 threatened parcel may be, itself

8 So, we're looking at much more than just that parcel of
9 land that's imminently threatened and it will differ from site to
10 site, of course, depending upon the nature of the land itself and
11 what it's surrounded by.

12 The process -- if you try to summarize the process and I
13 have a little flow diagram which I won't show you -- everybody's
14 yelling at me about flow diagrams -- but there's really -- if you
15 can take those two complex flow diagrams that are in the
16 framework and you can combine them and basically, they summarize
17 into five steps, if you try to summarize the interim protection
18 process. The first step is to identify those habitats that
19 exist on imminently threatened lands that are linked to affected
20 resources and services. The second step that we jumped through
21 is we applied the threshold criteria to those lands that were
22 imminently threatened and contained linked habitats and services.
23 The third step was the step that Kim just described to you. We
24 identified the threat from the data base that he reviewed. The
25 permit -- the existing permits, et cetera, et cetera. The fourth
26 step was to go ahead and take those parcels, evaluate them, using

1 the set of interim evaluation and ranking criteria and then rank
2 them. And this is something I think the Trustee Council was
3 going to spend a lot of time with is trying to determine, you
4 know, how these lands rank, relative one to another. And the
5 last step, what we're asking for authorization for from the
6 Trustee Council, is basically to go to the landowners for those
7 parcels that have made it through this process and begin
8 discussions. And as I said earlier, when I opened my remarks,
9 the discussions will center on are you a willing seller? Are you
10 willing to participate in this process and can we go on your land
11 and acquire more data that will help us harden the data base in
12 order for us to make a better recommendation to the Trustee
13 Council.

14 Right now, in many cases, we're dealing with presumptive
15 habitat, habitat that the experts tell us exist for these
16 affected resources. But in some cases, we don't really know
17 whether or not a nest of a marbled murrelet exists on a parcel
18 of land that the experts tell us is probably habitat. So, we may
19 end up, you know, buying a murrelet in a poke if we don't
20 actually go out and acquire more data. And it's going to be up
21 to the Trustee Council to decide how much money will be spent to
22 underwrite those studies that we feel are necessary to move a
23 parcel of land from the presumptive category to a category where
24 we have a very high confidence that a link -- resource or
25 service, actually exists.

26 The best example I can give you before I turn this over

1 to Kim is that we may be looking at a watershed or a parcel of
2 land that's close to the shoreline that the experts believe is
3 marbled murrelet habitat but in fact, murrelets may live the next
4 ridge over. And we may end up purchasing what we believe is the
5 habitat but the birds are actually flying over the habitat that
6 we bought and they live in the next watershed.

7 So, there is considerable, you know, worry on our part
8 that we, you know, are purchasing or recommending protection for
9 the right piece of ground. And a mistake could be very costly in
10 terms of the kinds of dollars that we're talking about
11 potentially spending in this area of habitat protection. So,
12 you're going to hear us whining at the Trustee Council quite a
13 bit about underwriting studies that will help us to harden up our
14 data set so we can move from the presumptive habitat category
15 to a category where we have better confidence that we're
16 recommending protection of the right piece of land.

17 MS. MCBURNEY: I just have a question, backing up to the
18 criteria for rating benefit to injured resources and services.
19 And in going along with what you're just saying with needing
20 additional background information, for example, the symposium
21 made it quite clear that Pacific herring were impacted by the
22 spill and yet, I don't see herring listed as an injured resource
23 or service and being any kind of a threshold rating criteria,
24 even though I do see that you have intertidal/subtidal biota
25 listed, but I think herring certainly is a criteria that has been
26 left out.

1 MR. WEINER: You're saying that it's a species that
2 should be listed as potentially affected or changes in land use?

3 MS. MCBURNEY: Very much so. When you take a look at
4 the maps, for example, of those areas in Prince William Sound
5 that are being proposed, many of those areas are key herring
6 spawning areas which has a lot to do with that injured resource.

7 MR. WEINER: I could think of the spawning habitat of
8 the herring being effectively disturbed or affected by...

9 MS. MCBURNEY: Very clearly.

10 MR. SUNDBERG: One comment I'd make on this list is that
11 this list is sort of a dynamic list that we weren't able to get a
12 hard and fast list at this point. We tried to go with what the
13 available information had at the time in terms of population
14 level impacts or in the case of services, what services had been
15 acknowledged to have been impacted, even though some of the
16 contingent valuation studies were not available at the time that
17 we had to do the evaluation. So, there's no hard and fast limit
18 to this list in terms of adding to or subtracting from it in the
19 future.

20 MS. MCBURNEY: I'm just picking up on one thing you just
21 said about the contingent valuation study. Is that study
22 available for us to get copies?

23 MR. SUNDBERG: My understanding is it was made available
24 last week. And the OSPIC library over here can make arrangements
25 to get copies of it.

26 MS. MCBURNEY: Great.

1 MR. WEINER: What I'd like...

2 SEN. ELIASON: I got one further question. Was there
3 any indication of a large amount of filings for intent to harvest
4 in the spill areas after the spill? Is there some type of a
5 trend there?

6 MR. SUNDBERG: There has been a large increase in timber
7 harvest activities in the area since 1989. I'm not sure that
8 that's attributed so much to anticipating habitat acquisition as
9 it is just timber markets becoming more valuable and the plans of
10 a lot of the landowners had been in formulation before the spill
11 and they just basically were on a time table to begin harvesting
12 their timber anyway. So, I don't really think that there's a
13 real strong tendency at this point to sort of put out areas for
14 timber harvest just in order to position for habitat acquisition.
15 And we certainly want to try to avoid that in the future.

16 MR. PHILLIPS: Let me just ask a technical question
17 here. Are you going through some of the maps and so on?

18 MR. SUNDBERG: Yeah.

19 MR. PHILLIPS: What's your anticipated time frame that
20 you need to make your presentation?

21 MR. SUNDBERG: I can get through it in probably about 15
22 or 20 minutes, depending on how many questions there are.

23 MR. PHILLIPS: Okay, in that regard then, I would like
24 to propose that we change our agenda and instead of breaking at
25 11:30, that we go on until 11:45 and then come back at 1:15 which
26 will give us time, whatever anybody has to do. Is there any

1 objection to that? Okay, why don't you proceed and we'll try to
2 conclude as much as we can by 11:45.

3 MR. SUNDBERG: Sure. I thought what I'd do now is just
4 walk through a few of these parcels to give you an idea of how we
5 looked at them and rated them and if anybody has any questions at
6 any time, feel free to ask questions as if, you know, sort of a
7 question and answer period for you folks. And I know -- I
8 realize that it's difficult to get through a lot of this material
9 but hopefully, you'll have a better understanding about how we
10 did this by just going through some examples.

11 I guess the first map to look at would be the overview
12 map which is this green one here which gives you an overview of
13 the areas that we looked at, these parcels. There's 19 parcels
14 which we classified as imminent threat type parcels and 3 parcels
15 that we classified as opportunity type parcels. The opportunity
16 parcels are listed -- both type of parcels are listed in this
17 ranking and acreage summary which follows the map. It's still in
18 section three. Is everybody following me?

19 MS. RUTHERFORD: Beginning at section three.

20 MR. SUNDBERG: It gives you kind of an overview of the
21 parcels that we looked at and they're divided into these imminent
22 threat and opportunity lands. And you can use that to reference
23 back to the numbers that are on that map, the locations. In
24 addition, the following sections in three divide the spill-
25 affected area up into three subregions, Prince William Sound,
26 Cook Inlet, Kenai and Kodiak/Alaska Peninsula. So, the parcels

1 that we're going to be talking about are grouped in one of those
2 three subregions and the PWS, CIK and KAP letters in front of the
3 numbers designate what region they are.

4 So, I thought what I'd do is go through a highly ranked
5 parcel, a medium ranked parcel and a low ranked parcel to give
6 you an idea of the spread. Before we go into that, I'll talk
7 about how the overall ranking occurred -- or the scoring
8 occurred. We wanted to have some way of ranking these parcels to
9 get an idea of which ones were possibly more important than other
10 ones, so we developed a scoring system for them. After we went
11 through -- I'll explain how we scored them.

12 The best way would be to look at this spreadsheet here
13 that says Parcel Ranking Analysis. So, in the left hand column,
14 you've got the number of the parcel and then you got sort of a
15 short name for it. Column one of the ranking criteria and refer
16 back to the Interim Evaluation/Ranking Criteria which was in part
17 two.

18 Criteria one is called our linkage criteria and that
19 criteria establishes what is the link between the habitat on this
20 parcel and injured resources and services. And it's ranked high,
21 moderate or low, based on the criteria for rating benefit of
22 parcel to injured resources and services. So, it gets either an
23 H, an M or an L, based on best professional judgment and looking
24 at all the information that was available in terms of how
25 important is that parcel to -- or how important is the habitat on
26 that parcel to an injured resource or service.

1 Criteria two refers to whether the parcel can function
2 as an intact ecological unit. And that looks at the parcel itself
3 in terms of what can it provide a benefit, in and of itself. We
4 went through two through eight and those are yes or no. They
5 either meet the criteria or they don't meet the criteria whereas
6 in one, there's a numerical rating in terms of how -- it is high,
7 moderate, low and how many highs, how many moderates and how many
8 lows are on each of that parcel.

9 MR. PHILLIPS: In respect to those numbers, you notice
10 that they are different in each one. How many possible votes
11 could one have? I mean how many -- is it out of 10 or is it out
12 of 100 or...

13 MR. SUNDBERG: There was 15 possible injured resources
14 or services that were rated so the highest scores would be 15
15 highs.

16 MR. PHILLIPS: When it's six to nothing, what does that
17 tell you? That nobody was at the meeting or what?

18 MR. SUNDBERG: Are you referring to the number one
19 there?

20 MR. PHILLIPS: Yeah. As an example.

21 MR. SUNDBERG: Okay, one would be zero highs. In other
22 words, there was nothing on there that was rated as high for one
23 of the injured resources and services. There were six resources
24 or services that were rated as moderate.

25 MR. PHILLIPS: What happened to the other nine?

26 MR. SUNDBERG: They were non-existent. They just got no

1 score at all.

2 MR. PHILLIPS: Okay.

3 MR. SUNDBERG: I think one of the things that this
4 exercise shows is that every parcel had its own unique values and
5 there's a big spread of potential values to restoration of
6 injured resources and services. We had to come up with some kind
7 of a way of scoring these parcels and so, what we -- our logic
8 behind our scoring system was is we felt that the linkage part
9 was the most important criteria. In other words, if there was
10 something on that parcel that was linked, that provided habitat
11 for an injured resource and service, that should have the
12 greatest weight in any eventual score. So, our scoring system
13 which is on the second page here on your footnote number two sums
14 up basically all the highs and gives them a score of one. It
15 gives all the moderates a half a point and then it multiplies the
16 sum of the highs, the sum of the moderates times how many yeses
17 occurred in the other criteria on the parcel. And what that does
18 mathematically is it gives a lot more weight to a score that is
19 highly linked to a injured resource and service versus one that
20 isn't. If something had no highs or no moderates, it got a zero
21 and essentially means that from a ranking standpoint, there's
22 really nothing on that parcel that's going to provide a benefit
23 to restoration. If a parcel got 15 times seven, then that would
24 be the highest score. And the scores range from a high of 16 to a
25 low of zero. And it's just a way of basically figuring out when
26 you look at these parcels which ones are possibly the highest

1 benefits and which ones are the lowest benefits.

2 As Art mentioned, keep in mind that we are using
3 existing information. In the back of your book here, there's a
4 reference section which goes through and lists all the references
5 we used but suffice it to say, we tried to use everything that
6 was available in the agencies and including this Nature
7 Conservancy one-week workshop which interviewed intensively
8 multi-resource experts for the area.

9 So, keeping that complicated stuff in mind, why don't we
10 go through the Seal Bay one which one be KAP 1 and that
11 would be in section three, under Kodiak/Alaska Peninsula.

12 MR. WEINER: I would just add one point to what Kim has
13 said. If we acquire more information that helps us to change
14 this, we will change the ranking. This is not a closed system
15 where we go through it once and etch it in concrete. If
16 information comes to light that there's a resource that exists on
17 a parcel that we didn't identify before, it will be incorporated
18 into the data base.

19 MR. SUNDBERG: The map, the color map, on the front of
20 this -- you should all be at this map here, KAP 01, identifies
21 where this parcel is located. It's at the north end of Afognak
22 Island. The map shows existing harvest units, timber harvest
23 units, on the island and what we're calling 1993 projected timber
24 harvest areas. That's in the solid red blob.

25 MR. WILLIAMS: What section are we in now?

26 MR. SUNDBERG: Well, we should be at KAP in section

1 three.

2 MR. McCORKLE: And you're looking at the map called Seal
3 Bay?

4 MR. SUNDBERG: Correct.

5 MR. McCORKLE: Okay.

6 MR. SUNDBERG: Has everybody found this? There we go.
7 Okay, let's see. Okay, so this shows the boundary of what we
8 evaluated and if you look on the following page, it says Habitat
9 Protection Parcel Analysis, there's a table there. Each one of
10 these analyses lists -- in the first box, it gives a number, KAP
11 01 which is a unique identifier for that parcel. Then you have
12 the name, Seal Bay.

13 The third box is the landowner and the landowner was the
14 primary owner of the land as far as we could determine. The
15 thing to keep in mind there is that a lot of these lands, there's
16 partial interests involved. The landowner may have sold the
17 timber rights to another entity. The regional corporation may
18 own the subsurface rights. There may be joint ventures or other
19 interests involved in these particular lands. So, the landowner
20 is essentially the root landowner of that parcel, the surface
21 owner, but keep in mind that certain rights may have already been
22 severed from the land there. And that's important when you get
23 into acquisition in terms of determining who it is you're
24 actually dealing with out there.

25 The second box there is parcel acreage is an estimate of
26 the acreage of the area that was evaluated. So, in this case,

1 it's 15,000 acres that was evaluated. The total acreage is an
2 estimate of what that landowner owns in totality in the spill-
3 affected area. And that clearly gets back to one of the
4 questions we had earlier about what about all this other land
5 around there and why are you just focusing these things. That
6 gives you sort of an idea of what the total holdings of that
7 landowner are in the area and gives you some perspective about
8 how much other lands are out there.

9 The fourth box there is the affected acreage and that's
10 an estimate of what -- how much acres are affected by this sort
11 of imminent development activity. So, in this case it would be
12 about the area of that red blob that's on the map.

13 So that said, and that's done for each one of these
14 parcels. We proceeded to go through each of these 15 injured
15 resources and services and rate them for a potential benefit.
16 And we used that rating criteria that Art went over before the
17 high, moderate and low rating criteria, looked at what was on the
18 land, looked at all the available information and gave it a high,
19 moderate or low and just ticked those off. So, for example, in
20 the anadromous fish category, we went to the Anadromous Waters
21 catalog and found that there were six documented anadromous
22 streams on the parcel and based on our criteria, that would be
23 sort of an average density of anadromous streams so we gave it a
24 moderate.

25 We looked at the bald eagle nest site maps that were
26 available and found that there were 42 documented nest sites in

1 the area and that it was important for feeding and roosting, so
2 under our criteria, that ranked a high for bald eagles.

3 We went down the remainder of these parcels. In the
4 marbled murrelet case, the remainder of the injured resources and
5 services in the marbled murrelet case looking at the information
6 that was available from the Nature Conservancy workshops, the
7 marbled murrelets -- the expert in this area said that this was
8 marbled murrelet heaven around here. And so, there was a high
9 confidence that nesting was occurring on the parcel and even
10 though they didn't have hard data to know where those nest sites
11 were, they basically rate it as a very high potential area for
12 marbled murrelet nesting, so it got a high rating.

13 I don't think I want to go through each one of these
14 ranks but that's essentially what we did for all these different
15 services and resources. We also attempted to capsule what the
16 ecological significance of that parcel is, talk about what it
17 provides in terms of benefits to the ecosystem in the area.

18 There's a box in there for adjacent land management. In
19 this case, Afognak Land Venture is adjacent land manager. We
20 discussed what the imminent threat or opportunity is. In this
21 case, a portion of the parcel is proposed for logging in 1993 as
22 an extension of an ongoing timber management operation by Koncor
23 Forest Products. In this case, Akhiok-Kaguyak had approached our
24 group and said that they were interested in discussing habitat
25 protection on the remainder of the parcel, so this is -- in some
26 cases, it's sort of a combination, imminent threat/opportunity

1 parcel.

2 We tried to describe what the protection objectives were
3 and this is a real important point. It's important to define
4 what it is you're trying to protect out there before you start
5 discussing what types of protection you might need. In this
6 case, some of the protection objectives would be to maintain
7 water quality and riparian habitat for anadromous fish, maintain
8 marbled murrelet and bald eagle nesting habitat, maintain and
9 enhance wilderness-based recreational opportunities. We listed
10 some of the useful protection tools that might be used on this
11 parcel. We drew those from the Nature Conservancy report on what
12 types of acquisition instruments were out there and attempted to
13 list some of the ones.

14 This isn't an exhaustive list or a complete list but it
15 gives an idea of the kinds of things that might work on this
16 parcel for protection to meet the objectives. And we put in a
17 recommended action. The recommended action is this is one of the
18 highest priority imminent threat parcels. We request
19 Akhiok/Kaguyak and Old Harbor to provide interim protection and
20 discuss options for long-term protection.

21 So, in this case, this particular parcel had an overall
22 score of -- I believe it was 40. Go back to section two. 30,
23 excuse me. Had an overall score of 30 which was in the high end
24 of the overall ranking scores.

25 I'd go through China Poot/Kachemak Bay but I think
26 probably everybody is about sick of that one right now so I won't

1 go through that.

2 SEN. ELIASON: I have a question.

3 MR. SUNDBERG: Go ahead.

4 SEN. ELIASON: I notice that it makes a notation here
5 that there was no documented oiling of the shoreline. How close
6 did the oil come to this area?

7 MR. SUNDBERG: It was in the water recorded along there
8 and adjacent to Seal Bay, some of the shorelines were lightly
9 oiled, but this particular parcel didn't have any documented
10 oiling right on that shore line.

11 MR. PHILLIPS: How do you then tie it to damage in the
12 oil spill? What's the connecting link?

13 MR. SUNDBERG: Okay. Some of these species are using the
14 water like the marbled murrelets for feeding, the seals, the
15 fish. And the fact that there's oil present in the water is an
16 indication that there was some potential impact of those species.
17 The other thing is in terms of defining what the areas we looked
18 at for this exercise, we looked at sort of a oil spill affected
19 area that encompassed Prince William Sound, the Gulf Coast, Lower
20 Cook Inlet and Kodiak/Afognak and Chilikof Straits. So, there
21 was oil present in the area that potentially affected species and
22 so, there may be some benefit from protecting habitat to those
23 species that are using it.

24 MR. PHILLIPS: Kind of a thin link but you found it
25 there.

26 MR. SUNDBERG: Well, on shorelines which were heavily

1 oiled, one could argue that there's probably a higher priority in
2 terms of looking at linkages in those areas. Afognak was fairly
3 far down on the oil spill impact area, but there are species that
4 were impacted. Some of the sea birds were most heavily impacted
5 in the Kodiak area and so, we felt it was necessary to take a
6 look at it.

7 MR. WEINER: I would add one thing to that. If you look
8 in the settlement language, there are three elements that you
9 have to look at. One is direct restoration, replacement and
10 acquisition of equivalent resources. And in many cases, habitat
11 protection or acquisition would fall into one of the two latter
12 categories, rather than direct restoration of an affected
13 population.

14 MR. PHILLIPS: Okay.

15 SEN. ELIASON: What were the parameters of -- how far
16 can you reach out?

17 MR. WEINER: Geographically?

18 SEN. ELIASON: Geographically, right. Do you set some
19 type of a limit?

20 MR. WEINER: That was tough. Right now, we're using a
21 draft line, the gray line as we call it, that was worked up by
22 the restoration planning work group to geographically define the
23 affected area. And what they used was the ecological concept of
24 watersheds. They drew the line to include all of those
25 watersheds that drain into the affected area plus they extended
26 it up Cook Inlet a little bit because that's where some of the

1 oil, you know, flowed to during the spill. That's a draft
2 concept. Geographically. It's very difficult to define the
3 geographical area because many of the affected resources -- the
4 birds, for instance, fly way beyond the gray line. I mean they
5 leave the state for that matter. So, we're still grappling with
6 what the geographical boundaries of the affected area. For the
7 interim protection process, Kim identified those areas that were
8 under imminent threat within the gray line, within Prince William
9 Sound, the Gulf of Alaska primarily.

10 SEN. ELIASON: How far south did you go along the Gulf
11 of Alaska? Down to Yakataga?

12 MR. SUNDBERG: No, we went as far as Copper River.

13 SEN. ELIASON: Copper River. That was one of the
14 boundaries then?

15 MR. SUNDBERG: Yeah. Actually, the west side of the
16 Copper River.

17 SEN. ELIASON: Why did you stop there then instead of
18 going further?

19 MR. SUNDBERG: We wanted to concentrate in the area that
20 this gray line had been drawn in and that's where it was at. We
21 felt that we needed to -- for this first cut was to look at those
22 things which are in the most spill-affected regions.

23 SEN. ELIASON: Is there any expansion of that area under
24 consideration?

25 MR. SUNDBERG: Yeah, I think it's a constant debate
26 about where that line actually sits. You know, it had impacts to

1 sockeye salmon in the Kenai River and I think there's strong
2 arguments that there were impacts in the Kenai River, based on
3 some sort of indirect effects from the oil spill but this
4 boundary may change. I mean there's people that have argued that
5 we should be looking in Bristol Bay, you know, for acquisitions
6 too. So, for this first cut, we tried to deal with an area
7 that's most people can agree was affected by the oil spill.

8 MR. GIBBONS: The Trustee Council gave priority to first
9 looking at the oil spill affected area and they left it up to us
10 to try to figure out what that is. Then they said the next step
11 may be to broaden it to the state of Alaska or something but you
12 know, they don't know. But that decision hasn't been made.

13 MR. PHILLIPS: Yes. Vern.

14 MR. McCORKLE: In any of the material we have, is that
15 gray line or those secondary areas, is that called out or listed
16 that we could look at or is it described in any way?

17 MR. SUNDBERG: Nobody seems to want to define that line
18 right now.

19 MR. McCORKLE: Oh, okay.

20 MR. SUNDBERG: It's so gray that nobody wants to put it
21 on a map.

22 MR. PHILLIPS: Marty.

23 MS. RUTHERFORD: I just might note that the trustees
24 haven't been -- they're not -- they haven't made that final
25 determination yet, so we are just simply using a fairly
26 conservative approach right at the moment and at any time they

1 may decide to define it more solidly or they may extend it; maybe
2 confine even, so. But that map, that original map, just right
3 after the first page of three does take sort of a cut at giving
4 you a sense of what it is.

5 SEN. ELIASON: Does the court order relatively restrict
6 the trustees from reaching out further...

7 MR. SUNDBERG: No.

8 SEN. ELIASON: ...or this is their own determination?

9 MR. SUNDBERG: Yeah. And when you get into the
10 equivalency portion of the settlement, one could argue you could
11 acquire equivalent resources anywhere in the world.

12 MR. WEINER: There's a number of options that are in the
13 draft restoration plan that embody the concept of equivalency. I
14 think there's at least one option I can think of that goes out as
15 far as the Aleutians.

16 MR. SUNDBERG: They still have to be linked back to
17 something that was injured by the oil spill and so I think that
18 even if you look at the equivalency, there's some pretty strong
19 tests that it has to be linked to some resource that was impacted
20 by the spill.

21 MR. PHILLIPS: Have you made the -- have you completed
22 the formal presentation you want to make? Is this question time
23 or...

24 MR. SUNDBERG: It's really up to you. I was going to go
25 through a low one just to give you an idea but if people have a
26 feeling that they've got a good understanding of this, I can cut

1 it off.

2 MR. PHILLIPS: I don't think there's any objection to
3 you doing that. I'm just suggesting now; it's a quarter to
4 12:00, that we cut it here. When we come back, why don't you go
5 through a low one and then entertain the questions that the group
6 may have and it will give you lunch time to figure out your
7 questions. Yes.

8 MR. SUNDBERG: Just one more presentation.

9 MR. GIBBONS: Chuck Gilbert has to make his comments
10 too.

11 MR. PHILLIPS: We've already discussed that and he can
12 do that right after lunch. This is probably one of the most
13 important things that we're considering today and we want to give
14 it adequate consideration. And so, if there's no objection, why
15 don't we break for lunch and be back here right on time at a
16 quarter after 1:00 and we'll start up again.

17 (Off Record: 11:47 a.m.)

18 (On Record: 1:17 p.m.)

19 MR. PHILLIPS: If we could come to order and continue on
20 where we were when we left here. I've asked them to just touch
21 on the Kachemak Bay project because it's of such great interest
22 to so many people and then there's a presentation here that will
23 last up to maybe ten minutes, he indicates. And then have your
24 questions ready to go.

25 What I'm going to try to do this afternoon for the
26 convenience of some of the members who have other commitments, if

1 we can possibly get everything done by 4 o'clock, I'd like to do
2 that so that people can catch airplanes and do their meetings and
3 everything. So, with that in mind, why don't you go ahead -- or
4 would you rather give yours now?

5 MR. GILBERT: Why don't...

6 MR. PHILLIPS: Is that more convenient?

7 MR. GILBERT: It's probably better to finish up.

8 MR. PHILLIPS: Okay, why don't you touch on what you
9 were going to there in the Kachemak Bay thing?

10 MR. SUNDBERG: Okay. Very briefly, on Kachemak Bay, the
11 portion of that parcel that's included in the proposed Kachemak
12 Bay buy-back -- it's CIK 01 -- so that would be in section three
13 under Cook Inlet/Kenai. And it's the first map. Everybody find
14 that spot?

15 MR. PHILLIPS: Anybody can't find it? All right.

16 MR. SUNDBERG: The area that the Trustee Council voted
17 on their last meeting of the 11th of December voted to
18 appropriate seven million dollars out of the settlement funds to
19 acquire inholdings in the Kachemak Bay State Park are represented
20 within the area that's in -- designated as private land
21 surrounding CIK 01 and CIK 02. And the boundary for that is
22 roughly above that heavy black line that goes across. It's a
23 township line there. It includes that large red area. It
24 doesn't include some of the portions around Peterson Bay.

25 The Trustee Council voted in a resolution at the
26 December 11th meeting to appropriate funds. They used some of

1 the information to justify that from the process that we're
2 describing today in terms of what benefits it would provide
3 injured resources and services. And in fact, in our scoring,
4 subsequent to that, this red parcel ended up scoring the highest
5 of all the imminent threat lands. It's approximately 7,500 acres
6 and they appropriated \$7,500,000.00 from the settlement and that
7 was to match an additional 7,500,000 that was appropri -- or that
8 was designated in the Alyeska settlement that the state
9 negotiated with Alyeska Pipeline Company. And then there's some
10 bills in the Legislature right now to appropriate additional
11 funds to bring the total amount up to approximately 22 million
12 dollars.

13 One of the caveats on this resolution is is that the
14 purchase has to be completed by December 31st, 1993.

15 MR. PHILLIPS: Is there imminent logging this summer?

16 MR. SUNDBERG: Yeah, there are proposals for logging
17 spruce and hemlock on -- it's basically within that red area
18 that's on the map. Some of the permits haven't been issued yet
19 for a log transfer facility, but there were plans going forward
20 by Seldovia Native Association and Koncor to begin logging
21 operations there in 1993 pending their permits.

22 MR. PHILLIPS: Is the plan to do something before that
23 happens to avoid the logging?

24 MR. SUNDBERG: Right. The reason that the Trustee
25 Council wanted to put forward this at this point was because of
26 the high public interest in protecting these lands in Kachemak

1 Bay and also, to be able to have the opportunity to negotiate,
2 protect inner (ph) purchases there before the logging activities
3 took place.

4 MR. WILLIAMS: Is it to buy both 01 and 02?

5 MR. SUNDBERG: Right now, there isn't plans to buy 02.
6 The resolution was left a little bit loose in terms of what exact
7 acreages would be included for purchase and that's going to be
8 done through the negotiation process.

9 MR. PHILLIPS: Any other questions? Yes. Vern.

10 MR. McCORKLE: With regard to the Kachemak Bay matter,
11 have negotiations begun with SNA on that yet and if so, is there
12 anything you can tell us about how they're going along?

13 MR. SUNDBERG: I don't think there's been any formal
14 negotiations being done. There's been some discussions, but I'm
15 not aware of any formal negotiations at this point.

16 MR. McCORKLE: Are you aware of any informal
17 negotiations?

18 MR. SUNDBERG: I'm not aware of any.

19 MR. McCORKLE: Thank you.

20 MR. WEINER: One thing I might add to this, if you look
21 at the parcel analysis score sheet, you'll note that in the
22 services category, recreation and tourism ranked quite high on,
23 so we certainly want, again, to emphasize that we're factoring in
24 various services that were affected by the spill as well as the
25 resources. And this is one where services ranked high.

26 MR. CLOUD: Art, when you're establishing your linkage

1 and potential for benefit, do you evaluate this on a site-
2 specific basis? Like for instance, you ranked bald eagle as high
3 benefit -- potential for benefit. Is the bald eagle a damaged
4 resource?

5 MR. WEINER: Yes. Eagle population.

6 MR. CLOUD: At this site?

7 MR. WEINER: At this site?

8 MR. CLOUD: At this site.

9 MR. WEINER: Possibly because there was oiling impact in
10 this area. I couldn't answer specifically whether the nesting
11 population of the eagles on this site was affected by the spill
12 but we do know...

13 MR. CLOUD: So you don't evaluate on a site-specific
14 basis?

15 MR. WEINER: No, sir.

16 MR. CLOUD: I just used the bald eagle as an example.

17 MR. SUNDBERG: There's no weighting of various different
18 resources in terms of what their relative level of injury was
19 from the spill.

20 MR. CLOUD: So, if a certain bird was only damaged as
21 far as the scientists can tell out in the Barren Islands, then
22 you would list it as an injured resource and evaluate its
23 population as it exists on these lands; if it exists, then you
24 would say it's a high?

25 MR. WEINER: If there's linkage of its habitat on those
26 lands. In other words, murre, for instance, are generally

1 considered to be colonial nesting birds on offshore islands
2 whereas bald eagles, you'll find their nesting habitat more on
3 uplands that are part of the mainland. So, chances are we would
4 find linked habitats with eagles much more often than we would
5 for the common murre. But if, for instance, eagles were affected
6 in the Barren Islands, we would still list them even though we're
7 looking at the upland linkage in the Kenai Peninsula.

8 MR. PHILLIPS: Any other questions? Did you have
9 anything else you wanted to cover?

10 MR. SUNDBERG: It's really up to the chair whether you
11 want to go through a low example.

12 MR. PHILLIPS: What about the group? Do you want to...

13 MR. CLOUD: Let's see a low example.

14 MR. PHILLIPS: I beg your pardon? You'd like to?

15 UNIDENTIFIED VOICE: I'd say let's go ahead.

16 MR. SUNDBERG: Okay. Why doesn't everybody turn to CIK
17 07 which would be -- excuse me, CIK 06 which would be in the Cook
18 Inlet/Kenai section towards the end. Windy Bay. This was a
19 parcel that we evaluated that got a zero as far as a score and
20 so, it's at the other end of the extreme, in terms of what we
21 found the benefits would be to injured resources and services.
22 Essentially the parcel is Port Graham Native Corporation land.
23 It's in Windy Bay which is on the north Gulf of Alaska on the
24 Kenai Peninsula. The acreage is 400 acres and the affected area
25 is 400 acres and it lies within about 63,500 acres of Port Graham
26 entitlement along the Gulf Coast area.

1 From an anadromous fish standpoint, there was one
2 documented stream near the parcel. Actually part of that
3 anadromous stream had already been logged on one side. There's
4 been quite a bit of timber activity out in the Windy Bay area, I
5 should add, parenthetically, in the past several years. And this
6 parcel is basically sort of an isolated remnant of forest that's
7 in the area. We found no documented nesting as far as black
8 oystercatchers, common murrelets or harbor seals, we couldn't find
9 any potential benefit. Harlequin Duck, there was possible
10 nesting but there was no confirmation that there was nesting in
11 the area. It doesn't occur on the coastline so there was no
12 intertidal/subtidal biota.

13 Marbled murrelet -- now, here's an example of where we
14 don't have good information. We basically through -- the
15 resource experts had not identified any marbled murrelet nesting
16 in this area. It doesn't mean that it doesn't occur; it's just
17 that there's no information there. It's probably important to
18 note that where we have unknowns in this process, they haven't
19 gotten a score. It's basically they're not counted if we don't
20 know and we don't have any information so we're not going to
21 hazard a guess as to whether there's anything there or not at
22 this point. It doesn't necessarily eliminate these parcels from
23 consideration down in the future if someone was to find
24 information on them but at this time, it's not included.

25 Going down the rest of the species, there's either none
26 or low benefits to other injured resources and services. And

1 according to our formula for ranking, if you have no highs or no
2 moderates on the parcel, then essentially, it gets a zero score.

3 MR. PHILLIPS: How did it get in the mix in the
4 beginning if it has a zero score?

5 MR. SUNDBERG: It was evaluated simply because it was
6 identified as an area for timber harvest in 1993, so we wanted to
7 take a look and see if there was anything on there that looked
8 like it was of benefit.

9 MR. PHILLIPS: Did somebody introduce it into the mix
10 or...

11 MR. SUNDBERG: There was a forest practices notification
12 filed to harvest in that area. That's how we became aware of it.

13 MR. PHILLIPS: Yes. Dick.

14 SEN. ELIASON: I should have probably asked this
15 question earlier but what's the difference between the Native
16 selected lands and the private lands?

17 MR. SUNDBERG: Really nothing. Private lands include
18 all the Native lands plus any additional private lands that may
19 be out there. At this point, it is primarily all -- the large
20 chunks are all Native land.

21 SEN. ELIASON: But also the selected lands are within
22 those large chunks. I mean why was it put in that form? Why
23 didn't they just classify it as all private land?

24 MR. SUNDBERG: I think because there's still some debate
25 on whether those will actually be conveyed or not.

26 MS. RUTHERFORD: That's overselected land.

1 SEN. ELIASON: Oh, these have not been conveyed.

2 MS. RUTHERFORD: It's overselected lands. I think that
3 there's two selection permits pending and they haven't decided it
4 yet.

5 MR. PHILLIPS: Are there any further questions on this?
6 Yes, Pam.

7 MS. BRODIE: Is there anything that indicates how much is
8 known how good this information is? When you say, for example,
9 under Rocky Bay, one documented anadromous stream. Is there any
10 way we can tell in this book whether there's one documented
11 stream because there's one anadromous stream or that there could
12 be a hundred but nobody's looked?

13 MR. PHILLIPS: On some of the descriptions, if we looked
14 at it and there was a very low potential for any additional, we
15 may have made a little editorial comment that it doesn't look
16 like there's additional streams. Some of them, we put in that
17 there may be additional streams found. In this particular case,
18 this area was surveyed and the documenta- -- it's already been
19 surveyed for anadromous fish. It was done in 1989 and so there
20 aren't any other streams out there beside what are shown on this
21 map.

22 MR. WEINER: But on the other hand, we just received a
23 report from a study that was done on Afognak which extended our
24 knowledge about the Afognak list of anadromous streams, based
25 upon this most recent field survey. So, you know, there's
26 probably a lot more out there or there may be longer lengths of

1 anadromous streams that haven't been surveyed in the past that
2 we're identifying from additional work.

3 MS. BRODIE: I would guess that we're going to see a lot
4 of comments from the public, disputing some of these or adding
5 information. Is the habitat acquisition committee going to be
6 able to incorporate new information that comes in from the local
7 people or the local landowners?

8 MR. SUNDBERG: Sure. I mean one of the reasons that
9 we're going to the Trustee Council is to ask permission to go out
10 to the landowners and to the public to acquire any additional
11 information that may be out there.

12 MR. WEINER: Especially if a landowner has surveys or
13 information that he or she had conducted on their property and
14 they would make that available to us, so that would be part of
15 the discussions that we would enter into, assuming we get
16 authorization from the trustees.

17 MR. PHILLIPS: You have a question?

18 MS. MCBURNEY: Yeah. I was just wondering. Is there
19 like a formal mechanism that we have as far as Public Advisory
20 Group members to communicate to you that there are some gaps that
21 you need to take a look at, specifically, revisiting the herring
22 issue, but then also, considering -- I thought that it was kind
23 of interesting when I took a look at the way that, again, the
24 criteria were broken out, flipping back here again, where you had
25 just one umbrella for anadromous fish, for example, which I
26 assume includes all five species of salmon. And I noticed that

1 cutthroat was in there, rainbow trout's in there. And yet,
2 there's what, four or five designations for various bird species
3 that have been injured.

4 And I'd like to see a little bit more weight, a little
5 bit more consideration for the damaged salmon populations, for
6 one thing, and recognizing them as being damaged species. Also,
7 the herring. And in addition, I think that the cutthroat, the
8 trout species, also deserve their own separate category.

9 The way that everything is weighted, I feel very
10 uncomfortable with it, primarily because there just isn't that
11 much weight that's being given, for example, to commercial
12 species or those species that are particularly used by
13 recreational sport users, subsistence users.

14 But I'm not quite sure how to get that message from my
15 seat, especially since I'm sitting as a non-voting alternate, in
16 a group that doesn't have a quorum but still, it's an issue that
17 needs to be addressed. And how do we get from here to there?

18 MR. SUNDBERG: I'd only say that we're trying to
19 conduct a fairly open process and anybody who can comment on what
20 we've done, we're certainly going to take that under strong
21 advisement, particularly if it comes from the advisory committee.
22 So, I'm not sure how you're set up to give feedback to us, but I
23 think it's important and that it be done.

24 MR. PHILLIPS: We know what your phone number is. We
25 can get the information to you, I can tell you that.

26 MR. WEINER: I would assume you'd route it through Dave.

1 I mean isn't that the normal procedure?

2 MR. PHILLIPS: Vern, did you have something else?

3 MR. GIBBONS: I would hope the Public Advisory Group
4 would collect all its comments, go through Brad and go and get
5 that to us. That would be the mechanism I could see that, you
6 know, would be most efficient.

7 MS. RUTHERFORD: Plus we're taking notes, as you see.

8 MR. PHILLIPS: Vern.

9 MR. McCORKLE: Thank you. One way to do that is sort of
10 to talk it over here but then a follow-on to your question, if I
11 may, is will there be sort of like the public process that this
12 will go through? Maybe you could outline what you anticipate it
13 might be and how long that might take. The reason I'm asking is
14 are we looking at a six-month process, a six-week process, or
15 does the Federal Register dictate 180 days or what is it going to
16 take to move this along and get it exposed and then get it back
17 to be worked on by the staff in response to what we might learn
18 out on the huftings?

19 MS. RUTHERFORD: Mr. Chair?

20 MR. PHILLIPS: Yes. Marty.

21 MS. RUTHERFORD: May I respond to that? We expect that
22 -- we hope that the trustees will provide us some direction to
23 begin talking to the various landowners, owners on Tuesday. We
24 are in the process though of also developing the comprehensive
25 program and we are aware that within the habitat protection
26 workshop, we also had some concerns about not having some of the

1 tourism activities split out and therefore, weighted a little
2 more heavily.

3 And I think your comments about the herring spawning
4 habitat and maybe breaking out some of the different fish species
5 is appropriate. So, we're going to be building all this into the
6 comprehensive process to make it better. I mean we're on a
7 learning curve also. So -- but in terms of how quickly things
8 might start happening, we're hoping that we have authority to
9 begin talking to landowners to refine this information next week.
10 And we'll be constantly opened to getting your input for refining
11 the comprehensive process because, again, this is an interim
12 process. This is to deal with the sort of short-term and we want
13 to move into the comprehensive as quickly as we possibly can.

14 MR. McCORKLE: Are we still looking at May to have the
15 final plan in place? Or maybe I've got the -- I think we were
16 planning to have that...

17 MR. GIBBONS: Right now, the draft restoration plan and
18 draft environmental impact statement is due to go to the public
19 June 7th. It's completed in May and the Trustee Council will
20 deal with it at a meeting in May and then printing time for two
21 weeks, mailing and the comprehensive program will be part of that
22 package.

23 MR. McCORKLE: So, then we, Mr. Chairman, might be
24 looking at August or September before it's through that process,
25 do we think, thereabouts? That's the end of the program. I
26 haven't been able to find it anyplace. I've just gone to May.

1 MR. PHILLIPS: Do you have an answer, Marty?

2 MS. RUTHERFORD: Well, I guess I just want to clarify.
3 The restoration plan is going to lay out -- the draft restoration
4 plan and draft EIS is going to lay out all the options which the
5 public can then react to and hopefully, the restoration plan can
6 be in place in the latter part of this year. But, the
7 comprehensive plan that we're talking about here, I'm not sure
8 that the -- we don't really know our time frame. It depends a
9 little bit -- I mean it depends a great deal on the level of
10 comfort the trustees have with available information and how much
11 more they want to start looking at the whole menu of lands. So,
12 I mean, I think that's a little undefined yet, but we're very
13 anxious to move into that and away from the imminent threat
14 process and strike that. But we'll be -- certainly this is a
15 process that will allow...

16 MR. McCORKLE: A living document.

17 MS. RUTHERFORD: Yeah. Very much, a living document.

18 MR. McCORKLE: Okay. Thank you very much.

19 MR. PHILLIPS: Any further questions? Pam.

20 MS. BRODIE: Two things. First, I agree with what Mary
21 McBurney said about -- that I think that fish have gotten short
22 shrift here; that it would makes sense to have at least three
23 different categories of fish and I also think for recreation and
24 tourism that that's a very significant category that's just
25 getting one count (indiscernible - cough) one species of bird
26 here. There should be some way to give more weight to that. And

1 in general, services, I think, got counted a lot less than the
2 resources which I'm not happy with.

3 The other comment is about the time line for these
4 imminent threat parcels. Some of these lands are being logged now
5 or are going to be logged in the next few months. And I'm very
6 concerned about the process and how long it's going to take to
7 come to any decisions about these lands that are being logged.
8 So, can you tell us what that process is going to be and how long
9 you would anticipate before the Trustee Council would be able to
10 decide to buy something?

11 MR. SUNDBERG: That's Chuck's part and that's what -- I
12 would just basically turn it over to him at this point, if he
13 wants to go into that.

14 MR. PHILLIPS: He's going to make his presentation here
15 in a minute, but is there anything on what has been said? Yes.

16 MR. CLOUD: Has there been any assessment of the millions
17 of board feet in each of these parcels since we're focusing just
18 on the parcels that are proposed to be logged soon of how many
19 millions of board feet of timber will not then be available to be
20 sold to the consumer?

21 MR. SUNDBERG: That data is available in various bits
22 and chunks for certain lands and that's something that will be
23 very relevant to any further discussions with landowners in terms
24 of reaching some kind of price, you know, for acquiring interest
25 in those lands and that will be a -- that information needs to be
26 developed.

1 MR. CLOUD: Does the loss of consumers' ability to
2 acquire this end product and use it figure into a loss of service
3 in your analysis?

4 MR. DIEHL: By Japanese and Chinese?

5 MR. CLOUD: They're people, too.

6 MR. WIENER: The answer, as far as we've gone at this
7 point, the answer is no. We haven't factored that.

8 MR. PHILLIPS: Any further questions? Why don't we then
9 turn and give us your words of wisdom here.

10 MR. GILBERT: Well, I'm not sure you'll find them to be
11 words of wisdom but my part of this presentation is to basically
12 summarize where we're going from here. We've gotten this list
13 put together which delineates these 19 parcels which are
14 basically imminent threat plus the three so-called opportunity
15 parcels. And we've analyzed them and as has been described here,
16 some of them rate up pretty highly. Other ones rate lowly. And
17 what we're going to propose to do to the Trustee Council next
18 week is present this and get authorization to begin discussions
19 with these landowners. Discussions and negotiations with the
20 landowners. And our goal is prevention of further damage to the
21 injured resources and species that have been identified and have
22 been discussed today.

23 The primary focus is to prevent further damage in this
24 interim period and specifically, on these tracts where imminent
25 threats do exist and also the three opportunity parcels. What we
26 propose to do is deal with the whole range of protection options

1 and if you'll look in your booklet here under number four, you'll
2 see a summary of various protection options and it ranges all the
3 way from voluntary agreements -- this is number four in the
4 package, kind of the pink color there. And this is something
5 that was put together by the Nature Conservancy and it basically
6 lays out the legal options -- the legal alternatives in a realty
7 sense that one can use to acquire some interest in property or
8 otherwise get voluntary compliance.

9 And they range all the way, as I say, from voluntary
10 agreements to first rights of refusal. And there's a sample of
11 one of those in the package. And they kind of move down in the
12 list there from very inexpensive to the most expensive, fee
13 simple acquisition. And you'll see there that there's rights of
14 first refusal, purchase options whereby the trustees would
15 purchase an option on the piece of property and hold that option
16 until they have an opportunity to exercise it and they can either
17 exercise it or not exercise it at their discretion. But during
18 that option period, nothing would happen on that property. And
19 this is all, of course, subject to negotiation between the
20 Trustee Council and the agents for the Trustee Council and the
21 landowners.

22 Leases is another method that has been identified as a
23 short-term protection option. It could be a lease for a year or
24 two years, whatever it takes to move into long-term protection if
25 long-term protection is needed. Temporary easements where you
26 buy some interest in the property, a limited interest. Say you

1 might buy the timber rights and you might buy them for a two-year
2 period. Or you might buy other interest property and perhaps
3 you would buy areas along streams for a temporary period which
4 would expire at the end of that term.

5 As you get further down the list here and get into
6 permanent protection alternatives, the next one that we've
7 identified is permanent easements where you might, say, buy the
8 timber rights on a permanent basis and therefore, the public
9 could hold this rights and the timber would not be cut.

10 The most complete form of protection is fee simple
11 acquisition. And that's what's being proposed for Kachemak Bay
12 at this point and that's the ultimate action that could be taken.
13 It's also the most expensive action that can be taken. What
14 will happen as we foresee it is talking to the various
15 landowners. We evaluate each one of these with them and it will
16 really be a negotiated solution that's arrived at. And it will
17 be a balance between what is seen to be needed for protection
18 with the interest of the landowners and as we say, we're
19 envisioning and what we're proposing is a voluntary sale by the
20 owners so it is totally a negotiated agreement. And our emphasis
21 will be short-term solution but in some cases, that may not work.

22 Sometimes, landowners may want a permanent solution.
23 They may not want to sell a lease; they may not want to sell a
24 temporary easement. They may want to sell fee simple or perhaps,
25 a permanent easement. But our attempt will be in this interim
26 process to really focus on interim protection, recognizing that

1 may not always be the case. And as I mentioned, Kachemak Bay is
2 proposed for fee simple.

3 So, we're seeking authorization from the Trustee Council
4 to begin those discussions and negotiations. And what we've
5 proposed to do is talk to the owners in this list that are the
6 high and medium parcels. We wouldn't talk to the owners of the
7 low parcels. Those parcels have been shown not to have the kind
8 of linkage between damage and restoration needs. So, there's a
9 cut-off here. We've proposed to talk to 13 of the 19 tracts so
10 the bottom six would not be approached -- owners would not be
11 approached.

12 Three of the 13 are so-called opportunity purchase.
13 These are not lands upon which an imminent threat exists but
14 these are lands upon which owners have approached the Trustee
15 Council and have voluntarily agreed to begin discussion of
16 protection alternatives. So, it's really two categories of lands
17 here. And we thought it was important to go ahead and at least
18 ask for permission to approach these so-called opportunity
19 purchases because they may provide the best -- we may have our
20 best success with those parcels and many of those may hold the --
21 a high value for restoration purposes.

22 And our purposes in doing these discussions and
23 negotiations with landowners are to, first off, determine the
24 willingness on the part of these owners to sell at all or to
25 enter into any kind of protection alternative. Also, to define
26 our information about the parcels. As Art has talked about, our

1 information is not complete. I think we can get better
2 information as we begin discussions with owners. We need to
3 better define the areas that are to be protected or we would
4 propose to be protected. And lastly, we develop a range of
5 options to be presented to the Trustee Council for their approval
6 at their next meetings.

7 As far as how it gets done and when it gets done,
8 there's a Restoration Team meeting tomorrow which will be
9 discussing some of the various policies and procedures as to who
10 will actually do the negotiations and discussions. And I think
11 we'll know better after that meeting and that will be part of the
12 presentation next week to the Trustee Council.

13 So, what we're really talking about is getting going
14 with protection of lands and beginning to have those discussions
15 with owners. And I guess that really concludes my segment.

16 MR. PHILLIPS: Do you have to have special authority to
17 start talking to the landowners or could you start this afternoon
18 after we get out of this meeting and start talking to them?
19 Apparently, nobody's been talked to. It seems like the first
20 critical step. Does somebody have to authorize by celebration or
21 something that this is the time to go?

22 MR. GILBERT: I guess as we envisioned it, this is an
23 important step. It's really the beginning of negotiations with
24 landowners. And we want the Trustee Council's authorization to
25 have us do that which we expect to get that next Tuesday to begin
26 this process.

1 MR. PHILLIPS: Yeah, it's too bad to go down there after
2 the trees are all cut. Other questions? Pam.

3 MS. BRODIE: These discussions, are they going to be
4 only about the lands listed here? Just the imminent threat or
5 opportunity sites that are listed here? Is that all you're going
6 to talk about?

7 MR. GILBERT: Well, that's where we start and that's
8 where we're seeking authorization to begin discussions about.
9 And as Marty explained a little while ago, this is really a two-
10 step process. This is -- what we're looking at is the imminent
11 threat process and this opportunity process to begin with. And
12 what we believe is the right way to go about it is to wait for
13 the restoration plan to be completed for parcels where there's no
14 imminent threat proposed. And we'll wait for that plan to be
15 completed and begin discussions with those owners of those
16 parcels.

17 MS. BRODIE: That...

18 MS. RUTHERFORD: Mr. Chairman, may I add something?

19 MR. PHILLIPS: Yes, Marty.

20 MS. RUTHERFORD: I think the reality is that we -- it
21 takes time to do the analysis of all the lands out there and
22 basically, all we've had time to do in this period of time since
23 the trustees said we want to begin this is do the interim threat
24 -- or excuse me, imminent threat and some of the opportunity
25 lands.

26 Like I say, we want to move into the comprehensive very

1 rapidly. We want to start the analysis on all the other lands.
2 And I might add here that one of the reasons that we're looking
3 for interim protection is that very might well be that as you
4 begin to analyze all the lands that some of the non-imminent
5 threat lands actually rate higher than the imminent threat lands.
6 So, I mean this is a very important key and so we're very anxious
7 to be move into it. We are starting already and we want to --
8 you know, we're going to go as quickly as we can. Again, a lot
9 is going to be based upon the level of comfort of the information
10 with the trustees. But if -- you know. But, yes, we're going
11 to focus primarily initially on these lands that we've identified
12 for you.

13 MS. BRODIE: It would help tremendously in the
14 restoration plan process to know what's for sale. And I would
15 urge the habitat acquisition group that when they're going to be
16 talking to owners anyway to explain the whole situation and start
17 getting some information about the big picture as well as the
18 small picture. That just seems to me to be much more efficient
19 in that we're going to be really happy for that information as
20 soon as we get it.

21 And even the idea of -- if you're going to the trustees
22 and asking for permission to talk to owners, why not ask them for
23 permission to talk to everybody because although some places may
24 be coming out very low on this rating, I would guess you're going
25 to be hearing from members of the public that some of this
26 information is not complete and that there will be information

1 that would put some of these areas up to a higher rating soon.
2 And so, we might as well have the permission from the trustees to
3 talk to everybody even if you don't go ahead and do it.

4 MR. GILBERT: I think that's a good suggestion. I'm
5 sure we'll take that up tomorrow at the Restoration Team meeting.

6 MR. GIBBONS: I think it comes down to a time crunch,
7 though. How many people can you talk to at once and who do you
8 have talking to them, be consistent in your discussions...

9 MS. BRODIE: I understand but when you're...

10 MR. GIBBONS: ...and there's a whole range of things.

11 MS. BRODIE: I understand you can't talk to everybody at
12 once and that you'll go first of all to the people that are the
13 highest priority. But when you're getting permission from the
14 trustees...

15 MR. PHILLIPS: It takes less time to get permission
16 blanketed than it does to have go back. Yes. Richard and then
17 over here.

18 MR. KNECHT: Once this land is acquired, who will
19 administer it? Will it be state, federal or a combination and
20 what wilderness designation will it have, if any, to assure that,
21 in fact, tree cutting won't go on after it goes in state or
22 federal hands?

23 MR. GILBERT: That's all at the discretion of the
24 Trustee Council as to who is going to be the owner, who's going
25 to manage it and placing covenants on the land in some fashion or
26 at least agreements with the eventual landowner that it has been

1 acquired for that purpose, restoration and protection, and to
2 make those kind of assurances that that will happen. You know,
3 we're looking at a wide variety of lands here. Some fall within
4 the boundaries of Chugach National Forest; some within a wildlife
5 refuge, Kenai -- rather, Kodiak National Wildlife Refuge and
6 within state lands. And it would seem reasonable that the
7 manager of surrounding lands would become the owner, but I don't
8 necessarily think that's -- it may not be the case. It's really
9 up to the trustees to decide that.

10 I mean, for instance, you could have a state park within
11 Chugach National Forest. Some of the lands that might be
12 acquired may become the state forest or other lands. So, it's
13 really a later (ph) decision on part of the Trustee Council as to
14 who's going to do it, but there will, I'm sure, be an assurance
15 that once these lands are acquired for a specific purpose, that
16 that purpose will be followed through on for a number of years.

17 MR. PHILLIPS: Further questions? Yes.

18 MS. BENTON: Yes. It's not a question. I'm going to
19 offer another suggestion. You're probably going to be suggested
20 out but since you're going to go about this, I understand that
21 timeliness and what do you talk about and how narrowing the scope
22 and I hate to make this sound so simplistic but please do talk to
23 the landowners and the timber owners.

24 Kachemak Bay is the only precedent, unfortunately, that
25 we have right now. The landowner has never been contacted. The
26 timber owner has never been contacted and both timber and

1 landowners read in the paper of this settlement of the 7.5
2 million dollar appropriation. And that's really a shame and I
3 would hate to have to see that happen again.

4 MR. GILBERT: We agree and what we are proposing to do
5 is begin those discussions with all these owners of the tracts
6 that we're talking about and perhaps with other tracts as well.
7 All the tracts to get those discussions going.

8 MR. PHILLIPS: Chuck.

9 MR. TOTEMOFF: Just one question here. Are these the
10 only options that you're going to be pursuing -- asking the
11 Trustee Council for approval on or could there be others?

12 MR. GILBERT: There could be others. This seems to be
13 the range but if there's other combinations, we'd certainly be
14 willing to consider them. These are kind of standard realty
15 approaches that have been tested and found to work across the
16 country, but if there's other ways, I'm sure these negotiations
17 will develop a number of interesting proposals and we're open to
18 any of that.

19 MR. PHILLIPS: Pam. And then Rich.

20 MS. BRODIE: Another optional approach, I'm not sure if
21 it's in here as one of your possibilities, is to talk -- when
22 you're negotiating with the landowners to talk about possible
23 moratoria on logging for their lands rather than deciding now a
24 specific place but negotiating a moratorium with the money paid
25 for that to be able to applied to some place where the
26 (indiscernible)...

1 MR. GILBERT: Right. And the mechanism for doing that,
2 I guess, as we've seen it, is perhaps to buy a lease -- negotiate
3 a lease with them for that period -- for some particular period
4 or other maybe an option agreement to prohibit that kind of
5 activity during that time.

6 DR. FRENCH: How do you perceive the Public Advisory
7 Group being involved in this whole process? What would be our
8 ideal role from your perspective?

9 MR. GILBERT: Well, I should probably address that to
10 Dave Gibbons and not me. I'm sort of new to this process myself.

11 MR. GIBBONS: Well, basically, all decisions on parcels
12 or anything, we'll go through the Trustee Council and I'm not
13 sure on what role they envision you have. It's still pretty
14 unclear in my mind that before they buy a parcel, you're going to
15 have to okay it. I just don't know. That process is developing
16 and I really don't know your role in this.

17 MR. CLOUD: Maybe we should adjourn.

18 MR. SUNDBERG: Let me speak as a person working on this
19 project that I would like some input back from the PAG in terms
20 of whether we evaluated these, you know, correctly, if you have
21 additional information or thoughts about that. That's very
22 useful to the whole process and, you know, some of these are
23 policy level decisions, but there's some technical decisions here
24 too and for those of you who have some technical abilities on the
25 panel, we would certainly like to have that information.

26 MR. PHILLIPS: Yes. Marty.

1 MS. RUTHERFORD: Mr. Chair, I would just like to add
2 that really one of the most important things that I perceive, at
3 least, pending direction from the Trustee Council, and that is,
4 exactly what's happening here. Identifying ways of making the
5 process stronger, ways of weighting some of this -- I mean some
6 of this discussion has been excellent and, you know, we're going
7 to take it very seriously and try to incorporate most of it.

8 SEN. ELIASON: Mr. Chairman, I guess in going back to
9 what was discussed this morning, I'm a little disturbed by the
10 fact that there's been no effort, whatsoever, to attempt to
11 exchange lands. Maybe you can't exchange lands for imminently
12 threatened lands but there's other types of land exchange that
13 could be made. It seems to me somebody should go down and start
14 doing it. Because what's going to happen if we don't look into
15 that, we're going to be (indiscernible) space with those as
16 imminent lands and we have to buy them also when, in fact, we
17 might have been able to trade them off.

18 MR. GILBERT: We'll take a look at that. I appreciate
19 that.

20 SEN. ELIASON: Do more than take a look at it. You
21 ought to do it.

22 MS. RUTHERFORD: Mr. Chair.

23 MR. PHILLIPS: Yes, Marty.

24 MS. RUTHERFORD: There's something I do want to -- I
25 mean I should have spoken up earlier but if, when we identify
26 parcels that trustees are interested in protecting in some

1 fashion and if the landowners or the owners are interested in
2 some kind of exchange, we fully intend to pursue to see whether
3 that's a viable option. I mean absolutely. We are trying to be
4 very -- what we've got to do first is identify areas that we're
5 interested in and then, see if exchanges are something that we
6 can pursue. We're trying to keep the menu flexible.

7 SEN. ELIASON: Well, Mr. Chairman, it seems to me we've
8 been involved in this process in the past on exchanged lands for
9 timber and there's been -- nobody wants them as a neighbor.
10 We've tried different areas all over the state, we've tried to
11 exchange lands so that this land could be developed. Everybody
12 thinks it's a good idea but they don't want to do it in their
13 backyard, so could we some way or the other identify these lands
14 which could be made available for exchange rather than waiting
15 until the last minute and go out and try to find a marriage? The
16 state certainly should have some land that could be made
17 available.

18 MR. CLOUD: Mental health trust lands, for instance.

19 MR. SUNDBERG: I only add to that that I've been
20 peripherally involved with several land exchanges and they're
21 extremely complicated and determining fair value -- the problem
22 with land exchanges is you can spend a lot of work getting it up
23 to the last point and one of the parties backs out and says that
24 it's not a fair trade. I mean I think that the Kachemak Bay is a
25 good example of that. That originally started out as a land
26 exchange and it just couldn't go anywhere because the state

1 didn't have any good land that the other part thought was an
2 appropriate exchange for that.

3 SEN. ELIASON: And when the state did have good land, it
4 was turned down by the people living adjoining that land. So,
5 you know, there's bound to be some land available in the state
6 that could be put on the block. But it seems to me somebody has
7 to find it. Not the last minute.

8 MR. PHILLIPS: Pam. And then Jim.

9 MS. BRODIE: I'm really glad that Mr. Cloud brought up
10 the mental health lands because realistically when it comes to
11 trading lands, the title is at issue at this point. That is, the
12 mental health trust people now have a claim on all these state
13 lands. They're making choices about what they get and I don't
14 think the state really is going to be able to offer 'em land for
15 trade when the mental health trust has a prior claim. Anyway,
16 it's going to be very complicated.

17 MR. PHILLIPS: Yes, Jim.

18 MR. CLOUD: The state, of course, is one of the smaller
19 landowners on the Trustee Council. The federal government
20 through its different agencies, Park Service, the Department of
21 Interior and what-not, have even more land so the pot is not
22 limited just to the state lands which are relatively small in
23 comparison.

24 MR. PHILLIPS: Yes, Lew.

25 MR. WILLIAMS: I don't think it should be limited just
26 to timber. You know, somebody might want to exchange timber land

1 for coal land or oil potential land. I think there's really --
2 we really are very negligent if you don't look into land trades.
3 If we keep having government agencies, the state or the federal
4 government would buy everything up, well, we might as well sell
5 them all the rest of the private sector and I don't know who's
6 going to pay the taxes but I don't think it's a good trend.
7 There's plenty of state lands and federal lands in Alaska. What
8 we need is more private sector.

9 MR. PHILLIPS: Any more? As one of the tools in --
10 talking about in negotiation, has anybody discussed at all the
11 desirability or the possibility of asking whoever you buy it from
12 to agree to go to Palm Springs and spend the rest of their life
13 or some appropriate length of time so they don't go next door and
14 start cutting trees and you got to go back and see them again
15 tomorrow? Have you talked about having some restriction on a
16 person as a condition of the sale or the trade that they are now
17 for ten years or whatever it is out of the tree business in
18 Prince William Sound or the general area? Has there been any
19 discussion on that at all?

20 MR. GILBERT: Not like that particularly, but there is
21 certainly discussion about if we were to buy a tract of land,
22 say, or buy the timber rights on a tract of land. As mentioned
23 earlier today, if there's valuable habitat next door, we'd be
24 concerned about buying land, spending this settlement money on
25 this particular piece of land and then having somebody move right
26 next door to the other timber where there's maybe equally

1 valuable resources. So, we've thought of that in that respect
2 but not quite the way you put it.

3 MR. PHILLIPS: Any further questions? Yes, Jim.

4 MR. CLOUD: Just one more. Things keep popping up. How
5 long realistically do you expect it to take in any of these
6 parcels for the resource to recover? And that's what we're
7 protecting here. And once it's recovered, then is there any need
8 for the government to continue owning this land and leaving the
9 other resources tied up? What really is our goal?

10 MR. WEINER: Again, you're dealing with habitat
11 protection acquisition from three perspectives: restoration,
12 replacement and acquisition of equivalent resources. From the
13 direct restoration perspective, there's probably a short time
14 line for most of the resources. There's some notable exceptions,
15 but if you're acquiring or protecting land as replacement for
16 lost resources or services, we're acquiring the equivalents, then
17 there's an infinite time line.

18 MR. CLOUD: If you're replacing absolutely lost
19 resources, then that is a test from the evidence that we've heard
20 in previous meetings would be, you know, darn near impossible to
21 meet. What resource has been so lost that it couldn't recover
22 through just some intermediate term protection to enhance its
23 recovery?

24 MR. WEINER: For instance, if you try to replace the
25 lost numbers of marbled murrelets that were killed by the spill,
26 by protecting their nesting habitats from logging, you would be

1 replacing that segment of the population.

2 MR. CLOUD: When it recovers, then what are you doing,
3 if you continue to withhold?

4 MR. WEINER: Once it's recovered, then you enhance. Then
5 you're in the process of enhancing a resource.

6 MR. PHILLIPS: Then you got a woods full of marbled
7 murrelets.

8 MR. SUNDBERG: I think the point is that if you are
9 moving nest sites for the remaining population out there, you may
10 never reach recovery because if it takes 200 years for the forest
11 to develop the characteristics for marbled murrelets to nest
12 there again, it may take two or three lifetimes until you grow it
13 back up and under some timber management schemes, they would
14 never achieve those characteristics for marbled murrelet nesting.

15 MR. CLOUD: Under your list of possible ways to do the
16 protection when you list everything from licensing, leasing,
17 easements and things like that, a lot of these ways are
18 temporary, so you could judge, for instance, that marbled
19 murrelets are damaged in some area and if we protect the habitat,
20 that they'll recover in 15 or 20 years so you just lease the
21 ground from say, Charles Totemoff's organization for 20 years and
22 then after 20 years, Mr. Totemoff's people want to log it, they
23 can log it. But you have recovered the damaged resource and it
24 can then withstand the impact of some other resource uses in the
25 habitat, but you haven't withdrawn that permanently, forever.
26 You've got another use.

1 MR. PHILLIPS: Lew.

2 MR. WILLIAMS: There's a baseline you can use. What
3 would happen to that land if there had been no spill? Would
4 somebody be around trying to acquire it or would it be logged?
5 Some of the people who own the land can tell you -- that's a
6 baseline. You know, what would have happened if none...

7 MR. WEINER: Just don't forget. We're dealing with
8 willing sellers here. There's no condemnation contemplated.

9 MR. WILLIAMS: No, but some of these willing sellers
10 when they see 600 million out there get awful damned willing.

11 MR. PHILLIPS: Vern.

12 MR. McCORKLE: That was similar to my point. Just to
13 sort of hitchhike, I think if we put an ad in the papers, say,
14 "600 million dollars available. Do you have land?" You know,
15 "Please write and we'll send you a check." I listen to this
16 very interesting discussion and I'm really worried. I just don't
17 know where it's going to go. The land process. Because
18 particularly of what a previous speaker said. You can get
19 willing buyers up to the last moment and then because somebody
20 likes to throw the dice or play another trump, that whole, you
21 know, years of preparation are sort of down the drain. I'm not
22 sure we've got a bead on this process yet.

23 MR. SUNDBERG: Well, one thing that may provide a little
24 bit of extra comfort in there is, I think, that we're going to
25 end up with way more land than there's money to buy. So, we're
26 going to have a competitive process here and that's what we're

1 trying to achieve through this process is to basically get some
2 competition going amongst the landowners and not just be so
3 focused on any particular parcel that that's -- we'll pay
4 anything to get that. Now, putting that into reality is another
5 thing, but that's, I think, is one of the goals of this process
6 that we're trying to put together.

7 MR. PHILLIPS: I guess Pam and then -- go ahead.

8 MS. BRODIE: If somebody runs over you with a truck...

9 MR. PHILLIPS: That's the way I felt this morning.

10 MS. BRODIE: ...does a lot of damage to your body, you
11 might recover in a few years. And anyway, eventually, you're
12 going to die. But that doesn't mean that you can't collect money
13 from them to compensate for what you suffered. Eventually, we do
14 expect the resources and services to recover to their previous
15 population levels if we don't do any more damage to the
16 environment. So, murrelets take 70 years but 100 years from
17 now, if we do nothing to hurt them anymore, then their population
18 will be back, but there really isn't any way to compensate for
19 the losses that happened from the spill in terms of its effect on
20 people's lives. That's history. And I don't want to bemoan that
21 and groan about it but the fact is, bad things happened to these
22 animals. The animals died or suffered, will never be compensated
23 and I don't think we should come to this from the point of view
24 of "Let's be careful to not do too much to help the environment
25 or to help restore (indiscernible - cough) services." We should
26 come to it from a point of view of "There has been compensation

1 paid for the damage; let's do something that's valuable with that
2 compensation money." And if we end up with a benefit beyond what
3 we started out with, the public is going to be delighted.

4 For example, Kachemak State Park, if that deal is
5 consummated, there are going to be a lot of very happy people in
6 Alaska about that and that's not a bad thing. That's a good
7 thing.

8 MR. DIEHL: Yeah, considering whatever we have left in
9 this fund, 600 billion dollars or whatever. I mean I don't know
10 what the rest of you guys are hearing but I'm hearing a lot of
11 buy land, buy land, buy land; don't piddle it all away on
12 studies. You know, people want something to show for this very
13 large amount of money and they can't imagine, you know, anything
14 better than buying land.

15 MR. PHILLIPS: Depending on who buys it, I guess.

16 SEN. ELIASON: Well, I think the point was well taken
17 that we're not going to have enough money to acquire the land we
18 need, supposedly. That's a good point. That's why we should
19 exchange some land probably and save that money and I would -- I
20 don't know how the federal government exchanges lands but I'm
21 sure that there's a process -- probably a lengthy process to be
22 involved with. The Forest Service has lands and it was mentioned
23 a number of other federal agencies have land. So, why don't we
24 find out if any of that land is available at a future date to
25 trade? Save some of this money.

26 MR. PHILLIPS: You've made a note of the land trading,

1 haven't you, for our transmission to the trustees?

2 MR. MUTTER: Correct.

3 MR. PHILLIPS: I didn't think you missed it. Marty.

4 MS. RUTHERFORD: Mr. Chair, I just would like to add
5 that we will -- I think that the idea of trying to identify a
6 pool of lands that would be available for exchange is extremely
7 good. We will -- in fact, I'll have that on the agenda for the
8 habitat protection work group next week and we will start getting
9 the agencies busy trying to identify some of that. I think
10 that's excellent.

11 MR. PHILLIPS: Are there any further questions on this
12 last presentation? We have another presentation facing us -- I
13 mean given to us within our time frame. Thank you gentlemen.
14 It's been very enlightening to me. Now, I'll go home and read
15 this or on the airplane tomorrow and see if I can -- see where I
16 agree or disagree with you.

17 UNIDENTIFIED VOICE: It's very well done, actually.

18 MR. PHILLIPS: Yeah. That formula kind of snowed me to
19 begin with, but -- yes, be sure and leave your telephone number
20 so we can get this information to you.

21 The next item on the agenda -- thanks. Marty has an
22 announcement here that I can't get out of my mouth.

23 MS. RUTHERFORD: I just want to remind everybody that I
24 think it was the last meeting, we handed out a copy of a big
25 large book. It was the Nature Conservancy Protection Tools
26 handbook so that you guys can -- it's been referred to several

1 times in the context of this discussion on habitat protection, so
2 if you wanted to track it, you've got a copy of it.

3 MR. PHILLIPS: The next item on the agenda now is the
4 presentation on the proposed restoration plan alternative themes.
5 And Mr. -- your agenda is wrong. Mr. Bob Loeffler is going to
6 present that to us.

7 MR. LOEFFLER: Apparently, I'm the presentation that
8 will be facing you later.

9 MR. PHILLIPS: Yes. You're facing us now. Yes.

10 MR. McCORKLE: What a face.

11 MR. LOEFFLER: Thank you. My name is Bob Loeffler. I'm
12 the state co-chair of the restoration planning working group.
13 And with me today is Carol Gorbics who is with the U.S. Fish and
14 Wildlife Service, also on the group who has refused the chair, I
15 might add. What we'd like to do is take you through where we are
16 right now in terms of the injury, our assessment -- a summary of
17 the injury to resources and where we are on alternatives.

18 And what I'm going to do is just take you through some
19 information that I believe was in your packets when you came
20 today that summarizes kind of where we're going and sort of what
21 the budget implications are. And I think that our presentation
22 jointly will take about a half hour, exclusive of your questions
23 which we welcome anytime and with that, Carol will do injury.

24 MR. PHILLIPS: What is your estimated time frame so that
25 we can plan?

26 MR. LOEFFLER: We're about a half hour plus whatever

1 questions.

2 MR. MUTTER: Your materials are in this hand-out inside
3 of there.

4 MR. GIBBONS: The title says "Resources: Summary of
5 Results of Injury Assessment Studies."

6 MS. GORBICS: I'm really pleased to be presenting this
7 to you today. My name is Carol Gorbics. I've not spoken to you
8 before. I am a biologist with the Fish and Wildlife Service. I
9 head their oil spill office. In addition, as Bob said, I'm a
10 member of the interagency team working on developing the
11 restoration plan.

12 It's been my privilege, I suppose, to have the lead on
13 working through this injury summary document -- this injury
14 summary table that you have in your package. And although I
15 wasn't going to go through all the information in it, I wanted to
16 give you a little idea of the genesis of it and where we go from
17 here with this information and make sure that you're familiar
18 with enough with all of our caveats about the information so that
19 when you go through it, you'll better understand it.

20 First, the information in the table is primarily from
21 the damage assessment studies that the trustees have funded for
22 the past several years. If you had a chance to go to the
23 symposium last week, you'll note that there is a lot of
24 information out there. There's still some data being developed
25 and analyzed and we want to take that into account as we use this
26 table.

1 So, this table represents a snapshot in time. December
2 '92. This is our best estimate of the information available. We
3 expect that our information will continue although we expect that
4 this table will change as that happens. So, I think that's an
5 important point because as we come to you four months from now
6 and say, "Oh, by the way, we've changed this." You need to
7 understand that that's the way the table was designed.

8 If you can find this in your -- I don't know how well
9 this -- how easily you can read this. The table is divided into
10 four sections. The description of the injury; the status of
11 recovery; the geographic extent of the injury and then a
12 comments/discussion section. This is a summary table. The text
13 that will go with this in the restoration plan will further
14 develop all this information. But this is, again, a snapshot of
15 what we think happened to each species. The oil spill injury is
16 defined in three ways. The initial mortality, the decline in the
17 population and evidence of sublethal and chronic effects. These
18 three elements are at the time of the spill or shortly thereafter
19 that we find these things out.

20 The second set of information is the status of recovery,
21 again December '92. It includes the current population status
22 where we knew something about it and any evidence we have of
23 continuing effect so this is where we indicate whether it's
24 recovering or it's not recovering or perhaps we just don't know.
25 The evidence of continuing sublethal or chronic effects is only
26 available if we were doing -- continuing to do injury assessment

1 studies, so in many cases you'll see unknowns there. Where we
2 know, we put yes or no.

3 The geographic extent of injury is when you see this in
4 the restoration plan, we'll have a corresponding map with it to
5 tell you what those geographic regions are. I think you're
6 familiar enough to know -- to understand those.

7 And finally, the comments/discussion section is a very
8 short summary of the high point of the injury information that we
9 have. It's not meant to be all-inclusive and some of it's
10 complex so you may have to refer to the text as you go through
11 it.

12 A couple of the footnotes, which you probably can't see
13 on the overhead but they are important to note. First A and E
14 talks about "There may have been an unequal distribution of
15 injury within each geographic region." And "E" is "Based on
16 recovery of dead animals from this region of the spill zone."
17 Where we know something about the injury, we've said yes or no.
18 Where we picked up dead animals during a response phase, we said
19 yes with a caveat, all we know is we found dead animals there.
20 Where we didn't do any studies, we put unknown. If we had no
21 reason to believe there was injury, we put no.

22 The second set of footnotes that are important is
23 footnote C. "Evidence of sublethal or chronic effects." This
24 column generated a lot of scientific debate and what we tried to
25 include in here and what we did include in here finally is where
26 we could actually observe a physiological or behavioral change in

1 the injured species. Merely demonstrating that the animal was --
2 or the species was exposed to oil, if we didn't have any
3 indication of a chronic or sublethal effect, we didn't include
4 it. So, exposure -- you might say, "Well, I did see harbor
5 seals that had oil on them." Well in that case, we did say they
6 had sublethal. You might have seen another species that had oil
7 on it. Unless we had some indications through our studies of the
8 effect of that oil, it wasn't included as a yes. And we're
9 concerned that this column may be getting a lot of scrutiny from
10 the public who will interpret that differently.

11 And the last footnote that's important is this
12 "Possibly." Killer whales is a good example. "Possibly" was
13 used very narrowly in this table. It means that the scientists
14 that are studying the injuries were still in disagreement over
15 what the results of the injury studies meant. Killer whales, for
16 example. Many scientists feel that there are very strong
17 evidence that the killer whales were killed by the spill. Other
18 scientists feel there's circumstantial evidence that that may
19 have occurred because of the spill, but they can't conclusively
20 say yes, killer whales were affected by the spill. So, we
21 captioned that as a "possibly". And I'll get back to this
22 possibly category later because it becomes important as we go
23 further. We hope that these possibly's will eventually change to
24 yes or no's as we find more information and as the scientists
25 continue to analyze the information.

26 The second table I want you to look at -- first, I'll

1 say do you have any questions on this?

2 DR. FRENCH: Before we leave that one.

3 MS. GORBICS: Yes.

4 DR. FRENCH: You have a yes under evidence for sublethal
5 and chronic. As I understand the information that was collected,
6 there were 26 live harbor seals collected the first year but none
7 after that. What's the basis for the no under the evidence for
8 continuing as opposed to an unknown?

9 MS. GORBICS: That -- Cathy Frost talked about that last
10 week in the symposium and I actually missed her presentation but
11 apparently, she talked specifically about that point and we
12 changed the table as a result of that discussion.

13 DR. FRENCH: Behavioral aspects were no longer seen, but
14 there was good evidence for chronic exposures and there's
15 evidence that those types of exposures may lead to long-term
16 sublethal, but just the fact that they aren't expressing
17 themselves in the next two years, in my mind, isn't a good reason
18 to change an unknown to a no.

19 MR. GIBBONS: Well, I was at that presentation and I'm
20 the one that probably caused this table to change because very
21 clearly, she said in the presentation, there was no long-term
22 chronic effects on harbor seals, period.

23 MS. GORBICS; We did work with Cathy and the chief
24 scientist and the Restoration Team. These are the kinds of
25 points that I think are...

26 DR. FRENCH: I didn't see her present any data to back

1 that up, but okay.

2 MS. GORBICS: I think these points are deserving of
3 debate and as you see them in the public documents point out that
4 you have disagreement with some of these blocks. It took a long
5 time to get the consensus with the people that looked at this
6 table to come to here so we're not saying this is set in stone.
7 It's our best snapshot in time for right now. Any other
8 questions on the injury table?

9 DR. FRENCH: Yeah. Thirteen dead killer whales. The
10 presentation I heard said 14. Did one miraculously get found?

11 MS. GORBICS: We -- no, not to my knowledge. The 13 of
12 the AB pod -- was that from 1989? Who's the killer whale person
13 here?

14 MR. BRODERSEN: Six, one year and seven, the next.

15 DR. FRENCH: I thought there was one other that was
16 missing.

17 MS. GORBICS: That might have been a different pod.

18 DR. FRENCH: It was AB pod in the presentation.

19 MS. GORBICS: I'll check on that. That's the number
20 I've always heard.

21 DR. FRENCH: Again, that's only the presentation I have
22 to go by. I don't know the number from any other source.

23 MR. BRODERSEN: They lost one more in '91, but there's
24 no contention that that's tied to the oil spill, so the folks are
25 most concerned about the first two years and six and seven....

26 DR. FRENCH: Okay. I was just wondering about the

1 difference in numbers.

2 MS. GORBICS: Other questions on specific species or the
3 way we presented the information? Okay, before I move on, I want
4 to call your attention to this column here which is measured
5 decline in population after the spill and evidence of sublethal
6 and chronic effects. Those become more important as my
7 discussion continues here.

8 MR. GIBBONS: I might add one thing. We are working on
9 a services table similar to this and we're not quite as far
10 along. We're having some difficulty trying to orchestrate the
11 services table, so we are doing the same thing for services.
12 Just want to make that point.

13 MS. GORBICS: You're probably aware we had less study in
14 the early years of the spill on injury to services which is what
15 makes that a little more complex.

16 COURT REPORTER: While you change, I'm going to change
17 the tape.

18 (Off Record: 2:25 p.m.)

19 (On Record: 2:25 p.m.)

20 MS. GORBICS: This table identifies from the 11 pages of
21 summary table that you have -- we see humor in that, too. This
22 identifies those species which were either injured at a
23 population level effect or a population and chronic effect level
24 -- actually, that would be in this column or a sublethal or
25 chronic effect only. So, of all those species we looked at, this
26 is sort of the bottom line. The asterisk refers to those species

1 which we still have possibly in. You have that on...

2 MR. PHILLIPS: Where is it?

3 MS. GORBICS: I actually thought it was page 21 but that
4 might be -- is it the last page?

5 MR. PHILLIPS: No, we don't have it.

6 MR. GORBICS: I'll make copies of this for all of you
7 then. I'll make copies of this for you.

8 The asterisked ones are the ones that are identified as
9 possibly in the injury table. So, we think it's important to
10 note that they may move around between these two columns. Now,
11 why did we split the species like this? Some of the scientists
12 have suggested that our restoration measures should focus only on
13 those severely injured species. And they define severely injured
14 as injured at a population level. Others have said, "Hey,
15 everything that was injured should be addressed in the
16 restoration plan." Those are both valid views, so we want to
17 represent them both in the alternatives that we put together of
18 the whole restoration plan.

19 So, every species on this list is represented in at
20 least one alternative and possibly in more, depending upon how we
21 deal with these distinctions. Again, many are going to see
22 multiple alternatives and the other, the last point on this table
23 is that we feel in some of the alternatives that might be
24 important to prioritize things and we have to have some standard
25 of addressing which species were injured at a greater level
26 than others and this is what we've chosen so far.

1 This column is injured more severely than this column.
2 And that's important as we talk about the alternatives and I'm
3 glad to present Bob Loeffler who will be talking to you more
4 about the alternatives unless you have more questions on this.

5 DR. FRENCH: Another general comment. I object to this
6 use of chronic effects. Most of the studies that were done
7 indeed were able to detect sublethal, but chronic in a
8 toxicological sense does not require that they've been expressed
9 within a three-year time period after the initial insult and
10 therefore, toxicologically, this is an inappropriate use of that
11 term.

12 MS. GORBICS: I agree with you that they may not have
13 been expressed yet. When they are, if we get evidence of that,
14 this table is meant to be dynamic. This is a snapshot of what we
15 see in December of '92 or in the early years of the spill. This
16 is what we know right now. And we all expect that our level of
17 knowledge will be refined as time goes on. We all hope that.

18 DR. FRENCH: Still, in a toxicological sense, I think it
19 -- I would prefer to see that table sublethal effects as opposed
20 to sublethal or chronic.

21 MR. CLOUD: Is herring -- how come herring isn't
22 identified? We've talked about herring earlier.

23 MS. GORBICS: Herring is another example of right now,
24 we don't have population level effect on herring. If, indeed,
25 the hypotheses that have been presented are true and in
26 subsequent years we see that, they'll be moved to this table.

1 It's not asterisked because right now, we're in relative
2 agreement as to what's happened as of December '92.

3 MR. CLOUD: Oh, I'm sorry. I didn't see...

4 MS. GORBICS: Yeah, it's right here.

5 MR. PHILLIPS: Mr. Loeffler then, are you going to
6 continue? Would you like to use this over here and there's a
7 mike here in case people ask questions.

8 MS. GORBICS: Unless you have more questions on this,
9 I'll move to the audience. If you need me, I'll come back.
10 Thank you.

11 MR. LOEFFLER: The basic questions of the restoration
12 plan are what was injured and what, if anything, can we do about
13 it. And what -- Carol's presentation talked about the first
14 questions. What was injured and actually the status of recovery.
15 Alternatives are a way of presenting the choices on what, if
16 anything, we can do about it. And before I summarize where we
17 are, I'd like just to go through about four sentences about
18 alternatives. What we're trying to present is the range of
19 public and agency choice. So, the question for us is not whether
20 we've captured the right decision or whether we've captured a
21 correct range of public and agency choice.

22 And what I'm going to walk you through is where we are
23 with our alternatives. I might add that as we learn more, we've
24 changed some of this information and probably what goes out in
25 the draft restoration plan will be slightly different than this
26 and that's only, given our sort of -- our rate of change. I

1 doubt this is completely final. And I'm sure we'll change it if
2 -- taken comments into account from the PAG. But what I would
3 like to do is walk you through this and then go through some of
4 the budget implications of this and how this translates to what
5 you see on the ground.

6 We've tried to capture the range, the questions facing
7 the trustees and what we're calling variables or policy variable.
8 So, for example, one question is should we address only those
9 population level injuries or should we address all injured
10 resources and services. That's a question. So, we've -- some
11 alternatives do it one way and some alternatives do it the other.
12 And the point of this exercise is to show people the implications
13 of their choices. So, this is a summary table. What you then
14 don't see down here is a list of options, a list of categories of
15 projects which we would implement if you make these choices and
16 you see the budget -- you don't see it, but you will -- the
17 budget that will go towards restoration, habitat protection,
18 given these choices.

19 So, what I would like to do is walk you through the
20 policy variables first. Then seeing how they're combined into
21 groups and then show you the budget implications. The
22 intermediate step which is the categories of projects which
23 address all species and are habitat protection, et cetera, is not
24 quite ready yet. So, Carol has talked about this choice, do we
25 address all or the population level injury. Let me talk about
26 the others.

1 One question is under status of recovery. Once a
2 species recovers to where it would have been in the absence of
3 the spill, should we continue to address it or should trustees go
4 on to other injuries. And that's captured here. In this
5 alternative, we would target both resources not recovered and
6 those that have. Here's the same in alternatives three and four,
7 we would target just those resources which have not recovered.
8 So, if you were, for example, going to purchase land, you would
9 say X and such species has recovered. We don't need to address
10 that --- to target land purchases for that species. That's what
11 that question hits at.

12 The next question is effectiveness. That is, we
13 probably all agree that we should -- that things which are the
14 best to do, we should spend our money on. But the question at
15 what level of effectiveness is it not worth spending money is
16 what this tries to capture. So, we went through an interview
17 process where we rated different categories about to the extent
18 that they will recover and grouped them in sort of two
19 categories. One we're calling highly effective and one we're
20 just calling effective. And so, this alternative would say
21 anything that the peer reviewer said would help recovery
22 significantly. And this only, the very best. Only the very
23 best. This is a more comprehensive list.

24 So, if you could imagine it for -- actually, no. If you
25 could imagine it for some species, there are a lot of things we
26 can do. Some of them would only get done in this alternative. I

1 might add that these two columns -- these two questions really
2 talk about resources; that is, population level injury doesn't
3 apply to services. Recovery also is really -- natural recovery
4 is a question that we retain for resources, but not services.
5 Effectiveness applies to both.

6 The last ones, strategies for public use, is really --
7 is targeted toward services. For resources, we've got a
8 quantitative measure. We've got some -- difficult as it is to
9 estimate, some quantitative measures of recovery. For services,
10 it's much more difficult and we certainly know that some of the
11 emotions that people felt which were injury may never recover.
12 So, we tried to capture things that we've heard from the public
13 with this slightly more complicated question. And a lot of what
14 we heard is the types of things -- people care what types of
15 things were done. And part of what they cared about was how much
16 people changed the character of the area, how aggressive we are
17 about increasing opportunities for public use. So, we tried to
18 capture that in categories because we had no unit of quantitative
19 measure. This category is things that protect or increase public
20 use but it's habitat protection.

21 Then we have three categories of sort of increasing more
22 aggressive, if you will, types of projects. And let me give you
23 some examples. Under protect existing use would be projects that
24 are not designed to change the level or use patterns, but only
25 protect what was there before the spill. Examples might be
26 recreation facilities that protect the environment in overused

1 areas such as outhouses or where hiking damaging wetlands. Other
2 examples might be testing foods for subsistence users. A more
3 expansive category is things that not only protect what was there
4 but increase the existing use. Examples might be commercial or
5 -- sport or commercial fishing runs that increase the take.

6 That is, if you did something to enhance existing runs
7 or fund recreational facilities such as public use cabins which
8 sort of increase the opportunities for people to use it. This
9 category sort of involves not just the existing patterns but new
10 patterns. That may be new fish runs, new commercial users
11 facilities, visitor centers, things of that nature. And the idea
12 being to get at through the range the kinds of questions that
13 people have and what we should do with respect to services.

14 So, these are the policy variables. When you put them
15 together, you have an alternative. One being natural recovery.
16 We do nothing than normal agency monitoring. Two, being habitat
17 protection only for all species whether or not they're recovering
18 and anything that's affected. This is sort of a limited. This
19 is -- if you imagine this to be the fiscal conservatives'
20 approach, it's only those that we can see a population decline,
21 only those that haven't recovered and do the best things and
22 don't be very expansive with respect to services. This is a
23 more expansive version, if you will. Target all sublethal and
24 population level injuries, whether or not it's recovered.
25 Everything is effective and also, for services, be sort of the
26 most aggressive if you will.

1 So, now the next part of this presentation should be I
2 go through and talk about the options that fall through this
3 sieve. That's not quite ready yet, We're a week or two away,
4 maybe a little further, from getting this to where we're
5 comfortable presenting it. But we've got approximate budgets and
6 so what I would like to do is show you what some of the
7 implications would be if you had that list. Let me...

8 MR. CLOUD: Could we ask questions on this slide?

9 MR. LOEFFLER: Oh, please. Please.

10 MR. CLOUD: You're standing in the way.

11 MR. LOEFFLER: Oh, sorry.

12 MR. CLOUD: On the bottom. Strategies for Public Use
13 and coming across. Protect or increase existing use through
14 habitat protection, protect existing use and so forth. Is
15 fishing a public use?

16 MR. LOEFFLER: Yes.

17 MR. CLOUD: Is logging a public use?

18 MR. LOEFFLER: No. Fishing is available to the public;
19 logging is a private use available to the owner.

20 MR. CLOUD: Is commercial fishing a public use?

21 MR. LOEFFLER: I'm actually not sure what the answer to
22 that is.

23 MR. SWENSON: It would be because it was injured by the
24 spill. We're talking about public uses specifically injured by
25 the spill.

26 MR. LOEFFLER: I guess we have things in there designed

1 -- I guess the answer is yes.

2 MR. CLOUD: Yes, commercial fishing is a public use?

3 MR. LOEFFLER: I hadn't thought about it. Chris says
4 yes.

5 MR. CLOUD: But you're disqualifying an existing use of
6 logging. Whose commodity ends up in the public use?

7 MR. RICE: James, I think your question is one that --
8 and I'm Ken Rice for the record. Your question is one that will
9 be answered in the environmental impact statement. In other
10 words, what's the effect of doing that action, not just to the
11 resources that we're targeting but to other resources. So, in
12 terms of the effect of removing a certain volume of timber from
13 the market and what that would do for jobs, et cetera, et cetera,
14 those are questions that are not part of the plan because the
15 target there is the resources and services injured by the oil
16 spill but the answer to that would be something that the
17 environmental impact statement would address.

18 DR. FRENCH: Yeah, this is John French. I had a
19 question relating to activities that cross between the two of
20 these. For example, several of the restoration proposals have
21 proposed activities that would limit, particularly, fisheries,
22 for example, protection of the bird rookeries off the Triplets.
23 Some of the management strategies that protect and enhance salmon
24 runs of all of these affect the availability of resources for
25 recreation and subsistence and commercial fishing. All of those,
26 I believe, count as affected services. How do you deal with this

1 conflict within the plan?

2 MR. LOEFFLER: I think we just put out the implications
3 and ask people questions. We show people the implications of
4 what we would do and then we'd say, do you want to do it?

5 MR. PHILLIPS: Could you, if you acquire land, I'm
6 thinking it's somewhat the same thing that Mr. French talked
7 about. I notice it's easy to count dead animals but nobody has
8 addressed the loss, perhaps, of the services for tourism or
9 recreation in those areas. They haven't even been mentioned in
10 the first presentation and this one and I object to just talk
11 about animals. I think my constituency says that recreation is
12 also an important one.

13 Could, as an example, if the government, heaven forbid
14 gets all this land, is it possible to build a hotel or a resort
15 on it or do we have to just stay off shore and watch it? How are
16 we treating recreation which is a major reason for people living
17 up here in the first place?

18 MR. LOEFFLER: If I haven't mentioned recreation, I
19 apologize. Recreation is clearly one of the services we're
20 interested in and one of the options is to use public land for
21 commercial facilities. That would have to be coordinated
22 through the agency that does it and I believe that the idea of
23 that option is not to take away from private landowners' rights
24 or opportunities but where there isn't private land, to encourage
25 that as a public strategy.

26 MS. GORBICS: Bob, may I add something?

1 MR. LOEFFLER: Sure.

2 MS. GORBICS: I should have said this when I was making
3 my presentation. We have a table almost identical to the one
4 that I presented on species for services and we're still working
5 on getting agreement on the words in there. We have not left
6 them out. We include tourism; we include recreation; we include
7 subsistence. I don't remember the entire list.

8 MR. GIBBONS: Wilderness.

9 MS. GORBICS: Wilderness. Intrinsic values. There's
10 lots of services that we tried to capture there. I hope I
11 didn't mislead you and say that was all we were working with was
12 the...

13 MR. PHILLIPS: I didn't see anything else. That's
14 why...

15 MS. GORBICS: Right. I would have given it to you.

16 MR. PHILLIPS: Yeah, I think Jim started on this thing
17 that really got my attention that there's no definition yet that
18 I have seen come out of this on what this land could be used for
19 if it is acquired. When the pointed questions are asked, the
20 obvious thing is to keep it from being logged. And if that is
21 their only reason for getting it is to keep from cutting trees
22 off it, why don't we say that? Then you don't have all the
23 arguments in the future about what can you do with it.

24 Somewhere, that should be defined if the government --
25 you know, I've lived here 47 years and one of the biggest
26 problems we had in the very beginning and it looks like we're

1 going back to that is that the government owned everything and we
2 had no private land, no use on land. And we thought well,
3 someday if we get statehood, maybe we can do that and it started
4 now -- it looks like -- one of my fears is that we're going back
5 -- if there's no definition of what this land could be used for
6 that the government takes, if they do take it, in fact, what we
7 can do with it and what it can be used for. And I think that
8 makes it more palatable to some people if it is defined and say,
9 okay, these are alternates uses for this land. If you give up
10 cutting the trees off of it, you can do this and this and this or
11 you're not excluded from doing those things.

12 MR. GIBBONS: I think it really varies from what the
13 parcel -- the land that you're purchasing. On Kachemak Bay, you
14 know, it's going to go the purpose of a state park. I mean you
15 may want to purchase something in Prince William Sound and so,
16 you may want to emphasize public recreation, you know, in some
17 regard so I really -- it really has to do with what piece of land
18 you're dealing with and what the best use of that would be.

19 MR. PHILLIPS: That ought to be in the definition.
20 You're dealing with parcels. You're not dealing in concepts any
21 more. You're dealing in certain pieces of land and if you can't
22 look at that on each piece of land, let's not do it after the
23 fact. Let's do it before the fact. And of course, if it's
24 straight up and down somewhere, I mean it's not a good place for
25 a golf course, but for God's sake, we ought to be able to look at
26 each one of those and say that these are suitable purposes to be

1 using this land and without it, you've got nothing but lawsuits
2 and arguments here. Yes.

3 MR. RICE: Mr. Chairman, I would refer the group back to
4 the last pages of any one of the parcels that you looked at and
5 that may be an approach that the Public Advisory Group might want
6 to use to provide some input into this because under there, we
7 look at useful protection tools and each one of those may have a
8 different level of activity that would go on by that. If it was
9 fee simple, that would go into state wilderness area, then you
10 would know what kinds of activities would be conducted under
11 that. If we were just providing a conservation easement, then
12 that would have a totally different meaning and different usage
13 would go on that would continue on that parcel of land, so I
14 think there's a way of getting at your concern.

15 MR. PHILLIPS: I agree with you that there's a way. All
16 I'm saying is I think we ought to do it -- I mean somebody ought
17 to look at it and define these things as best you can. At least
18 if there are some prohibitions on pieces of property that are
19 acquired, then those things should be outlined and say, well,
20 within reason, everything else can be done on it. But if you
21 have things you don't want to be done on it, then define it
22 because I know what happens when governments get a hold of land.
23 We've been fighting that for a couple hundred years and not be
24 able to enjoy it. Yes. I'm sorry. I didn't mean to get into a
25 lecture.

26 MS. MCBURNEY: No. Just what I wanted to ask though.

1 Depending upon who the ultimate owners are determined to be,
2 whether it's state or federal, for example, lands in Prince
3 William Sound, wouldn't they be classified under the Prince
4 William Sound area plan and therefore, their appropriate uses be
5 categorized in that manner that there is like a mechanism that is
6 set up that would be able to take care of some of these zoning
7 type questions?

8 MR. PHILLIPS: I'm not aware of that mechanism, I guess.
9 I'm generally talking about whatever -- wherever we're getting
10 the land, there ought to be an approach that defines it for the
11 public on what is going to happen to that land. What it can be
12 used for, you know, us human beings.

13 MS. MCBURNEY: And perhaps, maybe we could make use of
14 those area plans as being a way of going about determining those
15 appropriate uses.

16 MR. PHILLIPS: Yes. John.

17 DR. FRENCH: I'm not familiar with the Prince William
18 Sound area plan, but I know for the Kodiak area plan that the
19 principal uses were primarily couched in assuming that the
20 classification of the ownership stayed the same and we're talking
21 about a very drastic change from private to state or federal
22 ownership and I think that would have a significant effect on the
23 area use plans.

24 MR. PHILLIPS: Exactly. Anybody else have any questions
25 on this presentation? We're not too bad off schedule but if
26 there are any questions, this is the time to do it. Yes.

1 MR. LOEFFLER: I would just like to go onto what I think
2 many people will view as the punchline to this presentation and
3 that's the budget. And I'm going to give you an overview of the
4 budget for each of the alternatives. This is the easiest one.
5 It's for alternative one which was natural recovery. Under
6 natural recovery, there's not much to do other than a little
7 administration to administer the monitoring program and the rest
8 remains a balance. That's pretty simple.

9 When you go to the most comprehensive alternative,
10 alternative five, here are the budget implications. Now, I'm
11 going to explain these categories. Up here, they're in dollars
12 and in here, they're percents. So what we have is, going
13 counterclockwise, in this alternative, we'd allocate 45 percent
14 for somewhat over \$200.000.00 to habitat protection.

15 MS. GORBICS: Million.

16 MR. LOEFFLER: Million, sorry. A note about costs.
17 These are in 1993 dollars. So, we inflation adjusted the
18 settlement which will come in through the year 2001, using the
19 Alaska Department of Revenue projections for inflation so that we
20 could put everything in a common unit of measure. But under this
21 alternative and I'm going to go through this one and then show
22 you a table with all of them, you'd have 45 percent for habitat
23 protection. What typically people think of as restoration
24 projects is 22 percent or somewhat over 100 million. The other
25 restoration reserve is really a reserve for projects that are
26 unidentified now. That is, we know that as we learn more over

1 the next ten years, we're going to have other ideas for things to
2 do. This is a whole new category for that. If it turns out that
3 we don't, it could be allocated to something else. Monitoring,
4 10 percent. Monitoring is both the broad ecological monitoring
5 and monitoring of natural recovery. And administration, 7
6 percent.

7 So, this is how the pie would be divided under
8 alternative five. Now, these are illustrations and I expect that
9 five years down the road, this could easily be modified.

10 MR. PHILLIPS: Can you give us an example of other
11 restoration? The 22 percent. What is that?

12 MR. LOEFFLER: Other restoration is fish passes. It's
13 things you do to help the murre; it's all of the active
14 restoration except habitat protection. It's -- oh, let me find
15 the chart.

16 MR. GIBBONS: Kodiak Archeological Museum.

17 MR. LOEFFLER: Exactly. It's cooperative program with
18 subsistence. It's providing new sport fish runs. It's providing
19 -- doing some work to decide if there are techniques to minimize
20 the incidental take of marbled murrelets and commercial fishing.
21 It's a sockeye management plan; it's lake fertilization and....

22 MR. PHILLIPS: What's the big one? Is that for the Army
23 that it has to be out there to protect it or what?

24 MR. LOEFFLER: This?

25 MR. PHILLIPS: No, the big one. Give me an example.

26 MR. LOEFFLER: Habitat protection. Buying lands.

1 MR. PHILLIPS: Oh, that's for the acquisition of lands.

2 MR. WILLIAMS: 200 million. Now, we've got a figure
3 there.

4 MR. LOEFFLER: This is only in one alternative.

5 MR. WILLIAMS: Are there bigger ones?

6 MR. LOEFFLER: Yes.

7 MS. BRODIE: I think it's very important in these pie
8 charts to also show the money that's already been spent. So,
9 that for example, if you say 50 percent for habitat acquisition,
10 it's really only 30 percent for habitat acquisition if you
11 consider all the money. The total amount. Because I think this
12 gives a very misleading pie chart about that.

13 MR. MUTTER: Bob, what is the total dollar figure that's
14 100 percent on this?

15 MR. LOEFFLER: The total dollar figure that's 100
16 percent is 520 million dollars, approximately. That's the
17 inflation adjusted amount.

18 MR. GIBBONS: Better explain that.

19 MR. LOEFFLER: That's the inflation adjusted amount of
20 the remaining settlement minus probable disbursements to the
21 governments so that there is a right under the settlement for the
22 government to recoup some of its expenses in clean-up,
23 litigation, and damage assessment. Taking back our best
24 estimation which is just that: an estimation. We have
25 approximately 610 million dollars left in the settlement, not
26 including the '94 work plan, I believe, would be above that. I

1 think that's taking out some from the '94 work plan. If you
2 inflation adjust that, it's equivalent to 522 million dollars in
3 1993 dollars.

4 MR. CLOUD: So, 600 and how much? Uninflated.

5 MR. LOEFFLER: I believe it's 610 or 620.

6 MR. CLOUD: The 522 inflated...

7 MR. LOEFFLER: Is equal to 610.

8 MR. CLOUD: ...is equal to 610 uninflated. And what Pam
9 was getting at was we started at 900, so 900 to 610 is the
10 uninflated amount that is already accounted for...

11 MR. LOEFFLER: That's right.

12 MR. CLOUD: ...reimbursements and work plans that have
13 already been...

14 MR. LOEFFLER: That's right. Including the '94 work
15 plan which will change as the work plan changes. Let me give
16 you the over -- now, I've sufficiently confused my pile of...

17 DR. FRENCH: While you're hunting through that, maybe I
18 should I ask the question. You said before you were not ignoring
19 services-related activities, yet I see no dollar amounts
20 earmarked for services-related activities on this table or the
21 table that's in your handout. When and how is that going to be
22 factored into these cost estimates?

23 MR. LOEFFLER: This includes both resources and
24 services. We hadn't broken it out into more detailed tables that
25 would accompany the plan and be broken out.

26 MS. BRODIE: Does habitat protection include services?

1 MR. LOEFFLER: Yes.

2 MR. CLOUD: What's in other restoration reserve?

3 MR. LOEFFLER: Other restoration reserve is -- here we
4 go. Other restoration reserves are reserves for future options
5 that we haven't identified yet. It's because when we cost
6 everything we know about now, we know that there will be other
7 things over the next ten years as we begin to understand injury
8 as currently sublethal. As we learn more about sublethal effects
9 which turn out to have a population effect, so this is a reserve
10 balance, something held for what we expect to come up in the
11 future.

12 MR. GIBBONS: Do you want to explain the endowments in
13 here?

14 MR. LOEFFLER: No. Not yet. I want to wait a minute
15 but I will. If that's all right, Dave, I'll get to it.

16 MR. CLOUD: If in this example -- I'm just comparing in
17 your comparison of alternatives....

18 MR. LOEFFLER: That's what I was going to put up.

19 MR. CLOUD: ... this example shows the least amount of
20 money going to habitat protection?

21 MR. LOEFFLER: Yes.

22 MR. CLOUD: And if habitat protection were to be ruled
23 illegal and this is -- what would you do with the rest of the
24 money?

25 MR. LOEFFLER: I have no idea.

26 MS. BENTON: We'd all go to Palm Springs.

1 MR. LOEFFLER: Actually, I have some ideas but nothing
2 I'd be willing to say right off the top of my head. I really
3 don't know.

4 Excuse the fact that we're using numbers and not names.
5 Let me go through this. This is natural recovery. It is, in the
6 parlance of the environmental impact statement, the no-action
7 alternative. That's why we have sort of an uncommitted balance.
8 This is alternative two, habitat protection. It is the buy land
9 alternative, if you will. If all you were to do is buy land, you
10 would spend 90 percent of the money -- 91 percent on that.
11 Remember, people are not recommending this. We've done this to
12 establish the range of agency and public choice. So, people will
13 be able to see what the implications are of only buying land.
14 And again, this is of the remaining land. This was our limited
15 restoration. It was focused only on the species that have
16 experienced population decline. It's our fiscally conservative
17 alternative, if you will. Take only the most effective actions.
18 This was our more comprehensive and our moderate and our most
19 comprehensive alternative.

20 So, a couple of things -- a couple of observations. One
21 is, in my experience, what everybody immediately looks at, so
22 might as well go for it first is the amount of money you allocate
23 to buy land. From 91 percent, 45 percent of the remaining
24 settlement fund. Then, let's look at the amount of money that we
25 allocate to normal restoration, both for the non-buying land
26 portion of restoration, both to resources and services, including

1 archaeology site stewardship programs, things to help subsistence
2 recover, things to help the sport/commercial fish fish species
3 recover, things of that nature.

4 The fiscal conservative, if you will -- and I apologize
5 if that gets in your way -- would spend only 7 percent of the
6 funds on that. The most expensive, including visitor centers,
7 archaeological museums, would include only 22 percent of the
8 remaining funds.

9 MR. BRODERSEN: For projects we've identified so far.

10 MR. LOEFFLER: For projects we've identified so far.

11 MR. BRODERSEN: That's an important point.

12 MR. LOEFFLER: The reserve for future projects is here.
13 So, if you imagine our expectations for the future, it is the sum
14 of these two categories. (Pause) That's -- I don't know whether
15 to take silence as confusion, disinterest or...

16 MR. PHILLIPS: Shock, maybe.

17 MR. LOEFFLER: ...shock.

18 MR. WILLIAMS: I've got a question on habitat
19 protection. How many million acres are we talking about? Has
20 anybody figured that out?

21 MR. LOEFFLER: I can't answer off the top off my head.
22 Sorry.

23 MR. PHILLIPS: Pam knows.

24 MS. BRODIE: It would -- it's how many hundreds of
25 thousands of acres exactly the, you know, the question.

26 MR. WILLIAMS: That's what I was wondering...

1 MS. BRODIE: If you're looking at the whole broad oil
2 spill area, there may be, very roughly, a million acres to choose
3 from. How many you'd actually be buying, we don't know the
4 prices yet.

5 MR. CLOUD: So, you're saying of all the oil spill
6 impacted area, there's only a million acres of privately owned
7 land? Is that right?

8 MS. BRODIE: Yeah. Now, if you go...

9 MR. CLOUD: Does that include public lands that have
10 timber contracts left on them, too?

11 MS. BRODIE: No, we're talking private lands.

12 MR. CLOUD: Just private lands.

13 MS. BRODIE: If you go further like if you go to
14 Yakataga in the east and Bristol Bay drainage in the west, then
15 it would get to more than a million acres.

16 MR. CLOUD: So, assuming everybody was...

17 MR. PHILLIPS: Yes. Lew.

18 MR. WILLIAMS: Yeah, the reason I bring that up is you
19 know, if the timber is a big problem out here, they could
20 probably exchange timber cutting rights on this land for timber
21 cutting in the Tongass. There's about a million acres left down
22 there, about 10 percent of the forested area that's open to
23 logging and the Forest Service then can make a contribution.

24 MR. PHILLIPS: Mr. French.

25 DR. FRENCH: Yeah. I don't advocate this position, but
26 I've worked with enough EIS's to be well aware that there's a

1 third nulled (ph) condition that's totally missing from the
2 alternatives and that's all restoration activities and general
3 habitat acquisition activities. And if you're going to meet the
4 EIS criteria for completeness, that has to be considered as an
5 alternative.

6 MR. LOEFFLER: That's not what our EIS lawyers tell us,
7 but I'll tell you what. We'll ask and find out.

8 MS. GORBICS: To date, we haven't found that to be
9 practical alternative because we haven't identified enough
10 options to spend 522 million or 610 million, whatever the...

11 DR. FRENCH: In that case, it's a real easy option to
12 address.

13 MS. GORBICS: We have discarded a lot of options -- a
14 lot of alternatives.

15 DR. FRENCH: No, I just in terms of...

16 MS. GORBICS: These are only five alternatives that are
17 still in the mill.

18 DR. FRENCH: In terms of responses to EIS's...

19 MR. LOEFFLER: We'll check with the EIS folks and make
20 sure that they're legal.

21 MR. PHILLIPS: Jim.

22 MR. CLOUD: In attempting to paraphrase you, you mean to
23 say that habitat protection area or percentage of 45 -- I think
24 it's 47 in mine -- was arrived at because you didn't know what
25 else to do with the money that you couldn't spend it on
26 acquiring...

1 MR. LOEFFLER: No, that's not actually true. This was
2 -- this, I believe, currently represents the range in agency
3 thinking. It certainly could easily change before the draft
4 becomes public.

5 DR. FRENCH: You know, clearly the nulled habitat
6 acquisition is considered in one and uncommitted balances
7 considered a reasonable alternative. I just, you know, have
8 difficulty seeing why the limitations and dollars are being
9 arrived at where they are. I mean I think that you have a
10 reasonable set of alternatives there, but you've got an
11 uncommitted other restoration reserve category there. You have
12 an uncommitted balance category. The model is just a weird model
13 as far as I can see from this perspective.

14 MR. LOEFFLER: If you've got recommendations, we'd be
15 happy to hear them. I guess I think that to the extent it
16 represents the range of what the agencies are thinking of, that
17 seems to me to be a good test. To the extent that it is required
18 for EIS actions, there may be other part of the EIS that are not
19 here. I'm not certain but we'll check to make sure that it's
20 legal and meets all the procedures.

21 DR. FRENCH: I'm the wrong one to be speaking but it
22 would be kind of interesting to see what would happen if Koncor
23 or somebody else came forward with a question as to why that
24 wasn't considered as an option.

25 MR. LOEFFLER: I'm not sure it wasn't considered. I
26 just don't know that at this point in the plan, it doesn't need

1 to be something that we go forward with. I believe in the EIS
2 those are considered but not a used category.

3 DR. FRENCH: I just want to make sure the T's are
4 crossed and the I's are dotted.

5 MR. LOEFFLER: I think they are. And certainly, we've got
6 a long way to go before the sentence is complete, so to speak.

7 MR. PHILLIPS: Are there any further questions? Did
8 you have -- you don't have any other zingers for us this
9 afternoon, did you?

10 MR. LOEFFLER: Anything else I need to go over, Dave?

11 MR. GIBBONS: (Inaudible negative response).

12 MR. MUTTER: The endowment question?

13 MR. LOEFFLER: Let me do that very quickly because I
14 don't think it's quite as well developed. There are three
15 endowments that are right now not integrated into these
16 alternatives.

17 One is what we call a research endowment. And that's
18 providing an amount of money and I don't believe we've come to
19 grips on exactly how much for purposes of research forever.

20 The second is an operation and maintenance endowment.
21 And that is because a number of these projects would go on --
22 could easily go on beyond ten years. If you do something that is
23 beyond the scope of the settlement, you need to provide some way
24 of doing it, some amount of principal to fund that forever.

25 And the third is putting everything into an endowment
26 and then just withdrawing from the principal, if need be. If you

1 want to buy land -- if you put X amount into the principal, you
2 get a certain amount of spending each year. If you decide to
3 buy land, you withdraw from the principal and your spending goes
4 down. So, it would be one that you could -- that it wouldn't
5 foreclose options is my point.

6 Those are separate categories of decisions. So, we will
7 address them separately in the plan and they're not developed in
8 this format. So, we would ask people these questions about
9 alternatives and then we'd go on to some of the funding questions
10 on endowments. I would bring out two points. One is if you
11 think about an inflation-proofed endowment that is an endowment
12 that will go on perpetually, you have approximately 36 million
13 dollars in principal for a million dollars of inflation proofed
14 spending. So, if you want to get 3 million dollars a year in
15 inflation-proofed spending, you need about 100 million in
16 principal. That's using the Department of Revenue projections
17 for inflation but more importantly, it's using the Alaska
18 Permanent Fund projections for real rate of return that you can
19 get in interest bearing accounts. So, if you want 200 million,
20 you get about roughly...

21 MR. PHILLIPS: Six.

22 MR. LOEFFLER: ...six. Six million in annual spending.
23 If you put the whole thing into an endowment now and have an even
24 level of spending, you would spend a little from the principal
25 now because money is still coming in so you'd spend a little more
26 than what's justified by the amount in our bank account now but

1 you'd get between 13 and 14 million dollars in constant level of
2 spending forever. I think that's really all I need to go
3 through on endowments.

4 MR. PHILLIPS: Okay, if there are no other questions on
5 this, I'd like to move onto the 1994 work plan.

6 MR. TOTEMOFF: Mr. Chair?

7 MR. PHILLIPS: Yes, Chuck.

8 MR. TOTEMOFF: Is it my understanding on the February
9 16th that the Trustee Council is going to recommend approving
10 this table?

11 MR. GIBBONS: No. That's not the understanding at all.
12 This will be presented to them with the informational -- give
13 them guidance from the Trustee Council on what approaches they
14 want to go and that type of thing.

15 DR. FRENCH: It's unclear to me from the end there, are
16 you going to work out models that include endowments or not?

17 MR. LOEFFLER: We will probably further develop
18 endowments but we won't integrate them into these alternatives.
19 At least, I don't think so at the moment. So, for example, we'll
20 say here's what you get with -- you could also choose some of
21 this for an endowment and so we'll keep them separate questions,
22 just for simplicity in presentation. But we'd certainly have to
23 develop further on what I presented to you today on endowments.

24 MR. GIBBONS: Some of the options might be to have an
25 endowment to fund the monitoring or something for -- yeah. I
26 mean it really gets complicated. We tried to build that into it

1 and it just got super -- well, if you take 20 percent of the
2 habitat and 10 percent here to fund -- it just -- it gets very
3 complicated.

4 MR. LOEFFLER: Before you get to the final plan, you'd
5 have to work that out.

6 MR. PHILLIPS: Any further questions? If not, we're
7 going to move onto -- and if you've got 20 million bucks left
8 over, let's put a road into Whittier, okay?

9 MR. LOEFFLER: Also, if any of you have further
10 questions, I'm just upstairs.

11 MR. PHILLIPS: Is it still Mr. Sullivan? Okay, Mr.
12 Sullivan would you come up and find a comfortable spot here with
13 a mike that works and give us a briefing on the 1994 work plan.

14 MR. SULLIVAN: Basically, the 1994 work plan work group
15 got started sometime in late December, I guess, when we got
16 going. The Restoration Team worked on a set of assumptions for
17 1994 work plan and I'll read some of those off. Have you
18 already covered those?

19 MR. GIBBONS: (Inaudible negative response.)

20 MR. SULLIVAN: The assumptions which all the agencies
21 don't totally agree on but which the majority, at least, have
22 agreed on as a working document at this time, first the
23 restoration plan will not be completed by the time the 1994 work
24 plan needs to be approved. That appears to be fairly obvious.
25 The second is the restoration plan should be in place by the time
26 most of the '94 work plan is implemented. Three, the Trustee

1 Council can approve any appropriate restoration action prior to
2 having an approved restoration plan in place. Four, all
3 available settlement approved actions will be considered to
4 implement restoration. Five, numerous 1993 projects will need to
5 be closed out or continued to 1994 as appropriate. Six,
6 implementation activities will be emphasize. Seven, there will
7 be increased emphasis on the restoration and enhancement of
8 services. Eight, there will be an identification and protection
9 of critical habitat needs to proceed as rapidly as possible.
10 Nine, normal agency management will not be funded.

11 And ten, restoration projects will be limited to
12 resources or services that have suffered a consequential injury
13 which is defined as a natural resource has experienced
14 consequential injury, if it has sustained a loss (a) due to the
15 exposure of oil spilled by the T/V Exxon Valdez or (b) which
16 otherwise can be attributed to the oil spill or clean-up. A loss
17 includes one, significant direct mortality; two, significant
18 declines in populations or productivity and; three, significant
19 sublethal and chronic effects to adults or to any other life
20 history stages or four, degradation of habitat due to alteration
21 or contamination of flora, fauna and physical components of the
22 habitat.

23 A natural resource service has experienced a
24 consequential injury if the Exxon Valdez oil spill or clean-up
25 has one, significantly reduced the physical or biological
26 functions performed by natural resources including loss of human

1 uses; two, has significantly reduced aesthetic, intrinsic or
2 other indirect uses provided by natural resources or, in
3 combination with either of these three, has resulted in the
4 continued presence of oil on lands integral to the use of special
5 purpose land. This is taken from the restoration framework,
6 page 39 through 41 from last year.

7 The eleventh assumption is that restoration activities
8 will be restricted to the oil spill affected area and 12, a final
9 work plan and budget needs to be approved by the Trustee Council
10 by August 31st, 1993.

11 As I said, there's -- oh, it looks like about five or
12 six assumptions that are not unanimously agreed on by all the
13 agencies at this point and I think the Trustee Council hopefully
14 will take those up Tuesday with other things. But those are the
15 working assumptions that the Restoration Team, the 1994 work plan
16 work group and the chief scientists and peer reviewers began to
17 work from and the injury summary -- have you discussed injury
18 summaries, I guess?

19 MR. GIBBONS: Yes.

20 MR. SULLIVAN: You have. Also serve as the basis from
21 which to start working on what they wanted for 1994. And
22 anyway, they had a meeting January 11th to 13th and then finished
23 the meeting off on the 22nd of January to get started on working
24 out a framework document that the Restoration Team, the chief
25 scientists, peer reviewers, 1994 restoration work group have been
26 working on and will present to the Trustee Council on the 2nd of

1 March. This document will describe what the resource or service
2 is, what the link to injury is, what needs to be done, why and
3 how the potential projects that are very short -- it will be very
4 short, like two lines descriptions of what needs to be done.
5 They are very broad-brushed projects and a snowball's guess as to
6 what these things will cost. You know, very broadly based.

7 Then the Restoration Team and the Trustee Council then
8 after the Trustee Council has had about a week and a half to look
9 at this will get together for a workshop on the '94 work plan on
10 the 12th of March is when it's currently scheduled. And at that
11 time, if the Trustee Council finds things in there that they
12 don't like, or do like, they will indicate that and we'll go on
13 from there to develop a work plan.

14 Now, what we're doing is a little bit different from
15 last year is that we're not soliciting ideas from the public at
16 this point.

17 MR. GIBBONS: We have not decided that point at this
18 time. It's up to the Trustee Council. Do they want to solicit
19 more ideas or do they want to use the ones that were submitted
20 for the '93 work plan. That's an option that's up in the air
21 that the Trustee Council needs to decide.

22 MR. SULLIVAN: Okay. Well, that's not the direction I
23 got. Are they going to do that on next Tuesday then?

24 MR. GIBBONS: The working session on March 10th.

25 MR. SULLIVAN: Okay. Well, the direction that I've been
26 going in -- working under at this point was that we had gotten a

1 lot of ideas this past year and that those things -- a lot of
2 those things were not part of the '93 work plan because of
3 various reasons that didn't eliminate them from ever being done
4 but were delayed and so would become part of the future years
5 projects.

6 Let's see. In any event -- now, you've destroyed my
7 train of thought. Let' see In any event, if we proceed in this
8 manner, then it doesn't mean that the public will not have an
9 opportunity to have input. What it would mean then is that we
10 would have taken input that we've gotten up to that point and
11 start to build project descriptions from that. I had another
12 point that I want to add in on that and I've lost it. In any
13 event, like I said, we would put figures on that, very broad
14 brushed dollar figures. If that is the direction the Trustee
15 Council decided to go, then we would give the -- we would take
16 these things back to the agencies and we would start to put
17 together short project descriptions, okay? We would then send
18 those project descriptions to the Restoration Team, legal
19 counsel, the Environmental Compliance work groups and so forth.
20 That would then go into eventually after several rounds with them
21 that would eventually go into a product that looks similar to the
22 '93 work plan which would then get out to the public about mid-
23 May and it would -- from mid-May until the end of June then, the
24 public would have an opportunity to advise us as to whether or
25 not they thought those were good ideas or bad ideas or if we had
26 missed some that should have been in there. At that point, they

1 would have the opportunity to say "Do this. You didn't think
2 about this." Try this one instead."

3 Our current schedule that we've hypothesized which it
4 never turns out to be what we start off with, shows the close of
5 public comment period about the 1st of July. That would give us
6 the -- on the 1st of July then we would compile all the public
7 comments and send them to the Trustee Council and to the PAG.
8 The 2nd of August, Restoration Team would then provide their
9 recommendations to the PAG and to the Trustee Council. We would
10 ask the PAG to provide their recommendations to the Trustee
11 Council within a few days of that.

12 As currently conceived, we would have a meeting with the
13 Trustee Council the 10th of August to approve the final work
14 plan. By the 16th, we would then have the financial operating
15 committee, the Departments of Law and Justice and the Restoration
16 Team get together and draft a court request. We would request
17 funds from the -- or the Trustee Council would request funds from
18 the court by the 23rd of August. By the 1st of September, we
19 would have funds deposited in our NRDA restoration account and we
20 would be ready to withdraw funds from that account on the 1st of
21 October.

22 Beyond that point then, we would go through the drill of
23 getting a detailed study plans of detailed project plans together
24 from about the 1st of November to the 1st of January. Whatever
25 projects needed to start work, we could start work on them at
26 beginning about the 1st of December. We would ask for final

1 reports from the '93 projects that would go out for review the
2 1st of February of next -- oh, I'm sorry. I'm getting too far
3 ahead.

4 MR. GIBBONS: Yeah, you should stop.

5 MR. SULLIVAN: Okay.

6 MR. GIBBONS: Let me add something to this. We're in
7 the formative stages of this. What, you know, we're still
8 thinking on the process and the involvement and what I see your
9 involvement is early on here in March is as we give the Trustee
10 Council some of these assumptions and stuff, we're going to give
11 them to you, too, and say, is this the way we should be going
12 this year? So we solicit public input? Should we use the stuff
13 from '93 and all the other ideas that have been solicited? All
14 these things are up in the air now.

15 But one thing I am sure is the '93 work plan will be
16 more detailed. You know, it has to have more detail in it.
17 We're hearing that very clearly and some other things. So, we're
18 going to run all that by -- work with you folks early on so
19 you're not given a document and saying "Here's the draft '94 work
20 plan; give us your thoughts on it." So, the process is going to
21 be involving you folks early on in the process and I just want to
22 emphasize that. And some of these decisions have not been made.
23 The Trustee Council has not made any decisions concerning the '94
24 work plan.

25 MR. PHILLIPS: Are there any questions? Jim.

26 MR. CLOUD: I might have missed this if you didn't

1 already say it, but when will the draft plan be out to the public
2 and to us?

3 MR. SULLIVAN: We expect the draft plan to be out about
4 the 17th of May.

5 MR. CLOUD: And then, I presume the RT will be evaluating
6 that work plan for its recommendations on a scientific basis.
7 Then that would be adjusted by the public comment, perhaps,
8 right?

9 MR. GIBBONS: Right. What our hope is is that by that
10 time, we'll have some feel for what you folks and the other would
11 like to see in it and we'll make our recommendations in that work
12 plan and we'll solicit comments from the public and that to
13 develop a final one.

14 MR. CLOUD: Sort of like a government accounting office
15 investigation? Tell them what you want and they'll give it to
16 you.

17 MR. PHILLIPS: Yes. Vern.

18 MR. McCORKLE: Mr. Chairman, I wonder if it would be
19 valuable to send to the PAG chapters or units of this as it's
20 being developed so that we don't on May 17th get a tome of this
21 size that we are looking at for the first time, understanding
22 that the process of developing a draft at the staff level is a
23 very particular kind of thing and not that we would expect to
24 have input at each step of the way that staff is working but that
25 we could get some drift as to the direction they're going. And
26 so that when we are invited to comment, we maybe have something

1 more meaningful to say. Maybe that just couldn't be done, but if
2 that is interesting to discuss more, I bring it to the table for
3 that value.

4 MR. SULLIVAN: What our deadline to the -- we have an
5 April 5th deadline to our agent -- to the agencies to develop
6 these things and at that point, what we believe is we need about
7 three weeks from the 5th of April to about the 2nd of May to go
8 over and refine these things, to look at them to see if they, you
9 know, follow the rules that are laid out as far as you know,
10 developing these things in the budgets and so forth and so on.
11 Just basically, a lot of it is going to be editorial work or
12 editing, okay.

13 So, if on the 5th of April, for example, you would like
14 a rough copy -- a rough draft of these things that would
15 basically give you the general idea, I think that, you know, from
16 my perception -- I don't know what the Restoration Team thinks
17 and maybe Dave can answer that better but that would give you a
18 rough cut as to what it is that we're looking at.

19 MR. PHILLIPS: Everything helps. Are there any to her
20 questions? Yes.

21 DR. FRENCH: Yeah. I mean we heard this morning at
22 least from the perspective of Charlie Cole why they'd like to
23 know if we feel there's whole areas that are getting overlooked
24 in these processes and I think the only way we can do that is see
25 these early drafts. I mean if you're really interested in this
26 overall broad perspective as to whether or not there's something

1 they should or shouldn't be considered, I mean we just heard for
2 example that from my perspective, at least, endowments are being
3 given very definitely a second status because they're not even
4 being worked into the original cost analyses. There's no point
5 in doing it if you're not going to work them into the cost
6 analyses. You're prejudicing the situation before you even
7 start. But the same is true with these kind of things.

8 If you confront us basically with a final plan, it's
9 going to be much harder for us to provide you with meaningful
10 input in terms of areas that are completely overlooked because
11 the time frame gets too compressed for you to respond to that
12 input.

13 MR. SULLIVAN: Right. Well, the first point at which
14 we'll have something to look at really are the basically the two-
15 lined project descriptions that are supposed to go the Trustee
16 Council on the 2nd of March.

17 DR. FRENCH: As soon as they occur, I'd like to see
18 those.

19 MR. GIBBONS: Like I said, we have a work session
20 planned on March 10th with them to get a lot of these things
21 ironed out. The process in '93 was not smooth by any means and
22 we want to sit down with them and say, "Do you agree with our
23 assumptions? Give us an idea of how much you want to spend. Do
24 you want to build fish ladders? Do you want to build -- what do
25 you want to do?" And that's what we want to sit down with them
26 and have a real working session. That's not a decisional meeting

1 but it's a working session so we can get some of these things out
2 on the table and so we're not, you know, caught in -- like we
3 were this year.

4 MR. SULLIVAN: My perception of what you're asking
5 though is -- and you can answer this where I cannot -- is can we
6 provide them with a copy of that at the same time that we....

7 MR. GIBBONS: We can provide you a copy of the March 2nd
8 document with stamped "Draft" all over it and Trustee Council has
9 not -- I mean we'll put a bunch of qualifiers on it, but you
10 know, we can get you that.

11 MR. PHILLIPS: We're able to handle that sort of thing.
12 We do it every day in our daily lives and we understand we're not
13 going to the newspaper and have it printed on the editorial page,
14 but it certainly is helpful if we have something in advance.
15 Otherwise, we're just...

16 MR. GIBBONS: Then you'll know the assumptions we're
17 building the plans and the area and that kind of thing and that's
18 the kind of input we need from you.

19 MR. PHILLIPS: Yes.

20 MR. WILLIAMS: I have one other procedure question.
21 This is the '84 [sic] plan. And I presume there's going to be
22 an '85, [sic] '86, [sic] et cetera. How does that work in with
23 the overall restoration plan and the EIS for that?

24 MR. GIBBONS: Well, this is still a little out of sync.
25 We have to have a final '94 work plan by mid-August to get it
26 geared into -- and the final restoration plan is not due out

1 until November. The '95, '96 will all tier under an approved
2 restoration plan. One of the questions we're going to ask the
3 Trustee Council is is there anything we can work off the draft
4 restoration plan to prepare the '94 from? Now, that's some of
5 those basic questions. Is there something in that document on
6 the draft document that we can use to help us?

7 MR. PHILLIPS: Any further questions on this subject?
8 I'd like to ask at this time, is there anybody from the public
9 that wants to be heard this afternoon?

10 MR. RUSHER: (Inaudible positive response.)

11 MR. PHILLIPS: We have to -- we are getting compressed
12 here on time and I don't want to leave anybody out. Okay, that
13 tells me what we have to do then. Thank you. One person, I
14 guess. Thanks for coming down. I appreciate it. It looks to me
15 like the next two things that we have to do is to define, even in
16 half sentences if we have to, those items that I'm going to have
17 to take to the Trustee Council on the 16th that we want to
18 articulate to them on how we feel.

19 I have one here, as an example, I believe, because we've
20 talked about it enough and that is the trading -- exploring the
21 trading of land instead of purchase. That is a subject matter
22 that I can discuss with them. There are some other items and I
23 think if we can just get some kind of a consensus or if somebody
24 feels very strong about it, I will be glad to take those to them
25 so that we are showing some direction and some concern about
26 these things. So, with your indulgence if you could come up

1 with specific ideas you have and Doug has ink in his pen so if he
2 would just make a note so we can get together and make the out
3 line. Yes, Vern.

4 MR. McCORKLE: A couple things that might bear repeating
5 or re-emphasis would be focusing on seeing where private
6 contractors or private enterprise might be invited to participate
7 in some of the work. And then a second idea which is to develop
8 a mechanism to check for plans that appear to overlap between
9 agency and agency or project by project. Those are two things
10 that are left over from our previous meetings which I think would
11 bear some additional emphasis.

12 MR. PHILLIPS: Are there any objections to those so far?
13 We'll just put these down and we'll take as many as we need and
14 if there is an objection to an item being sent to them, let's
15 talk it out now because I don't want to do it after the fact.
16 Yes.

17 MR. CLOUD: I think we should comment on John's point.
18 That endowments shouldn't be ruled out now and should be --
19 instructed (ph) be worked into the restoration plan.

20 MR. PHILLIPS: As alternatives?

21 MR. CLOUD: Yes. An alternative. If we don't do that,
22 it will skew public comment on the RP against that being
23 available and I think he's right. I think you foreclose out the
24 option.

25 MR. GIBBONS: With that comment, do you want only the
26 endowments in one option? The way that we were talking about

1 doing it now is a separate chapter that might apply to all the
2 alternatives. It's a funding mechanism, you know, so if you put
3 it in one alternative, you may be just limiting, you know.
4 That's some thoughts Mark might have.

5 MR. BRODERSEN: Yeah, Mr. Phillips, if I could. I'm not
6 sure that it was quite strongly enough conveyed as to how we plan
7 to deal with endowments there. The set of alternatives you saw
8 there was without endowments. The intention or the intent at
9 this point which is still in draft is do a separate chapter that
10 says, now if we do endowments of the three types that were talked
11 about, this is how it would affect the alternatives, so you have
12 a set of alternatives without endowments, a set of alternatives
13 in dollar amounts again with endowments with the three options.

14 If you try and combine it all into one set, it quickly
15 becomes so complicated that you lose track but what we want to do
16 is show it -- I'm repeating myself. I'll do it again. You saw
17 the one set without endowments. There'll be another chapter
18 that would talk to the three types of endowments and
19 ramifications on the alternatives of those endowments. So, it's
20 not an intent to stop endowments. It's just an attempt to show
21 what happens with and without them! Try and clarify that
22 situation.

23 DR. FRENCH: Mr. Chair.

24 MR. PHILLIPS: Yes.

25 DR. FRENCH: Yeah, I really appreciate that
26 clarification, Mark, but I still am concerned that public comment

1 frequently focuses on the very limited part of a submission.
2 There are being put forward large books of restoration plans or
3 work plans or whatever and people tend to read bits and pieces
4 here and there. I would strongly encourage you, if it's at all
5 possible and it may not be, to try to find a way, at least in
6 your summary documentation of it, to try to include a table that
7 includes at least some of the options both with and without
8 endowments in the same tabular form.

9 MR. BRODERSON: In a summary -- excuse me, Mr. Chairman.
10 In a summary form, I would hope that that would get done in an
11 executive summary of the plan. We had not gotten to the stage
12 yet of how do you boil down many hundreds of pages into ten.
13 That would certainly be one of the things that you would need to
14 do.

15 MR. PHILLIPS: Yes.

16 MR. CLOUD: In the same vein and again, based on -- or
17 follow-up on John's earlier comments, you can't really present
18 the restoration plan in the complete framework of things unless
19 you also present the option of not having money spent for habitat
20 acquisition and all of it spent on restoration -- different kinds
21 of restoration and then, perhaps, endowments.

22 MR. TOTEMOFF: Mr. Chairman?

23 MR. PHILLIPS: Yes. Chuck.

24 MR. TOTEMOFF: I don't think all these ideas like
25 endowments and restore options that were presented to us are not
26 necessarily the only ones that we should consider. I think

1 there's more creative ways of spending the money on habitat
2 acquisition and protection. I've got some additional ideas but
3 they're not at a point where I can present them to you.

4 MR. PHILLIPS: That's fine. The time frame we have
5 right now -- the immediate thing facing us is that a presentation
6 has to be made on the 16th which is next Tuesday, is it not? Or
7 close by. And so, whatever it is, we've got to get them focused
8 in. Then beyond that, we've got to decide when our next meeting
9 is and it looks like it's not going to be in the very near future
10 so if you have something, I don't know how to suggest that this
11 group will know about it in advance, so I'm kind of in a dilemma.

12 MR. WILLIAMS: They can be sent to you and distributed
13 to us, can't it?

14 MR. PHILLIPS: Yeah...

15 MR. WILLIAMS: So, it doesn't hit us cold at the next
16 meeting.

17 MR. PHILLIPS: I was just wondering if any of these he
18 was -- maybe I read you wrong, but if you want me to present
19 something to the trustees on Tuesday, we have limited time
20 between now and then for the group to consider it.

21 MR. TOTEMOFF: Yeah, okay. I'll try to get you
22 something before Tuesday or the 16th.

23 MR. PHILLIPS: Yeah, that would be fine. Could we have
24 copies so that everybody can be aware of it and then if somebody
25 has a strong objection or an addition or anything else, for God's
26 sake, get a hold of me so that I don't go up there and stumble.

1 MR. MUTTER: Mr. Chair.

2 MR. PHILLIPS: Yes.

3 MR. MUTTER: The one thing we don't want to forget is
4 the question about the alternates, too, and I need to get the
5 designations from everyone.

6 MR. PHILLIPS: Yeah, I was going to remind them about
7 this -- another subject. Yes.

8 DR. FRENCH: Specifically with respect to imminent
9 habitat classification, I think it's important we convey Mary's
10 concern that fish species were underweighted in the
11 classification and encourage that if you're going to go with a
12 weighting where each bird species is individually represented,
13 why we at least provide some additional weight to fish in
14 anadromous streams in addition -- by species rather than single
15 species. In other words maybe we'll want to split out salmon,
16 trout and herring, but at least give them three classifications.

17 MR. PHILLIPS: We ought to have at least double it on
18 recreation.

19 MS. BRODIE: I would like to add also giving more weight
20 to services that is currently...

21 MR. PHILLIPS: Yes, that was going to be my add- --
22 yes, Jim.

23 MR. CLOUD: And along those veins, I think that one
24 thing that I felt was missing on this analysis although as good
25 and complete as it seemed is a site-specific linkage to the
26 damage instead of this broad brushed calculation that they're

1 doing now. Each site should be analyzed for the specific damage
2 that they're trying to enhance the recovery on. The damaged
3 service or resource.

4 MR. PHILLIPS: Any comments?

5 MR. GIBBONS: I thought that was there with the table
6 where you're dealing with the resources and which resource was
7 injured and the severity of the injury but maybe that didn't...

8 MR. CLOUD: In my questioning of the fellow, he, at
9 least from what I read from his answers to my questions were that
10 they didn't address it on a site-specific basis. For instance,
11 at China Poot Bay, they didn't say eagles were hurt there in that
12 population. Eagles may have been hurt in, you know, over in
13 Hinchinbrook Island, but they weren't hurt in this population but
14 they still weighted it because there were a lot of eagles there.
15 They still weighted it as a high...

16 MR. GIBBONS: The point is that the analysis wasn't
17 done that says okay, that eagles were hurt at China Poot Bay.
18 Eagles were injured in the spill and therefore, in the spill
19 affected area that we're dealing with, you're trying to restore
20 the services -- or the eagles and it doesn't have to be tied to
21 that. That's our methodology on that.

22 MR. PHILLIPS: Pam. And then Richard.

23 MS. BRODIE: It's not clear to me in this process people
24 are suggesting things, some of which may -- some of us agree
25 with; some of us disagree with. I'm not sure what Doug is...

26 MR. PHILLIPS: Why don't we get them down and then we'll

1 go through the list and if you've got objections, we can take
2 them up. I think we have to have a quick review as soon as we
3 have the points made here. Yes, Richard.

4 MR. KNECHT: I was just going to echo some of Dave's
5 comments that I think in the language of the settlement, it
6 allows for the purchase of equivalent resources and they don't
7 have to be tied to site-specific damages.

8 MS. BENTON: Are we still adding to the list of
9 suggestions?

10 MR. PHILLIPS: Yeah.

11 MS BENTON: I guess I'd suggest again and I've said it
12 before as we move forward with possible habitat acquisition to
13 please involve the timber owners and the landowners sooner rather
14 than later and make sure that they don't read about it the paper.

15 MR. PHILLIPS: Okay.

16 MS. BRODIE: And along with that that they get
17 permission to contact all land and timber owners.

18 MR. PHILLIPS: Yes. That -- remember the point we
19 talked about about encouraging them to get the people to go talk
20 to the landowners now or yesterday. I would like to offer a
21 suggestion too that some attention -- serious attention -- be
22 given to defining -- I don't know whether it's defining or not --
23 I'll use the term right now -- defining the use to which this
24 land can be put after it is acquired. Or its limitations. Or
25 both. So that the public knows and can expect -- if we're going
26 to spend all this money and the government is going to get its

1 hand on it, how can it be used. I think that's the final -- yes.

2 MS. BRODIE: Regarding that, all public land has
3 management plans that the public is involved with and a lot of
4 public land is logged. So, if it comes into public ownership,
5 the public will be involved and will consider things and it
6 possibly could be logged in the future...

7 MR. PHILLIPS: Have you ever dealt with the National
8 Park Service? You might have a different view of things if you
9 tried to get into McKinley Park or any...

10 MS. BRODIE: I don't expect to see logging in a
11 national park.

12 MR. PHILLIPS: No, but I'm talking about....

13 MS. BRODIE: But I do in a national forest.

14 MR. PHILLIPS: What I'm saying is that the discretion of
15 the government agency is what the park rangers want you to have,
16 not what the public policy is and they have an overriding
17 philosophy about running land and that is that the national parks
18 are for the rangers and not the public. As I say, I don't want
19 to get into that situation. If we've got private land and we're
20 going to give it to the government, I think we ought to know up
21 front what that land can be used for or we've got this continuing
22 argument about accommodating the citizens of the United States to
23 be able to look at their own land and boy, I don't trust them.
24 Pardon me for being a cynic but I've battled them too long.

25 MR. DIEHL: What you're bringing up, Brad, is more
26 agency specific, I think, so when you have six agencies involved

1 like you know, how is the Trustee Council even going to deal with
2 this matter? Who's going to be the overseer of this land? All
3 six agencies or...

4 MR. PHILLIPS: It just seems that that ought to be
5 discussed up front. That's all.

6 MR. DIEHL: Yeah, that's got to be...

7 MR. GIBBONS: That's some of the policy questions that
8 they need to deal with.

9 MR. PHILLIPS: Absolutely.

10 MR. GIBBONS: We tried to wrestle with that at our
11 Restoration Team level and we just finally said, that's a policy
12 decision.

13 MR. PHILLIPS: That's right, but we've got to remind
14 them of that, I think. Is there anything else now that we have
15 talked about today? We're in a review session here of what we're
16 going to take to them and I will precede all of this by telling
17 them that we couldn't vote on anything today because we didn't
18 have a quorum and that we would like have them change this rule.
19 However, these are things that concerned us in our discussions
20 today and I can't tell them what the vote is on it or anything
21 because we can't vote, but if there are any -- I would like to
22 have Doug just -- can you just tick off the items that we're
23 going to touch on and then if you have any questions, let's talk
24 about it.

25 MR. MUTTER: Okay, use of land trades in place of
26 purchases. Private contracting of work and projects. Looking at

1 where agency and project plans overlap. Endowment should be
2 worked into restoration plan alternatives included in summary
3 information. Need to look at alternatives that include no
4 acquisition and all restoration.

5 MS. BRODIE: I disagree with that one.

6 MR. PHILLIPS: Just mark it.

7 MR. MUTTER: The use of alternates as members to the
8 PAG; the need to -- or fish species are underweighted in habitat
9 classifications; we need to have at least three classifications
10 plus more weight to services. There was not agreement on adding
11 more site-specific linkage information to acquisition data. We
12 need to involve timber and landowners sooner rather than later
13 and encourage the staff to talk to these people now. And we
14 should define uses of land and the management responsibilities as
15 part of the habitat information and data.

16 MR. PHILLIPS: All right now, which one did you disagree
17 with, Pam?

18 MS. BRODIE: I don't think we need an option of no
19 habitat acquisition because that goes contrary to all the public
20 comment we've had to date.

21 DR. FRENCH: If it goes contrary, it will go contrary
22 again.

23 MS. BRODIE: I think that it's...

24 MR. PHILLIPS: Yes. Jim and then Richard.

25 MR. CLOUD: May I just make a suggestion that perhaps,
26 although our vote doesn't carry anything, perhaps we could just

1 back through and have an advisory vote on each of these issues
2 and then they can see what the advisory vote is.

3 MR. DIEHL: Does number two, would that include more
4 public in- -- competitive bidding?

5 MR. PHILLIPS: Yes. Private sector. Yes., Richard.

6 MR. KNECHT: I'd like to add to the list just by -- you
7 know, saying we spent a lot of time as a committee telling staff
8 and trustees what they ought to be doing. I'd like to hear some
9 feedback from them, both the staff and trustees, about what they
10 think our jobs are and how we've been doing at it.

11 MR. PHILLIPS: Very good. Very good. Yes.

12 MR. WILLIAMS: Brad, I don't think we need to vote on
13 this. We'll end up arguing for the next hour or two hours. I
14 think if you explain to them that these were the subjects brought
15 up and we came up with no recommendation on them but these were
16 concerns of the members and let it go at that, we'd be better
17 off. You can even tell them that habitat concern about that but
18 somebody else...

19 MR. PHILLIPS: I will try to present it as it has been
20 here today and if there isn't strong objection, I would certainly
21 tell them that by some parties. There's no reason not to. Yes.

22 MS. McBURNEY: Okay. And then just added to the list of
23 recreational and tourism services, I'd also like to have a little
24 more consideration for commercial fishing as a service and
25 services lost.

26 MR. GIBBONS: That's similar services.

1 MS. MCBURNEY: Yes.

2 MR. GIBBONS: That is.

3 MS. MCBURNEY: It is. Okay, but going back to like the
4 criteria, for example that were used for the habitat, there is no
5 weight given there.

6 DR. FRENCH: There's only one service category in the
7 whole thing.

8 COURT REPORTER: Going off record to change tapes.

9 (Off Record: 3:50 p.m.)

10 (On Record: 3:50 p.m.)

11 MR. CLOUD: I was just wondering. I can't remember.
12 On the money that's left that Exxon hasn't paid, are they paying
13 interest on that?

14 MR. GIBBONS: No.

15 MR. PHILLIPS: No.

16 MR. MUTTER: Mr. Chairman?

17 MR. PHILLIPS: Yes.

18 MR. MUTTER: As I recall, there was one other issue that
19 was brought up early on and that is the desire of the PAG to get
20 information for review as soon as possible.

21 MR PHILLIPS: Yes. Absolutely. Nobody objects to that
22 one, do you? Okay, that was pretty universal. All right, do we
23 have enough to present to them. Yes, Dick?

24 SEN. ELIASON: I'm just want -- have we resolved the
25 issue on how we're going to prioritize our recommendations to the
26 council or are we going to -- can we do that ourselves? Maybe

1 the staff can put some together some type of a format we could,
2 you know, check them, A, B, C or X, Y, Z, whatever it might be.
3 Or do we have to go to the trustees and ask them?

4 MR. PHILLIPS: As a suggestion, why don't I make the
5 inquiry and see how valuable that would be to them for us to set
6 a priority on some of these in some manner, because they haven't
7 indicated to us that that's important to them at all and it's a
8 lot of...

9 MR. GIBBONS: They did at the last meeting. They
10 suggested that it would be good for the PAG to put priorities on
11 the information.

12 MR. PHILLIPS: Would you come up with a system then for
13 us?

14 MR. GIBBONS: I'm not quite sure what priorities you're
15 talking about. I was, you know, I'm thinking in the '93 work
16 plan it would be very easy to do that, but on priorities on some
17 of the discussions we had today, you know...

18 MR. MUTTER: Mr. Chairman?

19 MR. GIBBONS: Work plan would be very easy to do.

20 MR. PHILLIPS: Yes. Doug.

21 MR. MUTTER: I think at the last meeting, Senator
22 Eliason put together a priority system and then left us in the
23 lurch and we didn't follow that so I think in the next work plan,
24 we could draft something like that up into that chart that you
25 had and just build it in and then you could review that and see
26 if that...

1 MR. PHILLIPS: Okay, and this would go for the 1994?

2 MR. MUTTER: Right.

3 MR. PHILLIPS: We apologize we're not doing it this
4 time, but we didn't know and we can do it in '94. That's fine.
5 Is there anything else now that you feel we should present to
6 them? Pam.

7 MS. BRODIE: I like Senator Eliason's suggestion that
8 for imminent threat, we look at some areas that are close to, but
9 beyond, the immediate oil spill area like Yakataga, that that be
10 expanded. For one thing, I think that the more areas you look
11 at, the better prices you're going to get.

12 MR. GIBBONS: The length of the injury might, you know,
13 the further away you get too, the link to the injury goes down,
14 so...

15 MS. BRODIE: But I think that would be reflected in your
16 tables.

17 MR. WILLIAMS: Quite a bit around Sitka because we could
18 use a million down there.

19 MR. PHILLIPS: After I get my road to Whittier, you'll
20 get (indiscernible - laughter). Okay. Yes, Jim before we...

21 MR. CLOUD: We've talked several times in the last
22 couple of meetings of this concept of having an unlimited budget
23 to work with. I'd just like to throw out for discussion, perhaps
24 we can recommend that they cap an annual expenditure that they'll
25 spend on work plans and other things until they have their
26 restoration plan in place. And I would say that if we decided to

1 do that, that it ought to be no more than an inflation-proofed
2 annual earnings of the remaining corpus of the fund.

3 MR. PHILLIPS: This is until they get work plan in and
4 define...

5 MR. CLOUD: Until they decide what to do with the money
6 basically.

7 MR. McCORKLE: Is the fund invested anywhere now?

8 MR. PHILLIPS: Are there any other suggestions? Now,
9 I've got a mouthful here, a plateful here, to give to these guys
10 and they've got their own work to do, too.

11 MR. MUTTER: We need public comments.

12 MR. PHILLIPS: Yeah, we have two more items. We have
13 public comment and then I want to discuss the next meeting and
14 where and when because that will take a little bit of discussion
15 and then get you guys out of here on your other commitments.
16 Could you please use a microphone there somewhere and identify
17 yourself for the record and tell us what we need to know. Thank
18 you very much for sitting so patiently today.

19 MR. RUSHER: That's fine.

20 MR. PHILLIPS: She will crank up the volume on the
21 microphone so you don't have to worry about it, being right next
22 to you, as long as you speak up.

23 MR. RUSHER: Okay.

24 COURT REPORTER: One's for the recording and one's for
25 the speaker so, just leave it the way it is.

26 MR. RUSHER: Oh, just leave it the way it is?

1 COURT REPORTER: Yes, please.

2 MR. PHILLIPS: One's for recording and the other is for
3 amplification, okay.

4 MR. RUSHER: Mr. Chair, this is in reference to the last
5 meeting and to priority project that was turned in in 1992 for...

6 MR. MUTTER: Could you state your name and who you're
7 with, please?

8 MR. RUSHER: My name is Jerry Rusher and I'm
9 representing Rusher Services. And the paper you have before you
10 is in reference to the last meeting, the priority project that
11 was turned in in 1992 for the 1993 work plan.

12 I hope the Public Advisory Group will take the lead
13 position on restoring the shorelines from 20 years of subsurface
14 oil.

15 A lead position could be the attention and consideration
16 of this priority project. Scientific data from 1989 and 1990,
17 placement of Environmental-75 surface and subsurface has shown
18 beach worms are attracted to the controlled test sites in greater
19 numbers and greater health than any other site on the shoreline.
20 The beach worms are very important to the bird migration in
21 Prince William Sound. The worms are part of the food chain.

22 With strip application of Environmental-75, a natural
23 restoration can occur by attracting worm movement to speed the
24 rates of natural degradation of subsurface and surface
25 contamination. In layman terms, worm movement would aerate the
26 soil of the shorelines.

1 The future is what we do now. The opportunity to help a
2 natural army of workers to restore the shorelines of Alaska is at
3 our disposal.

4 Just two of the endorsements is the largest corporate
5 landowner, Chugach Alaska and the largest individual landowner,
6 Ellamar Properties in the Prince William Sound. And I've
7 highlighted that on he five pages, I've highlighted everything
8 that is the most important because it 's time critical today. I
9 know you want to get out of here but the State Marine Park at
10 Horseshoe Bay definitely needs your help.

11 MR. PHILLIPS: Where's Horseshoe Bay? Would you...

12 MR. RUSHER: That's on LaTouche Island.

13 MR. PHILLIPS: Okay.

14 MR. RUSHER: It's the -- page five is a map of the
15 location and the boundaries of the state marine park that's
16 there.

17 MR. PHILLIPS: Could you -- maybe it's the wrong end of
18 the day, but I'm having a problem telling myself exactly what you
19 want us to do. I'm sure it's not go into the worm business but
20 tell us what we can do and how we help.

21 MR. RUSHER: What I would like to do is there is a lot
22 of subsurface oil in the Prince William Sound and other areas
23 too. But we have done nothing since the spill to tackle that
24 subsurface oil and I think it's just time to do it and I'd
25 appreciate it if you and the Trustee Council would just look at
26 this proposal. That's all I'm asking. I don't care if you throw

1 it out or do what. I just would like to have it looked at
2 because I lived on that site and I know how valuable that site is
3 to the state of Alaska. And if we don't care about the
4 subsurface oil that is in one of our state marine parks and what
5 is happening out there, I don't think we should be buying
6 timberland. I mean this is definitely a spill area and it's
7 still being affected.

8 I have videos of resurfacing, re-oiling of that area
9 when other agencies said there wasn't even re-oiling of that
10 area. And if you need information, I've got information over a
11 two-year period.

12 MR. PHILLIPS: What is the plan you're promoting? Maybe
13 I'm off...

14 MR. RUSHER: The plan is a baiting process to move these
15 worms back and forth on the shoreline. And the bait will be a
16 one-purchase deal. The other will be -- the only expenditure will
17 be the placement of moving this bait back and forth to make the
18 worms aerate the soil and make them work.

19 MR. PHILLIPS: Is this the same or a similar thing to
20 the bioremediation?

21 MR. RUSHER: This has nothing to do with bioremediation.

22 MR. PHILLIPS: I know but those are...

23 MR. RUSHER: This is natural.

24 UNIDENTIFIED VOICE: Those are microbes.

25 MR. PHILLIPS: Yeah, they are microbes.

26 MR. RUSHER: This is not microbes. This has nothing --

1 it's a long ways away from bioremediation.

2 MR. CLOUD: Aeration of beaches.

3 MR. RUSHER: That's right.

4 MR. PHILLIPS: Yes, Dick.

5 SEN. ELIASON: Are you saying in effect you could go
6 into say a service station that has a leaky gas tank, excavate
7 it, put the worms in there and they would clean the environment
8 up in a short period of time?

9 MR. RUSHER: No.

10 SEN. ELIASON: Is that what you're saying happens or
11 what?

12 MR. RUSHER: No. These worms are in place on the
13 shoreline right now. There's two types of worm on...

14 SEN. ELIASON: They're naturally there?

15 MR. RUSHER: They're naturally there. I've used the
16 product...

17 SEN. ELIASON: They're working, right?

18 MR. RUSHER: They're working right now.

19 MR. CLOUD: What you have makes them reproduce quicker?

20 SEN. ELIASON: What are they doing?

21 MR. RUSHER: What I have it makes them move back and
22 forth to aerate the soil.

23 MR. McCORKLE: It's like cayenne pepper?

24 MR. RUSHER: No, it's a diatomaceous earth product.

25 MR. DIEHL: And when you aerate the soil, the seawater
26 comes in and cleans the beach or what? How does that work?

1 MR. RUSHER: It breaks down the oil that is suffocating
2 some of the species that are there now is what it does. If you
3 want evidence of releasing oil that has gone on since that spill,
4 I would show you things that I have of releasing oil during the
5 wintertime on LaTouche Island that...

6 MR. PHILLIPS: I think everybody here understand that
7 there's subsurface oil. I think, at least my problem is, is
8 fully understanding what you're asking us to do or what this
9 program is. You know it. I don't know it and so I have to ask
10 dumb questions on what...

11 MR. DIEHL: Would this thing work better if you had it
12 aerated? Do worms aerate it and then you put in the microbes
13 the French developed?

14 MR. RUSHER: I don't want nothing to do with microbes.
15 I'm trying to stay with the natural thing. Diatomaceous earth is
16 a natural product and I use it as a baiting process to make these
17 worms back and forth on the shoreline to speed up the degradation
18 of the oil that's subsurface.

19 MR. PHILLIPS: Yes.

20 DR. FRENCH: It's been three...

21 MS. BENTON: Mr. Chair -- I'm sorry. Was this a project
22 that's already been proposed to the Trustee Council in '92 that
23 you're just asking to have revisited?

24 MR. RUSHER: I proposed it in '92 and the reason I was
25 here at the last meeting because they had projects that were
26 going to be approved and projects that weren't going to be

1 approved and my project was neither one. So, if my project is
2 not in here, I'm gone.

3 MS. BENTON: So, in addition to this, was there an
4 actual project proposal that has been submitted to the Trustee
5 Council?

6 MR. RUSHER: If you look on page two, that was the
7 initial proposal that I turned in.

8 MS. BENTON: Okay.

9 MR. RUSHER: If you'll look at page three, that was a
10 letter that I sent to this -- to the Restoration Team if they
11 needed the scientific information, I have it. If they want to
12 look at paperwork and charts and aerial photos of that area and
13 videos, if they want to spend a day with me, I'll show them
14 everything they need to know. That's all I ask. This is a very
15 important project.

16 MR. PHILLIPS: Was this turned down by the Trustee
17 Council or not?

18 UNIDENTIFIED VOICE: Does anybody remember?

19 MR. GIBBONS: It was a project that was submitted as an
20 idea. I've just handed Brad the Restoration Team's comments
21 concerning this project. There was four projects all concerning
22 this -- you know, all basically this project here that was
23 submitted to the Restoration Team. The Restoration Team reviewed
24 it and found it to be not time critical and not a lost
25 opportunity. And so, we didn't move it forward. It was one of
26 the 460 plus that we got that didn't make it up through the

1 process.

2 MS. BENTON: Is that something that may get looked at
3 again in 1994 if the idea is to go back and look at the projects
4 that were rejected?

5 MR. GIBBONS: Yes. If...

6 MS. BENTON: This isn't here in never never land,
7 right...

8 MR. GIBBONS: Right, it's still there. We still have a
9 record of it.

10 MR. PHILLIPS: Yes. Vern.

11 MR. McCORKLE: Mr. Chair, maybe I could ask the
12 director. Do you feel that enough information had been provided
13 to you to make an adequate decision or to know enough about the
14 project? In reading what Mr. Rusher has submitted here, I still
15 am a little loss to know more precisely what the program is. I
16 certainly understand its uniqueness, but I don't know what we
17 would get for a \$1,071,000.00 or how many people would work or
18 where it would be. I guess there's a drawing here that
19 indicates...

20 MR. RUSHER: That's why that page...

21 MR. McCORKLE: But did you have enough...

22 MR. RUSHER: That's why page three is there.

23 MR. McCORKLE: Or would it help if you had more
24 information the second time around on this?

25 MR. GIBBONS: It would have helped if we had had more
26 information although Jerry showed me a big three-ring binder and

1 sat down with me for a few minutes and looked at it but in the
2 discussions with Pete Peterson, who's one of the foremost
3 intertidal ecologists and stuff, that they felt that it was not
4 technically feasible -- unknown. They said they weren't sure
5 they could really do it and so, we thought -- you know, we had
6 discussions on it and we just thought it wasn't time critical and
7 that's where it got kicked out.

8 MR. McCORKLE: Thank you.

9 MR. GIBBONS: It made it through the initial screening
10 though of the link to the injury.

11 MR. PHILLIPS: On this review thing here, it shows the
12 amount of the project is over a million dollars and the duration
13 of the project of one year but it doesn't tell what the million
14 dollars is going to be spent for.

15 MR. RUSHER: No. No. If you'll read page four, funding
16 project with duplication dollars. This is not saying that the
17 project is going to cost this amount of money. This amount of
18 money is duplication dollars that you have in all of these
19 projects that I have listed out here, the percentage of
20 duplication is listed right beside it. The first projects you
21 have are three. There's 20 percent duplication in those three
22 projects I have listed. The next two projects, 103 and 103, 22
23 percent of that is duplication and in all the STs and TS1, ST1,
24 you have 23 percent duplication in those projects. And the R101,
25 101, and 102, you got 28 percent duplication in those projects.
26 This is duplication dollars that could be...

1 MR. PHILLIPS: What's the cost on your project?

2 MR. RUSHER: The cost on my project?

3 MR. PHILLIPS: Yes.

4 MR. RUSHER: You don't have this because there's a lot
5 of different ways that this can be done, utilizing people from
6 the area but I have it broke down in a three quarter mile in four
7 different sites over a one-year period, it is \$12,723.00.

8 MR. PHILLIPS: Total?

9 MR. RUSHER: Total. All you are doing is putting a bait
10 out there and making these worms move back and forth. Now, it
11 depends if you want -- it depends on how much more studying you
12 want to do. There's \$600,000.00 in the first year on this
13 project.

14 MR. DIEHL: You've done the studying so far, right?

15 MR. RUSHER: Yes.

16 MR. DIEHL: You're the only one that's done the study?

17 MR. RUSHER: I'm not the only one that has done the
18 studies. There's three other Ph.Ds that have been out there and
19 doing things with the worms, but not the same thing that I'm
20 doing. There are many testimonials from Ph.Ds of what these
21 worms do. I'm just making them do it faster.

22 MR. DIEHL: So, are you asking -- you know, you have a
23 test site here...

24 MR. GAVORA: Mr. Chairman, may I be excused?

25 MR. DIEHL: It might go further if you just ask the
26 Trustee Council to just do a couple acres of a test site for '94

1 and see what happens.

2 MR. PHILLIPS: The cost is 12,000. That's what I had a
3 problem here, determining what the cost is and that's why I asked
4 the dumb question. It looked to me, when I first looked at it,
5 it was over a million dollars and then -- because I'm having a
6 problem recognizing what you're saying.

7 MR. RUSHER: No. The million dollars is showing how the
8 project can be funded. That's what I've stated on page one.

9 MR. PHILLIPS: Oh, okay. But the total cost you
10 indicated is \$12,000.00?

11 MR. RUSHER: At that one site -- three different sites
12 for a one-year period, yes.

13 MR. PHILLIPS: But at one site, it's 12,000?

14 SEN. ELIASON: Three different sites on one...

15 MR. RUSHER: No.

16 MR. McCORKLE: One application.

17 SEN. ELIASON: ...site?

18 MR. RUSHER: Four different sites at a one-year
19 application -- for a one-year period, four different sites.

20 MR. PHILLIPS: 12,000?

21 MR. RUSHER: Right. But it depends on if you -- it
22 depends on how much study you want to put with this. If you want
23 to spend another 600,000 to do what I have -- the information
24 that you already have, other information from Ph.Ds, you can
25 spend another 600 -- you can spend another million dollars.

26 MR. PHILLIPS: I don't think anybody wants to do that if

1 they don't have to. We're just trying to understand...

2 MR. RUSHER: Right. I agree.

3 MR. PHILLIPS: ...what you're presenting to us. That's
4 all.

5 MR. McCORKLE: Mr. Chairman, certainly on behalf of
6 myself and I'm sure others, we want to thank Mr. Rusher for
7 bringing this to us and this is the Public Advisory Group where
8 the public should feel welcome. What I think I might -- my
9 advice to Mr. Rusher might be would be to consult with some of
10 his Ph.D colleagues and others and to put this proposal or this
11 almost -- this near proposal into a shape that we can deal with
12 better and perhaps to present it at another time. I think you
13 need to take this paper to some folks who can help you shape it
14 up so that when it comes back to us, we'll be able to more
15 clearly see what you have in mind 'cause I, too, thought we were
16 talking about a \$1,071,000.00 but this is not in the shape it
17 needs to be -- to come to us yet. It's a good outline but I
18 think we need to have it done a little differently. Maybe the
19 staff after the meeting or some other time can tell you how that
20 should be done, but we're about two steps away, I think, from
21 where this needs to be in order to consider it more fully.

22 MR. RUSHER: The first initial -- in answer to you, the
23 first initial was to keep it as short as possible. And that's
24 what I've got.

25 MR. PHILLIPS: And it also has to be clear. We have to
26 understand it. And I apologize for not fully understanding it,

1 but...

2 MR. RUSHER: I thought that on the first page there, I
3 got page four, Funding Project with Duplication Dollars. I
4 figured that explained it right there but maybe I needed to
5 clarify that a little better.

6 MR. McCORKLE: I apologize. I can't get it. I've tried
7 to, but I can't get it.

8 MR. RUSHER: Duplication dollars. I wouldn't spend
9 duplication dollars.

10 MS. BENTON: Just a friendly recommendation. To
11 include the cost of your project somewhere in here would be
12 really good. You know, what you...

13 MS. RUSHER: For what has been spent over a period of
14 time.

15 MR. PHILLIPS: I think the form you submit it in is part
16 of your problem and it has to be in a form and it took me three
17 years to figure this out in law school, that you've got to write
18 your exam in a certain form or they don't -- they don't accept
19 it. They throw it away and I found out you can't use purple ink
20 and a few other things like that, so I think the form that you
21 put it in so that it's easily understood is probably the first
22 step you ought to do and I think you'll find that this group is
23 pretty receptive to ideas that they understand. Unfortunately,
24 this is at the end of our meeting here and we've got to make
25 recommendations to the Trustee Council on Tuesday and then we
26 have to discuss when we're going to meet again for -- and I

1 suspect that the 1993 plan is -- it will take a crowbar and some
2 dynamite to insert something else into it this year, so we'd
3 better be looking at the '94 program which we are going to be
4 starting on pretty soon. So, if you could put that in a form
5 that even dummies like me could understand, man, I would sure
6 appreciate it.

7 Could we discuss now when our next meeting would be?
8 Pam.

9 MS. BRODIE: I just wanted to be clear that this
10 recommendation that Doug listed that it's clear to the trustees
11 that we haven't reached a consensus or even, necessarily
12 discussed all of them. Like, for instance, that last one that
13 was just thrown in, something we haven't heard from staff about
14 what that means. It doesn't sound like to me like something I
15 would support.

16 MR. CLOUD: To clarify, I don't mean to add it to the
17 list. I just threw it out for discussion.

18 MR. PHILLIPS: Oh, okay.

19 MR. MUTTER: You don't want that on the list? The
20 annual cap?

21 MR. CLOUD: Yeah. Don't put that down. I just thought
22 that we -- several times in the last few meetings, we talked
23 about the need for establishing...

24 MR. GIBBONS: We're going to be asking them the same
25 question.

26 MR. MUTTER: Sounds like a reasonable thing to put on

1 the list to me.

2 MR. PHILLIPS: I promise you I will try my damndest to
3 make sure they understand what has happened here today and what
4 our concerns are; that it is not unanimous; it was voted on and
5 some people feel strong about it and so on, but we're passing
6 information on that has been expressed as being important to one
7 or more members of this group.

8 It seems to me that March is not the month to meet
9 because we don't have anything to meet for until we get this next
10 group of data that you're going to send us.

11 MR. GIBBONS: We -- I heard here what I was going to do
12 is when I send the Trustee Council the package, I'm going to send
13 the Public Advisory Group the same package. Then I'm going to
14 give you perhaps the results later of our March 10 working
15 session with the Trustee Council so we can start formulating that
16 process...

17 MR. PHILLIPS: Right. But I'm talking about meeting
18 dates now.

19 MR. GIBBONS: Right.

20 MR. PHILLIPS: And it would seem to me that with the
21 schedules you've given us today, that probably the earliest we
22 should meet to do something would be May. We've got March and
23 isn't it in April when we plan to get something of significance
24 from you?

25 MR. GIBBONS: April, yeah. You might want to meet
26 sometime in April because April, we're going to give you the

1 draft, you know, write-ups, the small write-up (ph) areas and
2 part of the framework so you might want to be meeting then.

3 MR. PHILLIPS: As long as we have enough time to absorb
4 them and meet. Just need to know. Does anybody have a
5 suggestion on when -- when we should meet. If it's going to be
6 in April, I would only ask you to have it in early April because
7 I am just bombed later in the...

8 MR. GIBBONS: Is it -- might not it be better, you know,
9 so I can get the material to you in a timely manner that we see
10 how the 16th goes, we see how March 2nd goes and stuff and then
11 contact you and say, a preferred date might be April...

12 MR. PHILLIPS: Excellent.

13 MR. GIBBONS: ...22nd because the Trustee Council is
14 going to meet May 1st.

15 MR. PHILLIPS: Does anybody object to that approach?
16 Why don't we do that and then if I don't hear from you guys in a
17 reasonable time....

18 MR. GIBBONS: Call me.

19 MR. PHILLIPS: You bet. So, I would like to remind you
20 one more time before Friday and the sun goes down, please have
21 your alternates in Doug's hands and you might suggest to the
22 people who aren't here today if you're in contact with them what
23 we're doing on alternates so that they can get it in to you too
24 'cause the alternate is not going to put the alternate in. It
25 would have to be the member. Yes.

26 SEN. ELIASON: If you don't trust your alternate, show

1 up.

2 MR. PHILLIPS: Right. Is there anything else now to
3 come before this meeting, before the man with the big staff comes
4 in? We've had -- is there anything else that we need to discuss
5 at this time? And I will do the best job I can on Tuesday, I
6 promise you, to get your ideas over to them.

7 DR. FRENCH: You will be here then?

8 MR. PHILLIPS: I'm making arrangements to come up here
9 on Monday night; I'll be there Tuesday and then I have to go back
10 on Tuesday night. And I'm using these as my script.

11 MR. WILLIAMS: Or you can write on the other side.

12 MR. PHILLIPS: If there isn't anything else, then I
13 would entertain a motion to adjourn.

14 UNIDENTIFIED VOICE: So moved.

15 MR. PHILLIPS: Okay, then we are adjourned.

16 (Off Record: 4:10 p.m.)

17 ***END***

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

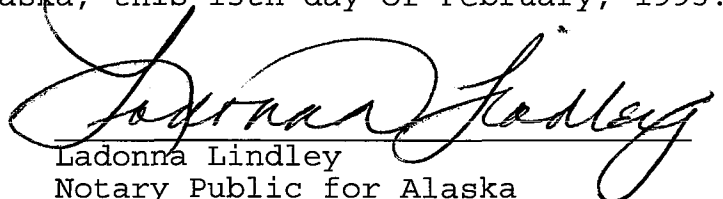
I, Ladonna Lindley, a notary public in and for the State of Alaska and a court reporter, certified by the Alaska Court System, do hereby certify:

That the foregoing pages numbered 03 through 190 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustee Council Public Advisory Group meeting taken electronically by me on the 10th day of February, 1993, commencing at the hour of 9:35 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 15th day of February, 1993.


Ladonna Lindley
Notary Public for Alaska
My commission expires: 8/1/93