

TRUSTEE COUNCIL
MEETING
16 FEBRUARY 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

February 16, 1993
8:30 a.m.

RECEIVED
MAR 30 1993

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

TRUSTEE COUNCIL MEMBERS in attendance:

State of Alaska

MR. CHARLES COLE
Attorney General

MR. CRAIG TILLERY
(Interim Alternate)

State of Alaska Department
of Environmental Conservation

MR. JOHN SANDOR
Commissioner

United States Department
of the Interior

MS. PAMELA BERGMANN
Regional Environmental
Assistant

State Department of Fish
and Game

MR. CARL ROSIER
Commissioner

United States Department of
Agriculture - Forest Service

MR. MIKE BARTON
Regional Forester

MR. JAMES WOLFE
(Interim Alternate)

United States Department of
Commerce - NOAA

MR. STEVE PENNOYER
Director, Alaska Region

RESTORATION TEAM in attendance:

DAVE GIBBONS

Interim Administrative Director,
Trustee Council

MARK BRODERSEN

Restoration Chief, Alaska Department of
Environmental Conservation

JEROME MONTAGUE

Director, Oil Spill Impact Assessment &
Restoration Division, Alaska Department of
Fish and Game

BYRON MORRIS Chief, Office of Oil Spill Damage Assessment
and Restoration, United States Department of
Commerce - NOAA

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

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

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

BRAD PHILLIPS Chairman
PAMELA BRODIE
KIM BENTON (substituting for JOHN STURGEON)
CHARLES TOTEMOFF
RICHARD KNECHT

OTHERS in attendance:

JOHN STRAND
ARTHUR WEINER, Ph.D.
CHUCK GILBERT
KIM SUNDBERG
CAROL GORBICS
ROBERT LOEFFLER
GARY THOMAS
MARIA LISOWSKI

PUBLIC-AT-LARGE PROVIDING TESTIMONY:

In Anchorage:
CLIFFORD GROH
RALPH EALUSKA
GREG PETRICH
KEN CASTNER
KEN ADAMS
PERRY BEECHER
CATHERINE ANDERSON
BOB ANDERSON
CARL PROPES
PATRICK SHERMAN

Via Teleconference:
CHIP THOMA
MARK STEELE
DIANE McBRIDE
MICHAEL McBRIDE
LAWRENCE EVANS
STOSH ANDERSON
DAVID JANKA
MARLA ATKINS
KRISTIN STAHL-JOHNSON
MIKE MILLIGAN
TRACY AKERS
THOR SKULSTAD
JAMES MIKELIN
CARL BECKER
JEFF GUARD

* * * * *

1

2

3

1

2

1 been frustrated by for a number of years, the legal requirements
2 to hold the data confidential. So, I think it was a good
3 turnout. All reports I've had is the symposium was quite a
4 success. I look forward very much to the proceedings as a
5 concrete example of the work accomplished over the last three or
6 four years. Special thanks go to the organizational committee:
7 Bruce Wright from NOAA and Bryon Morris from NOAA, Kelly Heffler
8 (ph) from ADF&G, Brenda Baxter from Sea Grant, Karen Oakley from
9 the Fish and Wildlife Service and our own L. J. Evans. And Dave
10 Gibbons, of course, did an excellent job as M.C. So, our thanks
11 to all of you and to all the participants who presented papers
12 and made, I think, the symposium a success. At some point, I
13 think we're going to have to decide whether the proceedings are
14 the final record or whether we indeed need to do some other type
15 of coordination and update, including work that has been -- or is
16 being finalized since the symposium.

17 Turning now to the agenda, I think it was sent out to
18 all of you. I'd ask if there are additions or changes that
19 anybody would like to see in the agenda. Dr. Gibbons.

20 DR. GIBBONS: Mr. Chair, yes. I'd like to add an item
21 here, the Public Advisory Group activities of their meeting from
22 February 10th. And if we could put that on first, that might set
23 a little information about the rest of the agenda items.

24 MR. PENNOYER: Okay. Anybody have any problem with
25 that? Okay. Any other additions to the agenda? Well, I guess
26 we might as well go ahead and start down through it then, if

1 nobody has any other announcements to make. Dr. Gibbons, why
2 don't you give your report on the PAG activity then.

3 DR. GIBBONS: Yeah, let me introduce Brad Phillips
4 who's the chair of the Public Advisory Group and he's going to
5 make the presentation.

6 MR. PENNOYER: Mr. Phillips.

7 MR. PHILLIPS: Thank you, Mr. Chairman. I know how
8 long these meetings can get, so I'm going to try to make mine as
9 quickly as possible. We didn't think too much about it until the
10 last meeting about the problem we've run into in terms of our
11 operating procedures and that is, the matter of whether or not
12 alternates can vote. We turned up short of a quorum the last
13 meeting and so therefore, we couldn't vote on anything. We did,
14 however, continue with the meeting and did go through all the
15 items and discussed it. And I'm going to informally give you the
16 results of the thinking of the group. However, we would like to
17 have you seriously consider changing the operating procedures so
18 that appointed alternates could vote in the place of the
19 committee person if he's unable to attend. Right now, that just
20 kind of ties our hands pretty tough if we can't. And if you
21 would consider that, I can tell you within a couple of weeks, we
22 will have alternates appointed by the member for your approval.

23 Remember that the group is made up of 15 different
24 interest groups so -- well, at least 10 plus the public people
25 and we would ask that the member who represents a particular
26 interest group find a suitable replacement that is knowledgeable

1 and could carry on during a meeting and vote on the items that
2 come up. I think you have in your packets or in papers somewhere
3 here the proposed wording that Doug Mutter has written for you,
4 but as a concept that we could have alternates, as I believe this
5 committee, the trustees also have their alternates able to vote,
6 I see there is a possible inconsistency where the public group
7 cannot or under the current rules.

8 MR. PENNOYER: I'm not sure. Dr. Gibbons, do we have
9 the report in front of us?

10 DR. GIBBONS: I haven't seen it. Doug, did you fax that
11 to them or do we have copies available here?

12 MR. MUTTER: I understood that there was a copy of the
13 meeting summary in the packet.

14 DR. GIBBONS: No. The packet went out, you know,
15 before the Public Advisory Group meeting.

16 MR. PHILLIPS: I think it's on page five of this...

17 MR. PENNOYER: This is the package which was just
18 handed out in a manila envelope this morning?

19 MR. PHILLIPS: It's on page five, sir.

20 MR. PENNOYER: Some of the pages aren't numbered. The
21 one numbered page five is farther back in the packet than the
22 actual page five.

23 MR. PHILLIPS: The last line is the significant change
24 where it says "can" instead of "can't."

25 MR. PENNOYER: It's more like page six or seven. Why
26 don't you go ahead and complete your report and then we'll open

1 it to questions.

2 MR. PHILLIPS: Okay, fine. The group talked about many
3 things in trying to be helpful. I think I must ask on behalf of
4 the group that the trustees somehow communicate with us some
5 direction. Apparently, we have done some things and that wasn't
6 apparent until I read the minutes of your last meeting about
7 listening to the public. That's one example of something that
8 apparently is not what you had in mind. And I think that the PAG
9 group would really appreciate some specific direction from the
10 trustees on what you expect from us; what you hope to gain by our
11 organization even being there because I know a good share of the
12 people there are not interested in being part of the scenery or a
13 spear carrier in the opera. They really want to help if they can
14 and they have some very diverse ideas and would do anything they
15 can to assist this group, but we would really like to have you
16 think in terms of either talking to the group or sending the
17 directions on whatever you want us to do where we will be
18 helpful. And right now, we feel like we don't have that and
19 we're kind of trying to cut it out of whole cloth and do
20 something that will be of assistance to you.

21 The items that we talked about, of course, the habitat
22 acquisition was a major item. As you face it, we talked about it
23 also. And one of the ideas that came from two or three of the
24 members very strongly was to ask you if you had considered at all
25 the possibility of land trades rather than direct purchase. In
26 the case of those owners who are interested in logging -- as an

1 example, Lew Williams suggested that maybe there may be some
2 trading stock with the federal government on lands in the Tongass
3 or some way to trade lands.

4 I know the precedent was set back in 1964 when we had
5 the earthquake and there was land destroyed or felt unusable by
6 the State and the State did trade state lands for private land.
7 And they just felt that this might be a way of also cutting down
8 on the amount of cash that would be used but it's another method,
9 perhaps, of habitat acquisition. There were some concerns
10 expressed that for many years now, we've been trying to get as
11 much land out of the hands of the government and into the hands
12 of the private and we are headed the other direction right now,
13 putting it all back in the hands of the government.

14 And in regard to that, it would seem that it would be
15 helpful if the Trustee Council would set forth some rules or some
16 uses to that land rather than taking it from private use and then
17 just making it wilderness or whatever it might happen so that it
18 would be absolutely useless as far as recreation is concerned or
19 other uses, that it might be helpful if you could determine in
20 the acquisition of land from private landholders that you specify
21 some of the uses that it could be used for after the government,
22 in fact -- whichever government it is that takes it. And this
23 would make some of the people who are uneasy about getting it
24 back into federal or state hands a little easier because Prince
25 William Sound, of course, has, in many views, a great potential
26 for recreation and other uses that we don't want frustrated by

1 getting rid of the privately-owned land.

2 Someone also asked that more site-specific information
3 about linkage to the injured species be identified in the
4 acquisition of some of these pieces. How does this one really
5 link with the damage and the particular species that it is sought
6 to protect.

7 There were some discussions also from different points
8 of view and different interest groups about the weighting of the
9 categories on which -- you use a formula, of course, to make the
10 acquisition important, whether it's on the top of the list or the
11 bottom of the list or forgotten. And some of the people who
12 represent fishing feel that the weighting for birds is much
13 heavier and more important, say, than the weighting for fish.
14 And they would like to have some review of that weighting formula
15 so -- to see that it's fair, that both the fish categories,
16 commercial and others, are weighted properly and also that
17 services and, of course, that hits my area of tourism and
18 recreation, that those are given enough weight versus just
19 everything we talked about, it seems like, are the five species
20 of birds. I don't know how the formula was derived or anything
21 but it would be our suggestion that you take a look at it and
22 make sure that it is fair to all categories.

23 One of the things that came to our attention is that as
24 far as we can tell, so far, there has been very little feed-in
25 from the landowners and the timber owners on this acquisition
26 thing. And the PAG has suggested that those people be involved

1 like yesterday, if possible, so that the feed-in by the people
2 who are actually there might be valuable in making some
3 decisions. They suggested also that somebody start talking to
4 the private owners, pretty quickly about whether -- to find out
5 whether they are willing sellers and what some of the problems
6 are. Apparently, some of the private owners say they have never
7 been contacted and so that suggestion was made pretty strongly.

8 (Pause)

9 Well, once again, it was brought up also that we hope
10 that the trustees seriously consider contracting for any of the
11 projects that are upcoming with private persons versus putting it
12 all in the federal and state agencies for them to do. And that
13 comes up at every one of our meetings by testimony and by members
14 of the PAG that the Alaskans that are not in the government be
15 involved in some of these projects.

16 Another item brought up was the matter of concern of
17 whether there is an overlap -- possible unnecessary duplication
18 in some of the project plans. There has always been a concern
19 when we look at the budgets for these plans that any given
20 agency, given a set number of projects to be the lead agency,
21 there's always a very large number there for personnel. And the
22 layering of this seems to need some real look-see to make sure
23 we're not duplicating and that we are double or triple or
24 quadrupling dipping into the personnel department for things that
25 possibly we don't have to have the budget and the personnel as
26 heavy because it may be that -- in each project we ask

1 specifically whether or not that project was something that the
2 agency should be doing anyway and we also asked if they would be
3 getting new personnel or maintaining their regular personnel to
4 do the project -- and in many cases, regular personnel would be
5 doing it and therefore, the question automatically arises if
6 you're putting all this personnel money in there maybe there's
7 too much in there if it's the regular personnel doing it anyway.

8 We also would like to have some direction from you -- I
9 think it's too late for the 1993 work plan but for the 1994, in
10 what your desire is in having us do some manner of prioritizing
11 the projects. So far, we haven't done that because we weren't
12 asked to do it. We've been looking at all the projects that were
13 proposed for the '93 program and went through each one of them in
14 detail and either approved or disapproved and you, of course,
15 have the record of how the votes were and who approved and who
16 didn't. We were able to get a consensus on most of them, but not
17 at all in this procedure did we set -- try to set forth a rating
18 system or a priority system for them. Whether that is important
19 to you -- we've gotten word that it possibly is. And if it is,
20 we would like to have some specific direction on whether we
21 should pay attention to that as we get involved with the '94
22 program.

23 There was discussion also very strongly on some of the
24 members' parts that endowments should be incorporated into the
25 restoration plan and included in the plan summary. So far, we
26 don't see any evidence of that. And you may have already

1 considered it and thrown it out or discounted it or whatever, but
2 there are some that feel in the long run, there should be some
3 endowments as part of the restoration plan so that this will live
4 on much longer than if we spend it all now.

5 Doug, I'm going to ask your help on one here that --
6 could you come up? (Pause)

7 (Begin whispered conference)

8 MR. PHILLIPS: This one right here on number 12.

9 MR. MUTTER: That was Jim Cloud's. He suggested that
10 maybe one of the alternatives in the restoration plan not
11 emphasize acquisitions. That was his point. There wasn't
12 agreement on that, though.

13 MR. PHILLIPS: Okay, this was what?

14 MR. MUTTER: There are five alternatives on the
15 restoration plan.

16 MR. PHILLIPS: And the heavy one was on....

17 MR. MUTTER: Some of them had almost 45 percent of the
18 budget (indiscernible - whispering) acquisition. His point was
19 that maybe one of them ought to have (indiscernible - whispering)
20 money on that.

21 MR. PHILLIPS: For other projects besides habitat.

22 MR. MUTTER: There wasn't agreement on that.

23 (End of whispered conference)

24 MR. PHILLIPS: One of the members suggested that with
25 the heavy emphasis on acquisition of land, that there should be
26 emphasis on other things besides -- about habitat acquisition.

1 Felt very strong about it and I have to pass it on to you.

2 I've already mentioned the -- I think I've hit all of
3 them. Do you see any that I've missed, Doug? I want to
4 emphasis that our meeting that day -- this is advisory. We did
5 not have the opportunity to vote on anything because of the lack
6 of a quorum. If there are any questions at this point, I'll try
7 to answer them for you.

8 MR. PENNOYER: Thank you, Mr. Phillips. Are there
9 questions of Mr. Phillips about the Public Advisory Group
10 meeting? Mr. Barton.

11 MR. BARTON: Yes, Mr. Phillips. Could you be a little
12 more specific? You mentioned that the Public Advisory Group was
13 needing direction from the Trustee Council. Could you specify a
14 little more just what kind of direction?

15 MR. PHILLIPS: I can give you a couple of examples.
16 At the symposium, Mr. Cole's first presentation indicated -- he
17 sort of apologized that the group had not set direction to us or
18 told us what is expected of us. Then, I -- an example of that is
19 the action you took on deleting funds from the budget for the
20 hearing of public testimony and there was no explanation of that
21 in these minutes, but that obviously is a thing that bothered you
22 because we informally in the beginning of our concern about the
23 '93 -- and this was very -- right after we got the program put on
24 our desk. We had three different groups in three different
25 areas. It didn't cost anything because we told them there was no
26 budget outlay for it, but three different groups. Kodiak, Kenai

1 Peninsula and the Prince William Sound invited the public to come
2 and talk about this '93 plan.

3 And then we see in your minutes that you wanted to
4 eliminate any funds for public, I think, for the reason that the
5 group was selected as being pretty diverse and that maybe they
6 could make up their own minds. We need direction on that. If
7 it's not your desire for us to hear the public, then there's an
8 awful lot of time we're not going to waste, but it was our
9 feeling in the beginning because of the name of the group that
10 the public input was very important to you and maybe the fact
11 that -- maybe some of it is duplicating. I don't know. I
12 haven't read it all. I've read everything you've given us but it
13 seems that the public input is what you really need ultimately
14 for some of the policy decisions you're going to make. And we
15 just don't -- we've never had a conversation with your group at
16 all. We've never had a letter or an instruction or say, "This is
17 what you should do which will help us." And maybe you ought to
18 send a messenger over or something to tell us, outline to us what
19 you expect from us and then we can be more efficient because most
20 of us are pretty busy also and I don't like to spin wheels and
21 waste a lot of time. I'm sure most of them don't.

22 MR. BARTON: Thank you.

23 MR. PENNOYER: Are there other questions of the Public
24 Advisory Group?

25 MR. ROSIER: Steve? Mr. Chairman?

26 MR. PENNOYER: Commissioner Rosier.

1 MR. ROSIER: Question on that, I guess. Has the PAG
2 group looked at, you know, what kind of time commitment they're
3 willing to make? I mean there's kind of some things I think that
4 we do need to have some discussions on. I, for one, would like
5 to see a strong Public Advisory Group. That's only my opinion,
6 of course, but nevertheless, it seems to me, you know, we need to
7 have at least some dialogue between us here as to what kind of
8 commitment are we willing to make on this type of thing?

9 MR. PHILLIPS: From the time I've spent with this
10 group, I think that they are all pretty dedicated and I don't
11 think there is a limit on the time. Most of us have to make a
12 living, of course, and that limits you somewhat but at the
13 present time, as an example, we don't know when to call our next
14 meeting because we don't know what we're supposed to do and what
15 you expect from us.

16 I, for example, serve on seven boards of directors and
17 I have to plan those things in advance in order to survive and
18 not have to have Delta Airlines survive on top of me. And so I
19 would say if we can talk and -- you tell us what you need and
20 you'll get it. I'm quite sure of that. The time, I think, is no
21 constraint. We'll put the time in that's necessary.

22 MR. PENNOYER: Further questions? John. Commissioner
23 Sandor.

24 MR. SANDOR: Well, I really appreciate the report and
25 the candor and it was my understanding that the charter and
26 operating procedures for the Public Advisory Group would provide

1 or should provide the direction and it's clear that it's not
2 definitive enough, not specific enough. So, Mr. Chairman, it
3 seems to me that whatever the charge is or the charter, it ought
4 to be in writing. And we did approve the charter and operating
5 procedures of the trustees itself and it seems to me that the
6 very least that we can do for the Public Advisory Group is to
7 expand that charter or to have a supplement to it which spells
8 out really what direction it needs to be given because I believe
9 the direction should be in writing. So, I don't know -- are we
10 restrained -- I know we're restrained to some degree with regard
11 to taking some actions that are far reaching for the new
12 administration -- that may be far reaching for the new
13 administration but can we not, at least, agree that the charter
14 ought to be expanded on or be supplemented with a specific
15 charge, so to speak, to the Public Advisory Group?

16 MR. BARTON: Mr. Chairman.

17 MR. PENNOYER: Mr. Barton.

18 MR. BARTON: I believe we have that on the agenda for
19 this afternoon, the fifth item on the agenda, "Operating
20 Procedures for the Public Advisory Group." That would be an
21 opportunity to address the concerns of Mr. Phillips. I, too,
22 think that the charter and the operating procedures need to spell
23 out just what is expected of the Public Advisory Group. As I
24 recall, the charter had been approved obviously by the Secretary
25 of Interior so we put the operating procedures on hold two
26 meetings back.

1 MR. PHILLIPS: It isn't that -- the operating
2 procedures per se are not a concern of ours. We can read them.
3 We know what they are. What we're saying really is what do you
4 want us to accomplish and how can we help you? And that's not
5 spelled out in procedures. We know that we have a meeting and we
6 know what the -- all the mechanical things are. Just tell us
7 where you want us to go to help you and we'll do our very best to
8 do it.

9 MR. PENNOYER: Commissioner Sandor.

10 MR. SANDOR: But you see -- Mr. Chairman and Brad, I
11 think we do need to say one, at least, it's my feeling that one,
12 we really want you to do prioritization. As proposals have come
13 in from various boroughs and what-not, we've asked specifically
14 that priorities be given. We want, you know, the observations
15 like -- well, different techniques or processes like land trades,
16 contracting. These are very meaningful kinds of suggestions that
17 we really ought to deal with. Maybe in a formal process of
18 suggestions or proposals, you know, need to be formally acted on.
19 Seems to me, in fact, you've outlined about eight or ten items
20 that it would be desirable for you to get immediate feedback on
21 or, at least, within the next...

22 MR. PHILLIPS: Amen. That would be fine.

23 MR. SANDOR: ...30 days. So, that you can decide how
24 you're going to deal with this.

25 MR. PHILLIPS: If we have something of that type of
26 substance from you, then I can call a meeting and then we can

1 deal with anything you want. Right now, we're kind of hanging in
2 the air, saying what do we do next until we get the '94 plan.
3 So, if you can deal with those, we'd be very grateful.

4 MR. SANDOR: You're doing just fine like on endowments.
5 That's been on the quote, agenda, off and on again for a long
6 time and Senator Sturgulewski had a formal proposal. Other
7 proposals have been made and -- so, that's exactly the kind of
8 thing we need.

9 MR. PENNOYER: Okay. It seems from the conversation
10 here that all of us are in definite agreement that we need strong
11 public input. We have, on the Public Advisory Group, experts and
12 knowledgeable people in various particular areas to help look
13 over the program and give us their advice and recommendation.

14 And it sort of seems to me the place where we're having
15 a problem is one, specifically asking you questions. I know that
16 you were given the '93 work plan. That was a specific question
17 for reviews. There have been some but maybe they're not
18 definitive enough and you probably don't seem to be getting the
19 feedback on how we took your recommendations into account. We
20 probably ought to make that a specific agenda item on our
21 meetings as we consider these action proposals. We did use, to a
22 large degree, the minutes from your previous meeting in
23 discussing the '93 work plan and the statements of various
24 members were widely quoted during that discussion so, in fact,
25 that type of input was taken into account. Part of the problem
26 seems to be how you should be interacting with the public-at-

1 large...

2 MR. PHILLIPS: Yeah. A big question.

3 MR. PENNOYER: ...as to receiving advice and I think
4 that needs further elaboration. At the last meeting, you heard
5 some discussion that we had, in essence, a very large public
6 process which the PAG was part of it but wasn't the entire part.
7 We're still expected to hold hearings, do scoping and so forth
8 outside of the PAG. How that interaction should occur may need
9 further elaborations that may not be in operating procedure. So,
10 we should discuss whether we're going to write a letter or get
11 together a statement of intent and then how we wish to meet with
12 you directly at one of your meetings and discuss these items. I
13 think that would be helpful. Do we want to defer further
14 discussion until the operating procedures discussion this
15 afternoon?

16 (Affirmative nods from members of Trustee Council.)

17 MR. PENNOYER: Okay. Thank you very much for your
18 report.

19 MR. PHILLIPS: Thank you for your attention.

20 MR. PENNOYER: Can we proceed then? The next item on
21 the agenda was "Restoration Organization Discussion." I presume
22 that included the administrative director discussion. And Dr.
23 Gibbons, do you want to elaborate what's on this item on the
24 agenda?

25 DR. GIBBONS: My understanding that it is perhaps the
26 process of selection for administrative director and perhaps, a

1 general discussion on organization. I know the specifics of
2 the names and those types of things have to be done in executive
3 session but it was my understanding, perhaps, a process for
4 selection of the administrative director, that type of a
5 discussion.

6 MR. PENNOYER: Could we, perhaps, start with that item
7 then? Selection of the administrative director and I know we've
8 had a couple of memoranda on that. I'm not sure everybody has
9 them but one of the items was how we can -- we have a list of
10 applicants and discussion as to how we proceed to bring that to a
11 head. And I can't find the letter in front of me right now, but
12 I know we did have a letter from the Interior, I believe, and
13 then a letter from Mr. Barton.

14 MR. BARTON: Yes, Mr. Chairman.

15 MR. PENNOYER: Mr. Barton, do you want to...

16 MR. BARTON: Commissioner Rosier and I met and tried to
17 lay out a proposal for a process to follow in the selection of
18 the director, remembering that we advertised this position
19 simultaneously in the state system and the federal system. And I
20 transmitted a proposal February 8th to each of you. I don't know
21 if you want me to go through it at this time or...

22 MR. PENNOYER: Well, if I ask if everybody has seen
23 the proposal and are aware of what the -- do we have it in front
24 of us? It's not in the packet per se but it was mailed out.
25 It's a February 8th letter from Michael Barton to all of us
26 and has a proposed evaluation and selection process for

1 administrative director attached to it. Maybe you'd better go
2 through it briefly.

3 MR. BARTON: Well, basically, the (indiscernible -
4 unclear) of the requirements are that the list of applicants
5 needs to be screened by a senior personnel specialist to
6 determine which applicants actually meet the stated evaluation
7 criteria or the qualifications -- meet the qualifications. At
8 that point, then there needs to be a panel or group, which I will
9 call the evaluation panel, who will again screen the applicants
10 and put together a certificate of candidates. And this needs to
11 be done for the federal ad as well as the state ad.

12 Following this evaluation panel, then the results of
13 that process are forwarded to the Trustee Council who will then
14 actually consider all that has gone before and make a selection.
15 The proposal that was laid on the table would have used a
16 modified restoration team to be the evaluation panel and those
17 activities of that panel would have to be supervised by a senior
18 personnel specialist as well.

19 The modification of (ph) the Restoration Team is this:
20 essentially, there are two applicants that are now on the
21 Restoration Team and those would not participate in the process;
22 otherwise, the rest of the Restoration Team would. In response
23 to my February 8th letter, one of the trustees suggested that the
24 Restoration Team's knees are already buckling and that the
25 evaluation of some 80 odd applicants is probably more than we
26 should ask of them and that some alternative evaluation panel be

1 put together. But that's essentially where we are.

2 MR. PENNOYER: Did you receive any responses to your
3 letter?

4 MR. BARTON: Just the one that suggested an alternative
5 to the Restoration -- modified Restoration Team for the
6 evaluation panel.

7 MR. PENNOYER: That was from Interior?

8 MR. BARTON: Yes.

9 MR. PENNOYER: Ms. Bergmann, do you want to speak to
10 that at all?

11 MS. BERGMANN: Mr. Chair, the suggestion was that we
12 set up an independent panel that could consist of three federal
13 representatives and one state representative that would be co-
14 chaired by the Forest Service and the Alaska Department of Fish
15 and Game. And again, as Mr. Barton indicated, we believe that
16 it's important to do this because the Restoration Team is already
17 over committed on a lot of other projects that they're working
18 on. And we believe this does need to take place in a timely
19 manner and we're concerned that the Restoration Team would have
20 to choose between a number of important tasks. And we also were
21 concerned about -- had an appearance concerns as two other
22 members -- actually, one Restoration Team member -- well, two of
23 the Restoration Team members are applicants for the position.

24 MR. PENNOYER: Question on either proposal. Was the
25 idea in mind that -- how much screening takes place, I guess, is
26 what I was asking. Is this simply a matrix categorization with

1 the applicants and their resumes and so forth available to
2 Trustee Council or how much screening did these two proposals
3 envision was going to take place versus what the Trustee Council
4 would have a chance to look at to make its own mind up on that?

5 MR. BARTON: Mr. Chairman. The purpose of the
6 evaluation panel is to determine quality candidates using the
7 elements that are contained in the vacancy announcement, itself.
8 The certificate of these applicants would be prepared for
9 consideration of the Trustee Council. As I understand it, that
10 does not prevent the Trustee Council from considering any
11 applicants that were deemed to meet the qualification criteria.

12 MR. PENNOYER: Would this evaluation panel interview or
13 simply do an evaluation from the written record in front of them
14 and leave the interviewing up to the Trustee Council?

15 MR. BARTON: The normal course of events in the Forest
16 Service personnel process is that the evaluation panel would not
17 do any interviewing but that the Trustee Council may.

18 MR. PENNOYER: I guess what I was trying to find out
19 was the type of people you'd want on your evaluation panel. And
20 you're saying it's not strictly sort of an evaluation of the
21 quality relative to the in-depth knowledge of the job to be done,
22 but more of whether the application meets the criteria as
23 specified in the announcement?

24 MR. BARTON: It's based on the written record that the
25 applicant submits and it evaluates the written application in
26 terms of the qualification or -- in terms of the qualification

1 criteria that was specified in the application. I'm getting on
2 the edge of my knowledge here.

3 MR. PENNOYER: A little bit more than, Mr. Barton, of a
4 personnel type function than a function of that, I think, Trustee
5 Council will ultimately do of deciding if the person has the
6 skills to meet the particular job requirements that we see more
7 qualitative type of -- this is more of a -- specifically, do you
8 meet the criteria set out in your application.

9 MR. BARTON: That's right and it would, in the normal
10 course of events, determine the best candidates in terms of the
11 written materials.

12 MR. PENNOYER: One follow-up then. Would DOI, Ms.
13 Bergmann, this panel of three state and three federal experts as
14 you have in mind some particular type of people for that? Those
15 three? Personnel specialists or restoration specialists or --
16 Mr. Barton.

17 MR. BARTON: I don't believe a personnel specialist can
18 be a member of this panel -- may supervise the panel but I don't
19 believe they can be a member of the panel.

20 MS. BERGMANN: Mr. Chair, as Mr. Barton indicated,
21 there would have to be a personnel specialist who would be
22 involved in this process to make sure that people were following
23 the correct personnel procedures but as outlined by Mr. Barton,
24 it would seem that senior agency folks within the federal and
25 state system who could be found who would be able to look at
26 these kinds of applications and look at the criteria and

1 determine whether or not the potential applicants did meet the
2 requirements that were set forth.

3 MR. PENNOYER: So, one last. Then in your proposal,
4 the state and federal government would nominate three people on
5 each side and...

6 MS. BERGMANN: (Inaudible positive response.)

7 MR. PENNOYER: Okay. Further questions or discussions
8 on these two proposals? Commissioner Sandor.

9 MR. SANDOR: Well, I think the process or options
10 laid out are fine to deal with. I just have a feeling that we
11 ought to step back and defer action on this until the new
12 administration has an opportunity to appoint the new trustee and,
13 at least, look at this. And I would hope that we take the
14 opportunity to sort of look at this with that fresh perspective
15 of -- and perhaps, look at the operating process, recommendations
16 as we just had from Brad Phillips and indeed, even look at if the
17 description, itself, has administrative director as opposed to
18 executive director is exactly what we want to do.

19 I guess I feel a little bit uncomfortable about acting
20 -- setting the process in motion by which we wouldn't provide the
21 new administration with an opportunity to look at this and this
22 seems like a good break. I guess what I'm arguing for, Mr.
23 Chairman, is tabling this until the appointment is made from the
24 administration so that they have an opportunity to scrutinize
25 this. That's just my feeling.

26 MR. PENNOYER: Commissioner Rosier.

1 MR. ROSIER: Thank you, Mr. Chairman. I think
2 Commissioner Sandor is right on the target there, myself. I --
3 you know, do we have any feel at the present time on when we may,
4 in fact, be looking at filling the Interior seat here? It seems
5 to me that, you know, there's a number of things that we've been
6 anxious to accomplish here in terms of how we conduct our
7 business. And a lot of that, I think, is contingent upon how
8 quickly we get that administrative director in place. And I
9 guess, you know, while I certainly agree with what Commissioner
10 Sandor is saying, I think that it's incumbent that we get down
11 the pike with getting an executive director or administrative
12 director in place as soon as possible.

13 MR. PENNOYER: Ms. Bergmann, do you want to take a
14 crack at that?

15 MS. BERGMANN: Mr. Chair, the Department of Interior
16 certainly concurs that it's important to look at the whole
17 restoration organization. And I concur with what Mr. Sandor
18 said, that I think it makes sense to postpone this action until
19 we've had an opportunity to look at the entire picture. All I
20 can tell you is that Interior did everything that they could do
21 in order to make sure that this meeting could be held today and
22 that action could be taken and that we could move forward and
23 that Interior will continue to do that and try to get someone in
24 place as the new Trustee Council representative as soon as
25 possible.

26 MR. PENNOYER: We seem to be in a bit of a Catch 22.

1 The next item on the agenda is organization and it is difficult
2 to discuss an executive director or administrative director and
3 how that's -- we're going to judge the qualifications for that
4 position without some of those other decisions made. But that
5 doesn't necessarily speak to the process that's been proposed.
6 And the process, we could have talked about without exactly
7 having all the organizational discussions on them. We'd have to
8 postpone action by whatever that process was until, I think,
9 we've discussed the organization and understood where we were
10 going.

11 The next item on the agenda is "Restoration
12 Organization Discussion." I don't have a formal proposal in
13 front of me for that. Does the group wish to defer this action
14 on the executive director then until -- I believe we haven't
15 talked about it yet, but I believe there's a March 10th meeting
16 set up which is just two or three weeks away -- and defer further
17 consideration? I think we all agree we need to get on with the
18 process of selecting it. We have 80 applicants that are anxious
19 to, I think, know what we're going to do with this. So, we
20 obviously are in no position to wait too long on getting started
21 though we do need to have the organizational discussions to go
22 with it and I'm not clear (indiscernible - unclear) we wish to do
23 that. Ms. Bergmann.

24 MS. BERGMANN: Mr. Chair, I believe Mr. Barton was
25 saying that one of the first steps that needed to be done was to
26 have the personnel folks within the federal side and the state

1 side take a look at the applications to make sure that everyone
2 was qualified. And perhaps, that's something that could be done
3 between now and the next meeting, so at least we would have some
4 progress taking place. That's a suggestion.

5 MR. PENNOYER: I'm a little confused with that
6 suggestion versus what I understood these two evaluation panel
7 proposals to do. I thought they were basically to look at the
8 qualifications, according to Mr. Barton's explanation, relative
9 to what was in the job circular and what was in the applications.
10 And you're suggesting we can go ahead with that without
11 appointing either a review panel or -- Mr. Barton?

12 MR. BARTON: Mr. Chairman, I may not have made myself
13 clear. Preceding the evaluation panel, the senior personnel
14 specialist on both the state side and the federal side will need
15 to screen the applicants to determine if they make the basic
16 qualifications.

17 MR. PENNOYER: Okay. Commissioner Sandor.

18 MR. SANDOR: Mr. Chairman, I think the group could go
19 through a quote screening process to determine if candidates meet
20 the qualifications. But if our next meeting is March 10 or
21 shortly thereafter, I think it would be very appropriate if Ms.
22 Bergmann could simply communicate to the Washington office and
23 say, for our March 10 or whenever agenda, this is on and at our
24 meeting, February 16th and 17th, concern was expressed about, you
25 know, deferring for at least a short time to give the opportunity
26 to examine this. But I think unless we had a clear signal with

1 -- keep on the track and the way you're going, I feel a little
2 bit uncomfortable.

3 MR. PENNOYER: The proposal then is to proceed with the
4 screening by personnel people on the state and federal side of
5 the preliminary screening of these applications to make sure that
6 people qualify and go that far. How would we accomplish that?
7 Would Forest Service be willing to do that on the federal side?

8 MR. BARTON: Yes. That's a rather straightforward...

9 MR. PENNOYER: And would Fish and Game do it on the
10 state side?

11 MR. ROSIER: Yes, Mr. Chairman, we would.

12 MR. PENNOYER: Do I hear a motion to that effect?

13 UNIDENTIFIED VOICE: So moved.

14 MS. BERGMAN: Second.

15 MR. PENNOYER: It's been moved and seconded that we
16 proceed with the screening with the Forest Service and the Fish
17 and Game department taking the lead selectively (ph) on the
18 federal and state sides and do the initial screening of these
19 applications to make sure that candidates do qualify. Is there
20 any objection? That will proceed then. And the second part of
21 the motion was to defer the further discussion of the process
22 until the March 10th meeting and...

23 MR. SANDOR: Or...

24 MR. PENNOYER: Or appropriately...

25 MR. SANDOR: Or shortly thereafter.

26 MR. PENNOYER: As soon as possible. Preferably by the

1 March 10th meeting if it can be accomplished by then. Do I have
2 a motion to that effect?

3 MR. SANDOR: So moved.

4 UNIDENTIFIED VOICE: Second.

5 MR. PENNOYER: It's been moved and second. Any
6 objection to that part of the motion? Okay, the next item on the
7 agenda then was the "Restoration Organization Discussion." I
8 think that while the motion specifically addressed that, I assume
9 that would also have to wait until the -- hopefully at the March
10 10th meeting and or as soon as feasible after that. Is there a
11 motion to that discussion?

12 MR. SANDOR: So moved.

13 MS. BERGMANN: Second.

14 MR. PENNOYER: Moved and seconded to defer the
15 organizational discussion of the March 10th meeting or as soon as
16 feasible thereafter.

17 As part of the discussion, how do you wish to proceed
18 on that? Are we -- I am loathe to arrive at a meeting with
19 nothing to look at ahead of time. And is there -- will we try to
20 exchange thoughts or something prior to the March 10th meeting?
21 Remember it's only three weeks away. (Pause) We will attempt to
22 exchange thoughts and if we can't, we'll exchange thoughts at the
23 March 10th meeting is what I hear. Any further discussion? Any
24 objection to postponing that until the March 10th meeting? Okay.

25 Let's proceed down the list then. Next is the
26 "Habitat Protection Imminent Threat Analysis." Marty Rutherford

1 and Dave Gibbons, do you want to lead us through your extensive
2 and colorful notebook?

3 MS. RUTHERFORD: Mr. Chair, you all have received your
4 copies of the "Opportunities for Habitat Protection/Acquisition"
5 notebooks. We also just passed out earlier a document that's
6 about seven pages long called "Discussion Paper." That has not
7 been released to the public. We will be walking you through
8 that as the third part of the presentation we're about to make.
9 The presentation is going to be made by members of the habitat
10 protection work group. We're going to start out with background
11 and evaluation procedures by Art Weiner and then we'll move into
12 land parcel summaries by Kim Sundberg and then we'll be going
13 into policies and proposals which is the discussion paper you
14 received by Chuck Gilbert.

15 I might note we wanted to make sure that this notebook
16 was in color for you because a lot of the presentation is
17 directed towards particular parcels and on black and white,
18 they're just not simply as clear as they are in...

19 MR. PENNOYER: I was being complimentary. I wasn't
20 really (indiscernible - laughter).

21 MS. RUTHERFORD: Thank you. We're always very cautious
22 about these things. There was a great deal of discussion about
23 color or black and white. So, I think at this point in time,
24 I'll just simply turn it over to Art Weiner. And I guess I would
25 suggest that Art Weiner, Kim Sundberg and Chuck Gilbert all come
26 to the table so that they're available for questions that you may

1 have as we go through it. Thank you very much.

2 (Pause)

3 MR. PENNOYER: Gentlemen, proceed whenever you're ready
4 in whatever order you want to take it in.

5 MR. WEINER: Good morning. My name is Art Weiner. I'm
6 a habitat protection work group member from Alaska Department of
7 Natural Resources. On my right is Chuck Gilbert, National Park
8 Service; on my left is Kim Sundberg from the Alaska Department of
9 Fish and Game. Although this gang of three is making this
10 presentation to you all today, quite a few other people
11 participated in the production of this document and in the
12 numerous meetings and discussions that went on in the reviews
13 that generated the work product that we're presenting to you
14 today. I'd certainly like to acknowledge several of them at this
15 point in time. Kathryn Burg, from the U.S. Fish and Wildlife
16 Service; Mark Kuwada from ADF&G, Jess Grunblatt and the staff at
17 ADNR who produced the maps and Carol Fries who produced the
18 product in front of you. They've been very much helpful to us
19 and were major participants in this entire process.

20 Jess Grunblatt also is sitting up right now for a
21 demonstration at the break or at lunch for any of you who might
22 be interested in looking at the technology that went into the
23 production of the maps and the analysis of the remotely-sensed
24 information, the satellite imagery that we used to produce some
25 of this information. Rather than do a formal presentation to the
26 group, we set it up to be viewed at your leisure on one of our

1 work stations back in the library. So, that will be available
2 for you, I think I said, at a break or at lunch or after the
3 meeting and I would assume that the public -- that would be made
4 available to the public also. So, that's going to be an ongoing
5 demonstration in the library.

6 The goals of the habitat protection/acquisition process
7 are threefold. The long-term goal is to identify and to protect
8 those lands and habitats that, with protection, would benefit the
9 recovery of the resources and the services that were affected by
10 the spill. That's the long-term goal. The short-term goal is to
11 prevent damage or loss of habitat to these resources during the
12 time period prior to the adoption of the restoration plan. This
13 is the nature of the interim process that we're bringing in front
14 of you today. We need to bring the interim process to you
15 because as you know, we don't have a restoration plan ready at
16 this point in time, but the potential changes in land use that
17 may affect those habitats that are linked to the resources and
18 services may be degraded during the period of time between now
19 and the time that the restoration plan is adopted. Therefore,
20 we have an interim protection process that we'd like to see move
21 forward.

22 The immediate goal of this meeting is to present to you
23 the results of our analyses of the imminent threat lands and
24 those lands that we'd like to term opportunity lands. Those are
25 lands that came to us unsolicited from landowners who want to
26 participate in our process. Opportunity lands are not lands that

1 we believe are subject to an imminent threat, but rather than to
2 foreclose these land owners who are willing to participate, we've
3 included them in the review of the imminent threat package.

4 What we'd like to obtain from you today is
5 authorizations. And the authorization is basically to allow a
6 team of experts to begin discussions with landowners. We need to
7 ascertain from the landowners and I'm not saying that we're
8 talking just title owners. We may be talking to folks who own
9 other property rights such as surface rights or other rights to
10 property, not just the folks that hold title to the land. We'd
11 like to determine whether or not these people are willing
12 sellers. That's one of our very, very important threshold
13 criteria in the process. And we've received quite a bit of
14 public comment, as you heard today, that we've as yet to really
15 have discussions with landowners. So, the first point that we'd
16 like to make with you and to get your authorization is to begin
17 discussions to ascertain whether or not we have willing sellers.

18 Secondly, we'd like to know whether these folks are
19 willing to participate in this process. They may not be willing
20 to participate in the process, even though they may be willing
21 sellers. They may have some problems with the process that
22 we're bringing in front of you today. So, again, we need to have
23 discussions with these people to make them knowledgeable of the
24 kind of process we're asking them to participate in and to see
25 what kind of feedback we can get from these people.

26 Thirdly, we need to be able to go out on the land and

1 gather more information about these parcels that we're interested
2 in. As you'll hear from the three of us today, we're dealing
3 from a limited knowledge base. And in order to increase the data
4 base, in order to make informed decisions about acquisition or
5 protection of these habitats, we're probably going to have to go
6 out on the land and conduct further investigations and we need to
7 get the permission of the landowners in order to that.

8 So, basically then we're asking for your authorization
9 for these three things: To begin discussions with the landowners
10 to achieve the end of determining willing seller, willingness to
11 participate in the process and permission to access their
12 properties.

13 The identification of those lands that we termed as
14 imminent threats go beyond somewhat the threshold criteria that
15 you had adopted in an earlier meeting. I think it was in January
16 sometime. I think it was on the 19th. We've determined through
17 a threat analysis process that Kim will describe to you that
18 imminent threat lands are those lands where the expected changes
19 in land use will further affect resources injured by the spill.

20 And secondly, that these changes in land use may
21 foreclose us from exercising some restoration opportunity that
22 otherwise would be able to exercised if these changes in land use
23 did not occur. Those are two important factors in our analysis
24 and our determination of whether or not that parcel of land is
25 subject to an imminent threat.

26 The opportunity lands as I mentioned to you earlier are

1 parcels that have been offered up to the Trustee Council for
2 assessment by their owners but they are not currently threatened
3 by any sort of change in land use. There's no development
4 contemplated at this point in time on these parcels. These lands
5 came to us -- came to the Trustee Council unsolicited by us. The
6 owners offered up their lands for review and assessment. So, we
7 had made no overtures to these folks to, you know, bring them to
8 the table.

9 Thirdly, the opportunity lands will be evaluated
10 although in part of this package but we're going to embed them
11 ultimately in what we call our comprehensive process. The
12 comprehensive process, which we will not be discussing at length
13 today, is a very similar process but that process embodies all
14 lands in private ownership in the affected area that we feel have
15 some degree of linkage to the resources and services affected by
16 the spill. But the comprehensive process is going to take a
17 longer time and that's one of the reasons we did break out the
18 interim threat lands so we wouldn't delay dealing with the
19 interim threat lands. The comprehensive process is going to deal
20 with a lot more land than what we're bringing to you today.

21 The restoration plan contemplates acquisition and
22 habitat protection at several levels. Historically, acquisition
23 and protection of habitat was envisioned by the developers and
24 the designers of the circular regulations. If you go back into
25 the law that supports restoration, you can find that habitat
26 protection and acquisition was envisioned by the people who

1 wrote the circular regulations. In our process, habitat
2 protection and acquisition is built into the settlement. It was
3 -- very clear that we have the enabling legislation in the sense
4 to go forward with habitat protection and acquisition. The
5 settlement dictates that.

6 The restoration framework, very clearly, both in the
7 concurrent and the hierarchal processes that were laid out in the
8 restoration framework, envision habitat protection and
9 acquisition as a major element in the restoration plan. And
10 within the draft restoration plan, as currently being developed
11 by the Restoration Planning work group, habitat protection and
12 acquisition is a major theme in virtually all of the alternatives
13 that have been presented to you at this point in time except the
14 natural recovery alternative. And so, right throughout the
15 process, from the circular regs right to the draft restoration
16 process as we see it developing today, habitat protection and
17 acquisition is a major element in restoration.

18 The interim protection process and the comprehensive
19 process that someday we'll be bringing to you are attempts to
20 evaluate and rank land in a way that embodies several major,
21 fundamental elements. The first is that it involves owners on a
22 voluntary basis. This theme runs through all the work that we
23 do. There is no condemnation process contemplated whatsoever at
24 any step of the way. We're dealing with voluntary owners.

25 Secondly, we have to establish, in order to be true to
26 the settlement, that there's a clear linkage between the habitats

1 that exist on this land and the spill-affected resources and
2 services.

3 Third, we feel that we've developed a process that's in
4 full compliance with both the letter and the intent of the
5 settlement. We were very careful to be sure that the settlement
6 was foremost in our minds as we developed this process.

7 Fourth, we feel that we've developed a process that to
8 the best of our knowledge is objectively-based, either on good
9 data or best professional judgment.

10 And lastly, we believe that both the interim process
11 and the evolving comprehensive process represents an equitable
12 process for all landowners. We feel that we're going to be fair,
13 that we've developed a process that is going to deal evenly with
14 all landowners in the affected area.

15 So, these themes run through the process. And we
16 constantly remind ourselves as we've developed this that we have
17 to maintain these kinds of ideas throughout the process and I
18 think we've done so.

19 We've identified resources and services that are linked
20 to habitat protection. And if you look in the briefing document,
21 the list of those resources or services are to be found in a
22 table entitled "Criteria for Rating Benefit." It's in section
23 two of the document. There are 15 different resources and
24 services. And as you heard the chairman of the PAG mention to
25 you earlier, there has been some discussion of expanding this
26 list. And at this point in time, the subgroup is taking that

1 under consideration.

2 If you look at the list, you'll see that there's two
3 factors that drive the listing of a resource as being linked to
4 the spill. One is that changes in land use would adversely and
5 directly affect the habitat. For instance, logging of forest
6 lands that contain Harlequin Duck nesting habitat represents a
7 loss of habitat. Therefore, that kind of a change in land use
8 would have an adverse impact on the population of the species
9 that was affected by the spill. Another way of looking at
10 effects to habitats is disturbance. Several of the resources
11 that we've looked at, we feel, could be adversely affected by
12 disturbance rather than direct loss of habitat. The placement of,
13 for instance, a logging transfer site in the intertidal may
14 affect harbor seals, may affect other organisms that use the
15 intertidal area for habitat or for haul-out. And so, the
16 development of the list embodied those two concepts: direct loss
17 of habitat and/or disturbance to the resource or its habitat.

18 The sources of information we used to derive this list
19 and to do the assessment came basically from documents that had
20 been produced in the past by the resource agencies, things like
21 the Anadromous Fish Catalog, the Atlas of Eagle Nests, the map
22 atlas that was developed as part of the response efforts, very
23 good data that we derived for conducting response in determining
24 where active eagle nests were. We used satellite imagery. We
25 certainly used the scientific literature and lastly, but not
26 least, the results from the Nature Conservancy workshop that we

1 held several months ago wherein we brought a suite of experts in
2 these resources and services and asked them to tell us where they
3 felt habitats of these resources and the services that are
4 generated by these resources are occurring right now in the spill
5 area. Basically, they drew polygons on maps and gave us
6 information about what's within the polygons on the maps. And
7 so, that was best professional judgment that was brought to us
8 with the help of the Nature Conservancy from this rather large
9 group of experts. So, those are the sources of information that
10 we used.

11 Additional data may be necessary. There's no question
12 about that. And I'm not here to plead the case for more studies.
13 But I think that in the future in order to harden the data base,
14 that we're ultimately going to need to make the very difficult
15 decisions regarding habitat protection and acquisition, we're
16 probably going to need some more work. The nature of the work is
17 resource management in nature. It's not damage assessment. It's
18 not recovery monitoring. The kinds of information that we're
19 going to need to help make a better decision on habitat
20 protection is the kind of work that's probably going to involve
21 some field work, some researchers going in the field and
22 verifying whether or not the particular habitat that we're
23 interested in protecting, in fact, contains the resources that
24 we're interested in protecting. And I'd like to be able to say
25 this kind of work is going to be less expensive than the kind of
26 work you all have funded in the past, but I'm not willing to make

1 that statement at this point in time. We are hopeful.

2 The determination of which lands we're bringing before
3 you today in the imminent threat process was conducted according
4 to a threat analysis method that was carried out by Kim Sundberg
5 from ADF&G and rather than hear it from me, I'd like to turn the
6 discussion over to Kim and have Kim discuss with you how he
7 determined which lands to recommend for analysis in this process.
8 Kim.

9 MR. SUNDBERG: Good morning. I made a presentation on
10 September 16th to the Trustee Council where I presented a list of
11 data base that is maintained in the Department of Fish and Game
12 concerning permits and authorizations and requests for permits.
13 And what this is is a listing of all applications for various
14 different permits and authorizations from the state and federal
15 agencies to conduct development activities. It includes things
16 like water use permits, tidelands permits, Corps of Engineers
17 permits, coastal consistency reviews, Fish and Game Title 16
18 permits, wastewater discharge permits. We use this data base to
19 determine what levels or what types of activities were occurring
20 in the spill area because in order to conduct development
21 activities, these permits have to be gotten and it's an
22 indication of the level of -- or interest in activities that are
23 occurring out there rather than just sort of vague plans or
24 somebody's pronouncement that they're going to do something. We
25 wanted to get some hard information. And so, we used this data
26 base to look back to 1989 up to the present as to what

1 applications have been applied for and permits have been issued.
2 And what we found was that there were about 420 or so permits and
3 authorizations that occurred within the spill-affected area.

4 Next, we looked at what types of authorizations these
5 were and what types of activities would likely be occurring. For
6 example, some of these were things like placer mining
7 applications in the upper Snow River or something like that, an
8 area that's far removed from the spill area. It really doesn't
9 have any direct effect on activities or resources and services
10 that are within this spill-affected area. Other things were more
11 directly affected. Things like log transfer facility
12 applications, forest practices notifications, tidelands permits,
13 things that were occurring within the spill-affected area that
14 were likely to have some effect on resources and services
15 occurring there.

16 So, essentially, we took that data and boiled it down
17 and used it to geographically locate where these activities were
18 occurring within the spill-affected area and developed some maps.
19 And the maps are what are on the walls and are in the books,
20 showing areas where there's some imminent development or
21 development that's occurring right now in the landscape. That's
22 where we focused this evaluation of imminent threat activities
23 and where we prioritized this particular presentation in terms of
24 the parcels that we evaluated for potential habitat protection
25 and acquisition.

26 MR. WEINER: In section one of the document, there's

1 one of our famous flow charts, hopefully, a lot less complex than
2 the ones that you saw in the supplement to the framework
3 document. And what we attempted to do here is to summarize what
4 we feel are the most important elements of the interim protection
5 process. There's these basic five steps that we've conducted or
6 carried out. "To identify those essential habitats on private
7 land that are linked to the recovery of the injured resources
8 and/or services. To apply the threshold criteria to private
9 lands with linked habitats." To determine the threat, as Kim
10 just described to you. To evaluate and rank these parcels
11 according to criteria that are also listed -- displayed in the
12 document as interim evaluation and ranking criteria. And then
13 ultimately, with authorization from the Trustee Council, go out
14 and have discussions with the owners of, at least, the highest
15 priority lands. And we will leave that up to you to decide at
16 what level or what cut you would choose to make with regard to
17 who we should go out and speak to with regard to these interim
18 lands.

19 The interim evaluation and ranking criteria were
20 developed by the group. They're the fourth step. Once, we've
21 determined that there is a threat, we sat down, using the data
22 sets that we described to you a little earlier, we then went
23 ahead using these criteria, evaluated the lands and ranked them.
24 The first criteria is the most important and that embodies the
25 formula that Mr. Phillips was talking about earlier. The formula
26 is our attempt to quantify the degree of linkage that a parcel of

1 land has to the affected resources and services. We feel that
2 this is the most important criterion and therefore, it's weighted
3 more heavily than the rest. If you're having a problem finding
4 it in the book, section two. It's a list of eight criteria.

5 COURT REPORTER: Let me just change tapes:

6 (Off record: no time noted)

7 (On record: no time noted)

8 MR. WEINER: If you'd like, we could, you know, go over
9 each one of these criteria in detail and explain to you how we
10 developed them. If not, you know, we'd be more happy to turn
11 this over to Chuck right now and have him begin his presentation
12 on the last part.

13 MR. PENNOYER: Commissioner Sandor.

14 MR. SANDOR: Well, Mr. Chairman, I have lots of
15 questions but I thought it might be well to go through this thing
16 at some point but -- I guess what are the ground rules that we
17 have to deal with this very complex and interesting subject?

18 MR. PENNOYER: Haven't got to the punch line yet. I
19 would hope that we'd have the presentation and then come back and
20 ask questions.

21 MR. SANDOR: Yeah, let's do that. (Indiscernible -
22 simultaneous speech)

23 MR. WEINER: What I'd like to do then is...

24 MR. PENNOYER: It would be handy however, I think, if
25 you went down the list of criteria and at least touched the
26 ones...

1 MR. WEINER: Okay. Once we...

2 MR. PENNOYER: ...basic to your whole ranking procedure
3 and I think a short discussion would be appropriate.

4 MR. WEINER: Once we've done that, it might be a good
5 time to take a few questions and then I'd like to turn it over to
6 Kim because Kim's presentation really goes over a number of these
7 parcels and shows you how the ranking criteria were actually used
8 on specific parcels. And that might be helpful to help
9 understand how the criteria were applied to particular pieces of
10 land. So, I'd leave that up to you as to when you want to break
11 for questions.

12 MR. PENNOYER: Well, I believe that might answer some
13 of the questions that we have, so perhaps it would be better if
14 you went through and did that. Otherwise, we'll be asking
15 questions and you'll say "Oh, for example, here's how we did it
16 here" and I don't...

17 MR. WEINER: But be sure you leave time for Chuck
18 'cause he's got a section here on the policy considerations that
19 I'm sure you want...

20 MR. PENNOYER: There is time and I think if you --
21 we'll take a break about 10:30 so if you want to run down through
22 the interim ranking criteria and briefly touch on each one of
23 them.

24 MR. WEINER; I'll turn this over to Kim because he's
25 responsible for the formula and I think he'd be the best one to
26 defend the formula rather than...

1 MR. SUNDBERG: You chickened out again, huh.

2 MR. WEINER: Chickened out again.

3 MS. RUTHERFORD: Kim, be sure that when you're
4 referring to a chart, tell them where it can be found.

5 MR. SUNDBERG: Yeah, I'll hold it up so that people can
6 see. First of all, maybe we should just briefly go down through
7 these interim evaluation and ranking criteria. They were brought
8 up at the January 19th TC meeting, but I think it would be
9 helpful just to kind of briefly go through them again. Does
10 everybody find these?

11 Okay, there's eight of these criteria and the first
12 one, as Art mentioned, is the linkage criteria. It establishes
13 the linkage between the injured resource or service and the
14 habitat or the feature on the land. So, it looks at things, for
15 example, for resources like feeding, reproductive, molting,
16 roosting and migration concentrations. For services, it looks at
17 essential sites. It includes high public use areas. We look at
18 things like population or numbers of animals on the number -- or
19 the number of public users, the number of essential habitats or
20 sites on the parcel and the quality of essential habitats and
21 sites. So basically, this criteria is to tie an injured resource
22 and service with something on the land that provides a benefit
23 to it.

24 The second criteria looks at what can that parcel do in
25 and of itself. And this gets to the comments we've heard that
26 what about if you just bought this little parcel here and then

1 something else happened next door, is that going to affect what's
2 going on in that parcel. So, we looked at each one of these
3 parcels to see what it could provide, in and of itself, if you
4 were just to acquire that parcel; can it function as an intact
5 ecological unit and can it provide the benefits that you want it
6 to provide.

7 Criteria number three looks outside and sees what is
8 going on outside that parcel, adjacent land uses. For example, a
9 parcel that's embedded in a national wildlife refuge would
10 basically have some kind of conservation management surrounding
11 it whereas a parcel that was embedded in some other commercial
12 forest land might have timber harvest occurring around it. So,
13 it looks outside the parcel and sees what things are occurring
14 outside.

15 Number four looks at how many different kinds of things
16 are going to be protected. Essentially, if you're going to
17 benefit more than one injured resource or service, you get a
18 little more bang for your buck if you buy that parcel. You get
19 multiple species or multiple resource or service benefits; it
20 should be ranked a little higher.

21 Number five looks at whether there's any critical
22 habitat for depleted rare, threatened or endangered species. The
23 idea being there that if there's an opportunity to protect some
24 critical habitat for species that are already depressed or
25 declared depleted rare, threatened or endangered, it should have
26 a little higher benefit or a little higher ranking than the

1 parcel that wouldn't do that. Number six -- oh, incidentally,
2 all the parcels that we looked at, none of them have that kind of
3 habitat at this point. There are no depleted, rare, threatened or
4 endangered species officially listed on each of these parcels
5 yet.

6 Number six looks at whether the habitats or sites on
7 the parcel are particularly vulnerable or potentially threatened
8 by human activity. A parcel that has habitat that isn't really
9 impacted by anything that's perceived in the future would have a
10 lower ranking than something that has habitat that's very
11 sensitive to some type of human activity.

12 Number seven looks at whether you can manage the
13 adjacent lands easily, compatible with the resources on the
14 parcel. Again, it looks at who the land manager is of the
15 surrounding land to see whether that can be incorporated easily
16 into their management scheme.

17 And number eight looks at whether the parcel is in the
18 spill-affected area. And this gets to concentrating in this
19 interim process on those parcels that are within the spill-
20 affected area or a spill-affected area. I might just touch real
21 briefly on the fact that we don't have an officially designated
22 spill-affected area but in order to do this analysis, we had to
23 develop some kind of a geographic area to look within and some
24 boundaries. And so, we used an interim boundary that was
25 developed by the restoration planning group which is where we're
26 calling sort of a gray line area. It encompasses essentially

1 from the Copper River to the west and incorporates all the
2 watersheds in Prince William Sound and the Gulf Coast, lower Cook
3 Inlet and the Kenai River watershed and the Kodiak Island
4 Archipelago including Afognak, Shuyak and the Alaska Peninsula
5 down to about Chignik.

6 MR. WEINER: One thing I would add to Ken's discussion
7 is that bear in mind that much of this analysis deals with the
8 concept of presumptive habitat, that we presume that the areas
9 that we have within the polygons contain the species or the
10 service that we're interested in protecting. In many cases, we
11 have no verification. We don't have bird in hand, pardon the
12 pun. We may be talking about a murrelet in a poke unless we go
13 out and verify that, in fact, murrelets are nesting on this
14 parcel of land. We're using best professional opinion and we've
15 chosen the term, presumptive habitat. We presume that based on
16 best professional judgment that the habitat does, in fact,
17 contain the resource in question. And we're very concerned that
18 we have a level of information that gives you all the confidence
19 to make the kinds of difficult decisions that you're going to
20 have to make in the future, assuming you go forward with the
21 habitat protection element in the restoration plan. And it's the
22 confidence in these data that we feel could be built up a little
23 bit higher or significantly higher if we could get permission
24 from the landowners to go out on their land and verify whether or
25 not these resources do, in fact, exist on their land. Walking
26 streams, for instance, is an excellent way to determine whether

1 or not we have anadromous fish on a particular, you know, water
2 body on a parcel of land. But keep that in mind that in many of
3 these cases, our data is soft.

4 MR. SUNDBERG: Sounds like an arms control agreement.
5 Trust but verify. The next thing I'd like to do is just sort of
6 do an overview of the parcels that we evaluated and probably, the
7 best way to do that would be to go to section three...

8 MR. SANDOR: We're not going to discuss the criteria?

9 MR. PENNOYER: We were going to wait until he applied
10 it to the parcels. If you wish to ask a question now, go ahead.

11 MR. SANDOR: No, that's fine.

12 MR. SUNDBERG: Take a look at this map. Should be in
13 section three, hopefully. This gives you sort of an overview of
14 parcels that we looked at and they range, again, from the Copper
15 River --west of the Copper River area through Prince William
16 Sound along the Kenai Peninsula and include parcels on Afognak
17 Island and southern Kodiak Island. The other thing that I direct
18 you to is this parcel ranking analysis. It's this spreadsheet.
19 I believe it's also in section three.

20 MR. WEINER: Right after the map.

21 MR. SUNDBERG: This is an overview of all these parcels
22 that are located on those maps with sort of at-a-glance how they
23 ranked in scoring against those eight criteria. And what I'd
24 like to do is sort of explain to you on this thing, on this
25 ranking analysis how we went about scoring each one of these
26 parcels. There's 22 parcels that we scored and 19 of these are

1 what we're calling the imminent threat parcels which means
2 there's some type of development activity either occurring on
3 them or contemplated in 1993. Three of them are these
4 opportunity parcels. The opportunity parcels are aster- --
5 there's an asterisk after them so in other words PWS 07, Chenega,
6 is an opportunity parcel.

7 The ranking criteria, the one through eight, were
8 applied for each one of these parcels. And for the first
9 criteria, that's that linkage criteria, we scored for each parcel
10 and each injured resource and service, all 15 injured resources
11 and services, we gave them either a high, moderate or low or none
12 in terms of what benefits that parcel provides to that injured
13 resource and service.

14 MR. PENNOYER: Kim, excuse me. That comes back to
15 section two, to the table there shows resource, high, moderate,
16 or low?

17 MR. SUNDBERG: Exactly. Go back to section two so you
18 see this "Criteria for Benefit" table. And these are criteria
19 that we used within criteria one to rank high, moderate and low.
20 For example, for anadromous fish, the first one, if there's a
21 high density of anadromous streams on the parcel, multiple
22 injured species and/or the system is known to have exceptional
23 productivity, it gets a high score. If there's few or no streams
24 on the parcel or one or less injured species, it gets a low
25 score.

26 So, we went down for each parcel and for each injured

1 resource and service and scored them high, moderate or low in
2 terms of what benefit the parcel provides for that injured
3 resource or service. And that's reflected again in this parcel
4 ranking analysis in terms of 0-H, 6-M. What that means is that
5 there was no highs and six moderates for the Orca Narrows PWS 01
6 parcel. Now, comes the tricky part and you have to bear with me
7 on this one. Well, before I get to that, before I get to the
8 scoring, the two through eight criteria were just scored yes or
9 no. So, if it met the criteria, it got a yes; it didn't meet the
10 criteria, it got a no.

11 Now, we get to the tricky part. We wanted to have some
12 way of ranking these parcels and to reflect how many highs,
13 moderates and lows they got in terms of linkage and how many
14 yes's or no's they got in terms of the other criteria. So, we
15 developed this scoring formula and that's reflected on number two
16 on the second page of this parcel ranking analysis. Footnote
17 number two. We took the highs and we gave them a one score; we
18 took the moderates and we gave them a half a point and we took
19 the lows and gave them a zero. And we summed up the number of
20 highs, and the number of moderates which was half, .5 times the
21 number of moderates and we multiplied that times the total number
22 of yes's that we got for the other criteria. And that gave us a
23 score which is reflected in the right column. So, for example,
24 in the example that's provided here in footnote two for KAP 08,
25 Shuyak Strait parcel, there were three highs and you add that to
26 .5 times 10 which is five. So, you get eight and then you

1 multiply that times six yes's and that gives you a total score of
2 48.

3 The important thing with this ranking formula is that
4 it gives a lot higher weight to the linkage factor. So, parcels
5 that have more linkage to injured resources and services will
6 have a disproportionately higher end score. The other thing that
7 it does is that if a parcel has no linkage, in other words, it
8 doesn't either get a high or a moderate in terms of what its
9 benefit is, it essentially can never get a score higher than a
10 zero. And that will eliminate parcels that don't have any
11 linkage to injured resources and services.

12 So, now, I would direct your attention to this parcel
13 ranking and acreage summary and then what I'd like to do is walk
14 you through how we scored a highly rated parcel and how we scored
15 a low rated parcel and give you an idea of the spread that we
16 looked at. Basically, this table gives you at a glance all 23
17 parcels or 22 parcels that we evaluated and divided into the
18 imminent threat parcels and the opportunity parcels. And it's
19 hierarchal. In other words, the ranking is within the imminent
20 threat parcels the top ranked parcel is number one and under the
21 opportunity parcels, the top ranked parcel is ranked number one.
22 It also provides the acreage of the parcel that was evaluated so
23 it would give you an idea of what size acre or what size these
24 parcels are that we're looking at and gives you an idea of the
25 spread of the scores, so we had a high score of 60 which was PWS
26 07, Chenega Island/Eshamy/Jackpot and a low score of zero which

1 was Windy Bay. There's a couple of them that share the same
2 rank because they have the same score so that's why there's two
3 number nines and two number twelves.

4 So, now what I'd like to do is walk through a couple of
5 the parcels. I'd like to go through the KAP 01, Seal Bay,
6 Afognak Island, as a high example. I think you've probably heard
7 enough about China Poot/Kachemak Bay already on previous
8 presentations, so we'd try something new here. And then I'd like
9 to go through a low one also to give you an idea of the spread
10 and what kind of information we're dealing with. So, if you
11 could turn to the tab that says "Kodiak/Alaska Peninsula KAP".
12 KAP 01.

13 MR. WEINER: You're looking at this map.

14 MR. SUNDBERG: And then we'll be going through this
15 parcel analysis that says KAP 01 on it. First of all, the map
16 shows you what kind of information we evaluated and how this
17 parcel was laid out. The information that's on this map shows
18 land ownership, the tan colored is private lands; the green
19 colored is public land, either state or federal. The dark rust
20 brown color is timber -- previous timber harvest areas, areas
21 that have already been harvested. The red areas are our best
22 estimate of what projected timber harvest areas are for 1993 and
23 this information, incidentally, was based on either forest
24 practices notifications that had been received by the agencies or
25 timber plans that had been provided by some of the operators. It
26 was also supplemented by information from the Department of

1 Natural Resources Forest Practices biologists and Department of
2 Fish and Game forest practices -- or forest practice foresters in
3 DNR and the forest practices biologists in the Department of Fish
4 and Game. It's not a hard boundary and it's our best estimate at
5 this time of where timber harvest is likely to occur in 1993.
6 Under the Forest Practices Act, notifications have to be given 30
7 days in advance of timber harvest activity so there could be
8 other timber harvest occurring within here that we're not aware
9 of right now or plans could change and they do change. The
10 other information that's provided on this is the forest cover so
11 this is the checker cross hatching green on the map gives you an
12 idea of where forest cover occurs. It doesn't try to
13 discriminate between commercial and non-commercial timber. It's
14 simply where conifers are growing and obviously, there's
15 different volumes and different densities of timber depicted in
16 this area.

17 MR. WEINER: Mention the satellites (indiscernible -
18 unclear).

19 MR. SUNDBERG: Yeah, actually this information was
20 based on this satellite image which is behind you, this big blue
21 thematic map that was developed from a spot (ph) satellite image
22 so the green mimics the green on that map. Other information
23 that we provide on this map are the anadromous fish streams and
24 other streams that show on U.S. Geological Survey maps. That
25 gives an indication of where we've got anadromous fish spawning
26 and rearing. We've included all the documented bald eagle nest

1 sites. These are all documented bald eagle nests, not
2 necessarily just the active ones. The seabird colonies are
3 depicted on there by small red seabirds and the parcel boundary
4 is this heavy red line that goes around. And you'll notice on
5 this KAP 01 that we've included a parcel boundary that's larger
6 than the red area that is imminently affected by timber harvest.
7 The reason for that is that the land owner, Akhiok/Kaguyak/Old
8 Harbor Joint Venture requested that we take a look at their
9 holding up there and so we included lands that were in addition
10 to those that had been noticed for timber harvest. They
11 originally selected this land for commercial timber and they had
12 plans -- or have previously expressed plans of logging basically
13 most of that cross hatched forest cover area within that parcel
14 boundary.

15 So, moving onto this table here, the analysis, once
16 we'd established the location of these parcels -- each one has a
17 unique number and that's kind of a control number so we're not
18 talking apples and oranges later on if the boundaries start to
19 change or whatever. It's a unique number for each parcel. The
20 name is essentially whatever geographic area is located nearby.
21 The landowner is the first footnoted box and that's the land
22 owner of record for generally the surface rights on that parcel.
23 And the important thing -- for KAP 01 it's Akhiok/Kaguyak/Old
24 Harbor Joint Venture. The important thing to remember is that
25 there are other owners of rights on these parcels. There may be
26 owners of timber rights; there may be owners of subsurface

1 rights. So, there's other owners and we didn't try to depict all
2 the various different landowners, but that's something that will
3 have to be considered obviously when we get into negotiations for
4 habitat protection.

5 The parcel acreage is the area that we evaluated within
6 the lines, so in other words, within that heavy orange boundary
7 is 15,000 acres. And that we kept to that on each one of these
8 evaluations in terms of what is -- how much area did we look at.
9 The total acreage is our estimate of what the total holdings of
10 that particular landowner is in the spill-affected area and that
11 gets back to the question of well, what context is this holding
12 within the big picture of what this landowner owns in there and
13 so between Akhiok/Kaguyak and Old Harbor villages, they own an
14 estimated 253,000 acres within the spill area.

15 Box number four is the affected acreage. That's the
16 area within that red blob on the map and that's our estimate of
17 what is likely to be affected by an imminent development activity
18 so in this case, it's about 1600 acres.

19 So, what we did after establishing the parcel and
20 getting the acreages all down and looking at the maps, we just
21 went down all the injured resources and services and that's in
22 this left column and rated them for potential for benefit as
23 high, moderate, low or none. And the comments are basically
24 capsulized summaries of what the resources or the value is for
25 those particular injured resources and services. To do this, we
26 had a small interdisciplinary team that sat down and basically

1 cranked through each one of these parcels. We had all this
2 resource material which is in Appendix -- it's in section five in
3 the appendices that Art went over -- all the existing agency
4 documentation that was available. We consulted the NRDA studies.
5 We consulted the Nature Conservancy report and the maps that were
6 produced with all the resource experts and they're also listed in
7 section five as to all the different people that participated in
8 putting these lines on maps, showing where these habitats are.
9 And essentially, used best professional judgment amongst us as to
10 what that ranked, high, moderate or low based on those criteria
11 that we previously went through. Where there's a none, it
12 basically means there's nothing there on that parcel that
13 directly benefits the resource or service. So, in terms of
14 common murre, there were no common murre colonies nearby and so
15 we rated them none. And again, in terms of the overall scoring,
16 that rates a zero as does a low.

17 In this particular case, this parcel rated high for
18 marbled murrelets. That was the only -- or bald eagles and
19 marbled murrelets received highs. The marbled murrelet category,
20 we had resource experts that said, you know, I don't know that
21 precisely there's a nest on that parcel but by golly, that's the
22 best marbled murrelet habitat I've ever seen and so therefore, I
23 say that there's a high confidence that nesting occurs on that
24 parcel. And these are people that work with the birds and have a
25 pretty good feeling for what nesting characteristics constitute
26 marbled murrelet habitat, but it doesn't reflect that we actually

1 have done nesting surveys on this parcel to know precisely if, or
2 how many, marbled murrelet nests occur there.

3 Bald eagles rated high. I think the maps shows that
4 there's a fairly high number of bald eagle nests on the parcel
5 and it was essentially felt -- actually, all the bald eagle nests
6 don't occur on this one but there are 42 documented nest sites on
7 this parcel and that's, by our criteria, ranked a high.

8 Anadromous fish, black oystercatcher, harbor seal,
9 Harlequin Duck, intertidal/subtidal biota, pigeon guillemot,
10 river otter, sea otter, recreation/tourism, wilderness and
11 culture resources all rated a moderate. And again, that's based
12 on the criteria that we previously went over in terms of the
13 values that it provides.

14 I might just mention here that in addition to the
15 resources we evaluated, we also looked at services and here's
16 where our information base is the weakest probably. We don't
17 have access to very good objective information about what service
18 values these provide but we looked at what available information
19 there was and basically made some judgment calls on how to rank
20 them. Recreation/tourism got a moderate. It's a high value
21 recreation area, but it has difficult access and there aren't
22 high numbers of people using it so therefore, rather than getting
23 a high, it got a moderate by our criteria. Wilderness is another
24 example. Has high wilderness characteristics but some of those
25 characteristics are declining because of timber harvest in this
26 area so it got downgraded to a moderate in this particular case.

1 You'll see in some of the other parcels wilderness values got
2 high because there basically hadn't been any activities occurring
3 on the land and so they still had a lot of wilderness
4 characteristics.

5 Subsistence in this case rated low, not because there
6 aren't important subsistence resources there but it generally
7 gets relatively low use, relative to other areas in the area
8 primarily because of the difficult access. It's on the north end
9 of Afognak and it's difficult to get to.

10 Other information that we provided on the third page of
11 this analysis -- well, at the bottom of the second page, we wrote
12 basically a capsule summary on the ecological significance. What
13 is it about this parcel that supports resources and in this
14 case, and in other cases, we sometimes went outside of what were
15 direct values to injured resources and services. For example,
16 this parcel supports a non-injured species such as deer, elk and
17 brown bear in addition to the injured resources and services.
18 The adjacent land management, again, that's an attempt to show
19 who owns the land around this so it gives you an idea of who the
20 land manager is in the area and what are they doing. In this
21 case, it's Afognak Joint Venture and they're managing the land
22 primarily for timber harvest and tree farming. On the third
23 page, the imminent threat opportunities, this is our attempt at
24 describing what it is that's either an imminent threat or an
25 opportunity. In this case, it's a split. "A portion of the
26 parcel is proposed for logging in 1993 as an extension of an

1 ongoing timber management operation by Koncor Forest Products.
2 Akhiok/Kaguyak has expressed an interest in discussing habitat
3 protection for remainder of the parcel."

4 The protection objective. This is probably one of the
5 most important things is what is we're trying to protect. And
6 this is going to be important in any future negotiations is to
7 determine what our objectives and what is it we're trying to
8 protect out there. In this case, this is our first cut at
9 listing what are some of those objectives, "maintain water
10 quality and riparian water habitat for anadromous fish, maintain
11 marbled murrelet and bald eagle nesting habitat, maintain and
12 enhance wilderness-based recreation opportunities."

13 The next box lists some of the useful protection tools.
14 These are taken from the Nature Conservancy Blue Book which
15 listed all the available realty instruments that are out there
16 for affecting protection and they range from cooperative
17 management agreements up to fee title. We tried in these
18 analyses to list some of the ones that we thought might work for
19 this particular parcel. It's not an all-encompassing list but it
20 gives you a flavor for the kinds of things that we're thinking
21 about. And then finally, the recommended action is the last box.
22 "This is one of the highest priority imminent threat parcels.
23 Request Akhiok/Kaguyak/Old Harbor Joint Venture to provide
24 interim protection and discuss options for long-term protection."

25 So, that's essentially a walk-through one of the high
26 value parcels. We can do a low value one and that will give you

1 an idea of the spread and then depending on what your pleasure
2 is, either take questions or move on to part three which is
3 discussing where do we go from here.

4 MR. PENNOYER: I've had a recommendation for a break.
5 Can you do the low parcel in about five minutes?

6 MR. SUNDBERG: Sure. That won't take very long.

7 MR. PENNOYER: That's about how long you've got from
8 the looks of it.

9 MR. SUNDBERG: Sounds like an ultimatum. Okay, so
10 let's move to the CIK section and we're going to look at CIK 06
11 which is Windy Bay. So, that's this map. Everybody find it?
12 Okay, this parcel is located on the outer coast of the Kenai
13 Peninsula and it's depicted as this red blob up here in the upper
14 watershed. You can see that there's been considerable timber
15 harvest activities occurring in this area and this is essentially
16 a small remnant of forest area that hasn't been harvested in the
17 last three or four years. For anadromous fish, it rated low --
18 well, let me step back. The parcel acreage is about 400 acres.
19 It's owned by the Port Graham Village Corporation. They have a
20 total entitlement or holding of 63,500 acres in the spill area
21 and again, the affected acreage is 400 acres. They've issued a
22 forest practices notification to log that parcel in 1993.

23 MR. PENNOYER: Kim, excuse me, the parcel is exactly
24 the projected log area, then?

25 MR. SUNDBERG: Correct. So, anadromous fish rated low.
26 There's one documented anadromous stream. Pinks, chums, and

1 cohos. Part of that water -- or the north side of that stream
2 has been previously logged with a 66-foot buffer along it and
3 it's also in the headwaters in the documented anadromous spawning
4 is actually downstream from the parcel. For bald eagle, there are
5 no documented nesting so it got a -- there's possible feeding and
6 perching in the area, so it got a low. Since this parcel is
7 removed from the coast by several miles, it got no benefit for
8 black oystercatchers, common murre, harbor seals. For harlequin
9 duck, it got rated as a low. It's possible nesting but that's
10 unverified. Intertidal/subtidal biota, again, none. Marbled
11 murrelet. Now, here's a case where we basically had to give it
12 an unknown. We didn't have any information either from the Nature
13 Conservancy or any other sources of information about whether or
14 not there were marbled murrelets or potential nesting in this
15 area. So, in our process, an unknown basically gets a zero and
16 that's something that we feel the process is dynamic. If new
17 information comes in, we can plug that in and rescore these
18 parcels, but for the time being, it gets a zero for marbled
19 murrelet because we just don't know whether there's anything
20 there. Pigeon guillemots, none, river otters, low, possible
21 denning. Sea otters, none. Recreation/Tourism got a low
22 because of limited access. It gets a low amount of use for bear
23 and goat hunting in the general vicinity. Wilderness gets a low
24 because of the extensive cutting occurring in the area. We
25 didn't have any information on archeological sites so it got a
26 none. Subsistence got a low. "Associated streams within the

1 parcel support anadromous fish spawning and marine habitat. This
2 is one of the few remaining unharvested forest stands within the
3 Windy Bay watershed." The adjacent land management is Nanwalek
4 Corporation which was formerly English Bay. Kachemak State
5 Wilderness Park is in the vicinity. There have been forest
6 practices notices filed for clear cutting this parcel in '93.
7 The protection objectives would be to maintain water quality and
8 riparian habitat for anadromous fish and maintain nesting
9 opportunities for marbled murrelets and bald eagles.

10 Useful protection tools, in this case, we thought maybe
11 cooperative management agreement might be the best approach on
12 this parcel. Recommended action: "Habitats in this parcel have
13 a relatively low value for recovery of injured species and
14 services. We request Nanwalek Corporation to provide interim
15 protection and discuss options for long-term protection. So,
16 that gives you an idea of the lowest score parcel. And at this
17 point...

18 MR. PENNOYER: Thank you, Kim. I think we'll take a 15-
19 minute break at this point.

20 (Off record: 10:26 a.m.)

21 (On record: 10:45 a.m.)

22 (Enter Mr. Cole)

23 MR. PENNOYER: Will Trustee Council members please come
24 back to the table? Will the Trustee Council member please come
25 back to the table? I think we'll go ahead and get started.
26 We've got quite a bit to cover on this agenda and the

1 presentation we were receiving has not been completed yet. I
2 think we'll get that presentation completed and then open the
3 floor to the questions from the Trustee Council and then decide
4 where we need to go from there. So, if you want to continue your
5 presentation.

6 MR. WEINER: Thank you, Mr. Chairman. I'd like to
7 introduce Chuck Gilbert from the National Park Service who will
8 tie up the presentation by discussing some of the policy
9 considerations that we need to have some review by the trustees.

10 MR. GILBERT: There's actually one last portion of the
11 tract analysis that Kim Sundberg would like to talk about
12 briefly.

13 MR. SUNDBERG: Well, I'll just finish up by saying,
14 first of all, if there's any of these other parcels that the
15 Trustee Council wants to go through in terms of our rationale for
16 ranking or analysis, we're available to do that. And secondly,
17 in your packet, there's a decision summary table which gives you
18 the opportunity to go down and decide which ones of these parcels
19 you think we should go forward with or not. If I can find it.
20 Here it is. It should be in part four. Basically, it's a blank
21 -- it's a table with the parcels listed, the acreages, what their
22 score is and then there's a blank block on the right-hand side
23 that says decision to proceed. And since we are asking the
24 Trustee Council to give direction on which parcels to proceed
25 with, there's basically a yes or no column there and a place you
26 can write any notes or if it's a maybe or something like that.

1 That's in there and available if you want to use it. And that's
2 basically that's all I had.

3 MR. PENNOYER: Thank you. Do you want to proceed, Mr.
4 Gilbert?

5 MR. GILBERT: Sure. I'll conduct the last part of this
6 presentation and basically, my presentation is on where we go
7 from here. I've got five items to present to you. Three of them
8 are decision items which we hope to get a decision on today from
9 the Trustee Council. Two of them are just informational items to
10 let you know some of the policy considerations we're beginning to
11 discuss and we'll need decisions on later.

12 The Restoration Team proposes the following items.
13 Number one, we propose to obtain your authorization to send a
14 letter to each of the owners of the 22 imminent threat and
15 opportunity parcels discussed just before my presentation. This
16 letter would inform these owners of the basic elements of the
17 habitat protection process and would request whether they'd be
18 willing to participate in the process. In addition, we would
19 send out as part of this package that Kim just presented the
20 particular item that relates to the tract for that particular
21 owner. And they could review that information for accuracy and
22 react to it to us. A sample letter is included at the end of the
23 discussion paper which was handed out early this morning and that
24 sample letter basically gives a brief idea of what the process is
25 about and there's a form at the end of it which requests whether
26 owners are interested in perhaps selling interest in property or

1 they can let us know if they're not and to invite them to further
2 discussions. The responses to letter should tell us which
3 landowners are interested in beginning discussions and who may be
4 willing sellers. And we request your decision today on that item
5 regarding sending that letter out. Should the Trustee Council
6 wish to do so, we can begin the comprehensive habitat protection
7 process by sending this same letter or one very much like it to
8 the other known landowners in the spill-affected area. This
9 could be done in conformance with step ten of the comprehensive
10 habitat protection process that was detailed in the July 1992
11 restoration framework supplement. Again, we request your
12 decision on that particular item today.

13 The second item I'd like to present is this: We
14 propose that at the next Trustee Council on March 10 you select
15 one of the four options for negotiating and -- for conducting the
16 negotiations and acquisitions that are described in a discussion
17 paper presented this morning. For habitat protection and
18 acquisition to be successful, contacts, discussions, negotiations
19 with landowners need to be professionally done and done in a
20 consistent manner. And the four options we present there attempt
21 to present ways in which that could occur.

22 MR. PENNOYER: I'm sorry. Where are you referring to?

23 MR. GILBERT: There's a discussion paper that was
24 handed out this morning.

25 MR. PENNOYER: Yes.

26 MR. GILBERT: It's a seven-page discussion paper. It

1 lays out four basic options, A through D.

2 MR. PENNOYER: I've got that. I'm trying to find the
3 place in the paper you're referring to. I found the part at the
4 end of the letter and the part on the steps -- the next steps.
5 but you referred to something like four options.

6 MR. GILBERT: The four options, they're lettered A
7 through D and it basically discusses who would be doing these
8 negotiations.

9 MR. COLE: Could we hold on just a minute? I think
10 we're all having a little trouble finding A through D.

11 MR. GILBERT: Okay. It begins, I believe, on page one
12 of that discussion paper.

13 MR. PENNOYER: A through D starts on page two of the
14 discussion paper.

15 MR. COLE: I have it. Thank you.

16 DR. GIBBONS: Mr. Chair, would you like us to walk you
17 through A through D briefly?

18 MR. PENNOYER: I thought that's what we were doing.
19 We're not?

20 MR. GILBERT: We can do that right now or we can wait
21 for questions, but I'll go ahead and maybe give you a brief
22 summary of A through D at this point. So, as I say, these basic
23 options relate to who's actually going to be doing these
24 acquisitions for the Trustee Council.

25 (A) would be done -- the acquisitions and negotiations
26 would be done by the agency to whom the Trustee Council designate

1 the title would pass at the end of the acquisition. So, for
2 instance, if a tract were within the Chugach National Forest and
3 the Trustee Council designated Chugach National Forest as the
4 ultimate grantee of that tract, Chugach National Forest, the U.S.
5 Forest Service would conduct that acquisition. The decision as
6 to who the grantee would be would need to be made by the Trustee
7 Council and we're not taking it as a given, that just because it
8 happens to be within a forest or a national park that that tract
9 would pass to that particular surrounding land manager. Again,
10 that's a Trustee Council decision. But the basic idea with
11 Option A is an agency would conduct the acquisition itself, would
12 be designated for a particular tract to conduct the acquisition
13 and negotiations.

14 Under Option B, what we're anticipating here is that a
15 government project acquisition office would be set up. This
16 would entail bringing people in from the various agencies to
17 conduct the negotiations and acquisitions for the Trustee
18 Council. The advantage here, as it's seen, is that in having
19 one project office, the negotiations could be handled and
20 acquisitions in general could be handled in perhaps more
21 consistent manner by one group rather than have individual
22 agencies conduct their own acquisitions and maybe not act in a
23 coordinated fashion as a single project office.

24 Option number C entails contracting with a third party
25 to conduct the negotiations and acquisitions. So, actually a
26 contract would be let to a third party and they would be

1 responsible for doing basically all the steps which they could do
2 legally to negotiate and conclude the acquisitions. Some steps
3 would have to still be retained by the government agencies, but
4 this would minimize the involvement of the government agencies in
5 this acquisition.

6 And Option D, again, is using a third party, but rather
7 than contracting, this would be using a third party in the sense
8 of a so-called non-profit co-operator. There's a history of this
9 established across the country, particularly with federal
10 acquisitions but even with the state government, in fact State of
11 Alaska, of using an organization like the Trust for Public Lands
12 or the Nature Conservancy or other non-profit conservation co-
13 operators to act as independent entities and go out and make a
14 deal with the landowners and then make an assignment of that
15 purchase to the government agency involved at a later time.

16 But in this -- the difference between C and D is
17 basically -- C's a contract where the non-profit or the third
18 party would act as an actual agent for the government agencies.
19 In D, the non-profit would act independently. They would not be
20 agents for the government. They would secure separate deals
21 under some letter or intent from the Trustee Council and the
22 agencies, but they would not be acting as agents. They would be
23 acting -- if they make an acquisition, it would be for -- under
24 their own authorities. It would be to themselves which would
25 later be assigned to the government rather than to undersee --
26 actually making the acquisition for the government itself.

1 So, those are the four basic options we've laid out at
2 this time. Currently, the Restoration Team is unable to reach
3 consensus on a recommendation and selection any one of these
4 options. This is primarily due to federal concerns about use of
5 third parties in doing acquisitions. We can talk more about that
6 but basically, it's a fairly dynamic and controversial topic at
7 this time. There's a lot of -- there's several investigations
8 going on at this time of using non-profits by federal agencies
9 and the federal agencies are reluctant for that reason to commit
10 to using third parties and in addition, by normal federal agency
11 procedures, third parties are not ordinarily used if authority
12 already exists to do an acquisition and if the money exists to do
13 an acquisition. So, to use a third party in this case would be
14 an aberration for the federal government at this time.

15 We're not asking any action on this particular item at
16 this time. What we intend to do is in the next -- in the interim
17 between now and the next Trustee Council meeting, the habitat
18 protection work group and the Restoration Team would work on
19 resolving these differences and putting forward a recommendation
20 to the Trustee Council at your next meeting.

21 Item number three for me to present today is that we
22 propose that between now and March 10 -- the March 10 Trustee
23 Council meeting, the Restoration Team work on -- work with all
24 the affected agencies to develop draft negotiation acquisition
25 guidelines. These guidelines are intended to assure that all
26 acquisitions and negotiations are conducted in a consistent

1 manner and that they're fair to landowners and accurately portray
2 and implement the wishes of the Trustee Council. These
3 guidelines could be used by whichever negotiating team or set of
4 teams the Trustee Council would choose. It's expected the
5 guidelines will address a number of topics, such as appraisals,
6 selection of the realty instrument whether it be fee title or
7 conservation easement or a lease and also, would include the
8 approval procedures for any negotiated agreement. It's known
9 that the approval rests with the Trustee Council so negotiations
10 would happen either by the agencies themselves or by a third
11 party but we want to make very clear that the Trustee Council
12 has the approval authority once negotiations have been undergone
13 and agreement is reached that we come back to the Trustee Council
14 for decision on a particular item. We would intend to submit
15 these guidelines for review at the next Trustee Council meeting.
16 So, we need action on that item only in the sense of authorizing
17 the habitat protection work group and the Restoration Team to do
18 that work between now and the next meeting.

19 Item number four that I have is we propose that the
20 following selection -- that following selection of a negotiating
21 team, development of negotiation acquisition guidelines and
22 receipt of responses from the landowners on willingness to
23 participate in the process that negotiating teams or a team would
24 begin discussions and negotiations with the participating
25 landowners. We propose that the negotiating team or teams would
26 coordinate with the habitat protection work group and the

1 Restoration Team to assure that negotiations and acquisitions are
2 consistent with the Trustee Council policies and priorities. As
3 progress is made, the Restoration Team would provide regular
4 updates to the Trustee Council and would receive your guidance on
5 how and if to proceed on any particular acquisition. We're not
6 asking for any decision today on that item but we would be asking
7 you at the next Trustee Council meeting for authorizations to
8 begin those negotiations using one of these teams I've previously
9 mentioned.

10 My last item is that we propose that the habitat
11 protection work group on behalf of the Restoration Team begin the
12 comprehensive habitat protection process. This primarily entails
13 extending analysis of all the lands within the spill-affected
14 area. We've begun that analysis as you've seen this morning for
15 imminent threat lands and opportunity lands, but what we'd like
16 to do is extend that analysis and kind of get a head start on
17 having that done before the restoration plan is totally complete.

18 So, I guess to sum up, what we're asking today as far
19 as decisions is number one, whether we should send the letter to
20 all 22 landowners in the imminent threat and opportunity parcel
21 group and also, whether we should send letters to all the owners
22 of all the lands within the spill-affected area. Item number
23 three is another decision item. And that relates to developing
24 draft negotiation acquisition guidelines by the Restoration Team
25 and HPWG in the next three weeks for presentation to you. And
26 item five is whether we should extend analysis to all the lands

1 within the spill-affected area that HPWG would begin to do that
2 work. And that really concludes our presentation for today.

3 MR. PENNOYER: Thank you very much. Very good and
4 detailed presentation. Questions from the Trustee Council
5 members on the presentation itself before we get into the
6 individual items or? Commissioner Sandor.

7 MR. SANDOR: Well, I'd like to observe, Mr. Chairman,
8 that I think this whole process is really excellent and the
9 technology and framework in which it has developed has been good.
10 I think there's a number of areas of refinement. Has any of this
11 been presented to the Public Advisory Group?

12 MR. WEINER: Yes, sir.

13 MR. SANDOR: So, they saw the four options or five
14 options?

15 MS. RUTHERFORD: No.

16 MR. WEINER: Not the policy considerations, but the
17 briefing document short of the presentation that Chuck has just
18 made in terms of the policy considerations.

19 MR. SANDOR: I see. Okay, so they have not seen this
20 discussion paper?

21 MR. WEINER: Not what was given out to you today.

22 MR. SANDOR: Okay. Well, I had a couple of questions,
23 just on background. Insofar as the interim evaluation ranking
24 criteria, the eight criteria are concerned, with respect to
25 evaluating the habitat sites itself and particularly, the number
26 of species, there didn't appear to be any distinction between the

1 range for example of Harlequin ducks, treatment of the habitat in
2 the different areas affected or impacted by the spill. And the
3 reason I raise that question was one, it was my understanding
4 that the reproductive problems with that species was focused in
5 some specific areas. Why then in that instance and perhaps,
6 other specific species is there no distinction between areas --
7 of the range of the species involved?

8 MR. SUNDBERG: I'll try to answer that. We, at this
9 stage, had to look across the board throughout the spill-affected
10 area for injured resources and services and deal with them on a
11 whole spill basis. We didn't have information that said this
12 particular population which uses this area for feeding is nesting
13 in this particular drainage. That data doesn't exist. So, in
14 order to fairly and objectively evaluate across the spill-
15 affected area about what the relative habitat values might be out
16 there, we didn't factor in this weighting of one spill-affected
17 area against another one. That's the short answer.

18 MR. SANDOR: So, then does it follow that throughout
19 the entire area wherever an evaluation is made, there is no
20 distinction made between one, the degree of oiling; two, the
21 degree of damage to the species or three, the specific areas or
22 -- the specific damage that we're trying to overcome in the case
23 of Harlequin ducks, the reproductive....

24 MR. WEINER: That's exactly right.

25 MR. SUNDBERG: That's correct.

26 MR. WEINER: There's no proportionality.

1 MR. SANDOR: Yeah. That is a little bit troubling and
2 I don't know if there's a way to deal with that but what that
3 means then in ranking all the areas, you're, in effect, treating
4 all areas the same when that isn't really correct and is
5 troubling.

6 MR. WEINER: Let me attempt another answer to the
7 question. In terms of direct restoration, I think you're right on
8 the money. We should attempt to proportionately response to the
9 injury and to the area in which the injury occurred but in the
10 context of habitat protection -- I'm awfully glad the Attorney
11 General is here -- we use the element of acquisition of
12 equivalents. And we feel very comfortable that if we can do
13 something that benefits or has potential benefit for a
14 functionally equivalent population of resources that we're on
15 safe ground in this arena. That's one of the ways in which we've
16 attempted to justify what we've done.

17 The other excuse is the data just aren't there for a
18 lot of this. For instance, if we try to proportion a
19 relationship of habitat protection to degree of injury, we'd
20 probably be spending most of our time and energy in trying to do
21 something for the common murre. And there's very little we've
22 found that we can do for that species.

23 MR. SANDOR: A second question and then I'll probably
24 ask if others because I have a number of questions. But my
25 second question deals with the definition of imminent threat
26 itself and in the parcel KAP 07, the imminent threat is, I think,

1 quote recreational development, lodges, cabins and fisheries
2 development, year-round residences. And I guess could you, I
3 guess, define or elaborate on what the threat of recreation
4 development, lodges, cabins, and particularly, fisheries
5 development might be? It seems to me that's a very troubling
6 thing to see as a threat because I thought we were wanting to go
7 fishing; I thought we were wanting to recreate.

8 MR. SUNDBERG: Well, it's looking at a change in land
9 use patterns in the area from what historically has been in that
10 area. And the area is a very high resource area. It produces a
11 lot of fish and wildlife resources. It's becoming more developed
12 for recreational developments, lodges, individual set net sites
13 down there. With that comes some impact on the resources that
14 are using the area, including increased fishing activity may have
15 an impact on the fish populations, themselves. It's a potential
16 threat. It's perhaps less of a threat than some other threats we
17 can think of but it is something that needs to be taken into
18 consideration when you have a change in an area that's basically
19 been historically very remote and very low development to
20 something that's getting more developed. Not necessarily bad --
21 we're not making bad or good judgments here. We're simply
22 trying to get across that there is some impact that may be
23 occurring to these species that we are trying to restore as a
24 result of the development activity.

25 MR. COLE: Mr. Chairman.

26 MR. PENNOYER: Mr. Cole.

1 MR. COLE: How do you weigh those factors then? Do
2 you, in fact, weigh those factors as you apply the analysis?

3 MR. SUNDBERG: We try to. We sort of got into trouble
4 in some respects by coming up with a list of impacts from logging
5 activities but we said hey, this is our best professional
6 judgment about what these impacts are and what they may do to
7 these species so we'll use it as a yardstick to gauge against
8 what relative benefit you might have of protecting the habitat.

9 MR. COLE: The question, I think, I'm trying to
10 propound is that surely you must weigh the logging threat more
11 heavily than a recreational cabin threat. Do you or do you not?

12 MR. WEINER: We explained earlier that there's two
13 categories we looked at. One is loss of habitat, i.e. logging.
14 If -- it's obvious. You cut down a nesting tree, you're going
15 to have a pretty significant impact on that resource. On the
16 other hand, there's disturbance factors that we also looked at
17 which we weighed far less than we did the actual loss of habitat.
18 So, those are the two elements we looked at when we analyzed the
19 threat. Was it a loss of habitat or was it a disturbance threat.

20 MR. COLE: What I was then further driving at do you
21 have an objective scale for that type of analysis or is it
22 subjective? I mean just...

23 MR. WEINER: It's based -- I would say that's primarily
24 based on best professional judgment. We've reviewed the
25 literature; we've looked at what the scientific community and the
26 resource management community views as impacts from these types

1 of threats but quantification, no.

2 MR. SUNDBERG: I'd also point out that overall, KAP 07
3 is listed as an opportunity land rather than imminent threat and
4 I think that that's our relative judgment that although there's
5 some changing land uses occurring in the area, it isn't under
6 that imminent threat category at this point.

7 MR. SANDOR: Well, just to follow up. On the other
8 hand, the score actually reached in that particular parcel is 30
9 which is a fairly good score compared to many of the parcels and
10 I heartily endorse the opportunity of parcel concept because if
11 we do not get on with looking at opportunity parcels, what we
12 will be doing is encouraging people to maneuver themselves into a
13 quote imminent threat position and then that really is something
14 that would be a problem.

15 So, Mr. Chairman, I'm troubled by the first -- the
16 answer to the first question and this question and I really would
17 like to know what the Public Advisory Group would -- how they
18 would deal with this and particularly, how they would evaluate
19 these parcels and perhaps, prioritize them. I have more
20 questions but perhaps other trustees have questions as well.

21 MR. PENNOYER: Commissioner Rosier.

22 MR. ROSIER: Thank you, Mr. Chairman. I'd first like
23 to say I think the working group has done really an excellent
24 job. This is a good piece of work in my estimation and I guess
25 we are looking at, you know, interim evaluation set of criteria
26 here at the present time that I'm sure, you know, as we get into

1 this, I think we'll probably see some changes. I had a question
2 in regards to number five where we talk about "parcel contains
3 critical habitat for depleted, rare, threatened or endangered
4 species." Why did we restrict that only to the depleted, rare,
5 threatened and endangered species? It seems to me that
6 conceivably you could be looking at critical habitat for other
7 species as well and you obviously didn't find too many rare and
8 endangered species looking at the no's that you got on your
9 evaluation.

10 MR. WEINER: Let me take a shot at that one. In my
11 work in the past in doing this kind of thing, you always -- we've
12 always in the past look at rarity and the listed species -- the
13 list that the federal government puts out, is always a good
14 indicator of, you know, what's rare. And so, you usually start
15 with that. And in our context, what we've tried to do is to look
16 at a multi-species concept in habitat protection. We certainly
17 are putting a premium on ranking those lands that contain
18 affected resources, but just affected resources don't make a
19 ecosystem. And so, you have to look at some of the other values
20 of the parcel of land and look at rarity and diversity. And
21 that's basically what we're trying to do is encapsulate a concept
22 that looks at multi-species, multi-system values. And we chose
23 those highest areas, the endangered, threatened or depleted
24 resources as indicators of that diversity and our desire to
25 protect that kind of diversity.

26 MR. ROSIER: I guess -- if I might, Mr. Chairman,

1 follow up.

2 MR. PENNOYER: Go ahead.

3 MR. ROSIER: In terms of the critical habitat and I can
4 think of situations, for instance, with red salmon in which, you
5 know, some tributary system, you know, to a lake, it may be a
6 very small parcel of land could be really critical habitat for
7 that particular species and yet, in terms of your criteria and
8 your overall evaluation, that would not rank very high as I
9 understand your criteria because, you know, it's one stream,
10 small area, and it ends up that it's not really ranked very high.

11 MR. SUNDBERG: We did build in for anything that had
12 extraordinary productivity, things like the Kenai River or some
13 other system. It could get a high rating for anadromous fish
14 even though it may only have one stream on it. You're right. We
15 don't have a way of ranking particular stocks of fish or
16 particular subpopulations of fish higher unless they have some
17 sort of formal designation by law that they're important at this
18 point.

19 MR. PENNOYER: I'll try it. Just give me a little time
20 on the size of the parcels, relative to the ranking. For
21 example, some of these parcels are exactly the size of the area
22 to be logged and they didn't happen to encompass any seabird
23 colonies or other things. Seal Bay, for example, is hugely
24 larger than the imminent threat locale and there's no obvious
25 ecosystem tie between the logged area and some of the areas that
26 are on the map and when you draw the map that large, you

1 encompass a lot of eagle trees and a lot of seabird colonies and
2 so forth. I'm not saying we shouldn't do that but in your view
3 of the ranking criteria, it seems to me the way you draw that
4 parcel has a great deal to do with what you end up putting in
5 there under your yes's and no's. And some of those others that
6 rank low, if you expanded it by a factor of six or eight or ten,
7 will probably encompass habitat that was important. So, how did
8 you arrive at that and how does that relate to your ranking?

9 MR. SUNDBERG: Well, we've been sort of struggling with
10 this same thing you talked about with the imminent threat. We
11 don't want imminent threat to drive this process. We didn't want
12 to be so narrowly focused on just some little parcel that we
13 didn't look at the bigger picture. In the case of Seal Bay,
14 because Akhiok/Kaguyak/Old Harbor had basically approached us and
15 said, "Would you look at more than just this area we're logging
16 at." We said, sure, we'll look at it and we included it in
17 there. Some of the other parcels are more tightly defined
18 simply because we didn't get that kind of interest from the
19 landowners at this point. We haven't gone out formally and asked
20 them but they didn't volunteer their land for us to evaluate.
21 So, we stuck very close to what we felt had been noticed by a
22 forest practices notice or we had gotten from a state forester
23 that it was likely to be logged.

24 MR. WEINER: Let me take a crack at that from a
25 more theoretical point of view. In general, big is better.
26 Commissioner Rosier's example, notwithstanding, and we have to

1 bring that into the equation too, but generally, when we looked
2 at these parcels, the larger the parcel that we could look at,
3 the larger the self-sustaining ecological system we felt
4 comfortable in recommending. So, that we could protect the
5 parcel that we're really interested with a large enough buffer
6 that would do one, it would pick up perhaps the entire watershed
7 and two, give us a large enough parcel to withstand natural
8 predations that would occur and allow a parcel to survive, given
9 those kinds of predations, of fires, things of that nature. If
10 we try to protect too small of a parcel, we may lose it to a
11 forest fire; we may lose it to a beetle infestation. There's so
12 many natural factors that could occur that would moot our efforts
13 to protect a particular habitat so we attempted to encapsulate
14 both the imminent threat area and a large enough buffer that
15 would allow us to recommend to you a self-sustaining parcel of
16 land.

17 MR. PENNOYER: So, a follow-up on that then in terms of
18 the list that you've given us here the parcels that are down
19 around 100, 500, 600, 400 acres largely do seem to be drawn
20 directly around some logging permit might be expanded in the
21 future during your discussion and therefore, change -- assume a
22 different value entirely?

23 MR. WEINER: Absolutely. And this is one of the
24 reasons we very much want to begin discussions with landowners.
25 They have information that might direct us to expanding the size
26 of the polygon.

1 MR. PENNOYER: So, this ranking might change....

2 MR. WEINER: Absolutely.

3 MR. PENNOYER: The imminent threat ranking might
4 change?

5 MR. WEINER: Correct.

6 MR. PENNOYER: Because Seal Bay is not all imminently
7 threatened obviously. There's only a small part of it that is
8 -- well, a significant part but a small part of it actually
9 is....

10 MR. WEINER: Correct. It 's already been brought to
11 our attention that there's some errors in the maps. Some of the
12 applications that were made for permits may have been in error
13 and some of the landowners have contacted us and said "Well, this
14 line may not be absolutely correct." So, we very much want to
15 begin the discussions with the landowners to make our maps more
16 precise and possibly expand the boundaries, based on new
17 information to allow us to capture a better entity that would be
18 ecologically protectable and justifiable.

19 MR. PENNOYER: Further questions. Commissioner
20 Sandor, you had some more.

21 MR. SANDOR: Yeah. Well, both you and Commissioner
22 Rosier raised some of the very questions that I had with respect
23 to perhaps some of the low-ranked areas, the critical areas
24 needing protection and either through some kind of a mechanism,
25 cooperative agreement, easement or whatever that would be -- that
26 could be dealt with and this isn't all these species aren't

1 lumped together and you can focus on specific species. I was
2 curious though in your response, Art, on you said this might lead
3 to beetle infestation. What did you mean there?

4 MR. WEINER: I was thinking of natural predations that
5 could occur on a parcel of land and if the parcel is rather
6 small, that predation might wipe out an entire stand of trees
7 that's the nesting habitat of let's say the murrelet, a resource
8 that we're trying to protect whereas if we protect a large parcel
9 of trees, it might be able to withstand beetle infestation and
10 there be available habitat for the murrelets to nest even though
11 we lost a certain percentage of the trees to beetle kill.

12 MR. SANDOR: And beetle kill is regarded as a threat, I
13 presume?

14 MR. WEINER: Well, anything that would have an adverse
15 impact on habitat, absolutely. At least in my mind, it would.

16 MR. SANDOR: Yeah, but I didn't -- I guess I didn't see
17 the cause/effect relationship.

18 MR. WEINER: I use it as an example of some natural
19 predation.

20 MR. SANDOR: Yeah. But certainly, that's a factor that
21 ought to be considered. Well, how do we -- if I may ask another
22 question, Mr. Chairman.

23 MR. PENNOYER: Yes, please.

24 MR. SANDOR: How do we deal with this bridging the --
25 getting to these opportunity lands and not encouraging people to
26 rush out and try to put these parcels in imminent threat

1 categories? Is that a potential problem and how do we deal with
2 it?

3 MR. GILBERT: Well, I think it is a problem as you
4 mentioned before and I guess what we're hoping is the way we
5 intend to treat this opportunity parcels may diffuse some of
6 that. Landowners can come to the Trustee Council, propose
7 voluntarily to have consideration given to their lands and we
8 would look seriously at those parcels they want to discuss.

9 MS. RUTHERFORD: Mr. Chair?

10 MR. PENNOYER: Yes.

11 MS. RUTHERFORD: If I might, I'd like to have -- I
12 think one of the keys here is to move as quickly as we possibly
13 can into the comprehensive process where we begin to analyze all
14 the lands in the affected areas so that we're not focusing
15 strictly on imminent threat lands and I think the more quickly we
16 can begin that analysis and provide you then with that
17 information as it becomes available, the better off we are.

18 MR. SANDOR: Mr. Chairman, that then leads me to the
19 belief that the trustees should want the advice from the Public
20 Advisory Group and certainly the public-at-large, the community
21 involved and so forth nailed down very, you know, very completely
22 these criteria and the process itself and the definitions. And I
23 guess an agreement that essentially you have in this framework
24 but, I guess< get everyone on board fairly quickly and I'm afraid
25 we haven't -- perhaps because of time pressures and what-not and
26 certainly it was mentioned by Brad Phillips to begin that the

1 Public Advisory Group wasn't asked to do some specific things and
2 if they're going to be meeting or could be persuaded to meet
3 between now and our March 10 meeting. I hope it would be possible
4 for them to focus their skills. We've got some really, you know,
5 very qualified -- well qualified specialists on that Public
6 Advisory Group, some of which are internationally known
7 specialists in very specific fields and certainly get this
8 discussion draft out to everybody and get some feedback from it.
9 I'm fearful, Mr. Chairman, if we send out negotiating teams that
10 we might be a bit premature right at this particular point and
11 without the Public Advisory Group being on board and without the
12 new administration having their players here, I just feel that we
13 might want to take that step first.

14 MS. RUTHERFORD: Mr. Chair?

15 MR. PENNOYER: Let me -- may I ask a question for
16 clarification here. I don't hear you saying that even on March
17 10th, we ought to go out and grab one of these pieces and go out
18 and buy it. I mean you're talking about some -- I don't
19 understand timing here. You're talking about some time.
20 Obviously even in the parcels you've selected just by way of the
21 maps are drawn, there's considerable difference possible by
22 drawing the map a little differently after you contact people and
23 talk to them. And you might change some of these values -- some
24 may stay high like China Poot might stay high regardless of what
25 you do -- higher than others but some of these may change pretty
26 dramatically and you're not -- first of all, you're not

1 suggesting we pick a process to appoint negotiating teams here?

2 MR. GILBERT: That's correct.

3 MR. PENNOYER: You're still working on that criteria
4 and you're going to go out and do that. You're not suggesting, I
5 think, that these numbers are strictly final. This is a process
6 that's going to be growing and as more data becomes available,
7 it's going to change. And I think your suggestion is the only
8 action item e really have now that is any type of commitment is
9 to go out and start to talk to these folks on this list and see
10 just for sure -- some of them have already contacted you to see
11 for sure whether some of them are interested and you haven't --
12 you're not asking for a decision -- I'm not even sure on March
13 10th what the final decision (indiscernible - unclear). It's
14 only three weeks away and you're obviously not going to have any
15 response back; you're not going to have further public comment on
16 what we -- any information on individual parcels that might be
17 redrawn. So, I'm not clear on the timing of what we need to do
18 now in your view versus what we do on March 10 versus what we do
19 on August 1st. I don't understand how that fits together yet.

20 MR. GILBERT: Mr. Chairman, if I could perhaps try to
21 clarify that. What we're asking for today is simply a decision
22 on whether we should send letters to all 22 landowners and get
23 some information back from them to see if they want to
24 participate in the process. And that would not even involve
25 discussions at this point. Just put this letter together, a
26 sample of which is at the end of that discussion paper. At the

1 March 10th meeting, what we propose to do from the Restoration
2 Team have a recommendation as to the composition of the
3 negotiating teams. What we project to do at this point -- at
4 the March 10th meeting is to actually ask your approval of one of
5 those options and to begin negotiations with landowners. Those
6 negotiations, as I think we all know, can be very protracted. If
7 we look at Kachemak Bay or any other land acquisition, it's going
8 to take a lot of time and you develop further information during
9 that process and you refine the areas that you want to, perhaps,
10 make acquisitions in of some interests whether it's easements, or
11 fee simple or maybe it's a management agreement, but there's a
12 lot of definition and redefinition that's going to occur over the
13 months after March 10th as we project it. And any final decision
14 on an acquisition of any sort of interest, we would expect would
15 be months away following those negotiations. And we'd be coming
16 back to the Trustee Council with a report on a regular basis,
17 letting you know how those acquisitions are going -- how those
18 negotiations are going rather, and a decision would not be for
19 several months at least after March 10th.

20 MR. SUNDBERG: I would like to add that we would bring
21 those reports back to the Trustee Council on the status of
22 negotiations and the Trustee Council would decide which parcels
23 the acquisitions would occur on. There wouldn't be any
24 commitment by the negotiation team to acquire without the Trustee
25 Council.

26 MR. SANDOR: Just to follow up, then the requested

1 authorizations that were outlined, one to allow a team of experts
2 to begin discussions with landowners, that would take place when?

3 MR. GILBERT: That would actually take place after March
4 10th, as we project it. The only thing we're asking, as I say,
5 at this point is to send letters out to landowners. We want to
6 be very careful that a negotiating team is put together and that
7 negotiating team is a professional team and they would conduct
8 all the negotiations, so we're not asking for actual discussions
9 with landowners of any sort of substantial nature until the
10 Trustee Council decides how that ought to be done and we're
11 hoping for March 10th for that decision.

12 MR. PENNOYER: Would you clarify the letter and what
13 you intend to accomplish with it? I mean you send a letter to
14 somebody who owns half of Afognak Island and you're sending
15 (indiscernible - unclear) this parcel that you've got here or are
16 you identifying it then more areas that you're interested in than
17 others or just in general, seeing if they come back with the same
18 map you have?

19 MR. GILBERT: Our intent would be send the map out
20 which we've discussed today for each tract and to identify with
21 them -- request of the landowner if they'd be interested in
22 discussing the sale of that particular tract. Not -- not...

23 MR. PENNOYER: So, you are pinning it down then to some
24 of these very small tracts and in other cases, the very large
25 tract? How do you make that decision at this time?

26 MR. GILBERT: Well, the tracts which we presented

1 today. In some cases, it is a very specific small tract but I
2 think when you get a response from the landowner, you know, and
3 you begin negotiations later, the tract size could either shrink
4 or it could enlarge and that's really going to be a result of the
5 negotiations.

6 MS. RUTHERFORD: Mr. Chair. I think it's important --
7 I think one of the things that could easily happen is if we send
8 the letter out to the landowners and they say "Yes, we're willing
9 to talk to you but we want to talk to you about all of our lands
10 and we also want to clarify some information you have on this
11 particular parcel" so it's (indiscernible -unclear) process. I
12 mean we begin to exchange. but we don't -- right now, we just
13 want to get an indication of willingness. We do not want to
14 begin actual discussions until there is a negotiating team
15 because the experts tell us that discussions quickly become
16 negotiations and we do not want to -- we don't want to offend or
17 make any mis-moves.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: When was the decision made that all these
20 acquisitions would be on a voluntary basis?

21 MR. WEINER: The willing seller element -- is that what
22 you're addressing?

23 MR. COLE: Uh-huh (affirmative.)

24 MR. WEINER: That was one of the primary threshold
25 criteria that we presented to you when we put out the framework
26 document supplement and subsequently, you all voted on a subset

1 of those threshold criteria in your January meeting.

2 MR. COLE: I've been reflecting on that issue recently
3 and it may be that we want to revisit that issue and consider the
4 possibility of condemnation actions, if need be, to acquire
5 critical habitat. So, could we put that on the agenda for the
6 next meeting? We'd like to see or hear some discussion of that
7 subject. The reason is obvious, isn't it? I mean if we need
8 critical habitat and the decision is made for the purpose of
9 restoration, that this particular habitat is essential, I mean
10 why would we not want to use the powers of the government,
11 sovereign if you will, to acquire that parcel. And obviously, it
12 has other salutary considerations brought to play. So, I would
13 like to have a discussion of that, if you don't mind, at the next
14 meeting.

15 MR. PENNOYER: Does anybody object to that proposal for
16 the next meeting?

17 MS. RUTHERFORD: Mr. Chair, I ask for a clarification.
18 Do you want the Restoration Team to begin to contact the agencies
19 for them to begin react to that or put together some thinking on
20 that or is that something you strictly want to hold at the
21 Trustee Council level?

22 MR. PENNOYER: Mr. Cole.

23 MR. COLE: Well, I guess the more brainpower we bring
24 to play on that issue, the better. I don't -- although it may
25 not seem apparent that all wisdom lies in this group of six.

26 MR. PENNOYER: I think the request is that we bring

1 back -- appear at the March 10th meeting to discuss the pros and
2 cons of condemnation as part of the process of acquiring critical
3 habitat. And I would guess all the agencies through their
4 respective folks here would come back to the table and be
5 prepared to discuss that. Talk with legal counsel, RT members.
6 I suppose the RT should have that on their agenda to discuss, be
7 prepared to comment at the next meeting.

8 MS. RUTHERFORD: Thank you.

9 MR. PENNOYER: Going back to that letter for a second.
10 Let's say you want to -- you're going to -- you want to write a
11 letter out to somebody on KAP 04 and from the map, I can't tell
12 what KAP 04 is for sure. '93 projected timber harvests extend
13 all the way up the bay. KAP 04 the arrow seems to point to one
14 little tiny dot on one side of the bay and sort of at a bunch of
15 dots on the others side of the bay.

16 MR. SUNDBERG: Well, let me clarify -- that one...

17 MR. PENNOYER: And if you did -- if you followed the
18 Seal Bay idea, you might just draw a big square around the whole
19 bay, recognize part of it's been logged and have that enter into
20 the discussion. We have a lot of seabird colonies, a lot of
21 eagles and so forth. And I'm still not clear what you want to do
22 with the letter and how that relates to your view of what these
23 parcels are right now.

24 MR. SUNDBERG: Let me try to clarify KAP 04. It was
25 sort of a drafting nightmare. It consists of all the red blobs
26 with Kazakof Bay. So it's one, two, three, four, five, six,

1 seven, eight on the east and west side of Kazakof Bay. And
2 apologize for the lack of clarity but it was difficult to draft
3 that. The letter basically just says are you willing to
4 participate in this process and it goes out -- or aren't you and
5 the ones that say no, our proposal is we don't bother them
6 anymore. We say okay, we'll go talk to some other people. The
7 ones that say yes, we say, "Thank you, we'd like to get some more
8 information from you about your land. We may want to reconfigure
9 some of our boundaries." Maybe we made some mistakes on how we
10 portrayed their land ownership or something like that. WE would
11 start to build their information in but not get into heavy
12 negotiation or actual acquisition until the Trustee Council
13 decides on how they wanted to go about doing that.

14 MR. COLE: Mr. Chairman.

15 MR. SUNDBERG: There's a big difference between doing
16 it within the agencies or doing it with Nature Conservancy and
17 that's a policy decision.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: If we do decide that we want to consider the
20 use of the power of condemnation to acquire these sensitive areas
21 of habitat, we would want to change a couple of sentences in the
22 sample letter, of course. That would be one thing we may want to
23 do but more broadly, I think that, you know, our fundamental
24 approach is too narrow in this whole habitat acquisition. And I
25 worry about us getting somewhat you might say trapped in what
26 some might say is our own shortsightedness. For example, if you

1 look at maps -- and we decide to take a relatively small tract of
2 critical habitat like we've spoken about. Suppose three or four
3 months later, we decide that we want to protect the entire
4 ecosystem in that area where we bought this small tract of so-
5 called critical habitat. I mean where are we then with respect
6 to our broader, you might say grander if you will, approach? I
7 mean with respect to negotiating with the landowners. They've
8 got us in a corner, haven't they?

9 MR. SUNDBERG: I don't think necessarily. I think what
10 we're talking about is expanding into this comprehensive process
11 as soon as possible. We want to get into this comprehensive
12 process and get off the red blobs.

13 MR. COLE: I know, but see what I'm saying is I mean
14 once we acquire the red box without at the same time, at least,
15 securing an option on, you know, the ecosystem area, tract or
16 whatever system, then we have lost our bargaining position with
17 respect to the broader acquisition, haven't we? I mean that's
18 the way I look -- if I were the landowner, I'd say "Ha, you want
19 some more, you'll pay dearly for that extra area."

20 MR. SUNDBERG: I don't really see that we'll have any
21 acquisitions in the next month or so. I mean we're -- this is a
22 long term process before somebody actually signs their name to a
23 deal and there's going to be plenty of opportunities to look at
24 the bigger picture during negotiations.

25 MR. COLE: Well, that's my point. Why don't we look at
26 the bigger picture now?

1 MR. SUNDBERG: Because we had to do the imminent threat
2 lands because we were directed to take a look at what -- where
3 our restoration options are being possibly foreclosed on.

4 MR. COLE: Well, anyway, I think of that and I think
5 that we should give a lot of thought to total restoration plan's
6 parameters when we deal with this subject because I don't think
7 we can segregate.

8 MR. WEINER: Let me just jump into this briefly. I'm
9 trying to get myself off the floor after you made the comment of
10 condemnation because the problem I have with....

11 MR. COLE: Did you find that shocking?

12 MR. WEINER: I have a problem with -- yeah, quite
13 frankly, yes because I have a problem as a scientist because I
14 have less than perfect confidence in the information that we have
15 about the parcels. And to run the risk of telling the landowner
16 we're considering condemning their land without knowing what's on
17 the land with a very high confidence, it makes me very nervous
18 and the cost of going in and building the level of confidence to
19 the point where you can contemplate condemnation is a higher
20 level of confidence than I think we are at, right now. And maybe
21 I'm being a bit too blunt here but that's my first reaction to
22 your comment.

23 MR. COLE: Let me give my response to yours. With the
24 GAO marauding on top of us to say hey, you know, what are these
25 guys doing out there, we're going to second guess everything they
26 do, I think we -- you know how they are. I mean you just have to

1 read the newspapers every six months or so and you know, they
2 criticize everybody, the President on down. So, you know, I
3 think we should have a record that we have solid degree of
4 confidence on and I don't think we ought to be going out and
5 spending money to acquire habitat that we don't have a degree of
6 confidence on, you know? I mean...

7 MR. WEINER: It's the level of confidence that we have
8 to achieve that will make everybody comfortable and right now,
9 we're not real comfortable on some of these parcels and to expand
10 beyond what we've analyzed is going to require more information.

11 MR. SUNDBERG: Yeah, it's a lot of difference between
12 running a road through somebody's house and condemning it versus
13 knowing that that tree over there that's being cut has a marbled
14 murrelet nesting in it and what we're saying right now is from a
15 marbled murrelet's standpoint, they're nesting out there. We
16 don't know every tree and we'll never know that. You couldn't
17 throw enough money at it to know that.

18 MR. BRODERSEN: Mr. Chairman.

19 MR. PENNOYER: Mark.

20 MR. BRODERSEN: I'd like to go back just a little bit.
21 I perceive that there may be a little bit of misunderstanding on
22 where we're trying to go with the imminent threat process at this
23 point. The imminent threat process, as we've talked about in the
24 past, is meant as a bridge to get us into the comprehensive
25 process. I don't think the intent for most of these smaller
26 parcels is to acquire these parcels. It's much more to try and

1 get some interim protection on some of these parcels until we can
2 decide through the comprehensive process whether we want those
3 parcels or parts of those parcels or those parcels with other
4 parcels, et cetera. It's to give us time to get through the
5 comprehensive process to figure out just where we're going with
6 the overall process. There was an imminent threat on some of
7 these parcels, the imminent threat being the change in land
8 management status. That doesn't say it's bad. It just means
9 that we need to have time to figure out what we're going to do in
10 our comprehensive process. I don't think that too many of these
11 do we want to look at acquiring fee simple title to, right now.
12 We need to get it into context and I think we need not to lose
13 that point. That's all we're asking for at this time is interim
14 protection.

15 MR. PENNOYER: Commissioner Sandor.

16 MR. SANDOR: Mr. Chairman, if that be the case, that
17 our level of confidence is not as high as, you know, I guess I
18 thought it was. And if, as Mark Brodersen said, we're not going
19 to be acquiring all or most of these parcels, I think we need to
20 be up front with the parties with whom we're dealing because you
21 know, if I was to get a letter like this, I would -- of course,
22 people hear what they want to hear and see what they want to see
23 sometimes but I would be -- I would want the receivers of this
24 kind of a letter to know then that this is a very preliminary
25 step and although you say not all the parcels will be obtained,
26 that -- this just has to be very carefully crafted because a lot

1 of these -- most of these are very genuine efforts on the part of
2 the managers to have capital that's needed for their corporation
3 or whatever entity they represent and this comes as a, you know,
4 looms at them as an opportunity and or a threat or both and
5 that's why, again I think we really want this -- I think we have
6 to deal with this March 10 but no later than that hopefully but
7 we surely want the Public Advisory Group and the public to look
8 at these options that you got, A through D. And as I said, this
9 was really a great framework, a great process but maybe it's the
10 beautiful maps that made me assume that hey, we've really done a
11 good job on this and we've got this, you know, fairly good and we
12 can perhaps go to acquisition of some of these, you know, within
13 months.

14 MS. RUTHERFORD: Mr. Chair.

15 MR. SANDOR: I guess we're not at that point. So,
16 anyway, in summary, I'm worried about how we come across with
17 this letter and we've got to be up front about what it is we're
18 saying to these people.

19 MR. PENNOYER: Marty.

20 MS. RUTHERFORD: Mr. Chair, I agree totally that we
21 want to be very careful and I don't disagree with anything Mark
22 Brodersen said. I think that the issue is here we want to
23 approach them very cautiously, we want to tell them we want to
24 begin exchange information. We don't -- we want to eventually
25 get this negotiating team on board to begin the real discussions
26 but the issue really is we want to maintain maximum flexibility

1 because it could be that while we're only looking for interim
2 protection, if one of the landowners was say, willing to come up
3 with a very good deal -- if they offered something that we wanted
4 to pursue, we want to be able to bring that back to you. We
5 don't want to preclude fee simple title, say, if the landowners
6 were really offering something that was interesting. And so,
7 we've been very careful about saying to you, we're only looking
8 for interim protection or we are looking at fee simple title.
9 What we want is getting a professional group on board, beginning
10 to exchange information and then having maximum flexibility to
11 bring you appropriate and good deals.

12 MR. PENNOYER: I don't -- you know, I don't have any
13 problem with the idea of going out and asking some of these
14 landowners if they're interested. I have a problem with the red
15 blobs. In the case of Seal Bay, you've drawn an ecosystem type
16 concern. The logging in that one area probably doesn't affect the
17 cape at all out there. The red area in Seal Bay doesn't have a
18 direct impact on the seabird colonies on the other side of the
19 cape, I would guess, okay. Or out at the tip of the cape. So,
20 you've made a decision, you've drawn something based on input you
21 got and it's a broader area; it's 15,000 acres rather than two or
22 300. I still warrant if you took some of these other maps and
23 drew 15,000 acres square, maybe you'd end up with a clear cut or
24 two on it but you would probably get a different picture on
25 your ranking. I'm a little concerned about sending a letter and
26 a map out that says we want this one blob right here and give us

1 a price on it and tell us whether you're interested in
2 negotiating and what do you think.

3 All of a sudden, you've picked that one thing out and
4 it assumes a whole different proportion from what you really
5 maybe are trying to accomplish. We're dealing with imminent
6 threat. But we didn't deal with imminent threat in the case of
7 Kachemak Bay and other places by just picking out one blob. We
8 went for something broader and it was a combination program but
9 we did go for something broader and it was an opportunity. There
10 may be an opportunity here beyond that blob. (Indiscernible -
11 unclear) sending out a letter contacting these folks and saying,
12 "Are you interested. We're interested in dealing with you" and
13 seeing if they're interested. But I have a problem with the
14 blob. I have a problem with sending a letter out and saying.
15 "We want this 200 acres right there" and that blob is what we've
16 got to have. So, I don't know how to get around that but I --
17 maybe a general interest type thing, "Are you interested in
18 negotiating? We recognize there's a development plan for your
19 property. The Trustee Council was concerned about habitat risks,
20 has interest in discussing with you without identifying the
21 particular blob." As you say, maybe you end up with Seal Bay.
22 Maybe it's much broader, gives you more habitat protection and
23 brings other values in but -- and doesn't preclude future
24 opportunities by picking that one blob, then having to do the
25 next small blob, the next small blob, the next small blob ad
26 infinitum. So, that's clear cut and this has clear-cuts in it

1 but this is -- so, do you see what I'm saying? You're trapped in
2 something between imminent threat, imminent perceived threat,
3 imminent fabricated threat and a longer term approach and you
4 can't preclude those other options by stepping in, I think, and
5 drawing this one small circle because then all of a sudden, next
6 year, it will be the circle right next to it. You can't say it
7 won't.

8 MR. GILBERT: Mr. Chairman, I think we anticipated that
9 and when I say we'd send a letter out to these landowners, these
10 22 landowners, it's really based -- it's the blob that initiated
11 the letter, but we're not committing ourselves to that particular
12 blob. We wouldn't be asking if you want to sell this particular
13 blob. I guess I wasn't really clear in this, but it's the blob
14 that initiated the letter to be sent out because as we've
15 described here, this is the interim protection process, so it's
16 the threat and these opportunities which would initiate the
17 letter, but I think everybody anticipates that once you begin
18 discussions and negotiations with the landowners, you're going to
19 look at a -- you can look at a much broader area and if it turns
20 out the blob -- maybe the blob is valuable in itself and that's
21 fine and a deal could be put together to be brought back to the
22 Trustee Council on that particular blob or maybe it doesn't.
23 Maybe you have to look at another thousand acres or so; maybe you
24 either reduce it or you enlarge from what the blob is. But I
25 think it's going to be quite negotiable, I think, once you begin
26 discussions and negotiations as to what the size of the tract is

1 but the blob was really just the starting point.

2 And the idea is to eliminate the possibility of
3 foreclosing options during the time the restoration plan is being
4 put together, but that's only just the starting point And I
5 think negotiations will really bring out a whole different set of
6 boundaries, based on willingness of landowners and further
7 information we acquire in doing these discussions.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: Mr. Chairman, one of the things that
10 concerns me is this negotiating process. I know we haven't
11 gotten to that issue yet and that's an issue on March 10th or
12 11th, whatever, but it seems to me that there are real hazards in
13 starting a negotiating process unless we know exactly what at the
14 end of the day we want to acquire, you know, as a result of the
15 negotiations. And I'm not satisfied in my own mind, having given
16 a lot of thought to this subject, that the best thing to do is to
17 start a process of negotiations whereby we say we want to acquire
18 X or Y, for example, because I think as part of this whole
19 process that we need to receive or bargain for from the
20 landowners more than simply title or easement for X -- or of X.
21 I think that our bargaining strategy, whatever it turns out to
22 be, should be broader based than that. I think that we need to
23 tell these landowners that if we buy X, we expect Y from you i.e.
24 that you won't log this bay over here next year. Because if we
25 say we will buy PWS, you know, what Prince William Sound one and
26 simply say the consideration for that exchange is X dollars,

1 then, you know, the next year we're dead in the water with
2 respect to the next bay over. And that's understandable. If I
3 were the landowner, that's what I would do too, I suppose, maybe,
4 depending upon lots of considerations. And therefore, I think
5 that before we start this process, we should well know what we
6 want to receive at the end of the day. And I'm troubled that I
7 don't think we have a sense of what we want to do and I don't
8 think we have a sense of what I have consistently in these
9 hearings or meetings referred to as the grand plan and I think
10 that we will not accomplish as much as I personally would like to
11 see accomplished unless we think very broadly about what we're
12 doing here and I realize that people say, well, look, I mean
13 here's this hesitation, we're restrained on acquiring habitat and
14 lands but that may be a shortsighted view. I'm not suggesting
15 that we hold up this process, maybe we should get with it but I
16 think that we have to take what I said earlier as a broader view
17 of what we're doing here. So, that's one of the hazards that I
18 see in sending this out -- "We'd like to start negotiations with
19 you." Anyway, that's what I'd like to say. Thank you, Mr.
20 Chairman.

21 MR. BRODERSEN: Mr. Chairman.

22 MR. PENNOYER: Mark Brodersen.

23 MR. BRODERSEN: We're not exactly positive yet, but in
24 discussions we've been having with Restoration Team and habitat
25 protection work group, we think that we can get to a document
26 like this for the entire spill-affected area sometime this fall

1 or early winter which would, I think, address some of the
2 considerations we've been hearing here in not knowing exactly
3 where we're going but not to foreclose options on some of these
4 imminently threatened lands, we were wanting to see if we could
5 get some imminent protection on some of those lands before we
6 actually got to the entire comprehensive process. And I keep
7 having the feeling that folks think that we're trying to acquire
8 all of these imminently threatened lands. That's not the case.
9 We need to get them partially protected or for a short period,
10 protected to see how they fit in to the entire suite of lands
11 that we have in the spill-affected area so that a decision -- a
12 rational decision can then be made on which parcels are
13 advantageous to restoration and which aren't. If along the way
14 while we're getting to the comprehensive process, a landowner
15 comes in and gives us a super good deal on a parcel, we need to
16 be flexible enough to be able to grab that, but we don't want to
17 also by the same token be out there trying to get a high cost
18 parcel into the fold before we know it's one that we actually
19 want. So, I think what I'm trying to do is agree with the
20 Attorney General; at the same time, ease his mind on where we're
21 trying to get with this. That it's the comprehensive process we
22 need to get to. We need to have a few steps in between to get
23 there.

24 MR. PENNOYER: Well, I guess we had -- when we did
25 Kachemak Bay, we saw some opportunities and some imminent threats
26 and we didn't -- we put it through the process to start with and

1 took a look at where it would rank out, decided it would rank out
2 at the upper end of the list and the opportunity was there and we
3 seized it and tried to take advantage of an opportunity that
4 might be lost because of imminent threat. It seems to me there
5 may be some things and I haven't made up my mind yet that there
6 are on this list that fall in the same category. I see a very
7 low Prince William Sound 02, seems to be a relatively small
8 parcel with a very high ranking and in looking at the run-down,
9 which I haven't had time to adequately peruse, it seems like
10 there are some things though that may be of importance. So, I
11 don't know whether that map, the Prince William Sound 02 is
12 adequate or could be drawn a little bit broader and even increase
13 the values further. I don't know some of those questions and I
14 guess what you're saying is you need to go out and ask. Maybe
15 there are other areas that certainly seem to be in private
16 ownership there that extend down onto Eyak Lake and farther down
17 the river and might even be as important. Maybe the process
18 should include that whole section instead of just that --
19 certainly if you did Seal Bay on that in 15,000 acres you'd
20 include all of Eyak Lake and all of the surroundings rather than
21 just the part, the upper part of Power (ph) Creek there. So, I
22 don't know but there may be things here that are imminent threat
23 of the same nature that we had in Kachemak Bay that require some
24 looking at. There may be a lot of others that would blend better
25 into the long-term plan. How do we make that bridge and that
26 judgment except simply writing this letter that I think is going

1 to deal with a lot of parcels that may be very low in priority
2 for any imminent threat.

3 MR. WEINER: We, as a subgroup, struggled with that
4 issue whether to make a cut-off at a particular -- and recommend
5 to you all everything that scored a ten for your consideration -
6 everything that scored a 20, but where I come from, if it quacks,
7 it's a duck and some of these parcels are so clearly outstanding,
8 they are clearly threatened by some form of development and
9 they're clearly linked very highly to the affected resources and
10 services. The dimensions of the polygon may not be precise but
11 some of these parcels are very worthy of your consideration as
12 soon as possible, because if we don't move relatively quickly on
13 these very highly ranked and very threatened parcels, they may
14 not be worth your consideration in the near future and I don't
15 want to sound alarmist but we do have some parcels that are just
16 very much like the Kachemak parcel and need your consideration
17 relatively soon.

18 MR. PENNOYER: My assumption is those are generally
19 the ones somewhere in your 15 and above ranking that -- somewhere
20 in there and some below that might fall into it if you change the
21 direction or the design of the parcel...

22 MR. WEINER: But some do stand out.

23 MR. PENNOYER: ...and so -- so, I think I want to get
24 out the fact that there are some here that are outstanding and
25 need consideration. I'm not saying today but is this letter
26 writing the first step of starting that? Just in making the

1 letter perhaps a little broader and it doesn't include just very
2 specific things but more, "This specific thing that got us
3 concerned and we'd like to talk to you about how this all comes
4 together. Are you interested?"

5 MR. SUNDBERG: We've heard consistently from the public
6 and from the PAG just last week when we made our presentation, we
7 need to go talk to the landowners and we need to bring them into
8 the process and that's all the letter does. It just basically...

9 MR. PENNOYER: Well, this again, is not negotiating --
10 it's not talking about the landowner about okay, how much --
11 starting to negotiate or bargain for money; it's just the first
12 step of determining if there's interest.

13 MR. SUNDBERG: Willingness.

14 MR. PENNOYER: That's all you're really trying to...

15 MR. WEINER: Willingness to play.

16 MR. PENNOYER: And you think there are some parcels in
17 here that do qualify for imminent threat and really we shouldn't
18 wait for fall or winter to start?

19 MR. SUNDBERG: After going through this analysis and
20 dealing with these things, I mean you can't go wrong on some of
21 these highly ranked parcels. I don't care about the GAO or
22 anybody. They've got some good habitat in there and they're going
23 to provide restoration benefits.

24 MR. COLE: Mr. Chairman.

25 MR. PENNOYER: Strike the GAO comment.

26 MR. COLE: Mr. Chairman.

1 MR. PENNOYER: I struck the GAO comment.

2 MR. COLE: You struck the GAO comment.

3 MR. PENNOYER: Not yours; his.

4 MR. COLE: Here's the -- I move we revise the letter,
5 eliminate the willing seller language and send the letters on the
6 condition it's just "Come in and let us know." No more than
7 that.

8 MR. BARTON: Second.

9 MR. PENNOYER: It's been moved and seconded that we
10 send the letter out without getting down to detail of the
11 specific blobs and without indicating willing seller. Where
12 would that modified -- voluntary basis, all acquisitions
13 (indiscernible - unclear) voluntary basis. So, just take that
14 one sentence out?

15 MR. COLE: Well, I think if they're not -- Mr.
16 Chairman, also one -- well, I don't know. I thought there was
17 another sentence but they can take care of that, I'm sure.

18 MR. PENNOYER: I think you could leave willing
19 participant in because your statement is "We hope you're willing"
20 and so, you're taking one sentence out at the end of the second
21 paragraph that said "all acquisitions be on a voluntary basis."
22 That's really your concern, just leaving up in the air how this
23 interest might be acquired. Ms. Bergmann.

24 MS. BERGMANN: Mr. Chair, a couple of other things that
25 have been discussed that I think we might discuss again a little
26 further is including in the letter the package of information

1 about the parcels and asking the landowners if they have
2 additional information or corrections to make on that
3 information. And then also asking them if they have adjacent
4 lands -- lands adjacent to the blobs that we've been discussing
5 if they would like to include those for consideration.

6 MR. COLE: For consideration.

7 MR. PENNOYER: I'm a little worried about sending a
8 letter out that says that's the specific one we're interested
9 in. We want them to come back as we did in Seal Bay with a
10 larger approach than what they might be willing to discuss so we
11 can then draw the boundaries according to our resource values,
12 rather than according to the (indiscernible - unclear).

13 MR. BARTON: Mr. Chairman?

14 MR. PENNOYER: Mr. Barton.

15 MR. BARTON: I don't think it matters much whether we
16 include it in the letter or not. I think what we are interested
17 in at this point, at least, is generally well known.

18 MR. PENNOYER: Ms. Rutherford.

19 MS. RUTHERFORD: The letter was not intended to focus
20 on the particular blob, again. Again, it was just asking are
21 they willing to participate in this process regarding their
22 lands. Again, as Chuck had said, the blob just initiated the
23 contact with the landowner.

24 MR. SANDOR: Mr. Chairman, is the map to accompany the
25 letter?

26 MS. RUTHERFORD: We want to do a -- since this is now

1 in the public domain, we wanted to send these out to the
2 landowners to get them to begin to react to the blob and other --
3 you know, just to begin to share information back and forth.

4 MR. SANDOR: Why send the map?

5 MS. RUTHERFORD: No need to send the map. We could
6 just send information and...

7 MR. COLE: So, they'll know what land you're talking
8 about.

9 MS. RUTHERFORD: But I think it is...

10 MR. SANDOR: Well, if you want to focus on more than
11 the little blobs, why not deal with their ownership?

12 MS. RUTHERFORD: We could just note that the blobs are
13 the areas where we have already done some analysis but we want to
14 talk about all of their lands.

15 MR. SANDOR: Okay.

16 MR. COLE: Mr. Chairman.

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: But surely they will have come in here and
19 look at these maps and know exactly what we're talking about.
20 There's no secret about it after this moment, is there?

21 MR. PENNOYER: But I don't think we've identified what
22 we're taking about. We have not adopted these boundaries. They
23 were presented to as information and I think the general area map
24 with the logging shows that are on there indicate (indiscernible
25 - unclear) we know about might be pertinent to tell people, you
26 know, this is generally the area in general we're interested in

1 but we have not adopted those boundaries and the fact that this
2 Prince William Sound 02 is 1300 acres. Maybe it should be 3,000
3 acres and (indiscernible - unclear) resource values could draw
4 it at will, we might draw it to 3000 acres rather than that 1300.
5 So, they can come in look at the maps but since we haven't
6 adopted those, I don't thin we're sending a signal out that yes,
7 we have adopted that particular acreage.

8 MR. SANDOR: Mr. Chairman, then this enables us to
9 communicate with the so-called owners of the opportunity parcels
10 with the full expectation that we're concerned about the critical
11 habitat on those parcels as well, so are we sending it to all the
12 landowners, both the opportunity parcels as well as the imminent
13 threat? Is that the intention or just the imminent threat?

14 MR. PENNOYER: Well, the opportunity owners have
15 already indicated they want to deal in some fashion, but...

16 MR. COLE: Mr. Chairman.

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: Well, as long as we're doing it, why don't
19 we send it out to all the landowners in the whole Prince William
20 Sound and the whole place and start from there. Then that will
21 get us along a little farther.

22 MR. SANDOR: Excellent. Excuse me.

23 MR. COLE: Thank you. I mean, you know, as long as
24 we're starting a process...

25 MS. RUTHERFORD: Yes.

26 MR. COLE: ...why don't we really start the process?

1 MS. RUTHERFORD: That's what we would like to have.
2 That permission.

3 MR. COLE: Well, I'll so move.

4 MR. PENNOYER: Do I have a second?

5 MR. SANDOR: Second.

6 MR. PENNOYER: Moved and seconded. The letter go out as
7 previously -- the contents previously identified to all the
8 landowners in the area to try and get responses back without
9 identifying only key parcels at this time. Any comment.

10 MR. GILBERT: Mr. Chairman, if I might, informational
11 item. To put it in the context of what's been published before,
12 before we'd send something out to all the owners as part of the
13 comprehensive plan, the supplement that came out last July
14 specified that actually an RFP would go out in which we would
15 identify the specific lands we were interested in. And I just
16 raise that as an informational point for you that if we were to
17 send the letter to all the landowners, it isn't exactly in
18 compliance with what has come out before from the Trustee
19 Council.

20 MR. PENNOYER: Why does that preclude an RFP later that
21 identifies specific lands after you get general indication of
22 interest? I don't understand why that's a conflict.

23 MR. COLE: Mr. Chairman. This is an implicit
24 overruling of that action.

25 MR. GILBERT: That's all I needed.

26 MR. PENNOYER: Any further comments and discussion?

1 MS. BERGMANN: Mr. Chair.

2 MR. PENNOYER: Ms. Bergmann.

3 MS. BERGMANN: It still seems to me that the imminently
4 threatened package that we have here today that includes the
5 three opportunity parcels that, as we heard in our presentation,
6 we're not sure how accurate some of the information is in this
7 package and the landowners certainly have a lot of good
8 information that would help us update that information so I'm st
9 ill a little unclear as to why we would not want to send just out
10 for their information the package that we've already put
11 together and ask them if they have any additional comments, if
12 they would like to update or clarify any of the information or if
13 they would choose to indicate that there are adjacent lands that
14 they would be willing to include in those discussions. It just
15 seems to me that that would be a helpful question to ask those
16 potential landowners and that we could get more information back
17 from them that would speed us on our way. And we don't have to
18 indicate in our letters that we bought off on any of these
19 boundaries or any of this information. This is simply
20 preliminary information and it's an opportunity for them to
21 provide us with some updated information.

22 MS. RUTHERFORD: Mr. Chair, I guess I mis- -- I thought
23 that was the direction that the Trustee Council has just given
24 us.

25 MR. PENNOYER: That wasn't the motion that's currently
26 on the floor. Are you proposing an amendment to the motion then

1 that for the areas that were presented today, we send out
2 something more specific but not identify the parcels we want to
3 buy, just simply identify the information? How do you quantify
4 the information that we've got presented to us unless you
5 quantify the parcel?

6 MS. BERGMANN: I would move that...

7 MR. PENNOYER: (Indiscernible - simultaneous speech)
8 Bald eagles or what type of information specifically are you
9 seeking from the landowner?

10 MS. BERGMANN: I move, Mr. Chair, that we simply for
11 the parcels that are contained in this package, the 19 imminently
12 threatened parcels and the three opportunity parcels that we
13 provide each landowner with the package of information that has
14 been developed by the work group so far and simply ask them if
15 they have additional information that they would like to provide
16 us on that information that we've developed that they feel free
17 to do that, including identifying adjacent lands that they may
18 own that they would like to have considered in the process. And
19 that that would be added to the standard questions which everyone
20 would receive, namely "Are you a willing participant in this
21 process?"

22 MR. PENNOYER: Is there a second for discussion to the
23 amendment?

24 MR. ROSIER: I'll second the motion.

25 MR. PENNOYER: But you would clearly -- or make it
26 clear in the letter the Trustee Council had not identified this

1 parcel for purchase. It simply identified concerns in this
2 area?

3 MS. BERGMANN: Yes.

4 MR. PENNOYER: Further discussion? It's been moved and
5 seconded to amend the motion before us by elaborating on the part
6 that goes out to the landowners of these particularly identified
7 areas, imminent threat areas. Is there any objection? Mr.
8 Sandor objects.

9 MR. COLE: I object also.

10 MR. PENNOYER: Mr. Cole objects.

11 MR. COLE: Mr. Chairman?

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: My view and what propelled me to vote against
14 the amendment is when these people come in, presumably there will
15 be some discussion about, you know, where the land is, what
16 they're most interested in as I perceive the course of events.
17 And I think that that sort of thing can be developed when this
18 conversation takes place, you see. I mean we just as well do it
19 in one step rather than presumably two and that way, we'll just
20 be that much farther ahead and have a greater bunch of data
21 sooner. That's the reason I say we just as well start at ground
22 zero.

23 COURT REPORTER: Let me just change tapes.

24 (Off record: no time noted)

25 (On record: no time noted)

26 MR. PENNOYER: Okay, is there any further amendments to

1 the main motion or we ready to vote on the main motion? Any
2 objection to the main motion?

3 MS. BERGMANN: Can you repeat it?

4 MR. PENNOYER: Do you want me to repeat the main
5 motion? The main motion was to send out letters to all the
6 landowners in the spill-affected area to get a reading back from
7 them as to whether they're interested in entering into the
8 negotiations as proposed by the team, eliminating only the
9 sentence on voluntary basis, as I understand it.

10 MS. BERGMANN: Mr. Chair, one comment on that. I'm
11 assuming as noted on the bottom of this letter that this would be
12 reviewed by legal counsel prior to release. So, assuming that
13 occurs.

14 MR. PENNOYER: Any problem?

15 MR. COLE: No objection.

16 MR. PENNOYER: Any objection to the motion? Okay,
17 could we then get an elaboration on where we are in timing? This
18 letter is going to go out and obviously, we're not going to get
19 responses back by March 10th, maybe not by April 10th in total,
20 where do we go next? You're going to work on -- the next part of
21 your question is whether you should work on the guidelines
22 negotiation?

23 MR. GILBERT: That's correct and I guess in terms of
24 the letter, it's going to be a bit of a task to determine who all
25 the owners are within Prince William Sound or the spill-affected
26 area, rather. I guess I would suggest that we work first on the

1 imminent threat parcels, get those letters out if you concur with
2 that, if you can agree with that and then put the list together
3 for the entire area but I think I would suggest that we work
4 first on this list of 22 where we already have the owners and get
5 those letters out.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: My view is I'd get out as many as I can as
9 soon as I can and if you're short, you know, you don't get every
10 landowner, well, you know, get them a day or two later. That
11 would be my view.

12 MR. PENNOYER: Is that sufficient guidance? Start
13 with what you've got and work from there.

14 MR. GILBERT: Okay. We'll do that.

15 MR. PENNOYER: Okay. Can we -- it's now a quarter
16 after 12:00. Shall we break and come back and then deal with
17 two, three and four on this list of things that have been asked
18 for action. And how long do we need for lunch? An hour? 1:15.

19 MR. SANDOR: 1:15.

20 MR. PENNOYER: 1:15 then. Back here. Thank you.

21 (Off record: 12:15 p.m.)

22 (On record: 1:17 p.m.)

23 MR. PENNOYER: Can we come back to order, please and
24 see if we can get through the rest of this agenda? We left with
25 a discussion of a letter mail-out and I think Attorney General
26 Cole has something he wanted -- an additional comment he would

1 like to make on our last motion.

2 MR. COLE: Yes. For the benefit of the habitat
3 protection group, implicit in my motion to send a letter to all
4 the landowners in the spill-affected area was the sense that the
5 letter only go to those who own substantial blocks of land in the
6 area. I don't know whether that's 50 acres or a 100 acres or
7 500. I leave that to the good judgment of the group, but I had
8 in mind a rather significant acreage in the area. Obviously, I
9 don't think we should be sending a letter to owners of five-acre
10 tracts.

11 MR. SUNDBERG: So, this lets out the condo owners in
12 Seward, then?

13 MR. COLE: I would say so.

14 MR. PENNOYER: Depends on the condo. Okay, could we
15 proceed then? You had a few other items that either required
16 action or something from the Trustee Council. Do you want to
17 present those?

18 MR. GILBERT: That's correct, Mr. Chairman. These are
19 rather simple, I believe. Number three on the list here that
20 I've got is -- they all seemed simple to begin with. What we
21 propose to do with the Restoration Team and habitat protection
22 work group is put together acquisition negotiation guidelines.
23 And the idea is that we'd have guidelines in place so that when
24 negotiations do begin, they be done in a consistent manner. And
25 these would deal with such things as making sure that it's
26 understood the approval authority rests with the Trustee Council,

1 discussions of appraised value and fair market value is the basis
2 for negotiations, and any other items that really ought to be
3 spelled out up front, before negotiations begin. And it's
4 particularly important, we believe, to do that if there's going
5 to be more than one negotiating team. Say, for instance, if
6 different bureaus, different agencies are going to be doing the
7 negotiation, they ought to be playing from the same scorecard,
8 basically. So, what we're proposing to do here is just authorize
9 us to put that kind of information together to present to you at
10 your next meeting.

11 MR. PENNOYER: I -- did you skip item two then?

12 MR. GILBERT: Item two is...

13 MR. PENNOYER: Negotiation option paper and went right
14 to three? Or did we already deal with two?

15 MR. GILBERT: Yeah, we assume that we'll keep working
16 on the negotiation options paper and again, present that
17 information to the Trustee Council at the next meeting. There's
18 no decision required on that particular item.

19 MS. RUTHERFORD: Mr. Chair, may I interject a minute?

20 MR. PENNOYER: Yes.

21 MS. RUTHERFORD: I would hope that the Trustee Council
22 would review the document you've got in front of you though
23 between now and that March work session because right now, it is
24 -- you know, it is the best information we were able to put
25 together for you. It does not have a recommendation in here,
26 though.

1 MR. PENNOYER: Okay.

2 MR. COLE: Mr. Chairman.

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: I'm not sure I followed that comment.

5 Review. Specifically, which document are we to review?

6 MR. GILBERT: This is the discussion paper which was

7 handed out this morning.

8 MR. COLE: All right. Thank you.

9 MR. GILBERT: That lays out the four different options,

10 A through D and which principally deal with who the negotiating

11 team is going to consist of.

12 MR. PENNOYER: Okay, so your proposal is that we

13 continue working on this option paper and that you also would

14 come with negotiation procedures and criteria to present to us at

15 the same time at the next meeting?

16 MR. GILBERT: That's correct.

17 MR. PENNOYER: Is there any problem with that as an

18 assignment?

19 MR. SANDOR: I don't have a problem with that but I

20 would like to see this -- these options discussed with the Public

21 Advisory Group.

22 MR. PENNOYER: Okay. Any objection?

23 DR. GIBBONS: Mr. Chair?

24 MR. PENNOYER: Dr. Gibbons.

25 DR. GIBBONS: I'm not quite sure -- we could probably

26 send it out to the Public Advisory Group but I'm not sure how we

1 would handle it other than that, just through mail.

2 MR. PENNOYER: Will the Public Advisory Group be having
3 a meeting before the March 10th meeting?

4 DR. GIBBONS: No.

5 MR. SANDOR: No?

6 MR. PENNOYER: Apparently not.

7 MR. SANDOR: Well...

8 MR. PENNOYER: We're reaching somewhat of an impasse.
9 Commissioner Sandor.

10 MR. SANDOR: We heard this morning that the Public
11 Advisory Group had invited, you know, direction from the trustees
12 on such things as prioritization and, you know, some meaningful
13 involvement and I wish we could schedule these meetings in a way
14 in which we could involve them. They essentially told us this
15 morning they'd like to help in identifying priorities and why
16 wouldn't we want them to do that? Why we wouldn't want them to
17 look at these options? You said there is no consensus among the
18 Restoration Team about the options. Well, why not use the
19 expertise in that Public Advisory Group?

20 MR. PENNOYER: Mr. Gilbert.

21 MR. GILBERT: Mr. Chairman, I might point out that at
22 the last Public Advisory Group which was last week, we did
23 present the same discussion which we've presented here today.
24 The only exception was these four options. And I guess it was
25 still a matter of some discussion. We didn't want to preempt the
26 Trustee Council reviewing this before it went to the public in

1 this particular element. However, all of the tracts were
2 reviewed -- the information on these tracts that Kim Sundberg
3 presented was reviewed; all the information that Art Weiner put
4 together was reviewed and discussed with the Public Advisory
5 Group. And I think in our minds, these options, A through D, are
6 really procedural issues. It really hinges on who does the
7 negotiations and acquisitions. It shouldn't make any difference
8 in terms of which properties were bought or which properties are
9 important to be purchased. I mean it's really more procedural
10 than substantive.

11 MR. PENNOYER: We need to come back at some point to
12 discuss the March 10th meeting and what we expect to accomplish
13 there and what we need to have done before we go to it. So, is
14 it still understood that the group can be working on the
15 negotiation option paper and the negotiation criteria and process
16 for us to present something back at March 10th? Whether we
17 decide after that we need to get at it some other way or decide
18 not to have that meeting. It could be a decision we could reach
19 later.

20 MR. SANDOR: I think we probably ought to consider
21 whether or not we ought to have it at that time.

22 MR. PENNOYER: Okay, but does anybody object to the
23 group working on these two things in the interim, whatever the
24 interim is? Okay.

25 MR. COLE: Mr. Chairman.

26 MR. PENNOYER: Mr. Cole.

1 MR. COLE: Which reminds me I was a little concerned,
2 maybe some other trustees were, with the release of this work
3 product of the habitat group before it came to the Trustee
4 Council. I had a sense that...

5 MR. SANDOR: That's right.

6 MR. COLE: ...there was considerable flack generated as
7 a result of that and articles in the newspaper maybe didn't
8 present the material accurately. And I just wonder whether in
9 the future we should think about the sequence of that type of
10 material being made public. I don't know if anyone else has any
11 thoughts on that, but I was slightly troubled by it .

12 MR. PENNOYER: Dr. Gibbons, were these notebooks passed
13 out prior to the meeting?

14 DR. GIBBONS: Yes. It's my thought that -- the
15 Trustee Council got it before the Public Advisory Group got it
16 but it's my understanding that the Trustee Council wanted the
17 review from the Public Advisory Group before this meeting. And
18 that was the process laid out, that the Public Advisory Group
19 would review material, then give the Trustee Council feedback or
20 recommendations on products [sic] but if the Trustee Council
21 wants to go a different approach, we'll, you know....

22 MR. PENNOYER: You're right, Dr. Gibbons. I think if we
23 go back and check the minutes, we did request that the imminent
24 threat presentation go to the PAG group and they'd be able to
25 advise us similar to the way that Mr. Sandor is recommending it
26 go to the next phase, go to them first before it comes to us, so

1 we need to be clear in our directions anyhow, to the...

2 MR. COLE; Commissioner Sandor has a question.

3 MR. PENNOYER: Commissioner Sandor.

4 MR. SANDOR: Mr. Chairman, I think these fundamental
5 policies really need to be discussed with them. You know, I made
6 my bias clear about believing that recreation and developments,
7 lodges, cabins and fishing developments -- development activities
8 is not being an imminent threat but that's where I'm coming from.
9 That's not to say I couldn't be persuaded but I'm troubled by
10 that characterization as an imminent threat. I'm not really --
11 wonder if the Public Advisory Group reached a consensus that it
12 was, in fact, a threat and was closely linked to restoration of
13 damaged resources and services and then on these things like
14 these options, I think on those policy questions, we need their
15 counsel. That's all I'm trying to say.

16 MR. COLE: Mr. Chairman.

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: What did the Public Advisory Group recommend
19 to us when they were presented with this data or information? I
20 mean did they give us any recommendations following their last
21 meeting?

22 MR. PENNOYER: I couldn't find one in the report this
23 morning. It said that the landowners and timber owners should be
24 involved earlier in the habitat protection process rather than
25 later, but...

26 MR. WEINER: They were very clear on land exchanges.

1 They wanted us to look into the possibility of land...

2 DR GIBBONS: No, there was not a quorum at the meeting,
3 so they could not vote on anything, and so it was a review
4 session. Not a recommendation session.

5 MR. COLE: So, what are we left with? Zero? Is that
6 the upshot of it all? I mean do we get anything in writing from
7 them or is this just word of mouth?

8 DR. GIBBONS: There's a report that's laying in front
9 of you there from the February 10th Public Advisory Group
10 meeting.

11 MR. PENNOYER: They didn't go through and pick parcels
12 or options?

13 DR. GIBBONS: No, they didn't go through and pick
14 parcels. The presentation was basically the same one here minus
15 the policy issue questions about who negotiates and the
16 recommendation was to contact the public -- I mean the landowner
17 and if I can paraphrase it, they said, yeah, yesterday would have
18 been not soon enough. So, that was their recommendation. Get in
19 touch with the landowners as quickly as possible.

20 MR. PENNOYER: Further comment or questions?

21 MS. RUTHERFORD: Mr. Chair.

22 MR. PENNOYER: Yes.

23 MS. RUTHERFORD: I think one of the things it's
24 important to point out is that we didn't ask them to prioritize
25 the parcels, because again, we're not really asking that of you.
26 We're asking simply the ability to go out and begin discussions

1 and start the process with them, clarifying information and
2 willingness to participate. In fact, if they would have
3 prioritized parcels, that might have actually flown in the face
4 of where we're intending to go, so...

5 MR. PENNOYER: Thank you. Any further discussion? Do
6 you have any further items you need to present?

7 MR. GILBERT: The last item is number five that I
8 presented earlier and that is receiving authorization to extend
9 the analysis to all the lands in the spill-affected zone that
10 much like what we've done here for imminent threat lands and
11 opportunity lands. This would be work done by the habitat
12 protection work group and there's no deadline for this. What
13 we'd like to do is just get authorization to continue the work
14 which we're already beginning to do.

15 MR. PENNOYER: Are you funded in some way for that? Is
16 that -- what is the project status?

17 DR. GIBBONS: Mr. Chair, I think you've already
18 authorized that through the letter that you said to send it to
19 all landowners and then that will begin that process. That's
20 the first step in that comprehensive process. I think the
21 funding has been identified within the framework of the process.

22 MR. COLE: Mr. Chairman.

23 MR. PENNOYER: Mr. Cole.

24 MR. COLE: What would be the route of that analysis
25 that you would propose to make? What would be the approach?

26 MR. WEINER: Basically -- I can take this one. We'd

1 start doing what we could with existing information. Almost
2 exactly what we've done with the interim process. Collect all
3 the resource agency documents, literature, damage assessment
4 studies, anything that pertain to the resources that we believe
5 might occur on those lands in terms of habitat. We'd take
6 another look at, excuse me, the Nature Conservancy workshop
7 information. That would be our starting point. Identify data
8 gaps would probably emanate from that to determine whether or not
9 we need to recommend to do additional work to harden up our data
10 bases on those particular parcels. It will almost be a site-
11 specific issue because in some cases, we probably will have
12 better data than in other cases and we just have to take a look
13 and see what we got and what we'd need.

14 MR. PENNOYER: Mr. Barton.

15 MR. BARTON: How would that, Art, then relate to the
16 comprehensive process that we've been talking about and when will
17 that be ready?

18 MR. WEINER: Well, that would be a major element of the
19 comprehensive process is determining what kinds of information we
20 can bring to the Trustee Council to help you make decisions on
21 lands that we haven't already identified through the interim
22 protection process.

23 MR. BARTON: And when will we have the comprehensive
24 process in place so that we'll know what we're looking at?

25 MR. WEINER: I'd be reluctant to give you a real hard
26 number -- a date on that but it will be a while.

1 MR. PENNOYER: Ms. Bergmann.

2 MS. BERGMANN: Mr. Chair, I thought that the
3 comprehensive process would be part of the draft restoration
4 team, that it was being rolled into that document.

5 MR. WEINER: The process, itself -- I mean the steps
6 -- the hoops that we'd have to jump through, certainly would be
7 but the actual analyses of the privately owned lands outside of
8 interim threat is probably going to take a greater time than the
9 spring to accomplish that.

10 MR. PENNOYER: Ms. Bergmann.

11 MS. BERGMANN: One follow-up question, Mr. Chair.
12 Aren't some of the projects that were funded as part of the '93
13 work plan doing exactly that?

14 MR. WEINER: Some of them are, yes. Hopefully, they'll
15 be funded through -- especially, things like the anadromous
16 stream walks. That's one project that will provide us with
17 information. That's correct.

18 MS. BERGMANN: So, I'm not quite sure what we're
19 talking about in addition to what we've already funded for the
20 '93 work plan in terms of getting this whole process started.

21 MR. WEINER: Well, the actual steps, just as we've laid
22 them out to you, will be available to you by the time the draft
23 restoration plan comes out. The kinds of analyses but actually
24 to take all of the private lands, you know, that we haven't
25 already analyzed and run them through this process, I couldn't
26 tell you right now, how long that would take because we don't

1 know how many of these private lands we're going to have willing
2 participants. If we don't get a great number of private
3 landowners who are willing to participate in the process, and
4 condemnation proceedings notwithstanding, we may be able to move
5 through it rather quickly but if we have a large number of
6 landowners or large parcels of lands -- I can't imagine we'll
7 have a great number of landowners, it might take a while to
8 conduct a thorough analysis and also to identify those data gaps
9 and make recommendations for additional studies for the '94 work
10 plan.

11 MR. PENNOYER: Further questions?

12 MR. COLE: Mr. Chairman.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: I think I remain troubled as Ms. Bergmann
15 is, perhaps others, about the fundamental approach that we're
16 taking here as we develop this information. I remain slightly
17 troubled. But let me ask this, for example. Are we talking
18 about tourism and the value of some of these lands for
19 prospective tourism?

20 MR. WEINER: We would identify any of these lands in
21 terms of whether or not that particular service occurs in that
22 parcel or on that parcel or that parcel affects tourism, yes. And
23 that would be a judgment on our part.

24 MR. COLE: Let me pursue it just a little more. I mean
25 -- oh, I continue to be struck, as I will for the remainder of my
26 life, as I drive through Snoqualmie Pass, you know, and I see,

1 you know, these magnificent slopes and rocks and circs (ph) and
2 all this stuff and slashed on each side from road to the highest
3 mountain top is this clear cut. And I, for the life of me, I
4 will never understand who in the Department of Agriculture, shall
5 I say, you know, approved that. 20,000 cars a day go through
6 there, you know. And I suspect for the rest of my life as I go
7 through there, it will remain as unsightly as it is today.

8 But so, as I think about that, I think about these tour
9 ships that cruise the Sound and, you know, I say is part of this
10 analysis going to be are we going to look at are we cutting these
11 slopes that where these tour vessels and these people go through
12 there and allowing -- considering cutting the back sides where
13 there's no view, easements or whatever you want to call them
14 involved? I mean that's what I'm talking about. Really a broad
15 look at these lands in the Sound and that's what continues to
16 trouble me as we work through this process. Are we taking a
17 fundamentally broad look at it and are we looking from the
18 eastern Sound to the western Sound and down, you know, towards
19 the Kodiak area and that's what concerns me as we go through this
20 process. That's what I would like to see done. A broad look at
21 the whole land pattern picture. That does not mean to say that I
22 think we can buy all those lands, but as we evaluate all those
23 lands, then we take the big picture as we get it eventually put
24 together and then we make the hard decisions, you know, you make
25 the cut and you don't. That's what I sort of say as I say, are
26 we taking a broad look and then I talk to people who say, Look --

1 people at the university and people at the symposium who say one
2 of the troubles with the approach of the Trustee Council so far
3 has been too narrow an approach towards the scientific studies
4 and that we should look more broadly at an ecosystem approach to
5 what we're doing here in the restoration and I mean I don't have
6 the answers to that, to those ideas, but that's what I think we
7 should be addressing. Do I get your vote, Commissioner?

8 MR. SANDOR: Completely.

9 MR. COLE: Thank you. At least two of us agree.

10 MR. PENNOYER: (Indiscernible - unclear)

11 MR. COLE: Well, whatever. Thanks.

12 MR. PENNOYER: Any further comments? Do you gentlemen
13 have anything further to offer?

14 MR. WEINER: (Inaudible negative response.)

15 MR. SUNDBERG: (Inaudible negative response.)

16 MR. GILBERT: (Inaudible negative response.)

17 MR. PETRICH: I really apologize because I know that
18 public comment comes at the end of the day, but in Seal Bay which
19 is an area where Kodiak is highly concerned, there's an area
20 that's listed on there as being clear cut which isn't and that's
21 Unit 619. It 's right in the salt water. It's right in an area
22 which was reviewed by DNR as a scenic and heritage site and
23 winter operations stopped that particular (indiscernible -
24 cough). It's right next to the lodge there which draws
25 international guests. It's kind of a special situation.

26 MR. PENNOYER: Well, I think we are going to take

1 public comment during the public comment period but I think the
2 solution here was to go back out and quiz landowners and let them
3 comment on their willingness to enter these negotiations and
4 also, presumably, to provide us any information they have so that
5 will occur and I think you can go talk to the folks right here on
6 something specific.

7 MR. PETRICH: Sir, would there be any mechanism for
8 negotiating immediately because the landholders are willing
9 sellers and they've got good information about price and things
10 like that.

11 MR. PENNOYER: Well, the discussion, the decision here
12 was not to do that. The decision here was to go back out, quiz
13 landowners, proceed with our options, looking at the process and
14 procedures we're going to work with and come back at the March
15 10th meeting and deal further with it. We had not made the
16 decision to start negotiations at this meeting.

17 MR. COLE: Mr. Chairman.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: Of course, there remains proposed
20 legislation in the current Legislature to expend the 50 million
21 dollar fund which the State received from the Exxon criminal
22 settlement. It may be that that particular parcel, the one you
23 mentioned, could be considered as part of that legislation.

24 MR. PETRICH: Thank you.

25 MR. PENNOYER: Mr. Sandor, you had a comment? Ms.
26 Bergmann.

1 MS. BERGMANN: Mr. Chair, I have a point of
2 clarification. I'm not quite sure what's happened with the
3 request on number five and I don't think we've approved -- given
4 the Restoration Team approval to complete this task. Is that
5 correct?

6 MR. PENNOYER: Do I have a motion to that effect to
7 make it clearer? Do you move that we approve item five?

8 MS. BERGMANN: I guess I have a couple of comments and
9 maybe a concern about it. We feel real comfortable with going
10 out, sending out the letters that we talked about this morning to
11 all of the people in the area, all of the different landowners to
12 see whether or not they would be willing participants in this
13 process and with having the negotiation acquisition guidelines be
14 developed for action at the next meeting and for the Trustee
15 Council to make sure that they're prepared to hopefully select a
16 negotiating option at the next meeting. We also feel comfortable
17 with the projects that have been approved for 1993 as part of
18 that work plan to provide funding to go get additional data for
19 lands that might be part of the process, but when I look at the
20 wording of number five, when it says "with the approval of the
21 Trustee Council, the habitat protection work group, on behalf of
22 the Restoration Team, would begin the comprehensive habitat
23 protection process," that bothers me because the comprehensive --
24 my understanding is that the comprehensive habitat protection
25 process will be part of the restoration plan and we want to make
26 sure that we aren't out front beginning a process which will be

1 part of the plan and will be part of the draft environmental
2 impact statement and the public comments associated with that, so
3 I don't feel comfortable with the specific language that's used
4 here. I do feel comfortable with all of the other things that I
5 mentioned previously and I think those are all important steps
6 forward, but in terms of doing a blanket approval for beginning
7 this comprehensive process, I do have some concerns about that.

8 MR. BRODERSEN: Mr. Chairman?

9 MR. PENNOYER: Do you want to comment? Mark.

10 MR. BRODERSEN: I'd like to comment if I might.
11 What's intended here by saying to get on with the comprehensive
12 process is to do the same thing for all the other lands that's
13 done here. It's a data gathering project. It's a ranking
14 project. I would assume that that would come in under part of
15 the restoration plan but we don't want to wait until the
16 restoration plan's in place to this kind of analysis on those
17 lands. You make a determination of what you pick up in terms of
18 your marginal elements, once you have the restoration plan but I
19 would be willing to argue that for the ones that would bubble to
20 the surface, you should get on with acquiring some of those now,
21 such as the opportunity lands that have been identified here
22 might be considered to be purchased at this time or protected.
23 Let's not say purchased because that's foreclosing other options
24 that we could do for protection on that, but the comprehensive
25 process envisioned is to extend analysis as is done in the 22
26 parcels here to the rest of the spill area and that's what meant

1 by that.

2 MR. PENNOYER: Ms. Bergmann.

3 MS. BERGMANN: Again, Mr. Chair, it's my
4 understanding that the funds to gather that kind of information
5 are included in the 1993 work plan work elements. Art's shaking
6 his head yes and you're shaking your head...

7 MR. WEINER: Well, I understand -- I see the confusion
8 here. There's the process which we will have in place for the
9 draft restoration. Whether or not the analysis of the lands by
10 that process will be completed by that time, I think, is still an
11 open question. We don't know whether or not we'll have enough
12 information in hand to give you a reasonable assessment of what's
13 on those parcels by the time the draft restoration plan is ready
14 to go to the public, but we certainly will have a process in
15 place.

16 MR. PENNOYER: Mr. Barton.

17 MR. BARTON: The comprehensive habitat protection
18 process as referenced in five, is that part of the restoration
19 plan?

20 MR. WEINER: Should be, yes, sir.

21 MR. BARTON: Is it?

22 MR. WEINER: Yes.

23 MR. BARTON: Then we've not yet settled on it?

24 MR. WEINER: No. No, we haven't written that part of
25 the plan, no, sir.

26 MR. BARTON: And in fact, we would not settle on it

1 really until the record of decision?

2 MR. WEINER: (Inaudible positive response.)

3 MR. BARTON: So, I wonder if we don't have a NEPA
4 process problem at the very least? Is that true or not?

5 MR. PENNOYER: Ms. Rutherford.

6 MS. RUTHERFORD: We sent out the restoration framework
7 supplement which had both an interim -- the imminent threat
8 process and the comprehensive process for public review. It is
9 our intent to take seriously the comments received both from the
10 Trustee Council and from the public on that process and improve,
11 to some degree, the process that's been laid out in the
12 restoration plan. But certainly, there's some significant
13 similarities. I mean we were just trying to refine it and to
14 clarify it a bit.

15 MR. PENNOYER: Mr. Barton.

16 MR. BARTON: And at what point then would the Trustee
17 Council adopt a comprehensive habitat protection process?

18 MS. RUTHERFORD: It is one of the -- when you get --
19 when the final draft restoration plan goes out, one of the
20 options in that is the comprehensive habitat protection process
21 and you would review it as you would all the options in the draft
22 restoration plan.

23 MR. BARTON: Well, is it then approved as part of the
24 plan or is approved separately?

25 MS. RUTHERFORD: I think the way that I had foreseen it
26 is the final process would be approved as part of the plan. We

1 are in the interim working on the supplement that you folks said
2 go forward and proceed with until such time as the restoration
3 plan is in place.

4 MR. COLE: Mr. Chairman.

5 MR. PENNOYER: Mr. Cole, go ahead.

6 MR. COLE: It seems to me that we should be ahead of
7 the restoration plan in this area because of the length of time
8 it takes to acquire this information. If we wait until the
9 restoration plan is adopted and then go out and start acquiring
10 this information, we'll be another year behind and I think that
11 is of concern to, at least some members if not all the members of
12 the Trustee Council, that the restoration plan will not be
13 adopted until next November or December or January or whatever.
14 And I think that therefore, it's vital that we have as much of
15 this information available, you might say, to plug in or jump
16 start the restoration plan once it's adopted. Otherwise, we'll
17 be -- you know, certainly, I won't be around this long, I can
18 guarantee and '95 before we get down to doing something and we
19 just can't wait that long. That's my view. We should get going.
20 Now, could I ask one thing? How is the DNR? Are we having good
21 cooperation with DNR with respect to the preparation of this
22 information for us?

23 MR. PENNOYER: I believe the representative of DNR
24 would say it's being cooperative but I'm not sure...

25 MR. COLE: Is such the case?

26 MS. RUTHERFORD: Do you want attempt that?

1 MR. COLE: No, I mean is somebody from DNR here who
2 can -- do they have sufficient funding for this?

3 MS. RUTHERFORD: There have been -- I think the
4 geographic information system projects do provide adequate
5 funding.

6 MR. COLE: Okay, that's fine. That's good. And they
7 have sufficient funds, do they?

8 MS. RUTHERFORD: Yes.

9 MR. COLE: To provide the Trustee Council with this
10 information?

11 MS. RUTHERFORD: So far, so good.

12 MR. COLE: All right. Thank you.

13 MR. PENNOYER: Before we go further with this -- Mr.
14 Barton, go ahead.

15 MR. BARTON: What I'm trying to establish is that this
16 information is -- the preliminary -- primarily entails extending
17 the analysis to all lands within the spill-affected area. What
18 I'm trying to establish is that this information will be useful
19 to us, regardless of which process that we ultimately settle on.
20 Is that right?

21 MR. WEINER: Absolutely.

22 MR. PENNOYER: I think you confuse the issue by saying
23 begin the comprehensive habitat and protection process. It
24 sounds like you're beginning going out and buying and doing.
25 What you're really starting is the process by acquiring the
26 information we'll need later when we decide what the process

1 should be to acquire lands. If that's what you mean, I can't see
2 that we have any real problem with this.

3 MR. SUNDBERG: I think the proper term is analysis.

4 MR. WEINER: Analysis.

5 MS. RUTHERFORD: Right. It says that.

6 MR. PENNOYER: Thank you. Do we have any problem then
7 with item five, that is going out and starting to acquire the
8 data we'll need when we get to the stage of defining what the
9 process is going to be?

10 MR. BARTON: After that conversation, no.

11 MR. PENNOYER: I have one last concern I'd like to
12 raise and this gentleman in the audience did raise the question.
13 We agreed to send out letters to property owners and probably
14 starting with the 22, we decided not to go out and ask specific
15 question about, as Ms. Bergmann suggested, about updating the
16 information we had. I guess we're sort of leaving that to the
17 individuals bringing it in. I understand, Mr. Cole, your comment
18 about somebody else considering this and maybe using some of this
19 information but it still troubles me that there's information
20 like that out there, regardless of who's picking it up, shouldn't
21 we have it as well? And we decided not to ask the individual
22 property owners to say, "Is the map right?" or "Is it wrong?" or
23 "Is the information correct?" but obviously, there are people who
24 want to correct our information, so is there some way we can
25 indicate to folks that as we go out with this letter and the
26 informational package we agreed to send out that we would

1 appreciate updates or changes or whatever?

2 MR. COLE: Are you asking me?

3 MR. PENNOYER: Well, you objected to the proposal by Ms
4 Bergmann which was to do that in writing to go out and ask people
5 if they had comments on upgrading the information presented in
6 the package. That's the only reason I directed it to you.

7 MR. COLE: Well, Mr. Chairman, let me respond to that.
8 I wasn't objecting to that; I just thought that that would be
9 part of the normal course of business is when these people
10 responded, you know, you sit around a table and talk and say,
11 well, what do you have in mind? Is the map right? You know,
12 isn't that the way the process would work?

13 MR. PENNOYER: So, for clarification purposes, we are
14 sending out the letter which inquires people whether they're
15 interested in talking to us and the informational packet goes
16 with it and they would be expected to comment then on problems
17 with the packet?

18 MR. COLE: Of course. I think the answer is...

19 MR. SUNDBERG: The draft letter has a big bunch of
20 blank spaces that says "Comments" on it and the landowners are
21 being asked to put any comments he wants down on that letter,
22 sending it back.

23 MR. PENNOYER: I think there were some concerned
24 (indiscernible - cough) here that maybe we think asking that and
25 I think Ms. Bergmann came away with that impression too, but I
26 think it's clear that we are asking for comments on whether

1 you're willing and here's the information we have and do you see
2 any problems with it?

3 MR. WEINER: I certainly think we want to leave the
4 public with the perception that it's an open process, that more
5 information only works to help us to make our decision and
6 however we do that, I think that's going to be beneficial to the
7 process. If somebody can come in and say your map is dead wrong;
8 you need to correct it, we want to know that.

9 MR. PENNOYER: Okay. So, it is a question we're
10 asking. Good. Ms. Bergmann.

11 MS. BERGMANN: One other point of clarification, Mr.
12 Chair. It might be helpful to discuss just a minute what happens
13 -- I'm assuming that we're sending this information out in
14 writing. What happens if people want to respond back verbally
15 and start getting into discussions? Are we only asking for their
16 comments back in writing because we don't have a negotiating team
17 in place that could -- you know, that's been approved by the
18 council that could then take that next step forward? I think it
19 might be useful to clarify that procedure.

20 MR. PENNOYER: Well, I thought we'd say we're going out
21 and requesting information. That doesn't require negotiation.
22 Simply, if somebody sees something wrong with the information we
23 have, and they will respond to it. My presumption is the staff
24 will not go up and argue with them and say, well then we don't
25 want to talk to you anymore. They'd put the information into the
26 catalog and we'd be provided that data.

1 MR. COLE: Mr. Chairman.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: I mean I think it's so simple or much
4 simpler. Call 'em up. Say, you know, "We see you've -- "Are you
5 interested in selling any of it?" I mean just get on the phone,
6 if need be, you know, you could probably shortcut the whole
7 thing. There must be 10 or 15. You could call one an hour. In
8 two days you'd have most of it done instead of writing letters
9 and waiting for, you know, return and the guy's not there. He's
10 in Hawaii, someplace. Just you know, write down the answers and
11 it seems to me that's the way I'd do it, but I'm a novice at
12 bureaucracy.

13 MR. PENNOYER: You're doing just fine. Ms. Bergmann,
14 are you satisfied with that?

15 MS. BERGMANN: Mr. Chair, well, I think the intent was
16 as Marty Rutherford indicated earlier that the folks in realty
17 who are experienced with these kind of processes will tell you
18 that as soon as you start verbally discussing this with someone,
19 you quickly get into a negotiating mode and because we haven't
20 selected -- the Trustee Council hasn't selected a negotiating
21 team option yet, that it would be much better and cleaner all the
22 way around to send this request out in writing so that you don't
23 have individuals getting into these kind of discussions and I
24 think -- I certainly feel comfortable doing that in writing.

25 MR. PENNOYER: However, we will accept phone calls
26 from people who say, oh, tract -- this blob should be over here

1 instead of over there.

2 MR. BRODERSEN: As long as they don't call collect.

3 MR. PENNOYER: That's right. Mr. Barton.

4 MR. BARTON: I think we're beating this to death. We
5 agreed earlier to send the damned letter out. We can also call.
6 We can fax. We could send messengers. Why don't we just get on
7 with it and get off the discussion? If people want to give us
8 information, they'll give it to us. We can ask them for it in
9 the follow-ups to the letters with the phone calls or whatever,
10 but I just -- I'm not sure what we're accomplishing at this
11 point.

12 MR. COLE: I'll make a motion to that effect.

13 MR. BARTON: Second.

14 MR. PENNOYER: Is there any objection to the motion?
15 And I won't restate it. Okay, can we go on then? Gentlemen, do
16 you have anything else to offer or is that enough?

17 MR. GILBERT: No, we don't.

18 MR. PENNOYER: You've had enough; we'll go on. The
19 next item on the agenda, Dr. Gibbons, is "Restoration Summary
20 Table and Alternatives" with John Strand.

21 DR. GIBBONS: Yes, we're going to have a presentation
22 by -- I think Bob Loeffler and John Strand on the restoration
23 summary table -- injury summary table and the alternatives and
24 the status of the work in regard to the two items. I stand
25 corrected already. Carol Gorbics is going to help them out.
26 Three persons.

1 MR. STRAND: David, now that you've introduced Carol
2 and Bob, I don't have to do that. I've asked Carol and Bob to
3 make the key presentations today on this segment of the program.
4 Before I do that, I wanted to try to set the stage a little bit.
5 In the packets of information that you should have received
6 sometime around the 10th of February -- I think they went out
7 under David Gibbons' signature -- there is a draft set of tables
8 that summarize the results of injury assessment studies. There's
9 also a draft set of tables that pertain to the alternatives.
10 This information is really only preliminary. We expect that the
11 details, the format, the wording might change as we produce
12 further iterations of this material, but conceptually, we hope
13 we're closer to the mark and also, I hope that a sufficient
14 amount of text accompanied these tables in the packet that would
15 then have allowed you to begin to develop an understanding of
16 what we're driving at.

17 This information, along with additional amount of text,
18 will be what is in the alternatives information package that we
19 hope to have sent out, published in late March. And this
20 subsequently then gets wrapped up into the draft restoration plan
21 which goes out in June.

22 If you remember back to the detailed outline that we
23 presented you a couple of meetings ago, Chapter three in the
24 draft restoration plan includes the discussion of injury and the
25 summarization of the studies that we've done to date and those
26 first set of tables are part and parcel to Chapter three. And

1 the alternatives tables go into Chapter five if you remember back
2 to that detailed outline that we presented to you. The tables
3 were prepared by the members of the restoration planning work
4 group. They have been reviewed, at least preliminarily, by the
5 Restoration Team and the chief scientist was intimately involved
6 in the drafting of the results of the injury assessment studies
7 tables and he's also reviewed that after they have been massaged.

8 We would like your comment on these products. They are part of
9 the key elements to the draft restoration plan. Ultimately, we
10 would like your concurrence that we are on the right track and
11 short of concurrence, we would want your guidance for how to make
12 the interim products better or how they might be revised. And
13 those are the substance of my introductory remarks. I'd like to
14 begin the presentations and ask Carol Gorbics to take you through
15 the results of the injury assessment work that culminated in the
16 development of the tables before you. Carol.

17 MS. GORBICS: Thanks, John. My name is Carol Gorbics
18 and I'm a biologist with the Fish and Wildlife Service. I'm one
19 of the representatives to the Department of Interior on the
20 interagency RPWG and I've been working with RPWG, the RT and the
21 chief scientist on the development of this summary table. The
22 Trustee Council, I think, the table starts on page three of your
23 packet and the public has a document that was provided that looks
24 like this. It was provided on the back table and that's what I'm
25 pretty much going to be talking from.

26 As John pointed out, this table was developed by all

1 the agencies involved and the chief scientist. It's a summary of
2 all the results of the damage assessment and restoration studies
3 that have been done since '89, since the spill and it is current
4 as of right now and we anticipate that it will change as time
5 goes on and it represents a snapshot in time. And that's an
6 important concept to have here.

7 I'm not going to go through every species and tell you
8 what we decided, but I did want to walk you through the table
9 itself, how it's put together and some of the complexities that
10 we've left in that I want you to understand. First, we took
11 every species that we studied or we had reason to suspect was
12 injured by the spill and we included them in the table. We then
13 described the injury under the first three categories,
14 description of oil spill injury. We looked at that by looking at
15 the initial oil spill mortality, the measured decline in the
16 population after the spill and the sublethal or chronic effects.
17 This was the injury so this is what we found in '89 essentially.
18 It's what happened right after the spill and how can we
19 characterize it as terms of yes's and no's, as answers to these
20 questions.

21 Then we wanted to look at the status of recovery again
22 in December of '92. That's the next two sets of columns here.
23 We looked at the current population status. Current either meant
24 as a result of the '92 studies, if we had studies in that year,
25 or the 1991 studies depending on what year we last looked at the
26 species and evidence of continuing sublethal or chronic effects.

1 Those were the two characters that we looked at to describe
2 recovery. Then we went back to the geographic extent of injury.
3 We thought that was important. Mr. Sandor pointed out some
4 questions on the geography of injury that this hopefully will
5 clarify. We broke it into four general regions and the
6 restoration plan will have a map that describes exactly what we
7 mean by these regions. We want to be very clear on that. And
8 the last section is the comments and discussion section. And
9 that is the summary of the high points of the injury assessment
10 results. This will be accompanied by a quite lengthy, probably,
11 text and restoration plan that really describes those results.
12 If you had a chance to participate in the symposium, you know
13 there's a lot of data out there. This is a thumbnail sketch of
14 what we found out so although it stands alone, it's correct, we
15 do anticipate that the accompanying text will have a more
16 complete analysis and discussion of the data.

17 There are several important footnotes that I wanted to
18 talk about so you understand the assumptions we used. Actually,
19 I should probably have the whole thing in there. The first two
20 that I wanted to talk about are (a) and (e) and they go back to
21 the question of geographic extent of injury. (A) points out that
22 although we might have a yes in any one of those columns, there
23 may have been an unequal distribution of injury within each
24 region. That was an important concept for people to understand.
25 Again, severity of injury. Just because it occurred in Prince
26 William Sound and Kenai, we may know that it was much more severe

1 in Prince William Sound. And (e), the footnote (e) on the same
2 point is often we had no injury assessment studies and this table
3 will reflect the recovery of dead animals from that area of the
4 spill zone. Using harbor seals as an example, we had a NRDA
5 study on harbor seals so we have a yes in Prince William Sound.
6 That's where the NRDA damage assessment study was done. In
7 Kenai, we also have a yes there. We did not have a NRDA study;
8 we had dead animals picked up from that area so we believe there
9 were injuries to harbor seals in Kenai and we have no information
10 on Kodiak and the Alaska Peninsula. And that's sort of how this
11 table is set up.

12 The next footnote that I want to mention is footnote
13 (c) and it refers to this column under injury, evidence of
14 sublethal or chronic effects. We had a lot of discussion on this
15 one. Many people felt that we needed some capture of exposure.
16 If an animal was oiled, it should show up in this category. The
17 chief scientist and the agency scientist looked at this at length
18 and we decided that sublethal exposure, we wanted to define it
19 specifically as an observed physiological or behavioral change in
20 the injured species. So, if someone says, well, I saw an oiled
21 killer whale and we don't have yes in that column, it's because
22 we didn't observe any behavioral or physiological changes as a
23 result of that exposure.

24 And the last footnote is (g) that I wanted to talk
25 about and that -- if you see under killer whales is an example of
26 where we used "possibly." We didn't have a yes or a no for the

1 answer to some of these questions. "Possibly" was used if there
2 was disagreement over the conclusions to be drawn from the
3 results of the damage assessment studies. I'll remind you that
4 this is a table that we expect to change over time. One of the
5 areas that we expect change is in these possibly's. As we find
6 more information, we hope to clarify those categories
7 particularly. Before I go on, are there any questions on this
8 part?

9 MR. BARTON: Yes. Are sublethal effects the same thing
10 as chronic effects or are those two different things?

11 MS. GORBICS: Chronic is a time-related thing. If we
12 continue to show effects. Generally, that category, we're
13 showing sublethal effects over time. So, they're pretty linked.
14 They don't cause death but they show up as a change in some
15 metabolic feature or some physiological feature or something like
16 that.

17 MR. BARTON: Two different tests then?

18 MS. GORBICS: I don't know how quite to answer that, I
19 guess. I can't think of an example where we have sublethal
20 effects that aren't chronic. Can anybody else? Or vice versa.

21 MR. STRAND: No, I think that for our assumption here,
22 I think that there is linkage because if there were lingering
23 effect, it would most likely be associated with, you know, a
24 chronic exposure. Some scientists use them differently.
25 Sublethal effects could also be associated with a one-time
26 insult. Carol was right in saying that chronic is more time-

1 linked. I think here it's an either/or. I think that you can
2 have chronic effect, you can have a sublethal effect that's
3 linked to the one-time insult of acute exposure to oil.

4 MS. GORBICS: We do try to capture the time element
5 through the description of oil spill, evidence of sublethal or
6 chronic effects in '89 and continuing in '92. That would, in
7 fact, be evidence of a chronic effect if it continues through
8 '92.

9 MR. ROSIER: Mr. Chairman?

10 MR. PENNOYER: Yes, Commissioner Rosier.

11 MR. ROSIER: Question. You said that this table was
12 subject to change. If we're not funding projects associated with
13 some of the species that have possibly there, where would that
14 information come from?

15 MS. GORBICS: Those, probably are changes that wouldn't
16 occur unless we, through additional data analysis and the
17 finalizing of the reports -- all the final reports are undergoing
18 additional peer review and chief scientists review so maybe we'll
19 come to some conclusive answers then. It could be that those
20 possibly will stay forever because we'll never have agreement.

21 MR. ROSIER: I notice that most of the fish species,
22 for instance, have either got unknown or possibly associated with
23 them and I think most of the fish programs have long since been
24 terminated.

25 MS. GORBICS: Some of the fish programs, too, for
26 instance, herring -- John, correct me if I'm wrong, -- we've

1 got a possibly there now because our hypothesis is that the
2 return may be affected in future years. It hasn't happened yet
3 so possibly, it will happen. We don't know for a fact. That
4 will change to yes if indeed our hypotheses are right.

5 MR. PENNOYER: Proceed.

6 MS. GORBICS: Before I move on to the next overhead, I
7 wanted to point out these two columns: Measured Decline in the
8 Population after the Spill and Evidence of Sublethal or Chronic
9 Effects. Any resource that we determined to be injured has to
10 have a yes in one of those two columns so that's the next subset
11 of species I'm going to talk about. Those we've deemed to be
12 injured.

13 This next table is on page 21 of the trustees' packet
14 and the public didn't get this earlier in the day. I've put it
15 on the back table, copies of it so you can pick it up later but
16 it's a table that eventually will be in the restoration plan, we
17 hope. This pulls out all the species that we have deemed to be
18 injured as a result of the development of this table. So, this
19 list -- these two lists together are those species that we will
20 deal with -- we may deal with in the restoration plan. The
21 reason we divided them into two categories, one being evidence of
22 population level decline and the other being only evidence of
23 sublethal or chronic effects but no population decline is to meet
24 the needs of some of the scientists who have been reviewing this
25 who feel very strongly that only those species injured at a
26 population level should be considered in the restoration plan.

1 Others feel equally strongly that all injured species, whether it
2 be at population level effect or a subpopulation level effect,
3 chronic or sublethal effect, they should be considered in the
4 restoration plan. So, we've developed these two lists showing
5 severity of injury, if you will, to help develop the
6 alternatives, showing both points of view in various
7 alternatives.

8 I want to point out those species that have asterisks
9 by them, those are the ones listed as possibly. Two things
10 could happen with those. They could stay possibly --or actually,
11 three things then. Or they could be moved to the population
12 level effect column if we determine that in the future or if we
13 determine there's no effect, they could be moved off the table
14 altogether. So, those are the still unknown ones. The
15 important thing about splitting it in this way, it does allow the
16 range of alternatives that RPWG is developing to present both
17 views. All injured resources on either of these lists are, at
18 least, represented in one alternative. Many are addressed in
19 multiple alternatives and again, this could reflect the severity
20 of injury if we start to prioritize species amongst each other in
21 the restoration plan. Any questions on this table?

22 I'm going to turn the rest of the discussion of the
23 development of alternatives over to Bob Loeffler and I think
24 he'll be referring back to some of these as well.

25 MR. STRAND: There's one other injury assessment
26 summary table and that concerns services. And I think, Bob, you

1 were going to address that. That was included in the packet.

2 MR. LOEFFLER: There's a similar table to what Carol
3 just went over that relates to services. And services are an
4 equally important part of the restoration plan. The table,
5 however, is not quite as well developed. So, the Restoration
6 Team was concerned that it needed a sit and a little more review
7 before it was released to the public.

8 MS. GORBICS: I believe that starts on page 15 or your
9 packet.

10 MR. STRAND: Sixteen.

11 MS. GORBICS: Sixteen of your packet.

12 MR. STRAND: However, here are some distinctions worth
13 pointing out. The first is that there is no unit of measure or
14 agreed (ph) to a primary unit of measure like number of animals
15 for services. So, the descriptions of injury and recovery are
16 qualitative as opposed to quantitative for the most part. Second
17 is that services, we've divided into the following categories:
18 recreation and tourism being one category; sport and commercial
19 fishing; subsistence, wilderness values and passive use values.
20 And those are just for the purposes of the table. But that's all
21 I really have on the services table, just for you to note that
22 it's there, that it is in not quite a complete stage of
23 development and it's an important part of the plan.

24 The restoration plan is really three questions. It's
25 was it injured by the spill? Is it recovering? And what, if
26 anything, can we do about it? Carol went over the first two,

1 Was it injured and the status of recovery. The alternatives are
2 the what, if anything, we can do about it. And they provide
3 alternate ways of spending the civil settlement monies to restore
4 -- to aid recovery. An alternative is three things. It's a set
5 of policies; it's a category of options, things we can do that
6 are the implications of those policies; and then there are the
7 budget implications. So, I'd like to summarize where we are
8 now. And I'll start with a summary of the alternatives and the
9 policies.

10 UNIDENTIFIED VOICE: What page is that?

11 MR. LOEFFLER: It is on page 19 of your packet -- 19 or
12 20.

13 MS. GORBICS: Twenty.

14 MR. LOEFFLER: Twenty. Now, this is a summary of --
15 I'm going to just use part of your table here. This is a summary
16 of the alternatives. I'm going to go through the budget
17 implications and the options in a second, but before I do that,
18 this is -- a few words. This is still evolving. That is, there
19 will be some changes probably between now and over the next
20 month. However, this is the direction that we're going, so what
21 we need from you is two things. If there is -- if this does not
22 reflect the range of public and agency opinion that you think we
23 should take out to the public or it doesn't highlight some of the
24 important policy questions, then we need to know that. That's
25 our way of saying is our direction wrong. But there will be some
26 slight changes. We're not asking for concurrence completely at

1 the moment.

2 The second point is that when we go out to the public,
3 we expect people to mix and match. That is, people will not come
4 and say, well, I like three but two, they'll say, "I like parts
5 of one and parts of another." And so, what you come up with in
6 the final plan, I expect, will be that. So, if you don't see
7 the perfect alternative, it's probably not crucial that it's
8 missing now. But with that, what I'd like to do is go over
9 this, then talk about what options and then what some people
10 think of the punch line, being the budget implications. I guess
11 I can do this from here.

12 There are five alternatives, less than you saw the last
13 time we presented it, and they are arranged from natural recovery
14 where we do little other than monitoring and normal agency
15 action, habitat protection only to three alternatives where
16 there's sort of more active restoration from a limited version to
17 a, if you will, more aggressive restoration. Now, to explain
18 what those mean, I want to go through the policies. And the
19 policies go across the row, so to speak.

20 And let me walk down through the four policy variables.

21 The first being injury. And that is there's a significant
22 difference of opinion and a range of question in the people's and
23 scientists' mind about whether we should address all injured
24 resources or only those whose populations declined. That was the
25 table that Carol put up just a moment ago, so I won't go through
26 it any further but that refers really to resources.

1 The second policy question is should restoration cease
2 when a species recovers? Now, that's not that important today
3 because for the most part, species haven't recovered. I don't
4 believe there are any in the table that Carol put up that have,
5 but in a few years, species will. And so, the question is,
6 should we stop our restoration efforts targeted toward that
7 species once it's reached the place it would have been had not
8 there been a spill. So, that's what this question covers.

9 The third is effectiveness and that sorts of gets at
10 sort of a gut level question of at what level is it not -- of
11 effectiveness is it not worth spending money. This might help a
12 species or it might help a service, but it's not a big help. And
13 to get at that, we've divided through a peer review interview
14 process where we interviewed the agency and peer review
15 scientists, we divided the options, the things we can do, into
16 two categories. One category we called highly effective and
17 another category we just called effective. If it wasn't
18 effective, we just said, well, it won't help much. We'll drop it
19 out. But in some alternatives, we do only the highly effective
20 things. So, in alternative three, for example, we focus only on
21 things that a population decline and only the most effective
22 things. And this is a way of getting at that policy question.

23 The last policy question is focused entirely on
24 services. Just as a reminder, the first two were really
25 resources, effectiveness works for both but the last focus is
26 entirely on services and because there is no unit of measure,

1 what we did is we categorized options into sort of a category, if
2 you will, increasing aggressiveness about restoring and enhancing
3 -- increasing opportunities for human use.

4 There are different strategies for increasing public
5 use. In natural recovery, of course, it's normal agency
6 monitoring is all and agency management. In alternative two,
7 which is the habitat protection alternative, habitat protection
8 is one way of protecting our existing public use. In
9 alternative three where we sort of go out and sort of take a more
10 active approach, although alternative three is still limited, we
11 look at protecting existing uses. And so, examples of that are
12 things that aren't designed to increase or change use patterns
13 but protect what existed before the spill. It gets at what we
14 hear a lot of people are saying in interviews and public comment.
15 An example might be funding state or federal agencies to
16 construct recreational facilities to protect the environment such
17 as outhouses in overused areas, et cetera. As we sort of move
18 across, we get into sort of things that protect or increase.
19 Examples being funding to increase sport or commercial fishing
20 runs, to construct recreation facilities such as public use
21 cabins or in the sort of the most aggressive of this, we go out
22 and encourage new uses. Examples might be visitor centers, new
23 fishing runs, commercial facilities. But those are the policies
24 and when you put them together, you get the alternatives which
25 people -- we expect to mix and match from. And you get what is
26 more of a pure habitat protection to sort of the fiscally

1 conservative alternative, someone who says just look at the most
2 injured, the population injuries that aren't recovered, do only
3 the best things and don't take an aggressive approach to services
4 to alternative five where you look at all injured resources,
5 sublethal and the population levels. You continue whether or not
6 they're recovered, do anything that's effective and you take a
7 more aggressive approach in terms of encouraging new uses. So,
8 that's designed to get at the policy questions.

9 The next two things I'm going to talk about is what
10 options fall under here very briefly. And then I'm going to get
11 to the budget categories. The options which fall under each
12 alternative are those that comply with these policy questions.
13 So, under habitat protection, you only see land purchase or
14 purchase of interest in lands. As you get into alternative
15 three, you get -- you get options which affect the population
16 level injury, et cetera. In your packet there are tables which
17 have options for each alternative. Those were not passed out to
18 the Public Advisory Group because the Restoration Team wanted to
19 focus on them and the restoration planning working group wanted
20 to focus on them a little further before they thought they were
21 ready to go to the public. But we're closing in -- this is
22 basically what we'd expect. With that, I'm ready to talk about
23 budget.

24 We did a cost estimate for each of the options and
25 categorized them into five categories. And I'm going to put the
26 most boring alternative first and that is, the no-action...

1 MS. GORBICS: This is page 23.

2 MR. LOEFFLER: ...the natural recovery. This is page
3 23 of your packet. It's the natural recovery alternative. And as
4 you can see, with limited administration, and continued
5 monitoring, the rest remains. Now, this, in EIS lexicon, would be
6 the no-action alternative. As you can imagine, there's not an
7 uncommitted balance as you get further on. Going to the habitat
8 protection alternative, this is a relatively pure habitat
9 protection. And this is on page -- do you know which page?

10 MS. GORBICS: 28.

11 MR. LOEFFLER: Oh, thank you. It's on page 28. This
12 would be the next -- this is a relatively pure habitat protection
13 alternative and you can see that because it allocates 91 percent
14 of the remaining money to habitat protection. Now, a note at the
15 moment is that we're talking about the remaining money. This is
16 not 91 percent of the entire settlement, but 91 percent of the
17 amount that's left.

18 I'm going to skip right to alternative five to show you
19 -- and then I'll show you a comparison rather than going through
20 each one. Page 48. In alternative five, we have some different
21 categories. We have habitat protection which continues to have a
22 large share, 45 percent of the remaining settlement funds. We
23 have administration, a monitoring program. Let me talk about
24 other restoration and restoration reserve. Other restoration is
25 what most people think of when they think of restoration. It is
26 all the options of the projects. It's really everything but

1 habitat protection. Things like fisheries management plans,
2 testing subsistence foods, fertilizing lakes, increase sockeye
3 production, recreation facilities. That's what other
4 restoration is.

5 A reserve is just that. It's a reserve for categories
6 that are not yet identified for options. So, for example, we
7 know that as we continue monitoring, people are going to bring up
8 other things. People are going to learn more, have other good
9 ideas. This is a reserve for that contingency. Now -- so with
10 these categories in mind, this is the comparison. This is the
11 range that we're considering going out to the public with.
12 Let's look at sort of the range and...

13 MS. GORBICS: Page 51.

14 MR. LOEFFLER: This is page 51 of your packet. The
15 range in habitat protection is from a relatively pure 90 percent
16 of the remaining funds to where we do the most other things still
17 have 45 percent of the remaining funds. In restoration projects
18 that we've identified now that being that those are the actual go
19 out and do things projects, our range is between zero in the pure
20 habitat protection to only 22 percent. And we keep a reserve of
21 almost the same size between 5 and 16 percent. And this is the
22 range that are the implications of these alternatives. Now,
23 knowing that people will mix and match, knowing that hopefully,
24 we'll come up with something which hopefully everyone will say,
25 oh, we really like some alternative, and we won't have to do
26 anything, but it's not happened in my experience. The question

1 for you is whether you're comfortable with this range. I
2 believe some of the details will change but I thank this is the
3 path we're on and if this does not represent what you think is
4 significant agency and public opinion that you want us to go out
5 with, that's something we should know. That's where we are with
6 alternatives.

7 MR. STRAND: Questions and discussion?

8 MR. PENNOYER: Can you define what you need in terms of
9 decision from the Trustee Council at this point? This is
10 informational. I presume we're going to review this packet. You'd
11 like our comments back then on...

12 MR. LOEFFLER: What we'd like to know is whether this
13 is the range of information that you're comfortable with going
14 out to the public. The final details that you will see in March
15 and we're aiming for April public meetings but if you're not
16 comfortable with this range, then we need to know that before
17 March.

18 MR. COLE: Before when? I'm sorry.

19 MR. LOEFFLER: We'd like to know that as soon as
20 possible.

21 MR. PENNOYER: Would you mind explaining the budget
22 part a little bit further in terms of how you would get someplace
23 like moderate restoration, where those percentages came from? I
24 note in the text there's a large number of projects shown with
25 annual costs listed next to them and duration in years, expected
26 total costs, ten-year maximum, lower and higher. How do you

1 arrive at those conclusions as to what's moderate, what's
2 comprehensive in this list of projects?

3 MR. LOEFFLER: Okay. What those are -- I have to find
4 my packet here.

5 MS. GORBICS: We gave it to Charlie.

6 MR. STRAND: We gave it to Mr. Cole.

7 MR. COLE: Does anybody have an extra?

8 MR. LOEFFLER: That's okay. I can use...

9 MR. STRAND: We've got this one here.

10 MR. LOEFFLER: I can look on with John. What you see,
11 for example, taking page -- let's take alternative three. the
12 list on page 32, each one of those projects has a cost. The sum
13 of those costs, that is, each one of the projects that fall in
14 -- under the policies of the alternative, each one of those
15 projects has a cost and if you sum all the costs, you get the
16 seven -- in alternative three, you get the 7 percent under other
17 restoration. That's basically how you get that number.
18 Administration and monitoring were separate budget estimates that
19 you don't have but that takes you through the first three of the
20 numbers. The last two are, in some sense, a residual. Habitat
21 protection was -- we tried to make relatively even increments to
22 establish the range that we thought the trustees were interested
23 in showing to the public and the other restoration reserve is, in
24 some sense, a residual in that amount. So, the cost estimates
25 are the first three lines and the last two are policy decisions
26 to give people a range.

1 MR. PENNOYER: Questions? Well, turn to page 43. Not
2 to belabor it but you're asking for our -- in other words, what
3 you're saying is the habitat protection sort of fell off the
4 bottom, after you do everything else in those different
5 alternatives? You didn't start with that and work back?

6 MR. LOEFFLER: I think we probably did it both ways,
7 actually. We knew that we wanted a range approximately like this.
8 But -- so we did it both ways.

9 MR. PENNOYER: Okay, on page 43, for example, you have
10 all sorts of projects there that are priced out. These are --
11 did you spend some time looking at things that people had
12 projected would be required and then sort of added them up and
13 figure out the number of years you want to fertilize this lake?

14 MR. LOEFFLER: Yes.

15 MR. PENNOYER: So, we added categories of projects to
16 different alternatives?

17 MR. LOEFFLER: Let me do one -- the categories of
18 projects are projects and they're categories that people have
19 been coming up with since this process started a couple of years
20 ago. They were first in the Blue Book in August of 1990. They
21 were winnowed down and winnowed down further and what you see on
22 page 43 which is the list of projects and cost on alternative
23 four is those categories which comply with these policy judgments
24 and the total sum of that list are the expected costs over the
25 ten-year life of what we're calling settlement is this number
26 right here. The ten percent. Okay?

1 MR. COLE: Mr. Barton has a question.

2 MR. PENNOYER: Mr. Barton.

3 MR. BARTON: Mr. Chairman. Could you put that back up
4 there?

5 MR. LOEFFLER: Certainly.

6 MR. BARTON: Is there any merit in looking at four
7 alternatives since habitat protection runs across all the
8 alternatives as well and then people could respond if they want
9 to take, instead of 7 percent in other restoration, they want to
10 put 82 percent in in habitat protection and then you'd end up
11 with four. Right now, it looks like we might end up with parts
12 of two of those or parts of three of them. I just want it to be
13 clear for the public.

14 MR. LOEFFLER: Certainly as a method to simplify it
15 we'd be happy to look at going down to four alternatives. Dave
16 has asked us to look at that and we're part way through that
17 process and it's certainly something that we could do if you
18 think it would simplify it for the public's understanding.

19 MR. BARTON: It looks like they're mutually exclusive
20 at the moment.

21 MR. LOEFFLER: No, that's...

22 MR. BARTON: I know it's not so but it could be
23 interpreted that way.

24 MR. LOEFFLER: If any of the other trustees have a
25 perception whether this is -- whether additional simplification
26 would be useful, we're happy to learn that.

1 MR. COLE: Mr. Chairman.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: I have a perception it's rather complicated,
4 but I have two observations, essentially, at first blush. One
5 is, it seems to me that this is a highly compartmentalized
6 approach to restoration. By that, I mean we have -- you looked
7 at page 43 -- do you have the format for page 43?

8 MR. LOEFFLER: I have it here. I don't have a -- I'm not
9 sure I have a slide of it, unfortunately.

10 MR. COLE: Well, one of these slides that shows
11 something similar to that where we have all these alternatives
12 spread out over a number of years and a number of projects...

13 UNIDENTIFIED VOICE: Options.

14 MR. LOEFFLER: I don't have a slide of that...

15 MR. COLE: Well, here's one of the things that troubles
16 me is that we have this list of projects, archaeology, sport
17 fish, Pacific herring, pink salmon, rock fish, sockeye salmon and
18 so forth that goes down the list to number 49 and then 50 and P1
19 and P2. First, I think that's highly compartmentalized and I'm
20 not certain that the scientists and the peer reviewers would say
21 that's the way we should approach the fundamental restoration
22 plan in a series of -- I never counted these -- 50 or 40 specific
23 projects. Some of these people tell me that we really need a
24 more integrated restoration plan. And I think that if you look
25 at this, that -- well, this sort of locks us in for ten years to
26 deal with simply these almost specific projects, number one.

1 Does it do that? Seems to to me. Maybe I'm missing something.

2 MR. LOEFFLER: I would think that as this is clearly
3 not an ecosystem approach. There are elements of that in it but
4 it's clearly not and I think that as people come up with better
5 projects, we wouldn't be locked into doing a particular option as
6 people come up with better ones, but it is -- it does lock us --
7 it does indicate a compartmentalized approach.

8 MR. STRAND: Let me add one thing, Bob. Certainly the
9 acquisition of habitat -- of protection of habitat does approach
10 restoration from an ecosystem point of view but short of that, in
11 our work with the peer review team, other scientists around the
12 country, there isn't a lot of agreement as to how you approach
13 restoration from an ecosystem point of view. There's not a lot
14 of agreement as to even what an ecosystem is and therefore, then
15 what to do about if the ecosystem is perturbed. But, you know,
16 clearly where we've had -- where we know enough and that's the
17 case with habitat protection, we are approaching where we can,
18 healing the ecosystem as a whole, treating more than just one
19 species at a time.

20 MR. COLE: Let me continue. It sort of tracks somewhat
21 Mr. Barton's comments that did we let habitat just fall out at
22 the bottom? There's some sense that if you look at the chart on
23 page 43, that that's what we did. Maybe I don't understand this,
24 but it seems that way.

25 MR. LOEFFLER: It is a residual that way.

26 MR. COLE: That's number one. Number two is that it

5
1 appears from this page 43, for an example, and I think there are
2 other pages of similar information there that each of these
3 projects will continue throughout the entire ten-year period.
4 Maybe that's not...

5 MR. LOEFFLER: No, that -- under the duration, we have
6 an estimated duration for each of the projects and many of them
7 don't continue through ten years.

8 COURT REPORTER: Let me just change tapes.

9 (Off record: 2:38 p.m.)

10 (On record: 2:38 p.m.)

11 MR. COLE: ...see now the duration?

12 MS. GORBICS: The (E) is expected; the (L) is the lower
13 range, and the (H) is the higher range. For instance, 1.2, site
14 patrol and monitoring archeology...

15 MR. COLE: I got it. I got it. What data do we have
16 to support those numbers?

17 MR. LOEFFLER: Those were the estimates of the agencies
18 scientists.

19 MR. STRAND: And the peer review, established through a
20 key inform (ph) interview process as well as we let a contract
21 out that reviewed and synthesized the literature on recovery of
22 disturbed ecosystems and in most cases, where we have estimates
23 of recovery times for ecosystems, and aided versus unaided, those
24 data also correlated quite well with what the peer review
25 scientists had provided us so we then used that information to
26 establish duration of implementation.

1 MR. COLE: It seems to me, Mr. Chairman, if we send
2 this out as is, it gives the impression that the public could
3 well conclude that this is all the projects we will have during
4 the remainder of the term.

5 MS. GORBICS: One clarification and that's the other
6 restoration reserve. That category is to capture restoration
7 projects and these kinds of restoration projects over the long
8 term that we haven't identified yet.

9 MR. COLE: Well, first, I'm not sure that (a) that's
10 clear from looking at one of these charts...

11 MS. GORBICS: That's fair.

12 MR. COLE: ...or it would be clear to someone, number
13 one and number two, even if you take alternative three, and four
14 and five for that matter, it's a relatively small sum, say ten
15 percent if you take the average of -- it's ten percent for any
16 other projects during the remaining ten years other than these
17 specific projects here, so I'm not -- I don't know. We'd have to
18 maybe talk to the scientists and the peer reviewer, but I am just
19 not certain that these projects are the projects that we want to
20 lock onto to restore these injured resources for substantial
21 periods of time. Maybe, with respect to certain injured
22 resources, we would want another project to address the
23 restoration. How do we deal with that here?

24 MR. STRAND: Well, let me first indicate that we did
25 have the scientific experts, including the peer review team, work
26 with us to identify which options most likely would be the most

1 effective in restoring this suite of injured species. The other
2 point is that, you know, clearly as new information becomes
3 available, the plan is intended -- has to be flexible enough to
4 deal with that. In the chapter six which deals with
5 implementation, we hope to lay out the opportunities for how
6 this plan would be amended to include the new information,
7 develop different ideas for restoration as they are needed. I
8 don't know if that gets at your concept.

9 MR. COLE: One final comment. See, I'm not sure that
10 the projects we voted for -- that I, for example, more
11 specifically, voted for the 1993 work plan, I would want to vote
12 again to do those same projects next year. I mean if I make my
13 point clear. And this seems to give the impression that these
14 are going to flow on through for the next some year -- some
15 instances, ten years, four, two, three, five, five, five, ten,
16 three, ten. You know, that's one of the things that concerns
17 me.

18 MR. LOEFFLER: I think I know some ways that might help
19 get at that. One is to format somewhat better and two is to
20 make clear that these projects are current, today's versions of
21 the implications of those policies. And that through the annual
22 work plan, people will make the annual decisions and that this is
23 not the -- if you would imagine the Soviets' ten-year model of
24 planning where you make it now and then goes on. But these are
25 ways to get people to understand the implications. And if it was
26 formatted along those lines, would that get partially towards

1 your...

2 MR. COLE: I think so.

3 MR. LOEFFLER: Okay.

4 MR. PENNOYER: Mr. Barton.

5 MR. BARTON: I, too, am concerned about the flexibility
6 that we build in or don't build in to the plan. Based on Bob's
7 last comments and these are to be treated as examples?

8 MS. GORBICS: They're the best information we have
9 right now, so I don't want to down play them too much but
10 certainly, we expect them to evolve as time goes on. We spent a
11 lot of time developing that list and winnowing out other ideas
12 that aren't effective.

13 MR. BARTON: I think we need to look closely at whether
14 we want to build these into the plan or not or use them as
15 examples and means of communication with the public to help them
16 understand these various alternatives. You know, we originally,
17 as I recall, talked about the restoration plan being a broad,
18 comprehensive framework and then the annual program of work would
19 then determine the projects year by year that were necessary to
20 implement the plan. The concern is that -- and this perhaps, the
21 legal people should speak to but if we build this list in and
22 then later find out we weren't as smart as we thought we were,
23 what kind of problems does that create for us, both practically
24 and procedurally?

25 MR STRAND: I would just go back to the point I make,
26 that I made before, that the plan has to be flexible and provide

1 for change as better thinking, better information becomes
2 available. I wanted to address one other point. There may
3 not be, at first glance, a pretty good match -- take this list
4 on page 43 and compare it to your '93 work plan. A lot of what
5 you are proposing to do in '93 is monitoring, so it does come
6 in under the monitoring program. A lot of it deals with
7 monitoring natural recovery or efficacy of proposed restoration.
8 These are more restoration projects but of course, the monitoring
9 component is here and a lot of what you have considered and
10 approved for '93, in my view, is monitoring, not dealing yet with
11 restoration. This, then, provides the opportunity to undertake
12 any number of projects in the future and these are mostly
13 restoration projects.

14 MR. COLE: Mr. Chairman, as usual, Mr. Barton expresses
15 much better my concerns.

16 MR. PENNOYER: Do you have a slide showing this? The
17 detail type of thing that you've got so the public can see it?

18 MR. STRAND: We didn't bring one with us.

19 MS. GORBICS: I can get one with if they're going to
20 talk about it more.

21 MR. STRAND: We can get one real quickly.

22 MR. PENNOYER: You don't need to do it right now, but
23 it is important at some point to make people aware of that and I
24 think what you're sort of doing here is you're saying under a
25 strategy of devoting this much like to habitat protection, this
26 is the type -- the suite of things that you could do. In other

1 words, specific group or not, it's the type of thing that
2 (indiscernible - unclear) you could do. You're trying to put in
3 perspective what it means to put a certain amount of money into
4 one strategy versus another. As you go up this list to make the
5 strategies more comprehensive, you can do more things up in this
6 body of projects but I would hesitate to think this is what we're
7 going to be doing ten years now.

8 MR. LOEFFLER: I think that's accurate.

9 MR. PENNOYER: So, is that understood? Do we need to
10 make that clearer then?

11 MR. LOEFFLER: I think the direction that we should go,
12 you made it clear.

13 MR. PENNOYER: Ms. Bergmann.

14 MS. BERGMANN: Mr. Chair, I think I need to, at least,
15 state what Interior's kind of historical position has been with
16 respect to this. It's been our feeling that we need to, in fact,
17 show within each of the alternatives what the particular actions
18 that would be taken for each particular injured resource and
19 service which this document does. We would actually -- our
20 feeling is that this document needs to go a little farther and be
21 more specific in terms of exactly what those options are and
22 also, to show more clearly where those actions would take place
23 and to show some priorities over the next ten-year period. So, I
24 just offer that as another point of view.

25 MR. PENNOYER: Slightly the opposite end.

26 MS. BERGMANN: It is the opposite point of view, but it

1 is the historical position.

2 MR. PENNOYER: It may not be feasible at this state if
3 you want to -- you're caught in the old 22 if you're going to put
4 anything out at this time, you can't be that definitive. And if
5 you're going to wait, then you haven't put out the road map and
6 can't do an EIS.

7 MS. BERGMANN: Our concern is that we want the
8 environmental impact statement to clearly show the differences
9 between these alternatives and let the public clearly see what
10 the different alternatives really mean and we believe that we
11 need a fair amount of detail in order to do that.

12 MR. PENNOYER: Well, I think (indiscernible - unclear)
13 we're not going to promise we're going to do project three on
14 year five. I mean if you think -- your position is you think
15 that we need to promise we're going to fertilize X Lake in 1998,
16 we're probably going to be here for awhile.

17 MS. BERGMANN: We wouldn't -- we don't feel that you
18 have to get that specific, but we do think that the information
19 needs -- that the information presented is not specific enough
20 and I realize that that's not necessarily the consensus of the
21 remainder of the Trustee Council members, but I felt it was
22 important to state that.

23 MR. PENNOYER: It is, particularly if one vote is going
24 to come down along at some time and say we can't do it. Would
25 Interior review this type of detail and come back with specific
26 suggestions that we could deal with then in terms of why you

1 think this isn't specific enough or...

2 MS. BERGMANN: Interior did that already in comments
3 back to the restoration planning work group.

4 MR. LOEFFLER: Actually, the comments were that it was
5 not specific enough.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: Well, suppose next year, after we do the
9 1993 work plan, we find out that the restoration just simply
10 isn't working. Do we want to be so specific that -- does
11 Interior says that we have to plow on through because we've got
12 it in this document here on page 43 that it's supposed to go on
13 four six years? I think not. We have to have the flexibility to
14 deal with the information that we developed during the process.
15 And that's why it should be less specific rather than more.

16 MR. PENNOYER: Ms. Bergmann.

17 MS. BERGMANN: Mr. Chair, we agree with that and we
18 think it's very important in the restoration plan to provide a
19 mechanism for making appropriate changes to that plan over time
20 as additional information warrants.

21 DR. GIBBONS: Mr. Chair?

22 MR. PENNOYER: Dr. Gibbons.

23 DR. GIBBONS: I've got a question and maybe a point of
24 clarification. Under the description of the options such as --
25 like 18.2, replace harvest opportunities. Are not there a bunch
26 of projects underneath that? There's not just one? Doesn't that

1 help explain, perhaps, a little bit of clarification on what's
2 in here.

3 MR. LOEFFLER: For the most part, these are categories
4 of projects for which many projects are possible. Sometimes they
5 are relatively specific.

6 MR. STRAND: It's to provide more broad guidance that
7 allows, as you deal with annual work plans, to develop specific
8 projects. The restoration plan provides the broader guidance and
9 each of these sort of project categories -- or they're really
10 option categories and you can then propose any number of projects
11 under each of them and be in compliance with the provisions of
12 the restoration plan. That is, on an annual basis. That, sort
13 of conceptually, is how it works, I think.

14 MR. PENNOYER: Gentlemen, I haven't had time to compare
15 these but for example, on page 43 on moderate restoration under
16 17.21, 17.22, you've got temporary predator control. Under full
17 restoration, is it permanent predator control or what is the
18 comparison?

19 MR. LOEFFLER: That temporary predator control is a
20 project -- is an option specifically designed -- I'm not sure
21 which one you're looking at -- by...

22 MR. PENNOYER: It's the same under comprehensive
23 restoration...

24 MR. LOEFFLER: Right.

25 MR. PENNOYER: ...so, you have to look -- I guess what
26 I'm getting at is you have to look at the categories of work that

1 are proposed and I presume that predator control probably drops
2 out under limited restoration so what you're doing is you're
3 picking up different categories of things you can do as you
4 proceed through these alternatives, not picking up a specific
5 project that you're promising to do for two, three, four or five
6 or six years. You're picking up categories of things. It
7 doesn't say we'll do it on these islands or under this
8 circumstance of if we start it, we're going to continue it
9 regardless. I'm not clear yet what Interior's view as to the
10 specificity we would have to deal with under something like
11 predator control.

12 MS. BERGMANN: Mr. Chair, I guess as an example, rather
13 than say temporary predator control which could mean a lot of
14 things. We feel like that doesn't really tell the public -- give
15 the public enough information about what we really mean by that.
16 Are we talking about removing foxes? Are we talking about
17 removing gulls or what, exactly, are we talking about, so we
18 would be looking for a little bit more specificity there rather
19 than just a broad category of temporary predator control.

20 MR. LOEFFLER: There was going to be more to the list
21 than just the title. There is text that goes along with this.
22 much of which has been conveyed to the Restoration Team which
23 provides more information.

24 MR. STRAND: And in the appendix if you remember there
25 are the options descriptions. You know, I have to go back to
26 that outline again that I presented a couple of months ago but

1 that's where you -- and the reader is referred to that appendix
2 which has a detailed description of each restoration option.

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: It seems to me yet that we're locking
6 ourselves into specific projects which I am not sure we want to
7 lock ourselves into. As one reflects upon just the last several
8 months of activities, as I recall, we had some 400 proposed
9 projects. And out of those proposed projects, the Restoration
10 Team -- and I don't say this pejoratively but factually -- the
11 Restoration Team composed of agency personnel and solely of
12 agency personnel selected one through 62 or 65 projects. I
13 personally, although not critical of that selection, still have
14 an open mind to whether we should or should not have other
15 projects out there. And we, as you will recall, had substantial
16 public comment on that subject. And I just have a concern but
17 I'm not saying my mind is other than open that maybe we need a
18 broader look at projects for the restoration process, other than
19 what we have now before us. That's one of the things that
20 troubles me. I just think that before we get this far into this,
21 we should open up the whole process and say does anybody else,
22 peer reviewers, other scientists following the symposium here
23 have other ideas on what we ought to be doing for the next year?
24 I just think that's something we ought to give a lot of thought.

25 MR. PENNOYER: Another question that follows along with
26 that is why -- how do you make the decision which category that

1 these things drop off between limited, moderate and
2 (indiscernible - unclear). For example, I think fish passes and
3 access are under comprehensive but they're not under moderate but
4 fertilization is. Why is one more comprehensive than the other?

5 MR. LOEFFLER: The difference between moderate and
6 comprehensive comes in, if you see the effectiveness -- there are
7 three variables that are different. The first is effectiveness
8 so those are that the peer reviewers and the agency scientists
9 said were likely to be highly effective come in on alternative
10 four, but anything they said was likely to be effective comes in
11 alternative five. So some of them are there are in alternative
12 five but not four because of the peer reviewers telling us that
13 they would be effective in restoring species with service. The
14 second is going down the strip (ph), public use. Some of them
15 are really designed to open up new types of public use, provide
16 new opportunities and those come in alternative five.

17 MR. PENNOYER: New alternatives are enhancement -- all
18 enhancement items are basically in alternative five?

19 MR. LOEFFLER: No. The reason why we got away from
20 using the word, enhancement, is because there are lots of things
21 that people sort of naturally think of as an enhancement which
22 protects existing use. For example, buying -- purchasing land
23 could certainly enhance the qualities of recreation. So, we
24 tried to get away from that word because things to -- you can
25 imagine that in lots of places, a fish pass which Fish and Game
26 would frequently call enhancement would be useful to increase the

1 existing sport fishing. So, enhancement makes its way through
2 some of the other alternatives as well.

3 MR. PENNOYER: You got me off the track though. I
4 couldn't figure out whether lake fertilization which is a
5 somewhat chancy operation, depending on your background and
6 research, was more a sure thing than a fish pass was.

7 MS. GORBICS: One of the analyses processes we went
8 through -- process we went through with the peer reviewers was to
9 ask them one, how many years will it shave off the recovery time
10 if they could tell us that, we asked them that. And two, how
11 certain were they of their answers. So, if they were very
12 certain of their answers and it would definitely shave time off
13 the recovery time, it was highly effective and if they were less
14 certain, it was just effective. And that also is how you...

15 MR. PENNOYER: You had some guys who like to fertilize
16 lakes and they don't like fish passes. I understand. It's a
17 judgment call. Professional judgment.

18 MR. STRAND: May depend on which peer reviewers you
19 work with that day.

20 MR. PENNOYER: I don't hear any resolution to the
21 problem Interior seems to have with not getting very specific and
22 Mr. Cole and others have expressed about the fact that getting
23 very specific is somewhat misleading at this stage of the game,
24 given the type of arguments we've had on every annual work plan
25 so far that I've been involved with. So, you've tried to strike
26 somewhat of a middle ground, I take it?

1 MR. STRAND: I think that's what we're hearing.

2 MR. PENNOYER: You tried to be fairly specific in the
3 methods that the procedures that might be undertaken without
4 necessarily getting terribly specific on individual projects and
5 the type of things that would fall out as you go through these
6 different alternatives.

7 MR. LOEFFLER: Yes, but I don't believe that we can
8 resolve the split opinion on the Trustee Council if there is...

9 MR. PENNOYER: No, I wasn't asking you to. I was just
10 saying that you tried to strike somewhat of a middle ground.
11 It's a little more complex than some would like and a little less
12 than others might like and I don't know what alternative we want
13 to offer at this time. You need an answer on this question by
14 when? You mentioned the text is going to be spelled out a little
15 bit more elaborately, so you'll say predator control, you'll
16 footnote, foxes, rats and gulls and some sort of a multiple
17 choice question when you send it out but when do you need
18 anything more specific than that? More specific comments than
19 you've had here?

20 MR. LOEFFLER: If we're going out for public meetings
21 in April, we will want...

22 MR. PENNOYER: I think that's open for discussion
23 anyhow. I'm understanding -- talking about timing which maybe is
24 the next thing we should talk about because there's been some
25 discussion of not going out with anything until we go out with
26 EIS and the restoration plan in June.

1 MR. STRAND: Before we get into maybe a discussion on
2 timing, there's one other piece that we need to talk to you about
3 today that deals with funding and...

4 MR. PENNOYER: How long is it going to take? I want to
5 take a break here in a few minutes so can you complete that?

6 MR. STRAND: It would take about five minutes.

7 MR. PENNOYER: Okay. Could you go ahead and do that
8 then?

9 MR. STRAND: Thank you.

10 MR. LOEFFLER: The last which we've heard a lot about
11 is endowments. We're not ready to do this kind of presentation
12 to you on endowments but we are considering them as part of the
13 restoration plan and part of the alternatives. So, we would have
14 a parallel set of pie charts, if you would, one for alternative
15 two and one indicating how endowments would influence that pie
16 chart. And the kinds of endowments we're looking at -- to give
17 people an idea of the range -- are research endowments which
18 would be sort of a fixed amount, sort of a more comprehensive
19 endowment. You will see a further presentation on this. I would
20 like to get a couple of facts out to get people thinking in the
21 right range of what an endowment will do. And so, here they are.

22 If you imagine that an endowment is inflation-proof
23 then taking the Permanent Fund projection of real rate of return,
24 they projected that we will get about 3.6 percent through 1977
25 [sic] and 3 percent thereafter. That's their target.

26 MS. GORBICS: 1997.

1 MR. LOEFFLER: 1997. Sorry.

2 MR. PENNOYER: How much thereafter?

3 MR. LOEFFLER: Three percent as a real rate of return,
4 not including inflation, so if you inflation proof an endowment,
5 you get about three million dollars in inflation-proof spending
6 for every 100 million you put in in principal forever. If you
7 wanted to put the whole thing in an endowment, we don't have --
8 then you'd have to spend a little more than the inflation-proof
9 spending would allow you in the early years because we don't
10 really have principal yet so if you wanted constant spending from
11 now through forever, you'd put it all in, using the Permanent
12 Fund projections of real rate of return and using Alaska
13 Department of Revenue projections of inflation, you get between
14 13 and 14 million dollars a year forever, inflation-proofed.

15 MR. PENNOYER: Thank you.

16 MR. LOEFFLER: And that's really all that we have ready
17 on endowments.

18 MR. PENNOYER: I think the next item on our agenda is
19 the timing question. Answers are needed. Can we take about a
20 ten-minute break before we do that?

21 (Off record: 3:04 p.m.)

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

23 MR. PENNOYER: Could we go ahead and get started again,
24 please? The last item, I believe, on the "Restoration Summary
25 Table and Alternatives" was some discussion of timing. I don't
26 know if we need to have that now, but Mr. Barton, you wrote a

1 letter on that. Would you care to take that topic?

2 MR. BARTON: Yes, I'd be pleased to do that, Mr.
3 Chairman.

4 MR. PENNOYER: Thank you.

5 MR. BARTON: I would say this before I deal with the
6 subject of the letter. Apparently the most significant thing we
7 could do to assist the timing of this project is to decide on how
8 many alternatives we want because the process cannot go forward
9 until we do that. I don't know whether you want to do it here
10 today or sometime in the very near future but that's essential to
11 the EIS process.

12 MR. PENNOYER: I don't care. What's your pleasure?

13 MR. BARTON: I move that we go for four alternatives.

14 UNIDENTIFIED VOICE: Second.

15 MR. PENNOYER: Would you mind explaining your motion as
16 to what the four alternatives would be?

17 MR. BARTON: I would -- if you'd refer to page 20 of the
18 handout, that might be the best thing. That's this table.

19 MR. PENNOYER: Page 20 of the handout, List of
20 Alternatives.

21 MR. BARTON: I would suggest that we go with four
22 alternatives and instead of making a column of habitat
23 protection, make a row out of habitat protection across four
24 alternatives.

25 MR. PENNOYER: In other words, habitat protection will
26 not be a stand-alone alternative?

1 MR. BARTON: Correct. It would be a part of all the
2 alternatives or could be a part of all the alternatives.

3 MR. PENNOYER: Could I get some comment from the
4 Restoration Team on what type of change this is going to be in
5 terms of complexity? We certainly don't want to hold the
6 process up longer so could you comment on what that does in terms
7 of your process?

8 MR. BRODERSEN: Mr. Chairman?

9 MR. PENNOYER: Mr. Brodersen.

10 MR. BRODERSEN: Actually, another alternative proposal
11 to throw at you, perhaps, would be to eliminate alternative four,
12 leave habitat protection alternative two in there as an
13 alternative and that would still get you down to the four that
14 you're requesting and it still keeps the broad range -- a broad,
15 broad range that we're looking for in the alternatives.

16 MR. PENNOYER: Mr. Brodersen, is habitat protection a
17 row -- isn't it a column up and down? Can it be a road across?
18 The row across are the strategies, basically, injuries addressed,
19 status of resource recovery, effectiveness of restoration actions
20 and strategies for public use. If you made habitat protection a
21 row across there, that would be different than the others, would
22 it not?

23 MR. BRODERSEN: Yes, it would and it cuts out, if you
24 will, part of your range of alternatives that you have by doing
25 so and if you go and look at removing alternative four instead,
26 it maintains its full range of the alternatives and it does get

1 you down to one less alternative at that point. As Bob mentioned
2 earlier in RPWG at our request has been looking at this
3 extensively since the package went to you. Basically, the
4 package had to come to you ten days before, so we cut off where
5 we were but we continued to work on some of these questions we
6 knew that the Trustee Council had and RPWG has spent quite a bit
7 of time looking at the possibility of removing alternative four
8 but still maintaining the range of alternatives. And removing --
9 or putting habitat in a row rather than a column is not really a
10 variable so much as it is an alternative and so we can do
11 whatever you request but I would suggest the other one instead.

12 MR. PENNOYER: As an alternative you spend varying
13 amounts of money on it?

14 MR. BRODERSEN: Yeah.

15 MR. PENNOYER: So, it is a row when you get down to the
16 budget but it's an actual column when you're dealing with the
17 strategies.

18 MR. BRODERSEN: We can do it the other way. I'm just
19 not sure it maintains the suite of options -- or the -- I'm
20 losing my jargon here. It doesn't maintain the range of
21 alternatives that you have if you take out habitat protection as
22 one item and what we're really trying to get across here is that
23 there is a trade-off. The more habitat protection you do, the
24 less restoration -- direct restoration you can do and that's
25 quite evident as you go from two through five or you could make
26 it going two, three, five, whatever, across there, you can see

1 quite clearly that and another item that you all might want to
2 discuss is that even under our most comprehensive restoration
3 alternative, we're still showing 45 percent in habitat
4 protection. There were several people at the PAG meeting that
5 said that number should be much lower for the range. That, as
6 we've shown it, it wouldn't keep the public from coming back and
7 commenting that it should be less. It's just that it wouldn't
8 be within the original range that the Trustee Council put out for
9 public comment.

10 MR. COLE: Mr. Chairman.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: Well, I first move that we eliminate
13 alternative number one, natural recovery. And that seems to be
14 not a feasible alternative at all. So, we should eliminate that,
15 should we not?

16 MR. PENNOYER: Well, could I ask for a clarification?
17 The implication is that you do nothing for natural recovery.
18 Natural recovery is an option for certain resources. So, by
19 listing it as an alternative, are you saying that alternative
20 advantage (ph) that people would say, don't do anything?

21 MR. BRODERSEN: This the NEPA no-action alternative.

22 MR. PENNOYER: Okay. Thank you.

23 MR. BRODERSEN: You do normal agency actions. No
24 action is not quite correct. You're doing normal agency action.

25 MR. PENNOYER: No restoration action....

26 MR. BRODERSEN: Right.

1 MR. PENNOYER: ...other than natural.

2 MR. BRODERSEN: My understanding is that you need this
3 one for NEPA compliance.

4 MR. PENNOYER: There's a motion on the floor. is there
5 further discussion? Mr. Rosier.

6 MR. ROSIER: Thank you, Mr. Chairman. I had -- I'm
7 not sure what Mike has proposed here with the habitat protection,
8 but I would certainly object to alternative four coming out, if
9 any alternative came out, I would certainly move for alternative
10 three coming out. It seems to me that three and four are so
11 close together and yet, the provisions in there on population
12 damage, I think, is the portion of it that I object to the most
13 in alternative three. And as I mentioned before, I think we've
14 got a lot of fishery resources that under that particular
15 alternative would not be considered for any restoration work.
16 And from my standpoint, that's simply not acceptable.

17 MR. BRODERSEN: Well, Mr. Chairman?

18 MR. PENNOYER: Mr. Brodersen.

19 MR. BRODERSEN: We're looking at maintaining the
20 range. What you would then want to say is that alternative three
21 is not acceptable to you as the alternative but to eliminate
22 three, if you look at four and five, they're fairly close too.
23 The only major distinction between them is this question of
24 population that you would need to then make the argument that you
25 want to make sure that we look at all injured resources, not just
26 resources whose populations are injured. Not that you want to

1 eliminate the -- I would hope not that you'd want to eliminate
2 the alternative for public consideration and then you would want
3 at some point when you're making your decision as a Trustee
4 Council based upon public comment, probably have a predilection
5 to go toward five. It's not that you want -- I would hope not
6 that you want to eliminate an alternative such as natural
7 recovery, for instance. That's something that needs to go out for
8 public comment across the range.

9 MR. ROSIER: I would agree but I'm not sure that the
10 subtleties of the differences between three and four is anything
11 more than kind of a complex thing that is the public truly going
12 to understand the complexity of that and the subtleties that are
13 involved and the difference between three and four.

14 MR. COLE: Mr. Chairman.

15 MR. PENNOYER: Mr. Cole.

16 MR. COLE: I want to get back to alternative one,
17 again. Why do we send alternative out for public comment if it's
18 only for NEPA compliance alternative? Nobody in the public is
19 going to say, don't do anything other than sit and watch nature
20 restore all of these injured resources. So, why do we confuse
21 what we send out to the public, if it's only for NEPA compliance?

22 MR. BRODERSEN: I'll pass that onto one of my federal
23 cohorts, if I might. A little more familiar with NEPA.

24 MR. PENNOYER: Mr. Barton.

25 MR. BARTON: The short answer is that it's simply a
26 procedural requirement.

1 MR. COLE: Well, I'm not saying that we don't comply
2 with the NEPA compliance and do it satisfactorily but why send
3 it out to the public? They'll be confused. Nobody in the
4 public will respond to say well, let's take alternative one
5 and do nothing. So, we should not send that out to the public,
6 but we should simply comply with the act. That's my view and
7 then we could certainly eliminate that because I think we should
8 do all we can to eliminate that or do we have to send out to the
9 public?

10 MR. PENNOYER: The act requires that we send out to
11 public comment as far as the EIS process and therefore, it needs
12 to go out as part of the plan process so that the documents
13 mirror each other.

14 MR. COLE: But at this stage?

15 MR. PENNOYER: We haven't sent anything out yet so I
16 think that's...

17 MR. COLE: See what I mean?

18 MR. PENNOYER: ...where we're stuck. We have a motion
19 on the floor to amend the framework by eliminating alternative
20 two, habitat protection and making a row out of it instead of a
21 column. Any further discussion on that? Ms. Bergmann.

22 MS. BERGMANN: Mr. Chair, I think one of the reasons
23 for having alternative two in this suite of alternatives is
24 because of public comment that we received to date supporting
25 habitat protection because we've had substantial public comment
26 that would indicate that many of the public would like to see

1 most, if not all of the monies go toward habitat protection, so
2 the feeling is that unless we have this as an alternative that
3 we're really not showing the public in terms of our draft
4 environmental impact statements what the differences are between
5 all of these different alternatives and that we would not truly
6 have a full range of alternatives.

7 MR. PENNOYER: Commissioner Sandor.

8 MR. SANDOR: Well, if you look at page 28, which, as I
9 understand it is alternative two, what that shows essentially,
10 there's administration, monitoring, habitat protection and that's
11 it. And is that realistic? What I heard in Mike's motion was
12 that habitat protection is woven through all the alternatives.
13 Mike, is that right?

14 MR. BARTON: That's correct.

15 MR. SANDOR: So, I mean are we seriously actually
16 thinking of eliminating looking at an alternative that doesn't
17 focus on these specific projects? Just how realistic is
18 alternative two? That's why I was trying to support the motion.
19 Can somebody explain...

20 MR. PENNOYER: I guess my problem is by way of
21 explanation is that I don't know that getting rid of habitat
22 protection as an alternative by itself, a stand-alone alternative
23 is wrong, but I'm not sure how it fits as a row. I mean we're
24 not putting -- what would you write across under these different
25 alternatives of habitat protection? Injured services or
26 population has declined or what would you put in these different

1 columns under the other alternatives for habitat protection...

2 MR. COLE: Mr. Chairman?

3 MR. PENNOYER: ...if it is a row. I don't mind
4 eliminating some alternatives if we have it woven into the
5 project mix and it is woven into the project mix. Mr. Cole.

6 MR. COLE: Why don't we ask the person who prepared
7 this chart if he can respond to this inquiry?

8 MR. PENNOYER: Good idea. The person who prepared the
9 chat, can you respond to the inquiry?

10 MR. LOEFFLER: The purpose of alternative two is to
11 point out the consequences of habitat protection only, so if you
12 eliminate it, you eliminate the analysis that says if this is all
13 you do, this is what you get. And since we've heard that from
14 the public, we put it in to show people the consequences. It
15 does not imply that you got -- that the trustees would pick it.
16 If you put...

17 MR. PENNOYER: Shows what you'd lose?

18 MR. LOEFFLER: It shows what you'd lose if that's all
19 you did. If, in fact, you had it as a row, you could make a row
20 something on the order of the extent of habitat protection in
21 this alternative and make it a budget row, essentially.

22 MR. SANDOR: Mr. Chairman, it seems to me that we'd
23 have to at least do that to show what the levels of habitat
24 protection would be. It just occurs to me (indiscernible)
25 actually look at that (indiscernible) where it's just 95 percent,
26 that you know it's just not realistic. That's like watching

1 natural recovery except that it eliminates -- all you do is just
2 add one tool and why wouldn't we have a mixture of efforts,
3 individual species projects that enhance or correct
4 (indiscernible - unclear) So, it seems to me...

5 MR. PENNOYER: So, what you're saying is if you did
6 this, we'd have under the alternatives -- under the themes, we'd
7 have habitat protection as a theme and show a little bit, a
8 little bit more or no. A lot, a little bit, less a little bit
9 less and a lot less or something like that?

10 MR. LOEFFLER: Yes.

11 MR. SANDOR: Is that what you had in mind, Mike?

12 MR. BARTON: (Inaudible positive response.)

13 MR. PENNOYER: You could make a theme -- habitat
14 protection into a theme.

15 MR. LOEFFLER: One of the policies -- you would add it
16 to the theme and one of the policy variables would be the extent
17 of habitat protection.

18 MR. PENNOYER: Ms. Bergmann.

19 MS. BERGMANN: Mr. Chair, I don't understand the
20 difference between doing that -- when we looked at the comparison
21 of alternatives, this chart that was shown to us before whenever
22 it was, a while back, it showed us that alternative one has zero
23 percent of the budget going for habitat protection; alternative
24 two has 91 percent; alternative three, 75; alternative four, 60
25 percent and alternative five, 45 percent. So, I think, in fact,
26 that what we're talking about here is already included...

1 MR. PENNOYER: But not in this first table.

2 MS. BERGMANN: ...in the information. It's implicit
3 within that first table. When you develop this table, you end up
4 -- you end up with expenditures that relate to this chart, is
5 that correct?

6 MR. LOEFFLER: The chart is the implications of the
7 table.

8 MS. BERGMANN: Right.

9 MR. BARTON: What I was thinking about all you would do
10 is eliminate the 91 percent in this chart.

11 UNIDENTIFIED VOICE: And spread it.

12 MR. BARTON: Well, it's spread essentially now.

13 MR. PENNOYER: Well, so what you would do then is you
14 would put habitat protection as a theme and under each of these
15 alternatives, you'd have a percentage or something that came to a
16 percentage on the first chart instead of on the last chart?

17 MR. BRODERSEN: It would become a variable on this
18 chart. One of the problems we really run into here is that we've
19 heard from certain elements of the public fairly repeatedly that
20 they would like to see an alternative like this. I think -- to
21 tell a little story here, when I first saw this set of
22 alternatives -- actually, there were six at that time, I looked
23 at them. I didn't like any of the six as one that I wanted to
24 end up with and it took the restoration planning work group
25 several days for them to get through to me that what they really
26 had here was the range and that the alternative that we, as a

1 body, meaning the Trustee Council ends up picking is one that
2 almost undoubtedly will take bits from several alternatives to
3 come to the one that everybody likes. So, that even though you
4 don't see the alternative you like here or if you despise some of
5 the alternatives here, the idea is to get out the range of public
6 thinking for public comment for reasonable actions plus natural
7 recovery which, I'm told, we're forced into and I grudgingly
8 accepted that a while back and that what we're looking here is to
9 get a set of alternatives that captures that range. You want to
10 make it as few as possible. That's one of the reasons we were
11 looking at removing four. We could go back and remove two and
12 make limited restoration even more limited so we could up the
13 amount that's put into habitat protection or something like that
14 but I think one needs to remember that just because you don't see
15 what you like here doesn't mean that it won't end up in the final
16 restoration plan. That's the important thing to remember that
17 we're -- if we don't mix and match, I'll be extremely surprised
18 in terms of coming to that final restoration alternative that you
19 all pick.

20 MR. COLE: Mr. Chairman.

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: What are we doing to use this whole thing
23 for anyway? I mean it's a nice, lovely chart and it reflects a
24 lot of work but I mean what is it -- how are we going to use it?

25 MR. LOEFFLER: I would think that the policies -- Mr.
26 Chairman, if -- I would think that the policies that you come up

1 with will guide the annual work plans. And that the annual work
2 plans will be the flexible method in which you implement the
3 policies that you've decided on.

4 MR. COLE: But how do we use this in dealing with the
5 annual work plans? Don't we just sit and look at the annual work
6 plans and say, let's adopt this one after we hear the
7 presentation and then go to the next one and not even say are we
8 using alternative three or alternative six here?

9 MR. LOEFFLER: I would think that, for example, if you
10 chose some of the -- if you chose a more limited form of some of
11 the variables, so if the public said we only want to deal with
12 things that the populations have declined, that would give you
13 direction for the annual work plan. If the public said, deal
14 with resources, stop active restoration when the resource has
15 recovered, that would give you direction for the annual work
16 plan.

17 MR. COLE: What I think the public will do is say this
18 is so confusing, I don't know what to say and we won't get any
19 real guidance from this. And furthermore, for each project we
20 propose in an annual work plan, you would have to be looking at a
21 different variable or a different alternative and applying the
22 variables. It just seems to me that it's just, as a working
23 tool, it would be ineffective. I mean I think conceptually we
24 can sit here and understand it but I don't see how this helps us
25 in the public in the decision-making process. That's what
26 troubles me about it.

1 MR. PENNOYER: John.

2 MR. STRAND: Well, I think that my concept is that we
3 go out to the public with four or five alternatives, maybe less,
4 we get comment back from them -- you get comment back from them
5 and at some point in time, you select whichever alternative or it
6 may be a recombination of what we have here but you're going to
7 select one alternative for implementation as the final
8 restoration plan.

9 MR. COLE: I mean let's stop right there. Will we?

10 MR. STRAND: Yes.

11 MR. COLE: I'm not sure we will. I think that we have
12 to look at each of these projects almost discretely rather than
13 saying okay, the whole restoration plan will take alternative
14 three or alternative five. Is that what we will really do? I
15 don't foresee that.

16 MR. LOEFFLER: If you would the annual work plans to go
17 under the guidance of a set of policies, this provides a method
18 of doing it.

19 MR. STRAND: Yes.

20 MR. LOEFFLER: If you don't want the policies, if you
21 want to do de novo each year, then you don't need a restoration
22 plan.

23 MR. STRAND: But if you select one final alternative as
24 your final restoration plan, then you have set in place, although
25 it can be flexible, but you have set in place some sort of
26 standard by which to gauge each of the proposals that come in on

1 an annual work plan basis. Then you have something to go by that
2 okay, this project fits the grand guidance of the plan; this one
3 does not and you know, it's something to guide you through the
4 then subsequent years of restoration. But still being flexible
5 enough to end restoration when it's supposed to be ended or deal
6 with restoration yet in a different way based on new information
7 as it's derived. But that's sort of conceptually how I think
8 we've seen this coming together. I don't know if that helps.

9 MR. PENNOYER: There's a motion on the floor to
10 eliminate alternative two, habitat protection only and treat that
11 as a variable in all the various alternatives, except of course,
12 the no-action natural recovery. Any further discussion on the
13 motion?

14 MR. COLE: Could I have a moment to confer with my...

15 MR. PENNOYER: You certainly may.

16 MR. COLE: ...esteemed colleague?

17 MS. RUTHERFORD: Mr. Chair?

18 MR. PENNOYER: Ms. Rutherford.

19 MS. RUTHERFORD: I guess the only thing I would say --
20 I'd like to have an opportunity to say is that if the Trustee
21 Council would ever seriously consider focusing almost totally on
22 habitat protection, the public has said that they would like to
23 have that as an option to comment upon and I think that if it's
24 even within the realm of possibility that you might agree to
25 that, then I think it's appropriate you provide that to the
26 public for them to respond to.

1 MR. PENNOYER: Thank you. Maybe we'd better try this
2 one. All those in favor of this motion?

3 MR. COLE: Would you restate the motion?

4 MR. PENNOYER: The motion is to eliminate alternative
5 two as an alternative and carry it as a variable across all the
6 remaining alternatives which would then be one, three, four and
7 five.

8 MR. COLE: And there will be a variable down there under
9 injuries assessed, for example, and it will save habitat
10 protection?

11 MR. PENNOYER: It would be there; would not be a 90
12 percent variable, presumably from the table that was given us at
13 the end. You'd end up with a variable across that would have
14 zero for habitat under alternative one, 75 percent under three,
15 60 percent under four and 45 percent under five. There would be
16 no habitat only quote variable. Is that correct, Mr. Barton?

17 MR. BARTON: That is correct for what would go out to
18 the public. but it's entirely possible then based on public
19 comment we could end up back with 100 percent devoted to habitat
20 protection.

21 MR. PENNOYER: I guess I'm not clear why we shouldn't
22 show that to start with as a possibility if you think it is even
23 a remote possibility.

24 MR. BARTON: I don't think it is. I say we could.

25 MR. COLE: Mr. Chairman, I think we should send it out
26 the way it is and be done with it. Like you say, we've beating

1 it to death and get on with it.

2 MR. BARTON: I feel strongly that we need to make a
3 decision, whether it's four or five or one or two. I feel less
4 strongly about but we do need to pick a number.

5 DR. MONTAGUE: Mr. Chairman?

6 MR. PENNOYER: Dr. Montague.

7 DR. MONTAGUE: Can I offer a compromise idea that deals
8 with both Commissioner Rosier's and Mike Barton's concerns and
9 what this would do would cut it down to four alternatives.
10 Would eliminate number two, three and four are the -- three would
11 be eliminated. The new number three would be number four with
12 all the reserve moved into the habitat.

13 MR. PENNOYER: I'm not sure you've simplified it.
14 Would you care to withdraw and put it on a pie chart? Why don't
15 we go ahead and try the motion and if that fails, we'll try
16 something else. All those in favor of eliminating alternative
17 two and making it as an alternative and making it a variable,
18 signify by saying aye.

19 MR. BARTON: Aye.

20 MR. ROSIER: Aye.

21 MR. PENNOYER: All those opposed?

22 MS. BERGMANN: Opposed.

23 MR. COLE: Aye.

24 MR. SANDOR: Aye.

25 MR. PENNOYER: Aye. Can I have another motion? We do
26 need to do something, so let's get...

1 MR. COLE: Send it out the way -- I move we send it out
2 the way it is.

3 MR. PENNOYER: Do I have a second?

4 MS. BERGMANN: Second.

5 MR. SANDOR: Second.

6 MR. PENNOYER: Is there any discussion? All those in
7 favor of sending it out the -- well, no, it's not sending it out
8 the way it is because we're going to get another shot at this,
9 right?

10 MR. LOEFFLER: That's accurate.

11 MR. PENNOYER: Okay, preliminary instructions to the
12 team, if you would, Mr. Cole, being to continue in the way
13 they're going and come back to us with further elaboration. Any
14 discussion?

15 MR. BARTON: It 's not clear to me what the motion is.
16 Are you moving that we have five alternatives?

17 MR. COLE: Yes. I'm moving that we continue on the
18 basis of what page 20 now is.

19 MR. BARTON: Second.

20 MR. PENNOYER: All those in favor of Mr. Cole's motion?

21 MS. BERGMANN: Aye.

22 MR. SANDOR: Aye.

23 MR. ROSIER: Aye.

24 MR. PENNOYER: Opposed? It carried. Thank you.
25 Now, before you go completely away, we have one last question on
26 this item and that's timing. You made a statement earlier that

1 you were going to send something out to public review in March or
2 April and I am of the opinion we've had some discussion contrary
3 to that and I'd like to Mr. Barton to present what he sent to the
4 Trustee Council in his letter, if you would, Mr. Barton.

5 MR. BARTON: Yes, I will, Mr. Chairman. I'll lay this
6 on the table and then I will leave and let my designated
7 alternate worry (ph) this around. I have to catch a plane very
8 shortly. As I understand it, there has been a proposal to send
9 out the draft plan for public comment sometime in March or early
10 April and associated with that is a series -- may be a series of
11 public meetings. On the other hand, the next step in the NEPA
12 process would call for releasing the draft environmental impact
13 statement about June 7th, again for the same type of public
14 comment. In all likelihood, we would be making the second
15 release of the draft environmental impact statement prior to
16 getting the comments back and analyzed from the first release.
17 We could wait but if we wait, we could wait to make the second
18 release 'til we had the analysis of the first release as public
19 comment but if we do that, we will, in all likelihood, delay then
20 the final restoration plan publication. That's further
21 compounded, thinking of the public that we're asking to spend
22 their energies, we are also going to be asking them at about that
23 same time frame to look at the '94 program of work.

24 That's three rather significant events in terms of
25 asking time of the public and I guess I don't think the benefit
26 gained from the release from the March/April time period of the

1 draft plan is of sufficient benefit to warrant the ultimate delay
2 of a final restoration plan but I am open to that. But again,
3 this is another one of those subjects upon which I wish we would
4 make a decision and stick with it. It's like picking a number in
5 the last round. It's somewhat less important to me as to what
6 the decision is but we desperately need to get a decision made.
7 I may not have all that understood properly and I would be
8 pleased to have the errors of my ways pointed out but with that,
9 I'm going to excuse myself and ask Jim Wolfe to come up here.

10 MR. COLE: Before you do, Mr. Chairman. Are you
11 implying that we can't make decisions?

12 MR. BARTON: No, I'm not implying that at all.

13 MR. COLE: Just wondering.

14 MR. BARTON: We make them and then we remake them and
15 then we remake them.

16 MR. PENNOYER: Thank you, Mr. Barton, I think what
17 you're proposing is that we wait -- Mr. Wolfe, do you want to
18 come up and sit at the table, please? Thank you -- that we wait
19 and send the '94 draft plan, the restoration plan and the EIS
20 restoration plan all out at the same time and by doing that, your
21 proposals would not cost any additional time to the end product?
22 Because the end product is going to be held up by the time to
23 review the EIS anyhow, so is that the proposal, in essence, and
24 is that what legal counsel has advised you that we can wait and
25 send them all out at once and still stay within the time frame,
26 allow for development of the restoration plan? Isn't it an

1 added advantage then supposedly that we will have the '94 work
2 plan going out at the same time as the restoration plan and
3 therefore, they will be a tied-together document that would allow
4 whatever restoration projects might be in the '94 work plan to
5 have the benefit of the public seeing that and the restoration
6 plan at the same time? Yes or no would be okay.

7 MR. WOLFE: Yes.

8 MR. PENNOYER: Thank you.

9 MR. COLE: Well, Mr. Chairman.

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: What are the dates these things are supposed
12 to happen? Didn't we go over this once before? Just so we don't
13 have to make this decision once again and we can mark it in blood
14 on the calendar.

15 MR. PENNOYER: Perhaps Maria or Ginnie could help me
16 that. My understanding was the dates will stay the same; you'd
17 simply eliminate the March/April public review sequence.

18 MR. WOLFE: That was my understanding but that was based
19 on -- Ken, you were advising us on the schedules that we were
20 looking at in the NEPA process.

21 MR. PENNOYER: Mr. Rice.

22 MR. RICE: Mr. Chairman. The schedule the way a couple
23 of us have worked to put it together would have an alternatives
24 information package going to the public by the 23rd or so of
25 March and then public meeting somewhere around the 12th of April
26 until the end of April. You'd have about two weeks in which to

1 review comments on that and at the end of which time, any changes
2 would have to be made and then the draft restoration plan would
3 be coming to the Trustee Council by the 21st of May with a
4 Trustee Council meeting around the 1st of June. And the
5 environmental impact statement would follow along with that. In
6 other words, you would be getting that at the same time.
7 Basically, we have between now and the June Trustee Council
8 meeting, we've got about six weeks in which to develop an
9 environmental impact statement and two months to do any review,
10 rewrite and correction to that before a June 7th release to the
11 public.

12 MR. PENNOYER: And now, you've completely lost me,
13 I've got to admit. I thought that Mr. Barton's letter basically
14 said we couldn't do that?

15 MR. RICE: Well, that was what the...

16 MR. PENNOYER: And in fact, we had to -- we could not
17 stay on that schedule and put a document out that had the benefit
18 of public review in March and April which was used to modify the
19 restoration plan and EIS in time for them to go out to public
20 review in a corrected fashion.

21 MR. RICE: What I read you was what the habitat
22 protection -- or excuse me, the restoration planning work group
23 was proposing to do and the Restoration Team was reviewing that.
24 It gives us a fairly short schedule in which to make any changes
25 and be able to meet that schedule and I guess what's in front of
26 the Trustee Council is do they truly believe that we could take a

1 series of public meetings in late March and April and then make
2 changes to the restoration plan, changes to an environmental
3 impact statement and still meet the June deadline.

4 MR. PENNOYER: Well, I guess it's less that we believe
5 it than do you believe it and would advise us. My impression was
6 the advice I was getting via the Restoration Team which you
7 couldn't do that and we'd end up delaying the June 7th output if
8 we waited to use the March/April public input.

9 MR. RICE: There's been a lot of discussion within the
10 Restoration Team on this and there's not full agreement on it.

11 MR. BRODERSEN: Mr. Chairman?

12 MR. PENNOYER: Mr. Brodersen.

13 MR. BRODERSEN: Basically, what it comes down to here
14 is that if we're on track with public thinking on the release
15 during April, we can do the June release on time. If we've
16 missed it, then we're better served to take additional time, redo
17 the restoration plan and EIS that goes out in June so that we're
18 closer to where the public are and get a document that will not
19 require further revision. If we've made it in terms of hitting
20 where the public thinks we ought to be, then we're on track. if
21 we haven't, better to know it in April and get the thing
22 rewritten so that June, July, August, whenever it gets out, it
23 then does meet with public concern.

24 MR. PENNOYER: I guess with the NEPA process, is that
25 required or do you send it out once and then take those comments
26 into account in what you put out as a final EIS and restoration

1 plan. You're going through a two-step process. You're putting
2 out one series and asking do you think this is okay. And then
3 that comes back in, you revise your restoration plan and your EIS
4 supposedly to mirror those comments, you send it out again, and
5 you get another set of comments which probably require -- could
6 require further revisions. So, is that required and is that
7 timely?

8 MR. BRODERSEN: It's required in the sense in my
9 thinking in that if we have only a June, July review period,
10 we're going to miss a fairly important element of our public that
11 will be busy, making a living that time of year and really will
12 not be in a position to give us considered comment on something
13 that will affect their lives for years to come. We're hoping
14 that the April session would allow those folks the opportunity to
15 comment on this plan and give us the benefit of their guidance.
16 Otherwise, we're going to be limited to people who basically do
17 not make a living in the area because they'll be busy making a
18 living in June and July. I think that's an incredibly important
19 consideration through all this.

20 MR. PENNOYER: So, the motion is then to leave it the
21 way it is, right?

22 MR. COLE: Namely?

23 MR. PENNOYER: March/April public hearing process, the
24 draft plan going out, revision of the EIS and the restoration
25 plan and the '94 work plan, I presume.

26 MR. BRODERSEN: The '94 work plan is on a different

1 schedule.

2 MR. PENNOYER: Well, I think that was part of the
3 process Mr. Barton is recommending however, there was some advice
4 including any restoration projects in the '94 work plan for the
5 restoration plan was finalized was going to be a problem anyhow.
6 Hook the two together and send them out at the same time would
7 obviate some of that concern.

8 MR. WOLFE: That was -- Mr. Chair, tying the '94 work
9 plan to the EIS and the final draft going out for public comment
10 was to address some of the concerns that our Interior folks were
11 having with not having the restoration plan before we go ahead
12 with the restoration in '94 so we felt that if we tied those two
13 together, it would be advantageous to everybody in making it flow
14 smoothly as far as concerns for the restoration plan. The other
15 issue and we were trying to bring it to the surface and that's
16 the reason that Mike pushed (ph) one way or the other, but we did
17 have an extreme concern that we were going to after -- or here
18 shortly, go to our contractor who is doing the EIS for us with a
19 set of alternatives and those alternatives will be developed.
20 And in the interim, we're going to go to the public with a draft
21 restoration plan that doesn't necessarily link with -- that links
22 with what we've given the public but -- or the contractor but
23 when we get the public comments back and we have an EIS that
24 links to an original draft, if there is any significant public
25 comment that stands to put us in jeopardy of having to go back
26 and delay the whole process in order to get the EIS consistent

1 with public comment. Otherwise, you run the risk of not being
2 responsive to the public comments. And that was our concern.

3 MR. BRODERSEN: Mr. Chair? I want to address a very
4 specific question here on tying the '94 work plan comment period
5 for the public to the EIS and the restoration plan. If we delay
6 putting out the '94 work plan until the EIS and restoration plan
7 go out, we then, as near as I've been able to tell from
8 scheduling here, there isn't a chance that we have the '94 work
9 plan ready to go October 1st which in theory is our goal this
10 year is to be on the federal fiscal year. We, essentially, have
11 to have public comment on the '94 work plan done by the first of
12 July to make that happen. Unfortunately, Ken and I are sitting
13 here with schedules that the rest of you don't have because we
14 just finished them up this weekend and I apologize for that but
15 we just weren't able to get to it and so the Restoration Team has
16 not seen these or anything, but unfortunately, when you lay these
17 six tracks out here, you do see where the overlaps occur and the
18 impossibilities in timing, et cetera.

19 DR. MONTAGUE: Mr. Chairman?

20 MR. PENNOYER: Dr. Montague. If I can offer two other
21 thoughts relative to this combining of the various documents.
22 Initially, I certainly felt that it sounded like a pretty good
23 idea, too, but two negatives are that one of the documents may go
24 well. There may not be any public concerns and it may fly right
25 through but if you tie them all together, a problem on one holds
26 them all up. And the second thing is that we found, for

1 instance, the '92 work plan being out for review as a draft,
2 asking for '93 ideas and reviewing the restoration framework all
3 at the same time totally confused the public and many '93 ideas
4 came in as comments on the restoration framework and comments on
5 the '92 plan came in as '93 ideas and so on and so forth, so it
6 may be more trouble than it's worth.

7 MR. PENNOYER: Maria, did you want to comment on that?
8 Or would you?

9 MS. LISOWSKI: I think there's a couple of different
10 things going on here and people are getting confused. The '94
11 work plan, at least as we had envisioned it, would not
12 necessarily be a part of the draft restoration plan and draft
13 EIS. The idea of getting it out at the same time as the draft
14 EIS and the draft plan is so that you have the ability to say
15 that these projects that are proposed for '94 are consistent with
16 the draft plan. So, in other words, you have, at least, some
17 set of criteria that you could be using to look at each one of
18 these projects when you're evaluating them and when they go out
19 to the public, the public can evaluate to see if they're
20 consistent with the draft restoration plan and draft EIS. So,
21 it's not a matter of necessarily tying the two together in one
22 package.

23 With respect to having the March and April public
24 comment and review process, I think at one point there was some
25 question on whether that would be required under NEPA and whether
26 we needed more scoping. In our view under -- since we're

1 following Forest Service regulations and procedures, I think
2 we're fine as far as scoping is concerned in only going out with
3 a draft EIS and draft plan in June. It's certainly your call if
4 you want to go ahead and issue another document out to the public
5 for informational purposes and getting public comments back,
6 that's fine, but you do run the risk of not being able to
7 integrate those comments into your draft alternatives for the
8 restoration plan and your draft alternatives for the EIS. And if
9 you end up receiving public comments that you can't then
10 integrate into the draft EIS and draft plan as it's going out in
11 June, if in fact, we're going to stick that schedule, then you
12 have some problems in how you're going to integrate that back
13 into a final plan.

14 MR. RICE: Mr. Chairman.

15 MR. PENNOYER: Mr. Rice.

16 MR. RICE: The -- back -- I'm trying to think how far
17 back, when you reviewed the first schedule and asked us to go
18 back and change the schedule for completion of the restoration
19 plan and a couple of us did that over lunch, brought it back to
20 you and you still expressed some concern on that. That schedule
21 had us going out in June with a draft restoration plan and EIS.
22 It had envisioned some kind of information package going out to
23 the public but did not have built in to that schedule
24 opportunities for significant review or incorporation of comments
25 into it, so it would be an information package saying here's
26 where we're at more than give us your comments back on it. As

1 Mark and I have gone back and forth on this quite a bit, I'm not
2 as optimistic that we would be able to incorporate significant
3 or, you know, even technical changes into the draft plan and EIS
4 in order to meet the June deadline. He feels that we could do
5 that.

6 MR. PENNOYER: Mark, you had in mind after this March
7 and April turn, Trustee Council sort of would meet like it's
8 going to after we get the final draft back, make decisions,
9 modify the plan accordingly or would we still be sending out
10 alternatives as EIS requires? What type of public comment and
11 input do you expect in March and April that would -- I mean we
12 can't go back and just send the plan out after that. We have to
13 go back and send all the alternatives still under the EIS format.
14 So, what -- is the public being expected simply to comment on
15 whether the range of alternatives is okay or things we forgot or
16 is it to actually comment at that time and the meaningful thing
17 of what plan you're going to choose because we couldn't do those
18 anyway. So, the group that's going to -- I agree with you about
19 the comment that time versus in the summer. Summer's a problem
20 in Alaska but since we're not going to change anything finally
21 before we send out alternatives anyway, what type of input do you
22 expect in March and April? What would you ask for?

23 MR. BRODERSEN: I would expect exactly what you were
24 saying there. Are we on the mark here with our alternatives? Do
25 we have our ranges correctly for the alternatives? We would
26 want folks to comment on what their alternative would look

1 like. This is essentially to give a large chunk of our populous
2 the opportunity to comment meaningfully on these alternatives
3 which they probably will not be able to in June and July since
4 they will be busy making a living at that time. Essentially,
5 what you're ending up with is two comment periods on the same
6 document. You want to incorporate as much of what they tell you
7 is wrong with the document as you can before it goes out again
8 for the second comment period. I have this conceit that we're
9 going to be fairly close so that there won't be too much for us
10 to have to change. If we have missed it, then by all means, we
11 need to change it and at that point, then let things slide a
12 little bit. I think the overriding concern here though is to
13 make sure that we're not disenfranchising the people who live and
14 work in Prince William Sound and Kodiak and lower Cook Inlet
15 areas from being able to meaningfully comment on this plan when
16 it comes out, basically in July which is heavy duty seining
17 season.

18 MR. PENNOYER: Do we have a motion of any kind to
19 amend our present schedule which I understand is still in
20 March/April mail-out of some kind. I'm not exactly sure of the
21 format of it yet, asking people to comment on the alternatives
22 (indiscernible - cough) not making clear to them that this is
23 two-stage process and they will be doing a final plan later and
24 then putting out the final plan as soon as we can get back the
25 comments and incorporate them and meet and do that, recognizing
26 there could be a delay of a month or more in the final

1 restoration plan, but that's our current schedule. Is there any
2 motion to change it? Okay, then I guess we're staying with the
3 current schedule. Your arguments were persuasive.

4 I think we might as well move onto the next item on the
5 agenda then. Are we done with that one? I hope. " '93 Work
6 Plan Deferred Projects." Dr. Gibbons, do you want to take us
7 through that?

8 DR. GIBBONS: Okay, there's basically three categories
9 of deferred projects. First category is '93 draft work plan
10 projects which are four. Project 93011, the harvest guidelines
11 for river otters and Harlequin ducks; Project 93016, the Chenega
12 chinook and coho project; 93024, the Coghill Lake Fertilization
13 Project and 93030, the Red Lake Project. Those were deferred, if
14 you'll look at -- there's a summary recommendation matrices
15 that's in your package and all the actions taken at the late
16 Trustee Council are in here and if you'll -- it identifies also
17 the ones that were deferred.

18 MR. PENNOYER: Where are you at, Dave?

19 MR. GIBBONS: And the first project that was deferred
20 is 93011, develop harvest guidelines to aid restoration of river
21 otters and Harlequin Ducks.

22 MR. PENNOYER: That was \$11,000.00?

23 DR. GIBBONS: Yes.

24 MR. PENNOYER: Would you refresh our memory as to why
25 we deferred that one? I know we talked about it for a
26 considerable period of time.

1 MR. COLE: Well, Mr. Chairman, I have a recollection
2 of this one and my recollection is that this was the sort of
3 thing that Commissioner Rosier's group out of the...

4 MR. PENNOYER: That's correct.

5 MR. COLE: ...funds which it will receive as part of
6 these projects could find a way to prepare these guidelines
7 subject to -- without having a specific \$11,000.00 appropriation.

8 MR. PENNOYER: Is there a motion to do anything with
9 this project?

10 UNIDENTIFIED VOICE: Move adoption.

11 MR. PENNOYER: Hearing no second, shall we go on to
12 93016? Chenega chinook and coho salmon release program which is
13 awaiting NEPA -- what was the total cost of 93016?

14 DR. GIBBONS: The total cost is 50,900.

15 MR. PENNOYER: This is recommended to increase budget
16 to 59 to cover hatchery costs. That's the total cost of the
17 program?

18 DR. GIBBONS: That's correct. It was -- in the draft
19 restoration plan, it was 25.9.

20 MR. PENNOYER: Oh, increase to. Thank you. Have the
21 NEPA documents been completed on this project?

22 MR. ROSIER: No, I don't believe -- Mr. Chairman, I
23 don't believe the NEPA documents are completed on this? Correct?

24 DR. MONTAGUE: Mr. Chairman, that's correct on Project
25 16, 24 and 30. 24 and 30, the documents are done and being
26 reviewed by the agencies but they haven't made their

1 determinations.

2 MR. PENNOYER: What's your pleasure? Shall we defer
3 these to the March meeting or defer them to the '94 work plan at
4 this stage? Is there any relevance to doing them in March?

5 DR. MONTAGUE: Mr. Chairman, I -- both 24 and 30 could
6 well be done after March. Actually, number 30 will not really
7 require any action until about July but nonetheless couldn't be
8 deferred to 1994.

9 MR. PENNOYER: Couldn't be?

10 DR. MONTAGUE: Could not because it needs to...

11 MR. PENNOYER: Well, it could. It just couldn't be
12 done this year. I didn't mean it couldn't be deferred to '94.

13 DR. MONTAGUE: That's correct.

14 MR. PENNOYER: How do you mean that? I mean if the
15 council decides to defer it to '94, you're saying we couldn't do
16 that?

17 DR. MONTAGUE: Well, Mr. Chairman, what I was getting
18 at was that this was a project where we purchased the equipment
19 last year to prepare to do it this year.

20 MR. PENNOYER: Thank you. Good explanation. Do we
21 wish then to defer these to the March meeting?

22 MR. COLE: So moved.

23 MR. PENNOYER: Second, anybody?

24 MR. WOLFE: Second.

25 MR. PENNOYER: Anybody object to deferring these to the
26 March meeting? Thank you. Another category of deferred

1 projects was the PAG projects, I believe. Dr. Gibbons, do you
2 want to take us through that?

3 DR. GIBBONS: Okay, that's the last page and it's
4 spread on the matrices. There's five projects. The Kodiak
5 Industrial Technology Center for 100,000; the Kodiak
6 Archeological Museum Project 298-17 for 800,000; Prince William
7 Sound herring damage assessment project for 237,000, roughly 900.
8 And the Prince William Sound pink salmon coded wire tag project
9 for 773,600 and the fifth and last one is the Prince William
10 Sound chum, sockeye, coho and chinook coded wire tag project for
11 249,590.

12 MR. PENNOYER: As I recall, one of the actions taken at
13 the last meeting was to defer these and ask for comment from the
14 Restoration Team. Did the Restoration Team study these?

15 DR. GIBBONS: We tried to get to it. We had a real
16 full agenda. We got to projects number one and two only. We
17 didn't get to projects three, four and five.

18 MR. PENNOYER: What did you do with projects number one
19 and two?

20 DR. GIBBONS: Projects one and two, the Restoration
21 Team decided that their first determination was correct that we
22 did not believe that these were time critical projects and we
23 deferred them to the '94 work plan.

24 MR. COLE: Mr. Chairman.

25 MR. PENNOYER: Mr. Cole.

26 MR. COLE: I move that with respect to projects one and

1 two, we defer consideration of them until the next meeting. I
2 think Mr. Silby would like to have been here at the time we
3 address these if we do and I would like to afford him the
4 opportunity to be present and speak in behalf of one or both of
5 them.

6 MR. PENNOYER: Is that a motion?

7 MR. COLE: Yes.

8 MR. SANDOR: Second.

9 MR. PENNOYER: And it's been moved and seconded to
10 defer one and two to the March meeting without indication of
11 action but just to hear further discussion. Any objection to
12 that? Projects one and two will be deferred to the March
13 meeting. Projects three, four and five. The RT did not take
14 those up.

15 DR. GIBBONS: Mr. Chair, just one comment on the
16 project -- on the archeological museum. There are two other
17 proposals from the public for archeological museums and the
18 Restoration Team during its deliberations here last week thought
19 perhaps all of them should be considered together or you know, it
20 was a concern of ours that we were considering one and not the
21 other two. I'm not sure how to deal with it but there were three
22 ideas submitted in the project idea list.

23 MR. SANDOR: Can we do that at the March 10 meeting?

24 MR. PENNOYER: Consider all of them?

25 MR. SANDOR: Yeah.

26 MR. PENNOYER: Actually we can do anything we wanted

1 to at the March 10 meeting. The March 10 meeting now is going to
2 be a continuation of this meeting and those proposals, the other
3 two proposals, are not on any announcement. Do we have a problem
4 with that?

5 DR. GIBBONS: We don't have very much detail. We have
6 the one-page idea on those projects and that's about it. I'm not
7 sure we can gather the amount of detail that we have concerning
8 the other two that we have on the...

9 MR. COLE: Mr. Chairman.

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: Well, are the other two from Kodiak?

12 DR. GIBBONS: I do not believe so. I think one -- I'm
13 not sure of the locations, but I don't believe they're from
14 Kodiak.

15 MR. PENNOYER: Chenega and Valdez maybe?

16 MR. BRODERSEN: It's Fairbanks and where was the other
17 one?

18 MR. COLE: Seward?

19 MR. BRODERSEN: I can't remember.

20 MR. PENNOYER: Fairbanks and somewhere else.

21 MR. BRODERSEN: University of Alaska.

22 MR. COLE: Well, may I ask this. Where did the
23 University of Alaska propose putting archeological materials?
24 There at the university in Fairbanks?

25 DR. GIBBONS: I believe it was an expansion of the
26 existing facility and to put archaeological, you know, specimens.

1 MR. COLE: Is there any reason that we could not
2 separately consider the Kodiak proposal?

3 MR. PENNOYER: I know of no particular reason. Dr.
4 Gibbons simply brought up that considering that we need to take
5 into account the fact of other proposals that haven't had a
6 chance to...

7 MR. COLE: Whatever is the pleasure of the council,
8 makes no difference...

9 MR. PENNOYER: Defer projects one and two at the March
10 meeting. Do I still hear that as the preferred alternative? At
11 that time, you could review for us generally what you know about
12 the other proposals. Thank you. Three, four and five. Do I hear
13 a motion on three, four and five?

14 MR. ROSIER: Mr. Chairman.

15 MR. PENNOYER: Mr. Rosier.

16 MR. ROSIER: Yes, I'd like to speak to number three
17 there. Prince William Sound herring damage assessment. That
18 particular project is a continuation of some of the earlier work
19 that was done on herring there in Prince William Sound area.
20 This is the year in which we would actually be looking at
21 recruitment of the year class that was impacted by the oil spill.
22 We know that there's evidence of some damage to that particular
23 stock. The degree of that is unknown at the present time but we
24 feel at this time that we should be continuing the assessment of
25 the damage to that. That year class is certainly going to be one
26 that will hopefully with us and participating in the major

1 herring fisheries there in the Sound and the information to be
2 gathered from this will certainly be important to the management
3 of that resource. So, I would urge that, at least, some portion
4 of this project be approved. Looking at the budget for it, it
5 was 237,000 or 238,000. About 110,000 of that was vessel
6 charter. It's too late at this point, I think, to get ourselves
7 involved with the vessel charter. That fishery is probably only
8 a little over a month away but there is a fairly substantial
9 amount of lab work that would be associated with the samples and
10 so forth associated with the ongoing work that we will do on that
11 stock this year so I would ask for approval of number three at
12 the \$127,000.00 level.

13 MR. WOLFE: I second.

14 MR. COLE: Mr. Chairman.

15 MR. PENNOYER: Mr. Cole.

16 COURT REPORTER: May I please change tapes?

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

18 (On record: 4:20 p.m.)

19 MR. COLE: Commissioner Rosier, did the department
20 recommend this study as part of the '93 work plan?

21 MR. ROSIER: Yes, we did, Mr. Chairman.

22 MR. COLE: Did it drop out at some stage?

23 MR. ROSIER: It fell out in the early stages as I
24 recall on this and...

25 MR. COLE: As I recall, there was substantial public
26 support in the public comment for this project. Does anyone

1 else have that same recollection?

2 MR. PENNOYER: As I recall, it dropped out along the
3 way. One reason was that the chief scientist recommended it
4 could wait a year and it wasn't a mandatory project. It wasn't
5 time critical, as I recall, and that's different from the
6 presentation we were given now. I'm not sure what the difference
7 is but...

8 MR. MONTAGUE: Mr. Chairman.

9 MR. PENNOYER: Dr. Montague.

10 DR. MONTAGUE: If I can address that. The feeling was
11 that the Restoration Team, why it was dropped, was that there was
12 a comprehensive program that was closing down. And the group at
13 that time, it seemed a very reasonable decision to want to see
14 what that information was before they made any proposals for what
15 to do. The findings for that project have been in for about five
16 weeks now and it was based on those findings that we didn't have
17 back during the summer when we were doing the deliberations that
18 the department's pushing it back in.

19 MR. COLE: Question.

20 MR. PENNOYER: Mr. Cole.

21 MR. COLE: Oh, I say could we call for the question.

22 MS. BERGMANN: Mr. Chair.

23 MR. PENNOYER: Ms. Bergmann.

24 MS. BERGMANN: When this project came back up, we were
25 having a series of meetings on the 10th, 11th and 12th of January
26 with chief scientists and a number of peer reviewers to look at

1 projects that might make sense to go forward in 1994 and we asked
2 -- the Restoration Team asked the chief scientists and the peer
3 reviewers to comment specifically on this particular proposal.
4 And my impression was in listening to the peer reviewers and the
5 chief scientist was that their feeling was there was some
6 interesting things happening with herring; we certainly should
7 take note of it, but that it would not hurt at all to wait one
8 more year and see what happens this year. If the same thing
9 happens again in '93, then their recommendation would be to
10 certainly go out and do something in '94, but there was not, as I
11 recall, concurrence that we needed to do something in '93.

12 MR. PENNOYER: Would you -- Mr. Rosier, would you come
13 again on what's left in this project when you take the 100,000
14 out? I, unfortunately, don't have the project detail in front of
15 me like I did at the last meeting and the RT did a review of it
16 and I don't have any of that type detail here.

17 MR. ROSIER: Mr. Chairman, yeah, if I might.
18 Basically, as I understand the project and I don't have the
19 write-up in front of me either. Perhaps Dr. Montague does
20 but...

21 (Music Interference)

22 MR. BRODERSEN: Somebody has bent their lavalier
23 under. Whose is it?

24 UNIDENTIFIED VOICE: Charlie's.

25 MR. COLE: Excuse me.

26 MR. GIBBONS: Try Commissioner Rosier again. See if

1 you can turn him up.

2 MR. BRODERSEN: Go ahead.

3 MR. ROSIER: As I understand it though, the -- it would
4 be our intent to, in fact, do some sampling, do some stock
5 assessment work and the work-up and the analysis of that then
6 would be what we would, in fact, be paying for out of this. We
7 would in fact, donate the vessel time and the (indiscernible -
8 unclear) collection originally associated with the vessel time.

9 MR. PENNOYER: How much then is required for data work?

10 MR. ROSIER: About \$127,000.00.

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: Well, then this tab here in one of these
14 notebooks, there is this herring spawn studies tab and there are
15 in there a number of comments from the public supporting this
16 project and I feel that that's adequate support for the adoption
17 of these projects as Commissioner Rosier proposes from Mr. Weeze
18 (ph), from Timothy Terrell, from someone whose signature I can't
19 decipher. Equity Vessels, Kelp Ranch. Substantial support there
20 in the record for these studies and I think that's sufficient
21 support for me and Commissioner Rosier's remarks to proceed with
22 that this year, especially when it's a fairly low cost project.
23 So, I'm in favor of the motion.

24 MR. SANDOR: Call for the question.

25 MR. WOLFE: Mr. Chairman, I'd like to hear Dr. Gibbons'
26 recollection of how we arrived at deferring the project and if

1 it's as time critical...

2 DR. GIBBONS: (Indiscernible - unclear) job history
3 here. My understanding is that when that project first surfaced,
4 the information at that time didn't show the injury that the
5 analysis now shows. It showed incomplete or inconclusive
6 evidence towards injury of herring. The herring harvest is
7 comprised of seven to nine stocks of year classes of fish. And
8 it's very difficult sometimes to separate impacts. You'll
9 naturally have two big year classes out of nine say, and seven
10 little ones. But the recent information, I understand, that we
11 just got here I think five weeks or something to that order shows
12 that the year class of '89, if I'm correct there, is very, very
13 low. Exceptionally low. Not on the average. And that's my
14 recollection of why the Restoration Team. First, it didn't show
15 injury and now why it's surfaced again.

16 MR. PENNOYER: Any further questions for Dr. Gibbons?
17 All those in favor of this motion with aye.

18 MR. COLE: Aye.

19 MR. SANDOR: Aye.

20 MR. ROSIER: Aye.

21 MR. WOLFE: (Indiscernible).

22 MR. PENNOYER: Opposed?

23 MS. BERGMANN: Opposed.

24 MR. PENNOYER: No. Is there any way we can take a look
25 at this again? Ask the chief scientist to give us an opinion and
26 come back in the March meeting or is that too late to do it at

1 all?

2 MR. ROSIER: Mr. Chairman, I think that's the end of
3 the project year (ph).

4 MR. PENNOYER: Not to belabor something we vote on but
5 for one clarification, what will the department do with herring
6 assessment this summer? Part of your monitoring activities in
7 terms of bringing back information.

8 MR. ROSIER: Right. We will, in fact, have some level
9 of monitoring on the herring stocks. Obviously, we will be on
10 the grounds, you know, with the management of the program here
11 this year but we'll be lacking the information on the '89 year
12 class in terms of establishing the harvest guidelines.

13 DR. MONTAGUE: Mr. Chairman.

14 MR. PENNOYER: Dr. Montague.

15 DR. MONTAGUE: Relative to that, Carl, I think in
16 having talked to the Commercial Fisheries Division what they will
17 do is the catch sampling but they will not do a spawn deposition
18 analysis or a spawn deposition survey and analysis.

19 MR. PENNOYER: That's not part of your normal
20 activities (indiscernible - unclear)

21 UNIDENTIFIED VOICE: Do you want to move for
22 reconsideration?

23 MR. PENNOYER: No.

24 MR. COLE: Mr. Chairman.

25 MR. PENNOYER: Okay, let's not belabor that point
26 here. Okay. Item four and five, I guess. Mr. Cole, did you

1 have additional...

2 MR. COLE: No, I had another subject so we should
3 first do four and five.

4 MR. PENNOYER: Items four and five. The coded wire tag
5 project in the Prince William Sound chum, sockeye, coho and
6 chinook coded wire project. Do I hear a motion -- now, these
7 were not considered by the RT at all? Is there a motion to
8 adopt, defer to the '94 work plan? A motion from somebody.
9 Dr. Montague, you can't make a motion, so...

10 DR. MONTAGUE: Just a clarification.

11 MR. PENNOYER: Oh, okay.

12 DR. MONTAGUE: These projects were reviewed by the
13 Restoration Team and rejected.

14 MR. PENNOYER: Thank you.

15 MR. GIBBONS: We did not get a chance to re-review
16 them again.

17 MR. PENNOYER: Is there a motion on these projects?

18 MR. ROSIER: Move adoption.

19 MR. SANDOR: I'll second.

20 MR. PENNOYER: Moved and seconded to adopt these two
21 projects. Is there any further discussion?

22 MR. SANDOR: What's the consequences of not doing it?

23 MR. ROSIER: Well, Mr. Chairman, I guess on these
24 certainly we've talked about the mix of hatchery stocks and the
25 mix of wild stocks and the need to, in fact, have separation of
26 those stocks in the management of our fisheries in Prince William

1 Sound. The coded wire tagging projects were keys to making that
2 stock separation in the Sound and we have determined that there
3 was some damage, certainly, to pink salmon stocks. Certainly a
4 key species as far as the economics for the region is concerned
5 and this particular project would have provided the information
6 for -- hopefully for refinement of the management program between
7 hatchery and wild stocks which are in a depressed condition there
8 in the Sound, partially related to the oil spill. And the lack
9 of this will preclude refinement of the management practices.

10 MR. SANDOR: Mr. Chairman, can someone summarize the
11 four (ph) no votes on that team? Arguments against it?

12 MR. PENNOYER: That was from, I believe, the Public
13 Advisory Group.

14 MR. SANDOR: The Public Advisory....

15 MR. PENNOYER: The Restoration Team turned both these
16 down, originally.

17 MR. SANDOR: And the rationale primarily was it wasn't
18 needed or does anyone know?

19 DR. MONTAGUE: Mr. Chairman, the arguments there, I
20 guess, perhaps someone else could summarize them better but I
21 certainly remember them. Many discussions of them was that there
22 was oil spill injury, there's potential hatchery interaction
23 injury. What's the right mix. And I guess you could think
24 the hatcheries and the department should handle some and the
25 Trustee Council could conceivably handle some of the other as
26 they were oil spill injuries but that's -- that dilemma is what

1 led to their rejection.

2 MR. PENNOYER: Are you ready for the question? All
3 those in favor of these two projects being in the '93 work plan?

4 MR. COLE: Aye.

5 MS. BERGMANN: Opposed.

6 MR. PENNOYER: Aye. Mr. Cole, did you have another
7 project you wish to....

8 MR. COLE: I have another subject, Mr. Chairman. I
9 don't see it on the agenda but Mr. Gibbons has given us a
10 memorandum dated February 5, 1993 [sic] in which he states -- or
11 "Annexed is a list of the '92 projects for which the final
12 reports will not be completed by February 29, '93. All of these
13 projects are with budget but because of delays in receiving
14 hydrocarbon analyses incorporating extensive peer review comments
15 and other unanticipated delays will require time beyond February
16 28th. Therefore, we request that the unexpended portions of
17 their '92 budgets be carried over into the new authorization
18 period so that these projects can be completed. No additional
19 expenditures for these projects are requested beyond what was
20 already approved in the '92 work plan."

21 I suppose we should act on that but before we do, I
22 counted the projects which are not completed and there are 27 of
23 them and I'm just wondering whether these -- somebody's riding
24 herd on these people, whether the delays are reasonable but one
25 of the concerns I have is if we don't get the data for one year's
26 work plan before we complete the next year's work plan, we're

1 missing in the loop a year. So, without the data for the
2 previous year, it seems to me we can't make rational decisions
3 what we should do in the ensuing year, or the future year. I may
4 be off the track on that, but that would be my thought and I just
5 think it's essential that these studies be promptly completed for
6 that reason.

7 MR. PENNOYER: Dr. Gibbons, can you answer that
8 question?

9 MR. GIBBONS: I can't fully. I'm not riding herd on
10 them. Each one of the agencies are assigned the task of, you
11 know, dealing with the projects and I know some of the time
12 frames for the final reports are extended due to some of the
13 reasoning that was in the letter but maybe some of the
14 Restoration Team members might want to comment on that.

15 DR. MONTAGUE: Mr. Chairman. I believe this represents
16 about 40 percent of the '92 projects that will be delayed and as
17 far as using the information for the '94 work plan development
18 now, we did have the symposium and all the findings were indeed
19 presented but and thus, we can use them but to have them
20 available in detailed final reports will take longer. And as you
21 can see in future schedules of work plans that we don't propose
22 that reports be finished until about June or July in future years
23 and the reason for that is without kind of a no-holds barred, pay
24 whatever it costs effort, it takes about five or six months to go
25 from a draft report to a peer review, revised, peer reviewed and
26 accepted final report. So, it just seems for the best quality

1 and most of these are close-out projects, we only have about 20
2 projects in '93 compared to about 60 or so in '92 and indeed we
3 don't intend to take along to September. We expect to finish
4 them up in March and April, some of them as late as June but for
5 the most part, we're not asking for nine month extensions on
6 them.

7 MR. COLE: Mr. Chairman.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: Well, 40 percent of last year's projects, we
10 haven't got the final reports in. That seems like a fairly
11 large number to me, number one. And number two, I wonder whether
12 these reports are really getting first-drawer priority in these
13 people's daily schedules. And I'm also wondering whether we
14 shouldn't, as part of these projects and contracts, demand an
15 earlier completion date. I mean how can we do business when 40
16 or 50 percent plus or minus of the projects are not even done
17 when we're out there making decisions and have theoretically six
18 months earlier completed the forthcoming year's work plan. I
19 mean let me just say this. I mean we take this position publicly
20 that science is driving the restoration and that's why we need
21 science so we can support the decisions for restoration. Then
22 we learn that these projects are not completed and seems to me
23 that our principal argument almost drops out.

24 MR. PENNOYER: Can we pass the intent of the Council to
25 get an update on this at the March meeting with the agencies that
26 have their projects behind reporting to us more definitively on

1 how they're monitoring that and what the intent is on getting
2 those project plans done? In the interim we approve continued
3 spending on the amounts necessary to complete the analysis
4 (indiscernible - simultaneous speech) review in March?

5 MR. COLE: One way to get the reports in is to not
6 carry over the funding. I imagine that that would provide an
7 incentive to get the reports in. That's up to the council.

8 MR. PENNOYER: Can we delay the decision on carrying
9 the funding over until the March meeting when we get the report
10 or can you tell us what the urgency is in -- Dr. Montague.

11 DR. MONTAGUE: Mr. Chairman, for almost every one of
12 our projects, we'll be laying off the people February 28th. So,
13 they won't be available to finish the work. Even though the
14 money's available to finish the work, the people will not be.

15 MR. COLE: So what's mean?

16 MR. PENNOYER: Ms. Bergmann.

17 DR. MONTAGUE: It means that we would have to take the
18 money and hire someone else to finish it.

19 MR. PENNOYER: Well, I guess I don't fully understand.
20 You mean that if the project had been completed on time, we
21 wouldn't be paying those salaries then? You have people,
22 because they don't have data yet, are sitting waiting for the
23 data?

24 DR. MONTAGUE: That's correct. They were budgeted to
25 analyze and incorporate hydrocarbon data and they didn't have the
26 hydrocarbon data, then they wouldn't be expending that staff time

1 and another factor that played into this and I don't really mean
2 to -- I don't mean to make an issue of it because the symposium
3 was absolutely key, but that was not a task that any of the
4 investigators were tasked with and it was not in anybody's
5 contract so on an already tight schedule, an additional two or
6 three weeks was more or less taken away and I think it was the
7 right thing to do.

8 MR. COLE: Mr. Chairman.

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: I'm not criticizing these people
11 necessarily. I'm simply talking about process and whether
12 somehow, we, ourselves, have been remiss in our management of
13 these projects. That's what I'm getting at. And I want to make
14 that very clear that I'm not criticizing these people. But by
15 the way, who was responsible for furnishing the hydrocarbon data?
16 As long as, you know, it's been mentioned.

17 DR. MONTAGUE: Mr. Chairman, in some cases contractors;
18 in most cases, NOAA.

19 MR. MORRIS: Mr. Chairman.

20 MR. PENNOYER: It's all (indiscernible - unclear).
21 Would you care to comment on that, Mr. Morris?

22 MR. MORRIS: Hydrocarbon data was one of the excuses
23 for a few projects that delayed them from getting their final
24 report, that's true. We didn't get final samples analyzed until,
25 perhaps, November of last year but we made a mistake in the
26 management of this -- slightly a mistake to Mr. Cole's earlier

1 question. That was when we planned these programs for final
2 reports, we wanted them due in February. We didn't say the first
3 of February or the end of February. The problem we ran into
4 later was once we get the final report in from the investigator,
5 we want to give it to the chief scientists, then we have it peer
6 reviewed, then it has to come back to somebody to make changes,
7 if it's required, to the final report before it goes on the
8 shelves at OSPIC and that's the problem, I think, mostly that
9 we're running into on these projects is allowing the people to
10 continue on with the work for the peer review process for a month
11 or two months.

12 MR. PENNOYER: Ms. Bergmann.

13 MS. BERGMANN: I would direct the Trustee Council to it
14 may be the next part of your package. That's a February 3rd memo
15 from Dave Gibbons to the Restoration Team regarding the quality
16 of final reports and this lays out the procedure as we -- the
17 Trustee Council talked about, I think it was at the last
18 meeting, that indicates that when there was concern raised about
19 the quality of final reports that there will be interim agency
20 review before the reports are reported to the chief scientists
21 for peer review and that the chief scientist will be responsible
22 for a final sign-off authority, making sure that peer reviewer
23 comments have been taken into account and the memo indicates that
24 the continuation of work in 1993 in the same subject area or any
25 other work performed by the principal investigators is contingent
26 upon satisfactory progress as determined by the chief scientist

1 toward completion of a credible final report. And it further
2 states that it's Trustee Council policy that they will take all
3 actions necessary, including discontinuation of funding and/or a
4 recommendation for removal of PIs to ensure quality final
5 reports. So, I think some of the concerns that you've raised
6 hopefully should be taken care of in this memorandum.

7 MR. COLE: Well, I -- Mr. Chairman.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: I'm not certain that they are because
10 obviously, we don't have the reports and we have the '93 work
11 plan and adopted and yet that report says these projects are
12 contingent -- the '93 work plan projects are contingent upon
13 satisfactory completion of the '92 projects but the Trustee
14 Council has never been presented with that type of information
15 so, we can make the decision whether we should discontinue some
16 of these '93 work projects, right?

17 MS. BERGMANN: Mr. Chair.

18 MR. PENNOYER: Ms. Bergmann.

19 MR. PENNOYER: That is something that I believe the
20 Restoration Team discussed at the last meeting and Dr. Gibbons
21 could probably elaborate on the process that was discussed
22 for...

23 MR. PENNOYER: Dr. Gibbons.

24 DR. GIBBONS: Well, as the memo states, satisfactory
25 progress towards as determined by the chief scientist. The
26 process of peer review and final reports and such is more lengthy

1 than we had anticipated and so, hopef--- I guess I can leave it
2 at that. That's about through peer review and then back to the
3 principal investigator and then making those changes then back to
4 the chief scientist again. It delays...

5 MR. PENNOYER: Could we leave this -- at the March
6 meeting, we'll ask for a review of where we are in these projects
7 so we have some idea of if we're talking about a week or two to
8 finish it off or six months or two years. Mr. Brodersen.

9 MR. BRODERSEN: Mr. Chairman. What was intended, I
10 think, here by what Mr. Gibbons and Ms. Bergmann were just saying
11 is that if we do not get satisfactory progress in the next couple
12 of months on these final reports, our intent is to come back to
13 you and ask you to stop projects. It's not that they would never
14 start; it's that we would ask you to stop them. I think it's a
15 pretty powerful club over folks that want to get out in the field
16 again.

17 MR. PENNOYER: And you will give us a progress report
18 on how you're doing on that process as of the March meeting and
19 then anything further you need to do after that?

20 DR. GIBBONS: At the March meeting, perhaps on the list
21 here, we can have an expected final report due date and that
22 might...

23 MR. COLE: Mr. Chairman.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: Let's talk about that a little bit. You
26 mean to say in two months, we're going to see about cancelling

1 these. One of the things that was presented to us and we
2 approved these projects, it is necessary that we approve these
3 projects so that they can make the contractual arrangements, get
4 the boats, get the -- hire the people and make all these
5 contracts and so that's no remedy two months from now after
6 they've made the contracts and financial commitments for the '93
7 work plan to say well, we'll cancel them because we have no
8 effective means of cancelling them at that time. I don't mean to
9 argue about it but I just don't accept that as a satisfactory
10 explanation that we will talk about cancelling these things two
11 or three months down the road.

12 MR. PENNOYER: Ms. Rutherford.

13 MS. RUTHERFORD: I think, Mr. Chair, what we fully
14 expect is that the threat of our capability to recommend them
15 being cancelled is enough to insure that they will respond to the
16 chief scientists and peer reviewers' concerns about the quality
17 of their reports. And I think that that's the reality of what
18 we'll see.

19 MR. PENNOYER: Could we have a progress report at the
20 March meeting as to how you're proceeding on getting a final
21 report date for these different projects so we'll have a general
22 idea at that point how far -- how bad it might be and do you need
23 a formal action by the council at this moment?

24 MR. BRODERSEN: (Inaudible negative response.)

25 MR. PENNOYER: You don't.

26 DR. MONTAGUE: Mr. Chairman. Yes, we do.

1 MR. PENNOYER: Well, I've got some shaking their heads
2 no and some yes. Approval of the carry over funds.

3 DR. MONTAGUE: Well, I mean we have to have...

4 MR. PENNOYER: Or is that already approved?

5 MR. BRODERSEN: Oh, formal action on the carry over,
6 I'm sorry.

7 UNIDENTIFIED VOICE: Carry over, sure.

8 MR. PENNOYER: Can I have a motion to carry over the
9 funds pending possible cut-off later if we don't get satisfaction
10 on the dates -- the review of the dates for completion on the
11 projects.

12 MR. COLE: Mr. Chairman.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: Carry them over until when?

15 MR. PENNOYER: Until we cancel it, I suppose. We have
16 to carry over passed March 1st, right? That's what we're talking
17 about.

18 DR. MONTAGUE: That's correct.

19 MR. PENNOYER: And then after that point if we are not
20 -- they're not living up to our policy, then in fact, we could
21 recommend they be cancelled so we don't carry them on forever.

22 MR. COLE: Being somewhat flippant, that threat has not
23 been enough to encourage them to complete their reports so far
24 but nevertheless...

25 MR. PENNOYER: I guess I agree with you. I have
26 trouble with broadswording (ph) the thing by cutting it off now

1 and later, losing something we're sorry we lost.

2 DR. MONTAGUE: Mr. Chairman, the Attorney General was
3 indeed correct. There are many cases where cutting off the
4 project after you've committed half the funds would be ridiculous
5 but there are cases where they wouldn't have committed much and
6 it would make sense. And in those cases where there have been
7 big commitments, then the threat and the realistic threat of
8 being able to change the investigator or the key people on the
9 project would catch my attention.

10 MR. PENNOYER: Do I have a motion to carry over funds
11 until such time as we decide to cancel them, pending also a
12 review at the March meeting of where we stand on these projects
13 of when we can expect a final report?

14 UNIDENTIFIED VOICE: So moved.

15 MS. BERGMANN: Second.

16 MR. PENNOYER: Is there any objection to that?

17 MS. BERGMANN: I do have one clarification, Mr. Chair.
18 I'd like to remove bird study number six from this list.

19 MR. PENNOYER: What happened to bird study number six?

20 MS. BERGMANN: It was -- it shouldn't have been on the
21 list in the first place. So, we just need to remove it.

22 MR. PENNOYER: It is completed then?

23 MS. BERGMANN: It is going through the -- no additional
24 funding is required as of March 1st.

25 MR. PENNOYER: Thank you. Any other additional
26 corrections to the list? Dr. Gibbons, you might bring those back

1 to the March meeting as well. I have one other financial
2 procedure thing that I don't know how we're going to get to it
3 but we did receive in the mail a review from our financial
4 steering committee, financial statement and I don't know --
5 what's your druthers? Put that off until the March meeting?

6 MR. COLE: Put off everything we can.

7 MR. PENNOYER: Do I hear a ...

8 MR. COLE: At this hour of the day, yes.

9 MR. PENNOYER: ... motion to put the financial
10 statement on the March meeting?

11 UNIDENTIFIED VOICE: So moved.

12 MR. PENNOYER: I know I've got some questions about
13 how it's going to operate. I'd like to review it at some point.
14 Any objection?

15 MS. BERGMANN: Mr. Chair.

16 MR. PENNOYER: Objection?

17 MS. BERGMANN: Before I vote to do that, I would like
18 to point out that on the information that discusses the
19 Restoration Team and work groups, there is a category that says
20 amount authorized. And I believe, unless I'm mistaken, that that
21 is the total amount authorized for a 12-month period which then
22 does not correspond to the expenditures during the first seven
23 months, so I would -- I would like to ask the financial committee
24 to add another column on that to show us what the seven-month
25 budget was so that we can more clearly compare that to what the
26 expenditures were and if they could do that at the next meeting,

1 I would certainly support...

2 MR. PENNOYER: (Indiscernible - unclear)

3 UNIDENTIFIED VOICE: (Indiscernible - away from mike)

4 MR. PENNOYER: Any problems, Trustee Council? Okay,
5 could we move on then? The next item is the "Operating
6 Procedures for the Public Advisory Group." Dr. Gibbons, is this
7 something we have to do here?

8 DR. GIBBONS: It's been deferred several meetings. The
9 concern is the alternate voting and -- but I also heard concern
10 here this morning that the Trustee Council expressed maybe
11 perhaps the needed direction should be placed in the operating
12 procedures and either by expanding the charter or their operating
13 procedures and then -- so I'm not sure what action the Trustee
14 Council desires to take on this.

15 MR. PENNOYER: Is there a proposal at this time to deal
16 with the alternate question? Do we need to consider that and
17 bring it back at the March meeting and make a decision at that
18 point?

19 DR. GIBBONS: If the Public Advisory Group is not going
20 to meet before the March 10th meeting, we could work with the
21 operating procedures and bring them back at the March 10th...

22 MR. PENNOYER: And if they were, they could have a
23 quorum present to take action?

24 DR. GIBBONS: We would -- yeah, we'd work with them on
25 -- telephoning them and see if a quorum would be present before
26 we call a meeting. That was kind of discussed at the last

1 meeting.

2 MR. PENNOYER: Is it acceptable to defer further
3 action on this until the March -- Commissioner Sandor.

4 MR. SANDOR: Yes, Mr. Chairman, I think that's fine but
5 there was a paper. I don't know whether this was prepared by
6 staff or not, but Public Advisory Group intent that clarifies
7 this language and I would just urge that that be considered as an
8 inclusion in that -- that came about six or eight weeks ago.

9 MR. PENNOYER: We would wish to internally review this
10 then before the March meeting?

11 MR. SANDOR: Yeah, before the March meeting.

12 MR. PENNOYER: This won't be public distribution; this
13 will be something we will internally review?

14 MR. SANDOR: Well, I think what it simply does is
15 explain the -- clarifies the Public Advisory Group's role in
16 advisory activities and deal with this question that was raised
17 this morning on the Public Advisory Group having meetings and
18 seemed to me to clarify this. I don't know who prepared it. It
19 looks like it was done by staff but it seemed logical to me.

20 MR. COLE: Seems more confusing than it is clarifying.

21 MR. SANDOR: Well, what it says is that Public Advisory
22 Group will not be soliciting public comments unless the Trustee
23 Council approves the action.

24 MR. PENNOYER: I think this is the type of guidance
25 that the Public Advisory Group is looking for. I'm a little
26 loathe to do it without spending a little more time reading it...

1 MR. SANDOR: No, I wouldn't do that. I'm just saying
2 that I'd incorporate that...

3 MR. PENNOYER: This would be internal for our review at
4 the March 10th meeting.

5 MR. COLE: Mr. Chairman.

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: I have a lot of reservations about allowing
8 members of the Public Advisory Group to nominate alternates at
9 their meeting. My view being that these people were selected
10 because of their special abilities and qualifications and
11 experience and to allow them to delegate their responsibilities
12 to someone whom we have had no ability to evaluate their special
13 degree of expertise, if you will, it seems not consistent with
14 the theory of their selection and the composition of the Public
15 Advisory Group. So, whatever that's worth....

16 MR. PENNOYER: Mr. Cole, I think we're probably going
17 to defer action on it until March and I think several of us might
18 agree with you. There needs to be a different way of dealing
19 with alternates than that particular proposal, but it's on our
20 list.

21 MR. COLE: Thank you.

22 MR. PENNOYER: Thank you. The next item on the agenda
23 is the "Status of the '94 Work Plan Framework" and the following
24 item is the Prince William Sound Oil Spill Recovery Institute. I
25 know that Gary Thomas has tried to get on this agenda for two or
26 three meetings now and this is a group that's been created by law

1 whose goals parallel many of the things we're interested in
2 doing, so it would be nice to have Mr. Thomas to do that and I
3 may either take him right at the start of the public testimony
4 period or that would be one option of doing that. Can we get a
5 quick review on the '94 work plan framework? Dr. Montague.

6 DR. MONTAGUE: If we could have the lights off, please.
7 (Pause) As you'll remember, last year with the '93 work plan
8 back in May or June, we presented a set of assumptions to the
9 Trustee Council and we had those approved and worked our way
10 through the process and developed a Blue Book, the draft '93 work
11 plan that we feel really didn't track very well what the council
12 thought they were getting into when they approved the
13 assumptions.

14 So, for 1994, we hope to get around that by not
15 presenting the assumptions until we can get some sort of -- as
16 Brad Phillips would say, a thumbnail sketch of what it's going to
17 mean in terms of a '94 work plan if you approve these
18 assumptions. So, based upon that, at several meetings in
19 January, the Restoration Team, the chief scientist, five peer
20 reviewers that sort of had a programmatic view of things, that
21 looked at things beyond just their individual species of concern
22 and the chairs of the '9--- or of the restoration planning work
23 group came together to review what the injuries were, what the
24 status of recovery was for each injured resource or service to
25 consider what was approved in '92 and '93 and what logically that
26 might affect the approval of '94 projects and all the 460 ideas

1 that we had in our mind from the public and agency comments that
2 came in at the beginning of the '93 work plan process. And then
3 once this group finished their discussions, they passed it on to
4 the '94 work group who flushed it out and where possible,
5 incorporated the results of the symposium which is the '92
6 findings.

7 So, inside the framework that you'll be getting on
8 March 2nd, the introduction is basically a summary of what I've
9 just said. The assumptions will be presented there. We're not
10 going to get into what those assumptions are at this time and the
11 schedule. And then for each resource, each service and for
12 various support projects, we have a short statement on the state
13 of recovery, the title, a one or two-sentence description and the
14 cost. It's a working document and what I mean by that is it will
15 be the basis for you all's initial decision but it will not be a
16 document that's released to the public. And we think it's very
17 important to get some direction early on. Obviously, any kind of
18 organizational process works best when effort is not put into
19 directions that don't finally pan out for effort.

20 This meeting we've planned for March 10th, we're
21 calling it a workshop and by a workshop, we mean -- or hope to
22 mean that unlike the format we have here that we're all sitting
23 at the same table, the Restoration Team and the Trustee Council.
24 It will be a public meeting. We do not intend to have public
25 comment at that meeting. Our feeling is that we've long needed a
26 workshop with you all, an opportunity to work more closely,

1 especially at these initial stages and a little bit selfish with
2 your time on that. So, during this workshop, you'll be given this
3 framework document. You can see what the assumptions are; you
4 can see what the projects would be in it and what the total cost
5 would be if you simply approved it as it is. At that meeting,
6 based on simple titles and costs, we would hope that we could
7 delete particularly offensive projects, add any projects that
8 aren't there and most importantly, try to pin down whether we're
9 talking about a ten million dollar program or a 50 million dollar
10 program.

11 Then, from whatever the Trustee Council and the
12 Restoration Team complete during this workshop, the outcome of
13 the workshop and the changes to the framework will be the basis
14 for the '94 work plan. We hope that it will be somewhat more
15 informative than the '93. Certainly, if projects that are likely
16 -- with a smaller number of projects, projects that are likely to
17 go ahead to completion, we can devote more time into making those
18 fewer descriptions better. Also, unlike previous years, we're
19 suggesting that we not have a Trustee Council meeting
20 specifically to approve the draft, that it can be approved by
21 memorandum or simply a verbal telephone call from the
22 administrative director.

23 The public comment period, May 17th to June 30th. This
24 would be the opportunity for the public and the Public Advisory
25 Group to change projects that are in there, to add projects or to
26 delete projects. And relative to interaction with the Public

1 Advisory Group, you know, certainly perhaps we could have more in
2 the development of the '94 work plan than we currently show. But
3 our interpretation, basically, is the Public Advisory Group is
4 the public and when documents are ready to go the public, they go
5 to the Public Advisory Group and we haven't generally been giving
6 Public Advisory Group the documents that aren't intended for
7 general public distribution.

8 Okay, and then the final approval of the '94 work plan
9 would be August 10th and we would expect to have revised our
10 recommendations based upon the public comment, the Public
11 Advisory Group comment and another thing that we expect to have
12 here is the comment on the long-term restoration plan. And we
13 would feel that there shouldn't be any projects in this final
14 work plan that aren't in the draft long-term restoration plan or
15 if they are in there and have negative public comment, that they
16 not be included in '94. And we hope that each Restoration Team
17 member can go back to their council member prior to this August
18 10th meeting and basically show where there is general agreement.
19 And if that's successful, we would hope that during the meeting,
20 those projects for which there is unanimous agreement basically
21 could be passed and the discussions would focus those where there
22 are problems or contentions.

23 And the whole idea of this process is to make it
24 smoother and more efficient than in previous years and as I began
25 thinking the past few months when I've been thinking about '94
26 and looking back on '92 and '93, I recollect a childhood

1 experience that reflects on this. I grew up in Kentucky. When I
2 was 10 or 11 years old, I was walking down this dirt road and
3 it's hilly country and on each side of the road; there's brush
4 lines that keep the area from eroding and on the uphill side,
5 there was a brush line and a mule team kind of rolled over the
6 brush line and kind of flopped down into the road, pulling a plow
7 behind them. A few seconds later, this old farmer came through
8 and seeing me there, seemed to feel he had to offer an
9 explanation and he said, "That's the second time today I fell off
10 that hill. I'm not going to plow up there anymore." So, after
11 '92 and '93, I think the Restoration Team would not want to plow
12 that field anymore. That's it.

13 MR. PENNOYER: Thank you. Any questions of Dr.
14 Montague?

15 MR. COLE: How about a comment?

16 MR. PENNOYER: Any comment? Mr. Cole.

17 MR. COLE: Dr. Montague, you'll recall that the public
18 comments on the '93 work plan raised often the issue of the
19 advisability of having these projects selected essentially or
20 largely by agency personnel. And has any action been taken to
21 respond to that what might be called public concern in the '94
22 work plan?

23 DR. MONTAGUE: Okay, if I understand your question
24 correctly, it's not the question of whether work should be
25 conducted by an agency or a private firm but whether the public
26 or non-agency staff choose the projects that what appear before

1 the Trustee Council?

2 MR. COLE: Yes.

3 DR. MONTAGUE: No, we have not made any change on that
4 and obviously, the selection of projects is with you all who are
5 agency representatives.

6 MR. PENNOYER: Does that answer it?

7 MR. COLE: Well, it's an answer obviously.

8 MR. PENNOYER: I think you may hear some more about
9 that.

10 DR. GIBBONS: Mr. Chair.

11 MR. PENNOYER: Dr. Gibbons.

12 DR. GIBBONS: This process hasn't been fully flushed
13 out by the Restoration Team and we'd like to present more
14 thoughts on this to you on the March 10th meeting on how we will
15 deal with some of these items.

16 MR. PENNOYER: Any further comments before the March
17 10th meeting when we will be reviewing this plan? Okay, the next
18 item on the agenda was Prince William Sound Oil Spill Recovery
19 Institute. We're past the time we said we'd start the public
20 hearing. Gary, do you want to hold on? Perhaps, I can -- I
21 think what we'll do -- you need a few minutes to set up the
22 teleconference? I think we'll take a break, set the
23 teleconference up, come back. I'll introduce this. You'll be
24 the first one to testify if you can do it if you can do it a
25 reasonable period of time and I have information that at least
26 two teleconference locations will not be able to stay on line

1 very long so we'll need to get to them today, but I think we'll
2 do the Oil Spill Institute first and then proceed on to the rest
3 of the public testimony if that's acceptable.

4 DR. GIBBONS: Mr. Chair?

5 MR. PENNOYER: Dr. Gibbons.

6 DR. GIBBONS: One other item. Under the '93 work plan,
7 there was a Prince William Sound recreation proposal that we
8 didn't get to. Can I suggest that this be deferred
9 'til the March 10th meeting?

10 MR. PENNOYER: You may suggest that. Is there any
11 objection to deferring that to the March meeting? Mr. Cole, you
12 had a comment?

13 MR. COLE: No, I was just going to say that Mr. Thomas,
14 I think, we would afford him ample time to make his presentation.
15 even if he has to take a little recess while we wind up some of
16 the hearings on the out stations, on the teleconference.

17 MR. PENNOYER: Thank you. We'll do that. Okay, we'll
18 take a ten-minute break.

19 (Off record: 5:07 p.m.)

20 (On record: 5:18 p.m.)

21 MR. PENNOYER: Okay, I'd like to go ahead and get
22 started. This Trustee Council went all day. This is a meeting
23 of the Exxon Valdez Oil Spill Trustee Council and I have here
24 with me Charles, Cole, Attorney General of the State of Alaska;
25 John Sandor, Commissioner of the Department of Environmental
26 Conservation; Jim Wolfe who's sitting in for Mike Barton who had

1 to leave late this afternoon from the U. S. Department of
2 Agriculture, Forest Service; Pam Bergmann is sitting in for Paul
3 Gates from the Department of Interior; Carl Rosier, Commissioner
4 of the Department of Fish and Game is here; and I'm Steve
5 Pennoyer from the National Marine Fisheries Services, Department
6 of Commerce.

7 We've scheduled a public hearing for the period from
8 5:00 to 6:30. I'm sorry we got a late start. Our agenda was
9 very full and we did not get done until a little bit after 5:00
10 and then we had to set the conference up. I've been requested to
11 make a few comments. First of all, Trustee Council members,
12 please wear your microphones high on your tie so that the public
13 can hear us when we comment and it gets on the recorder.
14 Additionally, those wishing to testify would please state and
15 then spell their names for the record when they testify.

16 We're going to start tonight with Gary Thomas, Prince
17 William Sound Oil Spill Recovery Institute. Gary has been trying
18 to get on our agenda for a couple of meetings and we've been so
19 tied up he wasn't successful. We want to make sure he's got the
20 time to talk to us about this. The Oil Spill Recovery Institute,
21 as he will testify to you, was created by Congress in the Oil
22 Pollution Act of 1990 and has certain in its mandates direct ties
23 to the work that we do so it's quite appropriate that Mr. Thomas
24 be here to talk to us tonight. And immediately after that, I'm
25 going to go around the teleconference and ask anybody who has to
26 testify to do so. If they have to leave and I know there's some

1 people in the audience have requested the ability to come forward
2 early because they have appointments as well and I'll try to
3 honor those. Before we start that process, Dr. Gibbons will give
4 a brief summary of what we've done today so far for everybody's
5 edification. So, Mr. Thomas, if you could go ahead and give us
6 your review, we'd appreciate it.

7 DR. THOMAS: Oh, thank you very much. Is this working?

8 MS. EVANS: Yes.

9 DR. THOMAS: I wish to thank the Trustee Council and
10 the Restoration Team for allowing me the time and opportunity to
11 speak today. I want to point out that I've given you each a
12 handout on the Oil Spill Recovery Institute with some attached
13 correspondence which will bring you up to date on some of the
14 status of the Institute. I'm here representing the Oil Spill
15 Recovery Institute Advisory Board. I'm going to make a quick
16 review of the highlights of the legislation in OPA '90, section
17 5001. I'm going to describe the progress that we've made towards
18 establishing the Oil Spill Recovery Institute infrastructure and
19 what we've acquired as far as appropriate funds and plans for
20 future funding.

21 Okay, the Oil Spill Recovery Institute was created by
22 OPA '90 with the purpose and mission -- actually, two purposes
23 and missions. One was to conduct research in the best available
24 techniques, equipment, materials for dealing with oil spills in
25 the Arctic and sub-Arctic marine environment. And second, was to
26 complement federal, state damage assessment efforts on long-term

1 damage assessments for the Exxon Valdez oil spill. The
2 highlights of the legislation were that the board of the Oil
3 Spill Recovery Institute would be composed of a combination of
4 federal, state, public, Native, university and private, non-
5 profit research center members. The board composition is unique
6 in this respect because it involves public and Native communities
7 as voting members from the region affected by the oil spill.
8 Advisory board basically determines all the policies for
9 conducting, supporting research through contracts and grants that
10 are only distributed on a nationally competitive basis.

11 The Institute is administered by the Secretary of
12 Commerce through the Prince William Sound Science and Technology
13 Institute. Some people have thought that this makes it a NOAA
14 organization but NOAA really only has one vote on this board for
15 making decisions. The Institute is set up to acquire a data
16 base, both in library form and in geographic information form to
17 make available to the people within the region of the spill
18 affected area. Information concerning their natural resources
19 and those resources or those services that are affected by
20 changes in the natural resources. The appropriations for the
21 Institute have been two- -- there have been two appropriations
22 made. One was in 1991 -- or 1990 which was \$100,000.00 and in
23 1992, Congress appropriated \$500,000.00. To date, only
24 \$100,000.00 has reached the Institute and that was last spring
25 and with that, we set up the board and set up the scientific
26 community. Attached to this is a list of all of the members.

1 There are some people from the Restoration Team that are also
2 members of the Oil Spill Recovery Institute Board, representing
3 their particular agencies. At this point, the legislation
4 authorizes five million dollars for the first year which is 1990,
5 two million dollars for following years up to ten years which was
6 a total of 23 million over ten years. There are now -- the
7 original agreement in OPA was that the funding for this would be
8 from the TAPS fund. In contacting people with the TAPS fund last
9 week or actually it was last month, they said that the funding
10 was going to be available to fund the Oil Spill Recovery
11 Institute and -- but it would be transferred to the new oil
12 pollution liability fund back in Washington, D.C. We've
13 essentially talked to NOAA and to the new Pollution Fund Center
14 and this money will be -- there will be surplus funds available
15 for the Oil Spill Recovery Institute but they have to go through
16 a NOAA appropriation to receive them. So, at this point, sort of
17 something that Senator Stevens set up originally. He set the
18 system up so it wouldn't be competitive with existing programs
19 has really occurred. Now, the Oil Spill Recovery Institute is
20 competitive with other NOAA grants and so, what we're seeking
21 here is some support from the Oil Spill Recovery Institute.
22 There's a letter in there from Senator Stevens, saying that he
23 supports the cooperation between the trustees and the Oil Spill
24 Recovery Institute to work cooperatively on damage assessment
25 programs in the future.

26 What I would like to do is make a proposal to set up a

1 memorandum of understanding between the Oil Spill Recovery
2 Institute and the trustees and I'd like to end, sort of, saying
3 that OPA '90 points out that there was Alaska exclusion. This is
4 on the end of your document here, "Parallel to establishing the
5 Oil Spill Recovery Institute, the Oil Pollution Act of 1990 also
6 establishes an authorized funding for six regional oil research
7 centers. Alaska is specifically excluded because of the
8 authorization for the Oil Spill Recovery Institute." So, this is
9 basically the institute that was designed through the legislation
10 and approved by Congress to get in and to do some research on
11 these new technologies and answer a lot of the questions that we
12 have after the oil spill. In addition, it was to cooperate on
13 long-term damage assessment work with the trustee - -- with any
14 state or federal agencies which would qualify as trustees since
15 it was set up -- the Trustee Council was set up afterwards. So,
16 I think I'll end my presentation now and leave it to the Trustee
17 Council to consider my request of a memorandum of understanding.

18 MR. PENNOYER: Questions of Dr. Thomas? Gary, could
19 you very briefly say having reviewed our work plans how you feel
20 you would fit in with our work plan as you see our work plan and
21 the restoration plan developing? I know you've quoted the
22 legislation and what-not, but just very briefly comment on that?

23 DR. THOMAS: Well, there's two things that the Oil
24 Spill Recovery Institute Advisory Board passed. They passed two
25 resolutions. One was to carry over \$400,000.00 in funds for 1992
26 and 1993 and spend them on an educational outreach program and

1 then to spend some money on setting up and working and developing
2 a data base or some sort of library system to document
3 information. This could be as far as some sort of cooperative
4 program to help finish up some of these publications and get them
5 in the peer review literature. It could be something where we
6 hold programs within the communities affected on what the process
7 has been and what is being done and what kind of damage
8 assessment that we do see. There's a lot of damage assessment
9 work that's been done outside of the Trustee Council. There's
10 all of the private damage assessment; there's also NSF
11 involvement. We'd like to pull some of these things together and
12 probably create a more comprehensive program. The other thing is
13 the educational outreach and the oil spill institute is also
14 mandated to actually look into the human services aspect to a
15 much greater extent than Trustee Council has defined their
16 duties. And so, what it would do is create a much broader
17 approach and more of a public outreach program to get information
18 transferred within these regions or the communities in Prince
19 William Sound, Kodiak and Cook Inlet.

20 MR. PENNOYER: Do you see yourself as being connected
21 with sort of an organization of long-term and monitoring programs
22 and things like that?

23 DR. THOMAS: Certainly, I see that there's a potential
24 for the Oil Spill Recovery Institute to get in and support those
25 kinds of concepts, but you know, I am basically representing the
26 advisory board and we haven't brought that before the board and

1 the board would have to pass resolutions regarding that. The one
2 thing about the board, it did establish bylaws which establish
3 Robert Rules of Order so there's majority votes for most issues
4 and two-thirds majority -- or votes for other issues. So, it's
5 got an orderly fashion. Actually, you gave me the suggestion.

6 MR. PENNOYER: Are there further comments or questions
7 of Dr. Thomas? You may wish to remain and -- Commissioner
8 Sandor.

9 MR. SANDOR: Do you have a copy of the memorandum of
10 agreement you had asked -- you would want us to sign?

11 DR. THOMAS: I'm not asking to sign a memorandum of
12 agreement right now. I just would like maybe a person appointed
13 from either the Restoration Team or the Trustee Council that I
14 could work together with because this would have to pass between
15 the board -- advisory board and the Trustee Council, once we
16 established...

17 MR. SANDOR: You might draft one if you want one...

18 MR. PENNOYER: Would it be appropriate to consider
19 having Dr. Gibbons work with Dr. Thomas and come back, perhaps,
20 at the March meeting or the next time around with some further
21 understanding of how we might cooperate on our side, of course.
22 I recognize your board has to vote but we would probably want
23 specific tasks with some agreement of how the funds would be
24 spent if, in fact, they were obligated from the settlement. So,
25 I don't know how you'd work all that out and I'm not sure yet
26 exactly what your role -- proposed role would be. Monitoring,

1 you mentioned, and long-term monitoring seems to be part of that
2 but I don't think your group has voted on that yet, so I'm not
3 sure which comes first, chicken or egg, but...

4 DR. THOMAS: I can certainly work on an MOU and I have
5 very close contact -- we have an executive committee that has
6 limited authority to go ahead and push this. They've already
7 passed a resolution which mandates me to take a look and develop
8 cooperative agreements and memoranda of understanding with
9 entities such as yourself. So, I don't think there will be any
10 problem if you've designated that I can work with Dave Gibbons on
11 this, I'll be glad to do that.

12 MR. PENNOYER: Is that an acceptable procedure with the
13 Council? Then bring something back for us to look at.

14 DR. THOMAS: Excellent.

15 MR. PENNOYER: Thank you very much for coming up today.

16 DR. THOMAS: Thank you.

17 MR. PENNOYER: Glad you finally made it and we finally
18 found the time to let you in. Okay. Shall we continue on down
19 the list then? I believe there are -- Dr. Gibbons, do you want
20 to go through your review briefly of what we did today so far?

21 DR. GIBBONS: Okay. Briefly, the first motion passed
22 by the Trustee Council was to move ahead with the screening of
23 the administrative director applicants, both on the state and
24 federal side, to see if they all meet the evaluation criteria
25 that was specified in the job announcements. The U.S. Forest
26 Service will do the work on the federal side and the Alaska

1 Department of Fish and Game will screen applicants on the state
2 side.

3 The second motion passed was to defer further
4 discussion of the restoration organization until the March 10th
5 meeting or soon thereafter.

6 The third motion is to resist the willing seller
7 threshold criteria approved by the -- previously approved by the
8 Trustee Council and discuss at the next meeting of the Trustee
9 Council the pros and cons of a possible condemnation of lands.

10 The next motion passed, send a letter to the -- to all
11 landowners in the oil spill affected area to see if they are
12 willing to participate in the habitat protection process that was
13 laid out -- identified in the February 16 package notebook. And
14 this letter would go to all applicants, not those just identified
15 in the package.

16 They specified to continue to address the negotiation
17 options paper that was passed out today and negotiation process
18 development for the March 10th Trustee Council meeting. So, the
19 Restoration Team is to work more on those two options -- or the
20 four options of the negotiations and the negotiation process and
21 specify any further work on that.

22 They also approved to begin comprehensive data
23 collection and analysis for the oil spill-affected area and that
24 includes all lands, not just the imminently threatened lands.

25 The Trustee Council moved to keep working on a
26 restoration plan with five alternatives as was presented at the

1 Trustee Council meeting today.

2 Considering '93 projects, project 93011, the river
3 otter/Harlequin duck development of a management plan, that was
4 not recommended for inclusion in the '93 work plan. Projects
5 93016 which is the Chenega Chinook and coho project, 93024 which
6 is the Coghill Lake project and 93030 which is the Red Lake
7 restoration project, were deferred until the March 10th Trustee
8 Council meeting.

9 The Public Advisory Group projects, five total,
10 projects number one which is the fisheries technology center for
11 Kodiak and project number two which is the archeological museum,
12 were deferred until the March 10th meeting and the Restoration
13 Team was also to bring information concerning the other two
14 archeological museum projects that were submitted for inclusion
15 in the 1993 work plan. Project -- Public Advisory Group project
16 number three, the herring project, was not approved for inclusion
17 in the '93 work plan. Project number four, the coded wire pink
18 salmon project, and project number five, the coded wire
19 chum/coho/chinook project and sockeye project, were also not
20 approved for inclusion in the '93 work plan.

21 The 1992 projects that were not completed prior to the
22 February 28th date letter, the Trustee Council wants a progress
23 report on the status of those 26 projects at the March 10th
24 Trustee Council meeting and they want a detailed status of really
25 where the progress is in regards to those projects.

26 The Trustee Council approved to defer the financial

1 report discussion until the March 10th meeting of the Trustee
2 Council.

3 The Trustee Council approved to defer the operating
4 procedures of the Public Advisory Group until the March 10th
5 meeting. The Trustee Council deferred the project of Prince
6 William Sound recreation proposal until the March 10th Trustee
7 Council meeting. And just minutes ago, the Trustee Council wants
8 the administrative director to work with the acting director of
9 the Prince William Sound Oil Spill Recovery Institute to develop
10 possible cooperative agreement.

11 MR. PENNOYER: Thank you very much, Dr. Gibbons. We've
12 had a couple of requests here that both Chenega Bay and Valdez,
13 if they're on the line, may have to go off the line early because
14 of other commitments. I'd like to therefore ask those two sites
15 if there's anybody there who wishes to testify, starting with
16 Valdez. Anybody in Valdez that cares to testify tonight?
17 Already off the line. Chenega Bay? Not on line. Okay, fine. I
18 also had some requests here from the audience for people who have
19 immediate plane conflicts they've got to meet and it looks like
20 everybody in the room, practically. So, I'll start with Mr.
21 Groh.

22 MR. GROH: I'll try to be very brief.

23 MR. THOMA: Mr. Pennoyer, can you read me?

24 MR. PENNOYER: Yes, I can.

25 MR. THOMA: Mr. Pennoyer, this is Mr. Thoma in Juneau.
26 I have been here since before 5:00 and this is what this is set

1 up for is a teleconference. I'm sorry, but I've just got a few
2 comments. I have to go also.

3 MR. PENNOYER: Okay, we'll get to you after Mr. Groh
4 then.

5 MR. THOMA: Thank you, sir.

6 MR. GROH: Mr. Chairman, my name is Clifford Groh, G-r-
7 o-h. I'm a local attorney. I've practiced in Anchorage for the
8 past 40 years. In addition to being an attorney, I've engaged in
9 the subdivision development business in Anchorage since the early
10 60s and have developed a couple of subdivisions. Huntington Park
11 out by West High School and TuxSyndey (ph) Park upon the
12 hillside. My family and I own two large parcels in Prince
13 William Sound. I started in the early 80s to decide to purchase
14 property in Prince William Sound and develop it. One parcel is
15 at Ellamar, Alaska where we have a 210-acre parcel and I've
16 subdivided that into 157 lots of one acre or larger and I've been
17 selling those lots. Just to give you an indication, that's a map
18 of the subdivision and the yellow are the lots that have been
19 sold. I'm actively engaged in that and I advertise regularly in
20 the Valdez paper and in the Anchorage paper on selling lots.
21 This was a mining property. Some of the buildings from the early
22 1900s are still there. I've put in all the roads at a
23 substantial cost. I have a dock; I have two lodges operating on
24 the property. They're not my lodges. They belong to other
25 people who have purchased land from me. There will be one other
26 lodge started this year.

1 The other parcel is on LaTouche Island and it's at a
2 place called Horseshoe Bay. This is the LaTouche townsite. This
3 is Chenega over here. This is Horseshoe Bay, this round shaped
4 bay. There's a marine state park on both points of the bay. I
5 own the inside of the bay. I have subdivided that in this
6 fashion. That's the property but I have never sold any lots. In
7 other words, it's owned by the family and no lots have been sold.
8 I don't need to tell you federal gentlemen what's happened in
9 Colorado or what's happened in Arizona when later down the road,
10 you decide to try to acquire inholdings. They cost a tremendous
11 amount of money.

12 My purpose in coming before you today is to suggest to
13 you that the charts that you saw which say that habitat
14 protection is the most important item may not be as important
15 -- I mean when you're going to make that evaluation , I would
16 think that the guy who's actively developing, who is bringing in
17 hundreds of people is the guy that you ought to be dealing with
18 first and you ought to be dealing with him early. Otherwise,
19 you're going to have many, many parcels in private ownership.
20 Now, Jay Hammond once said, "The ultimate lock-up is private
21 ownership." I was on a boat in Prince William Sound one time
22 when a gentleman from the U.S. Forest Service and we passed some
23 particularly beautiful land and I said "Wouldn't it be nice if
24 people owned that." And his comment was, "Everybody owns it."
25 And I suppose that that's one of your principles. Well, if it
26 is, I urge you to act quickly because people are going to sell

1 these lots and get them into private ownership and 15 or 20 years
2 from now when you try to buy them, it's going to cost a great
3 deal more money. Since there is a marine state park around
4 Horseshoe Bay, since no lots have been sold, nobody has ever
5 approached me with saying, you know, "Would you be interested in
6 selling this? Would you be interested in having us acquire it so
7 that it doesn't get into private ownership, into the hands of 200
8 people or 159 people?" Nobody has ever approached me. I
9 understand they've done this study which I heard this morning,
10 but I urge you and I -- from my standpoint, I'm either going to
11 sell it to a cannery; I'm going to sell it to a number of private
12 owners or I'm going to do something with it. I'm not going to
13 hold it forever and I'm not sure that I'd sign an agreement that
14 will say, you know, I'll give you the right of first refusal,
15 that if I ever decide to sell it, I'd say, well, I've got a
16 potential buyer right now.

17 So, my urging you, my plea to you is let's move ahead
18 and endeavor to dissolve those places that are in private
19 ownership. I'm the only person in the Sound who's actively
20 developing, who's been approved by Housing and Urban Development,
21 who's got property reports filed, who gives a complete disclosure
22 statement to the buyers at Ellamar. There is one other private
23 developer at Irish Bay who has one half acre lots and Eyak has
24 done some private development on Hawkins Island, but we're the
25 only developers in Prince William Sound at the present time, to
26 my knowledge. Thank you.

1 MR. PENNOYER: Thank you. Questions of Mr. Groh? Thank
2 you very much, sir.

3 MR. GROH: Thank you.

4 MR. PENNOYER: We'll go to Juneau now and let Mr. Thoma
5 testify. He has an appointment to keep too.

6 MR. THOMA: Thank you, Mr. Chairman. This is Chip
7 Thoma, T-h-o-m-a from Juneau, Alaska. Number 2, Marine Way,
8 Number 204, 99801. Real brief comments. I am very encouraged by
9 the group, the public participation group's recommendation to
10 purchase 380,000 acres of land throughout the Gulf of Alaska,
11 Afognak, Prince William Sound and Kenai. I think this is
12 definitely the right course that the council should be on and to
13 consider. I have also read today, just for your information, an
14 article by John Balzar, the L.A. Times. I'm encouraging Mr.
15 Balzar if he's in the audience or anyone who -- such as the
16 Associated Press that has the ability to send stories nationwide
17 on the wire to move on this story about the Trustee Council and
18 about the inactivity that so far has characterized it. I think
19 it's an incredible story and I hope that within the next few
20 months that the Congress, the nation are aware of some of these
21 very important lands that seem to be always slipping out of our
22 grasp. I hope that the council starts moving on this.

23 I think that it's gone years and years without being
24 properly addressed and again, I think this crazy unanimity thing
25 that you folks have as far decision making has got to be changed
26 and my last comment is just a very slight criticism of Mr.

1 Williams -- Mr. Lew Williams. I know he can't take too much
2 criticism but Mr. Williams' comment that we should again
3 investigate land trades and I just don't think that there are
4 any trades available. The Native Claims Settlement Act has pretty
5 well determined what the entire course of land ownership patterns
6 and the trading feasibility of lands are in this area. Those are
7 my comments. I encourage us to do habitat acquisition. I would
8 love to see 80 percent of the remaining monies which I understand
9 are less than 600 million that those -- at least 80 percent of
10 those monies go into habitat acquisition. I think that's the
11 proper course and I'll end my testimony there, Mr. Chairman.

12 MR. PENNOYER: Thank you, Mr. Thoma. Questions from
13 the Trustee Council? Thank you very much. We'll move back to
14 Anchorage now and you sir, and then...

15 MR. EALUSKA: Thank you, Mr. Chairman. My name is
16 Ralph Ealuska. That's E-a-l-u-s-k-a. I'm here as the vice
17 president of Seal Bay Timber Company and the president of the
18 Akhiok/Kaguyak. And in your package, that's referred to as the
19 Alitak Bay property. It's a lost opportunity -- what you refer
20 to as lot opportunity and imminent threat up here at Seal Bay.
21 I just want to first comment that we first wrote to the --
22 responded to your request -- comment on your 1993 work plan. And
23 then as a comment back to you, we offered up these properties for
24 you to evaluate for acquisition. I want to comment that the --
25 and I think the staff has done a wonderful job in putting these
26 pieces of information together to show you. I think even if we

1 did it ourselves, we probably couldn't have done a better job.
2 There are some corrections in terms of sizes but otherwise,
3 they're all relatively accurate. And so, I encourage you to move
4 quickly with the habitat acquisition portion because the world
5 does move on. We do have harvest plans up there in Afognak.
6 There's contracts that are let and if there is definite interest
7 there to reacquire that property then we do have to get to the
8 table and see how close we could come in terms of what our
9 expected interests are at the end of the day, like Attorney
10 General Cole presented today. Like you, we are interested
11 before we get solidly embedded in the negotiations, how close we
12 are. If there are in fact -- if we do see some -- a range there
13 where we can truly get together, then it's definitely worth our
14 effort and interest to respond to the public's interest in
15 wanting and seeing these properties acquired.

16 Just one last comment. On Kodiak Island, there's been
17 expressed interest not only in Akhiok's property but in Old
18 Harbor's property and in Koniag's property there. Wildlife
19 refuge has been working, many different ways to reacquire that
20 property and I think the Trustee Council by way of its interest
21 here will show not only the Congress but the public that you
22 could really give it a kick-start in reacquiring that inholding
23 for the refuge. Thank you very much.

24 MR. PENNOYER: Questions, Trustee Council members. All
25 right, thank you, sir.

26 MR. COLE: I have a question.

1 MR. PENNOYER: Mr. Cole has a question of Mr. Ealuska.

2 MR. COLE: Sir, what is the time limit, if there is one
3 in which you would like to see the Trustee Council make a
4 decision with respect to Seal Bay?

5 MR. EALUSKA: Well, we had our first year of timber
6 operation, our first full year of timber operation in '92. We
7 cut 13 million board feet. We have submitted plans to the forest
8 practices that we'll be cutting another -- between 10 and 14
9 million board feet this year. The timber operations start up
10 this month. We probably will get to the cutting areas in Seal
11 Bay sometime in June because of the snow. We just won't get
12 there -- the loggers won't get there until June so I was pleased
13 today to see that you authorized the staff to get a letter to us
14 so we can sit down and talk.

15 MR. COLE: Thank you.

16 MR. PENNOYER: Thank you very much. Yes, sir.

17 MR. PETRICH: Hello. My name is Greg Petrich and I'm
18 the conservation chair for Kodiak Audobon.

19 MR. PENNOYER: Mr. Petrich, would you spell your name,
20 please? I haven't been asking people to do that but I am
21 requested to...

22 MR. PETRICH: It's P-e-t-r-i-c-h. Audobon is currently
23 composed of 110 members, the last time I checked, in Kodiak and
24 we're involved in a variety of community activities, stay abreast
25 of many issues and involved. First off, I just want to thank the
26 council members. This morning was really productive. And while

1 you -- if you pardon the pun, went all over the map on the issue
2 in your discussion, the final product was really good, so that's
3 the turning point on this issue, I'm really glad to see that
4 happen. The letter to the landowners. Our most pressing concern
5 is in Seal Bay and the first areas that we want to see acquired
6 are the salt water areas. One cut was made last year, 300 acres
7 that fell into an area which was designated a scenic and heritage
8 area by DNR in 1980 through a rather extensive study. As I
9 mentioned earlier, there is a cutting unit which is shown on the
10 plans as being completed and I've seen the forest practices plan
11 which says it (indiscernible - unclear) to be cut to the salt
12 water edge by December 31st of last year. That unit, in fact, is
13 still intact and the road has not been put up to it and I don't
14 know what the terms of the contract is but it falls into the
15 heritage area. It's right adjacent to a very successful resort
16 which has international customers. So, that is our first concern
17 is that area. Every area on that northeastern corner, in
18 township 21 south, range 18 west and 19 west, we would like to
19 see that land protected. Our great concern is that an equivalent
20 resource or wilderness and recreational values that were damaged
21 on Shugak Island and other nearby areas. And just simply under
22 that auspice, we would like to see it acquired.

23 The habitat review is great and we're glad to see the
24 amount of, you know, good wildlife habitat there but just for
25 that reasoning, we want to see it acquired.

26 Commissioner Rosier brought up the subject of other

1 species earlier in the day that are affected. And we've had
2 through steady timber operations, we've had a situation develop
3 where now, there's increased access to hunting habitat and this
4 combined with three years of hard winter has resulted in a
5 population decline for elk, and this is probably one of the most
6 heavily hunted species and one of the most persistent
7 recreational uses of the island. So, any winter elk range ties
8 directly into the recreational use on the island and we consider
9 that important. Some data that escaped the Restoration Team on
10 recreational use throughout Afognak are the hunting tags which
11 show the bays where game were taken and I believe that's very
12 significant information that should be reviewed and put into the
13 recreational data.

14 I see a notation in the plan which says that Seal Bay
15 was not oiled. We have quite a bit of evidence to the contrary
16 of that. We have videotapes; we have people who will attest to
17 doing voluntary clean-up work in the area and also log books of
18 the boats that were in the area doing that work at the time. I
19 was told by the Restoration Team that that's not necessarily
20 important, that we're looking at the spill-impacted area but if
21 it's necessary to see that information, we'll provide it. Just
22 need to know who to give it to. The staff has been really good
23 to work with in our contacts and just as a closing statement, I
24 want to say that the people who own the resort in Seal Bay have
25 been in the community for 30 years. They're well known, have a
26 lot of friends. I've worked hard on the Seal Bay issue and

1 publicized it pretty well in Kodiak and if you take anything away
2 from this, I just want to say that a lot of people will be happy
3 to see you acquire that area. So, I hope that's part of the
4 restoration plan is making people happy. Thank you.

5 MR. PENNOYER: Trustee Council members, question?
6 Thank you very much. Appreciate your testimony. I think we'll
7 go back out to the tele -- is there anybody else who has to
8 immediately has to testify here?

9 UNIDENTIFIED VOICE: Not immediately.

10 MR. PENNOYER: Okay, well, I think we'll go out to the
11 conference network then and see if there are other people who
12 need to testify as soon as possible. And as we go around the
13 net, I'll go around more than once. Could we only take people
14 who have to immediately testify the first time around? We go to
15 Cordova.

16 CORDOVA MODERATOR: Thank you, Mr. Chairman. We'll just
17 be taking our list in order. First is Jeff Guard.

18 MR. PENNOYER: Okay, we'll go ahead and take the first
19 one.

20 CORDOVA MODERATOR: Is there anyone else that wishes
21 to testify?

22 MR. GUARD: I'll go first.

23 CORDOVA MODERATOR: Okay.

24 MR. STEELE: Does it have a button? Yes, sirs, I'd
25 like to speak to you this evening. My name is Mark Steele and
26 I'm 30 years old. I live in Cordova. I've lived here for 28

1 years and I'm in the logging industry. I had a prepared speech
2 this evening but I'd like to pass it up and just say a few things
3 that are on my heart. The main thing being that the Exxon Valdez
4 oil monies caused an economical slump in our community and the
5 outlying areas. I would like to see the monies go toward
6 economic growth which includes development in the Sound and
7 surrounding areas. I would like to take a couple of minutes
8 shortly here and explain why I feel this way and what the logging
9 industry has done for me and my family.

10 I've fished here since 1975 and I've lived here, like I
11 said, since 1973 -- or 1963, excuse me. That's 28 years. Fishing
12 was a good industry for me until 1989 when I got married and had
13 a family and the prices of the fish and due to the Exxon Valdez
14 oil spill, prices has deteriorated and I had to -- I had to look
15 elsewhere for employment to support my family. I hired on with
16 White Stone Logging in 1989 -- 1990 and they've trained me and
17 they've given me a career and they've kept me in work full time.
18 I'm not a professional speaker here. I've got plenty of folks
19 laughing at me in the background here in my local town but I'm
20 here speaking from my heart and I'm telling like it is. Our
21 money needs to go to economic growth, not into stagnant pools,
22 not in the standing forest and I appreciate your time this
23 evening.

24 There is about 25 people here that would like to talk
25 -- excuse me like to talk and I'd like to give everybody time.
26 That's pretty much all I have to say. Like I said, I'm not a

1 professional speaker and I don't know how to (indiscernible -
2 unclear) appease to the public in general but I represent
3 probably about 75 people that work and live in this community and
4 that pay taxes and that do hard work and an honest job and we
5 know you guys are looking for all our best interest. Thank you.

6 MR. PENNOYER: Thank you. Any questions for Mr.
7 Steele? I've got to tell you the truth. I don't know how we're
8 going to get to 25 people in the next 45 minutes but we'll give
9 it a shot. Would everybody please try and keep their comments as
10 brief as possible so we can hear as many people's views as we
11 can. I'd like to go next to Fairbanks. Anybody in Fairbanks?
12 Okay, nobody in Fairbanks at this time. Anybody else in
13 Juneau? Nobody else in Juneau at this time. Homer? Anybody from
14 Homer wishing to testify?

15 HOMER MODERATOR: Yes, we have three people that
16 promise to make brief statements.

17 MR. PENNOYER: Okay, fine. Why don't you start. Take
18 one.

19 MS. McBRIDE: Good evening. I'm Diane McBride,
20 representing the Kachemak Bay Citizens Coalition and I'm speaking
21 for several of us here. In order to be considerate of your time
22 and other speakers on the teleconference. Thank you and
23 congratulations for moving forward today with the habitat
24 acquisition, especially for Kachemak Bay. That's what we're
25 specifically interested in. And our members of our coalition
26 encourage you to continue working with the imminently threatened

1 habitat areas and than you for consideration of funding for the
2 Kachemak Bay State Park buy-back. And I'll pass the microphone
3 on. Thank you again.

4 MR. PENNOYER: Thank you. Any questions for Ms.
5 McBride?

6 MR. McBRIDE; My name is Michael McBride. It's M-c-B-
7 r-i-d-e. I live in China Poot Bay. My P.O. Box in Homer is 956.
8 Ratifying the last remarks, I'd say thank you, gentlemen, for
9 your support of Kachemak Bay to date and encourage you to
10 remember that the Citizens Coalition and people in Homer, people
11 around the state and around the world that you've heard from on
12 this issue for some time now represent a tremendous upswelling of
13 concern over this and comparable issues. And there's no doubt in
14 my mind that the numbers are probably in the many thousands. I do
15 know that many thousands -- tens of thousands of dollars were
16 raised by grass root supporters of this project to help finance
17 it with mailings and postage and all the rest of it but many
18 people have said that this is one of the strongest grass roots
19 projects that ever came to Juneau. So, I'll hope you'll remember
20 all of those people who can't speak and I'm hoping to speak for
21 them. So, just finally, I'd like to add my vote or the vote of
22 many of other people to the concerns of the people in Kodiak,
23 Afognak, Seal Bay and ask you to look favorably upon their
24 request as well. Thank you.

25 MR. PENNOYER: Thank you. Any questions for Mr.
26 McBride?

1 MS. EVANS: My name is Lawrence Evans. I'm with
2 Scribney (ph) Fishery Enhancement....

3 MR. PENNOYER: We'll hold the questions until everybody
4 is done.

5 MR. EVANS: ...and we're trying to -- we're on the
6 final stages of rehabilitation of fisheries in the outer Cook
7 Inlet and I'd like to ask a question. Has this been put off?
8 Enhancement been put off until March 10th? Over.

9 MR. PENNOYER: Over. Dr. Gibbons, was there an
10 enhancement proposal for lower Cook Inlet in front of us?

11 DR. GIBBONS: No, there was not.

12 MR. PENNOYER: I'm not sure to what you're referring,
13 sir. If you could elaborate.

14 MR. EVANS: Enhancement, is it being considered now or
15 just property buy-back?

16 MR. PENNOYER: Well, we've completed the '93 work plan
17 already and in that were some various projects related to
18 enhancement. The '94 work plan is under study now and will be
19 put in front of us on March 10th. It may or may not contain
20 various enhancement projects. I have not seen the detail yet.
21 The imminent threat question was relative to property purchase.

22 MR. EVANS: Okay. I'll sign off but I'd like to put a
23 vote in for, as a non-profit corporation, in the buy-back of
24 Kachemak Bay area for the habitat and I'd like to make a entrance
25 into the March 10th for the '94 work projects. Thank you.

26 MR. PENNOYER: Thank you. Are there any questions for

1 anybody in Homer, Trustee Council? Okay, thank...

2 MR. COLE: Mr. Chairman?

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: I'd like to make a comment. I think that
5 the Trustee Council has taken all actions which it essentially
6 could conceivably take for the acquisition of Kachemak Bay State
7 Park parcels. I thank these ladies and gentlemen for their
8 support but we have completed on the Trustee Council our action
9 for the acquisition of a major parcel of the former park.

10 MR. PENNOYER: Perhaps, Mr. Cole...

11 MR. EVANS: Is there any ability to raise the fund if
12 it need be, over?

13 MR. COLE: Well, beyond what?

14 MR. EVANS: The seven million that was set forth by
15 your council, over.

16 MR. COLE: Well, you know that there generally is
17 available another 7 1/2 million from the Alyeska settlement,
18 pending perhaps ratification of that settlement by the state
19 Legislature in one fashion or another. So there are 15 million
20 dollars available, you might say, in the checkbook now. There
21 are bills in the Legislature to appropriate from the Exxon Valdez
22 criminal settlement money additional funds. I think that the
23 issue is at the moment what is the purchase price of all
24 interests in the state park. That is...

25 CORDOVA MODERATOR: Cordova on line.

26 MR. PENNOYER: I presume that part of the reference is

1 to the fact that the Trustee Council had this back in front of
2 them during the negotiation processes. We actually reviewed the
3 terms of the deal and the parcels that would be purchased but for
4 the moment, we've taken all the action we can take, so any other
5 further comments or questions?

6 MR. EVANS: To get on the March 10th, on the project
7 for the work '94, is there a specific person to contact?

8 MR. PENNOYER: You ought to contact Dr. Gibbons from
9 the Restoration Team, acting executive administrative director.

10 MR. EVANS: Thank you.

11 MR. PENNOYER: And I think we'll probably make project
12 drafts, when they are available, available to all the
13 teleconference sites anyhow, so I presume they will be out there.
14 Can we move on to Soldotna? Anybody from Soldotna that wishes to
15 testify? Okay, how about Kodiak? Kodiak, anybody there that
16 wishes to testify tonight?

17 MR. ANDERSON: Thank you, Mr. Chairman. My name is
18 Stosh Anderson. S-t-o-s-h A-n-d-e-r-s-o-n. I'd like to testify
19 with respect to habitat protection. I would prefer outright
20 purchase, but if that's not possible through economics or other
21 consideration, I would prefer a resource easement, not just
22 timber rights. The selected projects should include the entire
23 watershed protection. I don't think it makes sense to buy a
24 small parcel with upland impacts on water quality and water
25 quantity. With respect to specific parcels on your imminent
26 threatened parcel list, KAP 01, Seal Bay, I believe is an

1 excellent choice of an impacted area for selection and I hope
2 you've got rapid (ph) acquisition of such. Under your
3 opportunity parcels, KAP 08, Shugak Straits, I would encourage
4 you to set a date if this is not going to be purchased
5 immediately, so that it will not be developed and so it doesn't
6 have to be put on the imminent list before purchase is available.
7 Thank you.

8 MR. PENNOYER: Thank you. Questions from the Trustee
9 Council. Comment? Thank you very much, Mr. Anderson. I think
10 I'll move on around the teleconference network rather than
11 exhausting each location to try to give everybody a chance to
12 testify in case we have to stop. So, the next community would
13 be Seward. Anybody from Seward that wishes to testify?
14 Tatitlek? Anybody from Tatitlek that wishes to testify? Okay,
15 I'll try to come back one last time on some of these. Valdez?
16 Anybody from Valdez that wishes to testify or are they still open
17 end? Open end. Thank you..

18 MR. JANKA: This is Valdez. My name is David Janka.
19 Just a real quick support for the acquisition in habitat
20 protection that you're working on. It's very heartening to hear
21 this taking place and I hope it continues to move along very
22 quickly. In the packet there, I do note, you know, one of the
23 main parcels there you have is Two Moon Bay. I'm not so sure how
24 much can be done there since a good portion of it has been
25 completely clear cut. I know they're going to be moving to Fish
26 Bay and I can see where that one fits in but how much of this

1 money should be spent in Two Moon Bay where it's already been
2 clear cut is kind of questioning in my mind but please continue
3 along with this and I hope it moves along quickly. We see some
4 direct immediate results from it. Thank you very much.

5 MR. PENNOYER: Thank you. Didn't mean to cut you off
6 but we were told Valdez was off the line, had to leave early. Is
7 there anybody else in Valdez that wishes to testify?

8 MR. JANKA: There was the first person who was here and
9 they do have to leave. They're walking out the door now but they
10 did not want to testify. I came late. Thank you.

11 MR. PENNOYER: Okay. Thank you very much. Whittier?
12 Anybody from Whittier who wishes to testify? Okay, I'll come
13 back to Anchorage now. Is there anybody in Anchorage that
14 wishes to -- Chuck, first.

15 MR. TOTEMOFF: Thank you, Mr. Chairman. My name is
16 Chuck Totemoff, T-o-t-e-m-o-f-f, president of Chenega
17 Corporation. There are two issues I wish to discuss with the
18 Trustee Council tonight. First one being the two concepts that
19 we made a presentation of to the Trustee Council meeting on their
20 last meeting which was the Chugach Resource Management Agency
21 proposal. I do have some handouts that I've handed to Dave
22 Gibbons and I think you Trustee Council members have them. In
23 addition to that handout, I do have a summary of our efforts to
24 get the proper contracting procedures that we thought the Trustee
25 Council told us to go out and get after the last meeting. If
26 you'd take just a minute or two to read that. We have identified

1 93638 mechanism through the Bureau of Indian Affairs. They have
2 indicated a desire to sponsor these concepts. And basically what
3 I'm asking for is a status check on this -- on these efforts.

4 MR. PENNOYER: Mr. Totemoff, you made a presentation
5 here. Is this for our use then, maybe come back on March 10th
6 after we've reviewed this and discuss it with you or do you
7 intend we try and take some action here?

8 MR. TOTEMOFF: Well, at the last Trustee Council
9 meeting after I made my presentation, the Trustee Council
10 encouraged me to approach the BIA to find a proper contracting
11 method and we believe that lies within 93638. If you need more
12 time to digest it, we would be willing to wait until March 10th.

13 MR. PENNOYER: Okay. Do Trustee Council members have
14 further questions or shall we review this and take it up at the
15 March 10th meeting? Any objection to that? Okay, any further
16 questions of Mr. Totemoff at this time?

17 MR. COLE: Yes, I have a question.

18 MR. PENNOYER: Go ahead, Mr. Cole.

19 MR. COLE: Mr. Totemoff, have you contacted the state
20 and federal agencies about working with them in the performance
21 of work under any of these projects?

22 MR. TOTEMOFF: Yes, I have, Mr. Cole. We have contacted
23 some principal investigators during the last couple of weeks.
24 Most of them were not familiar with the motion that was passed
25 at the last Trustee Council meeting. It's been an education
26 effort on our part and it's been hit and miss. It's been our

1 experience. We don't know of any other way to educate the
2 agencies other than calling them on the phone and maybe we'll
3 meet them somewhere. The two proposals that you have in front of
4 you is an effort to try to do that.

5 MR. COLE: One of the things, Mr. Chairman, that
6 concerns me, this continues to drift along. I know I spoke with
7 Mr. Totemoff and his representatives in Juneau about a month ago
8 and I think we do have to take some action on the proposals at
9 the next meeting so they can decide whether to continue to pursue
10 their efforts or abandon them.

11 MR. PENNOYER: The choice seems to have been whether --
12 two questions then. One, whether contact with appropriate
13 agencies seeking to do work in Prince William Sound is occurring
14 and whether, in fact, you're being included in those
15 discussions. And second, whether a direct appropriation is
16 appropriate. Fine. Any further questions at this time?

17 MR. TOTEMOFF: Mr. Chairman, I had one more issue I
18 needed to relate to the Trustee Council.

19 MR. PENNOYER: Go ahead.

20 MR. TOTEMOFF; Rather than read my two-paged statement
21 here, I'll just read one paragraph that relates to the habitat
22 acquisition. "Chenega Corporation has expressed interest in the
23 past in having its lands considered under a habitat protection
24 framework. Chenega's interests, however, are somewhat tempered
25 by economic considerations and uncertainty inherent within the
26 system. Voluntary agreements may lack from our standpoint

1 economic incentive. On the other hand, sale of fee or
2 conservation easements may hinder our mission as a village
3 corporation. An alternative which we believe may be in the
4 public interest as well as in the interest of some landowners
5 such as Chenega Corporation, may be the creation of an Exxon
6 Valdez Oil Spill bank funded through annuities and deposits of
7 land. Agreements between the governments and the landowner which
8 provides for co-management, concise definitions of the rights and
9 responsibilities of each of the parties and the right to withdraw
10 upon notice adequate under the circumstances." Basically what we
11 would propose as soon as we receive our letter is a different
12 form of habitat acquisition. What we would like to explore with
13 whoever we are directed to talk to on the Restoration Team is an
14 annuity concept. Whatever the value was negotiated at.

15 MR. COLE: Mr. Chairman?

16 MR. PENNOYER: Do you have a -- go ahead, Mr. Cole.

17 MR. COLE: I was going to say if you could write us a
18 letter, outlining that concept to the Trustee Council, I'm sure
19 it would be disseminated and we'd be pleased to receive and
20 review it.

21 MR. TOTEMOFF: Mr. Cole, I have the letter right here.
22 I gave it to Dr. Gibbons for...

23 MR. PENNOYER: ...Dr. Gibbons and distributed to
24 council.

25 MR. TOTEMOFF: Thank you.

26 MR. PENNOYER: And we'll be prepared to comment on that

1 as well at the March meeting, if possible. Thank you. Thank you
2 very much. Let's take somebody else here then. You, sir, you've
3 been waiting...

4 MR. CASTNER: Thank you. My name is Ken Castner,
5 C-a-s-t-n-e-r. I'm a commercial fisherman from Homer. I'll just
6 touch on these points. First of all, I feel the Restoration
7 Team has a big blind spot when it comes to lower Cook Inlet.
8 There's just been no identification and this hasn't been from
9 want of trying. I delivered a paper to the restoration workshop
10 in 1990. I wrote responses to the 1992 work plan. I've delivered
11 twice public comment in Homer to your delegates that were sent
12 down there and we still don't have anything in lower Cook Inlet.
13 I think the Restoration Team also has a little bit of a blind
14 spot for public process. I was flabbergasted. I mean I wanted
15 to leap out of my chair when Dr. Montague was outlining the
16 public process for the 1994 work plan, that you guys would pass
17 it by memorandum, that you'd have a non-public meeting on March
18 10th and that the public would get a crack at it after the fact.
19 It's real obvious that we have some agendas that are going on
20 here and if you just can't get your agenda by the public, then
21 you know, you'll do it without the public or you'll tell the
22 public afterwards. I'm frankly really outraged by that, by that
23 attitude.

24 That's shown in your matrix. Who's ever heard of a
25 matrix where you have the same values on the X and Y axes? You
26 have habitat acquisition on your X axis and habitat acquisition

1 on your Y axis, boy, you're going to get some habitat
2 acquisition. You've got a matrix of 100 percent habitat to 45
3 percent habitat acquisition. You have a matrix of zero to 22
4 percent direct restoration projects. That's somebody's agenda.
5 It's not mine. It's not my comment. I've always said, do your
6 direct restoration first. Habitat acquisition in and of itself,
7 is not restoration. It's only a replacement at best or a
8 prevention of further damage. And so, habitat is not a magic
9 restoration panacea. What's to become of the lands when you
10 acquire them? I wouldn't support more park lands on the outer
11 coast. It's park lands all the way from Seward as it is now and
12 the little bit of public lands are the only places where we can
13 do our own restoration project. The imminent threats need to be
14 of resources, not only land and I really hope -- I support your
15 concept, Mr. Cole, of condemnation but not of -- not of getting
16 into a big angst (ph) scrap over lands but condemnation of a
17 timber right that was sold eight to ten years ago through net
18 operating sales. That's something that I think you could attack
19 through condemnation and be successful. That's something that
20 you could come up with a fair market price and apply across the
21 area. And with that, I'll quit. Thank you.

22 MR. SANDOR: Mr. Chairman?

23 MR. PENNOYER: I think that this Trustee Council has
24 never intended to adopt any work plan without an awful lot of
25 public comment and review and certainly, you may not have gotten
26 what you wanted in some cases, but we certainly had a lot of

1 comment on the '93 work plan. I don't think any of us felt Dr.
2 Montague had either proposed that we develop the '94 work plan
3 and approve it in a vacuum. I think he was talking about a first
4 blush shot by us but as you've heard, we're not going to get out
5 until May or June and the March 10th thing is simply a
6 preliminary review of the types of things that might be included
7 and it doesn't preclude anything as far as I'm aware of from
8 public comment. So, it is our intent, I think all along, to have
9 fully public participation in the process through the PAG and
10 also through the public-at-large, not just through the PAG, so
11 I...

12 MR. CASTNER: Prior to May 17th? The way I understood
13 it from his slide presentation is that you folks would approve
14 this by memorandum prior to May 17th.

15 MR. COLE: Mr. Chairman?

16 MR. PENNOYER: Mr. Cole.

17 MR. COLE: Mr. Castner, I assure you that there will not
18 be any secretive meetings; there will not be any adoption of
19 projects by memorandum. We will very carefully scrutinize each
20 project that is presented to us and it is my hope that we have
21 indeed even a broader process for the selection of projects in
22 the 1994 work plan than we have had in the past two years.

23 MR. PENNOYER: Dr. Montague, I feel constrained to let
24 you say something at this time. Briefly.

25 DR. MONTAGUE: Okay, Mr. Chairman, and to address one
26 of your concerns there, a huge number of project ideas that came

1 in last year and actually for three years now in three different
2 documents, we were getting a lot of responses back from people
3 and when we'd send them yet another document for their review,
4 saying in 1990, 1991 or 1992, I told you what I wanted, leave me
5 alone. So, we had all these ideas, you know, surely there will
6 be more but by far the broadest assemblage of ideas are already
7 in the system more or less, including yours.

8 MR. CASTNER: Thank you.

9 MR. PENNOYER: Thank you very much. I guess I'll go
10 back out to the conference network and try -- see if anybody else
11 needs to testify there. Chenega was not on line. Going back to
12 Cordova. Anybody else in Cordova?

13 MS. ATKINS: Yes. I'd like to ask -- my name is Marla
14 Atkins, please. And I'd like to ask you folks to get the mush out
15 of your mouth and speak up. We can't hear you out here in the
16 Bush. I'm a 34-year resident of Alaska and a 22-year resident of
17 Prince William Sound. I've lived on Knight Island. I have for
18 13 years. I enjoy my habitat and my wilderness. I like timber
19 just as much as the next person. I would like to thank this
20 council for holding this hearing and the teleconference. I am
21 giving testimony for myself as a concerned Alaskan, a few local
22 fisherman, citizens and local logging employees who came to me in
23 the past months with their concerns since our opinions seem to
24 parallel on this issue. I've already written the governor on
25 several occasions in the past months, regarding the spending of
26 these funds. The major damage took place in Prince William Sound

1 to our fisheries and its waters, not in the trees and the Sound
2 or in Kodiak Island or in Kamyshek Bay or on some lake top.
3 While I understand the desire to protect these forests and the
4 tourist routes and I have the same desire and our timber, I say
5 not at the price of our Prince William Sound fisheries and our
6 fisheries. The particular thing that is taking place here in one
7 respect are apples and oranges. A buy-back is a direct threat to
8 Alaska and the logging industry, the individual families and the
9 communities. The economics in Cordova alone is a large factor
10 to consider. In Cordova, one operator's alone payroll ranges
11 between 2 1/2 and 3 million dollars a year annually. This money
12 flows into the local economy for rent, homes, food, medical,
13 dental, clothing, pleasures, transportation, taxes, et cetera.
14 These are some of the items covered by this money that is passed
15 back and forth in the community. It has created a winter
16 economy in Cordova where none has existed since crabbing has
17 declined. Revenues from port facilities will affect
18 (indiscernible - unclear) is another contributing factor. There
19 are four operators presently operating in Prince William Sound.
20 If you take the dollars that are generated by these four people,
21 the 200 families that are involved -- there's 70 some families in
22 Seward that will be affected by this -- no small decision before
23 you to consider. I feel that there are better alternative such
24 as a land swap or other plans that can come before you people. A
25 swap between the Native landowners, the state and federal sectors
26 could save the timber and critical areas and keep the logging

1 economy also going at the same time. The buy-back will knock out
2 all logging revenues and put these families out of work. The
3 repercussions are far reaching. I think at this time that Juneau
4 should perhaps look to also redefine its timber laws to make it
5 compatible with the land, the population, the environment, the
6 watersheds, et cetera, help setting up a buffer zone along all
7 anadromous and major fish streams versus bending to the whims of
8 certain extreme groups or special interest landowners which it
9 appears to be doing in this case. Alaska and her salmon runs and
10 her industry, her citizens are in far more problems and danger
11 from these types of things than she is from the logging at this
12 time. I ask you to evaluate positions carefully, spend this
13 money more responsibly on Prince William Sound restoration or for
14 fisheries and research. I would like to see our money put into
15 the actual damaged areas of the fisheries and fishery buffer
16 zones, future research and restoration that may come into the
17 scene. Listening to the (indiscernible - unclear) last week, we
18 know that there are problem areas that we have even begun to
19 comprehend. The buy-out of large timber tracts is not going to
20 affect us. Again, I say these are apples and oranges.

21 (Indiscernible - unclear) problems to the fisheries can be
22 addressed by buying strips along the anadromous fish streams. In
23 comparison, I feel little monies have gone into research and
24 restoration. I would like to know -- I'd like to say that I feel
25 Alaska is being held hostage by certain individual landowners and
26 special interest groups and when this will end. I have a couple

1 of questions at this point. I would like to know exactly how
2 much money has been allotted at this time for the fisheries and
3 research totally because I keep getting conflicting figures in
4 Prince William Sound. I would like to know why Alaskans can't
5 vote on how this money is to be used and if this is a direct
6 moratorium, I think that is a waste of money and we should look
7 at a purchase if that is a decision that you find to be the most
8 desirable. Thank you.

9 MR. PENNOYER: Starting with your questions, I'm not
10 sure what the total price tag is on fisheries-related research
11 through both the damage assessment and restoration process to
12 date. I'm not sure who has that figure. Dr. Gibbons, perhaps
13 you could come up with something by the next meeting and we could
14 let the conference sites know?

15 DR. GIBBONS: At the teleconference site there in
16 Cordova, there is a summary matrix of the 1993 work plan and if
17 you go down through there, you can pick out the projects that
18 were approved by the Trustee Council concerning fisheries in
19 Prince William Sound but if you need any help, just give me a
20 call and I'll be glad to walk you through that matrix.

21 MR. PENNOYER: And that's '93 only? That doesn't
22 include what's been done in '92, '91...

23 DR. GIBBONS: Right.

24 MR. PENNOYER: ... '90 and '89. For your next question,
25 as far as voting goes, the Trustee Council was constituted under
26 the settlement agreement to make those decisions and we have, I

1 think, tried to broadly as possible to get public input, it's
2 true there's not been a vote although the PAG, our Public
3 Advisory Group does vote and advise us but I think we have
4 received massive public input and I think we'll continue to do
5 so. Moratorium, I don't think we've determined the proper route
6 we should take in property acquisition or dealing with the
7 restoration through the manipulation of property. And that's
8 part of the options we're looking at. That will be part of what's
9 before us at the next Trustee Council meeting, so I think you'll
10 have to bear with us. WE haven't gotten all those answers yet
11 but we appreciate the input. Are there other questions from the
12 Trustee Council members? Or statements? Thank you very much.

13 MS. ATKINS: Yes, I don't have the paperwork you
14 discussed here. It would be nice if someone could get back to us
15 exactly how much money has been given to fisheries restorations
16 in Prince William Sound. Thank you.

17 MR. PENNOYER: We will try and make that available to
18 you. And not very much on restoration yet because our
19 restoration plan is not complete but a sizeable amount of money
20 has been spent in research trying to evaluate what has happened
21 to the fisheries and what some of the options may be. WE'll get
22 that down to you. I think I'll go around through the net. I
23 know there are more people in Cordova and we'll come back to
24 Cordova and finish out our time at that location. Fairbanks;
25 there was nobody in Juneau; there was nobody -- Homer, is there
26 anybody additional in Homer? Homer, does anybody additional wish

1 to testify in Homer? Okay, thank you. apparently, they're off
2 the line. Kodiak, anybody additional in Kodiak?

3 MS. STAHL-JOHNSON: There's three of us. My name is
4 Kristin Stahl-Johnson. K-r-i-s-t-i-n S-t-a-h-l hyphen Johnson
5 and I'd like to make some real brief comments. I'm really
6 pleased to see the high ranking that Seal Bay and Afognak Island
7 got and I support immediate negotiations to acquire the Seal Bay
8 parcel on Afognak. It's a very threatened situation and as Greg
9 said earlier, there's a lot of people that are really pleased to
10 see the potential of it being purchased. We don't -- it is not
11 only an equivalent resource but it's also an area where there's
12 significant evidence -- (indiscernible - unclear) from the Exxon
13 Valdez was collected on the beaches there. I prefer outright
14 land purchase or total resource easement purchase but purchasing
15 just strict timber easements would be insufficient habitat
16 protection. Furthermore I support total watershed acquisition
17 and protection of, you know, completely -- complete definable
18 ecosystems.

19 Small, piecemeal parcel purchase does not constitute
20 habitat protection. The area is Kazakof Bay or what's locally
21 known as Danger Bay has been highly -- heavily logged in many
22 areas and it does not stand out as a complete watershed or
23 ecosystem. I do support the position of immediate acquisition of
24 imminent threatened parcels but we also need to consider the
25 designation of a time line on other parcels, specifically the
26 Shuyak Strait parcel on Afognak Island.

1 Let's not wait until that area becomes threatened by
2 logging which is definitely in the plans of the owners of the
3 parcel if they don't sell it. The Shuyak Straits parcel has been
4 rated second -- has the second highest score on your parcel
5 summary and this parcel is extremely high in intrinsic, wildlife
6 value but also it would connect the Red Peak (ph) section of the
7 wildlife refuge with the Chugach State Park area and really
8 complete out a whole habitat system that was also in an area that
9 was impacted by the Exxon Valdez. We do support use of much of
10 the monies for habitat acquisition.

11 Thank you very much. There are two other people here
12 who need to get home to their families if it's possible to take
13 their time. Thank you.

14 MR. PENNOYER: Thank you. Any questions of Ms. Stahl-
15 Johnson? Okay, could we -- let's go ahead and finish Kodiak then
16 if there are two more people to testify. Would you go ahead,
17 please?

18 MR. MULLIGAN: Yes, my name is Mike Milligan. I'll
19 spell my last name for you. M-i-l-l-i-g-a-n. I support much of
20 the other testimony that was given here from Kodiak. I want to
21 thank the council for prioritizing Seal Bay. It was in the
22 spill-affected area. I appreciate some of the comments from the
23 Alaskan woman from Cordova. We're all able to engage in this
24 debate but I don't agree with all of her views but I would like
25 to comment that Kodiak was severely affected by the oil spill.
26 We had severe loss of wildlife here due to oil impacts.

1 And I wanted to hope that the trustees would look at
2 the possibility of Paul's Bay. What makes Kodiak different from a
3 lot of other areas in Alaska is that we don't really possess a
4 major river system to the extent that Cook Inlet or some of the
5 areas in Prince William Sound do. All our rivers tend to be very
6 small, local systems with small salmon runs coming into them.
7 Paul's Bay traditionally was a starting off place for the first
8 early season runs of red salmon that occurred here in our salmon
9 fishery and I just hope that the trustees would keep that in
10 mind.

11 One closing comment that I wanted to make was about the
12 habitat protection work plan. As I looked down the analysis,
13 injured resource/service, I don't see stellar sea lions being
14 listed. We have a big problem here with stellar sea lions being
15 a threatened status and they could even go to endangered status.
16 Many of the areas that received oiling in our Archipelago are
17 also significant sea lion areas and I hope that as we work
18 through this process, we will see sea lions added to this list.
19 Thank you.

20 MR. PENNOYER: Thank you. Any questions of Mr.
21 Milligan? We'll take the last person in Kodiak, please.

22 MS. AKERS: Yes, my name is Tracy Akers. That's
23 T-r-a-c-y. Last name, Akers, A-k-e-r-s. And I'd like to -- I
24 support what everybody else here from Kodiak has said and I'd
25 also like to make a comment in regards to the woman that
26 testified from the Island that one of the reasons I support

1 habitat buy-back is by preserving wildlife habitat, you also
2 help preserve marine habitat, both of which, marine and wildlife
3 were severely affected by the Exxon Oil Spill, from Prince
4 William Sound down passed Kodiak, down onto the mainland. Much
5 was oiled. Many animals and marine mammals, birds and fish were
6 killed. And I think we need to understand that the ecosystem
7 doesn't exist in parcels. It's all inter-related and thus by
8 preserving and protecting the wildlife habitat, you also help
9 preserve marine habitat. So, I see there's a direct relationship
10 there. And that's all I have to say.

11 My other thoughts have already been stated by other
12 members here in Kodiak and the rest of Alaska and I'd also like
13 to say that I'm very pleased with the council for the priority
14 right now in habitat buy-back and I'm looking forward to talking
15 in March about the next issue concerning Alitak Bay and Red Lake
16 here in Kodiak. Thank you.

17 MR. PENNOYER: Thank you. Any questions for Ms.
18 Akers? Thank you. You wish to change the tape?

19 COURT REPORTER: (Inaudible positive response.)

20 (Off record: 6:34 p.m.)

21 (On record: 6:34 p.m.)

22 MR. PENNOYER: ...come back now to Anchorage. Is
23 there anybody further who wishes to testify in Anchorage? You,
24 sir. You've been waiting for quite a while.

25 MR. ADAMS: Yes, sir, Mr. Chairman. Thank you very
26 much. My name is Ken Adams. I'm a commercial salmon fisherman

1 from Prince William Sound. I'd like to very briefly just comment
2 here on the deferred projects and I must say I'm at a loss
3 because I had to step out at the very time when the subject was
4 being discussed by you and I learned regretfully of the failure
5 of the coded wire tag recovery program for Prince William Sound.
6 I'd just like to express thanks to those of you who supported the
7 projects and for those of you who voted in opposition, I just
8 want to say that you typify yourself as being resistant to public
9 input. Mr. Chairman, you say you received public input but
10 there's a lack of response to public input that many of us in the
11 public are seeing. I think you raised questions about the
12 effectiveness of the whole trustees' process. The Exxon Valdez
13 oil spill studies that were revealed during the symposium
14 identified fisherman on two counts as being victims of the spill,
15 economically and sociologically. We need help with this coded
16 wire tag recovery program and not to dwell on the merits of the
17 program -- you've probably been all through this -- but we feel
18 it's an essential part of managing the mixed stock fishery of
19 Prince William Sound. We fishermen, we can't afford it. Prince
20 William Sound Aquaculture Corporation can't afford it. It looks
21 like the State with its budgetary constraints is not going to
22 fund it. Salmon have been affected by the spill and fishermen
23 have been affected by the spill. You folks are the most likely
24 funding source to help us. We've suffered through two years of
25 extreme market crisis. That is in the pink salmon industry,
26 particularly in the Sound but also, also state-wide, particularly

1 in the Sound. We need help and it's deplorable the action you've
2 taken on this coded wire tag program. Thank you.

3 MR. PENNOYER: Questions of Mr. Adams? Thank you,
4 sir. That gentleman over there has been waving his hand at me
5 for quite a while and studiously ignoring him.

6 MR. BEECHER: Thank you. My name is Perry Beecher.
7 I'm an owner, operator of a logging operation and road building
8 construction down in Cordova, Alaska. I currently have 60 to 80
9 people that work for me between nine and ten months out of the
10 year. And as a Marla Atkins said down in Cordova, our payroll is
11 between 2.5 and 3 million dollars a year. Your proposal and all
12 we seen was in the paper basically would eliminate those jobs and
13 also my ability to perform as a contractor. A lot of my
14 employees are buying homes; they're renting, buying food. They
15 have medical insurance. They're very dependent on the timber.
16 We are just one of the many companies down in Prince William
17 Sound that are operating. There are about four or five operators
18 and they have about the same amount of employees and the Seward
19 Saw Mill which is also dependent on timber and those employees
20 down there too. Part of the proposals that are going on would
21 actually eliminate between 200 and 300 jobs.

22 I find it pretty upsetting that our government, our
23 state and federal government, is considering the possibility of
24 buying these jobs and actually creating another oil spill victim.
25 I think what we have here is you have an advisory group that
26 advises you of what they feel is the needs of the public but

1 basically, you have some very -- conflicts of interest on that
2 advisory group that are timber owners, radical environmentalists
3 is what I call them and basically they're advising you to hand
4 out monies to 'em and you don't have anybody on that group that
5 actually represents the person that could be affected by you
6 buying out the timber.

7 And also, I make this statement: that you've been lied
8 to. For somebody to say and I hear it all the time and I disagree
9 with it that the timber -- that clear cutting and logging is a
10 threat to the wildlife is a lie. And that's just what I've seen
11 with my own eyes, what many other people have seen with their own
12 eyes. It just doesn't happen.

13 What we're asking is that you make some openings in
14 your advisory group for people that work in the mills, people
15 that work in logging, people that work in the construction and
16 actual fishermen too, that we get on that group and we are part
17 of the process. I know we've been kind of sleeping on this and
18 we haven't come forward but we are now. And we're just slowly
19 but surely starting to organize ourselves and we definitely, in
20 all fairness, want you to consider before you buy any timber what
21 kind of an effect it will have on us and in our environment.
22 That's all I have.

23 MR. PENNOYER: Thank you very much. Questions? Trustee
24 Council?

25 MR. COLE: I have some questions.

26 MR. PENNOYER: Mr. Cole.

1 MR. COLE: Are you logging, sir, on the Eyak land?
2 MR. BEECHER: Yes, I am.
3 MR. COLE: And what happens to these logs that you log?
4 Where do they go?
5 MR. BEECHER: They are exported.
6 MR. COLE: And to where?
7 MR. BEECHER: To Japan.
8 MR. COLE: And is there any processing of these logs in
9 the United States?
10 MR. BEECHER: Well, since the Seward mill has started
11 up, there is the possibility of sending some of our low-grade
12 logs to Seward.
13 MR. COLE: And how long have you been engaged in this
14 business in the Cordova area?
15 MR. BEECHER: Four years.
16 MR. COLE: Let me say this with respect to the
17 composition of the Public Advisory Group. I can't, you know,
18 recall all the names of the people there but one, as I recall, is
19 Jim Cloud who lives here in Anchorage who, in fact, proposed, as
20 I recall, in a letter he sent to us that we not acquire any
21 habitat or any timber lands unless an equal acreage is made
22 available for logging, so I'm sort of pointing out that there are
23 those on that Public Advisory Group who are in favor of logging.
24 We have a representative of Koncor Timber there, as I recall; we
25 have Senator Eliason, a fisherman from Sitka. I don't think we
26 really stacked that Public Advisory Group with radical

1 environmentalists. Dr. French, et cetera, et cetera. And so,
2 you know, I really haven't seen a lot of what they proposed from
3 that group but I have a sense that it is a fairly balanced group
4 and that's something that we took pains to do when we selected
5 them. Anyway, for what it's worth.

6 MR. BEECHER: No, I appreciate that. I guess I have a
7 problem maybe with Koncor on there. You do plan on buying some
8 of their timber. I mean it isn't (ph) partly processed here.
9 Kachemak Bay.

10 MR. COLE: Kachemak Bay.

11 MR. BEECHER: That's right. And, you know, I do feel
12 that you do have some environmental groups on there that I
13 totally disagree with but that's my own personal feelings. But I
14 do feel you don't have like a common worker on there, just a guy
15 that's going to be directly affected by you buying out timber,
16 say, in the Cordova area or Two Moon bay or in the Seward area.
17 I think they've been ignored and I recommend -- I would like to
18 see you guys get somebody on there that actually could express
19 his interest on how it's going to affect him and the families in
20 that town. And I do apologize if I have labelled all of them as
21 radicals. Thank you.

22 MR. PENNOYER: Thank you very much. Okay, we'll go on.
23 It's getting -- it's a quarter 'til 7:00. Lady in the back.

24 MS. BENTON: For the record, my name is Kim Benton. I
25 have served as an alternate on the Public Advisory Group for the
26 forest products industry. I don't recall the name of the

1 gentleman behind me that spoke last. I am an independent public
2 relations consultant. I'm contracted with the Alaska Forest
3 Association which is a membership organization for all public
4 members. I'd be happy to give you a card at the end of this and
5 relay any information that you need. But I guess I'm going to
6 have to wait until March 10th to find out if I'll be able to keep
7 being the alternate on that.

8 I am here today on behalf of some other clients, Timber
9 Trading Company and Koncor Forest Products. I'm here today to
10 ask to please remove some lands that were identified in this book
11 from consideration. My concern is to eliminate from public
12 perception the idea that these areas that have been identified as
13 imminently threatened are available for protection or
14 acquisition. They're not. The area that I'd like to ask to be
15 removed are Timber Trading Company's timber on Patton Bay on
16 Montague Island which is identified in this book as Prince
17 William Sound area number six and timber managed by Koncor Forest
18 Products Company on Afognak Island. That's identified in this
19 book as KAP 04. I realize that a whole lot of work went into
20 this book and I'd hate to have to see any more work by the
21 habitat protection group towards areas that really aren't for
22 sale in any situation. I appreciate the opportunity to talk to
23 you.

24 MR. COLE: Mr. Chairman.

25 MR. PENNOYER: Mr. Cole.

26 MR. COLE: That's the reason I had in mind the exercise

1 the power of condemnation...

2 MS. BENTON: I know.

3 MR. COLE: ...because I thought that we might be faced
4 with a response of that nature and that in the event our
5 scientific data is strong enough in these areas, in the event
6 that this council feels that the acquisition of those particular
7 parcels is essential to the public interest that we consider
8 whether we have the power of condemnation, first, and second,
9 whether we might want to exercise it if we did. That's one of
10 the reasons that it's nice to have the data out there.

11 MS. BENTON: I realize that and I'm sure that the
12 private landowners will look forward to that argument. Thank you
13 for the opportunity.

14 MR. PENNOYER: We have to consider what we're going to
15 do here. It's ten 'til 7:00.

16 MR. COLE: Let's finish it up. Fifteen minutes. This
17 gentleman's been waiting a while.

18 MR. PENNOYER: Okay. Another ten or fifteen minutes.
19 No, I did not intend to quit yet, but we have people in Cordova
20 too, still. Let's try this gentleman here then we'll go back to
21 Cordova for while.

22 MR. SKULSTAD: Ladies and gentleman, Mr. Chairman. My
23 name is Thor Skulstad, S-k-u-l-s-t-a-d. Alaska resident for 66
24 plus years. I have la few words that I'd like to get on the
25 record. You will advise your staff to negotiate with X
26 corporations to buy 380,000 acres of private Alaska land. The

1 total of this land belongs to approximately 7,000 people and it's
2 worth two to four billion dollars. Land on the south end of
3 Afognak sold for 5,000 per acre. Using that figure, 150,000
4 acres is worth 750 million. Who in their right mind would sell
5 their interest in land worth as much as 200,000 an acre for 12
6 cents per acre? That figure comes from assuming the owners would
7 get half or 75 million of the 150 million. I'm sure you are
8 aware dissident shareholders will sue for the true value of said
9 land which could run one million each. Now, Mr. Cole, you being
10 the number one law man in this state, I assume...

11 MR. COLE: That's a matter of opinion, Mr. Skulstad.

12 MR. SKULSTAD: ...I assume you will see that the owners
13 of said lands will get true facts and will be able to vote on any
14 sale of their lands. I believe that is your obligation to these
15 Alaskan landowners. I believe there are other ways to control
16 logging on some of these lands. There are many questions to be
17 answered and I will bring them to you later. Thank you.

18 MR. PENNOYER: Questions? Mr Cole, do you have a
19 comment?

20 MR. COLE: I think that article in the newspaper with
21 due deference to the Daily News...

22 MR. SKULSTAD: They're trying to force you to buy that
23 land if they can get public land for \$900.00 an acre, good deal.

24 MR. COLE: ... but you know, those were, as I understand
25 the process, simply lands which they recommend we consider for
26 acquisition, not that they recommended that we acquire them and I

1 think that's one that we're looking at now.

2 MR. SKULSTAD: My wife and I both have interest in this
3 and personally, our share of that land, I don't -- there is no
4 price on it. We wouldn't sell it. And I think a lot of people
5 feel -- one of the things that these corporations and their
6 board, they go and make a deal and it's strictly against the
7 law. The shareholders are told nothing. That's where you come
8 in, Mr. Cole. Thank you.

9 MR. PENNOYER: Any other questions? Okay. Maybe,
10 we'll take one more here. Then, go to Cordova next.

11 MS. ANDERSON: My name is Catherine Anderson. I'm
12 going to speak on behalf of Eyak. You just heard from a
13 constituent of mine, a shareholder. I guess maybe I've not read
14 in depth enough about what's going on here because at no time has
15 our land ever been an issue. Our land is not for sale; it cannot
16 be acquired. What we did was a year ago, bring to the Trustee
17 Council a thought. The thought was a moratorium while they kind
18 of had time to put together the restoration plan, we brought in a
19 moratorium for just critical areas and the buffer zones. We were
20 looking at 100-foot buffer zones around all of the forested land.
21 I see Charlie's been calling my land a red blob most of the day
22 but I would hope that I would have an opportunity to work with
23 the restoration council and redefine some of the areas that we
24 are looking at because what was imminent threat last year is
25 standing no longer.

26 What is imminent threat this year, again, if you make

1 your decision in May, it too will not be standing. So, I don't
2 know, maybe imminent threat means something different to me than
3 to the council. Imminent threat means it's going to happen now
4 and you don't start planning your logging season in May. You
5 start it when you quit in November. So, I don't know where we
6 go from here. We stayed out of areas last year that we thought
7 were just absolutely crucial, critical because of the community.
8 We tried to be sensitive to everyone's concern. We held back at
9 great cost to our company. I don't think we're going to make
10 those same mistakes because imminent threat does not seem to have
11 much standing. I've heard people come on line from different
12 areas throughout Alaska today, thanking this council and you
13 know, I look up there and I think that they're really trying to
14 do their job.

15 God, I should sit here and defer my thoughts until
16 March 10th. I sat through a whole entire day of people deferring
17 everything. It's like if we can't make the answer; let's defer
18 it. You know, I see the federal side voting against what the
19 state wants. I wonder if in March if the state is going to vote
20 against what, you know, the feds want. I mean I can see this
21 line of division and it must make it very difficult for this
22 council to operate. I hear the public outcry to acquire habitat,
23 critical habitat, not all of it.

24 What you could have acquired last year was some nice
25 standing hemlock. We were forced to move out of some sensitive
26 areas and log the hemlock at great loss to our company. Well,

1 this year, we're looking at are up there in bright red, the
2 blobs, and the price has gone through the roof on hemlock this
3 year. You know, so it's going to make all of that area in
4 Afognak, Cook Inlet, everywhere, much more costly than it would
5 have been last year. We have no way to predict the prices for
6 next year. You know, we were trying to make a fair deal for
7 stranding, on the stump, buy it, a conservation easement,
8 somewhere where we would not harvest those trees for two life
9 cycles, but nobody was talking to us, so I guess I took light of
10 the fact that all of a sudden, you know, here's a map out with
11 our critical habitat is all red. That's not all critical
12 habitat. That is habitat that has been identified because we put
13 in for a permit to log it and that's when it became critical.

14 One thing Eyak will say is our land is never going to
15 be for sale. We may think about trades; we've yet to discuss
16 it. Nobody brought us into the loop. We've been sitting us out
17 there for over two years, waiting for someone to say something
18 and today, we hear you're going to send us a letter, you know,
19 and I want to tell Dr. Gibbons, don't send the letter. I'm not
20 going home until I've had a chance to visit with you and to the
21 rest of you, I look forward to seeing you on March 10th and I
22 would hope that we could get over this deferring. Come on, you
23 guys. If you can't make a decision, just say I can't make a
24 decision but don't defer it every time. I mean all day long.

25 I was embarrassed when Dr. Gibbons read it to the
26 people on the other line. You made two decisions all day long

1 and the rest was defer it. Now, that to me, would say that the
2 Restoration Team has not done their homework as thorough as you
3 wanted it or you didn't mandate exactly what you expected from
4 them. And for you to be able to have an alternate so you can
5 have a meeting is wonderful; but to have the oil spill advisory
6 group not be able to hold a meeting because no one shows up, then
7 maybe got the wrong people to advise them because it's holding
8 you back in your opportunity to let the public see that you
9 really are listening to the outcrys of people. And I could go on
10 but I won't. I know Cordova is waiting. My opponents in
11 Cordova. What happened to my neck? I told them I was going to
12 clear cut and hear I am. They hung me! Thank you again.

13 MR. PENNOYER: Thank you very much. We don't have a
14 lot of time left. So, let's -- I think I'll go back to Cordova
15 for a couple and then we're probably going to have to wrap it up
16 and I'll try to get back to you but Cordova, can we get -- do you
17 think you could possibly pick two or three people who could be
18 spokesmen and give a short testimony at this time?

19 MR. ANDERSON: Hello. This is Bob Anderson in Cordova.
20 I don't have any written comments but I do have a number of off-
21 the cuff comments that I'd like to make. I'm here representing
22 myself personally. Last time, I appeared before you, it was as an
23 officer in the Sharestone Corporation. I'm here as a private
24 citizen, as I said. I'm here today in that capacity. One of the
25 things I'd like to bring up and mention to you, I see you've
26 identified Eyak River as critical habitat and you've only

1 identified 100 acres there. The permit that was filed last year
2 was approximately 700 acres, encasing about 12 million board feet
3 of timber. There are other timber -- there is other timber down
4 the river that belongs to Eyak Corporation and I don't know what
5 the footage is down there but I would assume that it's all of
6 similar nature there, all up and down the whole river. I'd like
7 to have you retake a look at that Eyak River footage.

8 I'd also like to suggest to the trustees that you take
9 a look at the original proposal that I helped Sharestone put
10 together and submit to you last year. It's one that I think many
11 people in the community down here liked and it also leaves the
12 opportunity for us to still have a viable logging industry down
13 here. Just very briefly, the proposal suggested that timber up
14 and down Eyak River, all of the timber around Eyak Lake and
15 extending the buffer zones on all anadromous streams within the
16 holdings of Sharestone. And I believe we even suggested the
17 additional buffer zone in acreage -- the other acreage owned by
18 the Eyak Corporation. And we also suggested a buffer zone along
19 the salt water. I think that would leave a viable industry here
20 while the scientists were able to look at other possible hidden
21 critical habitat within the holdings of Sharestone and Eyak.
22 That's really all I had on that subject.

23 I had one other thing that I'd like to mention to
24 Charlie. I, very briefly here the first part of the meeting
25 where the Attorney General, a young logger got up to speak and he
26 was obviously very nervous and I felt that he was intimidated

1 here in the meeting. There were smirks and smiles around the
2 table. It bothered me a great deal. I'm going to bring it up at
3 the council. I'm going to bring it up to my two legislators and
4 I just like to mention every Alaskan should have the opportunity
5 to speak without -- given the opportunity. Thank you.

6 MR. PENNOYER: Thank you. Mr. Cole.

7 MR. COLE: Mr. Chairman, I think it's only fair to
8 comment somewhat about Eyak's proposal last year. As I recall,
9 that proposal was for a moratorium for a relatively short period
10 of time at the cost to the Trustee Council of some four million
11 dollars. That's my recollection. I don't purport to have a very
12 strong memory but that's my recollection which seems to me a
13 grossly excessive sum. And I, for one, could not in good
14 conscience, support an expenditure of that magnitude for what I
15 regarded as a very limited period of foregoing by Eyak of logging
16 on its land. That was one of the reasons. I don't want the
17 record to show that when we decided not to accept that proposal,
18 that it was done without careful consideration and that the cost
19 of accepting it was very large.

20 MR. PENNOYER: Further comments or questions? thank
21 you very much. Can we get somebody else from Cordova?

22 MR. MIKELIN: Yes, Mr. Chairman, my name is James
23 Mikelin. I've been a commercial fisherman in Cordova for 17
24 years. To me -- land, to me, is the most important commodity we
25 have on this earth and so, in accordance, I totally support the
26 habitat buy-back program that you people have gone ahead and set

1 up. I'm also in total agreement with the parcel ranking and
2 acreage summary that you have. I would like to stress though
3 that work on the stream restoration on oil streams inside Prince
4 William Sound needs to be done as quickly as possible.

5 I am also disappointed in the coded wire tag program
6 and the herring spawn deposition programs that were dropped from
7 the '93 plan and I wish that we had the funds to go ahead and do
8 that for '93. I also am in total support in buying all available
9 lands inside Prince William Sound on timber buy-back. It has
10 been devastated enough and no more logging in Prince William
11 Sound is what I would like to see happen. And that's all I have
12 to say and we have one more person or two more people here in
13 Cordova that would like to say a few comments.

14 MR. PENNOYER: Thank you very much. Questions or other
15 comments from the Trustee Council? Let's go ahead and finish it
16 out then. Can we get the last two people in Cordova to testify
17 next?

18 MR. GUARD: Yes, hello. My name is Jeff Guard. I'm a
19 resident of Cordova here. I'd first like to say my positive
20 statement, I'm real supportive of the council's position on
21 finally getting around to look at some resource or habitat
22 acquisition. I think we're all in agreement that's the best way
23 we can further protect any further degradation of the impacted
24 area there.

25 The other thing I want to talk about is not on a
26 positive note. I'd like to bring up the point that was mentioned

1 here before. There are some programs here we're looking at. The
2 coded wire tag projects for the salmon and there were two herring
3 projects we were trying to get you folks to look at. Both
4 species in your documentation of injury have shown to be spawning
5 impaired. They were given no consideration. I don't know what
6 kind of in-house fighting is going on up there over this. I
7 don't know whether it's -- everybody's trying to see how much
8 money they can get run through their department for studies but
9 it seems real evident to us that everything that has anything to
10 do with fish has been X'd out.

11 I mean you look at your new ranking system. The only
12 thing you have in there for fish is one column for anadromous
13 fish. You've got everything else broken out. You've got, you
14 know, birds broken out by species. You've got everything else
15 broken out by species. There's nothing in there for shellfish;
16 there's nothing in there for crabs; there's nothing in there for
17 shrimp; there's nothing in there for any of your intertidal rock
18 fish. I mean, you know, it's all lumped under anadromous fish.
19 I mean this whole thing's a joke. We've got spawning impaired
20 biomasses out there, you know, regardless of whether or not
21 they're a commercial species or not. I mean -- well, even
22 especially. If they're interacting with something else, whether
23 it's through sport, commercial, or subsistence, so that you no
24 further impair these species, you need to understand how much
25 damage has been done so you can manage them appropriately for
26 this and you guys have completely ignored this time and time

1 again. And I just want to go on the record as saying I'm real
2 disgusted about it and we're getting real tired and we think that
3 there's basically no response from the trustees on this. Thank
4 you very much.

5 MR. PENNOYER: Questions or comments from the Trustee
6 Council? It's getting late, I guess. Okay, thank you. We had
7 one more person in Cordova who was going to testify.

8 MR. BECKER: Yes, my name is Carl Becker. Box 1185.
9 I'd also like to speak on behalf of Nancy Bird who had to go to
10 another teleconference. We're both pleased that the working group
11 is moving ahead on habitat acquisition. We do feel that this is
12 the highest possible way that restoration funds can be spent. In
13 short, I'd like to speak in support of the Prince William Sound
14 Conservation Alliance' positions as stated in their letter of
15 February 15th to the Trustee Council. In view of some of the
16 limitations that were mentioned in the letter regarding ranking
17 of parcels, we ask that you be flexible in your ranking and that
18 you consider additional parcels that may not be included in the
19 public ranking summary. I ask that you seriously consider the
20 comments made by the Prince William Sound Conservation Alliance
21 regarding specific parcels in Prince William Sound.

22 My final comment is that I ask that you reconsider your
23 decisions and fully fund the coded wire tag program in Prince
24 William Sound and the herring impact studies. These are vitally
25 important to the recovery of pink salmon and to mitigating the
26 damage to the herring stocks. Finally, I'd just like to say that

1 our gathering here has been mischaracterized. No one was
2 intimidated and I hope that the Trustee Council does not go away
3 with that impression. Everybody was given an impartial
4 opportunity to speak and I'm sorry that some people have chosen
5 to mischaracterize the way we behaved here. Thank you very much.

6 MR. PENNOYER: Thank you, Mr. Becker. I hope for
7 everybody out there you don't think we're either taking you
8 lightly or not giving you a chance to speak and if in fact it
9 appears that way, please let us know that because it's not our
10 intent. Dr. Gibbons, you had a comment?

11 DR. GIBBONS: Yes, Mr. Becker, I haven't seen the copy
12 of the letter from the Prince William Sound Conservation
13 Alliance. How did -- did you send that by regular mail and
14 that's why it's not here yet or...

15 MR. BECKER: No, I didn't. That letter was sent by fax
16 yesterday evening and it may be with your restoration group. It
17 may not have gotten included in your packet. If it didn't, I'd
18 like to apologize and I hope that when you get the opportunity,
19 you can look at that letter. Thank you.

20 DR. GIBBONS: Yes, can you send that again, just
21 attention to me so I can make sure and get that?

22 MR. PENNOYER: Thank you. We're going to have to go
23 ahead and wrap this up but sir, if you would come real quick and
24 Pam, did you want to talk about something too.

25 MS. BRODIE: Please.

26 MR. PENNOYER: Yes, sir.

1 MR. PROPE: I'm going to give you my prepared
2 statement. My name is Carl Propes. I'm a private land and
3 natural resources consultant and a local businessman in
4 Anchorage. So, I'd just like to highlight a few points of it and
5 ask you to consider these things. Among my clients is CITIFOR
6 which is the new owner of the Seward Saw Mill. As you know,
7 that's just been put back in operation, creating 50 jobs there in
8 a single shift, hoping to go to a double shift as soon as
9 possible, creating another 50 jobs. As you know, from
10 economics, what the multiplier of that means as far as the Seward
11 economy is concerned. I'm here to speak against the wholesale
12 purchase of habitat under the name of restoration by the council.
13 I understand that in certain areas it's appropriate and I believe
14 it's the right of yourselves and the landowner and the timber
15 owner, if there is one, to do that but for the bulk of your
16 funds, we feel it's an inappropriate expenditure. If all of the
17 land that's been highlighted as targets were somehow to be
18 brought back and we know that won't happen because you don't
19 have enough money to do it, the Seward Saw Mill could not exist.
20 And hopefully, that's not your intent to close the mill down
21 again.

22 I was involved as the land director for Chugach back in
23 the late 70s and early 80s when the Chugach region settlement was
24 negotiated. I was instrumental in securing Patton Bay for Chugach
25 before Congress and I can tell you that the public process that
26 we went through at that time involving all of the national

1 environmental groups, the Alaskan Lands Coalition, the Cordova
2 Lands Coalition and others, we settled on Patton Bay among other
3 areas for Chugach to have for the explicit purpose of harvesting
4 the timber there. For you to contemplate purchasing it back
5 now, I believe, at a minimum, violates the intent of the Chugach
6 Land Settlement and probably violates the intent of the Native
7 Claims Settlement Act. That goes for wholesale buy-backs of
8 other timber around Prince William Sound.

9 If you look at a land status map of Prince William
10 Sound, you'll see that when the ownership was apportioned,
11 generally, it was felt that northern and western Prince William
12 Sound should remain in public ownership, generally under National
13 Forest management with the eastern sound and some of the islands
14 going into Native corporation ownership. Those decisions were
15 made a long time ago. And I think you need to keep that -- give
16 that careful consideration as you look at purchasing back Native
17 owned property. As an alternative, I believe there are many more
18 beneficial uses for the money. Reforestation comes to mind. A
19 nursery program where all of the logged areas in Prince William
20 Sound could be replanted more quickly than is now occurring
21 through natural reforestation. There would be definite public
22 benefits to that. There are other things too where through
23 using public funds, investing on private lands rather than
24 through acquiring private lands, you can improve habitat and
25 create jobs and improve local economies. It requires you to be a
26 little more creative but I think you can do that. Thanks very

1 much.

2 MR. COLE: Mr. Chairman.

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: Are you suggesting that we spend these funds
5 and monies to reforest Native lands which have been logged?

6 MR. PROPES: I'm suggesting that you take a look at
7 that. I think there are ways for public and private sectors to
8 work to get her to do that, yes.

9 MR. COLE; Why don't they reforest them themselves?

10 MR. PROPES: Because the lands reforest themselves.

11 MR. COLE: Well, then there's no reason for us to
12 spend money reforesting.

13 MR. PROPES: Well, it accelerates the process

14 MR. PENNOYER: Further questions? Thank you very much
15 for your input. Pam, do you want to try it?

16 MS. BRODIE: Thank you, Mr. Chairman. I'm Pam
17 Brodie. I will be brief. First, I'd like to say something about
18 the Public Advisory Group and that is that regarding whether
19 alternates should be allowed to vote, there are a couple of
20 members of the Public Advisory Group that routinely fail to show
21 up and these men send their designated alternates and those women
22 are, in fact, very -- they keep up very well with what's going on
23 and they're very qualified, I think, to vote so I'm not speaking
24 for the Public Advisory Group but for myself to say that I hope
25 that they will either be allowed to vote or that the Trustee
26 Council should take some action to replace members who have a

1 certain number of unexcused absences.

2 Regarding what was happening today, I'd like to thank
3 you very much for moving ahead with the restoration plan
4 alternatives. I'd also like to thank you very much for deciding
5 to contact all of the landowners and not just some of them. And
6 to move ahead with opportunity lands. I am glad that you
7 recognize the importance of moving ahead on opportunity lands,
8 not just imminent threat lands. Regarding condemnation, it is my
9 understanding that the Alaska Native Claims Settlement Act would
10 forbid acquiring lands through condemnation. I'm not sure of
11 that. I have heard that and hope that that will be investigated
12 soon. I also think that condemnation would probably drive up the
13 prices of the land and that there is a lot of good land that
14 could be acquired without condemnation.

15 Regarding the notebook that the Restoration Team put
16 together, I think that it's very helpful in terms of the data
17 that it provides and no doubt it needs some corrections but I
18 know the staff is very willing to get that information. One big
19 problem, I think, with that has been the numerical scoring system
20 which I think is very arbitrary and misleading. I'm very pleased
21 that the Trustee Council did not decide its actions based on that
22 scoring system. You've heard some criticisms of it today and I
23 have other criticisms of it but because you're in a hurry, I
24 won't go into that. I can submit that in writing. And thank you
25 very much.

26 MR. PENNOYER: Thank you, Ms. Brodie. Does anyone

1 want to ask any other questions at this time? Okay, I believe
2 we have more person In the audience. Sir, if you want to take a
3 quick crack before everybody tramples you in the rush. I'm not
4 putting any pressure. Please sit down.

5 MR. SHERMAN: Before I get started, I'd like to thank
6 you for the opportunity to express my opinions before you here
7 today. My name is Patrick Sherman. I am a logger and a 29-year
8 resident of Cordova, Alaska. I would like to address the
9 possible land acquisitions, aka timber buy-back in Prince William
10 Sound and other areas using the Exxon Valdez settlement monies.
11 I am totally opposed to a sale of this kind. A buy-out such as
12 this is tantamount to the state buying out its economic future.
13 It would not only destroy my livelihood but it would also destroy
14 the jobs of hundreds of others who work in t he timber industry.
15 I belong to a group called the Concerned Citizens Coalition. We
16 look to the state to encourage economic growth, not to shut down
17 industry. Why not propose a land swap with the critical habitat
18 areas so there can still be a sustainable economy in the small
19 percentage of land available to be developed? The arguments
20 against logging is that it has a negative impact on fisheries and
21 tourism but when you look at the statistics in southeast Alaska
22 where much more logging has taken place, the fisheries and the
23 tourism are both growing every year. In closing, I ask you to
24 consider all parts of this equation before you make a decision
25 that will affect so many people so dramatically. Please don't
26 make the logging industry in Prince William Sound a new victim of

1 the Exxon Valdez oil spill. Thank you.

2 MR. PENNOYER: Thank you. Any questions, Trustee
3 Council? Okay, thank you very much and thank you all for coming
4 and testifying and we'll probably see most of you on March 10th.

5 (Off record: 7:18 p.m.)

6 ***CONTINUED***

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

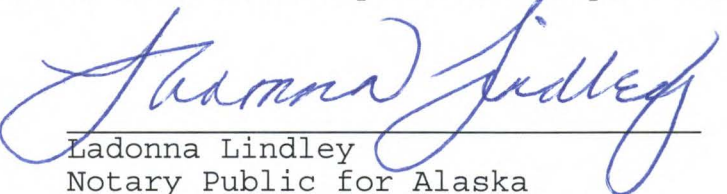
I, Ladonna Lindley, a notary public in and for the State of Alaska and a Court Certified Professional Reporter with LTD Court Reporters, do hereby certify:

That the foregoing pages numbered 03 through 319 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustee Council meeting taken electronically by me on the 16th day of February, 1993, commencing at the hour of 8:30 a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 23rd day of February, 1993.



Ladonna Lindley
Notary Public for Alaska
My commission expires: 8/1/93