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**TRUSTEE COUNCIL
MEETING**

20 JANUARY 1993

EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

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EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

VOLUME II

January 20, 1993

1 (On Record: 8:03 a.m., January 20, 1993)

2 (Mr. Paul Gates is the alternate for Mr. Curt McVee until
3 10:15 a.m.)

4 MR. SANDOR: This meeting of the Exxon Valdez oil spill
5 settlement Trustee Council will reconvene with all the members of
6 the Trustee Council here or present. Mr. Gates, where is -- Curt
7 McVee will be coming back.

8 MR. GATES: (indiscernible -- not wearing microphone).

9 MR. SANDOR: I was going to say -- he promised me he'd
10 be here until tonight. I would propose to the Trustees that we
11 continue with the projects that we have been reviewing.

12 MR. COLE: Mr. Chairman.

13 MR. SANDOR: Yes.

14 MR. COLE: If we could do that, I would like to make a
15 motion.

16 MR. SANDOR: Please do.

17 MR. COLE: Well -- I -- I have a proposal, I don't know if
18 I want to put it in the form of a motion that the executive
19 director work with the lead agencies on these various projects --
20 and -- the -- people in the areas where these projects are going to
21 be performed for the purpose of utilizing as near -- as much as
22 practicable, local labor and equipment.

23 MR. PENNOYER: Second.

24 MR. COLE: Thank you.

25 MR. SANDOR: Moved and seconded that executive director
26 of the Trustee Council will -- the staff and the agencies involved

1 in implementing actions or programs from the Exxon Valdez oil spill
2 programs utilize local communities and experience, facilities
3 insofar as possible. Any objection to that? That motion is
4 unanimously carried.

5 We concluded -- well, we actually went through 93009 yesterday
6 evening. I guess, in summary for those who might not have been
7 here, just from the -- starting at the top, 93002 had been
8 approved; 93003 was approved; 93004 was disapproved; 93005 was not
9 approved; 93006 was approved; 93007, 93008, 93009 was not approved.

10 MR. COLE: That's correct.

11 MR. SANDOR: Okay. The -- the project on the -- next
12 on the list is 93010. That had previously been discussed, not
13 recommended by the Restoration Team in a tie vote -- Yea - 3 and
14 Nay - 3. Recommended by the chief scientist. Unanimously not
15 recommended by the Public Advisory Group. And -- I understand that
16 Dr. Gibbons must take a formal action on this -- and, I guess the
17 Chair would entertain any motion for approval of this project,
18 93010. Is there any motion to that effect? There being none and
19 without object, the project will be not approved.

20 The next project is 93011, develop harvest guidelines to aid
21 the restoration of the river otters and harlequin ducks. This
22 project lead by ADF&G at 11.2. Eliason and -- it's recommended by
23 the Restoration Team five yeas, one nay. Recommended by the chief
24 scientist. The Public Advisory Group was yes-nine, no-three, A-
25 one. Can someone summarize the negative comment from the Public
26 Advisory Group on that? Anyone recall? Anyone there at that

1 session?

2 MR. COLE: I think I can do that in a moment.

3 MR. SANDOR: Because Dr. Spies -- river otters with the
4 harlequin ducks and the black oystercatchers and the marbled
5 murrelets were -- the population had not recovered and that
6 indicates -- fully recovered, I guess, and lingering problems. And
7 river otters, what's the circumstance there of that species.

8 DR. SPIES: With river otters, we don't have a
9 population level estimates of mortality from the spill. We -- I
10 think we have a total of about six carcasses in the freezers, so we
11 know that they were somewhat affected by the spill. The problem is
12 they are so secretive, it's very difficult to get counts of them.
13 So, we don't really know if there was a population level effect.
14 We have a collection of effects that may indicate, a little -- in
15 my mind still considerable doubt -- whether there is a serious
16 injury to this species or not.

17 MR. SANDOR: I see. Thank you.

18 MR. PENNOYER: Mr. Chairman.

19 MR. SANDOR: Mr. Pennoyer.

20 MR. PENNOYER: This is one of our most modest proposals
21 on the list, and for \$11,000 it purports to develop harvest
22 guidelines to aid restoration of river otters and harlequin ducks.
23 Reading the proposal, and, I guess, all we're doing is researching
24 records -- seems like -- why is it a separate project? What makes
25 it a separate entity from your normal business activities or what
26 you'd do anyhow?

1 DR. MONTAGUE: Okay, I can answer that. The department
2 currently has no -- harlequin duck management plans there or
3 anywhere else and river otter management is pretty much done on a
4 statewide basis for that -- I mean -- statewide isn't correct, but
5 Gulf-wide, Unit-Six basis. And, for one, we really don't even know
6 what the harvests are in the oil spill area of harlequins and to
7 river otters. And currently, for the last two years, we've had
8 emergency closures on the harlequin season -- for the first month
9 of the season when the population is primarily resident birds.
10 Later on in the season, migrants come through and -- you know, the
11 probability of only the local birds being harvested is lower. But,
12 emergency closures and emergency orders are really inappropriate
13 and can't be used year after year as a means of protecting the
14 harlequins. So, we really feel it's important, one, to get a
15 handle on how many, if any, or a lot of harlequins are being
16 harvested in areas where they need to be recovered. And, with that
17 information in hand, it's easy for us to go -- easier for us to go
18 to the Game Board and institute -- you know, more permanent
19 seasonal changes until they recover.

20 And, on the river otters -- you know, as Dr. Spies mentioned
21 that secretive nature and the likelihood of dying animals going
22 into the vegetation and being -- not being found is high, but --
23 some of the more interesting findings on that is that the home
24 range is -- apparently the home ranges in the oiled areas are about
25 twice as big as they are in the unoiled areas. And, diversity in
26 the diet was reduced approximately fifty percent in the oiled areas

1 than in the unoiled areas. And, as it is, the only terrestrial
2 animal with very much evidence of significant injury, we feel it's
3 an important one to continue to keep in the restoration program.

4 MR. SANDOR: Mr. Pennoyer.

5 MR. PENNOYER: Mr. Chair. I understand those needs. My
6 question had more to do with why this was a unit -- why this is a
7 project as a unit -- \$6,000 in personnel. You're not going to go
8 out and invent a new wheel or hire somebody new to do this.
9 Usually when somebody comes in and wants to do plan, then you're
10 talking about a staff and you get up into the multiples of tens of
11 thousands. You've got \$11,000 here and I'm not clear -- why we
12 need to buy something for \$11,000.

13 DR. MONTAGUE: Okay.

14 MR. PENNOYER: Maybe we shouldn't talk about it.

15 DR. MONTAGUE: First of the cost of actually having the
16 area management plan deals specifically -- you know, that has a
17 component dealing with these species will be covered under normal
18 agency management. What we wouldn't be able to cover and never
19 have covered under normal agency management is determine the
20 harvest levels of those two species in the oil spill area. So,
21 that's basically what's it's asking for is staff time to find out
22 what the harvests are in those areas and that harvest information
23 will enter the regular management processes for the area.

24 MR. PENNOYER: (Indiscernible) spending more time than
25 \$11,000, but my point, Mr. Chairman, was what do you buy for
26 \$6,000. You can't go out and hire somebody. You can't just pay

1 him -- for part of somebody's time that's already on the payroll.
2 I mean, for six thousand bucks you're not going to -- unless you
3 contract it, and which this doesn't indicate, you're not going to
4 get any new expertise involved.

5 DR. MONTAGUE: Well, the time would be for -- people that
6 -- within the agency there's individuals that would have, maybe a
7 dozen different funding sources from different divisions or
8 whatever, so we -- you know, fill in some part-time with one of
9 those people.

10 MR. COLE: Part-time, sorry I missed that. Mr. Chairman.

11 MR. SANDOR: Yes, Mr. Cole.

12 MR. COLE: What do you mean part-time -- part-time?

13 DR. MONTAGUE: Well, there would be people that are
14 currently working for the department, but would not have their
15 entire year's funding covered. So, I mean, they're utilizing
16 people that are there with people that wouldn't be -- would only be
17 working six months or something if they weren't working on that.

18 MR. COLE: So, you would normally lay them off.

19 MR. ROSIER: I think we're talking about -- are we not
20 talking about the seasonals or temporary people there. This looks
21 like largely an effort at running through existing data and....

22 MR. COLE: Probably a technician type would be
23 involved.

24 DR. MONTAGUE: That's correct.

25 MR. SANDOR: The Chair would entertain a motion for
26 approval of this project.

1 MR. PENNOYER: Moved to approve.
2 MR. SANDOR: Is there is a second?
3 MR. ROSIER: Second.
4 MR. SANDOR: Any discussion?
5 MR. COLE: I can't resist saying this sort of thing
6 in public because -- great concerns over.
7 MR. PENNOYER: Mr. Chairman.
8 MR. COLE: Do we really need this money to get this
9 job done? (Indiscernible)
10 MR. SANDOR: Mr. Pennoyer do you have a comment?
11 MR. PENNOYER: Well Chairman, I guess, I don't know the
12 answer to Mr. Cole's questions. Maybe somebody would do it any how
13 if -- in fact this wasn't funded. But, the goal seems to be
14 legitimate. And, the amount seems to be a lot more modest than
15 most proposals to do management plans for these species that we
16 see. So --
17 MR. COLE: I'm tempted to say -- if there's not much money
18 involved -- we should automatically approve....
19 MR. PENNOYER: Mr. Chairman, that is not my thrust. My
20 thrust was it looked like what was stated was a reasonable bargain
21 for the amount that is being proposed. We have some other projects
22 we have recognized their worth, but had people come back and spend
23 some time with us talking about budgets. In this case, it seems to
24 be -- what is stated there, the amount of money seems to be
25 reasonable, even though I have no way of determining whether it
26 might happen anyway.

1 MR. SANDOR: Literally -- Jerome -- this will provide
2 the basis on which to modify the management program and
3 authorization for taking of the ducks and the otters. Is that it?

4 DR. MONTAGUE: That's correct.

5 MR. SANDOR: Then, the harlequins have not yet fully
6 recovered?

7 DR. MONTAGUE: Mr. Chairman. Not only have they not
8 fully recovered, they've shown no signs of recovery.

9 MR. COLE: I would like to defer this, Mr. Chairman to
10 reflect upon it.

11 MR. SANDOR: Okay, this thing will be deferred for
12 action later. Project 93012, it's been approved already. . 93014.

13 MR. ROSIER: Mr. Chairman.

14 MR. SANDOR: Yes.

15 MR. ROSIER: I would like to withdraw 93014.

16 MR. SANDOR: 93014 is withdrawn. 93015 was approved.
17 93016, Chenega chinook and coho salmon release program, Alaska
18 Department of Fish & Game, 25.9 thousand. Recommended by the
19 Restoration Team in a five to one vote, no opinion of the chief
20 scientist, Public Advisory Group unanimously recommended increased
21 in the budget to \$50.9 thousand to cover hatchery costs. Dr.
22 Montague, can you just sort of summarize this.

23 DR. MONTAGUE: Yes, this is a project -- it's intended to
24 be a replace for lost subsistence uses and resources and it would
25 create a artificial run of coho and chinook salmon. I think about
26 fifteen hundred coho -- or chinook and twenty-five hundred coho,

1 and would require this funding for every year that you wanted a
2 return of those fish. And, additional money was added in by the
3 Public Advisory Group because there was -- this was a public idea
4 that the agency worked with the proposer to develop, and, about two
5 weeks ago, we did realize that the cost for the -- only the cost
6 for transport was in the budget and the hatchery rearing time was
7 not in the budget. And, that's why the Public Advisory Group added
8 that in.

9 MR. SANDOR: Is there a motion to approve this project?
10 Mr. Pennoyer.

11 MR. PENNOYER: There's no motion. I want to discuss it -
12 - I have further questions.

13 MR. SANDOR: Putting it on the table for discussion
14 purposes, that's why I'm asking for a motion.

15 MR. ROSIER: I would so move.

16 MR. SANDOR: It moved....

17 MR. PENNOYER: Seconded.

18 MR. SANDOR: Seconded by Pennoyer for discussion
19 purposes. Mr. Pennoyer.

20 MR. PENNOYER: Mr. Chairman. I notice the Interior has
21 its comments here on the proposed new acquisition of no on this --
22 that does not meet restoration criteria -- not time critical. And,
23 I wonder if Mr. Gates would care to comment on that.

24 MR. GATES: That's what it says, and also has NEPA
25 been completed on this?

26 MR. SANDOR: Joe.

1 (Indiscernible - simultaneous talking, laughing).

2 MR. COLE: Mr. Chairman, what's the -- where are we
3 right now. Is it '16 and is it up for discussion?

4 MR. SANDOR: Yes.

5 MR. PENNOYER: The question was....

6 MR. SANDOR: The question was -- Mr. Gates was -- has
7 the NEPA evaluation been completed.

8 MR. GATES: Mr. Chairman. The situation on that was
9 we originally had NOAA as the lead -- the Forest Service as the
10 lead NEPA agency on this project. And, upon later evaluation we
11 realized that the Fish and Wildlife Service had given a categorical
12 exclusion for the state's five year statewide stocking program,
13 and, had hoped that -- this categorical exclusion could be applied
14 to this project because logically if the whole statewide stocking
15 program was categorically excluded and this tiny little component -
16 - should be, but we were unable to transfer it to that agency. So,
17 we're currently pursuing it with the Forest Service.

18 MR. SANDOR: But, it's not time critical -- can yet --
19 can this review be deferred until a later date? Until this
20 evaluation -- NEPA evaluation?

21 MR. GATES: You mean, later on, yes, it could be
22 deferred for a few months and be okay.

23 MR. SANDOR: The Chair would entertain a motion to
24 defer this until the NEPA evaluation process is complete.

25 MR. ROSIER: Mr. Chairman.

26 MR. SANDOR: Yes.

1 MR. ROSIER: Yes, comment before that action is taken
2 on this -- point out that this the type of project that we -- we
3 were discussing last night. Chugach -- this is -- basically this
4 entire project is something that would be carried out through the
5 private sector.

6 MR. SANDOR: Unless there's an objection, we'll defer.
7 Mike.

8 MR. GATES: Is there any reason it couldn't be
9 deferred until after the restoration plan is completed?

10 MR. SANDOR: Restoration plan is not expected to be
11 completed until December of 1993.

12 MR. ROSIER: The project, Mr. Chairman, assuming that
13 there's space available in the -- in the hatchery facilities that
14 would be involved here, the project can start at any time.

15 MR. SANDOR: Mr. Barton.

16 MR. BARTON: Yes, I have a couple of questions. As I
17 understand the project, this would be an obligation for in
18 perpetuity if we're willing to maintain this now. Is that right?

19 DR. MONTAGUE: Mr. Chairman. I think an obligation would
20 probably be the wrong word. I think you'd have the option every
21 year -- you know, did it really make people happy. Did it provide
22 for a suitable replacement for their subsistence uses? You know,
23 with reports coming back that this was an appreciated effort. If
24 none of those came back, I guess you'd probably decide you didn't
25 want to do it anymore.

26 MR. SANDOR: Mr. Barton.

1 MR. BARTON: But, it would have to be financed by the
2 Trustee Council every year.

3 DR. MONTAGUE: Yes.

4 MR. BARTON: Are there other communities in similar
5 situations?

6 DR. MONTAGUE: Well, there's definitely a number of
7 communities that were affected, and these probably more than most.
8 Dave, is there any chance that you remember if there were other one
9 page ideas to do something like this in other villages. I can't
10 remember anything.

11 MR. BARTON: My question wasn't whether there were
12 other ideas, but my question was whether there were other
13 communities.

14 DR. MONTAGUE: Yes, there are other communities.

15 MR. SANDOR: Without objection, this -- action on this
16 will be deferred until this NEPA evaluation is complete. Yes.

17 DR. MONTAGUE: Mr. Chairman. I guess guidance is what is
18 meant by deferred so it would be brought up at the next appropriate
19 Trustee Council meeting?

20 MR. SANDOR: That's right.

21 DR. MONTAGUE: And, additional requests of the court
22 would have to be made, is that....

23 MR. SANDOR: That would be the case. Is that a
24 problem?

25 DR. MONTAGUE: Well, Mr. Chairman, I understood that it
26 wasn't desirable to go back to the court multiple times over a

1 year, if possible.

2 MR. COLE: Thank you Mr. Chairman. I think we've acted on
3 this proposal.

4 MR. SANDOR: I beg your pardon.

5 MR. COLE: I said, I think we've acted on this proposal.

6 MR. SANDOR: We haven't acted on this. I'm sorry.

7 MR. PENNOYER: I believe Mr. Cole means that we have said
8 what we want to do with it.

9 MR. SANDOR: Oh, okay, right. I get the picture
10 slowly. 93017 - subsistence restoration project. ADF&G and NOAA,
11 360.6 thousand. Unanimously recommended by the Restoration Team,
12 no opinion by the chief scientist, unanimously recommended by the
13 Public Advisory Group with more local community involvement. And,
14 no objection by Interior or any other agency. Now -- is there a
15 motion that this be approved?

16 MR. PENNOYER: Move to approve.

17 MR. SANDOR: Moved to approve by Pennoyer and seconded
18 by....

19 MR. GATES: Seconded.

20 MR. SANDOR: Gates. Discussion of this.

21 MR. COLE: Mr. Chairman.

22 MR. SANDOR: Yes.

23 MR. COLE: What specifically do they intend to do on
24 this project.

25 MR. SANDOR: Can either ADF&G or NOAA -- summarize --
26 Byron or Dr. Montague.

1 MR. COLE: I would emphasis the words specifically. And,
2 I can read this material here -- as what do you really intend to
3 do? The material says we propose to undertake subsistence
4 restoration projects involving the following communities
5 (indiscernible). And then, you say the goal of the project is to
6 restore the subsistence use of fish and wildlife damaged.
7 Community meetings will be held....

8 DR. MONTAGUE: Mr. Chairman. Two main thrusts of the
9 project -- certainly -- all but about fifty thousand is used for
10 comprehensive reassessment -- current levels of contamination and
11 geographic extent of it around the subsistence communities. And,
12 simplistically put -- it was -- it's hoped to, more or less, answer
13 once and for all and have the local people fully involved in the
14 development of the project, the conduct of the project and the
15 final analysis of the project, so that all the local people -- the
16 affected people would be comfortable with the results. So that, it
17 showed that such and such areas, indeed, fine for subsistence uses
18 and there would not longer be the -- perception, proven or not,
19 that you couldn't go there. So simplistically, it's to answer once
20 and for all, for those subsistence users, are there resources
21 contaminated or not. And then, the \$50,000 remaining aspect of the
22 project was to provide funding for subsistence groups in heavily
23 affected areas, to travel to unaffected areas for their
24 subsistence, hunting and fishing.

25 MR. COLE: Were you going to give them money to pay
26 for gas?

1 DR. MONTAGUE: That's correct.

2 MR. COLE: You're going to give them money to pay the
3 gas to fill their boats so they can go do whatever they do some
4 place else.

5 DR. MONTAGUE: Well that and -- an additional part of
6 that \$50,000 was traveling from one village to another this year.

7 MR. COLE: Now, let's talk about the first part of
8 this. Here's how things go. We have studies of contamination in
9 the waters -- I'm no scientist obviously, but I try to follow what
10 happened. We have studies -- look at the mussel beds, we have
11 studies to look at the oil on the beaches, we have studies to look
12 at contamination in the water columns. I mean, is this overlapping
13 on any of those studies? That's question number one. So what are
14 you going to do, when I say you're going to check the subsistence.
15 I mean -- you know, for contamination. What -- what are you going
16 to do, what are you going to study? What are the people going to
17 do when they go out there?

18 DR. MONTAGUE: Mr. Chairman, in answer to your first
19 question, is it overlap -- you know, we discussed that at the RT
20 and the Public Advisory Group brought it up again, and obviously,
21 we can see that oiled mussel beds that are being dealt in the oiled
22 mussel bed project do not need to be attended by this group as
23 well, not that mussels are a prime subsistence food source, but,
24 the evidence of these other projects certainly do not dispel -- or
25 don't disprove the concept that these resources are contaminated.
26 They are in some way still affected by oil. So, the other studies

1 will -- probably more support -- there may be a problem.

2 MR. COLE: What resources are you wanting to study in
3 this project, put it another way?

4 DR. MONTAGUE: The resources will be shellfish,
5 predominantly, and species other than mussels, a variety of fish
6 with the addition of more benthic (ph), deep water fish than was
7 ever looked at in the -- you know, back in '89 and '90 there was a
8 somewhat similar project and they did not look at deep water fish
9 because the oil was thought not to be there. And now, it is
10 currently thought that -- known -- the oil sank to deeper areas and
11 would likely be affected the deep water fish now more now than
12 earlier on. And, we'll be looking at a variety of sea ducks as
13 well, and, would pair in with the harlequin project, in terms of
14 collecting harlequin samples.

15 MR. COLE: Another harlequin project?

16 DR. MONTAGUE: No not another harlequin project, but that
17 -- project '33 requires some bird samples, and it's hoped that that
18 can be achieved by the subsistence -- from the subsistence users.

19 MR. PENNOYER: Mr. Chair.

20 MR. SANDOR: Mr. Pennoyer. Excuse me, Marty.

21 MS. RUTHERFORD: I just wanted to add that in the
22 public hearings we've had in the villages -- this is a -- this
23 study is of great interest to them. They are very concerned about
24 this still and they want to participate strongly to -- so that
25 they've satisfied their own concerns. We heard this repeatedly in
26 all the villages.

1 MR. SANDOR: Mr. Pennoyer.

2 MR. PENNOYER: Mr. Chairman. I guess, going further on
3 Mr. Cole's inquiry because in reading this description, it's very
4 hard to determine exactly what we're going to do for this money.
5 I guess what we're saying is that we're going to target subsistence
6 harvested resources in the vicinity of villages for a more in-depth
7 look at whether there is any -- is still hydrocarbon contamination
8 in the resources that they would be taking. So, you're going to go
9 to the villages, you're going to get them to tell you where those
10 sites are and specifically whether be harvested. Where you handle
11 harlequin studies, in general, or in mussel studies, in general,
12 you haven't targeted a particular beach that the village identifies
13 to you as being important for subsistence. Then you're going to
14 collect samples from it, run it through a laboratory to check it,
15 and then have a system whereby you go back to the village and tell
16 them yes, it's okay to eat it. I mean, it's sort of like a health
17 launch for PSP in clams, or something like that. And, that's what
18 you're organizing here. Because if it's not -- reading it -- it
19 looks sort of a public information project, some of which we've
20 already voted against, and, it's not clearly state here that you're
21 targeting any specific resource or how your doing this. Could you
22 elaborate on that.

23 DR. MONTAGUE: Well, Mr. Chairman. You did it better
24 than I apparently did. So, that is exactly what it is going to be
25 doing. The additional point was -- there have been complaints all
26 along that people weren't comfortable with the findings, so to get

1 around that -- that's why both the Public Advisory Group and input
2 from the public was that they should be involved -- personally
3 involved in the site selection and in the laboratory analysis. You
4 know, the Public Advisory Group even suggested that a
5 representative from one of the villages go to the laboratory to see
6 how the samples are being analyzed so there wouldn't be perception
7 that -- just being told something that's not true.

8 MR. SANDOR: The timeline listing on page 93 -- seems
9 to do a better job than the narrative of actually explaining what's
10 to be done. It -- from January 1 to May 31 community meetings to
11 map areas and species of concern, coordinate with DEC shoreline
12 assessment to verify oiling information, collect subsistence food
13 samples for testing, two months for analysis, and then additional
14 collecting subsistence samples through the year. Is that - is that
15 what the testing is -- the food samples -- that's what's done under
16 contract, or why are those....

17 DR. MONTAGUE: That's the NOAA portion.

18 MR. SANDOR: But the contractual is mostly food testing
19 of what is it -- or what is the contractual component of
20 \$130,000....

21 DR. MONTAGUE: Mr. Chairman. \$50,000 of that is the
22 travel to other hunting areas -- the remaining \$85,000 is....

23 MR. SANDOR: Who does the food testing, I guess that's
24 what I was....

25 DR. MONTAGUE: No one.

26 MR. SANDOR: No one -- no one does it. I see. Okay.

1 Any further comments or questions. Mr. Cole.

2 MR. COLE: I think it will necessary -- two questions.
3 First, do you have the assurance of these communities that when
4 this is done that they will sign off of the findings and that'll be
5 the end of this here, or are we going to come back the next year
6 and say, well we're not satisfied with this, you have to make
7 another study. That's number one. Have you got those people sort
8 of committed on what I would say locked in?

9 DR. MONTAGUE: Well, that was brought up and expressed
10 essentially the way you did by the Public Advisory Group and the
11 representative for Native landowners -- I don't know that person
12 can necessary make the commitment all on their own, but we're all
13 comfortable that they would.

14 MR. COLE: Let me say this. First, how much money
15 has the Department of Interior spent on, which is essentially in my
16 view a similar study of the project. \$400,000?

17 DR. MONTAGUE: Mr. Gates, are you aware?

18 MR. GATES: I'm not aware exactly (indiscernible).

19 MS. BERGMANN: Mr. Chair. You're talking about the
20 subsistence studies -- of the Forest Service is a half a million.
21 And, I think....

22 MR. GATES: I think that's the total.

23 MR. COLE: Is that the total?

24 MR. GATES: Yes (indiscernible - simultaneous talking)

25 MR. COLE: How does that half a million relate to
26 this \$300,000 or whatever? Or are we duplicating the studies?

1 MR. SANDOR: Is there local participation -- community
2 participation in those other studies, Interior and....

3 MS. BERGMANN: Mr. Chair. I don't believe that there is
4 any field work being conducted as part of the other study and they
5 would not be doing actually -- actually any sampling of the shell
6 fish or the other subsistence foods as part of that study.

7 MR. COLE: What are they doing for that half million?

8 MR. WOLF: Mr. Chairman.

9 MR. SANDOR: Jim can you answer that question. Jim
10 Wolf, can you come forward please.

11 MR. WOLF: Most of the funding was for a contract to
12 assess the damage or the injury data, at this point in time, relate
13 that to the subsistence uses that were occurring and develop a
14 clear estimate of the damage or the -- damage to the subsistence
15 uses in the oil spilled impacted areas. So, as Pam was saying,
16 there's very little field data involved in this project. None that
17 I'm aware of.

18 MR. BARTON: Who's the contract with?

19 MR. WOLF: The contract is with a -- it's a
20 consortium of -- it's Chenega in a group -- it was in the third
21 party litigation against the United States and the State of Alaska
22 as I recall.

23 MR. COLE: But if it's damage assessment, as I
24 understand this project, this project is also damage assessment
25

26 MR. WOLF: Charlie, I can't speak to this other

1 project, because I'm not sure.

2 MR. COLE: But, your project -- you said it was
3 damage assessment.

4 MR. WOLF: It is, that's correct.

5 MR. ROSIER: Mr. Chairman.

6 MR. SANDOR: Mr. Barton -- or Mr. Rosier.

7 MR. ROSIER: Yes, thank you. Yea, I think -- what this
8 does is go one, as I understand it anyway, it goes one step beyond
9 the work that's currently being done is the damage assessment
10 project that's based on an interview program. That is, in fact,
11 gone into the villages and looked at what the impacts were on the
12 resources. That's my understanding of this. They've detected that
13 there have been significant effects on subsistence use in the
14 communities. There has, in fact, been a falling off of species use
15 and total utilization in a number of the communities. I think that
16 now -- following up a little bit on a statement that was made
17 earlier here on this, I think that this has been a consistent theme
18 that we've heard in the public testimony in Chenega and Tatitlek
19 and these other communities were in fact on line that they remain
20 to be concerned about the quality of the subsistence species in
21 their various areas. I think in the public letters that we
22 received, you noticed that especially for the clam resource, there
23 was -- there was nearly half of the letters that we'd received from
24 various communities in that west side of the Inlet, that spoke to
25 this very thing. This tries to get at their concerns.

26 MR. SANDOR: Well, I guess, I would ask a question.

1 This project, 93017 has one, two, three, four components of
2 actually gathering subsistence food and testing it. Is that being
3 done in either the Department of Agricultural as a project, or the
4 Interior project.

5 MR. WOLF: The Interior AG project is one and the
6 same deal. It was....

7 MR. SANDOR: And there is no testing of....

8 MR. WOLF: There is something that -- the study was
9 suppose to have been completed last September and I think they're
10 still working on the report, so I have not seen the final report
11 that came out of that study. I -- the only thing I would say is,
12 you may want to look at the information coming out of that and see
13 how it affects this particular study before you proceed, or at
14 least determine the scope of this particular study.

15 MR. SANDOR: Mr. Barton.

16 MR. BARTON: I have a number of questions, if we're
17 done on Mr. Wolf.

18 MR. SANDOR: Thank you Mr. Wolf.

19 MR. BARTON: How does this -- or are there private
20 lawsuits over this same subject -- does anybody know?

21 MR. COLE: Yes.

22 MR. BARTON: Then how does this study -- I guess what's
23 bothering me some, or not bothering me but confusing me, is whether
24 this is a public loss or private loss. And, this body is charged,
25 I think, is dealing with public losses. Can anybody help
26 straighten me out on this subject?

1 MR. SANDOR: I don't understand the question, but Dr.
2 Montague may.

3 DR. MONTAGUE: Mr. Chairman. I -- that -- and we heard
4 a question on that yesterday relative to commercial services. And,
5 probably an attorney would be the best one to answer, but it seems
6 the settlement specifies services and doesn't provide any
7 limitations in (indiscernible) the way many of us have interpreted
8 it is we can't compensate any commercial or subsistence or other
9 loss, but we can restore the service.

10 MR. SANDOR: Mr. Pennoyer. Mr. Barton, was your
11 questioned answered.

12 MR. BARTON: No -- if it was, I didn't recognize it.
13 This settlement was constructed though -- based on CERCLA, and
14 CERCLA, as I understand it, deals only with public losses. Is that
15 correct?

16 MR. SANDOR: Anyone -- Tillery can you address that
17 question?

18 MR. CRAIG TILLERY: Yea. Our view is that the public --
19 it doesn't have to be a public loss to deal with the resource.
20 Commercial fishing -- those -- there's -- we have studies and
21 projects to deal with commercial fishing. Those are being sued for
22 private damages. There's not a single thing you're doing, I don't
23 think that somebody's not suing for private damages, even if it's
24 habitat acquisition -- we've got environmental groups, and so
25 forth, that are suing and trying to impose trust funds, and so
26 forth. I don't see any basis in the laws or the agreements that

1 you can't do it for this reason. In fact, if my recollection is
2 correct, this subsistence agreement, at least the sort of intent of
3 it was that -- you know -- not the subsistence agreement, but the
4 agreement with the Native corporations, was we weren't going to go
5 out and do subsistence projects under it. On the other hand, we
6 weren't going to sort of not do them either. We were just going to
7 approach it if there was a resource that had been damaged, we were
8 going to deal with it. That's my understanding.

9 MR. BARTON: Thank you, I think that answered that
10 question. Another question in a different area -- we make the
11 statement that we're going to -- make funds available for the
12 community to support travel to harvest areas, away from oiled
13 sites, and also be made available to support the food sharing
14 programs between communities. How would that actually work?

15 DR. MONTAGUE: Mr. Chairman. I believe this component is
16 modeled after a similar program right after the oil spill that DCRA
17 funded. Is that correct Marty? By any chance do you remember the
18 exact mechanism of how ...?

19 MS. RUTHERFORD: I don't remember a lot of the dates -
20 - details, Mr. Chair, except that there were some Southeastern
21 communities who -- when they became aware that some of the Prince
22 William Sound villages were uneasy about subsistence foods, they
23 offered them the opportunity to come down to their areas to hunt.
24 And, the state picked up the transportation costs to do that,
25 although, other than transportation to villages -- participated
26 fully with their northern villages. So, I think it's -- it's

1 something along the same lines.

2 MR. SANDOR: Mr. Cole.

3 MR. COLE: Are we trying to give fishermen money to
4 run their boats to fish in different areas and, if so -- if not,
5 what's the distinction?

6 DR. MONTAGUE: Mr. Chairman. We do not have any similar
7 proposals for commercial fisherman.

8 MR. COLE: Why would you not take the same position
9 and say, well, commercial fishermen are impacted in Kenai River and
10 so we'll give them gas to go fish in the lower Cook Inlet. What's
11 the difference?

12 DR. MONTAGUE: Mr. Chairman. I -- you can see as well as
13 I, I guess, there isn't any significant difference -- purely in
14 terms of that kind of comparison. The only difference I can really
15 add to it is that those groups have not pushed this concept as a
16 method of restoring their services. And, there hasn't been a
17 precedent for it as there may have been in the DCRA funding after
18 the spill.

19 MS. RUTHERFORD: Mr. Chair. Could I add one thing.

20 MR. SANDOR: Marty Rutherford.

21 MS. RUTHERFORD: I think that one of the distinctions
22 made earlier was that one is a cash economy and one is not -- the
23 availability of cash to the villages is much more limited.

24 MR. COLE: Fishermen say they have no cash too, as a
25 result.

26 MR. SANDOR: Any further question? I remain uncertain

1 -- on collecting subsistence, food samples for testing which occurs
2 actually through June -- through March -- beginning in March of
3 1994 -- I presume that the gathering and testing of these food
4 samples is essential. It's actually -- to determine -- to prove
5 that there is no contamination and that the foods are suitable for
6 human consumption. If there is no other project that this is to
7 take place -- if it isn't being done in the other projects, if this
8 project is not approved, or this component of that project is not
9 approved, who is to do that project? Does anyone -- is the premise
10 correct that we really must know that this food is suitable for
11 human consumption.

12 DR. MONTAGUE: Mr. Chairman. As far as I know, it will
13 not be done by anyone else, but this party (indiscernible).

14 MR. SANDOR: Well what -- then out of this three
15 hundred thousand, sixty thousand -- this collecting -- this
16 collecting and sampling the subsistence food, was it half of this
17 or

18 DR. MONTAGUE: Collecting and analyzing is all but 53.5
19 thousand of it.

20 MR. SANDOR: Oh, all but 53.5 thousand. Okay. Mr.
21 Pennoyer.

22 MR. PENNOYER: Mr. Chairman. That's not quite true, is
23 there an educational component in here and some other factors that
24 take place and 53.5 is gas purchase. And, then you have
25 collection, you know, samples, but there's some other -- public
26 education and maybe taking some down to the lab with you and all

1 that type of thing. So, it's not just a collection.

2 DR. MONTAGUE: No, Mr. Chairman. The feeling was that if
3 you didn't do that -- the reason for that was to make sure everyone
4 was convinced and happy with the results. So, if you just did the
5 science part of it without that part of it (indiscernible -
6 simultaneous talking).

7 MR. PENNOYER: Mr. Chairman, I don't think that's the
8 question. I think I understand (indiscernible - simultaneous
9 talking)....

10 DR. MONTAGUE: Oh, what's the difference in the cost.

11 MR. PENNOYER:fifty percent to the educational part?

12 DR. MONTAGUE: Mr. Chairman -- could you answer that
13 question.

14 RITA MIRAGLIA: I don't have a copy of the budget with me.
15 I'm Rita Miraglia, Division of Subsistence. The newsletter itself
16 is only about \$4,000 out of the whole budget, so most of it is for
17 the collection and testing of the subsistence food samples.

18 MR. PENNOYER: I redrafted the proposal at some -- might
19 reflect that, but....

20 MR. SANDOR: Mr. Barton.

21 MR. BARTON: Yes, the agency that's going to actually
22 test the food samples is NOAA as I understand it, is that correct.

23 MR. MORRIS: Yes.

24 MR. BARTON: And, is NOAA the federally recognized
25 agency for testing of shellfish, or is this the foods that are
26 involved.

1 MR. MORRIS: We were under the previous program that
2 was sponsored with Exxon dollars, and, within the Trustee Council
3 we are the only approved lab for analysis.

4 MR. BARTON: Well, I understand that. What I'm getting
5 at is I think what we need here is to have -- the agency that is
6 responsible for food safety, whatever agency that is, either in the
7 federal side or the state side, and I think on the state side it's
8 DEC, do the testing, in order for it to be, or at least oversee the
9 testing, in order for the results to be as credible as possible.

10 MR. MORRIS: Well, that -- that -- NOAA is not the
11 agency responsible for the food safety. I presume that FDA was
12 involved in the previous one. I doubt -- I don't think their
13 responsible either for subsistence, wild foods.

14 MR. BARTON: Well I don't -- I don't -- it's food
15 safety that I'm concerned about. Is that a legitimate concern?
16 Well, I'd like to see DEC involved in this, I guess, if DEC is the
17 state agency responsible for food safety for the state of Alaska.

18 MR. SANDOR: Well, with respect to -- state
19 responsibility for food safety, it's actually shared between Health
20 and Social Services and Department of Environmental Conservation,
21 but it has been moved to the Department of Environmental
22 Conservation, mostly it's because there's some work going on and in
23 some aspects the Department of Natural Resources - veterinarian --
24 does some work, but -- so you're correct insofar as the state side
25 that DEC goes to the primary coordination. But, I guess the

1 concern where I raise the question about this collection and
2 testing the food samples being the requirement -- that activity is
3 not being done anywhere else in any study? And, was it done last
4 year? Was there any food testing done last year? Subsistence food
5 testing. Yes.

6 MS. MIRAGLIA: No, there was none done last year. We
7 didn't have a proposal into the Trustee Council last year.

8 MR. SANDOR: Mr. Cole.

9 MR. COLE: Go ahead.

10 MR. SANDOR: Well, it seems to me that -- that it's
11 essential that -- you know, a formal determination be made through
12 sampling that the subsistence foods are suitable for human
13 consumption. That the oiling that remains, whether it's in mussels
14 or whatever else, is it not -- is it not of no harm. And, well, I
15 was just trying to find -- previous question, how much of that
16 three sixty is to do that job, and I guess it's most of it. But,
17 it's not clear -- NOAA gets -- the funding is split two sixty-six
18 to ninety-four. It can be done by contract, I guess, this testing.
19 That's why I assumed currently erroneously that the contractual
20 activities were the contracts for testing of the food. Is that
21 right?

22 MS. MIRAGLIA: I can clear that up, Mr. Chair. The
23 contractual that we have here, the eighty-five thousand that Jerome
24 wasn't sure about -- that's for the actual collection of the
25 samples.

26 MR. PENNOYER: One hundred and thirty-five thousand?

1 MS. MIRAGLIA: Eighty-five thousand of that is for
2 collection of the samples.

3 MR. SANDOR: I see, it's that whole process -- it's the
4 collecting and sampling that's in that -- okay. Mr. Cole.

5 MR. COLE: Here's my concern about the whole thing. I
6 agree with Commissioner Sandor that we really ought to test these
7 food sources and find out whether they're contaminated. I think
8 that's a solid, good, sound, public project -- number one. It
9 troubles me that a half a million dollars is being spent by
10 Interior by virtue -- as a result of a settlement that we had in
11 Washington, D.C., and, that none of that money apparently is being
12 used for that simple fundamental direct purpose. I don't know what
13 this five hundred thousand is being used for, but presumably it's
14 something in connection with this. But, we ought to -- first
15 before we approve this project, we ought to have a definite
16 specification of what foods or sources -- resources we're going to
17 look at. I'm unwilling to approve this project if it's -- all
18 we're going to do is look at something, you know. I think we ought
19 to have a definite classification of what we're going to look at
20 and what we're going to do before we approve this project. And --
21 rather than just say well, this sounds pretty good because it's
22 related to subsistence. And, the next thing, I think we ought to
23 do, I -- strongly feel that we ought to put an end to this subject
24 once and for all, because it's going on for four years and we hear
25 repeatedly about every three months about the situation is out
26 there. So, let's get it done fully, carefully, once and for all.

1 And, we've got to get the Native subsistence groups in that loop so
2 that when this project is done, we don't have here the same --
3 referring again next year that this isn't there. You know, so it's
4 done once and for all. I would vote -- but I'm not in favor of
5 giving gas to these people to go somewhere. Because, who knows,
6 there may be no necessity for that -- I'm going to wipe that out.
7 And, I don't think that's within the guidelines even. And, that's
8 my feelings on this one.

9 MR. SANDOR: Any other comments or responses to that?

10 MS. MIRAGLIA: Mr. Chairman.

11 MR. SANDOR: Yes.

12 MS. MIRAGLIA: Okay. One thing I would like to say is
13 that in the detailed study plan, we have laid out which species we
14 intend to look at. The first is mussels, and the reason for that
15 is they can serve as a central species -- they pick up the
16 contamination most readily and retain it the longest. We can test
17 them and not have to test the other shellfish on the beach. They
18 could give us some sort of sense of what's going on with those
19 other shellfish. The second species we intend to look at is rock
20 fish. The reason for that is we did test some bottom fish back in
21 the early -- earlier part of the study -- back in '89 and early
22 '90, and we did not find -- we found some evidence of exposure, but
23 we did not find contamination in the edible flesh. However, since
24 that time, DEC let it be known that the oil -- what was left of the
25 oil, reached the bottom, after the time we discontinued the testing
26 of the bottom fish. So, that raised a new concern in the

1 communities, that when we tested it, that at that time, this
2 contamination wasn't at the bottom -- what's going on now.

3 The other thing that we're planning on testing is blubber and
4 some other edible portions of seal. The reason for that is, early
5 in the spill some seals were sampled where elevated levels of
6 hydrocarbons were found in the blubber -- up to -- actually more
7 than five hundred parts per billion. And then people were then
8 concerned about that. What's going on with the seals now. And,
9 we're reasonably certain that the seals -- that that contamination
10 is gone. We'd like to be able to reassure people.

11 And, the last thing we're planning on looking at is ducks. We
12 did test some ducks earlier on in our project. However, we did not
13 test skin samples, and we did not test fat samples, and it looks
14 like those are the most likely places for the hydrocarbons to go,
15 the edible portions of the animals. So, we do have -- we do know
16 which species we're intending to go after.

17 I also wanted to speak to -- the idea that this has been going
18 on for four years and this concern lingers. The concern lingers
19 for a number of reasons. One of those is that in some places, the
20 elders persist. There's been a misconception that at some point
21 the Oil Spill Health Task Force told people that everything was
22 safe to eat. That's never been the advice -- the advice of the oil
23 spill task force continues to be at this date that people -- that
24 subsistence users should avoid the use of shellfish from
25 contaminated beaches -- from beaches where they can see or smell oil
26 on the surface or subsurface.

1 And, another reason for the continued concern is that, the oil
2 spill health task force was -- it was a group similar to this,
3 composed of representatives from different agencies and operated on
4 a consensus basis. And, one of the member groups in the oil spill
5 health task force was Exxon, and that was a cause for concern in
6 the communities. Because of Exxon's membership in the group,
7 because they were aware that Exxon participated in making
8 decisions, including decisions about what information was released,
9 people had had a tendency to disbelieve what the oil spill health
10 task force first came out with. The -- we also were -- as part of
11 that, we were not able to talk about damage assessment results as
12 they came out. It was determined that -- that was something we
13 weren't allowed to discuss. So people were seeing those results
14 coming out, seeing them not put in context with the subsistence
15 information they were getting. What we'd like to do now is bring
16 that information in with the informational newsletter that we refer
17 to in the proposal -- is intended to be from the Division of
18 Subsistence. And, the membership on the oil spill health task
19 force will likely be the same, but the Division of Subsistence will
20 determine what goes into that newsletter. And, we're hoping
21 that'll improve the credibility.

22 MR. SANDOR: Mr. Cole.

23 MR. COLE: Does the Native organizations think you
24 should test anything else as part of this subsistence study. And,
25 the reason I ask that, we should get them to say and to commit that
26 we're satisfied with the scope of this testing, so that when we're

1 done, it's not the assertion made, well, you should have tested
2 something else. I mean, whatever it takes to lay this to rest, get
3 the result, I will vote for -- in favor, I think it should be done.
4 But, you know, you've got to nail it down once and for all. Thank
5 you.

6 MR. SANDOR: Mr. Barton.

7 MR. BARTON: Thank you, Mr. Chairman. I echo Mr.
8 Cole's comments. I support the project with the exception of the
9 transportation module. But I would like some assurance that we are
10 going to get the appropriate food safety organization involved in
11 this study, so that when it's all over with, we have that agency's
12 assurance as to whether the foods are safe or not.

13 MR. PENNOYER: Mr. Chair.

14 MR. SANDOR: Mr. Pennoyer.

15 MR. PENNOYER: I echo that. I mean, finding hydrocarbons
16 in flesh in some concentration doesn't mean the food is unsafe to
17 eat, and, the fact there's a presence, and you need to detect
18 background levels, and it's hard to say. So certainly, the FDA
19 and/or DEC results of the testing should coordinate with them in
20 providing an answer back to the villages on the safety of these
21 various foods to eat. And, I also like Mr. Barton and Mr. Cole, am
22 concerned about the fifty-three five. I guess, I prefer we go
23 ahead with the project, minus the fifty-three five at this time.

24 MR. COLE: I would so move.

25 MR. BARTON: Seconded.

26 MR. SANDOR: It's been moved and seconded that the

1 project move forward, minus the fifty-three five and with the
2 understanding that the Food and Drug Administration and state
3 agencies involved in food testing be incorporated in and be
4 integral part of this project. Is there any discussion on this
5 motion?

6 MR. COLE: Chairman, I have one quick question.

7 MR. SANDOR: Yes.

8 MR. COLE: Are the Native organization
9 representatives going to be in locked step in the execution of this
10 project, so that they're fully on board at all stages?

11 MS. MIRAGLIA: Yes, it's our intention to involve them at
12 every step of this project.

13 DR. SULLIVAN: I was going to say that this project
14 evolved out of the proposes that they had given us. We coupled
15 this together from about four or five various settlement proposals
16 from them. And, that's where this came from.

17 MR. SANDOR: Any further discussion on this motion?
18 Any objection to this project?

19 MR. COLE: Is it now understood that we will just --
20 this project will be testing those food sources that you have
21 mentioned here this morning?

22 MS. MIRAGLIA: Yes.

23 MR. SANDOR: Any other -- response to that?

24 DR. SULLIVAN: I'd like to say that -- you know, giving
25 Rita guidance, we'll make sure that the Native concerns are at
26 rest. If that doesn't take care of.....

1 MR. SANDOR: If something has been overlooked, for gosh
2 sakes it, include it.

3 MR. COLE: But, also I -- just have the lingering concern
4 over overlapping -- you know, the study of mussel beds or oil
5 beaches or water column studies. To get this information, let's
6 put it all in here and consolidate it so that we can utilize all
7 the information we are collecting.

8 MR. SANDOR: Okay, is there any objection to this
9 project -- motion on the floor? The project is approved with
10 modifications noted.

11 Moving to 93018, enhanced management for wild stocks in Prince
12 William Sound, special emphasis on cutthroat trout and dolly
13 warden, ADF and U.S. Forest Service, two hundred eighty-five three
14 thousand. Five to one vote on the Restoration Team, chief
15 scientist - not recommended, Public Advisory Group - unanimously
16 recommended. Well, let's begin with a description of this project.
17 Dr. Montague, do you want to begin and then, I guess, Ken Rice can
18 add to that.

19 DR. MONTAGUE: Thank you Mr. Chairman. Just to quickly
20 summarize some of the injuries to dolly varden and cutthroat. The
21 survival of dolly varden and cutthroat about range from twenty-nine
22 to thirty-eight percent lower in the oiled areas from '89 to '90.
23 For both species, there was a growth -- was approximately forty-
24 three percent less than normal. In 1990 to 1991 there was an
25 improvement in growth, but the difference in survival remains
26 similar. What -- as the result of some of the injuries noted in

1 some of the more heavily oiled areas, seasons were closed for sport
2 fishing in those areas in 1992. And, the worry, and I believe
3 legitimate, these are specially in the case of the cutthroat trout
4 are at the northern extreme of their range, can only handle only
5 very light amount of sport fishing pressure, and, by closing some
6 of these more popular areas, the concern is that, not only will be
7 have had the closures and the loss of the sport fishing opportunity
8 from these closed areas, but those people who would have used them
9 will go to areas that can't withstand the increased pressure and
10 soon those areas will be reduced, and perhaps cause a closure
11 there. So, what this project would do would be to kind of
12 determine what sport fishing pressure various water systems could
13 have and then redirect the sport fishing pressure to those areas so
14 there isn't over fishing problems there. And that -- it -- that
15 component of it deals specifically with those two species, and
16 then, Ken, would you like to describe the Forest Service component.

17 MR. RICE: Mr. Chairman, the Forest Service component
18 of this project basically compliments the additional management
19 that would be needed -- need to go on with a redirected effort. It
20 would contract with -- through competitive bidding process for
21 someone to computerize, basically, the information that is
22 available through the multiple agencies that manage these
23 resources, Forest Service, Fish & Game and anyone else that has
24 information on the lakes and streams throughout this spill area and
25 make it available for instantaneous use in helping with the
26 management.

1 MR. SANDOR: Thank you. Any questions of these folks?
2 Mr. Pennoyer.

3 MR. PENNOYER: Jerome, that's okay, but what are you
4 actually going to do? Are you putting in weirs or counting out
5 migrants, you making total population estimates in two lakes? What
6 are you actually going to do? The idea of knowing what
7 recreational resources are available in Prince William Sound is
8 okay and -- you know, managing the slack up in one area and more in
9 another depending maybe not on the oil spill -- just oil spill --
10 but fishing pressure. What are you actually going to do to do
11 this?

12 DR. MONTAGUE: Well, specifically -- you know, as you
13 indicated -- counts of the fish would be used to -- I mean the
14 simple outcome is from each of these systems we'd like to say that
15 this is -- you know, that -- twenty percent of this population of
16 30,000 fish, or whatever, can be harvested. So that would be the
17 final outcome. So, you want to know what are the methods that are
18 going to be used to....

19 MR. PENNOYER: Mr. Chairman. What are you spending
20 \$226,000 on? I mean, are you collecting field data, is this the
21 take of weirs, is this to take a field cruise? Are you
22 actually....

23 DR. MONTAGUE: It's almost entirely field work. I mean,
24 there is the analysis of it, but the four -- four river lake
25 systems will be addressed in terms of the fish-counting weirs as
26 well as -- I believe there's going to be surveys to determine the

1 age, length, composition in those two species over two hundred
2 millimeters in length, as well as the counts of the anadromous
3 runs.

4 MR. PENNOYER: So, it's basically paying for four weirs
5 and the crews to manage....

6 DR. MONTAGUE: Well, not just the weirs....

7 MR. PENNOYER:Most of the \$226,000 for?

8 DR. MONTAGUE: Well, except the weirs are only dealing
9 with the fish as they're leaving the salt water. It doesn't deal
10 with -- size estimates within the lake.

11 MR. PENNOYER: This has a component, Mr. Chairman. This
12 has a component of toe netting in the lakes then or test netting?
13 I'm trying to find out exactly what you're doing for the two
14 twenty-six related to the overall problem you're trying to solve.

15 DR. MONTAGUE: I see, Mr. Chairman. Dr. Sullivan, could
16 you help me out with some of the specifics on this.

17 DR. SULLIVAN: Right, basically you're getting all your
18 information at the weir. At least -- what we can do is virtually
19 identify every fish as it comes in and out, and that's what we did
20 in the damage assessment studies in the past. They -- the dolly
21 varden spawn in the fall, the cutthroats spawn in the spring,
22 except they enter and exit these lakes in the fall and spring. The
23 cutthroats and dollys, for example, would come into a lake --
24 dollys would come into a lake in the fall if they were going to
25 spawn in that particular stream, they would spawn and then they'd
26 leave and go into whatever lake they were going to over winter in.

1 Cutthroat trout would simply come in and out the same lakes -- or
2 system that they were going to spawn and over winter in. They
3 would come in during the fall, over winter there, spawn in the
4 spring. But, in any event -- in any event, every fish will go in
5 and out past this weir, we'll have weir crews in there when they do
6 that and we'll get all the information we need at that time.

7 MR. PENNOYER: Mr. Chairman.

8 MR. SANDOR: Mr. Pennoyer.

9 MR. PENNOYER: Again, out of the two twenty-six, goes
10 mostly for these four weirs and the weir crews.

11 DR. SULLIVAN: It would be largely for that. Obviously -
12 - you know, we'd need analysis at other times of the year and
13 things like that. But, how they come to the money....

14 MR. PENNOYER: How do the results from these four weirs
15 relate to the oil spill or your overall objective of moving up and
16 around. I'm not -- I don't see the tie yet.

17 DR. SULLIVAN: Okay, what the point is, is that we -- due
18 to the oil spill, we had to close certain portions of Prince
19 William Sound to sport fishing. What that does then, is it
20 concentrates that type of sport fishing in other parts of the
21 Sound. What we need to know is whether or not those other areas
22 can, in fact, sustain that kind of sport fishing. Okay. Because
23 you've simply concentrated the effort, you don't have that
24 information -- if we have that information, we could say, okay, the
25 limit is this. You know, you must be able to take fish of this
26 size or this number and so on and so forth. Or, we can say -- you

1 know, it can't sustain that kind of pressure. And, we've
2 redirected it to some place else. The problem is we've compacted
3 the fishing effort into a small -- smaller area.

4 MR. PENNOYER: Mr. Chairman.

5 MR. SANDOR: Mr. Pennoyer.

6 MR. PENNOYER: What size areas were actually closed due
7 to the oil spill, what part of the -- the major sport fishing
8 systems are in those areas? Do you have that? Can you answer
9 that.

10 BOB (Last Name Unknown) (from audience): Virtually,
11 all of western Prince William Sound.

12 MR. PENNOYER: And, therefore, the assumption is they all
13 migrated to Cordova?

14 BOB: Not at all, it was just that -- all the effort was
15 shifting over towards Cordova, some in Valdez, Robe Lake, McKinley,
16 Eyak. And, the idea of this whole program is to estimate
17 sustainable yields on those systems to determine whether in fact
18 the pressure that exists can be sustained and actually take this
19 information and modify as recovery occurs from the other stocks to
20 modify -- to develop a management plan for cutthroat and dolly
21 vardens in Prince William Sound. That's the ultimate goal of the
22 information that's being collected.

23 MR. SANDOR: Dr. Spies. One of these sheets shows you
24 did not recommend -- I guess what the other sheet shows that the
25 project has a low probability of contributing to recovery.
26 Probably a better characterization. Care to comment on that?

1 DR. SPIES: Well this is -- an area perhaps where I
2 should not have expressed an opinion on it. I think it -- it's
3 somewhat of a policy call on the part of the Trustees. I didn't
4 see any data there that -- although I have not had a lot of time to
5 spend on this, that would convince me that there is a serious
6 problem in terms of managing it -- the other resources in the area.

7 MR. SANDOR: Any further comments or questions by the
8 members of the Trustee or the Restoration Team?

9 DR. MONTAGUE: Mr. Chairman. I do have one comment,
10 you'd raised earlier about -- in the case of subsistence -- in the
11 case of commercial uses, that there was compensation pending for
12 them, perhaps in third party cases, but sport fishing interests are
13 not in third party litigation, and, the only way for them to
14 recover their services is through actions like this.

15 MR. SANDOR: Mr. Pennoyer.

16 MR. PENNOYER: You say the sport fishing groups are not
17 involved in the third party litigation, is that true?

18 MR. ALEX SWIDERSKI (from audience): No, they are.
19 They've certainly have filed suits.

20 MR. COLE: Sued us -- sued -- were involved here....

21 MR. SWIDERSKI: that' right, Exxon.

22 MR. COLE: having motions here, we just got a
23 order from the court last week in connection with their assertion
24 that the settlement was based on fraud, etc., etc. And I'm fully
25 cognizant of sport fishermen's litigation claims.

26 MR. SWIDERSKI: They're represented by Mr. Parker -- Jeff

1 Parker, one of our regular contributors.

2 MR. SANDOR: Mr. Pennoyer.

3 MR. PENNOYER: I'm not commenting on that. The comment
4 here by the Department of the Interior is no population level
5 injured. And, Mr. Montague was talking about twenty-eight to
6 seventy percent reduction, and something to do with dolly varden
7 and cutthroat -- I'm still looking for the linkage. I understand
8 the need to count the fish in and out. I mean, all of this,
9 whether we have oil spills or not, want to count fish in and out.
10 You may not know what to do with that exactly, but you'd don't know
11 what exploitation rates to provide for if everyone set in that
12 concrete data as a point of reference whereby you can start to
13 build management strategy.

14 MR. BARTON: Just like an archeologist.

15 MR. PENNOYER: Like archeologist count in and out --
16 well, anyway. So, I understand that need, but I don't underhand
17 the tie yet to the oil spill or how that's going to help oil spill
18 recovery. In terms of enhancement, of ability to provide the
19 service over time, I understand that. I mean, that's an
20 enhancement to be able to better manage the sport fish populations,
21 to provide the higher yields, if that's warranted for protection --
22 it's warranted. But, that's an enhancement. I've yet to see
23 exactly the tie at this stage with -- directly with the spill or it
24 spill-affected species or spill-affected areas. If you do Eyak
25 Lake, McKinley and Robe Lake, those -- aren't necessary the same as
26 closing the more remote areas in the Sound that might have been

1 affected by the spill. I'm not sure the people are the same that
2 go to those areas. People will go to Robe Lake, drive down the
3 road to Valdez or into Cordova they come in on a plane, those
4 aren't necessarily the same people who might take a boat or a kayak
5 or something to tour the southwestern district. I've yet to see
6 the real tie. I don't under -- I don't tie the value of doing this
7 site management -- strictly management purpose, but I've yet to see
8 the tie to the spill at this stage.

9 DR. MONTAGUE: Mr. Chairman, I mean the tie to the spill
10 is -- again, the department always has the option, as in the Cook
11 Inlet, simply closing the Cook Inlet fishery to protect the Kenai-
12 bound fish and -- you know, we can close areas for dolly varden,
13 cutthroat trout and -- it's those closures that's really the
14 restorative action. What this would do is try to maintain the
15 service while restoring. And, you know, there are a number of
16 projects in here that kind of have that philosophy in them, but --
17 you know, the best approach is to restore as well as provide the
18 service as opposed to simply eliminate the service.

19 MR. SANDOR: Any further comments or questions? Mr.
20 Rosier.

21 MR. ROSIER: Yes, Mr. Chairman. I am a little
22 concerned about this redistribution of effort and who the
23 participants are. And, I think that since the oil spill we've had
24 very substantial efforts by private sector folks to organize tours,
25 fishing trips, this type of thing, into the -- you know, into the
26 Cordova, Prince William Sound area. I'm not entirely sure that

1 isn't where it's coming from. While agree that it's kind of a --
2 it's a very substantial -- a good idea to be carrying out a project
3 that leads us to a management plan here on this. It seems to me
4 that -- you know, that we've closed the western part of the Gulf --
5 the western part of the Sound, I should say, we're experiencing
6 additional growth in recreational fisheries, and I think we should
7 be responding to that as the normal, routine part of the
8 department's activities on this. I think that -- that -- I tend to
9 agree with Mr. Pennoyer that -- that -- that I think there's been
10 some good work done here, but -- I'm a little concerned that
11 there's a lot of other factors that are affecting that recreational
12 fishery at the present time that have nothing to do with the oil
13 spill.

14 MR.SANDOR: Is there an agreement with the Trustees
15 with this project should be deferred? Not approved for this year.
16 Then let's see, '19 and '20 were already -- are we to take any
17 action on '19 or '20, Dr. Gibbons?

18 DR. GIBBONS: Pardon.

19 MR. SANDOR: Are we to take action on '19 and '20?

20 DR. GIBBONS: Yes.

21 MR. SANDOR: Okay, project 930019, Chugach region
22 village mariculture project. Unanimously not recommended by the
23 Restoration Team, the -- the chief scientist -- I don't know
24 whether that's not recommended is right -- the Public Advisory
25 Group recommendations were eight to four for, contingent upon legal
26 approval. Can someone elaborate on this legal approval. Dr.

1 Gibbons?

2 DR. GIBBONS: Yes, Mr. Chair. The voting by the
3 Restoration Team, I think resulted in partial from the federal
4 attorney's opinion on the legality of this -- this project. In a
5 letter from -- from them -- that same letter was written to the
6 Public -- read to the Public Advisory Group and so their
7 recommendation was that they liked this project, but if -- only if
8 it's legal to do. That's -- that was their comment. If it's legal
9 to do, they'd support it. If it's not legal to do then they --
10 they don't want to recommend it.

11 MR. SANDOR: It seemed to have a -- more than adequate
12 counsel from a variety of legal sources. Where do we stand? Where
13 does the federal government stand on this? Mr. Barton do you have
14

15 MR. BARTON: I'm not sure I know -- well, I should say
16 I'm not sure there's consensus amongst the federal agencies.
17 Unfortunately, USDA attorney had to leave last night. I believe
18 that the NOAA counsel and the Agriculture counsel thinks that there
19 is question about the legality of this project. I'm not sure about
20 the Solicitor's Office in Interior.

21 MR. SANDOR: Yes.

22 MS. BERGMANN: Mr. Chair.

23 MR. SANDOR: Mr. Gates -- no, Pam Bergmann.

24 MR. GATES: Go ahead.

25 MS. BERGMANN: Yes, our solicitor also has questions
26 about this particular project and its legality.

1 MR. SANDOR: Do we have Interior and NOAA.

2 MR. PENNOYER: I want to speak for NOAA.

3 MR. SANDOR: NOAA (laughter).

4 MR. PENNOYER: The comment of questions about their
5 legality is different than saying we can or can't do it under
6 various circumstances. My understanding, again from a NOAA
7 attorney, I assume that they've talked to each other, is that if
8 there was damage to the resource and what we're dealing with is
9 there a replacement of a lost service -- that in fact, maybe we
10 don't. Maybe -- depending on how it's constructed. I don't know
11 how much feedback got into it than that. My understanding is that
12 it's not an absolute no. And in fact, if there is -- was damage to
13 the resource and the project in some way replaces that damage, then
14 the fact remaining -- it may be weakened. So, it's -- I'd say it's
15 one of those calls. I didn't hear a firm -- under any
16 circumstances we can't do anything -- do under a firm -- under any
17 circumstances we can do it.

18 MR. SANDOR: Well, this project has a total value of
19 \$589,000, which legally on the federal side we had some uncertainty
20 -- questions. Any other comments. Mr. Barton do you have any
21 comments or questions?

22 MR. BARTON: No, I think Mr. Pennoyer summarized that
23 situation.

24 MR. SANDOR: On the state's side, what can staff,
25 Restoration Team -- does the Restoration Team remains unanimously -
26 - yes, Mr. Brodersen.

1 MR. BRODERSEN: Mr. Chairman. I believe it's -- I haven't
2 polled all the state members, but I think we primarily voted
3 against this because of the federal position -- we've since been
4 checking with the State Department of Law asking for them some
5 clarification on their side, and we're hearing basically the same
6 thing from law, that properly constructed the project could be made
7 legal, at which point I -- I know I would change my vote on it.

8 MR. COLE: I think we'd go a little farther than
9 that. We're of the view that project -- project as proposed meets
10 guidelines established in the order from Judge Holland.

11 MR. SANDOR: So we have the state's position -- it
12 meets the guidelines, the uncertainty as of 11:59 that the feds had
13 questions -- Washington, D.C. time. (Laughter).

14 MR. COLE: Something to parade on Pennsylvania Avenue.
15 (Indiscernible - laughter)

16 MR. SANDOR: I don't know to what decree attorneys are
17 influenced by new a commander-in-chief. (Laughter) Excuse me, I
18 should have learned this yesterday not to speculate.

19 MS. BERGMANN: Mr. Chair.

20 MR. SANDOR: Yes, Pam.

21 MS. BERGMANN: I believe that the Department of Interior
22 Solicitor would have a problem with this project just proposed
23 because it talks about the goal of the project to strengthen the
24 village's economic well-being and self-sufficiency. And, one of
25 the major concerns was -- with this was that, it would be providing
26 an economic opportunity rather than assisting them with concerns

1 about subsistence foods.

2 MR. SANDOR: Yes, Mr. Pennoyer.

3 MR. PENNOYER: Well, subsistence is a form of economy.
4 I guess if you're replacing an economy -- I'm not really sure that
5 -- the fact you did it with something other than the direct
6 individual animal or -- you're replacing a service. The service
7 has been to provide food. You're providing through some of the
8 mechanism even if it's sale of something. I'm not sure you can
9 totally -- I agree with you, but I'm not sure how far down that
10 track you want to go. I think our solicitor basically said look,
11 if you're -- to providing an economy that's a totally different
12 aspect, magnitude and so forth, then as provided by the subsistence
13 resources, it would be a problem. And, I'm not sure what the state
14 judgment is based on but I would be interested in hearing the
15 rationale.

16 MR. COLE: We have a written opinion here -- amongst
17 this mess --

18 MR. PENNOYER: Is it distributed? What kind of copy do
19 you have.

20 MR. COLE: We have a -- copy here some place, but Mr.
21 Swiderski has it -- copy. Maybe, I could just read it. Previously
22 read (indiscernible).

23 Let me just read essentially the conclusions of the
24 mariculture project. Project - the maricultural project is
25 intended to help the Native villages in the oil spill area
26 establish shellfish maricultural project, thereby providing a

1 reliable, uncontaminated source of shellfish for subsistence users.
2 Chenega Bay, Eyak and Tatitlek have already begun development of
3 such projects. This project would facilitate the making of these
4 projects operational. Feasibility studies would be undertaken at
5 Port Graham, English Bay. Although the project will focus
6 initially on the production of oysters, a species which is not
7 indigenous to the oil spill-affected area, potential results were
8 cited for clam and scallop production, etc., etc. Here there
9 appears to be sufficient factual basis for the Trustee Council to
10 reach a conclusion that there is a sufficient nexus to the injured
11 resource or affected services, such that it would substantially
12 restore or replace those services. Damage assessment studies have
13 recently determined that there was injury to subsistence shellfish
14 species, particularly clams and mussels. Following the oil spill
15 subsistence users were advised by the Oil Spill Health Task Force
16 that they should not consume shellfish from beaches which may have
17 been contaminated by oil. By 1991, the warning from the task force
18 had been revised to advise subsistence users not to consume
19 shellfish from beaches where they could see or smell oil on or
20 below the surface. The 1991 warning continues in effect today.
21 Because of this warning Chenega Bay residents, in particular,
22 continue to be unable to harvest shellfish from a substantial
23 portion of their traditional beaches. As proposed, the two
24 projects together provide an alternative source of shellfish
25 resources for village consumption. The projects are not a "perfect
26 fit" because they do not replace subsistence resources in such a

1 way that the traditional resources can be gathered from their
2 natural setting through traditional subsistence means.
3 Nevertheless, by providing a similar, and in some cases identical,
4 food source for that loss as a result of the spill, providing it
5 fresh from virtually the same location and providing it through the
6 very people for whom subsistence services have been diminished, the
7 projects have a sufficient nexus to the lost or diminished services
8 to pass legal scrutiny. Whether the nexus is sufficient to pass a
9 policy review is a matter for the Trustee Council's discretion.

10 Then, you know, we go on, but I've got to the substance of
11 what we say we can get these copied and give each member of the
12 Council a copy of it. It's several pages long, five pages long.

13 MR. SANDOR: Mr. Barton:

14 MR. BARTON: Do you know if our -- the Agricultural
15 counsel had an opportunity to see that?

16 MR. SANDOR: Mr. Swiderski.

17 MR. SWIDERSKI: Yes, he drafted it -- yes, very recently.

18 MR. SANDOR: The Chair would entertain a motion to....

19 MR. COLE: Could I ask one question?

20 MR. SANDOR: Yes.

21 MR. COLE: Let me ask this to follow up, Mr. Tillery,
22 Mr. Swiderski. Have you had any -- expression of views from the
23 various federal counsel as to whether they agree with this
24 conclusion of the -- what -- State Department of Law.

25 MR. TILLERY: The federal counsel has indicated that
26 they couldn't join in the opinion as a joint opinion, but that they

1 had re-evaluated -- as I understood it -- their previous opinion
2 and -- you know -- they can speak better themselves -- but, my
3 understanding was that they felt that the projects were actually
4 closer to a legal project than they had thought because it was more
5 of a replacement of a lost resource as opposed to this economic --
6 an attempt to create an economy.

7 MR. SANDOR: Mr. Pennoyer.

8 MR. PENNOYER: Mr. Chairman, I think that's true, but
9 like I said, when you come down to the bottom line here, it says --
10 (indiscernible) operations is 650,000 marketable oysters per year
11 level and increase marketing effort to improve transport -- are the
12 basic hand line of your time line. And, I think their opinion
13 would be still, that as written, it's more than just a replacement.
14 And, I think that's -- the last time I talked to anybody, I didn't
15 realize they'd actually seen -- I didn't get a comment back
16 specifically on your proposal because I hadn't seen it and I didn't
17 realize they had.

18 MR. SANDOR: Mr. Barton.

19 MR. BARTON: I wonder if Dr. Spies would elaborate on
20 that, the new studies or the studies that show damage assessment.

21 DR. SPIES: Right. There's still some question over
22 the -- the Trustee's sponsored study of injury to -- to five out --
23 resources -- still not being completed. And, there is still doubt
24 from that study whether there was injury to night owls in the
25 Sound, but the results have been ongoing NOAA study that Pentac
26 (ph) Corporation has been carrying out. And, at my request, Dr.

1 Peterson has reviewed those proposals in a great deal of detail and
2 is now of the opinion, based on the studies that were done outside
3 the Trustee's different studies that the data indicate in his
4 opinion there has been a substantial injury to shellfish, little
5 neck and butter clams particularly. That's where the injury
6 assessments says. There was an injury study of oysters early on --
7 I think the Trustees sponsored -- or there was at least proposals
8 in those areas. I can't remember the details, it's been so long
9 ago now.

10 MR. SANDOR: Mr. Pennoyer.

11 MR. PENNOYER: Mr. Chairman. I believe we started that
12 study and decided since it wasn't an indigenous species and was
13 being raised for commercial purposes, we dropped it.

14 DR. SPIES: Right, that was it.

15 MR. SANDOR: The Chair would entertain a motion
16 regarding this project conditioned upon additional legal opinions
17 or whatever else. Mr. Barton, would you motion it.

18 MR. BARTON: Well, I had a further question.

19 MR. SANDOR: Well, go ahead.

20 MR. BARTON: The way it -- in reading this time line in
21 the proposal, it appears to be a commercial venture. Is that
22 correct?

23 MR. SANDOR: Who may respond to that question?

24 MR. BARTON: The lead agency.

25 MR. SANDOR: ADF&G involved?

26 MR. PENNOYER: Just Fish & Game.

1 MR. SANDOR: Dr. Montague.

2 DR. MONTAGUE: No, it is not entirely a commercial
3 venture, but it does have commercial aspects to it. But the
4 community....

5 MR. PENNOYER: Purpose is not to start an oyster
6 subsistence culture?

7 DR. MONTAGUE: Well you -- I mean they -- they would
8 consume these locally as well as a replacement for lost subsistence
9 resources, but -- during the discussions -- you know, the intent
10 was that that the commercial aspects be always apparent -- you
11 know, it's not just the replacement for the subsistence uses, but
12 also -- I mean, not a direct food source replacement, but would
13 also have commercial replacement.

14 MR. SANDOR: Any other comments? Mr. Barton.

15 MR. BARTON: Well would the -- I don't know how you
16 culture whatever it is we are trying to culture here, but would
17 these be generally available to any member of the public who came
18 along and wanted to harvest some?

19 DR. MONTAGUE: No. It's kind of like a raft of
20 approximately three hundred feet long and ten feet wide with wires
21 or frames off it to which the shellfish would be attached and it
22 would be -- I would view it as being owned by not the general
23 public.

24 MR. COLE: Well, who will have title to these rafts?
25 Legal title to the rafts?

26 DR. MONTAGUE: Well, we've actually answered that

1 question. Do you know Joe?

2 DR. SULLIVAN: I think the villages would have legal
3 title -- I don't think they would, they would.

4 DR. MONTAGUE: That's the proposal, I don't know that
5 there's a -- that the Council or somebody couldn't retain title if
6 they wanted to.

7 MR. PENNOYER: But the average kayaker couldn't pull up
8 and harvest oysters off the rafts?

9 DR. SULLIVAN: I think that -- they would create a
10 problem if they did that. (Laughter).

11 MR. PENNOYER: I suspected that.

12 MR. SANDOR: Well, Trustees, unless there's a motion to
13 act on this project, I will presume that it should be deferred and
14 not acted upon. Mark Brodersen, do you have some comments?

15 MR. BRODERSEN: Yes, I did. One of the thoughts that
16 we've had on this project in trying to put it together was that if
17 you look at it strictly from a subsistence replacement standpoint,
18 and don't allow any commercial venture into it, then it would
19 probably have to be subsidized for years to come. If you allow
20 just enough commercial aspects into it to make it becoming self-
21 sustaining, the Trustee Council could then walk away from it and
22 leave it to the villages to take care of their own costs, and we
23 wouldn't have to be subsidizing it into the future. In my mind,
24 that was the desirability part of trying to make this a semi-
25 commercial venture so that we wouldn't have to be constantly
26 pumping money into it in the future.

1 MR. COLE: Do you have any financial predictions
2 then?

3 MR. BRODERSEN: I do not. This is something that I think
4 needs to be done as part of this, a very early part, is the
5 feasibility of this, as to how do you make this work. It is, to
6 me, one of the first steps you have to do.

7 MR. SANDOR: Is there a motion to approve this project
8 from any member of the Trustees?

9 MR. PENNOYER: Mr. Chairman, I move to approve just to
10 continue discussion. I'd like to see where we're going to go with
11 this. If you want to cut it off -- I -- if there's a way to
12 satisfy the federal concern and the magnitude in a way that --
13 doing what Mr. Brodersen was saying about magnitude, maybe there's
14 some hard way -- approach to this. The group here even says that
15 they can reduce the amount by fifty percent and still, still have
16 long-term benefit. Maybe there's a way to get into a sort of
17 feasibility project then. I don't know we can do it here, but it
18 might be for a future meeting that some demonstration project or
19 feasibility study or something of that nature, rather than just
20 sort of leave it hanging, because I -- I like the idea. I'm not
21 sure how it fits between the placement, enhancement and restoration
22 plans yet, but I like the idea, and I would not like it just to go
23 quickly away.

24 MR. SANDOR: Is there a second to the motion

25 MR. ROSIER: Second.

26 MR. SANDOR: ... to approve with the condition -- that

1 noted by Mr. Pennoyer. Seconded by Rosier. Is there any further
2 discussion?

3 MR. COLE: I don't understand the motion. Could you
4 tell me what the specific motion was.

5 MR. PENNOYER: The specific motion was to approve, simply
6 to allow discussion to continue. The reason was -- I was simply
7 stating the reasons I wanted to continue discussion rather than
8 just have it go away.

9 MR. COLE: So the result of the motion will be
10 continued discussion?

11 MR. PENNOYER: Yes, the motion -- and the motion could be
12 amended to require -- if you want to do it that way or whatever,
13 but why don't we continue the discussion of where we're going to go
14 with this.

15 MR. SANDOR: Could the Chair invite approval with some
16 conditions that -- that -- opposed to just up and down?

17 MR. PENNOYER: Sure. AF&G is the lead agency. Now you
18 heard the discussion, is there any way that we could table this
19 until somebody comes back and gives us some relationship here
20 between the feasibility aspects? Could you start with something
21 less that would more fit maybe Mr. Brodersen's concerns. Something
22 that will allow commercialization and support for subsistence
23 efforts. Is there any way to sort of get a different molded
24 project to look at with this.

25 DR. MONTAGUE: So, if I understand the guidance
26 correctly, you'd like to see how much the scope of the project

1 would have to be raised above simply replacing subsistence to make
2 enough to be self-supporting, and no more than that. Is that kind
3 of the specific ...

4 MR. PENNOYER: I'm not saying that's what we'd end up
5 voting for but it would give us an option to look at.

6 DR. MONTAGUE: Because I believe the feasibility is
7 pretty well-established. I ...

8 MR. COLE: Without economic projections?

9 DR. MONTAGUE: I -- Dr. Sullivan? Maybe the -- there has
10 been mariculture activity down there, and I believe it would not be
11 difficult to, perhaps today even, to get back with what projections
12 are from a similar-sized project.

13 MR. SANDOR: Dr. Sullivan, do you have some comment to
14 make?

15 DR. SULLIVAN: Yes, the shellfish culture in Alaska is
16 something that's still a cottage industry, but has been growing
17 quite a bit lately. The reason we've (inaudible -- coughing) --
18 the situation with oysters is that they don't spawn here. The
19 water system is too cold for them to spawn, but it's not too cold
20 for them to grow. So -- thanks, Bob -- Their -- perhaps
21 Commissioner Rosier would know more broadly how, how much shellfish
22 has expanded in the last couple of years, but as far as can we do
23 it, we can, okay. We've had oyster farms here for a long time. A
24 lot of them have not made very much money, but as far as the
25 feasibility's concerned, it's feasible. The biggest difficulty
26 that we have is that we don't have the extensive road systems that

1 the Lower 48 has.

2 MR. SANDOR: Mr. Barton?

3 MR. BARTON: You're talking about the technical
4 feasibility?

5 DR. SULLIVAN: Right.

6 MR. BARTON: Not the economic?

7 DR. SULLIVAN: No. Economically, I'd say it's, it's
8 closer to a draw. The -- the economic feasibility part of it is
9 sort of conditioned on transport, getting these things out of the
10 field and into a PSP testing laboratory. That's -- that is where
11 the Lower 48 has an advantage over, over us.

12 MR. BARTON: What's the relation of project '19 to
13 project '20.

14 DR. SULLIVAN: Project has -- project '19 -- the point of
15 project '19 is, the only thing that we can grow up here right now
16 because we don't have a state mariculture facility or shellfish
17 hatchery is oysters. Because oysters don't spawn in the state and
18 because we have had a traditional oyster industry -- culture
19 industry here in the past, we passed laws and regulations in the
20 early '80s which allowed us to import only oysters into this state.
21 Okay. That's why, for subsistence, the only thing that we really
22 can do at this point with the -- the technology that we have and
23 the laws that have, those are the only things that we can legally
24 and practically grow here. If '20 is -- and so, we can import
25 oysters from the Lower 48, we cannot import clams or mussels or
26 anything else where they do have shellfish hatcheries there. Okay.

1 So, that's -- that's where we're getting started with oysters here.
2 I might add that all the oysters that we've produced, we can sell
3 thus far. Okay. The local restaurants buy into that. But the
4 hatchery part of '20 would allow us to actually grow the clams and
5 mussels -- mussels, I'm sorry -- mussels we can -- have the ability
6 to grow here by using spat collectors, but clams and things like
7 that, we're going to need a shellfish hatchery in order to produce
8 the spat for that. We cannot, we cannot legally import those from
9 outside. The only way to do that is to grow them here, and that's
10 what '20 is about.

11 DR. MONTAGUE: Mr. Chairman, project '20 would also be a
12 more local and reliable source for oysters as well.

13 MR. SANDOR: Mr. Pennoyer?

14 MR. PENNOYER: Yeah, as I understood where we were on
15 single item, as to mariculture, one of the problems has been has
16 been availability of spat -- (indiscernible -- simultaneous
17 talking), and it's been a barrier, and I think the shellfish
18 growers association in Southeastern has talked for years about
19 getting a shellfish hatchery, primarily for oysters. Now, the
20 assumption was this does mention all the clam species, but it'd
21 start with oysters and at some point an actual commercial industry
22 could pick up the running of that

23 DR. SULLIVAN: That's right.

24 MR. PENNOYER: ... facility. So, you're sort of kicking
25 off something to get it started, and at the time of the spill is
26 all species of shellfish that might want to be replaced, but the

1 ultimate good is far broader than that.

2 MR. ROSIER: Mr. Chairman.

3 MR. SANDOR: Mr. Rosier.

4 MR. ROSIER: Yes. Going a little -- a little further
5 on this in terms of the hatchery itself. The source of spat, of
6 course, is becoming a very sensitive thing. It's -- I think we're
7 down to one supplier and -- on the Pacific Coast at the present
8 time -- but in conjunction with this, they'll be a fair amount of
9 discussion, I'm sure, about this shellfish hatchery funds that are
10 in the legislature. A scenario that I've been extremely interested
11 in, the Governor's extremely interested, and I think that from the
12 standpoint of the hatchery, we're probably looking at -- at going
13 for state money for a facility, for the facility itself, but I
14 think that as we've seen problems with pollution outside of Alaska,
15 basically we're seeing a movement of the industry into the -- into
16 Alaska, and I can't quote the exact figures, but I know that
17 there's been a substantial number of permits that have been
18 gathered or submitted in the last, the last two years, both for
19 Prince William Sound and Lower Cook Inlet areas. It's an industry
20 that's on the ground in a growth mode, and I think that it offers
21 a real opportunity here, both for subsistence as well as
22 commercial, you know, in the communities out there, the smaller
23 communities.

24 MR. SANDOR: Mr. Cole.

25 MR. COLE: As usual, I don't understand the project,
26 particularly number '19. I agree with all the things that have

1 been said there, but if you look at the last page and the
2 penultimate page -- the next to the last page -- both of the costs
3 for this project, i.e., \$590,000, would go to training village
4 residents in mariculture and establishing a management structure
5 for each village. In order to have some effective program, it will
6 be necessary to maintain these aspects of the project. Some cost
7 savings could be realized by reducing the amount of (indiscernible)
8 equipments. So what are we really going to do with this \$590,000?
9 I mean, train people? I mean, once you get them trained, what
10 happens then -- \$600,000 worth? I don't know. Try to buy
11 equipment, or buy these rafts, build them, and all those things.

12 DR. MONTAGUE: Mr. Chairman, I do believe that the rafts
13 would be purchased as well as the training in that

14 DR. SULLIVAN: Yes, actually -- yes? I think that
15 actually they plan to use bindertaps (ph) on these rather than
16 rafts. There's a whole bunch of different ways to grow shellfish.
17 But the answer is yes. The equipment and the spat will also be
18 purchased out of this. Excuse me just a minute. Okay. We have
19 someone here, Tasha, whose last name escapes me, who works for the
20 Chugach Region and she has a little bit more information on this.
21 It's essentially their project.

22 MS. TASHA CHMIELEWSKI: Maybe I can explain some the
23 budget considerations.

24 MR. SANDOR: Please identify your name for the

25 MS. CHMIELEWSKI: Sure. My name is Tasha Chmielewski,
26 and I'm director of the Chugach Regional Resources Commission, and

1 we're involved right now with the pilot projects that are going on
2 in Chenega Bay, Tatitlek, and Eyak with some of the oyster
3 projects. We've been doing this for a couple years. We have
4 oysters out there now. They are in hanging cultures, as Mr.
5 Sullivan -- Dr. Sullivan -- indicated. The bulk of the funding for
6 these projects goes mostly equipment purchase. We have to buy the
7 spat, which is, you know, which is two and a half cents per spat,
8 you know, so a million spat would cost you \$25,000. There is a lot
9 -- a lot of technical things that have to be taught to the people
10 in the villages on how to actually grow the oysters. Once they've
11 got that down, that's no problem, but a concern of ours is that
12 these programs or these projects go on and on in perpetuity, and in
13 order to do that they have to figure out basically how to run a
14 business, and make sure that that business keeps going. Equipment
15 purchases can total, say for a farm with a million spat, equipment
16 purchases could easily cost about \$200,000. It depends on how many
17 years in the future you want to purchase the equipment for. But
18 out of that \$500,000, you'd have a couple hundred thousand for
19 equipment, \$50,000 at least for spat, maybe \$100,000, depending on
20 how many sites, site permits, and then compensating people for boat
21 charters and things like that to get out to the nets.

22 MR. SANDOR: Mr. Cole.

23 MR. COLE: Well, who would own this equipment once
24 it's purchased?

25 MS. CHMIELEWSKI: The way it's set up right now with
26 the pilot projects is that the equipment, the projects belong to

1 the communities as a cooperative. They are, they are right now
2 operated by the village councils and they belong to the
3 communities.

4 MR. COLE: And the spat would belong to the
5 communities?

6 MS. CHMIELEWSKI: The spat belongs to the communities.
7 They've set it up -- the way it's set up right now is it's kind of
8 an arm of the council, a non-profit arm of the council.

9 MR. COLE: And do you have economic projections that
10 you would show to a banker that this -- how this business will be
11 profitable?

12 MS. CHMIELEWSKI: Right. We have about ten year -- ten
13 year economic projects right now.

14 MR. COLE: And who would receive the profits,
15 assuming there were profits?

16 MS. CHMIELEWSKI: Well, our projections show that there
17 is not really profit until after about ten years. These are really
18 capital-intensive projects, and most of the funding has to go back
19 into the projects just to keep them going. Right now, on paper, it
20 showing that whatever profit is made would go back to the projects,
21 to go back into the projects, and they would have to decide if
22 there was ever any profit, and I -- I really -- I doubt there's
23 ever going to be any profit to actually distribute to members who
24 are working on the project. There's just going to be probably just
25 enough to keep these projects going.

26 MR. SANDOR: Mr. Pennoyer.

1 MR. PENNOYER: Including salaries?
2 MS. CHMIELEWSKI: Including salaries, of course.
3 MR. PENNOYER: ... management systems?
4 MS. CHMIELEWSKI: Of course.
5 MR. SANDOR: Any further questions? It's most
6 interesting. To further illustrate, just as an aside, the Trustee
7 Council really should have opportunities, either a working session
8 or some way to get involved in these projects more deeply than we
9 do because we cannot react intelligently on these without this kind
10 of information. There's a motion on the floor which that project
11 93019 be approved. Is there qualifications to that motion? Is
12 there any further discussion on the motion? Is there any objection
13 to the motion on the floor to approve project 93019, Chugach region
14 village mariculture project.
15 MR. GATES: Yes. We object.
16 MR. SANDOR: Paul Gates objects.
17 MR. PENNOYER: Mr. Chairman.
18 MR. SANDOR: Mr. Pennoyer.
19 MR. PENNOYER: I think I concur with Mr. Gates' comment
20 that it is so hard to separate replacement from enhancement in the
21 production. But is Interior's objection against bringing back
22 something, to show a feasibility project of some kind, than to see
23 how it might get -- when we get to '20, I'm going to propose we
24 pass '20 and start on the experimental concept of a way to raise
25 spat for reseeding, in essence, areas that have been damaged by the
26 spill?

1 MR. GATES: The basic problems we have right now are
2 the ones -- the legal situation has been clarified, or at least
3 repackaged or the project repackaged, and second is the time -- the
4 time-critical element of this thing. We need to see what the
5 restoration plan sets forth before we start approving these kinds
6 of projects. That's our view.

7 MR. SANDOR: Well, the Chair -- can I question Mr.
8 Gates? If the objection is a legal question, which we discussed
9 for some moments, and if it's not time critical, would the
10 Department of the Interior object to this being (indiscernible) to
11 February or March Trustee Council meeting?

12 MR. GATES: I guess, against it being reintroduced,
13 repackaged, but we think it ought to have legal review before we
14 reconsider it.

15 MR. COLE: Mr. Chairman.

16 MR. SANDOR: Mr. Cole.

17 MR. COLE: I think we need to -- another legal review
18 as to whether the Trustee Council is permitted to give funds to a
19 private company to initiate a business and say here is \$500,000, go
20 start your business, and if you make any money, I mean, go ahead
21 and keep it. I mean, you know, we -- we have to keep in mind the
22 principle. I mean, you can get to that point and then the
23 fishermen say, look, I mean, how about buying my boat, I'm having
24 trouble out here in the Upper Cook Inlet, and I'm going to need a
25 bigger boat to go out and ply the deeper waters of the Gulf to
26 fish. I mean, you know, we have to keep a consistent principle.

1 I am not sure, legally, that we can, in effect, make a gift of
2 funds to somebody in this situation. I would like to have the
3 lawyers look at that, both the state and federal lawyers. And let
4 me say this, has the restoration council looked hard at these
5 projects? I -- maybe I'm missing what the Restoration Team does,
6 but I just don't think that we should have to have projects here
7 before the Trustee Council that we have no financial projections to
8 look at. We get one set of statements here that says the bulk of
9 the cost of this project will go to training village residents in
10 mariculture, and then we hear from the project sponsor that the
11 bulk of the monies will go to purchase equipment. I mean, I just
12 think we deserve a little more detail.

13 MR. SANDOR: Mr. Barton.

14 MR. BARTON: I believe the Restoration Team unanimously
15 not recommended this project. The chief scientist didn't like the
16

17 MR. SANDOR: Well -- thank you. 93019 is not approved.
18 I think the point is that the regulation of the information that
19 came up today as opposed to what might have been reviewed at the
20 early levels, and perhaps it can be accommodated in a working
21 session or some other change in the process which are going to get
22 into, but this process, from the Chair's observation, should be
23 improved. Mr. Pennoyer?

24 MR. PENNOYER: Mr. Chairman, if nothing else, even if we
25 didn't do it here because its time-critical nature is certainly a
26 question, I expect to see a similar proposal for the '94 work plan,

1 so I think we're going to need a legal review of Mr. Cole's
2 question and the general feasibility of this relative to a
3 replacement or enhancement and how it fits into the whole process
4 we're engaged in here, because it's not going to drop out. It is
5 something that's, I think, technically feasible. We know from just
6 generally (indiscernible -- coughing) around the state that people
7 want to get into it, but when one of the barriers of having a spat
8 hatchery is overcome, I think you'd see a lot more people in it.

9 MR. SANDOR: Mr. Pennoyer, you indicated you were going
10 to make a motion on 93020.

11 MR. PENNOYER: I haven't gotten there yet, yeah.

12 MR. BARTON: Mr. Chairman.

13 MR. SANDOR: Mr. Pennoyer -- Mr. Barton.

14 (Mr. McVee rejoined the meeting at 10:15 a.m. and relieved his
15 alternate, Mr. Paul Gates)

16 MR. BARTON: Since this is going to come up again, I
17 just want to state my concern with it, and it relates to the
18 commercial aspects and the private business aspects as well as the
19 inability of the resource to be available to the general public.
20 I think everything we do, the public should have an opportunity to
21 utilize, either directly or indirectly.

22 MR. SANDOR: Moving on quickly to 93020, is there a --
23 a motion to approve 93020 for discussion purposes.

24 MR. PENNOYER: So moved.

25 MR. BARTON: Second.

26 MR. SANDOR: It's been moved and seconded on this

1 related 93020 project, is there any discussion? We have enough
2 information to act on this -- this proposal? Can we have a summary
3 by ADF&G?

4 DR. MONTAGUE: Yes. This -- originally this project was
5 proposed was actually constructing the facility. It was reduced
6 simply to a feasibility study to look at several things. One, to
7 do the environmental compliance. Two, to make the site selections,
8 and three, in terms of a more specific feasibility plan, to show
9 what species most recommended to be used in the facility and what
10 the production goals for those different species would best be for
11 the facility, and what localities in the state would most likely
12 use them.

13 MR. SANDOR: Mr. Pennoyer.

14 MR. PENNOYER: I know in the past, nearly as much as six
15 years, seven years ago, there was considerable discussion by the
16 state, and I think the Department of Fish & Game even proposed to
17 the legislature a project to build such a facility, and -- I can't
18 remember who initiated it, but I think we did, but it seems to me
19 there were plans and a budget and a lot of other things drawn, and
20 I wonder, are we reinventing the wheel or is there something that
21 can be taken off the shelf where we'd have a lot of that background
22 available. Am I misstating or -- I don't recall the details in
23 which it was originally proposed, but I know there were several
24 proposals by the oyster and shellfish growers group and, I think,
25 by the department to create such a facility.

26 MR. SANDOR: Good question. Mr. Rosier.

1 MR. ROSIER: Thank you, Mr. Chairman. I am not aware
2 of any on-the-shelf plans here at the present time that get quite
3 as specific as Mr. Pennoyer is talking about. There was a
4 substantial amount of support for financing such a system or such
5 a facility in last year's budget by the shellfish growers. The
6 legislature finally clarified the state mariculture statutes to the
7 point that the shellfish people have become very active here in the
8 last couple of years, but again, we're looking at a proposal this
9 year for funding a facility that will be part of a budget process
10 here with the legislature this year.

11 MR. SANDOR: Mr. Cole.

12 MR. COLE: No, I had no further comment.

13 MR. SANDOR: Oh, Mr. Pennoyer.

14 MR. PENNOYER: Mr. Chairman, so what is the relationship
15 of us doing this relative to what you're talking about is going to
16 happen?

17 MR. ROSIER: Well, I'm not -- I'm not sure exactly what
18 the relationship is here at this time. You know, it seems like
19 this action has been going, and in the meantime we were doing
20 budget planning here on this, and -- and I'm not sure that we --
21 what the relationship is myself.

22 MR. SANDOR: Shall we defer this project? Or are we
23 ready for the question?

24 MR. PENNOYER: I -- my motion originally. I would
25 suggest we defer the project pending some of the other
26 investigations, realizing that it could be coming up as a request

1 probably for the '94 work plan, somebody, and ought to blend this
2 legislative initiative in with the legal question and other
3 concerns that have been raised here and get a report back to us
4 when we next consider the '94 work plan.

5 MR. SANDOR: Any objection? This project is not
6 approved for '93 work plan -- been deferred to consider in the '94.
7 We'll take a break until 10:30, at which time can I ask Mr.
8 Pennoyer to chair this while Mark Brodersen sits in for -- for two
9 and a half hours.

10 MR. PENNOYER: Certainly.

11 MR. SANDOR: And I would hope that you could perhaps
12 attempt to do the -- I really find these projects most interesting.
13 If it would not be a problem, to do those -- item two on the
14 agenda, and then three, and then get back to those topics.

15 MR. PENNOYER: I guess, yes.

16 MR. SANDOR: But, continue.

17 MR. PENNOYER: I assume the idea is that we're going to
18 finish by tonight.

19 MR. SANDOR: Oh, we're finishing

20 MR. PENNOYER: In time to catch a plane, alright.

21 MR. SANDOR: Yes.

22 (Off Record: 10:15 a.m.)

23 (On Record: 10:30 a.m.)

24 (Mr. Pennoyer is the chairman after the break in the absence
25 of Mr. Sandor.)

26 MR. PENNOYER: Yeah, I'd like to get started if we can.

1 Commissioner Sandor had to leave for a couple of hours and asked
2 that I take over the chair for him, and in that interim period of
3 time Mark Brodersen will be sitting in as his alternate. The
4 Commissioner was particularly interested, as we all are, in the
5 work plan and specific projects, and so he asked us if we could go
6 ahead with some other items on our agenda and see if we can finish
7 those up before we start the project list again, and the items he
8 particularly recommended we do were the restoration plan, detailed
9 outlines, alternative themes, and the preparation schedule, which
10 if you recall at the last meeting John Strand started to do and we
11 ended up doing other things, and the other is the Public Advisory
12 Group resolutions one and two. If there's no objection, I suggest
13 we go ahead and start with Dr. Strand, let him make his
14 presentation and whatever questions we've got, and then proceed on
15 to the Public Advisory Group resolutions. Is that acceptable to
16 the group? Try it again, John.

17 DR. JOHN STRAND: Okay, thank you. Bob Loeffler is
18 with me, representing the state, co-chair of the Restoration
19 Planning Working Group. Appreciate the time that you can afford
20 us, and I know that you're busy with the work plan development, and
21 I'll try to be as brief as I can this morning, but I don't want to
22 cut off any discussion, much needed discussion, on both the
23 alternative themes and the detailed outline, which we provided you
24 on December 4th. This is a bit of a carryover, as Mr. Pennoyer
25 said, from the last meeting. What I would like to do is to go into
26 the specific comments that the Trustee Council provided us and deal

1 each of the sets of comments. There were only really two sets of
2 comments -- two individuals on the Trustee Council provided their
3 remarks and comments. I'd like to go into those and discuss them
4 and try to reach some closure on them regarding the direction those
5 comments suggest we take in the development of the plan.

6 MR. PENNOYER: John, I have

7 DR. STRAND: Yes, excuse me.

8 MR. PENNOYER: Perhaps, we might organize this a little
9 bit. I'm not sure if we all have our paperwork in front of us and
10 the outlines you're going to be referring to or other items. If
11 you just (indiscernible -- coughing) discussion of modifications to
12 something that we don't have in front of us, it maybe difficult to
13 reach some conclusion. Can we

14 DR. STRAND: David, do you ...?

15 DR. GIBBONS: Yes. Excuse me, Mr. Chair, that was sent
16 to you again in the package that I delivered last week.

17 DR. STRAND: Okay. While you're digging that out -- I
18 would like to deal with the questions and to reach some sort of
19 closure on that so that we can proceed with the hard task of
20 developing the draft restoration plan and the alternatives
21 information package. If you remember, the alternatives information
22 package is the first deliverable. It's an interim deliverable in
23 March, as we had discussed last time. This isn't to say that we
24 haven't been progressing in the development of our products. I
25 might just take a moment out to give you a quick update. The
26 group, as of last Thursday, using the existing alternative themes

1 to organize our restoration options, we have moved ahead and
2 developed a printout of -- of each of the alternatives with their
3 requisite package of restoration options. We have information on
4 costs for most, if not all, of those restoration options. That
5 information is available too to our working group, and finally, we
6 have some sense of the geography where we would recommend
7 implementing restoration following the guidance of each of the
8 respective restoration options. That will compose -- comprise most
9 of the alternatives restoration package. There will also be text
10 that deals with a summary of the injury and how one begins to
11 implement the options once the plan is adopted. That text is being
12 prepared as well, and hopefully all of this will be available for
13 you to review the next time we meet. I think your meeting is
14 scheduled February 16th. This calls on the Restoration Team to
15 bear a hand and work very hard with us to review it to the point
16 where we can give you this interim package, and, as I said, we
17 discussed last time regarding the schedule would be our view that
18 this hopefully will go out to the public in March. But that will
19 give you just a brief update on where the group is and the task at
20 hand. And you have now in front of you the comment package that I
21 received, and maybe we can move onto -- to that. I received
22 comments both from Mr. Pennoyer and from Mr. McVee. The comments
23 dealt with specifically the alternative themes and also the
24 detailed outline. And if I may, I might tackle first the comments
25 on alternative themes, and -- this is sort of a little bit reverse
26 order but that it might, it's probably the most important piece of

1 work we need to -- to address this morning. If I might start with
2 Mr. Pennoyer's comments, and maybe to set the stage I could give a
3 brief summary, and I'm sure Mr. Pennoyer will tell me if I
4 interpreted his comments incorrectly, but I believe that in essence
5 the comments suggested that while we assumed that we might have six
6 different alternatives to provide choice and texture for the
7 restoration program, that Mr. Pennoyer's comments suggested that
8 that might be a bit much, and there was the suggestion that we
9 reduce the alternatives that we have there from six to four, and I
10 believe, with the view of trying to preserve at least alternatives
11 three through six, try to preserve one alternative that dealt with
12 the scope of restoration more narrowly than comprehensive, if you
13 will, something akin to our limited restoration approach that we
14 had suggested in alternative number three. That might be narrowly
15 to -- narrow in scope -- whereby we would only address restoration
16 for injured resources and services -- severely injured resources
17 injured at a population level -- and we might conservatively do
18 only what we felt was with a very high degree of success that was
19 possible. In other words, restrict what was -- what we could do to
20 just what we were sure of in terms of effecting an accelerated rate
21 of recovery. The other side of that continuum -- I think Mr.
22 Pennoyer was suggesting we preserve an alternative which is -- in
23 which the scope is more comprehensive or expanded. Treating all
24 injuries to resources and services and try to undertake restoration
25 even where there is -- we're not totally sure it will work, but
26 there's some reasonable understanding that it might work. And that

1 was one comment. I think the second comment dealt with not trying
2 to use settlement characteristics as a means of varying among the
3 different alternatives. That expanded spreadsheet that we sent to
4 you on the 4th used different settlement characteristics, such as
5 direct restoration, replacement acquisition of equivalent, and
6 enhancement as a means to vary the different alternatives. I think
7 Mr. Pennoyer's suggestion was that really each of these options
8 should be open to us and each of the restoration alternatives.
9 And, finally, I think a third comment dealt with the geographic
10 extent of restoration. I think we used as a variable inside and
11 outside the spill area as a means of -- of varying what you do and
12 where, as a ways of providing choice. And, I think, again, Mr.
13 Pennoyer's suggestion was that we shouldn't perhaps do that, that
14 might be a bit artificial and that consider restoration wherever,
15 both in and outside the spill zone. And, I think that in substance
16 was the comments that Mr. Pennoyer provided, and I -- I feel, I
17 think, that the Restoration Planning Work Group, we certainly can
18 reduce the number of alternatives or the alternative themes from
19 six to four. It would be more manageable. But is that -- is that
20 view shared by the rest of the Trustee Council members? Is that a
21 -- a reasonable direction in which to take this?

22 MR. PENNOYER: Questions, Trustee Council members? I
23 have one, John. I guess the question of inside or outside, I
24 think, is a policy call you might early on or on a case-by-case
25 basis. I just didn't think an alternative theme should be
26 characterized as in or out, because it may be an overall policy

1 call or project by project. So, it didn't seem to me that --
2 differentiated between alternatives, as essentially made on a case-
3 by-case basis. I guess my other feeling -- I'm not sure how,
4 exactly, you're going to end up using these alternatives. It seems
5 to me for any resource, you may choose one of these alternatives.
6 So we want them all available to us. Public comment may come in
7 that we just want you to buy land, but we know in all probability
8 we'll do some other things. So, I felt that simplifying the
9 alternatives made a little more sense. When it came right down to
10 it, we'll want to go with something like alternative five as an
11 overall arching -- have available to us all the tools in the kit.

12 DR. STRAND: Bob, did you want to comment on something?

13 MR. BOB LOEFFLER: What I expect will happen -- we'll
14 pick and choose from among the different ones, but we were using
15 these as ways to present the choices to the public, so that I
16 expect that what you will come up with, what the public will
17 recommend, are parts of each of them. So, that's -- that'll be
18 what you end up with in the final plan. That's what I -- that's my
19 expectation.

20 MR. COLE: I -- I must say, I think it's much too
21 complicated. I have very great difficulty following this -- these
22 possibilities. I think you have to simplify it.

23 MR. LOEFFLER: Okay.

24 MR. COLE: I really do. I just had a comment -- I
25 think generally people (inaudible -- Mr. Cole's microphone was not
26 operational) -- I'm falling apart in more ways than one -- I think

1 we had seen public comment on different approaches to habitat
2 acquisition (inaudible) -- take about a half hour or an hour to
3 figure out, you know, sort of which route do you take. You need an
4 IBM 360 computer -- I would really like to see some (inaudible)

5 DR. STRAND: Do you have any specific suggestions for
6 how we might make that simpler.

7 MR. COLE: Nope. (Simultaneous laughter) That's up
8 to you. I mean, I just tell you -- when the average, you know, Joe
9 Six-Pack out in Muldoon looks at this (laughter), he says, you
10 know, what is this, man?

11 MR. LOEFFLER: It's our desire to make it something the
12 average person sees and understands very easily. It ought to be
13 readable, approachable, and --

14 MR. PENNOYER: Mr. Barton.

15 MR. BARTON: Yes. I -- I think we need to -- an
16 alternative to represent the full range and the extremes of the
17 ranges, and then one or two in the middle, in my estimation --
18 probably two in the middle, and then in the final decision process,
19 that would provide the Council with opportunity to cut and fit as
20 it saw fit in response to public comment. I agree with Mr.
21 Pennoyer on the geographic constraint. I think that's a thing that
22 needs to be resolved on a case-by-case basis. But, the simpler the
23 better. If it's something the Council can understand, there might
24 be a chance.

25 MR. McVEE: Steve?

26 MR. PENNOYER: Mr. McVee.

1 MR. McVEE: We would echo Mr. Barton's comments that
2 the range is important. The number of alternatives is certainly
3 not as important as the range. At this stage, at least, that
4 provides something to the public to -- to reflect upon, to relate
5 to. Our comments on the themes which related back to -- to the
6 planning outline, I think, itself more than the themes, but I think
7 that range aspect is very important.

8 MR. PENNOYER: Yeah. Anybody else want to comment on
9 that? I think the sense you're getting is that the alternative
10 themes are probably a starting point, but they are not going to --
11 they'll quickly fall out, you're quickly going to see for any
12 resource you're going to use some aspect of this, so you're not
13 going to pick any one overall to start. And, actually, what you're
14 going to end up with is a kind of a blend even for any single
15 resource. So, it's going to get real mushy when you dig into the -
16 - dig into the specifics and try to do it, and I think it confuses
17 the public to sort of see, do that route or that route or that
18 route, because it probably isn't going to work that way. So, I
19 think the way our options -- the spread of things we can do are
20 important for people to understand. I doubt you're going to find
21 it as simple as a choice for even any one project -- aspects of
22 harlequin ducks and aspects of natural recovery protection, and --
23 I don't know, so you see, you're probably going to get a mix
24 anyhow, spending too much time on fusing issues probably is not
25 warranted. Sort of a kiss principle.

26 DR. STRAND: The other, I think Mr. McVee's comments -

1 - let me turn this around again -- I think the essence of Mr. --
2 Mr. McVee's comments, and I think the one very important one, and
3 I think that we probably need to discuss this today, but as I
4 understand it, Mr. McVee is suggesting that we still have yet to
5 define an initial proposed action, and that the initial proposed
6 action as identified and described in the framework document which
7 was published in April of '92, probably didn't do this -- do this
8 justice. I think that is the essence of your comment, and I think
9 that this has been discussed at a number of RT meetings, as well as
10 at our own planning group meeting, and, you know, clearly it was
11 our intent, the planning group's intent, that the time that we
12 published the restoration framework that it serve two purposes. It
13 was, one, to provide some guidance, a road map if you will, for
14 developing the draft restoration plan, but also it was to serve as
15 a scoping document dealing with a proposal to restore the injuries,
16 the damages, associated with the oil spill in Prince William Sound
17 and the Gulf of Alaska. And issues were put forth, and public
18 comment was requested. There also was a list and a description,
19 although perhaps a one-page description of the -- of what
20 restoration options you could undertake on behalf of the injured
21 resources and services in this case. And it was generally felt, in
22 our group anyway, that the -- the restoration framework document
23 did fulfil the requirements as provided for in NEPA in this regard,
24 and, but you know, clearly that -- that comment has come back again
25 in -- in your letter to me -- to Bob and I -- and probably that
26 needs to have some airing as well. If we were to enter into a --

1 if you will, an extension of the scoping process, this could, I
2 think, further prolong the process, but I think that, you know,
3 that -- is that the substance of your comment, Mr. McVee?

4 MR. McVEE: Yes, Mr. Chairman. Basically that's it.
5 If you like, that the scoping process is really a continuing
6 process, and that there are various checkpoints that we had six
7 months ago or eight months ago, whenever it's out to the public,
8 you know, the first step in that. But it's a continuing process,
9 and as there are refinements, there are various checkpoints
10 developed where we we've got more detail. We feel like reaching
11 that point -- should be reaching that point where we have more
12 detail as to what -- what we would see, the Trustee Council, as --
13 as the action as recommended or proposed action to be taken, and it
14 gives -- it seems to us like the public is entitled to -- to see
15 more detail as we go along and have the opportunity to comment
16 back, the feedback to us, their thoughts relative to that detail.
17 And, you know, several time has gone by since -- since the original
18 document went out -- went out. We've got quite a bit of
19 refinement, you know, that we should be in a position fairly soon
20 to put out some more -- more detail to continue -- continue this
21 scoping process.

22 MR. PENNOYER: Mr. Barton.

23 MR. BARTON: Yes, Mr. Chairman. I'm not sure I follow
24 your concern. Are we -- are you clearing the proposed action with
25 a preferred alternative?

26 MR. McVEE: I guess, I guess in reality they'd be one

1 and the same, or be close. Pam, you --

2 MS. BERGMANN: Mr. Chair, there's been considerable
3 confusion over the terminology of preferred alternative and
4 proposed action because different agencies have different
5 definitions of those terms, so we started using the term "initial
6 proposed action" which would simply be -- well, the proposed action
7 that was in the restoration framework was basically saying that
8 we're going to develop a plan to restore injured resources and
9 services in Prince William Sound and the Gulf of Alaska. And our
10 feeling about that is that that's a goal statement. That's not
11 really an initial proposed action. The initial proposed action
12 would be to do x, y, and z kinds of activities for each of the
13 different injured resources and services. Then once that's
14 established, you develop a whole range of alternatives that you
15 were talking about, Mr. Barton, kind of promotes the broadest
16 approach and the most narrow approach, and making sure that you've
17 got a reasonable range in between as well. We feel it's very
18 important to send -- that the detailed alternatives in that --
19 which would include the initial proposed action -- out to the
20 public for review so that they can say we don't like your overall
21 approach on how you've come up with the alternatives, we think you
22 should -- you should approach it this way, or they might say you
23 need -- you forgot about this alternative or you don't need five
24 alternatives, you need two alternatives, and we think that we
25 really need the public comment on that level of specificity so we
26 don't end up having to do a supplemental DEIS if we've kind of gone

1 astray. Then, once the Trustee Council has all of the input based
2 on the draft environmental impact statement and all of the public
3 comment associated with that, then the Trustee Council would --
4 would basically select a preferred alternative, which we're calling
5 -- now, I forget the term we're using -- but it's basically the
6 preferred alternative for the final proposed action.

7 MR. BARTON: Mr. Chairman. I guess I'm still confused
8 on what the proposed action might be. You say the -- as I
9 understood it -- the proposed action could be x, y, z activities.

10 MS. BERGMANN: Mr. Chair, yeah, our feeling is that what
11 we're talking about here are themes. These are kind of broad
12 general approaches to how you might develop alternatives. But once
13 you actually develop alternatives, we need to see the different
14 kinds of restoration options that are available for each injured
15 resource and service for a particular alternative, and then --

16 MR. PENNOYER: Could you stop -- could you stop for a
17 minute. You're way over my head. I'm totally lost. I don't know
18 what we're doing. I don't know why we're doing it. We have EIS
19

20 MR. COLE: Your friend here's confused too.

21 MR. PENNOYER: ... We have an EIS we're putting out of
22 it, okay, for this process. We also have the restoration plan.
23 I'm not sure which we're talking about now, and what sequence. We
24 haven't had a presentation of what's in the restoration plan, which
25 I presume is also in the environmental impact statement, at least
26 to some degree, and I think you go down to detailed alternatives by

1 species and actions that might occur in your draft outline. So,
2 I'm not clear what we're talking about. What are we putting out
3 that doesn't have a proposed action on it and doesn't have proposed
4 alternatives. How does that relate to this outline that's in front
5 of me that seems to get down to a lot of detailed level, you know,
6 that doesn't propose a specific actual project, but actually goes,
7 I think, into how you might treat different resources with
8 different alternatives, it presents a background of what we know
9 about injury to those resources and so on. It would be helpful,
10 instead of getting hung up on this alternative theme thing, which
11 I think is sort of an introduction, I don't think this is what
12 we're asking the public to comment on -- it's just an introduction
13 to a package. If you reviewed what this whole package is, I'd have
14 a better idea what we're arguing about in terms of whether we're
15 giving people alternatives or not. Because I don't know where we
16 are right now. Step one -- in your timeline -- is this for the EIS
17 or the restoration plan, or both? I mean, what are we --

18 DR. STRAND: Restoration plan.

19 MR. PENNOYER: Okay. And then -- but the comments I'm
20 hearing here are the EIS ones, is that correct?

21 MR. LOEFFLER: I think that when we put out alternatives
22 to the public it will be fully fleshed out to tell people what
23 projects, what kinds of things we're doing, how much they cost and
24 the general areas where they would be accomplished.

25 MR. PENNOYER: This will be in the restoration plan?

26 MR. LOEFFLER: Yes. And it's what we expect to go out

1 with in March -- different alternatives, different ways to restore
2 the Sound -- I'm sorry the oil spill area. And so that's what we
3 come up with in March. To the extent that our alternatives have to
4 be the same as those in the EIS, that is, we don't want to have --
5 be doing different things. We have -- in terms of what's a
6 proposed action -- I'm not up on the EIS lexicon, so I'm afraid I
7 actually can't tell you that, but what we're planning to do in the
8 restoration plan is say here's the different ways we can do it, in
9 as much detail as we can muster, with costs, where it is, and get
10 public comment before you choose which one from parts of the --
11 final. You know, that's what the restoration plan is intending
12

13 MR. PENNOYER: It maybe -- maybe it would be appropriate
14 if we took one of these aspects and traced it down to where it's
15 going to go and then see how the others are going to tie in. Maybe
16 it's appropriate for you to go clear through the restoration plan
17 outline and schedule, and then come back and talk about how we
18 blend the EIS process in with that -- because I think we've got a
19 cart -- a cart and a horse thing here. I'm not clear -- coupled
20 with some scheduling problems, I'm not sure how we get around it,
21 but I'm not hearing them tied together. So maybe you could tell us
22 what the restoration plan is, then we get back in the arguments
23 about what the proposed action is and other NEPA-type concerns, and
24 if you can let us know how long it's going to take to get this
25 detail done, when it's going to be done, what's going to be in it,
26 how many times we've got to send it out, then we can come back and

1 talk about the NEPA requirements relative to that. Because NEPA's
2 -- the describe the action, and I think this is action. So maybe
3 we ought to talk about that first.

4 DR. GIBBONS: Mr. Chair?

5 MR. PENNOYER: Yes.

6 DR. GIBBONS: If I may interject here. We plan to
7 present at the February 16th Trustee Council meeting a complete
8 description of the alternatives, run you -- albeit ad nauseam --
9 run you through this. Perhaps it might be a better time to deal
10 with that kind of a discussion then -- just the proposal -- because
11 we haven't -- there's, there's two major items, three major items
12 on the agenda for that February 16th, and one of them is the
13 restoration plan alternatives.

14 MR. PENNOYER: What are we here to do then? What are we
15 supposed to be doing here if we're all going to do it in February.
16 We've got a busy schedule, and I'd just as soon not spend --

17 DR. GIBBONS: That's what I'm trying to -- what I --
18 what I hoped to do here today was just to talk about the comments
19 received at the request of the last meeting, and say that we're
20 looking at reducing the number of alternatives, and we're taking
21 your comments into heart and we're going to develop a package for
22 you at the February 16th meeting.

23 MR. PENNOYER: It's hard to comment on the comments if I
24 don't know what the package looks like, but that's -- I commented
25 on the themes, but I don't know how that fits in with the rest of --
26 - I thought Dr. Strand was going to present this outline at the

1 last session -- the purpose to that. Now you're saying we can wait
2 til February 16th to do that.

3 DR. STRAND: The comments on the outline, I think were
4 -- were relatively minor adjustments. I think yourself

5 MR. PENNOYER: Let me ask a question. Does the Trustee
6 Council understand what's going to be in the restoration plan? The
7 depth, the detail, all the aspects? Are you comfortable enough
8 with the outline that you understand that?

9 DR. GIBBONS: Mr. Chairman, that's the purpose of the
10 February 16th meeting.

11 MR. PENNOYER: Okay.

12 DR. GIBBONS: We'll get all that information to you and
13 see if we're on the right track or not.

14 MR. PENNOYER: Okay. So this -- this purpose is just to
15 comment on the alternative themes

16 DR. STRAND: And also to provide feedback on the
17 comments made with respect to the draft detailed outline. There
18 were some comments. You had some, I think, relatively minor, and
19 Mr. McVee had some. Clearly one of those comments dealt again with
20 this topic of initial proposed action. The others I felt were
21 appropriate and -- it didn't come down to an issue of whether
22 something should be presented or not presented in the -- the plan,
23 it was generally where it should be presented. Am I right, Mr.
24 McVee? There were some suggestions for some title changes, there
25 were some suggestions for moving things to an appendix, and I'm
26 quite willing to try that on for size, to see where we're at, and

1 then to get some review on it. It makes better sense to put
2 something back in -- the basic text of a chapter, that's fine. If
3 it's better put into an appendix, that's fine. I don't think any
4 of those comments were meant to delete information or that we
5 needed something in addition, for the most part.

6 MR. McVEE: Mr. Chairman, our comments were
7 organization. I guess we -- we did think there maybe should be one
8 section that could be deleted, but, I guess my feeling in dealing
9 with this today is that -- we're going to see some of the detail in
10 the plan and how things are put together in the February session.
11 It's a little -- it seems like a little redundant to try to modify
12 the outline today -- if you're going to do that within less than a
13 month's time.

14 MR. PENNOYER: Mr. Barton.

15 MR. BARTON: I thought we were concerned with the
16 process form than this question of the proposed action and whether
17 the framework had adequately provided an initial scoping document.
18 Is that right?

19 MR. LOEFFLER: That's still an issue, yes.

20 MR. BARTON: Completely different question.

21 UNIDENTIFIED VOICE: Do you want to talk about that?

22 MR. BARTON: Wait til February.

23 MR. PENNOYER: I'm going to wait for February because I
24 don't have an understanding of where we are -- (simultaneous
25 talking)

26 MR. McVEE: A question in my mind is

1 MR. PENNOYER: Lead us through this.

2 MR. McVEE: Would it be easier to deal with in
3 February where you have all the information, more information
4 before you at that time. It's a -- it's a policy call, I guess.
5 Interior's position is the policy should be to give the public as
6 much information in as much detail as what we have.

7 MR. LOEFFLER: I think that's consistent with -- we've
8 heard consistent comment from the Department of Interior that we
9 should maximize the amount of detail, and in the last three months
10 we've really tried to gather a lot more information, in part in
11 response to those comments. We looking for the most detail as we
12 can.

13 MR. PENNOYER: Mr. Barton.

14 MR. BARTON: I don't think any of the Trustee agencies
15 would argue that we should give the public as much information as
16 we can give them, but there is a practical problem, however, I
17 would think that the drafters would encounter at some point, and
18 would say, you know, here's where we start, otherwise you never
19 finish.

20 MS. BERGMANN: Mr. Chair.

21 MR. PENNOYER: Ms. Bergmann.

22 MS. BERGMANN: We are concerned that the detail that's
23 developed for the alternatives -- what you were talking about now,
24 I guess, presenting to the Council in February -- that that level
25 of detail get out to the public as soon as possible so that a lot
26 of time and energy isn't spent analyzing those alternatives and the

1 DEIS if the public doesn't agree with what we've done, and that's
2 where we're afraid that if -- if we don't let the public know about
3 the detail until we issue the DEIS, and they don't like the number
4 of alternatives or how they're arranged, that then we may be in a
5 position of having to do a supplemental DEIS, and that's going to
6 cost us more time. So, we just think that the public hasn't had an
7 opportunity to see the level detail, obviously, because it hasn't
8 been developed. We believe that when the public starts seeing that
9 under this alternative you will do these kinds of things for sea
10 otters, these kinds of things for red salmon, for pink salmon, that
11 they are, in fact, going to care. This is very complicated. When
12 you look at the themes, that's one way of slicing the pie, but
13 that's lots of other ways of slicing the pie, and the public may
14 want the pie sliced differently, and we'd rather know that sooner,
15 you know, sooner rather than later.

16 MR. BARTON: Ms. Bergmann, are you -- is Interior then
17 suggesting a public involvement effort for the plan and then a
18 public involvement effort related to the EIS, is that what I hear?

19 MS. BERGMANN: Mr. Chair, I think we would propose that
20 once -- as soon as the alternatives are presented to the Trustee
21 Council in detail, then those could simply sent out in a mailing to
22 our mailing list and ask them -- ask them for some comments on
23 that. I don't -- if we feel like meetings are necessary, we could
24 do that, but I think that a minimum, we could just go ahead and
25 have a mailing and ask for comments.

26 MR. LOEFFLER: May I jump in -- I've been here since

1 August, and since August we have been shooting for putting what is
2 called the draft plan out and then now what's called the
3 alternatives information packet in March, at public meetings.
4 We're on schedule to go to public meetings in April. That's what
5 we plan to do.

6 MR. BARTON: But is that part of the plan or part of
7 the EIS, or is this a comprehensive thing?

8 MR. LOEFFLER: It's part of the -- it's the plan because
9 the EIS won't be ready then. So, I think that should meet Pam's
10

11 MS. BERGMANN: Okay.

12 MR. GATES: Could still be scoping for EIS (inaudible
13 -- out of range of microphone)

14 MR. BARTON: It could but we need to get this string
15 around this thing. Instead of having this over here and this over
16 here, they need to be on the same track and the same train.

17 MR. RICE: Mr. Chairman.

18 MR. PENNOYER: Ken Rice.

19 MR. RICE: The schedule that reviewed at the last
20 Trustee Council meeting had a level of public involvement in March
21 that would be the alternatives, and we had anticipated sending that
22 out to the public, but not having the time to fully incorporate any
23 suggestions by the public into the draft restoration plan and draft
24 EIS that would be going out in June, and at least what I heard the
25 Trustee Council say was that the release of the draft is not the
26 critical date. The final decision point is the critical period.

1 In order to accomplish that we need to get the alternatives, which
2 RPWG has developed and is pretty near completion, to the contractor
3 for the EIS, allow them roughly six weeks in which to do an
4 analysis of the impacts of those alternatives and get that back to
5 us for a review, and if we delay until after additional public
6 comment on this alternatives framework packages -- or alternatives
7 package that is going to go out in March, that means we don't even
8 start any analysis until after public comment has been received,
9 and we don't get the EIS completed for, I don't know, an additional
10 three to six months.

11 MR. PENNOYER: Mr. Barton.

12 MR. BARTON: What is it again that we're going to have
13 in March?

14 DR. STRAND: It is called the alternatives information
15 package. It includes what we've previously referred to as the key
16 elements. That outline you have, chapters three, four, five, and
17 six principally -- the injury assessment, what you can do about it,
18 the fleshed out alternatives package inclusive of restoration
19 options, costs associated with the options, their implementation,
20 geography.

21 MR. BARTON: When would we see a draft restoration
22 plan?

23 DR. STRAND: That, I think, according to the schedule
24 was June the 7th for publication. It would be at some point in
25 time earlier to you for review.

26 MR. PENNOYER: May 16th.

1 MR. LOEFFLER: May 16th -- alternatives.

2 DR. GIBBONS: Excuse me, here. Really, what's coming
3 out in March is the restoration plan. In essence it is. And the
4 Trustee Council will see it May 16th together with a draft
5 environmental impact statement. So what we're doing in March is
6 going out -- they don't want to call it a plan, they want to call
7 it an alternatives information package, but it's essentially a
8 complete restoration plan.

9 DR. STRAND: Certainly the guts of it. There will be
10 some text, chapter inclusions not there, but clearly the basis of
11 the restoration plan will be there.

12 MR. BARTON: One of the attorneys told us on this --
13 possible procedural problem with regards to adequate public
14 involvement and scoping.

15 DR. GIBBONS: Mr. Chair, the only word I've heard on
16 that was when we put out the restoration framework document in
17 April, and it was a scoping document for the restoration plan and
18 DEIS. So that -- that went through the attorneys and was called a
19 scoping document, so I've heard any other word on it from the
20 attorneys.

21 MR. COLE: Mr. Chairman.

22 MR. PENNOYER: Mr. Cole.

23 MR. COLE: I -- I have some concerns. First, I would
24 like to see -- it may not be possible -- but this restoration plan
25 completed well before December. We have these letters from people
26 who say that our revised schedule, i.e., from January to December,

1 really in some ways is a worse schedule than it was before because
2 a lot of the people who would be commenting on the plan would be
3 out fishing and would unavailable to comment on the plan. But, I -
4 - I think December is -- January is too late, I think December is
5 too late. I think I would like to see it set up in a matter of
6 months, number one. And number two is, I would like to have the
7 Trustee Council kept abreast of the developments on this
8 restoration plan as it's being formulated, and here's why. Suppose
9 we get down to March and whatever and we get this document,
10 proposed plan -- when is it March we're supposed to get it?

11 DR. STRAND: That's when it's supposed to go out to the
12 public.

13 DR. GIBBONS: Right. You'll see it at the February 16th
14 meeting.

15 MR. COLE: Alright. Because I -- I am concerned
16 that, you know, if we don't like and we have fundamental objections
17 to it, which is not impossible given the complexity and the scope
18 of this plan, we could get pretty badly hung up. So I think we
19 need to look at this perhaps in February and maybe every two weeks
20 thereafter so that at least we get copies of the work so we can be
21 following along and maybe even meet telephonically as we monitor
22 the development of this plan. I'm very concerned about substantial
23 delay for what -- any one reason that might develop.

24 MR. PENNOYER: Further comment? Mr. McVee.

25 MR. McVEE: Our concern, I guess, fits with the
26 problem associated with the summer review of -- of the documents,

1 and I guess our advocating, you know, you might say a continuation
2 of the process to allow for maximum involvement, more involvement
3 maybe of the public softens that -- that concern for that summer
4 involvement if this whole process can be accelerated. Of course,
5 that's highly desirable, as Attorney General Cole mentioned. But
6 if, I guess, the better we keep the public informed or the
7 opportunity they have to make comment, that it reduces the critical
8 -- the critical summer comment period. Even if that were -- were
9 scheduled in May and June instead of June and August, it's probably
10 still going to be an equal problem in terms of people out fishing
11 and people that are busy doing their summer activities.

12 MR. COLE: Mr. Chairman.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: How much of a problem really is the summer
15 fishing, and how much does it impact on comments on our plans? I'm
16 not sure that it affects it as much as some say that it does.

17 MS. RUTHERFORD: My experience over at Community and
18 Regional Affairs is that it's extensive. I mean, it is really a
19 problem. To the degree that there is -- Community and Regional
20 Affairs and some of the statutes on some of the programs, they
21 specifically disallow us to go out to the public between May and
22 August because the public time is so limited. So, I mean, it is a
23 real problem, and after the end of April it is

24 MR. COLE: Well, let me say why, if you don't mind.
25 I -- I look at this document which we have here of the public
26 comment, and I don't get the sense that these people who are

1 commenting that many of them are out fishing in the summer. If you
2 look at the addresses of where they are and what they do, and I
3 just don't have that sense. I -- I could be wrong and I have a
4 general open mind, but it seems to me that to lose three or four
5 months in the summer to delay in this restoration plan is a heavy
6 shot to what we're doing here, and I was trying to see if we can't
7 move this whole process forward, get the public comment earlier in
8 some way that we don't delay this til January or December. Every
9 year we wind up in the same position -- we're doing this stuff in
10 January, then we can't pull our '94 work plan into the restoration
11 plan, and then we have, you know figuratively speaking, Interior
12 again saying, look, I mean, we can't approve these twenty-three
13 plans because they don't fit into the restoration -- or projects
14 because they don't fit into the restoration. We're right back
15 where we are now. We seem to learn nothing. I mean, I don't mean
16 that literally, but, you know, I mean

17 MR. PENNOYER: Ms. Rutherford.

18 MR. COLE: ... we should profit by our experience.

19 MS. RUTHERFORD: Mr. Chair, just two comments,
20 Attorney General Cole was out of the room, I think, when we made
21 the comment that the draft restoration plan -- that the major
22 portions of it will be ready in March, and that the intention is to
23 go out to public meetings in -- in April, I believe. That's the
24 current scenario. The DEIS will not be available then. The other
25 comment is it's not just in the summertime, the problem is not just
26 commercial fishing, it's also subsistence hunting and gathering,

1 but it's also just the fact that people are recreating so heavily
2 and just don't take the time to pay attention to documents that
3 come in for their review.

4 MR. LOEFFLER: I would just like to add a little second
5 to Ms. Rutherford's comments. I've held about forty public
6 meetings between Angoon and Nuiqsuit, and I've never been -- I've
7 never held one in the summer. I've held special meetings, where we
8 don't get that kind of turnout. And public meetings in the summer
9 typically, when we approach the summer, get heavily resented by the
10 communities, and I've had -- as we sort of encroach on the border
11 of what people consider their summer time, we've had not
12 particularly good experiences. My experiences were
13 (indiscernible).

14 MR. PENNOYER: Further comment? How do we get around
15 this then? I think we all agree we want to do something earlier
16 than December, we're going to have some early decisions to make
17 relative to the '94 work plan, whether we're going to wait for the
18 final restoration plan, anyhow, and -- so we think we all agree we
19 want it earlier. I think we generally feel that meaningful public
20 comment -- only meaningful public comments shouldn't come in the
21 summer. Is there a way to structure this so we get around that
22 problem? Sending out the restoration plan draft in March and April
23 without the EIS -- an adequate substitute for -- and then have the
24 normal process in the summer?

25 DR. GIBBONS: Mr. Chair, the earlier -- the earlier
26 timeframe -- time schedule that we presented to you at the December

1 11th has that, had the draft restoration plan going out. After
2 March getting comments and then a final -- then a draft
3 environmental impact statement after that, and it didn't -- it
4 pushed the timeframe into 1994, and so that -- that was the problem
5 with doing it separately. I heard a direction at the last Trustee
6 Council meeting is -- is to put those out simultaneously, and so
7 that's what the schedule here is to go out simultaneously with a
8 draft restoration plan and a draft environmental impact statement,
9 and for you to see it on May 16th and for it to go out to the
10 public June 7th.

11 MR. PENNOYER: But the preliminary draft will go out in
12 March or April, the restoration plan.

13 DR. GIBBONS: That's correct. There will be public
14 involvement on the restoration alternatives package in April.

15 MR. PENNOYER: I guess what I'm asking is -- I understand
16 that what you presented here requires that we do the formal
17 combined process during the summer. Having done the restoration
18 plan draft early and gotten public comment on it, is that going
19 satisfy this not wanting to do things in the summer adequately.

20 MS. RUTHERFORD: I think it certainly helps. I think
21 though that there is going to be some confusion resulting from
22 separating them, and I think that that's almost inevitable now.

23 MS. BERGMANN: Mr. Chair, another point that gets back to
24 the message that Interior had earlier is that while, yes, this
25 package is going out in March, as you heard Mr. Rice state that
26 we're not going to be able to take any of the comments into account

1 when we do the DEIS, and I think that's a real concern that we
2 have. I think that there needs to be a trigger or mechanism that
3 if we get a very strong public comment that we -- we need to
4 address another alternative or we need to collapse some
5 alternatives or they don't like how we've approached the
6 alternatives, that we need to stop the process and make appropriate
7 adjustments before we go forward and not just -- it's one thing to
8 just send it out and have public meetings and opportunity for
9 comment, but we've got to take that comment into account.

10 MR. BARTON: Mr. Chairman.

11 MR. PENNOYER: Then are you suggesting that we delay this
12 until February or March of '94.

13 MS. BERGMANN: What I'm suggesting is that if -- we need
14 to recognize that it's a possibility that public comment may come
15 back that suggests that we need to make some major changes and that
16 we're going to have to make those changes before we go forward, and
17 we need to recognize that that's a possibility, and maybe that
18 argues for keeping it in December, so that if we need to slip the
19 schedule to make some adjustments, that we could then slip it to
20 February.

21 MR. COLE: Mr. Chairman.

22 MR. PENNOYER: Mr. Barton, then Mr. Cole.

23 MR. BARTON: Yes. I'm puzzled why that isn't
24 accommodated between the draft and the final EIS. I mean, that's
25 one of the purposes of that is to make these changes in response to
26 public comment.

1 MS. BERGMANN: Mr. Chair, our point was that before we
2 completed the draft environmental impact statement and -- and did
3 the analysis of these alternatives, that we needed public comment
4 on the alternatives themselves, which is I understood the basis for
5 why we're sending out the package in March.

6 MS. RUTHERFORD: That's not the only reason though.
7 The other reason is to capture this period of time when people are
8 available to react. So that's not the only reason.

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: Let me -- I'm not going to be part of
11 putting this back to February or January or likely even December.
12 I mean, we have to make some decisions and get this done, and we're
13 behind the proverbial power curve every year. There's also, you
14 know, some reason perceived as good that we can't get it done, but
15 we just have to. You know, we just have to. Something has to
16 give. We don't have the luxury of, you know, saying, well, let's
17 put this off another six months or somebody is going to have to
18 spend a weekend, maybe come back from their fishing trip out in the
19 Sound a couple or a half day early or something. We just have to
20 do it. I mean, we pay these prices. I mean, we work on weekends
21 to prepare for these meetings, and we work at nights to do these
22 things, and if the public wants to comment, then, you know, it would
23 not be asking too much, in my view, if -- if they have to forego
24 something that they would rather be doing. Now, I realize the
25 problem with people out earning a living. I mean, that's a
26 different situation. But we just have to -- we just have to get

1 these things done, and in my mind, frankly, as Mike Stepovich would
2 say, it's (indiscernible)

3 MS. RUTHERFORD: Mr. Chair, could I add one thing?

4 MR. PENNOYER: Ms. Rutherford.

5 MS. RUTHERFORD: I think that the Restoration Plan
6 Working Group is taking very seriously just exactly those concerns,
7 and they are working nights and evenings, and I would like Ken to
8 comment -- I mean, part of the problem is that the guts of the --
9 most of the draft restoration plan will be ready in April, March
10 and April, but it's the EIS that is -- that is not, and I don't
11 know how to get to that.

12 MR. COLE: You're missing -- I'm not talking about
13 the work being done by the Restoration Team and the planning team,
14 I'm talking about how we will effect these schedules so that we can
15 make these decisions and adopt these plans, and the restoration
16 plan and the work plan.

17 MS. RUTHERFORD: I still think it would be helpful if
18 Ken could comment about is there any way we can get the EIS to
19 speed up.

20 MR. RICE: Well, the analogy that I'll throw out
21 here, and it'll probably cause more confusion than clarification.
22 We don't have a horse race, we have a harness race. And the
23 restoration plan is the horse, and the harness is the EIS, and
24 unless the two are attached when they cross the finish line, then we
25 haven't completed the race. So, yes, the restoration plan has to
26 be moving as quickly as possible, but until we make sure that EIS

1 is attached to it, we've got a disconnect and we're not going to be
2 able to meet the deadlines that we have. As soon as we get the
3 alternatives to and the accompanying issues that need to be
4 addressed to the EIS team, they can begin analyzing it. They need
5 six weeks to get that back to us for our initial review, and then
6 it's a matter of how quickly we can review that proc -- go through
7 that review, get comments and get the final draft, internal review
8 done to meet that initial DEIS date. If we can get our internal
9 reviews done in a timely manner, then we may be able to cut some
10 time off of that, but we can't get it all done by March, we don't
11 even have the alternatives to them yet. They haven't even seen
12 what they need to analyze, and until the team, the RPWG, gets that
13 information to them, they don't have anything to analyze. They
14 can't be developing other alternatives that have no basis with --
15 with what's going into the restoration plan.

16 MR. BARTON: Mr. Chairman.

17 MR. PENNOYER: Mr. Barton.

18 MR. BARTON: Yeah, I think too, we need to give a
19 little thought to the public. If we go out with an alternative
20 information package -- is that the jargon -- and ask them to
21 comment on that, or something similar to that, three months later
22 come along with a draft environmental impact statement that may
23 contain mostly the same stuff and ask them to comment on that, I
24 think at least some of the public is going to have trouble with
25 this. It may. I've been through this before, and I had one fellow
26 from Angoon tell me that you guys can read and write, but you can't

1 remember.

2 (Simultaneous laughter)

3 MR. PENNOYER: Ms. Rutherford.

4 MR. PENNOYER: Mr. Chair, I think that is something that
5 is worrying us a great deal is the fact that the draft -- the guts
6 of the draft restoration plan would go, and then the draft EIS
7 would go out, and it doesn't reflect what the comments have already
8 told us, and they're going to think the same thing. Maybe this is
9 heresy, but I'll just throw it out one more time, is it absolutely
10 necessary to do an EIS?

11 MR. BARTON: I think there's a corollary question -- is
12 it absolutely necessary to do a plan? We saw a little bit of that
13 yesterday. I don't know what the answer. I assume the attorneys
14 have said yes, we need to do an EIS -- if we do a plan.

15 MR. COLE: Mr. Chairman.

16 MR. PENNOYER: Mr. Cole.

17 MR. COLE: Is there not a question in issue as to how
18 detailed and complex and refined the plan is. I mean, are we
19 overloading ourselves with papers and studies and all and etc.

20 MR. BARTON: I think that's what February 16th is
21 designed to help us work out.

22 MR. PENNOYER: Any further comments? Is there anything
23 we need to decide now to get us to the February 16th meeting? For
24 example, is the Trustee Council willing to make the decision that
25 for the '94 work plan, we can proceed with a draft restoration plan
26 in place, so some of the heat is off to finalize this thing before

1 we do the '94 work plan, or is that out of the question? Part of
2 this problem was we didn't want to wait until '95 to start doing
3 any restoration, but it seems to me, even with this -- what I've
4 seen is a most ambitious schedule -- Mr. Cole's -- a most ambitious
5 schedule I've seen, doesn't get you this stuff in time to make your
6 initial decisions on the '94 work plan. So -- Mr. Barton.

7 MR. BARTON: You summarized it very well. I think
8 we're stuck with using a draft of the '94 work plan, and that is
9 somewhat troublesome but not disastrous, in my opinion.

10 MR. PENNOYER: I think we ought to start with using the
11 draft for the '94 work plan if we have to get this thing done by
12 December, to have it final in time for the '95 work plan, or could
13 we actually delay it by two or three months -- I don't like the
14 idea of delay, and I don't think the workload justifies it, but to
15 bring these two separate things same track and avoid this confusion
16 of going out with a initial -- whatever we call it now -- an
17 alternatives information package -- getting comments back on that,
18 and at the same time we're sending out a draft EIS that doesn't
19 take those comments into account. I haven't heard a solution to
20 that.

21 MR. BARTON: There's a simple solution, and that's
22 don't send out the alternative information package. Send it all
23 out as part of the EIS package and the draft EIS.

24 MR. PENNOYER: Yes.

25 MR. LOEFFLER: That solution gives you a summer comment.
26 It will be hard pressed -- the stuff will be ready. The

1 information will be ready, and it would be a shame to lose the
2 spring, especially if what we're trying to do is get things done
3 quickly, have it ready, and then sit and wait for three months. It
4 seems counterproductive.

5 MR. BRODERSEN: Mr. Chairman.

6 MR. PENNOYER: Mr. Brodersen.

7 MR. BRODERSEN: There's a possibility here, trying to buy
8 a lot of what I've heard here -- perhaps what we want to do is
9 sound out and have the public sessions in April, see how close we
10 are to where we think we are after the public comment, and that if
11 we're fairly close, we go ahead and send out EIS which have been
12 proposed, and if we're not, then we stop -- not stop, but delay
13 slightly, to get the EIS revised just enough to incorporate the new
14 public comment, and then we just face up to the fact that we're
15 going to use draft plans for development of '94. I think is
16 actually the very simple solution to it -- that we just go ahead
17 and do the '94 plan with the draft restoration plan. We shoot for
18 December. If we find that we have missed the mark, when we have
19 our April meetings, then we let slide a little bit. We really
20 haven't lost very much. We're still able to do the '94 plan if we
21 need to do it. We have these public comments -- or comment that
22 doesn't offend the public, and we let it go at that. So we wait
23 and see.

24 MR. PENNOYER: If there is much business then we hold
25 both, redraft the draft EIS to fit and send them both out somewhere
26 in fall as appropriate.

1 MR. BRODERSEN: Let's not borrow trouble until we know we
2 have it. Let's shoot for December.

3 MR. PENNOYER: Mr. Barton.

4 MR. BARTON: Well, again, I'm puzzled by what then goes
5 on between the draft and the final EIS, and what's the purpose of
6 that under this scenario?

7 MR. BRODERSEN: Well, my impression would be that there
8 wouldn't be very much change between the draft and the final at
9 that point, and that with any luck at all we actually shorten up
10 the time period between the draft and the final EIS coming out
11 because we will have made most of the changes that need to be made
12 in the draft, and that with any luck at all that means we don't
13 lose a whole lot of time on our December date that we were shooting
14 for in the first place. I wouldn't want to promise that. I'd have
15 to go back and look at the calendar to see if that's really the
16 case or not, but I think the crux of the issue here is a
17 willingness to use the draft restoration plan to do the '94 work
18 plan, and if we can get ourselves comfortable with that, when the
19 restoration plan -- which week the restoration plan comes out,
20 you'd lose a lot of the significance.

21 MR. PENNOYER: Well, let me ask a question. When do we
22 have to have the '94 work plan finalized.

23 MR. BRODERSEN: We need to have -- roughly the end of
24 August.

25 MR. PENNOYER: And we have to make a decision on it when?

26 MR. BRODERSEN: Well, you have to make your decision on it

1 at the end of August.

2 MR. PENNOYER: I mean the detail. The detailed '94 work
3 plan decision has to be done by the end of August.

4 MR. BRODERSEN: End of August to meet federal constraints
5 with

6 MR. PENNOYER: I don't see how we going to use anything
7 but the draft.

8 MR. BRODERSEN: Neither do I, but I didn't want to be
9 quite that

10 MR. PENNOYER: If -- if, in fact, we're going to do any
11 restoration in '94? I think rushing this thing on is not going to
12 get us restoration in '94 but reaching the end point, because the
13 end point's going to be reached, no matter how well we do it, after
14 we have to make that August decision. So --

15 MR. BRODERSEN: You'll have public comment in April to let
16 us know whether the draft restoration plan we have is on track or
17 it, and that should be sufficient to allow us to deal with the '94
18 work plan. I meant the timing should be sufficient. As to the
19 decision as to whether to do it or not is a policy decision the
20 Trustee Council to decide. But it will -- the opportunity will be
21 there.

22 MR. PENNOYER: So, if in -- if in April we sent this --
23 March -- we send out this alternatives information package, what we
24 get back is hugely different, the draft EIS will already be under
25 preparation, and so at that point you say, whoops, wait a minute,
26 send new instructions to the people doing the draft information --

1 environmental impact statement, that would be delayed to bring us
2 into line with what we're planning to do for revised restoration
3 package, and they both went together, and maybe do it in the fall.
4 It wasn't much different from you perceived then, the track, and
5 what Mr. Barton said which was a final analysis, correct that --
6 what we needed to do on the final environmental impact statement.
7 The problem is, I bet you can't correct almost the confusion of the
8 public sending one thing out then coming out there and sending
9 something else out that looks exactly like the first one, even
10 though you've already had good comment. So -- does that make sense
11 of the procedure, and does the Trustee Council at this stage accept
12 the fact that if we want to do restoration in '94, we will have to
13 do it somehow based on the draft restoration plan, or not do it, as
14 the case may be.

15 MR. COLE: The restoration -- I mean, is totally
16 unacceptable.

17 MR. PENNOYER: I think you're correct. I guess my point
18 is you can't do anything about it. We either do it or we don't do
19 it. It won't be based on having a final restoration plan in front
20 of us, because we won't have it. In the best scenario we won't
21 have a restoration plan by August. We've got to base it on the
22 draft.

23 MR. COLE: Is Interior going to agree to that.
24 (Simultaneous talking) ... hung up ... The '94 work plan, you
25 know, we're not having a restoration plan. We may have a escaped
26 that -- this meeting. I hope so. Pretty far along, but I'm not

1 sure that they will grant us the indulgence that they -- Mr. McVee
2 on his last day kindly consented to do.

3 MR. PENNOYER: Mr. McVee.

4 MR. McVEE: Go ahead.

5 MR. PENNOYER: Ms. Bergmann.

6 MS. BERGMANN: Yes, Mr. Chair. I agree with the concept
7 of schedules described by Mr. Brodersen. I think that takes care
8 of what -- what we were concerned about in terms of taking public
9 comment into account. The concern about using the draft work plan
10 as a basis for -- I'm sorry, the draft restoration plan as a basis
11 for the directing '94 work plan is that the draft restoration plan
12 will include the entire suite of options. It will take -- it will
13 have alternatives that take a very conservative approach to
14 restoration. It will have alternatives that take a very liberal
15 approach, and it will have alternatives in between. Since there
16 will be no way for the public to know which one the Trustee Council
17 is favoring -- in other words all the information is going to be in
18 there, so that's not really -- we're not going to have any more
19 guidance by having that draft restoration plan in place than we
20 have at this point in time. So, I'm not sure how that gets us out
21 of the problem of dealing with, you know, is (indiscernible --
22 coughing) lost opportunity, whatever, because ultimately the
23 Trustee Council will be deciding on one of those alternatives, and
24 we won't know until after the '94 work plan is in place, which one
25 that's going to be.

26 MR. PENNOYER: Mr. Brodersen, will you tell us how we're

1 going to do all that.

2 MR. BRODERSEN: Well, I would hope that the primary thing
3 that would come out of the workshops or whatever one wants to call
4 it with the public in April is a discussion of where we're going
5 with the alternatives and what emphasis we want to put on what
6 projects, and that surely we can incorporate into our thinking as
7 we look at the '94 work plan what the public has told us they'd
8 like us to do from those April meetings. That we should be able to
9 finesse the problem of not having a preferred alternative in the
10 restoration plan by looking at what the public tells us and
11 incorporate that into our actions in figuring out the '94 work
12 plan.

13 MR. BARTON: I think we need to be very careful though
14 that we don't jeopardize the NEPA process by predetermining the
15 final alternative.

16 MR. BRODERSEN: I agree a hundred percent. I think we're
17 -- I think we're capable of doing that.

18 MR. BARTON: Capable of which? (Inaudible --
19 simultaneous laughter and talking)

20 MR. PENNOYER: I guess what comes out here is I'm not
21 sure we have any choice. I agree with Attorney General Cole, it's
22 unacceptable not to do some restoration in '94. I don't know how
23 much, but unacceptable not to do some. On the other hand, we can't
24 change the -- change NEPA. So we either make a decision to proceed
25 with restoration in '94 to some degree based on doing all the
26 things we've talked about, taking into account the public comment,

1 using the draft restoration plan, and so forth -- or we don't
2 because somebody says we shouldn't. But either way we can't change
3 this. We can't get a restoration plan by August, unless I've
4 completely missed the boat here, with NEPA and our own internal
5 system -- our own internal system will not allow us to get a
6 restoration plan by August.

7 MR. COLE: Mr. Chairman, I think we must do a lot of
8 restoration in '94. I think we have no alternative. I mean, what
9 is this -- how many years after the settlement and we're still
10 drifting around as to almost whether we are doing restoration in
11 '94. We have to do restoration in '94. We have no choice not to
12 do restoration in '94, and we have to get on with it, and I don't
13 know exactly what the solution is. I would like to have the
14 Restoration Team, the executive director give this some heavy
15 thought quickly and write us some letters and some proposals as to
16 what they think the solution is. But, I have just -- you might say
17 I'm utterly opposed to going through this same process every year,
18 and there's always some reason why we can't get it done, and as
19 they say, the time has come to just get it done, and find the
20 solutions. Find the solutions whatever they are so we can get this
21 done, and if we have to, you know, skimp a little here and there,
22 then we ought to do it, but we have to get this done. I mean, you
23 know, we're doing the same thing it looks like virtually in '94
24 that we've done the last two years. Now, you know, if we can't get
25 it done then we have to make some -- address some fundamental
26 changes someplace because it's unacceptable.

1 MR. PENNOYER: Mr. Barton.

2 MR. BARTON: Mr. Chairman, I hate to say this, but we
3 don't need to make a decision today, as much as we'd like to, and
4 we might make a better decision after the February 16th
5 presentation, and I don't believe that fouls up the timeline in any
6 way. Is that correct?

7 MR. LOEFFLER: That's correct.

8 MR. BARTON: So I'm suggesting that we move along
9 unless we want to beat this around the bush one more time.

10 MR. PENNOYER: Shall we leave it however for the February
11 16th meeting with the admonition that Attorney General Cole did
12 give us that in fact what we want to do is restoration in '94, and
13 however we structure this, that should be our goal, to start
14 restoration in '94. So all of the schedules, the plans, and how we
15 do the preliminary work plans and how we fit that and make it fit
16 the NEPA process, all those are things we should be thinking about
17 and come back with the type of advice you gave us (indiscernible)
18 but perhaps more of the details spelled out so we can sign off on
19 it. Actually it would be sign if everybody'd sign off on it -- all
20 of us agree we're going to -- the draft restoration plan and the
21 (indiscernible) process.

22 MR. BARTON: I think we have to sign off on it on
23 February.

24 MR. PENNOYER: Good. Anything further? Additional
25 comment? Mr. Brodersen.

26 MR. BRODERSEN: One more -- little short thing. One way

1 that we could take quite a bit of time out of this that folks like
2 myself have idly speculated on in the past, if we could do an
3 environmental analysis rather than EIS for this project we could
4 cut the time on it considerably. It still wouldn't get us out of
5 the trap that we're talking about for the '94 work plan, but it
6 would definitely shorten the time period. I would sure like folks
7 to see if they couldn't be innovative and see if we can come up
8 with a way to do that. I'm not hopeful, but I sure appreciate the
9 federal side approaching their attorneys and seeing what might be
10 done along that line.

11 MR. PENNOYER: Mr. Barton.

12 MR. BARTON: I'd be delighted to approach Agriculture's
13 counsel if Interior will do the same thing. I -- I doubt that
14 we're going to get a different answer. If there is a more
15 fundamental question that is -- that was raised yesterday, and I
16 raised it earlier -- do we need a restoration plan?

17 DR. MONTAGUE: Mr. Chairman.

18 MR. PENNOYER: Mr. Montague -- Dr. Montague.

19 DR. MONTAGUE: Relating to the Attorney General's and
20 others' concerns, simplistically all it needs to have a full-scale
21 restoration program in '94 is the Council to determine they can do
22 that without a restoration plan. There are no documents that say
23 the annual work plan doesn't constitute a plan.

24 MR. PENNOYER: Well, perhaps in February we could discuss
25 that alternative as well. I think -- my personal view is that we
26 need a restoration plan. I don't know if we need a restoration

1 plan in caps, with EISEs and everything trailing along or just a
2 Council plan of how we're going to approach the next eight years of
3 restoration, and those may be two completely different concepts.

4 MR. COLE: Mr. Chairman, could we ask the Restoration
5 Planning Group to see if they could -- you might say -- streamline
6 the restoration plan -- streamline the restoration plan.

7 MR. PENNOYER: I guess if you do an all caps plan though
8 that requires NEPA, you're still in the same box even if it's
9 relatively simplistic, aren't you?

10 MR. LOEFFLER: Mr. Attorney General?

11 MR. COLE: Yeah.

12 MR. LOEFFLER: Getting ready to go out in March is a
13 streamline from here as we can be, and at that point -- from that
14 point on, whether it's a plan in caps or small letters with NEPA is
15 -- I don't know what the answer is, but from that point on it's the
16 federal EIS requirements that guide. So, as far as -- as far as
17 what we can do -- we can do, is get ready by March, and if we can
18 find a way out of the NEPA requirements by making the plan in a
19 smaller version of letters or something, so

20 MR. PENNOYER: Why don't we all agree to come back in
21 February with those options discussed with our various attorneys on
22 how to approach this. While we need a plan, I'm not sure, again,
23 that these were capital letters on it, and each of these projects
24 is going to have its own environmental statement done before we do
25 it, so I -- I think if we can all go back and consult with our
26 folks and come back in February with the best way to approach this,

1 with the goal of doing restoration in '94. Any further, John --
2 excuse me, Mr. Barton.

3 MR. BARTON: Your last comment bothered me. I mean,
4 we're going to do restoration in '94 in any event, are we not?

5 MR. PENNOYER: Well, any one person holds their hand up
6 and says no, means we're not going to do restoration in '94, so I
7 think we do have to address the issue.

8 MR. BARTON: I said our goal is --

9 MR. PENNOYER: I said our goal was -- yes.

10 MR. BARTON: I thought it was conditioned upon -- and
11 I was objecting to conditioning that goal.

12 MR. PENNOYER: Oh, no, the conditioning -- the goal was --
13 -- let's go to lunch. (Laughter) Well, no, we have -- Mr. Strand?

14 DR. STRAND: I was just about through. I was just
15 going to indicate that I appreciated this discussion, and I did
16 receive some valuable comments from the members of the Trustee
17 Council, and they will be taken into consideration as we articulate
18 the materials that we'll have ready for you in February.

19 MR. PENNOYER: Okay. We'll go to lunch -- what, be back
20 at one o'clock? Let's do that.

21 (Off Record at 11:50 a.m.)

22 (On Record at 1:01 p.m.)

23 MR. PENNOYER: I'd like to go ahead and get started if we
24 could. We've got a long ways to do. I just counted up the number
25 of projects we've got left, and we've got twenty to look at and
26 five hours maximum to do it. So if we want to be out of here by

1 six, we can't take more than an average of fifteen minutes per
2 project, even if we don't do anything else.

3 MR. COLE: I have -- I have to be out of here but no
4 later than twenty after four.

5 MR. PENNOYER: We now have ten minutes per project, and
6 I would suggest that while Commissioner Sandor asked that we
7 proceed on other items in the projects that we -- basically, I
8 think that the '93 work plan is our highest priority must-do item,
9 I would suggest we go ahead with that, and then take up any of the
10 other items at the end if time remains.

11 MR. BARTON: Wonderful job of honoring Commissioner
12 Sandor's wishes.

13 MR. PENNOYER: Great. Alright. Mr. Brodersen?

14 MR. BRODERSEN: There are three other projects that
15 aren't on these lists -- that are the financial committee, the
16 administrative records budget and the Restoration Team that we also
17 need to get through before the '94 work plan.

18 MR. PENNOYER: We now have six minutes per project. The
19 next one I have on my list that we need to do is -- we got through
20 '20 -- is '22 -- evaluating the feasibility of enhancing the
21 productivity of murres by using decoys, dummy eggs, and recording
22 of murre calls to simulate normal densities at breeding colonies
23 affected by the EVOS, and monitoring the recovery of murres in the
24 Barren Islands -- Department of the Interior, \$281,000, unanimously
25 recommended by the Restoration Team, recommended by the chief
26 scientist, unanimously not recommended by the Public Advisory

1 Group. The table of Interior said, yes, we should do it, the
2 murre have been the most injured species, some colonies have not
3 recovered it which -- Mr. Cole.

4 MR. COLE: Did Interior withdraw this project?

5 MR. PENNOYER: I don't believe they did.

6 MR. COLE: Did Interior withdraw this project?

7 MR. PENNOYER: Would Interior care to withdraw this
8 project at this time? Interior would not care to withdraw the
9 project.

10 MR. COLE: Well, in the interests of time, I move
11 that we reject it.

12 MR. PENNOYER: It's 6,0 from the Restoration Team. Is
13 there a second and any -- the motion is to reject it. Is there a
14 second?

15 MR. BARTON: Well, if one objects to it ...?

16 MR. PENNOYER: I guess ...

17 MR. COLE: What are you going to propose to do?
18 (Laughter) Don't put the monkey only on my back. (Laughter)

19 MR. PENNOYER: Do wish Interior to scribe -- to describe
20 the project at least or have we had a enough discussion?

21 MR. McVEE: I can give you our position on it. This
22 is one of the most injured species.

23 MR. PENNOYER: I understand that, Mr. McVee. Does this
24 have to be done -- using your own criteria -- is this time-
25 critical?

26 MR. McVEE: Yes.

1 MR. PENNOYER: Since we've asked Mr. McVee to consider
2 changing his vote -- votes in response to a good argument, perhaps
3 we should give him a chance to say that -- give us a project
4 description and say why this is time critical.

5 MR. McVEE: We'll make it as brief as possible. Pam?

6 MS. BERGMANN: Yes, Mr. Chair. The project has two
7 components. The first is evaluating the feasibility of enhancing
8 productivity of murres using decoys, dummy eggs, and recordings of
9 murre calls. This portion of the project was included based on
10 peer reviewer comments as part of the Restoration Team meetings.
11 As you all know were -- are the most injured species. As a result
12 of the spill, breeding, normal breeding has not come, and in a
13 number of the colonies restoration certainly has not occurred.
14 There aren't many restoration options for this particular species,
15 and it was the feeling of the peer reviewers and the chief
16 scientist and others folks, as you can see in the record, supported
17 looking at this feasibility project as a method to try to enhance
18 the breeding to try to bring productivity back faster. The second
19 part of the project is monitoring of one of the most injured murre
20 colonies, and that's the colony in the Barren Islands, to try to
21 determine what's happening there -- are the birds coming back --
22 are they breeding in a more normal pattern or do we have a
23 continuing problem there.

24 MR. BARTON: Mr. Chairman.

25 MR. PENNOYER: Mr. -- Mr. Barton.

26 MR. BARTON: How much of the study -- how much money is

1 devoted to the monitoring portion?

2 MS. BERGMANN: The monitoring portion, Mr. Chair, is
3 \$177,000. The feasibility study is \$103,000.

4 MR. BARTON: On the feasibility study portion of this,
5 what increment of backup do we expect?

6 MS. BERGMANN: The idea of the feasibility is just to see
7 if this technique is actually going to work, and this is based on
8 peer reviewer comments who have looked at these kinds of techniques
9 in the murre colonies and similar colonies throughout the world,
10 and the comment we had the other day from the peer reviewer, if you
11 can't try to do a project like this on a population in Alaska that
12 was so severely injured, when are you ever going to justify trying
13 to do something like this. If it works, then we would come back
14 next year and ask for some implementation of that, of that project.

15 MR. BARTON: But is there some reasonable expectation
16 of finding a technique that will work or are we really shooting in
17 the dark?

18 MS. BERGMANN: I would ask Bob to comment on that. I
19 would hope that -- I'm assuming the peer reviewers think that
20 there's a reasonable chance that this is going to work. I -- I
21 don't think they're interested in just throwing money away.

22 DR. SPIES: There's not a high probability that a lot
23 can be done at this stage. There's a lot of uncertainty as to
24 whether these techniques will work, and even if they do work, how
25 widespread their implementation to be once they are -- but to
26 reiterate your argument, this is the most injured species, I think,

1 arguably of all those that were affected by the spill, and it
2 wasn't -- you know, if we can't do something about this species, as
3 I said, we ought to at least give it a try here and see if we can
4 bring it back -- this is the largest spill we've had in North
5 America -- we can make some progress on seabird restoration.

6 MR. PENNOYER: Mr. Barton.

7 MR. BARTON: What sort of natural recovery would we
8 expect to see?

9 DR. SPIES: The question of natural recovery of --
10 excuse me -- the question of natural recovery of murres is that
11 it's somewhat problematical until you get enough birds here to
12 begin breeding -- from there -- a recent sort of threshold, and
13 then we can be a bit more certain about how best that population
14 will come back. Right now, we really don't know how fast it will
15 come back. And the idea here is that -- that some of these
16 techniques will get the population, perhaps, to some sort of
17 threshold, at least in some part of the colony. There is a lot of
18 uncertainty. There is no guaranty it's going to work.

19 MR. BARTON: Are you saying then that the population
20 has been reduced to the point where there's not successful
21 breeding?

22 DR. SPIES: Yeah -- Chiswell Islands especially. The
23 Barren Islands pretty -- the Barren Islands, excuse me, are very
24 hard hit -- and very little breeding is taking place there. So, we
25 have -- we have -- in '92, we still have, you know, much reduced
26 breeding activity in the hardest hit colonies.

1 MR. PENNOYER: Mr. Cole?

2 MR. COLE: First, let me say that comments of the
3 peer reviewer are saying if you can't do anything about this one,
4 what -- restoration here -- where can you. That doesn't seem to
5 follow to me, if, at the end of the day, we can't do much
6 restoration. That doesn't seem to follow, but maybe it does. The
7 Sierra Club opposes this project -- "it's unlikely to be effective
8 or efficient -- too extrusive." The Wilderness Society says they
9 strongly oppose it, and they say this "the U.S. Fish & Wildlife
10 biologists do not support this project." Is that true?

11 MS. BERGMANN: Mr. Chair? I would ask Carol of the U.S.
12 Fish & Wildlife Service to comment on that.

13 MS. GORBICS: The Fish & Wildlife Service considered
14 proposing this, and we did not in the initial proposals. But after
15 talking with the peer reviewers, they asked for peer proposal on it
16 and to research it, and we have done that -- proposal, put together
17 as Bob suggested. We think it has a possibility of succeeding.
18 We're not real clear that (inaudible -- coughing) cause damage that
19 would keep them from (indiscernible) but there is an intrusive
20 nature to it.

21 MR. COLE: Why didn't you propose it initially?

22 MS. GORBICS: For the same reasons the Sierra Club and
23 Wilderness Society were raising. We were just concerned that --
24 that it was a lot of money, perhaps, and might not make a huge
25 impact, and that's still something that's possible, but the peer
26 reviewers and Bob Spies were -- were persuasive in saying, well,

1 look, at least do a feasibility study and see if you are right,
2 Fish & Wildlife Service, and so we were will to consider it on that
3 basis.

4 MR. COLE: She says that the peer reviewer Ruby (ph)
5 does not support this. Is that true?

6 MS. GORBICS: Dan Robey (ph)? I don't recall all the
7 specifics of all the peer reviewers, but there are definitely two
8 sides to this question.

9 DR. SPIES: We had a -- in preparation of litigation,
10 before the settlement, we had a very large meeting in Anchorage,
11 here, brought seabird experts from the Lower Forty-eight, Canada,
12 and so forth, people who really knew all about bird biology, and
13 there was a variety of opinions expressed, and as a result of that
14 meeting Dan Rodey (ph) wrote a lengthy letter to Stan Center (ph)
15 at that time, expressing doubt whether these, any of these
16 implistic (ph) nature would make a difference, but there is quite
17 a bit of variety of opinion on this particular subject, and the
18 reviewers who have (indiscernible) in the process feel fairly
19 strongly that we should try some of this, and this reflects their
20 opinions. I think it's a matter of the uncertainty. We don't
21 really know, and people take different views of the

22 MR. PENNOYER: \$177,000. This is monitoring the Barren
23 Islands? When was the last time we monitored the Barren Islands?
24 It has a necessity to do that this year?

25 MS. BERGMANN: We did do some monitoring in 1992, and the
26 results of that are still showing problems in the Barren Islands,

1 Carol?

2 MS. GORBICS: As far as I know. We haven't fully
3 analyzed that situation, but

4 MR. PENNOYER: What is the need to keep recovery
5 monitoring on an annual basis?

6 MS. GORBICS: For the -- we're recommending it for the
7 Barrens only. We monitored a whole bunch of colonies in the past -
8 - the Barrens, the Chiswells, Equali (ph) Bay. In some of those
9 other colonies we are seeing some signs of recovery or -- the
10 Chiswells, for instance, seemed to bounce right back. But the
11 Barrens we're concerned enough about that we feel it's real
12 important on an annual or perhaps later on an every other basis to
13 understand if that population is changing so that we can better
14 know if the risk -- if we don't take this risk on the feasibility
15 study this year, we won't have any more information about whether
16 we should jump in and do it next year or the year after. So we
17 feel strongly that at least the Barrens -- do annual monitoring
18 right now -- that would likely change -- because we just don't
19 understand what's happening.

20 MR. PENNOYER: Mr. Barton, do you have a motion?

21 MR. BARTON: No, not yet. The problems that were
22 identified in the '92 monitoring, were they just the numbers or
23 were there other problems that were identified.

24 MS. GORBICS: Well, again, it's -- it's -- the birds are
25 they, they're climbing onto the cliffs to nest very late in the
26 season, they rely on each other -- they're a very social, need to

1 be shoulder to shoulder, if you will, wing to wing, to protect them
2 from predators so they can successfully stay on their nests,
3 protect their egg until it hatches. The hatchlings then jump from
4 the cliffs before they are able to fly and go out to sea during the
5 fledgling -- fledging stage -- so if they wait too long to climb
6 onto these niffs (sic) -- onto these cliffs to nest, the hatchlings
7 jump into the sea way too late in the season and die. So the ones
8 that are born even, don't even make it to be fledglings. So, we
9 are seeing some reproduction; we're not seeing enough early
10 reproduction, and we're hoping to follow some pockets of earlier
11 reproduction and see if that's starting to spread into greater
12 areas of the colony or see what happens.

13 MR. PENNOYER: Mr. Rosier.

14 MR. ROSIER: Is there a strong integrity -- excuse me --
15 - to these colonies? In other words, you're not seeing any
16 recruitment from outside populations? I mean, we've got a lot of
17 murrelets scattered all over the Gulf.

18 MS. GORBICS: We don't understand the privies of the
19 colony. We don't know whether it's coming from other places or
20 not.

21 MR. PENNOYER: Further discussion? We have a motion on
22 the floor to not authorize the project to go ahead. Is there
23 either an amendment or -- wish to take action. Mr. Rosier?

24 MR. ROSIER: Mr. Chairman, I -- it seems to me that at
25 this point I would certainly support continuing the monitoring of
26 the program, anyway. It sounds like we don't know a great deal

1 about it. It seems to me that we certainly need to continue to do
2 some monitoring on that population.

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: I would think that we should, perhaps, or
6 likely do the monitoring, but I'm not satisfied that we need to
7 evaluate the feasibility of enhancing the productivity until we
8 complete the monitoring.

9 MR. PENNOYER: Do I have a motion to continue the
10 monitoring portion of this project?

11 MR. ROSIER: I would so move.

12 MR. PENNOYER: Is there a second?

13 UNIDENTIFIED: Second.

14 MR. COLE: How much is the monitoring?

15 MR. PENNOYER: \$177,000. Is there objection to that --
16 to the motion to continue the monitoring but disallowing the
17 feasibility studies? Okay. Project partially approved then.

18 The next project on our list is 93024, restoration of Coghill
19 Lake sockeye salmon stock, ADF&G and U.S. Fish & Wildlife -- U.S.
20 Forest Service, \$191,900, recommended five-one by the Restoration
21 Team. This is an enhancement by the chief scientist and
22 unanimously recommended by the Public Advisory Group. Does ADF&G
23 or Forest Service wish to give us a -- and also, no, was to the
24 proposal by Interior -- does not meet restoration criteria and not
25 time critical, reconsideration when restoration plan is final.

26 MR. RICE: Mr. Chairman?

1 MR. PENNOYER: Somebody -- yes, Ken, go ahead.

2 MR. RICE: Mr. Chairman, the NEPA compliance has not
3 been completed on this at this time.

4 MR. PENNOYER: So we couldn't take action on this until
5 February anyhow?

6 MR. RICE: That's correct.

7 MR. PENNOYER: Anybody care to take it up now at all or
8 should we -- if somebody's going to say know, maybe we don't do a
9 NEPA compliance. (Laughter)

10 MR. McVEE: We don't -- we think it should -- should
11 be postponed until the restoration plan.

12 MR. PENNOYER: Are you then suggesting we that we not
13 continue the NEPA compliance at this time?

14 MR. McVEE: That would be our suggestion.

15 MR. PENNOYER: I guess we'd better have an explanation of
16 the project then, if the alternative is not to consider, in
17 February, or not to consider at all.

18 DR. MONTAGUE: I would like to do a project description,
19 but I think there is some biological information that's relevant to
20 this discussion. The sockeye population, or the returns, averaged
21 about 250,000 in the past. '91 declined to about 25,000, and in
22 1992 declined into the hundreds, and, you know, it's -- it's on the
23 border of a total collapse in the Coghill system. So, if it's ever
24 to be considered by this process, that it's, in biological terms,
25 extremely time critical.

26 MR. PENNOYER: Further questions?

1 I'll delve into it a little bit. This project then is simply
2 a study to see how we might ...?

3 DR. MONTAGUE: No. It's a hard restoration project that
4 would be fertilizing the lake and, and monitoring the change in the
5 limnology and the production of food for sockeye with the idea that
6 it would eventually restore the run so that the carcasses from the
7 usual 250,000 fish would provide the fertilizer for the lake and a
8 healthy system, but until that time it would require this
9 fertilization.

10 MR. PENNOYER: This amount of money, the \$191,900, is
11 going to actually provide the first application of fertilizer.

12 DR. MONTAGUE: That's correct?

13 MR. PENNOYER: Further discussion? Mr. Brodersen.

14 MR. BRODERSEN: Considering the shortness of time we have
15 to get through the rest of these, it would seem like an awfully
16 good idea to defer this one until a later time. I would suggest
17 that we go ahead and do NEPA compliance on it any way because if we
18 do not do it in '93, I would imagine it'll be brought back up again
19 in '94, NEPA compliance will need to be done for it then, we could
20 just do it now, we wouldn't have lost the staff time, we probably
21 better just get on with these.

22 MR. BARTON: Mr. Chairman?

23 MR. PENNOYER: Mr. Barton.

24 MR. BARTON: I understood Dr. Montague to say though
25 that he thought it was time critical.

26 MR. BRODERSEN: Yeah, but in terms of NEPA compliance, if

1 it isn't done we can't address it today, from what I understood.

2 MR. BARTON: Well, well I wasn't operating under that
3 assumption.

4 MS. BERGMANN: Mr. Chair?

5 MR. PENNOYER: Ms. Bergmann.

6 MS. BERGMANN: I think the guidance we received from the
7 attorneys at our last meeting was that if NEPA compliance had not
8 been completed that the Trustee Council could establish whether or
9 not it met the criteria that had been established for the
10 restoration plan. If the answer was yes, it meets the criteria,
11 then NEPA compliance could go forward. If -- if Trustee Council
12 members feel that it did not meet the criteria, then there was no
13 need to proceed ahead with NEPA compliance.

14 MR. PENNOYER: Mr. Brodersen's suggestion is a pragmatic
15 approach to getting through this. Ms. Bergmann, you are probably
16 correct, and what we ought to do is to decide whether we should
17 proceed with it all, but -- Mr. Barton.

18 MR. BARTON: Do we know when the NEPA work will be
19 completed?

20 MR. RICE: Mr. Chairman, I don't have a -- a date on
21 that. We have had some internal review drafts, but they're -- it's
22 still going another editeration.

23 MR. PENNOYER: Will it be ready in time for the February
24 meeting?

25 MR. RICE: I can't promise that, but I can certainly
26 work towards that.

1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: We haven't discussed this, but as I
3 understand, this is a five year project. Is that the case? And
4 are we looking \$200,000 a year for the next five years? Before we
5 embark on this million dollar project, I'm wondering if we
6 shouldn't give it a little more thought.

7 MR. RICE: Mr. Chairman, the funding for this year
8 would not lock the Trustee Council in to funding for additional
9 years. Certainly, in order for it to be successful, fertilization
10 should go on for a couple years. The agencies have already put, I
11 don't know how much, but a fair amount of normal agency funding
12 into the development of this project, so the Trustee Council is
13 being asked to basically assist with that project.

14 MR. PENNOYER: I guess if the agencies have put that much
15 investment into it, my assumption is they were probably proposed
16 for '94 even if they didn't have it for '93, therefore Mr.
17 Brodersen's suggestion may actually be correct. Whether we use the
18 environmental documents for a '93 plan or -- February, or whether
19 we decide not to proceed with it, you still would have to do that
20 anyhow for the '94, so perhaps we could take Mr. Brodersen's
21 suggestion and deal with in February when we see the NEPA document.

22 MR. COLE: Well, let me say this. I'm a little
23 cautious when people say, well, you know, this is a five year
24 project, but, you know, you can cut it off at the end of the first
25 year or the second, because we've heard that several times this
26 morning already. But, what, we know what will be said at the end

1 of the second or the third years, gee, we got five hundred thousand
2 dollars into this project, and it's really a waste of time or money
3 not to go ahead, and so we really should go ahead and finish up
4 this project in the next two years. So when we get into these five
5 year proposals, I need a little higher comfort level than, you
6 know, we'll just run this this year and then we can cut it off --
7 because I don't think it works that way. Our experience has not
8 been that way, and that's not my lifetime experience, so

9 MR. BARTON: I wonder if all the project needs to be
10 repeated each year for five years -- if you look on page 113.
11 Perhaps just the fertilization is necessary. I -- I really don't
12 know, but it's -- question that takes (inaudible -- coughing) for
13 five years.

14 DR. MONTAGUE: Mr. Chairman?

15 MR. PENNOYER: Mr. Montague.

16 DR. MONTAGUE: The folks that put this project together
17 and, you know, in their mind of doing it right, the way it was
18 proposed, is certainly not an incorrect way. The fertilization is
19 really what's gonna restore the lake. The assessment of the
20 effectiveness of that would, in my mind, not need to be done every
21 year. You know, if you were doing it, you'd probably want to do it
22 in the first year, but then you might want to go two years of
23 fertilization before you try to reassess the effectiveness of it,
24 and the -- during the years when you're only basically looking at
25 the adult returns part of it, the department already does. I
26 believe the Fish & Game component to be perhaps non-existent in

1 those years when you aren't assessing the effectiveness.

2 (Mr. Sandor rejoined the proceedings at 1:25 p.m.)

3 MR. PENNOYER: Mr. Barton -- well, we can't take action
4 on it here. Do we want to either say no to the '93 work plan
5 entirely or do we want to delay a decision until we see the NEPA
6 document at the February meeting?

7 MR. BARTON: Mr. Chairman.

8 MR. PENNOYER: This is -- I think just the first of
9 several like this too. Mr. Barton?

10 MR. BARTON: Yes. I -- I move we defer this to the
11 February meeting.

12 UNIDENTIFIED VOICE: Second.

13 MR. PENNOYER: It's been moved we defer this to the
14 February meeting with the assumption that the environmental impact
15 -- environmental assessment document will be in front of us at that
16 time as well. Is there objection to do that? Thank you.

17 MR. SANDOR: Why don't you go to the break. (Laughter)

18 MR. PENNOYER: I can't make motions that way though.
19 (Laughter) That was the idea, huh?

20 The next project is 930' -- I'll do one more project and I'll
21 let you do the next one -- 93025, Montague Island chum salmon
22 restoration, U.S. Forest Service, \$81,500, five-one vote on the
23 Restoration Team, an enhancement proposal in the opinion of the
24 chief scientist, unanimously recommended by the Public Advisory
25 Group. Does -- and, again, Interior says no, not time critical,
26 will reconsider when the restoration plan is final. Does the

1 Forest Service wish to give a brief sketch of what this is? Mr.
2 Rice.

3 MR. RICE: Mr. Chairman, this project is one of a
4 small suite of projects that directly enhance habitat for some of
5 the injured resources. Chum salmon, while not specifically
6 studied, did show some injury by the Exxon Valdez oil spill. This
7 project would go into several streams on Montague Island and
8 provide additional spawning habitat for chum salmon as a
9 replacement for injured fish. These streams were not oiled by the
10 oil spill. However, they do provide an opportunity to enhance
11 habitat, and it would look at a couple of streams, do some minor
12 work in several streams, and do the engineering work for any more
13 extensive work that would -- the engineering studies, I should say,
14 -- for any more extensive habitat enhancement that could occur in
15 future years.

16 MR. PENNOYER: Questions? Is the NEPA compliance done?

17 MR. RICE: For this year, NEPA compliance has been
18 completed because the projects are small enough they meet agency
19 criteria for categorical exclusion. The engineering work studies
20 that would be needed if future work was more in depth, then -- then
21 additional NEPA work would be required for -- for out-years.

22 MR. McVEE: Mr. Chairman?

23 MR. PENNOYER: Mr. McVee.

24 MR. McVEE: What are the losses to damaged resources
25 if this is not implemented until next year?

26 MR. RICE: Losses to damage -- I'm not sure I fully

1 understand the question. I guess if we did not implement this
2 year, we would lose an opportunity to do some limited enhancement
3 work. The habitat would not be enhanced, basically.

4 MR. McVEE: Wouldn't that opportunity still be there
5 next year?

6 MR. RICE: Yeah. The -- the opportunity would be
7 there in the future.

8 MR. McVEE: Thank you.

9 MR. PENNOYER: Do you have a motion? Mr. Barton.

10 MR. BARTON: Mr. Chairman, I move to adopt this
11 project.

12 UNIDENTIFIED VOICE: Second.

13 MR. PENNOYER: Moved and seconded to adopt this project.
14 Is there an objection?

15 MR. McVEE: Yes.

16 MR. PENNOYER: The next project is 93028 -- no, I'm
17 sorry, 93026, Fort Richardson hatchery water pipeline, Alaska
18 Department of Fish & Game, \$3,617,000, not recommended in a five
19 vote by the RT, no opinion by the chief scientist, recommended
20 nine-four by the Public Advisory Group. I've lost it but I think
21 Interior said, no, but I haven't found that. Fort Richardson
22 pipeline, Interior said no, does not meet restoration criteria, no
23 direct link to EVOS injury. Would Fish & Game care -- we've heard
24 quite a bit of discussion, would you care to make an encapsulated
25 presentation?

26 DR. MONTAGUE: Okay. As we talked so much yesterday on

1 the very low smolt production in the Kenai River and the expected
2 very poor returns in '94 and '95, would anticipate particularly in
3 '95 a closure to sport fishing for sockeye salmon on the Kenai
4 River that would affect somewhere between seventy-five to a hundred
5 thousand people, and then an economy of ten or twelve million
6 dollars. So what -- I mean, the best restoration action would be
7 to ensure that there's enough fish in the Kenai in '94 and '95 to
8 supply that sport fishery service, but there isn't any way to do
9 that, so this project would provide the same, if not an excess
10 number, of angler days in pretty much the same area to be a
11 replacement, an alternative service, for sport fishermen to use in
12 the years that -- that closure would be on the Kenai River.
13 Simply, the project would utilize the Fort Richardson hatchery
14 which, I guess, the seven or eight million dollar construction
15 costs for building it, produce a hatchery that given a sufficient
16 water supply could be, produce twice as many fish as it does now.
17 So this project would provide a water line to that hatchery that
18 would raise the production to approximately twice it's current
19 level. Two items on it -- naturally, the -- when restoration is
20 complete, they'll still be this pipeline and the state and the
21 department will be benefitting from that, and as such the annual
22 operating cost during the restoration years will be borne by the
23 department. The last note on this, the Municipality of Anchorage
24 contracts with a private firm to prepare an environmental
25 assessment on this project, and that was delivered to Fish &
26 Wildlife Service last Thursday.

1 MR. PENNOYER: Thank you. Further questions?
2 Discussion? Do I have a motion?

3 MR. ROSIER: Move to adopt.

4 MR. PENNOYER: Is there a second? (Pause -- no audible
5 response) Motion fails for lack of second. The project is dropped
6 from the '93 work plan. We will go on to 93028, and Mr. Chairman,
7 if you would care to....

8 (Mr. Sandor resumes chairmanship of meeting.)

9 MR. SANDOR: Thank you very much, Mr. Pennoyer. I
10 appreciate

11 MR. PENNOYER: By the way, Mr. Chairman, we calculated we
12 had about five minutes per project.

13 MR. SANDOR: Oh. That's my orders then.

14 MR. PENNOYER: So far, we've tripled that on every
15 project we've talked about.

16 MR. SANDOR: 93028 is restoration, mitigation of the
17 wetlands habitat for injured Prince William Sound fish and wildlife
18 species. U.S. Fish & Wildlife Service -- U.S. Forest is the lead
19 agency at 82.1 thousand, recommended five to one in the Restoration
20 Team, and the chief scientist of this project -- may enhance
21 natural resources but is unrelated to recovery of injured
22 resources. The Public Advisory Group vote on this was yes three,
23 no eight. So it was not recommended by the Public Advisory Group.
24 Interior's sheet indicated this was not time critical -- question
25 relating to injured resources and suggests it be reconsidered when
26 the restoration plan is final. I guess -- let's have a brief

1 description of this. Ken Rice, I guess.

2 MR. RICE: Mr. Chairman, this project would do --
3 this year's work would be the engineering and biological design to
4 take a, what's now a wet meadow area rapidly going into forested
5 habitat, and design a series of pools or water regimes so that it
6 would maintain a, a wetlands habitat and improve the anadromous
7 fish habitat in the area as a replacement for some of the wetlands
8 that were hit by the oil spill. This work would not do any direct
9 work -- any direct habitat alteration, it would be the design work
10 for that.

11 MR. SANDOR: Any questions regarding this project from
12 the Trustees. Is there a motion to approve this project?

13 MR. PENNOYER: Move to approve.

14 MR. SANDOR: Move to approve, Pennoyer.

15 MR. BARTON: Second.

16 MR. SANDOR: Second by Barton.

17 MR. RICE: Mr. Chairman?

18 MR. SANDOR: Yes, Mr. Rice.

19 MR. RICE: There's currently activity going on in
20 that part of the island with some road building, and while in terms
21 of time criticalness we don't anticipate needing to use that
22 equipment this year, of course, the opportunity to use that road-
23 building equipment and save tremendous cost in doing the work out
24 there would be greatly improved it was conducted during the time of
25 the road building as opposed to when most of that equipment was
26 removed. So from that standpoint there is some time-criticalness

1 to it.

2 MR. SANDOR: Any further questions?

3 MR. PENNOYER: Has NEPA compliance been completed on
4 this?

5 MR. RICE: For this year, it's categorically excluded
6 because it -- basically, this year's would be the engineering and
7 biological design for it. Then we would do the NEPA compliance for
8 it for any out-year work.

9 MR. COLE: Mr. Chairman, what is Interior's position
10 on this project?

11 MR. SANDOR: Curt McVee?

12 MR. McVEE: Our position is to object to this project.

13 MR. SANDOR: Because of the reasons outlined in ...

14 MR. McVEE: Yes.

15 MR. SANDOR: ... the sheet? Not time critical,
16 questionable link to injured resources -- is that correct?

17 MR. McVEE: Yes.

18 MR. PENNOYER: So, then Mr. Chairman, did you ask if
19 anybody objected to ...

20 MR. SANDOR: I will now. Is there any objection to
21 this? There is one objection, so the project is not approved.
22 Prince William Sound second

23 MR. PENNOYER: Can I just ask a quick question -- not to
24 delay this too much longer, but in -- this is less a feasibility
25 study than an actual engineering design study. If it was a
26 feasibility study, would it be doing something to advance the

1 restoration plan completion, testing restoration techniques into
2 feasibility studies, might be a little bit different than just
3 doing the pre-construction design, in your view? You tech --
4 you're doing a feasibility study to see if the technique is going
5 to produce the result?

6 MR. McVEE: Our view would be that there's no reason,
7 there's nothing to be lost, no resource would be further damaged if
8 this was postponed here until after the restoration plan is
9 completed.

10 MR. SANDOR: Mr. Barton.

11 MR. BARTON: Yes. It's true no resources would be
12 lost. However, they -- if -- if later the council decided they
13 wanted to go forward with this project, it would be considerably
14 more expensive because of mobilization of the equipment that would
15 be needed for the project.

16 MR. SANDOR: More expensive by how much?

17 MR. BARTON: I don't know, but considerable when you
18 have to barge the equipment out to the island.

19 MR. COLE: Mr. Chairman.

20 MR. SANDOR: Mr. Cole.

21 MR. COLE: What is the total cost of this project
22 over the projected four year life of it?

23 MR. SANDOR: Any estimate, Mr. Rice?

24 MR. RICE: Just -- I need to look at the detailed
25 budget. It's difficult to say. There were some projections made
26 by the people that put this together, but until we've done some of

1 the engineering work, it's hard to say. Jim, do you have a comment
2 on that?

3 MR. WOLF: The total cost is estimated to be \$1
4 million for the project.

5 MR. SANDOR: That's \$1 million for the four years.

6 MR. WOLF: That's to complete the project.

7 MR. BARTON: I do have -- Mr. Chair?

8 MR. SANDOR: Yes.

9 MR. BARTON: I do have a further comment, more
10 philosophical than anything else. I'm a little puzzled. We seem
11 very reluctant to do direct restoration work. We're deeming most
12 of these projects not time critical. We seem quite willing to do
13 studies.

14 MR. SANDOR: Well, that sort of sounds like a
15 challenge. (Laughter)

16 MR. PENNOYER: Like a zero, zero, two?

17 MR. SANDOR: But, well, Mr. Barton, how do you respond
18 to the -- to Interior's saying a questionable link to injured
19 resources. If it's a questionable link to injured resources,
20 what's the restoration?

21 MR. BARTON: It seems to me that this falls -- is
22 similar to the -- the activities related to sockeye and the Kenai
23 River. I see a parallel in that.

24 MR. SANDOR: Well, we will ask a reconsideration. Is
25 there any remaining objection to this project?

26 DR. GIBBONS: Mr. Chair, I've got a correction. The

1 total cost of this is around \$400,000.

2 MR. SANDOR: Over --

3 DR. GIBBONS: Over the life of the project.

4 MR. SANDOR: Rather than \$1 million? That's a sixty
5 percent savings right there. (Laughter)

6 DR. GIBBONS: You can pay for the project with the
7 savings.

8 MR. SANDOR: That's what my wife would say. (Laughter)
9 Can we wait another five minutes, we can try it again.

10 UNIDENTIFIED VOICE: The price goes up.

11 MR. McVEE: In spite of the savings, we continue to
12 object.

13 MR. SANDOR: The objection continues. We should move
14 on to project 93029.

15 MR. BARTON: Mr. Chair?

16 MR. SANDOR: Yes.

17 MR. BARTON: I withdraw that project.

18 MR. SANDOR: 93029 is withdrawn. 93030, Red Lake
19 restoration, ADF&G, \$77.2 thousand, is recommended five to one by
20 the Restoration Team, recommended by chief scientist, unanimously
21 recommended by the Public Advisory Group, and Interior's comments -
22 - it does not meet restoration criteria, problems with red salmon
23 not directly -- and problems with red salmon not directly linked to
24 Exxon Valdez oil spill. Let's see, yeah, Fish & Game. Dr.
25 Montague, can you summarize this at least.

26 DR. MONTAGUE: Yes. The Red Lake system is the other

1 system like the Kenai River that suffered an overescapement that
2 resulted in extremely low smolt production, and in 1992 we funded
3 this project to purchase, purchase and install the hatchery boxes
4 at the Pillar Creek hatchery, so that this year we could take eggs
5 from Red Lake, raise them, incubate them, hatch them and raise them
6 to a lot higher production than would -- than would occur
7 naturally, and then put the fish back in the lake. You
8 know, it's direct restoration action that is assisting nature to
9 recover at a faster rate.

10 MR. SANDOR: I see. Mr. Pennoyer.

11 MR. PENNOYER: Are you saying that we funded this in '92
12 -- the construction of the hatchery, funded it out of Exxon ...

13 DR. MONTAGUE: The Trustee Council's

14 MR. PENNOYER: ... funds for '92?

15 DR. MONTAGUE: Correct.

16 MR. PENNOYER: So if we don't approve this, we're
17 basically funded you to build a hatchery, not -- and not funding
18 you to put anything in it?

19 DR. MONTAGUE: Well, not a hatchery but a ...

20 MR. PENNOYER: I'm not saying it's wrong, I'm just trying
21 to

22 DR. MONTAGUE: ... a number of incubation boxes that's
23 ...

24 MR. PENNOYER: But the facility exists for other
25 purposes?

26 DR. MONTAGUE: Right. I mean, the Pillar Creek hatchery

1 was already, but -- I can't remember the number of incubation boxes
2 we've purchased last year, but that was about \$46,000.

3 MR. PENNOYER: That's why you need a restoration plan
4 before you start.

5 MR. ROSIER: Mr. Chairman.

6 MR. SANDOR: Mr. Rosier.

7 MR. ROSIER: I would say also on that that Pillar Creek
8 is not a state hatchery, that's a private sector hatchery.

9 MR. BRODERSEN: Mr. Chairman?

10 MR. SANDOR: Yes.

11 MR. BRODERSEN: The Restoration Team requested Fish
12 & Game put in this project to trigger so that depending upon
13 whether this is needed or not, it will or will not go. Is -- is it
14 based on the out-migration or the water migration?

15 DR. MONTAGUE: Mr. Chairman, the project is kinda gonna
16 sit in waiting until the adult returns occur during the summer, and
17 if those returns reach a level of 150,000, then no money would be
18 expended and the restoration effort would stop.

19 MR. PENNOYER: Is this insurance?

20 DR. MONTAGUE: Sort of.

21 MR. BRODERSEN: There's a question over whether there
22 will be an adequate return or not. If the return is adequate, then
23 the project will be dropped. If the return is inadequate and the
24 lake needs assistance, then the project would go ahead.

25 MR. SANDOR: It's an interesting point, yes?

26 MS. BERGMANN: Mr. Chairman, also 93030, correct -- it

1 also says it's contingent upon the finding of the sockeye salmon
2 synthesis meeting, which we talked about is going to be held in
3 March in Vancouver.

4 MR. SANDOR: Mr. Pennoyer.

5 MR. PENNOYER: If that's the case, and there's a trigger,
6 what else needs to be done between now and when you collect the
7 eggs in August or September. I mean, this is not a time-critical
8 project I don't think.

9 DR. MONTAGUE: Mr. Chairman, it's time critical for this
10 fiscal year. It's not -- I mean, the understanding we had was that
11 '93 projects would be approved today or they wouldn't be considered
12 until '94. So, you know, to be taken up later in the year is fine,
13 'cause it really will not need the money until August.

14 MR. SANDOR: The Chair asks this question. Whether or
15 not we approve this, it may not be used because it won't be needed.
16 Conversely, if we don't approve this and you find that you need it,
17 is there some way through program monies to get the seventy-seven
18 some thousand to do the work from other funds?

19 DR. MONTAGUE: Funds other than the Trustee Council?

20 MR. SANDOR: Yes.

21 DR. MONTAGUE: No.

22 MR. SANDOR: Mr. Pennoyer.

23 MR. PENNOYER: May I ask Mr. -- Dr. Spies what the
24 synthesis meeting's likely to show us. Is it going to talk about
25 the viability of raising red salmon fry in this fashion? Is it
26 going to talk about the concept of transplanting fry in a lake?

1 Are you going to talk about Red Lake population dynamics? Or what
2 is the synthesis meeting supposed to do?

3 DR. SPIES: I would imagine, although we haven't
4 discussed this in great detail, except that it's been the
5 recommendation of the peer reviewers for fisheries that -- that the
6 entire scope of sockeye programs proposed under the restoration
7 program be looked at, and I would imagine we'll look at the scope
8 of the injury and the degree -- the kind of information we have on
9 the recovery of the resource and what's appropriate in terms of
10 what's workable and, and doesn't present a problem.

11 MR. SANDOR: Mr. Pennoyer.

12 MR. PENNOYER: On many of these stocking-type projects,
13 the chief scientist recommended they were enhancement and took no
14 position. Why did you recommend this one specifically?

15 DR. SPIES: The -- Ragon (ph), the reviewer, though it
16 was a reasonable conclusion that the Red Lake problem could have
17 been a result of overescapement from the spill, although the -- the
18 information's not nearly as strong as it is for the Kenai River in
19 this respect.

20 MR. COLE: Mr. Chairman.

21 MR. SANDOR: Mr. Cole.

22 MR. COLE: How does this project relate to '031?

23 DR. MONTAGUE: Mr. Chairman, '030 actually restores the
24 injured fishery, '031 would create an artificial fishery to replace
25 the years that Red Lake is down.

26 MR. SANDOR: Any further questions?

1 MR. COLE: Could I ask Mr. Pennoyer to explain what
2 that answer means.

3 MR. PENNOYER: What's meant by that is in one case you
4 are actually trying to restore an injured resource, and the other
5 you're providing an alternative service in another place to take
6 the place of what might have been lost by the resource. In other
7 words, they're going to produce a red salmon run somewhere
8 different than Red Lake for that figure, part or some aspect of
9 that fleet what they can't harvest at Red Lake. It's an
10 alternative.

11 MR. McVEE: Mr. Chairman, what are the timing
12 implications? I guess -- when will -- if '030 is successful, then
13 it's an estimate of when -- when it would be restored then or
14 whether it would become into production, when those fish would be
15 available?

16 DR. MONTAGUE: So -- if I understand your question, if
17 '030 went ahead, would that prevent any low year that you would
18 need to have the mitigation fishery for? It would certainly
19 shorten them. I believe that, you know, if '30 went ahead, there
20 would only be one year, one to two years that the -- well, it's the
21 fact -- in the short answer, one to two years would be all you'd
22 for mitigation.

23 MR. PENNOYER: One last question. What is your estimate
24 of the adult return due to this project, this six million eggs that
25 you're taking? -- Find it in here somewhere on this one. Okay,
26 146,000 adult -- that's red salmon -- I've found it. Do you have

1 reason to believe -- I'm sorry, Mr. Chairman -- that this type of
2 work with Red Lake stocks is going to be successful, that you can
3 culture to be successful, or is this still sort of an experimental
4 ...?

5 DR. MONTAGUE: Mr. Chairman, no, it's not experimental.
6 We're comfortable that it will work and that these percentages are
7 in line with the other work that we're doing.

8 MR. PENNOYER: But this particular sockeye stock has
9 shown itself adaptable to hatchery -- some are and some aren't.
10 Some are better than others

11 DR. MONTAGUE: Mr. Chairman.

12 MR. PENNOYER: ... to my recollection.

13 DR. MONTAGUE: Dr. Sullivan, is ...?

14 DR. SULLIVAN: The period of time that these fish are
15 actually going to spend in the hatchery is very small. What we
16 intend to do with this resource is simply increase your incubation
17 survival and increase the early larval stage survival. So, this is
18 not a long-term hatchery project, it simply improves your percent
19 survival over a couple of early stages. So I don't think there's
20 a lot of hatchery adaptability at that point, and so far as I've
21 seen, and I've been working with sockeye for a long time, this
22 period of time is -- is

23 MR. PENNOYER: Not a problem?

24 DR. SULLIVAN: Well, it's a problem for other reasons in
25 general for sockeye, IHN could get you at a time like that, but,
26 but what I'm saying as far as separating one stock's adaptability

1 for hatchery versus another, this is not the period when it would
2 start to happen.

3 MR. PENNOYER: Aren't some stocks more prone to IHN
4 problems than others are?

5 DR. SULLIVAN: Actually, that hasn't really been shown to
6 be the case, and when we take whatever stocks we've had in the
7 past, they've all been shown susceptible to IHN. Almost every
8 anadromous stock of sockeye that we have looked at in the past
9 carries some percentage of IHN. The only things that -- have found
10 that don't seem to are some of the kokanee that may have become
11 kokanee during the last ice age, perhaps before IHN hit these
12 stocks. Okay. All man-made stocks of kokanee that we knew of, at
13 least to my knowledge, seem to have a portion of IHN. We did do
14 some experiments in the early '80s using Bristol Bay IHN and Copper
15 River IHN and Cook Inlet IHN and exposed the different stocks to --
16 in other words, we take a stock that was exposed to its own IHN
17 seem to have more resistance to that, but wasn't a great deal of
18 resistance. Okay? But, yes, if you expose a stock to a -- a
19 strain of IHN with which it has not been exposed, it does suffer
20 higher mortalities. Did I answer your question?

21 MR. PENNOYER: Yes, you did. Mr. Chairman, I propose we
22 approve 93030.

23 MR. SANDOR: Is there a second to this motion?

24 MR. BARTON: Second.

25 MR. SANDOR: Seconded by Barton. Question from Mr.
26 McVee?

1 MR. McVEE: I assume the motion includes those caveats
2 or constraints listed in the write-up -- the fact that a
3 determination will be made this summer concerning returns?

4 MR. PENNOYER: Yes. A companion motion I was going to
5 make next is that we disapprove 93031, for a different reason,
6 because I think that is just strictly mitigation enhancement.

7 MR. SANDOR: Any further discussion on 9303'? Any
8 objection to 9303'? It is approved.

9 93031 then, which we've already discussed. I don't know --
10 ADF&G, \$153.7, recommended five to one by the Restoration Team; no
11 opinion, chief scientist; recommended ten yes, no one, abstentions
12 two; and Interior's position was that it indicated it does not meet
13 the restoration criteria, problems with red salmon not directly
14 linked to EVOS, but we've had some discussion already. Do you want
15 to elaborate any more, Dr. Montague, on this project?

16 DR. MONTAGUE: Mr. Chairman, no. It's pretty simple.
17 It's going to produce a fishable catch of -- catch, catchable
18 fishery of about a hundred thousand sockeyes that partially replace
19 the losses to Red Lake.

20 MR. SANDOR: Is there a motion to approve this project?

21 MR. ROSIER: So moved.

22 MR. SANDOR: Moved by Rosier, seconded by -- anyone?
23 (Pause -- no audible response) Fails by lack of second, so not
24 approved.

25 Project 93032, Pink and Cold Creek pink salmon restoration,
26 ADF&G, \$33.6 thousand; recommended five to one by the Restoration

1 Team; chief scientist of this project -- may enhance natural
2 resource but is unrelated to recovery of injured resources;
3 recommended twelve to one by the Public Advisory Group; and the
4 Interior's position -- does not meet restoration criteria, no
5 population level injury to pink salmon, not time critical. Just as
6 a matter of curiosity, did -- the Public Advisory Group, no
7 recommendation, just blow out by the thirteen voting.

8 MR. COLE: If one reads the analysis or the
9 transcript of the Public Advisory Group, I must say their view is
10 at best superficial. I've read the transcript of the last three,
11 and there's about -- two pages of the transcript dealing with each
12 of these projects. This project there was objection largely by Mr.
13 Sturgeon who said that this affects perhaps the private landowners
14 in the area.

15 MR. SANDOR: Dr. Montague, do you want to briefly
16 describe this? Open it to questions?

17 DR. MONTAGUE: Mr. Chairman, we're on '32 then?

18 MR. SANDOR: Yes.

19 DR. MONTAGUE: Okay. His concern was that the Forest
20 Practices Act with the sixty-six foot buffer only applies to
21 anadromous streams. So if you've got a twenty mile long stream and
22 the first ten miles have anadromous fish in it and there's a
23 waterfall that prevents the fish from being in the upper area, then
24 they can log to the water line in the upstream areas. If you make
25 it an anadromous stream, then they have to provide the buffer, and
26 the wording that the Public Advisory Group had us put in there, and

1 we'd certainly want to make it a part of this project, is that
2 conducting either or implement -- building either these fish passes
3 would be contingent upon the owner's agreeing to it. It was
4 originally suggested by Sturgeon that the Trustee Council
5 compensate them for the costs of not being able to harvest the
6 extra areas, but in the end the discussion was left with it being
7 contingent upon the owner's approval. So, if the owner thinks it's
8 going to be a problem, they won't approve it.

9 DR. GIBBONS: Mr. Chair?

10 MR. SANDOR: Mr. Pennoyer -- oh, excuse me, yes --
11 Gibbons.

12 DR. GIBBONS: Just a -- just a point here. I -- I've
13 looked at projects '030, '031, and '032, and NEPA compliance has
14 not been done. I think we'll have to go back on project '030 and
15 perhaps defer that until the February meeting, perhaps, for
16 approval, when the NEPA compliance can be completed. Is that?

17 MR. SANDOR: On '030?

18 DR. GIBBONS: Yeah. It -- it -- the listing from
19 Interior says that '030, '031, and '032 have -- the NEPA compliance
20 has not been completed.

21 MR. SANDOR: But the last sentence of the description
22 of '03' -- or, let's see, yeah, I thought they said they were going
23 to do environmental assessment, but

24 DR. GIBBONS: Mr. Chair -- I think they're in the
25 process of doing it, it's just not completed yet.

26 MR. SANDOR: Well, that -- that contingency then has to

1 apply to that as well.

2 MR. BRODERSEN: I think what we have to do is defer a
3 decision on '030 until the February meeting.

4 MR. SANDOR: Yeah. Well, fine, we'll do that -- be
5 nice to have those up front so that we're not dealing with this,
6 you know, after the votes have been taken and the discussion. It's
7 somewhat disconcerting. Any others like that, please call them to
8 our attention before we vote on them. So, we're now saying 93030
9 has to be reconsidered February 16th?

10 DR. GIBBONS: Contingent upon the NEPA compliance, yes,
11 Mr. Chairman. Probably the same with '032.

12 MR. PENNOYER: I think we do what we did before, we
13 tentatively approve the project contingent upon the completion of
14 NEPA, not that we'll put off decision on the project 'til February.
15 We'll -- no, you're right, we've approved the project to continue
16 through the NEPA stage. We'll have to take it up (indiscernible).

17 MR. SANDOR: Yes.

18 MR. JIM CARMICHAEL: Can I speak to '032? I think it
19 would help your -- I think it would expedite your decision.

20 MR. SANDOR: Please do.

21 MR. CARMICHAEL: Thank you. I'm Jim Carmichael. I'm
22 general manager for Afognak Native Corporation, and we're also
23 managers for Afognak Joint Venture, and Cold Creek is on land that
24 we own. There's three points that I would like to make that would
25 help it -- firstly, philosophically, we agree with Sturgeon's
26 position that, that as a landowner we would want to be consulted

1 before doing things that would change the value of our other
2 resources. Having said that, in the Cold Creek situation, as the
3 landowner we are supportive of improving that fish pass. But
4 lastly, and perhaps more significantly to your decision, we already
5 have an obligation to do it, and I've always been confused about
6 '032 because of that. Pursuant to a -- a log transfer facility
7 permit that we have with the Fish & Wildlife Service, we have a
8 mitigation responsibility for us at the Native corporation to go in
9 and spend the money to do that, and we've always felt it -- we're
10 bound to do that. The Fish & Wildlife --and as I understand it
11 somewhat second hand from my staff, Fish & Wildlife Service has
12 agreed that we need to do that, and we're waiting on the state's
13 approval as to when to go in and do it. I mean, as long as we'd
14 like to go in and do it with a stick of dynamite, but recognizing
15 we can't do that (simultaneous laughter), we'd glad to go take a
16 backhoe or a jackhammer or just some sacks of concrete up there and
17 fulfill our obligation. I'm not sure it's relevant to this
18 organization.

19 MR. BARTON: Mr. Chairman.

20 MR. SANDOR: Mr. Barton.

21 MR. BARTON: I move we not approve this project in
22 light of (simultaneous laughter) the

23 MR. PENNOYER: Second.

24 MR. BARTON: ... fact that somebody else is going to do
25 it. (Simultaneous laughter)

26 DR. MONTAGUE: Mr. Chairman, there was a Pink Creek as

1 well.

2 MR. COLE: Have we -- have we voted on this project?

3 MR. BARTON: We've kind of voted on one and not the
4 other.

5 MR. COLE: I thought the motion was, vote, that we
6 reject the project

7 MR. BARTON: Motion.

8 MR. COLE: I mean after -- here's my point. After we
9 take these votes, I mean, let's, you know, take the vote, and if
10 you want to say anything before we take the vote, let's get that
11 done, but after the vote's taken, I really would appreciate that we
12 just -- that's the end of it, you know. We go back and argue these
13 things after we take a vote, I mean, why take a vote. Let's not
14 take votes until we, everybody finishes what they want to say, and
15 I would recommend that, and then we should take a vote, and once
16 the vote's taken we should go to the next vote. May we have that
17 procedure so that we can, as I say, transact our business in a
18 relatively orderly fashion?

19 MR. SANDOR: The Chair will endeavor to do so, and we
20 are correcting only to 93030, which we had approved but were told
21 we shouldn't have, and so that's going to be reconsidered on
22 February 16. 93031 was not approved. 93032 was not -- was -- was
23 -- actually we had somewhat of a spontaneous motion to not approve
24 it by Barton, seconded by Pennoyer, and -- this is an interesting
25 thing. Is there any objection to not approving (laughter), which
26 would be a -- nearly an oxymoron because if you turn it around and

1 try to pass it, one objection would, of course, kill it. So, the
2 Chair would rule that -- with the understanding of the Trustees
3 that that project is not approved. Is there any objection to that?

4 MR. ROSIER: Yeah, I've still got a question.
5 (Simultaneous laughter) The point was made on half of the project.
6 I mean, the additional information that was brought forth affected
7 half of the project.

8 MR. PENNOYER: Well, then, you object to the motion?

9 MR. BARTON: Yes.

10 MR. SANDOR: Okay. We're back where we started then
11

12 MR. COLE: Well, let's move along. I object to the
13 other half of the project. I'm philosophically opposed to going
14 out and doing construction projects with these funds on natural
15 streams.

16 MR. SANDOR: Well, for the record, the question is are
17 there any objections to 93032? There are, so that's not approved.
18 Okay. We --

19 MR. ROSIER: Mr. Chairman, before we move on, I'd like
20 to hear a little bit more from Attorney General Cole on that last
21 statement with regard to doing work on natural streams. I thought
22 that was what we were in the business to do, to work with natural
23 systems here.

24 MR. COLE: Well -- is this '32?

25 MR. SANDOR: Yes.

26 MR. COLE: I don't think that we should be out, you

1 know, as part of this process, of building dams or fish ladders on
2 natural streams, and basically changing the natural environment.
3 I think that we should, if nature of these streams, slowing in this
4 fashion, well, let them be, and I'd go in there and build dams on
5 them to ostensibly enhance fish to be able to get some place where
6 nature didn't have in mind when it did what it did.

7 MR. SANDOR: That's with EVOS money?

8 MR. COLE: Yes. I mean, you know, if the legislature
9 or Uncle Sam or the Corps of Engineers wants to say you have to do
10 this, I mean, that's their call. That's another process. But to
11 take these funds and to build dams on streams is, in my view, an
12 expenditure that's inappropriate.

13 MR. SANDOR: Does that satisfy your inquiry?

14 MR. BARTON: Well, you know, I appreciate -- appreciate
15 his clarification of this statement there on that, but it seems to
16 me that we keep getting narrower and narrower and narrower in terms
17 of what restoration is, and I really thought that the addition of
18 habitat as a restoration tool would be something that the group
19 might want to maintain in their toolbox over time here.

20 MR. COLE: Moving onto that, if you don't mind, you
21 know, I had trouble with this project, you know, when we first were
22 dealing with it several months ago, weeks or months ago, and I had
23 the same philosophical objection to it then. I favor the
24 acquisition of habitat. It's not that I don't favor the
25 acquisition of habitat for the protection of the injured resources,
26 because I do -- probably almost more strongly than any member of

1 the Council sitting here. The problem is this is not acquisition
2 of habitat in itself, this is taking, you know, naturally flowing
3 streams and building dams or ladders or -- bypass sections --
4 channels will also be cut leading into the upstream end of the
5 steeppasses. Water diversion structures, such as gabions,
6 reinforced with steel pipe and rebar would divert water into the
7 channels and steep bypasses. Cable would be anchored into the rock
8 substrate to secure the steeppasses. You know, that something that
9 I think's not necessarily appropriate, and if we do it in this
10 stream, are there other streams out there we should be doing the
11 same thing to. I mean, it just gives me pause. That's the reason
12 I have

13 MR. PENNOYER: Mr. Chairman, I -- I think the motion's
14 whether we enhance or not, how much we enhance in response to the
15 spill, and the permissive language amidst that in the settlement is
16 certainly a matter of choice, but I -- I have more problem with
17 hatchery stocking and with lake fertilization than I do with fish
18 ladders. I mean, enhancing habitat and letting it take its own
19 course is to me perhaps less fraught with danger than introducing
20 new genetic problems, perhaps disease, changing the ecosystem of a
21 lake through fertilization. Those seem to me to be potentially
22 more disruptive to the natural system than, than a fish ladder,
23 although I would admit that a fish ladder creating a stock
24 somewhere that you can't harvest can cause you management problems,
25 if you don't figure out how to handle it, but I'm not -- I don't
26 find anything particularly unclear about it. I'm just

1 MR. COLE: Let me respond to that. If you're worried
2 about, you know, introducing genetic problems and disease into
3 these lake stockings, then, you know, you don't vote against it,
4 you know. So, I mean, you're apparently not concerned enough to
5 vote against it, which I accept, and I follow your lead in those
6 areas, and I read these comments from the public on '30 and '31,
7 and a lot of concern expressed, a number of concerns expressed by
8 the public of introducing disease into these stocks, and -- and
9 other problems, and I think, well, that's what the public says,
10 but, you know, Mr. Pennoyer and other members of the Trustee
11 Council, including Mr. Rosier, whom I asked about that last time,
12 assured me that that was not a matter of enough concern to cause me
13 to vote against it. That's fine, and I accept that. But when it
14 comes to building fish ladders in these natural streams for eighty
15 or ninety thousand dollars to get how many fish up there? I don't
16 know. And what's the pay-off on this? I don't know. I mean, I'm
17 just, I'm not convinced. So, therefore, my conscience says vote
18 no.

19 MR. SANDOR: Mr. Barton.

20 MR. BARTON: Each of us needs to follow their
21 conscience, but I would point out that there's been considerable
22 investment in Alaska over many years by both the state and the
23 federal governments in fish passages, opening up natural habitats,
24 enhancing wild stocks, not necessarily hatchery stocks. But I
25 don't have any idea what proportion of the fishery results the fish
26 enhancement work over the years, but I think it's substantial.

1 MR. COLE: Let me respond to that, if you don't mind.
2 Then the federal government or the state should expend its funds to
3 do this here, but not use Exxon Valdez money to do it. I don't
4 object to doing it if that's the state treasury doing it or the
5 federal treasury doing -- so on and so forth. I just don't see
6 enough pay-off in this project, given the disruption in the natural
7 ecological balance to warrant it.

8 MR. SANDOR: Mr. Barton?

9 MR. COLE: Sorry, guys.

10 MR. BARTON: I'm not defending this project. I was
11 concerned about your general philosophical statement more than this
12 project. I would say that most of the projects, if not all the
13 projects that the Forest Service has done in Alaska, have a
14 substantial cost-benefit ratio, or benefit-cost ratio, sometimes as
15 much as twelve to one.

16 MR. SANDOR: Mr. Rosier or Mr. McVee.

17 MR. ROSIER: Yeah. Yes. I certainly wasn't
18 questioning Attorney General Cole's right to object to the project
19 on this, but I was also questioning his general philosophy, I
20 guess, in terms of using anything of this type as a restoration-
21 type tool. So, without dragging the subject on further, that's all
22 I have to say on it.

23 MR. SANDOR: Mr. McVee.

24 MR. McVEE: I guess my comments are for focus back on
25 the project, that -- that my concern is that, you know, this is --
26 this is basically, as I understand it, to enhance, and it seems

1 like that is a lower priority in terms of the expenditure of funds
2 than, you know, recovery, recovery of damaged species. We were
3 prepared to -- I'm prepared to vote against approval of the
4 project, if that helps.

5 MR. SANDOR: Well, we've already rejected the project,
6 so

7 MR. COLE: I would like for Mr. Pennoyer to speak on
8 this a little bit.

9 MR. SANDOR: Mr. Pennoyer.

10 MR. PENNOYER: Well, I think we agreed that to meet more
11 reasons of, one, that fact that somebody else is doing one of
12 these, and, second, that the other is more of an enhancement than
13 a direct restoration, I believe we should at least wait until we
14 have completed our restoration plan. I don't disagree with Mr.
15 McVee on that. My discussions were, again, more philosophical. I
16 wasn't saying that I -- I thought that the other methods were
17 necessarily bad, I just said I have some less problems with this
18 method than I do with direct stocking and lake fertilization as an
19 enhancement process. I think they're just all tools that you need
20 to look at on a case-by-case basis. There needs to be pay-off. I
21 don't disagree with you at all. If the cost-benefit is bad, you
22 don't do it. If it does directly -- in our case -- enhance in a
23 way that deals with lost services, then you don't do it. In this
24 case, I think we've already made our decision not to go for either
25 one of these, and so I think we ought to move on.

26 MR. SANDOR: So, without objection we shall move to

1 project 93033, which discussed yesterday, but I understand, heard -
2 - the harlequin duck monitoring study in Prince William Sound,
3 Kenai and Afognak oil spill areas, ADF&G, \$717.9 thousand,
4 unanimously recommended by the Restoration Team, Public Advisory
5 Group, and the chief scientist, and also by --

6 DR. MONTAGUE: Mr. Chairman.

7 MR. SANDOR: ... approved by Interior. Yes, Dr. --
8 Montague.

9 DR. MONTAGUE: We had considerable discussion on this
10 project, and I won't go into any of that again, but the main
11 guidance we have from the Trustee Council was that even the minimal
12 project at the \$506,000 level was too much. I've got an
13 alternative proposal here that I'd like to briefly put forward to
14 the group.

15 MR. SANDOR: Please proceed.

16 DR. MONTAGUE: As far as the habitat component goes,
17 which was the primary cost of this project, is essentially deleted
18 entirely to the same degree that it was dealt with before, and we
19 have two \$100,000 options to deal with the habitat portion, and
20 this is a reduction of about four hundred thousand some odd dollars
21 just on the habitat portion. One thing we can do is do no field
22 work. Simply, take the nesting information we have on eastern
23 Prince William Sound, and to the best we can, simply look at maps
24 and say that we expect, based on eastern Prince William Sound,
25 Afognak, Kenai Coast and these areas, will be suitable. And -- and
26 to do that will be about a hundred thousand dollars. A second

1 alternative on the habitat portion would be to do a very limited
2 characterization at Afognak. Instead of having, you know, the
3 ocean-going vessels we were talking about before, would simply be
4 dropped at a local camp with a Zodiac or something, and do a very
5 limited assessment, the only purpose of which to say, generally is
6 the eastern Prince William Sound comparable. But if you went that
7 approach, next year you're gonna have to do the map work to say
8 where around the Sound it applies, so -- probably recommend the
9 remote imaging interpretation unless habitat protection working
10 group has, would rather see the field work that would more
11 accurately say that you can't compare from one area to another.
12 The second aspect of the project which we think is the --
13 absolutely the most critical, is \$200,000 to try to pin down the
14 mechanism for reproductive failure. So --

15 MR. COLE: I move we this.

16 MR. SANDOR: It's been moved that we approve the
17 amendment project proposal which totals roughly, what?

18 DR. MONTAGUE: \$300,000.

19 MR. SANDOR: \$300,000. Is there a second to that
20 motion?

21 MR. McVEE: Second.

22 MR. SANDOR: Seconded by McVee. Any discussion?
23 Pennoyer.

24 MR. PENNOYER: I'm not sure what you said. Would you
25

26 DR. MONTAGUE: Okay.

1 MR. PENNOYER: ... try that one more time? What's the --
2 well for three hundred -- it's sort of like the \$11,000 that was
3 going because it was less -- but the

4 DR. MONTAGUE: It's not the

5 MR. PENNOYER: ... do we do? on which two habitat pieces
6 did we do?

7 DR. MONTAGUE: Okay. First, we'll deal with -- there was
8 only one choice on what's causing the reproductive failure. On
9 habitat, there was two choices. One, they're both \$100,000. We'd
10 only do one or the other, so the cost -- the only decision is which
11 of the two you do. One, was doing limited field work on Afognak to
12 answer yes or no whether you can compare eastern Prince William
13 Sound to Afognak. The second option would assume that it applies,
14 and simply look at the maps and say these are all the areas in the
15 -- within the oil spill area that are likely to be harlequin
16 habitat and have no ground to refute them. The latter one, the one
17 that assumes that these characteristics apply everywhere and just
18 look at the imagery and maps and so on, to say that it looks pretty
19 similar in all these areas, let's assume that it's harlequin
20 habitat.

21 MR. PENNOYER: What was the mechanism all about?

22 DR. MONTAGUE: The current hypothesis is that harlequins
23 are not reproducing in western Prince William Sound because of
24 hydrocarbon intake through mussels, but that hasn't been proven.
25 So, some much is resting on these findings. For instance, you
26 could be -- if it is hydrocarbon uptake that's preventing

1 reproductive failure, you could purchase habitat to the end of
2 time, and they would still go extinct in those areas where they're
3 not reproducing. So we feel it's extremely critical to know why
4 they're not reproducing. So ...

5 MR. PENNOYER: So?

6 DR. MONTAGUE: ... and how are we going to do that.

7 MR. PENNOYER: What, shoot some harlequins to get tissue
8 samples, or ...?

9 DR. MONTAGUE: Well, hopefully, to get the samples from
10 subsistence-harvested ducks, but if that's not possible -- first of
11 all, there's existing samples that haven't been analyzed. They'll
12 provide something. But we would need to collect more samples
13 either through getting

14 MR. PENNOYER: \$200,000 to collect samples? Analyze
15 them?

16 DR. MONTAGUE: Well -- it's, it's more than that in terms
17 of -- along with it will be some -- misnets (ph) are put at the
18 mouths of streams and stuff to see if the harlequins are going up
19 to reproduce, and while they're in the field doing these other
20 projects, they would have some limited continuation of whether
21 there's no reproductive failure there or not.

22 MR. PENNOYER: Is that distributional study a separate
23 one from this study? The misnets (ph) and so forth, or is that
24 part of this study?

25 DR. MONTAGUE: The distributional -- the distribution of
26 nesting habitat is the second component. It's not finding out what

1 the injured -- what's causing the injury.

2 MR. PENNOYER: It's part of the \$200,000 then, the
3 misnets and reproduction?

4 DR. MONTAGUE: Correct.

5 MR. SANDOR: Mr. Cole.

6 MR. COLE: I think it's essential that we find out if
7 can what causing the reproductive failure of the harlequin ducks,
8 number one, and we should do that. It's one of the species that
9 was hardest hit by the spill. And then, I think it's appropriate
10 to take a look at the distribution of the nesting areas by these
11 aeriels surveys or whatever because I don't think that we need that
12 much detail in order to move ahead on our decisions on habitat
13 acquisition. And let me, if I may, ask Dr. Spies, is it reasonable
14 to make some assumptions about distribution in the area, as Dr.
15 Montague said, without detailed long ground work.

16 DR. SPIES: Well, with your statement about, you know,
17 being willing to take a certain amount of risk with -- the related
18 to the greatest certainty of your information, certainly, I would
19 suggest that some portion like this might be more appropriate than
20 the more expensive exact definition of the habitat by on-ground,
21 multiple ground (inaudible -- coughing) in different areas of the
22 spill zone.

23 MR. SANDOR: Mr. Pennoyer.

24 MR. PENNOYER: Let me get this straight -- for the
25 \$200,000 we're going to do misnetting (ph), subsistence collection,
26 and general collection in looking for hydrocarbons? Or is this a

1 nesting distribution study too? You got rid of the radio-
2 collaring, right?

3 DR. MONTAGUE: Pardon me?

4 MR. PENNOYER: The radio-collaring you had in there
5 originally?

6 DR. MONTAGUE: Yes. But that -- that was more to find
7 their nests and to find their habitat. So that part won't be in
8 there. In short, I'd like to say that, you know, we can live
9 within these figures, but, I mean, yesterday and today, we didn't
10 redo a new detailed project plan, and there is a workshop that's,
11 I believe Dr. Spies and some of the peer reviewers have scheduled,
12 to exactly pinpoint what the method should be to test this
13 hypothesis, whether it's oiled mussel beds or not.

14 MR. SANDOR: It's been moved and seconded that this
15 project be approved.

16 MR. PENNOYER: One last question.

17 MR. SANDOR: Yes.

18 MR. PENNOYER: I hate to belabor it, but we've agreed
19 when we take a vote, that's it. Under the first part, the hundred
20 thousand, you present us two choices. Does the motion select one
21 choice or the other or are we leaving that up to the investigators
22 on habitat. There's either the mapping or the foot -- or the
23 ground (indiscernible).

24 DR. MONTAGUE: Mr. Chairman, I interpret it as just the
25 mapping.

26 MR. SANDOR: Okay. Any further questions? No further

1 questions or comments. All those in favor of the motion signify by
2 saying aye.

3 ALL TRUSTEES (in unison): Aye.

4 MR. SANDOR: Opposed? (No audible response) The
5 project's approved.

6 MR. PENNOYER: Not debating the motion again, but I
7 assume we'll get a budget back at some point telling us what we
8 just bought.

9 MR. SANDOR: Of course.

10 MR. PENNOYER: Thank you.

11 MR. SANDOR: \$300,000. (Laughter) Project 93034,
12 pigeon guillemot colony survey, DOI, Fish & Wildlife Service,
13 \$165.8 thousand, recommended five to one, recommended by the chief
14 scientist, unanimously recommended by the Public Advisory Group.
15 I guess, Byron, are you -- oh, who's to -- no, Pam Bergmann's to
16 cover this, yes. Can you briefly summarize this?

17 MS. BERGMANN: Yes. There are about two to three
18 thousand pigeon guillemots that were killed as a result of the oil
19 spill, and the estimates were up to thirty-three percent of the
20 1991 population actually was probably killed, so it was a
21 significant portion of the total population. The information that
22 Fish & Wildlife Service has been able to glean from the boat
23 surveys that have been conducted since the spill indicate that
24 those populations are not recovering. We have not done any other
25 studies to date specifically targeting pigeon guillemots. We're
26 not proposing at this point in time to try to further characterize

1 the injury to this particular species, rather we think it's more
2 important to focus on looking at important habitat areas, breeding
3 areas and foraging areas of these species so that we would have
4 that information to use for the potential protection of their
5 habitats.

6 MR. PENNOYER: Move to adopt.

7 MR. SANDOR: Moved by Pennoyer that adopt.

8 MR. BARTON: Second.

9 MR. SANDOR: Seconded by Barton. Any further questions
10 or discussion. No questions, discussion, all those in favor of the
11 project signify by saying aye.

12 TRUSTEES (in unison): Aye.

13 MR. SANDOR: Opposed? (No audible response) Approved.
14 We approved the 93035 yesterday, according to my hard-to-read
15 record, and also all subsequent projects down to 93043. So, 93043,
16 sea otter population demographics and habitat use in areas affected
17 the Exxon Valdez oil spill, Department of the Interior, Fish &
18 Wildlife Service, \$291.9 thousand. Can you briefly summarize that,
19 please?

20 MS. BERGMANN: Yes. As you are all aware, sea otters
21 were also significantly affected by the oil spill. The indications
22 we have to date are that those populations have not recovered.
23 This project had been broken out into a number of smaller, but
24 ended up getting combined, so they're basically four different
25 pieces to it. The first two pieces are still looking at monitoring
26 recovery of sea otters in the Sound, and secondly -- and that would

1 be done through aerial survey work, which was basically done as a
2 result of peer reviewer comments on previous work. They felt that
3 the existing method of estimating the population wasn't precise
4 enough and suggested this approach as a better way to do that. In
5 addition, they are proposing to construct a population model to
6 help establish when we might expect to see sea otter populations to
7 fully recover. The second part of the project again deals with
8 habitats and trying to identify better where the important habitat
9 areas are that the sea otters are using, and feeding that
10 information into the habitat protection component of the other work
11 that we're doing. And one other piece of this is actually to go
12 out and recover beach cast carcasses. This has been done for the
13 last several years, and the results of that work indicate -- or one
14 of the indicators that there appears to be continued injury to sea
15 otters because we're finding rather than old otters and young
16 otters that have died throughout the winter, we're finding prime
17 age otters in a higher proportion than you would expect.

18 MR. SANDOR: Ms. Bergmann, the chief scientist
19 recommended a reduced budget. What consideration has been given on
20 the budget as originally outlined in the \$291.9, and is there any
21 opportunities for reducing that budget.

22 MS. BERGMANN: Mr. Chair

23 MR. SANDOR: And -- excuse me

24 MS. BERGMANN: I'm sorry.

25 MR. SANDOR: Go ahead. I note also that the Public
26 Advisory Group recommended looking at contracting, and their vote

1 was eight to five. So on the reduced budget -- the budget proposal
2 -- is it \$291.9 or is it reduced?

3 MS. BERGMANN: Carol, I would ask you to respond to the
4 specifics on the budget. Let me just fix my budget sheet here.
5 Yes, the current proposal for two hundred and ninety-one --
6 basically \$292,000 and, Bob, I would just make sure that that
7 comment was on this budget rather than a former budget that had
8 been prepared?

9 DR. SPIES: I wrote the comments on the 8th of
10 October.

11 MS. BERGMANN: So, that would have been on this budget
12 figures. Carol? I would

13 DR. SPIES: At what time did you reduce the number of
14 NTs (ph). Did you reduce the number of NTs (ph) to reduce this
15 budget as originally proposed?

16 MS. GORBICS: We have talked with Dr. Gunderson (ph) who
17 was one of the peer reviewers, and, Bob, I'm sure of the order of
18 things happening though, and several components have been taken out
19 of the project, and several of the other budget requests that you
20 and (indiscernible) had made at that point. I thought that was
21 around that same time, but probably earlier. I don't quite know
22 how to respond to that.

23 DR. SPIES: The original budget three hundred and
24 something?

25 MS. GORBICS: The original budget had the reproductive
26 surveys and several other components that we had proposed, and

1 based on our discussions with the peer reviewers, we've taken those
2 components out and done some budget reduction there. I don't know
3 if we've done anything subsequent to that, Bob. I'm not clear on
4 the order of things here.

5 MR. SANDOR: And can you address the Public Advisory
6 Group's concerns, I guess, partially involve the negative five vote
7 -- but look at contracting -- how would you react to those
8 suggestions.

9 MS. BERGMANN: Yes, Mr. Chair, there has been a
10 suggestion that -- portions of this be subcontracted out. Fish &
11 Wildlife Service currently is proposing to bring in some technical
12 experts as a result of the peer review to help them work on the
13 population model. Fish & Wildlife Service's position -- Interior's
14 position is that they have staff on board that are fully qualified
15 and have the expertise to conduct this work. The experience that
16 the service has had to date on contracting out sea otter work has -
17 - there have been a number of problems associated with that in
18 terms of not getting reports or not getting reports in a timely
19 manner, and there have been difficulties, and the service does not
20 feel that their experience to date in, in contracting out sea otter
21 work has been very successful.

22 MR. SANDOR: Any questions on this project from the
23 Trustees? Is there a motion to approve this project?

24 MR. PENNOYER: Move to approve.

25 MR. SANDOR: Move to approve by Pennoyer. Seconded
26 ...?

1 UNIDENTIFIED VOICE: Mr. Chairman.

2 MR. SANDOR: Excuse me, seconded by anyone?

3 MR. McVEE: Second.

4 MR. SANDOR: Seconded by McVee, and a question by
5 Rosier?

6 MR. ROSIER: Yes, Pam, what's the -- the service --
7 what kind of a program does the service on -- on sea otters as a
8 normal course of doing business.

9 MS. BERGMANN: Carol?

10 MS. GORBICS: We, we do have a base program for sea
11 otters. The staff is approximately three to four people. I think
12 right now we have employed about eight, full time, as a result of
13 much of our work on the oil spill. Those are approximate numbers.
14 The state also includes sea otter populations along the Aleutians
15 and Southeast, so we spread our time out amongst those three areas.
16 The base program has helped fund some sea otter work. We did some
17 population assessment work through our base funds last year that
18 will aid us this year. In addition, the Department of the Interior
19 has independently funded a project that costs, I think, close to
20 seven or eight hundred thousand dollars last year to do a sea otter
21 weaning (ph) study just in Prince William Sound that was a study we
22 felt real strongly about that the Trustees didn't choose to do last
23 year. So we have provided some additional support into the sea
24 otters and the oil spill question throughout the last several
25 years.

26 MS. BERGMANN: Mr. Chair.

1 MR. SANDOR: Yes.

2 MS. BERGMANN: I also might add that the Trustee Council
3 did not fund any sea otter work in 1992.

4 MR. McVEE: Mr. Chair. I think that the eight hundred
5 thousand or whatever it was that was funded by the Department of
6 the Interior -- that money's not available.

7 MS. GORBICS: Right.

8 MR. SANDOR: Any further comments or questions?

9 MR. COLE: Mr. Chair, are we satisfied that the
10 funding level has been addressed?

11 MR. SANDOR: Somewhat uncertain about timing. There
12 was some adjustment made, as I understood the discussion, but it
13 apparently took place about the time of October. The chief
14 scientist had this project reviewed in October, as I understand it,
15 and budget figures on or about that time is what he commented on.
16 Are you -- are you -- I gather some adjustments were made, but it
17 was unclear

18 DR. SPIES: Yeah. It's still unclear to me right now.
19 There's, there's a lot of information that's available under
20 objectives three and four, for instance, as they're gathered by a
21 number of different individuals, it would seem to me that that
22 should be put together somehow and evaluated.

23 MS. GORBICS: That

24 DR. SPIES: What we already have.

25 MS. GORBICS: That is the intent. There is no field
26 work under the habitat work identified at all. It's just pointing

1 out the information that the Trustees have either sponsored or the
2 Fish & Wildlife Service has sponsored, and when that information is
3 available we'll use it.

4 DR. SPIES: The peer reviewer

5 MS. BERGMANN: Mr. Chair, yes. For the -- I said that
6 there were four major components, and the first, the first
7 component does involve some aerial survey work.

8 MR. PENNOYER: Mr. Chairman?

9 MR. SANDOR: Yes, Mr. Pennoyer.

10 MR. PENNOYER: We agree that the recovery monitoring, we
11 didn't need to do these things every year, but my understanding is
12 we didn't do last year? Two years ago we did the boat and aerial
13 survey.

14 MS. BERGMANN: No, no. Two years ago, we only did the
15 boat survey. The aerial survey came about as comments by peer
16 reviewers a couple of years ago, or maybe even three years ago.

17 MS. GORBICS: Two years ago we did a feasibility, a
18 limited feasibility study on the aerial survey, trying to develop
19 the technique. Last year, the Fish & Wildlife Service continued on
20 a (inaudible -- coughing) low level some of that feasibility work,
21 but did not -- wasn't overall population assessment. We didn't
22 have the support to do that. And this year we'd build on the past
23 two years and try to do something a little more comprehensive. But
24 this will be the first year of using the aerial survey technique.
25 In addition, we've previously done boat surveys for sea otters, and
26 the peer reviewers didn't find the boat surveys -- as being not

1 sensitive enough to detect population changes, which is why this
2 aerial survey was developed.

3 MR. PENNOYER: But you're satisfied now that you can go
4 to this new technique and still have the data series that will be
5 comparable with past years.

6 MS. GORBICS: We feel like we'll be able to detect
7 changes in the populations as they occur in the future. We're not
8 sure how it will fit together with the past data. That's -- we'll
9 have to evaluate that as we get it.

10 MR. PENNOYER: But the peer reviewers -- Mr. Chairman --
11 the peer reviewer's feeling was just continuing the boat survey was
12 also misleading.

13 MS. GORBICS: Right.

14 MR. PENNOYER: So even though we may have had a past
15 index, you can't use it somehow? How, how do we tie this back to
16 what happened -- recovery since the spill? Are we going to use '93
17 as sort of ground zero or it's whether it recovers from there?

18 MS. GORBICS: In '93 we'll have the boat surveys and the
19 aerial surveys, and we'll do what we can to see if we can reconcile
20 those.

21 MR. PENNOYER: Oh, they're both in here?

22 MS. GORBICS: Right.

23 MR. PENNOYER: Oh.

24 MS. GORBICS: Regarding through the boat surveys.

25 MR. PENNOYER: Oh.

26 MS. GORBICS: And the boat surveys would have been --

1 we'd have asked to do this

2 MR. PENNOYER: 93045, move to the last

3 MS. GORBICS: ... regardless of the sea otters because
4 it's also a seabird (inaudible -- coughing), and we consider it a
5 good technique for surveying seabirds, and we won't change the
6 protocol even if you no longer approve us to do both surveys for
7 sea otters, we'll still have to count sea otters when we're doing
8 boat surveys for birds because of the protocols that we're
9 counting.

10 MR. COLE: Mr. Chairman -- excuse me, go ahead.

11 MR. PENNOYER: So, then, basically -- previously we'd
12 approved the boat surveys.

13 MS. GORBICS: Right.

14 MR. PENNOYER: What we're doing now is approving another
15 technique the peer reviewers have stated is preferable, trying to
16 find a comparison between the two so you can build it into a data
17 service in the future.

18 MS. GORBICS: It's more future based than past based.
19 We're more confident of our ability to project changes into the
20 future and know what the population is doing.

21 MR. SANDOR: Mr. Cole.

22 MR. COLE: How much of '45 relates to surveys of sea
23 otter populations out of the \$262,000.

24 MS. GORBICS: The technique would be unchanged even if
25 we weren't to include sea otters as part of our project objectives
26 because of the protocol, evaluating the -- conduct the surveys

1 identical to the ways we've conducted them in the past.

2 DR. SPIES: They count sea otters and birds at the
3 same time.

4 MR. COLE: At the same time. Okay.

5 MR. SANDOR: Any further comments or questions?

6 MR. PENNOYER: Mr. Chairman (inaudible comments aside)

7 DR. SPIES: Well, I basically felt with the boat
8 surveys we had a technique that we don't know how sensitive it is,
9 and it may not be the best technique, but it's the only thing we
10 have to look at the -- we have series of data going back to '89
11 that indicates an injury. We don't know how sensitive it is to
12 measuring recovery, and so -- so since the beginning there been a
13 lot of frustration -- the peer reviewers and the (inaudible)
14 techniques. It was suggested continually that we look at other
15 ways of doing this (inaudible).

16 MR. SANDOR: There still appears to be some question
17 about maybe fully considering and adopting the recommendations of
18 the chief scientist. Any approval of this project be made with the
19 understanding that they work with the chief scientist in defining
20 that project or -- so that, in fact, these savings can be achieved.
21 Okay. If there are no further questions, are there any objections
22 to the approval of this project, which is already on the table.
23 The project is approved. My record shows that '45, '46, '47 were
24 approved, and the next one that was deferred is 93050, which is the
25 update -- wait a minute --

26 MS. RUTHERFORD: Mr. Chair?

1 MR. SANDOR: Yes.

2 MS. RUTHERFORD: This did not receive Restoration Team
3 approval, and I would like to withdraw that project at this time.

4 MR. SANDOR: Withdrawn, okay. And -- I beg pardon,
5 yeah -- okay. 93051, habitat protection information for anadromous
6 streams and marbled murrelets. We had a discussion of this --
7 well, it was U.S. Forest Service, ADF&G, Department of Interior,
8 Fish & Wildlife Service originally on \$1,179.8 less, my notes say,
9 \$363,000 for channel-typing. Can

10 DR. MONTAGUE: Mr. Chairman?

11 MR. SANDOR: Yes,.

12 DR. MONTAGUE: There was some specific questions that the
13 Attorney General asked about this project. I believe there's a
14 handout -- Dave?

15 MR. SANDOR: Oh.

16 DR. MONTAGUE: Could you pass that out.

17 MR. SANDOR: And would you summarize it, please?

18 DR. MONTAGUE: Yes. Yesterday, I'd indicated that
19 approximately sixty percent of the streams surveyed were, were new,
20 newly discovered anadromous fish streams. It's actually more like
21 eighty percent. Of the 201 streams surveyed last year, 167 were
22 previously undocumented anadromous streams, and also about eighty
23 percent of the streams that were found were not visible on aerial
24 photographs or USGS quad maps. And of these 167 new streams,
25 they're primary, primarily tributaries, and it adds approximately
26 35 miles of previously unknown anadromous stream habitat. Were

1 there any more specific questions relative to stream habitat
2 assessment.

3 MR. SANDOR: Let me ask first of all, can we have a
4 motion for discussion purposes.

5 MR. PENNOYER: Move to approve.

6 MR. SANDOR: Moved to approve

7 MR. McVEE: Second.

8 MR. BARTON: Second.

9 MR. SANDOR: ... and seconded by McVee and Barton. Now
10 are there any questions on this project?

11 MR. COLE: Mr. Chairman.

12 MR. SANDOR: Mr. Cole.

13 MR. COLE: It's not a question, but I can't resist
14 commenting upon that last sentence of this page of the handout,
15 which reads as follows "a high potential was found for expanding
16 and enhancing anadromous fish habitat by circumventing and removing
17 blockages on thirty-four streams. Barriers are predominantly less
18 than five feet in height and include beaver dams, bedrock shoots,
19 and waterfalls."

20 MR. SANDOR: Probably should have clipped that last
21

22 (Simultaneous laughter)

23 MR. COLE: See -- it's the magic wand sometimes.

24 (Laughter)

25 DR. SPIES: At least the beaver dam part. (Laughter)

26 MR. SANDOR: It's a last minute editing job -- well,

1 with that comment, any other comments then? Is there any objection
2 to this project? This is funded at, proposed to be funded at one
3 point one seven nine less three hundred sixty-three.

4 MR. COLE: Let me ask this?

5 MR. SANDOR: Yes.

6 MR. COLE: You know, the channel-typing, has that
7 been eliminated for three hundred thousand?

8 MR. SANDOR: That's -- pardon me?

9 MS. BERGMANN: Three hundred and sixty-three.

10 MR. SANDOR: Three hundred and sixty-three.

11 DR. GIBBONS: Mr. Chair, I think the new number of eight
12 hundred sixteen thousand eight hundred.

13 MR. SANDOR: Eight sixteen.

14 MR. COLE: See, I -- I have a sense that -- as I
15 understood it, the channel-typing was done by remote sensing
16 technique, is that true?

17 MR. RICE: Mr. Chairman, it's usually a combination.
18 You start out with some remote sensing, and then you need to verify
19 what you've done with some ground-truthing.

20 MR. COLE: See, what troubles is is the removal of
21 the channel-typing. I -- I think that's an important part of this,
22 this starting pointing, although I recognize that this handout
23 shows that, that eighty percent of the streams could not located
24 either by remote sensing or aerial photographs. I mean, if that's
25 true, maybe the channel-typing should be eliminated, but I have the
26 sense that channel typing is an integral part, and perhaps a basic

1 part of this entire project.

2 MR. RICE: Mr. Chairman, I think there's two
3 different ways you can approach it. One is to take a very broad-
4 based look at the spill area, in which case channel-typing may be,
5 may be an appropriate mechanism to help with that, and then you
6 focus in and refine your information as you need it. The other
7 approach is to choose those areas that appear to be a very high
8 interest and high value and get a fairly detailed level of
9 information fairly quickly so that we can start making your
10 decisions based on a fairly high level information, at least for
11 some of the areas.

12 MR. SANDOR: Mr. Cole.

13 MR. COLE: Would it make sense to do channel-typing
14 this year, see what we get, and then do ground-based work next
15 year? I'm just asking if it makes sense, I don't know. I've no
16 views.

17 MR. SANDOR: Any response, Mr. Rice?

18 MR. RICE: I can only give my own personal opinions
19 on that, I think we've got some fisheries people that -- that might
20 be able to provide some insight.

21 MR. SANDOR: Please identify yourself for the record.

22 MR. KIM SUNDBERG: Mr. Chairman, my name is Kim
23 Sundberg. I'm with the Department of Fish & Game, and I've working
24 on the Habitat Protection Working Group. As far as the Habitat
25 Protection Working Group's interest in this project, we would
26 prefer to have specific information for parcels that are being

1 evaluated for their habitat, and we've found that the best way, the
2 best information to evaluate that is actual stream-walk information
3 rather than the channel-typing information.

4 MR. COLE: Let me say, we've been through this
5 yesterday, ad nauseam, and again today. We always know that ground
6 based, you know, it's like the troops on the ground are better than
7 the aerial photographs in the Middle East, but, I mean, given that
8 recognition and how much this project costs, can we start with
9 channel-typing or aerial photography, whatever, remote sensing
10 technique?

11 MR. SANDOR: Dr. Sullivan, did you have some comment to
12 also make.

13 DR. SULLIVAN: Yes. I think there's, there's one really
14 empirical point about checking to see if there are fish there. No
15 matter what kind of channel you have, if you have some sort of
16 impassable barrier further downstream, there won't be any fish
17 there. And the stream walks go -- you go up these streams with a
18 backpack shocker and you try and find out if there are, in fact,
19 anadromous fish there. And, granted, if there are, then the stream
20 channels really become important because they -- to help you figure
21 out what kind of productivity you're likely to have and what sort
22 of habitat is available. If they can't make it, if they're not
23 there, it doesn't matter what kind of channel you have. See what
24 I'm saying. That's what you get from the stream survey.

25 MR. COLE: Let me ask this, what is the major loss if
26 there is some impediment up there? Do we have to document this

1 information on every stream in Prince William Sound? I mean, you
2 know, I'm not convinced that we need this study to have been
3 formation -- as rather a beaver dam, you know, or whatever, on all
4 these -- each one of these streams. I -- I'm not satisfied we need
5 that level of information in order to do our work. Now, these
6 people here want to say that they're convinced that we do in order
7 to make a decision on habitat acquisition, well, I'm not going to
8 strongly resist that.

9 DR. SULLIVAN: If the impediments are -- I think,
10 personally, it's important to identify the impediments, but what
11 I'm saying is the empirical thing you're looking at is whether fish
12 actually are there or not. As you go up these streams, you shock
13 those streams, you find young fish. Once you get passed an
14 impediment that they can't scale, you'll know it because you won't
15 be finding any, any younger fish. But I think those, those sorts
16 of information, they are important.

17 MR. RICE: Mr. Chairman, the Habitat Protection Work
18 Group put forward basically these three components: the marbled
19 murrelet portion and the stream walks and the channel-typing, and
20 some of it is a reflection of the, you know, the comfort level of
21 how precise the information is that the Trustee Council is going to
22 need, and some of it is having the ability to extrapolate from one
23 area to another some relative values. The, the stream walks does
24 gives us very precise information on a limited area. That
25 information cannot be extrapolated to adjacent areas to see what
26 the relative value of that land is, whereas some remote sensing

1 information gives you that, but it's much less precise information
2 that you can extrapolate with, and sometimes it's very imprecise,
3 and in other areas it's, it's a little bit better.

4 MR. PENNOYER: Mr. Chairman.

5 MR. SANDOR: Mr. Pennoyer.

6 MR. PENNOYER: I was going to switch over to murrelets,
7 so if Mr. Brodersen wants to talk about salmon streams, then

8 MR. BRODERSEN: At my peril, I need to come back one more
9 time on this subject, if I may. It doesn't really matter what
10 level of comfort we have, it's -- it's the six of you all need to
11 figure out what is your level of comfort, and you need to tell us
12 what that is, and then we will get you the information to that
13 level, and if we could actually get a reading that, that would help
14 tremendously in putting together the '94 -- the '93 work, the '94
15 work, what work we're supposed to be doing on the Habitat
16 Protection Work Group, etc. Just what level of information are you
17 comfortable in having to be able to make these decisions?

18 MR. SANDOR: Any further questions or comments? Yes,
19 Mr. Pennoyer.

20 MR. PENNOYER: Well, switching over to murrelets for half
21 a second (simultaneous laughter), we've got half a million dollars,
22 half a million dollars -- (Simultaneous laughter) -- not answering
23 your question, right?

24 UNIDENTIFIED VOICE: Is that clear, Mark?

25 (Simultaneous laughter)

26 MR. BRODERSEN: I -- I heard it -- (simultaneous laughter)

1 -- we wanted to propose some new projects (laughter)

2 MR. PENNOYER: The murrelet project -- does dawn watches
3 and test, testing radio telem -- telemetry. Can you give me a
4 little better feeling of whether there's more sampling (inaudible -
5 - coughing).

6 MS. BERGMANN: Yes, Mr. Chair, we did talk about this
7 yesterday, or maybe it was in the PAG meeting. It all starts
8 blurring, but I think we did go over it yesterday. The component
9 for marbled murrelets and -- uses the dawn watches to try to
10 identify or further characterize the habitats that are important to
11 marbled murrelets. Again, that information would be used in the
12 habitat acquisition process. The peer reviewers felt that it was
13 important to try to do some radio telemetry work on the marbled
14 murrelets, to do a feasibility study to see if it was reasonable to
15 use that as a technique to try to further identify habitat in the
16 future. So that's the second component of the marbled murrelet
17 work,

18 MR. PENNOYER: (Inaudible interruption)

19 MS. BERGMANN: ... and that work would be -- oh, excuse
20 me, that

21 MR. PENNOYER: Is that was the cost is, of these two
22 components is?

23 MS. BERGMANN: The characterization of the nesting
24 habitat \$222,000

25 MR. PENNOYER: About fifty-fifty.

26 MS. BERGMANN: It's escaping me here. Carol, can you

1 help me?

2 MR. PENNOYER: So the feasibility for telemetry has to be
3 about \$250,000 then -- to do a feasibility study?

4 MS. BERGMANN: Carol, can you help me?

5 MS. GORBICS: I don't have that break-out.

6 MS. BERGMANN: It may be that we didn't break it out in
7 this budget. I thought we did.

8 MR. PENNOYER: You can do it sort of by subtraction.
9 You've got three hundred for salmon surveys, three sixty-three for
10 colonization, and six sixty-three --

11 MS. BERGMANN: But

12 MR. PENNOYER: ... somewhere around a half million
13 dollars for the murrelet project. You have two fifty in one part -
14 - it has to be about two fifty, and then the other is too.

15 MS. BERGMANN: Yeah, the marbled murrelet piece in the
16 budget has \$301,000 for Fish & Wildlife Service, and then there's
17 \$222,000 for the Forest Service.

18 MR. PENNOYER: I was close.

19 MS. BERGMANN: Right.

20 MR. PENNOYER: Half million.

21 MS. BERGMANN: Then of the two hundred twenty -- three
22 hundred and one thousand for Fish & Wildlife Service, some
23 component of that is for the radio telemetry work.

24 MS. GORBICS: Right. It doesn't divide into the habitat
25 work and the radio telemetry work by agency. I'm sorry, I don't
26 have a breakdown on that with me.

1 MR. PENNOYER: I was not trying to -- I guess I was
2 trying to avoid Mr. Brodersen's question but --

3 (Simultaneous laughter)

4 UNIDENTIFIED VOICE: It's a tough question.

5 MR. PENNOYER: ... I'm not sure what our comfort level is
6 until we receive the type of information we have and see how it's
7 going to apply. I don't know how much detail we need on salmon
8 streams relative to habitat acquisition. I suppose the more the
9 merrier, but I'm not sure where you draw the line.

10 MR. COLE: Mr. Chairman.

11 MR. PENNOYER: I'm trying to avoid it, I'm just saying I
12 don't know where to draw the line.

13 MR. SANDOR: Mr. Cole.

14 MR. PENNOYER: When I see it I'll know it.

15 (Simultaneous laughter)

16 MR. COLE: I don't think we need a Lincoln Mark VIII,
17 I don't think we need an Escort, but I think we need something on
18 the level of a Crown Victoria, if that gives you any help.

19 (Simultaneous laughter)

20 MR. PENNOYER: (Inaudible)

21 MR. COLE: It's been so long since I bought a car,
22 but I -- nevertheless -- but, I mean, you know, I mean it's nice to
23 know every stream in Prince William Sound or on Afognak Island, and
24 to walk up there and you see whether there's six fish or fifteen up
25 there, whether there's a beaver dam. I just don't think that in
26 the concept of what we're doing in this entire project, you know,

1 restoration and damage caused by the Exxon Valdez oil spill, that
2 we're required, and the public and the courts, and our own
3 conscience require us to Mark VIII level of almost definitive data
4 to make decisions. We need what, you know, a reasonable person in
5 their own business judgment or their own personal affairs would be
6 comfortable with. Maybe slightly more, but just a little more.
7 And I have the sense that when I see so many of these studies, we
8 go over them, it's -- it's, you know, if we really don't quote "get
9 it all," close quote, we're somehow not doing what we ought to be
10 doing, and I think that's where a lot of this tension is is on
11 these projects. You know, it's the feeling maybe of the
12 Restoration Team and the scientific support that you really want
13 the MarkAir -- the Mark VIII version -- MarkAir, you know.
14 (Simultaneous laughter) ... name that airplane after you yet
15 (simultaneous laughter) -- but, you know, I just think we ought,
16 you know, a little lower degree of comfort level. That's where I'm
17 coming from.

18 MR. SANDOR: Mr. Barton.

19 MR. BARTON: I think that are comfort level is going to
20 be determined on a case-by-case basis. Where we need a Jeep, we
21 going to get a Jeep, and where we need a Mark VIII, we ought to get
22 a Mark VIII, and where a Hugo (sic) will work, we ought to use a
23 Hugo (sic). I don't know -- if I was planning the car mode all the
24 way out, if I was going to select a model, I'd say a Chevrolet.

25 (Simultaneous laughter)

26 UNIDENTIFIED VOICE: Are you going to do the maintenance?

1 (Simultaneous laughter)

2 MR. BARTON: But, I, you know, part of the reason
3 you're -- you know, there's some ambivalence, is that a sensitivity
4 analysis would be helpful in forming our opinions. How do you --
5 what do we get for this much, what do we get for that much? With
6 a car, it's easy. With this, it's pretty tough.

7 MR. SANDOR: Any further comments or questions on this?

8 MR. COLE: Mr. Chairman, I'd go for a Chevrolet
9 Caprice.

10 MR. PENNOYER: How much is that for this project?

11 MR. COLE: But not a Cavalier.

12 MR. SANDOR: Are we going to try to have this project
13 fly or ground, can we take a -- a vote on this project which is on
14 the table, 93051, at \$816,000. It's been moved and seconded that
15 this be approved. Is there any objection?

16 MR. COLE: Well, before we take that vote, I have a
17 sense that I would like to see the channel-typing go with it, but -
18 - so I'll make that motion that we have the channel-typing. At the
19 same cost, eight sixteen?

20 MR. COLE: No, in addition.

21 MR. SANDOR: To the

22 MR. PENNOYER: Back up to the total of one million one
23 hundred seventy-nine thousand?

24 MR. SANDOR: One point one seven nine?

25 MR. COLE: Yes.

26 MR. BARTON: Second.

1 MR. SANDOR: This is the continental -- excuse me --
2 (Simultaneous laughter)

3 MR. BARTON: You're speculating again. (Laughter)

4 MR. SANDOR: Okay. It's been moved, it's been moved to
5 amend the motion to have that include the channel-typing at one
6 point one seven nine total. Is there any objection to that
7 amendment? That amendment is approved. Is there any objection to
8 the basic motion.

9 UNIDENTIFIED VOICE: As amended.

10 MR. SANDOR: As amended. (Pause) The project is
11 approved at one point one seven nine point eight. The last one I
12 have deferred on, and then we can go to coffee, is -- is 93061, new
13 data acquisition, U.S. Forest Service, Department of Natural
14 Resources, \$535,000, unanimously recommended by the Restoration
15 Team, recommended by the chief scientist, recommended seven to two
16 by the Public Advisory Group, and

17 DR. GIBBONS: Mr. Chair?

18 MR. SANDOR: Yes.

19 DR. GIBBONS: What was the action of the Trustee Council
20 on project 93052?

21 MR. SANDOR: '52 -- not approved is what my notes said.

22 UNIDENTIFIED VOICE: Deferred yesterday.

23 MR. SANDOR: Oh, just deferred?

24 MR. PENNOYER: Mr. Chairman, I would assume the
25 Department of Interior would withdraw those since they voted
26 against them.

1 MR. SANDOR: Well, it was unanimously not recommended
2 by the Restoration Team, not recommended by the chief scientist,
3 not recommended by the Public Advisory Group, and that's my notes
4 from yesterday -- not approved -- but I could be wrong.

5 UNIDENTIFIED VOICE: How the hell would it get in there?
6 (Simultaneous laughter)

7 MR. COLE: The Restoration Team withdraw that?

8 MR. McVEE: Mr. Chairman.

9 MR. SANDOR: Yes.

10 MR. McVEE: We withdraw that.

11 MR. SANDOR: It's withdrawn. I'm sorry, it was not
12 disapproved, it was just withdrawn. And now, 93061, which is the
13 last one on this record, new data acquisition, \$535,000, and --
14 let's see, is there

15 MS. RUTHERFORD: Mr. Chairman.

16 MR. SANDOR: I beg your pardon>=?

17 MS. RUTHERFORD: I think that -- the Forest Service
18 intends for me to present this one, is that correct, Ken?

19 MR. SANDOR: Please do.

20 MS. RUTHERFORD: The Trustee Council previously
21 approved project 93060, which allowed the Habitat Protection Work
22 Group to work with the Nature Conservancy to acquire existing data
23 for purposes of analyzing the habitat parcels. That project was
24 titled -- accelerated data acquisition -- and it was at a cost of
25 \$44,000. This project requests your approval for a \$500,000 fund.
26 This would allow us to quickly access additional monies if we found

1 that we needed some available that was not currently -- I mean,
2 some information that was not currently available. We might use it
3 for things like digitizing information that wasn't in a format that
4 we could use -- we might want to do some remote sensing on a
5 parcel. However, while we're requesting that you approval the
6 \$500,000 amount, we would come back to you with a detailed request
7 on any, on any type -- before we expended any funds. However, we,
8 we know that we will at some time need some additional information,
9 and we are concerned about a time lapse of, say, a hundred and
10 twenty days.

11 MR. COLE: I move to postpone it to the February
12 meeting.

13 MR. SANDOR: It's been moved we postpone this project
14 until the February meeting. Is there any objection?

15 MR. PENNOYER: Mr. Chairman, I'd like some discussion on
16 that. Why, since this is going to go in -- apparently this is a
17 quote "slush fund" like a contingency fund for money that's needed,
18 and since our previous action had been that we're going to go to
19 the court based on the results of this meeting, I'm not sure what
20 the purpose would be to delay until the February meeting. Is that
21 an intent to put it in another cycle or a supplemental -- why would
22 we not take action now?

23 MR. COLE: Well, first because I'm sort of
24 philosophical opposed to slush funds, number one. (Laughter) And
25 secondly, I have no, well, contingency fund -- no sense that
26 \$535,000 is a reasonable amount. You could put in a million or two

1 million or five hundred thousand or two hundred and fifty thousand
2 for all we know, and secondly, we will be looking at habitat
3 acquisition and that type information in February, that will be one
4 of the principal purposes of that meeting. So I thought we could
5 take a careful look at this at that time. We might have a little
6 more information, and further justification for this sum could be
7 given us then. That's my thoughts. I was trying to move it along.

8 MR. SANDOR: Mr. McVee.

9 MR. McVEE: Yes. I guess my question is, doesn't the
10 twenty million that we approved -- that we have obligated -- the
11 seven and a half million -- does it not provide for also these
12 kinds of costs, the front end costs for the habitat acquisition
13 program?

14 MR. BRODERSEN: For individual parcels. Once you decided
15 to acquire a parcel, then out of the twenty million would come
16 funding to do so. But this is to figure out which parcels you want
17 to purchase or protect.

18 MR. SANDOR: Any further questions or comments?

19 MR. COLE: I'd like to say one other thing.

20 MR. SANDOR: Sure.

21 MR. COLE: If you read these public comments, they --
22 oh, it's very inspiring to see what people say when they urge us to
23 spend this money carefully and wisely and the trust they impose in
24 us to do that, and I take those comments to heart, and when we get
25 five hundred thousand, that's a lot of money, and I think that we
26 have to be careful with it, where we approve that, know where it is

1 going and why, rather than just come up with a very large number.
2 I think we should discharge our responsibility, and -- and
3 discharging our responsibility requires us to know a little more
4 about these things than we know about this project.

5 MR. PENNOYER: I think I completely concur with Mr. Cole
6 about not giving anybody a blank check, and I think that is
7 specifically what we don't want to do. My impression was that this
8 would be a fund that would sit there, could not be spent until you
9 came back to the Council and asked for permission to spend it piece
10 by piece. It would not make you wait for whatever number of months
11 were required to crank this into a budget request to the court to
12 get the money back. Apparently, the recommendation is that we will
13 have these types of requests and will have these types of needs,
14 but they will be cleared individually with the Trustee Council, either
15 telephonically or meetings of this nature, rather than wait for
16 some further request. Maybe it should be -- let's pick a number.
17 I guess we could start any way we wanted to.

18 MR. COLE: Mr. Chairman, let's take another cut at
19 this. I mean, what more data are we acquiring. We're getting data
20 on murrelets, we're getting data on pigeons, we're getting data on
21 the ducks, we're getting data on the fish, we're getting data on
22 the water column, we're getting data on the beaches, we're getting
23 all this data, you know, from a wide variety of sources. Is this
24 sort of a blank check for another data acquisition study? We're
25 getting data on these streams, anadromous streams, we've got this
26 data, you know, for remote sensing. We just keep getting all this

1 data, and here's \$500,000 for more data that we really don't know
2 what data they want to use this money for, but could say, well,
3 we'll give you more data later so you can act on this. I think we
4 just -- we should be a little more careful.

5 MR. SANDOR: Mr. Barton.

6 MR. BARTON: Mr. Chairman, I note in the write-up that
7 by January 1, the Habitat Protection Work Group that evaluated the
8 existing data base and determined the additional data elements that
9 were necessary, did that happen?

10 MS. RUTHERFORD: We were not -- we are not prepared,
11 we are not prepared to do it. We had hoped, but we did not get as
12 far along with the phase two of Nature Conservancy effort as we'd
13 hoped at this point in time, so that's not available,.

14 MR. BARTON: Would that be done by the February
15 meeting. I mean, there may be a little more information available
16 in February, but there -- it won't be extensive. You know, one of
17 the things that I, I guess, might be useful for you is in February
18 when we come to you with particular parcel analysis, we're going to
19 be asking for permission to begin some discussions with landowners
20 to do things like identify whether or not they are a willing
21 seller, see if they have information they'd like to share with us.
22 Oftentimes we think that won't be in a forum that we can use it to
23 do any analysis with. That's the kind of thing, digitizing that
24 information, that we'd probably find useful, but

25 MR. SANDOR: Anything else, Mr. Barton?

26 MR. BARTON: Without the Council's approval of some

1 amount of money, I guess the logical conclusion is this won't
2 happen until we go back to the courts and get more money, is that
3 correct?

4 MS. RUTHERFORD: That's how we -- we see it, yes.

5 MR. BARTON: And the need to do this is unpredictable?

6 MS. RUTHERFORD: It is unpredictable until we get our
7 hands completely around two things: exactly what information is out
8 there and what form it's in, and your level of comfort.

9 MR. SANDOR: Mr. McVee, did you have some comments?

10 MR. McVEE: A similar kind of question, but, I guess
11 I've got a different one now, and that is, should this be built, or
12 some part of it be built into the habitat work group budget? Would
13 that be a more appropriate place versus a project budget?

14 MS. RUTHERFORD: I think the difference is is whether
15 or not you have approval over the monies or the administrative
16 director has approval over the monies, and we assumed that since we
17 didn't have definitive information about particular data components
18 we might need, that you would want to be involved, and so that's
19 why we made it, we built it into a project.

20 MR. SANDOR: Any further comments or questions? It's
21 been moved that this project be deferred until the February 16
22 meeting, and seconded by the Chair -- nobody else seconded. Is
23 there any objection to that motion? That project is deferred until
24 the February 16 -- we're going to break, but I'd just like to
25 acknowledge that this is the last day of Curt McVee's work in the
26 federal service, and he's retiring at the conclusion of this

1 meeting. He may not even stay 'til midnight, I don't know.
2 (Simultaneous laughter) But, anyway, we're going to try to get out
3 of here at four thirty or five, but in any case, after thirty-eight
4 years of distinguished service, and he has received from the
5 Secretary of the Interior a distinguished service award, as I
6 remember, right? And certainly deserves a purple heart or two for
7 work on this Trustee Council. Your fellow Trustees and members of
8 the Restoration Team present you with this Spirit of Alaska book
9 and our best wishes.

10 (Simultaneous applause)

11 MR. McVEE: Thank you very much. I guess I wish you
12 well in, you know, the challenge ahead on this, on this effort, and
13 I think it's gotten off to a good start. It's certainly had its
14 rough spots, but I guess -- the highlight in terms of the Trustee
15 Council have been the individuals that, that I've worked with and
16 the way that we worked together, and I guess I'm very appreciative
17 of that. So, I wish well, I -- I expect the process to be
18 successful. I'm going to be following it closely. I'm not sure
19 that's a threat really, but (laughter) I -- I'll have, certainly
20 have an interest in the process and the effort. It's very unusual,
21 it's -- I've never been associated with any kind of effort like
22 this in thirty years, so there's always something new, I guess, in
23 probably anything you do, but in working for government, this is
24 the most, I guess you might say, unconventional type of government
25 operation that I've ever been associated with, and it's -- that's
26 created its rough spots -- but it's been very interesting. I'm

1 going to stay in Alaska so I can watch you, and really know the
2 plans and that. Thank you very much for the gift. I'll enjoy this
3 very much.

4 MR. SANDOR: Thank you.

5 (Simultaneous applause)

6 MR. COLE: Mr. Chairman, before we adjourn, I would
7 like to -- or recess -- I would like to make a comment at this
8 time. I consider it an immense pleasure to have been able to
9 associate with Mr. McVee in this unusual enterprise. He's as fine
10 a gentleman as I've ever known, and I want him to know that I
11 personally will miss him. It's been a real pleasure.

12 UNIDENTIFIED VOICE: Hear! Hear!

13 MR. McVEE: Thank you.

14 MR. SANDOR: And we'll reconvene in twenty-five minutes
15 to.

16 (Off Record at 3:30 p.m.)

17 (On Record at 3:35 p.m.)

18 MR. SANDOR: Reconvene please. We have several -- the
19 Trustee Council reconvenes -- we have several items to take up.
20 All of the projects listed on this 1993 Draft Work Plan have been
21 dealt with. The

22 MR. COLE: Mr. Chairman.

23 MR. SANDOR: ... just a point of clari -- Yes.

24 MR. COLE: Can I bring up one thing before we get too
25 far afield?

26 MR. SANDOR: Sure.

1 MR. COLE: You know, there's a possibility --
2 according to Ms. Rutherford, that some monies might be needed for
3 some big acquisition. Would it be feasible to use some of the
4 money out of the twenty million dollar appropriation if the Trustee
5 Council is given notice and approves the expenditure from that
6 fund.

7 MR. SANDOR: It would be if there was a second to that
8 motion.

9 MR. PENNOYER: Second.

10 MR. SANDOR: And there's no objection. I see no
11 objection. That is duly recorded, and certainly amounts proposed
12 will have to come for approval. Just a point of clarification, on
13 this listing that we have, 1993 Additional Projects Recommended by
14 the Public Advisory Group, is there any further action that's
15 necessary on this today? Dr. Gibbons, first, then Carl Rosier.

16 DR. GIBBONS: I believe there are some projects on here
17 that have not been discussed by the Trustee Council.

18 MR. SANDOR: Do you want to -- are we to discuss them,
19 is that the intent?

20 DR. GIBBONS: Well, the Public Advisory Group passed
21 four additional projects.

22 MR. SANDOR: I guess we got into the discussion when we
23 went over this last night with that -- that they haven't somehow
24 received public comment or weren't in the process, and it's
25 questionable whether we can legally deal with them. What are we to
26 do with them?

1 MR. COLE: I move we reject because they've not been
2 reviewed by the Restoration Team, and until they're reviewed by the
3 Restoration Team, I don't think we should take them up.

4 MR. SANDOR: So this could be taken up at the February
5 16 meeting. Any objection to that?

6 MR. ROSIER: Mr. Chairman?

7 MR. SANDOR: Yes.

8 MR. ROSIER: Point of clarification, there. What would
9 be the action between now and the 16th that ...?

10 MR. SANDOR: What action is the Restoration Team to
11 take on this between now and the 16th? Are they going to meet and
12 -- but will they be able to give us recommendations on this for
13 February 16 meeting?

14 DR. GIBBONS: We could meet -- we've reviewed some of
15 these last spring. We could take a reevaluation of the projects
16 that were submitted by the Public Advisory Group and come in with
17 a recommendation to the Trustee Council in February.

18 MR. SANDOR: Please do so then --

19 MR. PENNOYER: Mr. Chairman.

20 MR. SANDOR: Yes.

21 MR. PENNOYER: Well, that's all well and good, but it
22 doesn't answer the question about public review. If we're hung up
23 on the public review question, there's no point in telling people
24 that RT should look at it and we'll look at it in February. So, I
25 need to find out, one, is the NEPA question, is the public review
26 questions, and I think we ought to answer those before we're just

1 saying that we're going to do it -- look at them in February and
2 get the RT all worked up to run through these things.

3 MR. SANDOR: Can the staff and the Restoration Team
4 check these questions that were outlined by Mr. Pennoyer, and if,
5 in fact, we can go ahead legally, in compliance with NEPA, and with
6 the public review requirements, develop recommendations. If, after
7 doing that, you find that we can't take any action, you can report
8 on them, but I guess I'm -- we're told that we really are not
9 prepared to act on any of these today. Is that correct?

10 DR. GIBBONS: Yes. The first step would be NEPA, but I
11 think it's the Trustee Council decision if they would want to go
12 public with these -- so there's some options you can do. You can
13 act on them now, you could request that the -- that they get
14 written up as projects and go to a supplement to the 1993 work
15 plan, or they can be deferred to the 1994 work plan. There's
16 options here that -- the Council can take.

17 MR. SANDOR: But we've already voted that we wanted
18 comments and recommendations from the Restoration Team before we
19 acted on the February 16th, and you're saying there's nothing you
20 can do. How can we approve something -- you know -- we're told on
21 the one hand that there's questions of NEPA compliance, there's
22 question of the public comment, we certainly do not have any
23 recommendation from the Restoration Team following these
24 recommendations of the Public Advisory Group January 7, '93, so we
25 can take action on them. Are you saying that we could actually
26 approve these projects, and these would be incorporated in the 1993

1 work plan?

2 DR. GIBBONS: No. The 1993 work plan, as you reviewed,
3 went out to the public in October and got public comments back, as
4 you know. These -- these projects were did -- were not included in
5 their, and also the documentation on these projects are not all
6 equal. We have some documentation -- three page write-ups,
7 descriptions like we have in the three -- in the 1993 work plan,
8 but some other ones, we just have a one page with notes written on
9 them that says -- we want to reduce it from nine million to eight
10 hundred thousand and so many square feet down to, you know -- so
11 the first thing we have to do -- the Restoration Team is going to
12 analyze this -- is to get uniform data from them, from the
13 projects, and I'm not sure we can do that before the February 16th
14 meeting, to get that uniform data from the -- for the expansion of
15 the Kodiak Industrial Technology Center, the Kodiak archaeological
16 museum. That's two that stand out.

17 MR. SANDOR: Okay. Well, in any case we voted not to
18 until we get some additional information on February 16. If there
19 isn't any information on February 16 (indiscernible), then we won't
20 be able to act on them by then, including the legal information
21 with respect to NEPA compliance and public information comments.

22 MR. PENNOYER: Mr. Chairman, are we implying to the RT
23 then that the appropriate agencies should proceed with the NEPA
24 compliance on all of these between now and February, if possible,
25 or do we even know

26 MR. SANDOR: No. No.

1 MR. PENNOYER: Okay, so we'll just -- we'll just get
2 report back in February and decide to include it or not include it
3

4 MR. SANDOR: Okay. That completes any actions on those
5 listed projects. Dr. Gibbons asked if I would put on the agenda
6 the

7 MR. McVEE: Mr. Chairman?

8 MR. SANDOR: Yes.

9 MR. McVEE: I would like to do something that relates
10 to the projects, if I may?

11 MR. SANDOR: Please make your proposal.

12 MR. McVEE: Yes. I'll have this out and that will
13 speed it up. I think we need to be concerned about, you know,
14 quality, and I think that from time to time that we've looked
15 towards the chief scientist to be our conscience in that respect.
16 On January 4th, he sent a memorandum to the Restoration Team which
17 he expressed some concerns about the quality of final draft reports
18 that are submitted for peer review. And he spoke to the
19 Restoration Team about these concerns on the 11th, and the
20 memorandum is being prepared by Dr. Gibbons to the Restoration Team
21 regarding this issue, and the Restoration Team will be notifying
22 all principal investigators to remind of these four enumerated
23 items here. I guess we have found in funding -- the Trustee
24 Council funding projects based on preliminary findings that have
25 not been peer reviewed, where we do not have, as I say, a high
26 quality reports. It may not be final reports, it may be interim

1 reports, but that they have not been through some type of review of
2 -- when we're utilizing this information as a basis for projects in
3 the future for '93 projects, in this point in time, that this costs
4 substantial funds. I would like to make a motion then that the
5 projects in the final 1993 work plan that continue work conducted
6 in the subject areas in previous areas, that no field work shall be
7 conducted until two criteria have been met. I'm not saying they
8 won't be funded, but that before the field work is initiated these
9 criteria -- previous work has been reported on either an interim or
10 a final report that has been accepted by the chief scientist and
11 the results of the previous work justifies spending additional
12 funds according to the chief scientist. That's the motion. This
13 motion -- I might just point out an example here -- creates a
14 problem with -- the monitoring of the bird and otter -- the boat
15 monitoring project which was approved in December and that -- that
16 moved ahead and would not have met this standard, and I would
17 propose there that the chief scientist would make a determination
18 that satisfactory progress be made toward completion of a credible
19 interim or final report, and I should think that could apply to
20 other projects, I don't know, but I think this is, you know, helps
21 set, set a standard and assure that we do have some control over
22 the quality of these documents and the quality of the work that's
23 following on.

24 MR. SANDOR: Is there a second to this motion?

25 MR. ROSIER: I'll second the motion.

26 MR. SANDOR: It's been moved and seconded, is there

1 discussion? Mr. Cole.

2 MR. COLE: Could we have Dr. Spies' comments on this
3 -- on the motion.

4 DR. SPIES: I think that since the spill of '89, which
5 was, of course, an unexpected event, things have -- materials and
6 people are mobilized, and after the first year, many of the results
7 were in, completely analyzed, and particularly hydrocarbon data
8 analysis, quite a few of the projects hadn't been completed, and a
9 lot of the projects fell into a cycle of reporting the results
10 somewhat incompletely, and faced with the situation of having to
11 move forward with incomplete information and with projects that
12 didn't have all the data incorporated into their analysis, and I
13 think we've indicated through the Restoration Team to the principal
14 investigators that we expected -- since there was about five
15 million dollars allocated last year -- that we get quality reports,
16 for close-out of damage assessment in particular, before moving on
17 to do further work in areas, and we haven't got that many final
18 reports in yet, but I've had enough of them come in that I -- that
19 were -- that really needed substantial work, that were very
20 incomplete that I felt it was important to raise the issue with the
21 Restoration Team, as I did in that memo, to remind the agencies and
22 the principal investigators that we really would like to have
23 another level of effort put into finalizing this data and making
24 sure that we've got something that's peer reviewed and acceptable
25 for -- that we can put out and be proud of as a product from this
26 process.

1 MR. SANDOR: Mr. Pennoyer.

2 MR. PENNOYER: Mr. Chairman, I agree very, very much in
3 principle that this is the type of thing that should occur. I'm
4 not so sure what we set ourselves up with mechanically or process
5 or strategy-wise. Has the RT had time to respond to Dr. Spies'
6 memo, and is this the product of that ...?

7 DR. GIBBONS: Mr. Chair, the Restoration Team fully
8 agrees that we want credible final reports. We discussed this, as
9 stated here, with Dr. Spies last week. I have drafted a memo that
10 I have circulated. It will be finalized this week and will be
11 going to you, stating that we do support this, and the real key
12 here is that we want credible final reports and that there's got to
13 be satisfactory progress towards completion of a credible final
14 report. We -- we had a lot of discussion saying, well, we won't
15 fund the project until we have a final report. Well, some of these
16 are scheduled for finalization now or in March, and the time line
17 didn't lend itself to saying, okay, until we get the final report,
18 we won't give you any money. So the real key is credible, you
19 know, satisfactory progress in the mind of Dr. Spies towards
20 completion of a final report. But the Restoration Team fully
21 agrees with the quality, and we're going to ensure that we do get
22 quality.

23 MR. PENNOYER: So, what you just said differs from this
24 proposal that we got in front of us -- this motion -- how?

25 DR. GIBBONS: I --

26 MR. PENNOYER: How would you redraft this motion, or does

1 this motion capture what you said or -- I'm not sure what you said?

2 DR. GIBBONS: I don't have the memo in front of me, but
3 basically this memo does capture what we're saying that -- is that
4 funding for 1993 work is really contingent upon satisfactory
5 completion of -- of prior work. That's what's -- and in quality
6 work, and so that's

7 MR. PENNOYER: Could we get a copy of the motion, so we
8 can see specifically what's recommended?

9 DR. GIBBONS: I've got a copy of the motion, but I don't
10 -- the copy of the letter is upstairs in my briefcase. I didn't
11 know

12 MR. PENNOYER: But the motion's what we're voting on.

13 DR. GIBBONS: Yeah.

14 MR. PENNOYER: React to the motion and whether it
15 captures what you just said, or doesn't. If so, what we need to do
16 to change it or discuss it.

17 MR. COLE: Well, well, yes -- well, it's
18 substantially different from what Dr. Gibbons just said. The
19 motion makes con -- continued work on the same subject area
20 conditioned on the express certification by Dr. Spies. That's what
21 the motion does. Not only to project '45, but according to what
22 Mr. McVee said, perhaps other projects. Dr. Gibbons said, well,
23 we've just told these people that we want quality work. I think
24 there's a lot of difference.

25 DR. GIBBONS: That's not what I said, Mr. Cole. In the
26 letter that we're -- is going to the Restoration Team, funding is

1 contingent upon satisfactory progress towards the final report.
2 So, we're basically saying the same thing.

3 MR. COLE: Well, let me say this, because we want to
4 be very careful in this area, you know, who makes that
5 determination that quality work is proceeding satisfactory. That's
6 what I meant to say earlier. I mean, on the one hand it's to write
7 them a letter and say funding is conditioned on quote "quality
8 work" or whatever, but this motion expressly makes continued
9 funding conditioned on Dr. Spies himself approving the work
10 product, and there's a lot of difference. I'm not saying, you
11 know, whether we should or shouldn't do it, it's simply the issue
12 that's before us.

13 DR. GIBBONS: I -- I guess our thought on that was that
14 Dr. Spies in concert with the Restoration Team would make that
15 decision.

16 MR. SANDOR: Mr. Pennoyer.

17 MR. PENNOYER: I guess I'm -- maybe I'm bothered by
18 something I shouldn't be bothered with. But I'm bothered with item
19 two under the motion -- the results of the previous work justifies
20 spending additional funds according to chief scientist. That
21 bothers from the standpoint that I just voted on a whole bunch of
22 projects with the assumption that someone had peer reviewed the
23 work that was being done and had come up with the general idea
24 that, yes, it's worthwhile to put radio tags on murrelets and chase
25 them all over Prince William Sound and the Gulf of Alaska, and if
26 I subsequently then find out that two months from now somebody

1 wrote a report and somebody else disapproved it without ever coming
2 back and talking to me about it, I guess I'm a little bothered by
3 that. I like the idea of having the reports done and in in a
4 timely fashion to fit into our process, but I'm not so sure I'd --
5 with due regard to you, Dr. Spies -- that I like the idea that all
6 the projects I just went through ...

7 DR. SPIES: I'm not sure I want all the power.

8 MR. PENNOYER: ... two months from now you're going to
9 veto them and I'm never going to see what happened or understand
10 what's going on or any of it. So, item one, I think, particularly
11 in concert with the RT, I fully agree with, but I'm a little
12 troubled by item two.

13 MR. SANDOR: Any further discussion on this motion?
14 Yes, Mr. Barton.

15 MR. BARTON: Is your concern that the final report
16 resubmitted to the chief scientist -- this item two?

17 MR. PENNOYER: No. Item two says the results of the
18 work, not the report or anything else -- an interpretation of the
19 results of the work can be vetoed by the chief scientist and all
20 funding is cut off at that point. And in due deference to you, Dr.
21 Spies, I think that's a hell of a load to put somebody after we've
22 just passed a whole budget based on presumably peer review and
23 doing particularly -- that's what I want to find out.

24 MR. COLE: I agree with Trustee Pennoyer here that
25 that's -- in some ways granting Dr. Spies a veto power over all or
26 a good percentage of the projects which we've acted upon today and

1 approved. On the other hand, it is disconcerting that we spend ten
2 or fifteen million dollars or more or whatever, which essentially -
3 - you'd think money has not been a great object -- certainly and
4 object but not a object -- a final object -- and yet we're not
5 getting quality work, according to the chief scientist. That we're
6 entitled to expect, I think. And we do need some almost
7 enforcement method to make sure that we are getting quality work,
8 but I'm not sure that granting Dr. Spies and/or the Restoration
9 Team veto power over our decisions on future restoration projects
10 is the answer.

11 MR. SANDOR: Mr. Barton.

12 MR. BARTON: Well, I, frankly, I don't think it's fair
13 to ask Dr. Spies or to put Dr. Spies in that position. I think the
14 ultimate responsibility is ours, the Council, and that the -- you
15 know, I think Dr. Spies and the Restoration Team should look at
16 this, look at these studies and determine what their opinion is of
17 them, but that if there's disagreement or if there's continuing
18 shoddy work, if you will, that needs to be brought to the attention
19 of the Council, and the Council needs to take the action.

20 MR. SANDOR: Mr. McVee.

21 MR. McVEE: I guess Dave has said that he's said he's
22 drafted a memo, I guess. One question I would have is that if
23 there are some, some discussion in that draft concerning the
24 controls, you know, that would be placed or would be exercised.

25 DR. GIBBONS: Yeah. I've got a copy of it now.

26 MR. McVEE: Okay.

1 MR. SANDOR: Yes. Mr. Pennoyer.

2 MR. PENNOYER: Mr. Chairman, I think that both Mr. Cole
3 and Mr. Barton are right. We need to find -- we need to assure
4 ourselves we're not doing shoddy work, and the only way, I guess,
5 to do it finally is to look at the results of the reports and the
6 final reports from these projects. I guess my assumption is that
7 any time during the year all of a sudden we found that marbled
8 murrelets eat their collars and the system doesn't work, we would
9 not continue to do that. Somebody would come in and say, whether
10 it was the chief scientist or whoever would say, whoa, marbled
11 murrelets are eating their radio transmitters, we therefore don't
12 want to buy the extra two thousand, and we would cancel it. Just
13 because we obligated the funds, if a report came in that showed the
14 past -- from the past work or current work that the system wasn't
15 working, the assumption is the agency would do it, but certainly if
16 the agency didn't, I would assume our peer reviewers or anybody
17 else would blow the whistle on it, come in, and talk to the Trustee
18 Council, and we'd cut the funds off, and I don't see that this one-
19 stop shopping is the appropriate way to go.

20 MR. SANDOR: Yes. Mr. --

21 MR. COLE: Well, one way that we could -- a type of
22 enforcement method is to notify the lead agencies that if the final
23 work product is inadequate that we will take some action to see
24 that they are not given the lead on further projects. That might
25 serve as a way of getting their attention. So, therefore, I move
26 that this letter contain words to that effect.

1 MR. SANDOR: The motion on the floor is to adopt is --
2 can we --

3 MR. McVEE: I withdraw my motion.

4 MR. SANDOR: Motion's withdrawn, and it is substituted
5 for a proposal of the motion by Attorney General Cole that the
6 letter that Dr. Gibbons is writing in effect develop a proposed
7 policy for that, and can we, Mr. Cole, have that reviewed at our
8 February 16 meeting?

9 DR. GIBBONS: You certainly can.

10 MR. COLE: Yes, I -- I would just trust the judgment
11 of Dr. Gibbons and/or the Restoration Team or Dr. Spies to put that
12 in the letter so that it goes out -- the letter be dispatched
13 without delay.

14 MR. SANDOR: Yes. Is there any opposition to that
15 motion? Then that is approved.

16 DR. MONTAGUE: Mr. Chairman.

17 MR. SANDOR: Yes.

18 DR. MONTAGUE: Can I bring up something to the Council
19 that needed to be brought up anyway, but, you know, this motion
20 more or less brought it to light, and that

21 MR. SANDOR: I'm going to exercise the Chair's
22 prerogative of -- of moving to two other items because Attorney
23 General Cole is going to have to leave at four, shortly after four,
24 and we have one other major budget item that I'd like to have the
25 Attorney General's participation, either approval, modification or
26 rejection, and that is the administrative budget for -- which is on

1 -- in the blue book, following page 16. There are two charts. The
2 second page after page 16 of your blue book, which the
3 administrative director's budget -- well, what's the --who's
4 prepared to do this? Dr. Gibbons can you summarize quickly the
5 proposed -- proposed expenditure for administration.

6 DR. GIBBONS: Yes. I'll quickly summarize it. If you
7 go to page -- it's after page 16. It's form 1A, page two of three.
8 At the bottom of the page, it's listed 93AD, administrative
9 director's office, direct project support, five hundred seventy-six
10 thousand four hundred. That is for the chief scientist and peer
11 review monies for the 1993 work plan. 93RT, the following line,
12 Restoration Team support, direct support, for two million forty-two
13 thousand eight hundred, is in support of work groups, which I will
14 list -- which are listed on page 24, and they include the 1994 work
15 plan, the Cultural Resources Work plan -- Work Group, the GIS Work
16 Group, the Environmental Compliance Work Group, the Restoration
17 Planning Work Group, and the Habitat Protection Work Group.
18 Basically, on page 24, they're the ones below the middle line,
19 excluding the chief scientist, peer review, for five hundred and
20 seventy-six thousand four hundred. Going onto page 3 -- 3, form
21 1A, 93AD, the administrative director's office -- that is this
22 building, the staff, and the Public Advisory Group -- includes
23 those three, three facets of the one point two nine three million
24 dollars. 93FC, the finance committee, that is the separate
25 committee set up for a hundred and five thousand five hundred, and
26 the final item is 93RT, the Restoration Team support, and this is

1 the Restoration Team itself, the public partation -- Public
2 Participation Work Group and the Management Work Group. To give
3 you notes on -- the Public Advisory Group spent considerable time
4 discussing this, they had several resolutions, one concerning the
5 expense of the chief scientist and peer review. The could not
6 reach closure on that so that was tabled. The thing that they told
7 the Restoration Team was to -- it was high, to reduce it. They
8 didn't specify where to reduce, but they said it seemed high, and
9 the action they did take was concerning the Public Advisory Group.
10 They increased the budget from a hundred, and I believe, fifty
11 thousand to two hundred and twenty-five thousand.

12 MR. COLE: Mr. Chairman.

13 MR. SANDOR: Yes, Mr. Cole.

14 MR. COLE: On that Public Advisory Group, I move to
15 delete any funds for the Public Advisory Group for expenses of
16 public hearings.

17 MR. PENNOYER: Second.

18 MR. SANDOR: It's been moved and seconded that any
19 funds in the Public Advisory Group that were allocated for conduct
20 of public hearings be removed. Is there any objection to that
21 motion?

22 MR. ROSIER: Mr. Chairman.

23 MR. SANDOR: Yes.

24 MR. ROSIER: I don't have any problem with what he's
25 recommending, but are we talking about the budget as it's prepared
26 here and does it have such funds in it, or are we talking about the

1 expanded budget that they're requesting?

2 DR. GIBBONS: As I understand it, the expanded budget
3 has money for public hearings.

4 MR. SANDOR: Yeah, the expanded budget for -- well, but
5 the motion then would apply to whatever budget applied

6 MR. ROSIER: The addition of the fifty-five thousand
7 dollars.

8 MR. SANDOR: Yeah, and -- well, can we take care of
9 that motion on the floor with respect to that, but I wanted to ask
10 him a basic question about the total budget process and the way in
11 which we're dealing with this administration budget. But, Carl,
12 was your question answered?

13 MR. ROSIER: Yes, it was. Thank you.

14 MR. SANDOR: And then, Curt McVee.

15 MR. McVEE: I think I understand the motion, but just
16 for clarification, I assume that that would not prevent the Public
17 Advisory Group from taking public comment at one of their scheduled
18 meetings.

19 MR. SANDOR: Yeah, I presume that's not --

20 MR. COLE: Yeah, if -- if it's -- it's not an
21 expense. I'm not saying that they can't have a meeting and so
22 forth, but this business of going throughout state and holding
23 hearings, and it's not the purpose of the motion is not that we
24 shouldn't have public input, but when we have -- send out these and
25 get two hundred fifty responses, have people come and testify at
26 these hearings, I mean, that's, I think, as Mr. Barton said, we're

1 working the public to death, and I think they get confused, and we
2 never know, you know -- this is duplicate testimony or the same
3 group or -- it just gets too much to be able to evaluate the public
4 response. And I would like to say those people were appointed
5 because of their broad experience and -- and special abilities, and
6 we thought that they generally themselves represented the public in
7 their areas of qualification.

8 MR. SANDOR: Any further comments or questions on the -
9 - yes, Mr. Pennoyer.

10 MR. PENNOYER: I was just going to reiterate that. I
11 don't think it was our intent that the Public Advisory Group be a
12 focus -- a synthesis for us on public comment and that they
13 basically hold the hearings and distill the public comment to us,
14 that they are another form of public comment, and I think that we
15 intended that our hearings and our mailouts, and so forth,
16 continue, and we would get independent public comment for that
17 reason. So at this time there is no reason for the Public Advisory
18 Group to hold public hearings.

19 MR. SANDOR: If there's no further comments or
20 questions, then we will ask if there is any objections to the
21 passage of that motion. There being none, the motion passes. Yes.

22 MR. COLE: Let me ask this, can -- can we defer this
23 until the February meeting, and let me say why. I sense that there
24 is sense among the Trustees that we need to examine the Restoration
25 Team process. If -- if I'm on track on that, and that is the sense
26 of this group, then I think it would be inappropriate to deal with

1 the budget.

2 MR. SANDOR: Precisely my -- point I was going to
3 raise. Mr. Barton?

4 MR. BARTON: I think we need to be concerned about more
5 than just the Restoration Team process. I think we need to look at
6 how we're organized to do what we've been asked to do, and, you
7 know, I think a lot of people worked very hard to get us where we
8 are, and I don't think we need to apologize for that, but I do
9 think we need to look for a better way to do our business, and I
10 guess this meeting really drove that home to me. Therefore, I move
11 that we contract with competent organization or entity to examine
12 our total process, and I envision that to be not something that
13 drags out for the next six months, but rather get an RFP pulled and
14 get the thing contracted and get a report back to us by March or
15 the first of April. I -- I make that motion, Mr. Chairman.

16 MR. SANDOR: It's been moved that a contract be let to
17 do the work described by Mr. Barton and seconded by Mr. McVee. The
18 question -- how does the group operate in the interim? Do they
19 need some budget approved or what?

20 MR. COLE: Let's address that motion, if you don't
21 mind.

22 MR. SANDOR: Yes, okay.

23 MR. COLE: Before we get too far afield because time
24 is fleeting, and the plane doesn't wait for me.

25 MR. SANDOR: So --

26 MR. COLE: Let me say this, if you don't mind,

1 quickly. I object to the motion, and I want to say why. I mean,
2 I think we know better than anyone we can contract with where the
3 problems lie. We have a sense of what those problems are, and then
4 we will send this out for contract and then, you know, they'll know
5 less about the problems which we do. I think -- I have a lot of
6 confidence in this group. I agree that we should take a
7 fundamental look at what we're doing. I agree with Mr. Barton. I
8 say that without being in any way critical with the outstanding
9 work that the Restoration Team has done. As Mr. Barton says, it's
10 got us here, but I -- but I -- I just don't think that, quote, the
11 way to go, close quote, is to put this out for contract and have
12 another level of paperwork addressing the problems.

13 MR. SANDOR: With that objection on the record, the
14 motion is in effect doomed to fail. (Laughter) Mr. Rosier.

15 MR. ROSIER: Thank you, Mr. Chairman. Well, I
16 certainly agree with much of what's been said here, but I think --
17 again, I hope we're not getting the, kind of the horse behind the
18 cart here on this. I -- I really feel strongly that -- that the
19 next step that we need, we need to get an executive director or
20 administrative director, whatever we're going to call that person,
21 in place to be part of this -- this look-see internally, I think.
22 With all deference to Dave, I think he's done a tremendous job here
23 getting us to where we are here at the present time, and I really
24 think that we need to move ahead on that, and get that person in
25 place as we move ahead here.

26 MR. SANDOR: Can we have this on the February 16

1 agenda, because we have, what, five, ten, fifteen minutes at the
2 most -- Dr. Gibbons or Mark Brodersen?

3 MR. BRODERSEN: I have a minor little bookkeeping problem
4 on the state side in that we run out of authorization to exist
5 February 28th, and that LB&A wants a fair amount of time in advance
6 of us asking them for authority to continue to exist. If wait 'til
7 the 16th meeting to approve funds and then try and develop that,
8 we'd be hard pressed to make our March 1st date to allow us to
9 continue expending money on the state's side for

10 MR. SANDOR: The Chair would entertain a motion for
11 hand-to-mouth existence until we have

12 MR. PENNOYER: So moved.

13 (Simultaneous laughter)

14 UNIDENTIFIED VOICE: Second.

15 MR. BRODERSEN: It's an authority issue, it's not money.

16 MR. PENNOYER: Just a moment

17 MR. SANDOR: Mr. Pennoyer.

18 MR. PENNOYER: I think we didn't go along with Mr.
19 Barton's proposal, and I guess I'd -- I move that we basically do
20 what Attorney General Cole stated and try our best at the February
21 meeting or whatever to do this introspective analysis and see how
22 far we get. If don't get very far, I might be convinced to go Mr.
23 Barton's route, but we should try first to do it ourselves, and
24 then the second part of the motion is that we approve this budget
25 contingent on an evaluation of what is -- what we want to do from
26 this study. In other words, you're authorizing them the spending

1 of all this money, we're authorizing as a place-over (ph). We may
2 come back and actually withdraw some of it or reschedule it or
3 remold it, but rather than have to go back to the court or have
4 people run out of money, it seems to me we ought to go ahead and do
5 this contingent on modification based on our study.

6 MR. SANDOR: Is there a second to that?

7 MR. COLE: I'll second it.

8 MR. SANDOR: Mr. Cole. (Laughter)

9 MR. COLE: I was wondering whether -- you know, we
10 have this symposium. I don't know who among the Trustees intend to
11 be at this symposium, but could we not use that occasion if, for
12 example, between five o'clock one night and nine o'clock to address
13 this subject further, and -- and also, well, if we could address it
14 at that time, that'll help, and in the meantime, as Commissioner
15 Rosier says, can take a look at this executive director. Because
16 if we hire an executive director, he or she, as the case may be,
17 may want to play some part in the structure of the organization or
18 the way it operates, and our deference to whomever that may be, I
19 should think that they would -- he or she -- would want to be a
20 part of that process.

21 MR. SANDOR: This February 2 symposium is what's
22 referred to. Any other discussion on the motion? Yes, Mr. McVee.

23 MR. McVEE: Mr. Chairman, I guess I feel that, that
24 the alternative to Mr. Barton's motion or idea of a tracking study
25 of our organization would be for the Trustees Council itself to do
26 this, based upon, of course, their -- having been immersed in this

1 for a number of months, years -- and I guess I feel like that if
2 that's the option, maybe it should be delayed, although I think
3 that some attention needs to immediately be given to this matter
4 because if the (indiscernible) season, problems on the horizons,
5 which may have been triggered by today's activities, but -- I think
6 it may be best to delay it until the permanent administrative
7 director is on board to become part of that discussion because it
8 would seem like that would be a, a valuable, kind of an
9 educational, delegation process between the Trustee Council and the
10 -- and the new executive director, the permanent executive
11 director. The other aspect of approving the administrative budget,
12 I just don't feel like that we have, you know, information at hand
13 we should have. We do not have a -- the financial reports, we do
14 not know how the money has been spent -- how well have we done, you
15 know, if we were operating a private company or corporation, we
16 would certainly have some documentation, some financial statement
17 available to us before we take the next step of approving budget.
18 We have some problems with work groups that have not met for a
19 number of months, and maybe those we could disband. So, we don't
20 need to fund those. But, there's a number of issues or questions
21 I think that -- that we need to look at in the administrative
22 budget. I -- I'm appreciative of the problem if we're running up
23 against deadlines. I don't know how to, how to deal with that.
24 Maybe there is a solution, but certainly think we should see some
25 of this financial data that's being generated right now by the
26 finance committee, and I guess the other aspect of it is that -- is

1 that I would like to see -- see some reports, verbal or written
2 reports, preferably written, I guess, from the work groups. You
3 know, what's -- what has been accomplished, what are their plans
4 to accomplish with the, the money that's being budgeted -- budgeted
5 for this next period -- this next year. I think we know pretty
6 well about some of them because we've paid a lot of attention to
7 habitat acquisition, the planning process, and so on. So, we have
8 a pretty good feel, but for some of the others, I certainly don't
9 have a feel for where they're going or what they've done.

10 MR. SANDOR: Thank you. Is there any further
11 discussion on the motion before the floor. Yes, Mr. Cole.

12 MR. COLE: Well, one of the things that just occurs
13 to me in light of Mr. McVee's comments is if the monies that we
14 have allocated in our budgets to the '92 projects, if they were
15 meant to be caps. Have we received an accounting of how much money
16 was expended on each project that we approved last year? I mean,
17 did we run over, did we run under, is there extra money or did they
18 use the last penny? We've not received any of that information,
19 have we?

20 MR. SANDOR: Perhaps the audit report will show that.
21 We had not so far have had such an audit, have we?

22 MR. WALT SHERIDAN: I'd like to speak to that for just a
23 second. The financial statements are being finalized currently,
24 and the Finance Committee is meeting next week to do that. We have
25 the initial information to gather, and most of the projects appear
26 to be on track financially. As to the question of the cap, and

1 whether projects are caps or not, I think that's probably an
2 unfortunate way to term that. In looking at the '93 projects, the
3 Finance Committee went through those in some detail on two
4 different occasions, and I can assure you that we didn't approach
5 that from the standpoint of them being a cap. We looked at them as
6 being firm projects, and we analyzed them in detail to look at
7 whether or not they made sense in terms of whether it's going to
8 take that kind of money to do it. We looked at things like not
9 just compliance with procedural things from the financial operating
10 procedures, but as specific line items for contract things, like
11 the rates for renting a Beaver airplane to fly out, and whether
12 that figure looked like it was a reasonable kind of figure, and the
13 people on that committee have a lot of experience in looking at
14 those kinds of things and take that very seriously. We went back
15 then to the people on the Restoration Team and made adjustments in
16 each of those projects, and can report to you that on the '93 stuff
17 that it is consistent with the financial operating procedures and,
18 I think, are reasonable projects.

19 MR. COLE: Yes, but we were told here unequivocally,
20 as I recall, that these figures were caps, were we not?

21 MR. SANDOR: There were several terms used. One was
22 cap, and there was an expected amount.

23 DR. MORRIS: There was no authorization to spend any
24 more than that.

25 MR. COLE: Mr. Chair?

26 MR. SANDOR: Yeah.

1 MR. COLE: Were they -- did we spend less on these?
2 I mean, I think it's -- as Mr. McVee said, we're entitled to some
3 accounting from last year's operations what the financial things
4 worked out all on each one of these projects last year. I really
5 think we should have that before we go to the '93.

6 MR. BARTON: From what I understand, we're about to get
7 that.

8 MR. SHERIDAN: You -- you will have that, and I can --
9 also can report that there were at least three projects where
10 substantial amounts of money were turned back or are being turned
11 back, and you'll be receiving that report and have the opportunity
12 then to reallocate those funds as you might see fit.

13 MR. SANDOR: Great. Any further comments or questions?
14 Call for the question on the motion for

15 MR. COLE: What's the motion?

16 MR. PENNOYER: Basically approve the administrative
17 budget here contingent upon our later reevaluation of our structure
18 and spending requirements. Because the inability to dig into the
19 detail now, we're going to wait for the financial report, we're
20 going to look at our organizational question at whatever time frame
21 comes out to be appropriate, and then we are putting everybody on
22 notice we come back and change this.

23 MR. SANDOR: We were to have this on the agenda for
24 February 16 meeting -- the motion with this?

25 MR. PENNOYER: Yes. Yes.

26 MR. SANDOR: Okay, any objection to that?

1 MR. McVEE: Yes. I have an objection to that. I
2 think -- it's my motion -- I guess I would like to make in lieu of
3 that would be to -- to defer this action until we have the
4 information that is being prepared because I just think we're --
5 you know -- we'd be in much better position to act.

6 MR. PENNOYER: Mr. Chairman, on that -- see if you got a
7 second.

8 MR. SANDOR: Yes.

9 MR. COLE: I'll second the motion.

10 MR. SANDOR: Mr. Cole has seconded that motion, the
11 previous motion having been rejected. Mr. Barton.

12 MR. BARTON: How are we to deal with the state's
13 dilemma though in terms of urgency? Is there perhaps some way the
14 finance could authorize one-twelfth of the total amount and -- with
15 the expectation that we're going to get this done within another
16 month?

17 MR. BRODERSEN: Our -- our legislature would be very
18 unhappy with us if we tried to do that, I suspect. We're going to
19 have minor difficulties there as it is with their desire to help us
20 manage this whole thing.

21 MR. SANDOR: Any further comments or questions on the
22 motion? Any objection to the motion?

23 MR. PENNOYER: Mr. Chairman, I object because I don't see
24 any input to this yet.

25 MR. BARTON: I don't see a resolution to the problem
26 with that motion. I also object.

1 MR. COLE: Well, Mr. Chairman? If -- if we're going
2 to take a look at our fundamental structure, why would we be
3 approving a budget that does not recognize that?

4 MR. SANDOR: The Chair has that same problem. Mr.
5 Barton?

6 MR. BARTON: It seems to me we could amend the budget,
7 once we had the results of that study. I -- it's -- are we in the
8 position of not doing anything or in the position of the state
9 running out of money before we have the results of this money?
10 That's what I understood.

11 MR. SANDOR: Mr. Cole.

12 MR. COLE: I move that we, we adopt the budget for
13 the first quarter of 1993.

14 MR. BARTON: Second.

15 MR. SANDOR: It's been moved and seconded that the
16 budget presented be adopted for the first quarter of 1993.

17 MR. COLE: The administrative budget.

18 MR. SANDOR: The administrative budget. Any
19 discussion? Any questions? Any objection?

20 MR. BARTON: I assume that's subject to any future
21 amendments we care to make in the group.

22 MR. SANDOR: And this still would be on the agenda for
23 February 16.

24 MR. PENNOYER: Mr. Chairman, my questions is still does
25 that solve the problem in terms of up-front funding for
26 administration and whatever you think -- the administrative ...

1 MR. SANDOR: Dr. Gibbons.

2 DR. GIBBONS: Yes. We have a contract that -- that
3 expires February 28 with CACI, which -- for this building and the
4 staff, and we are in the process of working with them now on a --on
5 a new contract. I'm not -- the new contract is specified for nine
6 months, but -- so I'm concerned about the activities on that --
7 what actions would the Trustee Council like to take in that -- try
8 to negotiate a three month contract

9 MR. COLE: That -- that doesn't -- that's not the
10 problem. I think we can go ahead, unless there's objection raised
11 here and now. That's not where the fundamental problem is that we
12 think we want to address, as I understand it. Do the other
13 remaining Trustees agree with that?

14 MR. SANDOR: Curt.

15 MR. McVEE: Mr. Chairman.

16 MR. SANDOR: Yes.

17 MR. McVEE: Maybe I don't understand all the problem,
18 and need a little bit further explanation on the point that Mr.
19 Brodersen was raising, but we have been out of money since October
20 1st. In fact, I guess we just filed. The filing went to the
21 court, as I understand it, like, today -- yesterday. But you
22 mentioned it wasn't a money problem, it was a legislative
23 authorization problem, and that would expire in February, and
24 therefore, we would have to authorize money before you could go to
25 the legislature to -- to restore that authorization or extend that
26 authorization. Do I have that clear?

1 MR. BRODERSEN: That's correct.

2 MS. RUTHERFORD: Mr. Chair, there's one other thing.
3 The chief scientist contract expires February 28th also.

4 MR. SANDOR: So February -- February 16 would be an
5 adequate time to

6 MS. RUTHERFORD: Except again, there'll be an issue
7 (indiscernible)

8 MR. COLE: Mr. Chairman, can I restate -- the motion.
9 Let me see if I can refine the motion, but I think the sense of it
10 perhaps was missed. I mean, somehow we've been able to work on a
11 quarterly basis here in the past in seeking monies, and we've
12 gotten along. My view is that we adopt the budget for the first
13 three quarters -- first quarter of '93, but, but that would exclude
14 dealing with long-term contracts, where it's unrelated to the
15 administrative structure. That's the concept that I was trying in
16 shorthand to express. You could exclude, I think, Dr. Spies'
17 contract from that. You could exclude from that the rental of this
18 building. Could you exclude from that perhaps some of the staffing
19 for this facility here. But, what we're talking about is the
20 funding of the broad administrative structure and other aspects.

21 MR. SANDOR: Is that the understanding of the second as
22 well? Is there any further discussion of this motion?

23 MR. PENNOYER: Mr. Chairman.

24 MR. SANDOR: Yes.

25 MR. PENNOYER: I'm unsure of what we're saying to the
26 court. A quarter plus any other items that Mr. Gibbons -- Dr.

1 Gibbons thinks are appropriate to put in? Is that sort of what
2 we're saying? My motion originally was the opposite -- prove it
3 all or take some back later, if we don't want spend it because
4 you're not going to spend over a quarter of the time anyway. Now,
5 we're approving a basic one quarter of everything plus add-on items
6 as yet unspecified except for the contract and Dr. Spies' -- the
7 building contract and Dr. Spies'.

8 MR. SANDOR: The motion as I understand it is that
9 we're binding authorization for funding for the quarter, as we have
10 been all along on some aspects of the Trustee Council work and
11 activity, and the major sense of which appears to be complete
12 agreement is that the organization's structure, including the
13 administrative (indiscernible) needs major revision, and we -- we
14 cannot approve the budget as proposed, with the understanding that,
15 in fact, nothing needs to be changed. The motion was that we
16 approve unauthorized expenditures only for the first quarter of the
17 year.

18 MR. PENNOYER: But I heard in addition to that we were
19 funding a year-round contract for Dr. Spies, a year-round contract
20 for this building, and any other long-term contracts that were
21 required, and I don't know what those are.

22 MR. COLE: Well, it's a, you know -- we can commit,
23 in my view, to the financial organization, to Dr. Gibbons, and it
24 shouldn't be a very difficult problem to segregate those items out.
25 If there is any trouble, please call me.

26 MR. SANDOR: Any further comments or questions on ...?

1 Yes, Carl Rosier? Any objection to the motion? The motion is
2 passed.

3 We had one other action item which we need Attorney General
4 Cole's vote

5 MR. COLE: If it's that ten thousand dollar one that
6 was deferred. Can you find out -- can you find ten thousand
7 dollars, go ahead with that project we deferred.

8 DR. MONTAGUE: Pardon me, can we find it?

9 MR. COLE: Can you -- can you find among all these
10 other funds that we've committed to you, ten thousand dollars to do
11 that little project.

12 MR. SANDOR: Dr. Gibbons, is there one remaining motion
13 that needs to be ...?

14 DR. GIBBONS: No. There was project 93011 was deferred.
15 Perhaps a recommendation is to bring that up at the February
16 Trustee Council meeting.

17 MR. SANDOR: That's fine, we'll do so, without
18 objection.

19 MS. RUTHERFORD: Mr. Chair ...

20 MR. SANDOR: Any motions that -- actions that are
21 required before Mr. Cole has to leave.

22 MS. RUTHERFORD: Yeah, I think that maybe we need a
23 clarification on how to deal with the twenty million dollar fund
24 for the court registry purposes. Is that not correct Craig?

25 MR. SANDOR: Craig, is that ...?

26 MR. CRAIG TILLERY: Do you want -- it was supposed to

1 have ten state, ten federal. Now we've got Kachemak Bay that's
2 coming out of there. Do we take the seven and half to Kachemak
3 come out of the state's ten, or do you want to take that off the
4 top and then split the remainder?

5 MR. BARTON: Take it out of the state's ten.

6 MR. COLE: Take it off the top

7 (Simultaneous laughter)

8 MR. BARTON: Wait a minute!

9 UNIDENTIFIED VOICE: Wait a minute! (Laughter)

10 MR. BARTON: How badly do you need to catch that plane?
11 (Laughter)

12 MR. COLE: It all works out

13 MR. SANDOR: We will take this up on February the 16th,
14 and it -- does not go hand to mouth -- there are some several items
15 that we need to continue even though we cannot get the

16 MR. COLE: I will split my project between two state
17 Trustees, but they must act in unanimity. (Laughter)
18 Thank you. So long, Curt.

19 MR. SANDOR: Thank you. Have a safe trip.

20 (Mr. Cole leave the meeting)

21 MR. BARTON: Mr. Chairman, what else it is that we need
22 to do. Well, I move we adjourn.

23 MR. PENNOYER: Second.

24 MR. SANDOR: No. We do have -- we do have to report,
25 at least, for the record that for the Exxon Valdez Oil Spill
26 Symposium on February 2nd at five, a presentation to be made by a

1 representative of the Trustee Council.

2 MR. PENNOYER: I volunteer Mr. Cole, since he's not here.

3 MR. SANDOR: Precisely what I had proposed, and with
4 agreement he will represent the Trustee Council, and -- did you
5 have something ...?

6 MR. PENNOYER: We'll all be there watching.

7 DR. MONTAGUE: Yes.

8 MR. SANDOR: Dr. Montague?

9 DR. MONTAGUE: Mr. Chairman, this related to the quality
10 of reports issue, and it -- most of the injury assessment close-
11 outs and February 28th, which is only five weeks away, and I would
12 say there's a number of our projects, and I assume others, that by
13 the time we get the peer review, have the investigators rewrite
14 their reports, have the agencies re-review those to see that it
15 meets our quality, it may be -- will be beyond February 28th. In
16 our case, the money's there for all the projects, but what's going
17 to happen is they're all be laid off February 28th, the money will
18 lapse to the Council, and we won't have the quality of reports that
19 we would like. So, that it would seem

20 MR. PENNOYER: Mr. Chairman, I don't think we took final
21 action on our proposal. There's no cut-off at the present time.
22 The sense was that progress, adequate progress had to be made
23 toward that. We didn't vote on the fact that the final report had
24 to be done before you could start spending any money. I'm not sure
25 what your ...

26 DR. MONTAGUE: I think this doesn't relate to anything

1 that came up here. It was our understanding that oil year ends
2 February 28th, and we cannot spend any '92 authorized funds beyond
3 February 28th.

4 MR. BARTON: Isn't that a problem with the legislature
5 rather than with this body?

6 DR. MONTAGUE: Well, it's both.

7 MR. SANDOR: In any case, this is to be carried over
8 'til February 16. Obviously, we are about on the verge to bolt for
9 the door (laughter) and we have a couple other items, namely to,
10 one, identify -- are we, in fact, meeting February 16th.

11 DR. GIBBONS: There's a letter in the packet from the
12 Department of the Interior saying that the alternate for Curt McVee
13 cannot make February 16th.

14 MR. SANDOR: Well, then, if that be the case, is there
15 another representative at the Department of the Interior that could
16 meet on February 16th?

17 MR. McVEE: We're in a hiatus in the -- and I guess I
18 don't know whether the new administration will appoint an alternate
19 to an alternate, and I can't speak for them, I guess, someone can
20 attempt to get that done, but ...

21 MR. PENNOYER: Mr. Chairman, how about February 17th?

22 MR. McVEE: He's out for a -- Pam, have you got those
23 dates on a calendar?

24 MS. BERGMANN: Yes, Mr. Chairman, he's going to be out of
25 state from the 16th through the 26th.

26 MR. PENNOYER: Mr. Chairman, how about February 12th?

1 MS. BERGMANN: That would be fine.

2 MR. BRODERSEN: Mr. Chairman. When we did -- attempted to
3 find a meeting on the 16th -- the 16th was the only date -- period,
4 other than perhaps after the 17th, which I believe Dave was going
5 to ask you to also schedule in, considering what you've now put on
6 your agenda for the 16th meeting.

7 MR. SANDOR: The 17th, you say?

8 DR. GIBBONS: Yes -- we've got so much on the February
9 16th meeting, I was going to suggest that the morning of the 17th
10 also be used.

11 MR. SANDOR: The morning of the 17th would be alright
12 for me, but -- so we're meeting on February 16?

13 MR. BRODERSEN: Well, Interior needs to come up with an
14 alternate.

15 MR. SANDOR: Well, I guess we can call --

16 MR. BRODERSEN: But there was no alternative date in
17 February that we could conceivably get you all together.

18 MR. SANDOR: Curt, can we communicate with Secretary
19 Bruce Babbitt or his representative and see if they've got somebody
20 that -- they could perhaps precipitate something?

21 MS. BERGMANN: Mr. Chair, I guess the -- the -- what we
22 wanted to bring to the Council's attention is that if Secretary
23 Babbitt ends up appointing a representative prior to that meeting,
24 then they will be attending. But, if they don't do that, there's
25 no provision for an alternate to Mr. Gates, and Interior wouldn't
26 be present at that meeting in terms of having a representative

1 there.

2 MR. SANDOR: Well, we do not know that, and so we're --
3 you've admonished the Chair enough not to speculate, and perhaps we
4 should not speculate

5 MR. PENNOYER: We're scheduled for the 16th and the 17th.

6 MR. SANDOR: ... until we're told otherwise. Finally,
7 just to fix a matter of information, the Restoration Work Plan for
8 1993 did not consider the recreation area for Prince William Sound.
9 We are directly the Department of Environmental Conservation's
10 representative to the Restoration Team to develop a proposal for
11 the February 16 meeting that deals with that activity which is
12 described in the Restoration Plan. Is there any other items to be
13 covered before we adjourn?

14 MR. PENNOYER: Mr. Chairman, I didn't catch your last
15 comment. I'm sorry. (Simultaneous talking)

16 MR. SANDOR: It's not a Kachemak Bay proposal. It's a
17 proposal for -- to describe the activity that's in the Restoration
18 Plan that deals with recreation areas in Prince William Sound.

19 MR. PENNOYER: You're considering that for adoption?

20 MR. SANDOR: As a possible addition to the '93 work
21 plan.

22 MR. PENNOYER: Oh, the '93 work plan?

23 MR. BARTON: Mr. Chair, I might ask that the DEC
24 representative work with the Agriculture representative on that.

25 MR. SANDOR: Okay.

26 MR. BARTON: Been working for some months on that same

1 subject.

2 MR. SANDOR: And can we also ask at an early date to
3 have a sort of recapitulation of what happened the last two days so
4 we really know (laughter) so we can actually see what we've done to
5 ourselves and the people of Alaska and the resources of the oil
6 spill area.

7 DR. GIBBONS: Yeah, as a policy now, I write up notes,
8 a summary of it, and put that on top of a copy of the transcript
9 which will be sent to each Trustee Council member.

10 MR. SANDOR: Any last item...?

11 MR. BRODERSEN: One last item that we've talked around a
12 little bit here is that perhaps we could get the Trustee Council to
13 schedule a meeting in March to allow us to have a discussion on
14 where we want to go with the '94 work plan, so that we have this
15 kind of discussion early in the process rather than later. If you
16 were amenable to doing something like that, I think it would be
17 very helpful to staff.

18 MR. SANDOR: It would be helpful -- and, oh, one other
19 thing Attorney General Cole said, if the Rest -- if the Trustees
20 are going to be at this February 2-5 symposium, there may be
21 opportunities to meet. If there's some problem or if there's some
22 -- it should be in the public record, I guess, that we may meet
23 during that period of time so that it is clearly understood that --
24 that such a meeting is authorized at this meeting.

25 MR. BRODERSEN: One more little issue, we need one of the
26 federal Trustees to say a few introductory words at the symposium

1 following the (inaudible -- simultaneous talking) ...

2 MR. SANDOR: Thank you. Anything else?

3 MR. PENNOYER: (Inaudible -- simultaneous talking)

4 MR. SANDOR: Thank you very much. I apologize for this
5 meeting run slightly over the one day period.

6 (Off Record: 4:35 p.m.)

7 E N D O F P R O C E E D I N G S

1 following the (inaudible -- simultaneous talking) ...

2 MR. SANDOR: Thank you. Anything else?

3 MR. PENNOYER: (Inaudible -- simultaneous talking)

4 MR. SANDOR: Thank you very much. I apologize for this
5 meeting run slightly over the one day period.

6 (Off Record: 4:35 p.m.)

7 E N D O F P R O C E E D I N G S

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STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

That the foregoing pages numbered 03 through 558 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council continuation meeting taken electronically by me on January 19 and 20, 1993, commencing at the hour of 8:00 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, Sandy Yates, and Jolene Thornton to the best of our 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 31st day of January, 1993.



Linda J. Durr, Certified PLS

Notary Public for Alaska

My commission expires: 10/19/93