TRUSTEE COUNCIL MTG. TRANSCRIPT

29 MARCH 1993

EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

January 19 and 20, 1993

VOLUME V

March 29, 1993
10:00 a.m.

TRUSTEE COUNCIL MEMBERS in attendance:

State of Alaska	**MR. CHARLES COLE** Attorney General
State of Alaska Department of Environmental Conservation	**MR. JOHN SANDOR** Commissioner
United States Department of the Interior	**MR. PAUL GATES** Regional Environmental Officer
State Department of Fish and Game	**MR. CARL ROSIER** Commissioner
United States Department of Agriculture - Forest Service	**MR. MIKE BARTON** Regional Forester
United States Department of Commerce - NOAA	**MR. STEVE PENNOYER** Director, Alaska Region

RESTORATION TEAM in attendance

DAVE GIBBONS	Interim Administrative Director, Trustees Council
PAMELA BERGMANN	Regional Environmental Assistant, United States Department of the Interior
MARK BRODERSEN	Restoration Chief, Alaska Department of Environmental Conservation
FRANK RUE	Substituting for Jerome Montague, Director, Oil Spill Impact Assessment & Restoration Division, Alaska Department of Fish and Game

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

PAMELA BRODIE

KIM BENTON (substituting for JOHN STURGEON)

OTHERS IN ATTENDANCE who testified

DR. ROBERT SPIES
DR. JOE SULLIVAN
CRAIG TILLERY, Alaska Attorney General's Office
CRAIG O'CONNOR, Regional Solicitor's Office
DEAN HUGHES
BRUCE WRIGHT
JEEP PRICE
CRAIG THOMPSON

P R O C E E D I N G S

(On Record: 10:00 a.m.)

MR. PENNOYER: I'd like to go ahead and get started if I could -- the Trustee Council meeting -- on this Seward's Day, 1993. Could we please come to order, with those in the room who want to talk, please hold the conversations in the hall or something so we can get started, thank you. I would like to reconvene the longest continuing Trustee Council meeting in history, hoping that we can finish the agenda and relinquish my chairmanship by the end of this meeting, and therefore not wishing to accept any additions to the agenda at this time. We have with us today our full Trustee Council: Michael Barton, Regional Forester, U.S. Department of Agriculture; Paul Gates, Regional Environmental Officer, Department of Interior; Carl Rosier, Commissioner of the Alaska Department of Fish and Game; Charlie Cole, Attorney General, State of Alaska; John Sandor, Commissioner of the Alaska Department of Environmental Conservation; and I'm Steve Pennoyer from the National Marine Fisheries Services, representing the Department of Commerce. Before we get started this morning, before we take on the agenda, we're going to take a couple of seconds and see if either my fellow Trustees who were in Washington, D.C., last week at the hearing by the Committee of Merchant Marine Fisheries on Exxon Valdez oil spill, on the anniversary of the spill, wish to say a couple of words about that hearing. Anybody want --

MR. COLE: Mr. Chairman, maybe you would like to say a couple of words about the hearing.

MR. PENNOYER: Well, see, I was going to give other people a chance first, really.

We did attend the hearing, which was held for about three hours on Wednesday, March 24th of last week, and it was divided into three panels: Ron Brown, Secretary of Commerce, testified; Admiral Kime (ph), Commander of the Coast Guard; and the third panel consisted of myself, assisted by Mike Barton and John Diesen (ph). John Sandor was on it, Eleanor McMullen from Port Graham, James Hermiller from Alyeska Pipeline, Rick Steiner -- of course, you all know Rick from advisory program in Cordova -- Michelle O'Leary from CDFU in Cordova, and Charles Peterson, one of our peer reviewers, from the University of North Carolina were there. And the first panel -- Mr. Brown, Secretary Brown, testified, I think for the first time in front of House Merchant Marine and Fisheries, on the role of NOAA, but also how we're approaching the spill. He testified for all three of the federal Trustees and made the announcement that of the restitution money, twenty-five million dollars of it, would go toward land acquisition. No further detail was given on that at that time, but that commitment was put out on the table. Secretary Brown also talked about the importance of the environment, and the importance of the environment to the nation's economy and well-being. Admiral Kime (ph) testified on response activities, and John may want to comment a little bit more on that in a minute, but went over what the Coast Guard did and has done since the spill in terms of preparedness. I testified basically on the process we've been engaged in here, reviewed where we were, and

talked about where we're going and the restoration plan coming out later this year. John testified to a large measure on the environmental impacts and injuries to resources from the spill, some details on that, and covered some aspects of response as well. Eleanor McMullen was eloquent in the fact that we weren't paying enough attention to subsistence, very concerned about lack of contact with folks in Port Graham, and the fact that they were so concerned about the subsistence resources and the injury to their subsistence economy. Hermiller testified about the citizen advisory groups that were formed to look at the preparedness for spill. Rick talked about problems with restoration and the need to spend more time on land acquisition and also about key concerns he had with preparedness for another spill. Michelle O'Leary was concerned about the herring were mentioned and other aspects of importance to the fishermen in Cordova and quite particularly preparedness for spill as well, and Charles Peterson talked about the injuries to the Sound being more of an ecosystem nature and you couldn't pick out the individual resources as we've attempted to do and show how many murres were killed, how many sea otters, discussing what the effect was in the ecosystem as whole, which is still somewhat of an unknown. The committee asked some questions of all the witnesses, and in particular ours were concerned about communications and how we were proceeding on the process. Clearly, everybody wants us to move faster. At this stage, there weren't any specific suggestions that I recall, but concern that we move faster and in fact the committee will hold future hearings on this

topic and wants to see what the progress has been. I would open to John or Mike if you want to add to that summary.

MR. BARTON: You did very well.

MR. PENNOYER: If you have any further comments though.

MR. SANDOR: I think the summary that the chairman is doing is excellent. I think the notable point that Secretary Brown made was that the -- the announcement that the federal agencies were designating twenty-five million dollars for habitat acquisition. I guess there was a subsequent announcement on what that might be targeted or wasn't it -- it wasn't at the hearing, of course, but later I heard that.

MR. PENNOYER: Mike?

MR. BARTON: It's targeted for in-holdings within two of the wildlife refuges, Kenai Fiords National Park and Chugach National Forest.

MR. SANDOR: Mr. Chairman, I suggest that the statements that have been prepared by various parties, at least from the Trustees, be just submitted for the record here so that that might be available. They -- the time got away from everybody, and as a consequence someone from the state pointed out that they had spent eighteen hundred dollars coming to Washington and their testimony was limited to five minutes and one or two questions. They said they are going to try to use a satellite system that might save them. Fortunately, (inaudible -- cough) travelled on senior citizen coupons (laughter) -- didn't cost that much.

MR. PENNOYER: Commissioner Sandor, I think that's an

excellent idea because time for oral testimony was limited, but all of us that made our statements for the record, and I think we'll -- if we have that package and we'll make them available to everybody to take a look at. Mr. Cole?

MR. COLE: I am troubled by the remarks of some of the people who testified about the operations of the Trustee Council, and I wonder if you would be good enough to perhaps enlighten me as to what this lady from Port Graham said about the lack of communication between the people of Lower Cook Inlet and the Trustee Council. First of all, I don't think it was quite that broad. I think she was referring very specifically to Port Graham, general to subsistence activities, but very specifically to Port Graham.

MR. COLE: Well, I was trying to broaden it slightly without specifically referring to Port Graham, but if you wish to focus on Port Graham, then let's talk about Port Graham because I didn't want to be quite that pointed.

MR. PENNOYER: Well, I wasn't being pointed, but that -- you were asking about the testimony. It was specifically by this lady about Port Graham, and she said she had not had a contact and had not been involved in the planning process, had not -- I guess we've all recognized that, and I think we've got a project addressing it, that many people in the subsistence areas still feel those resources are not available to them, and we've set projects to look at the safety for consumption, and generally I think they have received a -- the fact that they are safe to eat, but there is

still a great deal of mistrust out there as to whether that in fact is the case. We've got a project, I think for this next year, set up to do a combination testing and educational program. That doesn't speak to the fact whether a particular clam beach people like is now below a certain level that they consider appropriate, and I don't know if this hadn't made it out there -- we didn't have time to interact with the witnesses ourselves ...

MR. COLE: Let me focus just a little more then. I'm told, but I'm sure it's correct, that she said that, you know, that we've not had good lines of communication with the people of Port Graham.

MR. PENNOYER: That's correct.

MR. COLE: Okay. Now, I just don't think that's true at all, and, I mean, I have -- I'm certain -- I didn't have time to get in my own file -- communications from the people, letters from the people at Port Graham commenting on the 1993 work plan, and I am troubled about the people who make those claims to the Congress of the United States which saying that we have not been in communication with them and they haven't been able to make their points of view known to us on the Trustee Council. That's deeply troubling 'cause I think absolutely the contrary is true. I think we've been very responsive to give everyone in this entire spill-affected area the opportunity to communicate to us at these public meetings, at hearings that have been held throughout the spill-affected area, by subgroups of the Trustee Council, by telecommunication system, by public notices, by mail, and that

we've in fact received communications from residents of Port Graham, and my position is that maybe we should respond to these unwarranted, unjust, and inaccurate comments given to congressional committees on that subject. That's number one.

MR. PENNOYER: We did -- we had an opportunity at the end to talk about communications, and we pointed out the PAG, the hearings that had been held, the plans that have been mailed out, and I guess we could go back and forth on communications versus whether somebody got what they thought they wanted when they communicated, and in fact they didn't -- don't think we're communicating, and I don't know how to draw the line between those two types of end points. We can certainly write directly to this lady and see what -- talk about it with her -- but we didn't have an opportunity to go back and forth with the witnesses themselves, but we did talk about communications and we did, at the end I think, talk about the PAG group and the hearings we'd held and the plans and things we've mailed out. Some -- and the symposium. So, I think that was all mentioned in front of the committee, and beyond that, of course, this year when we get the restoration plan out and the 1994 work plan, I assume we're going to have also just a really large amount of communications and interaction, hearings, and so forth. So, I'm not sure -- do you think we ought -- we need to write a letter of some kind?

MR. COLE: I'll leave that to the good judgment of the council, but I must say, I think that the wrong impression, grossly, has been left on that subject given her comments. But,

maybe we should look at this -- over -- look at and let things go on. But, who knows? I leave it to the judgment of those who were there -- perhaps have a better sense of that than I. I'm certain they do.

MR. BARTON: Mr. Chairman, I suggest that when we have the testimony available to us, we take a look at it. It might be worthwhile to contact that particular witness and ask how we might improve communications with her, but I think it premature to do anything right now.

MR. SANDOR: Mr. Chairman, I agree that -- we could look at the testimony -- unfortunately, because of the restricted amount of time, there wasn't an opportunity to get into the record what the situation was, and it is not really known or appreciated that our Public Advisory Group includes, you know, a good cross-section of people, and that at each of our regular sessions we have a opportunity for public comment, and that, you know, what were end up fifteen or sixteen months of the Trustee Council's activities, there are ways of improving the process. But I feel an incorrect impression may have been gained by that, so I would agree with Mike Barton's suggestion that we look at the testimony when it's presented and then decide what action to take.

MR. PENNOYER: Because a number of us did, of course, in our written testimony, which was submitted, and also referred to it in our verbal presentation talked about communications, so the committee has some other record there besides the particular record of one or two of the witnesses. Any further discussion on that or

any further observations on the hearing?

MR. COLE: Can we then request the Executive Director to obtain a copy of the testimony and present to us at the next meeting relevant excerpts from her testimony on that subject so we don't let this get lost in the shuffle?

MR. PENNOYER: Mr. Gibbons? Okay?

DR. GIBBONS: Yes, Mr. Chair.

MR. PENNOYER: We've already agreed that we would circulate all the written testimony to everybody so that everybody could have a chance to take a look at it, and you highlight any areas you think are of particular concern. Any further discussion on the hearing?

MS. BERGMANN: Mr. Chairman.

MR. PENNOYER: Mr. Barton.

MR. BARTON: Yes. One thing that struck me, both at the hearing and in some other meetings back there, I don't think we've done a good enough job in identifying what we have accomplished. I think there's a misunderstanding amongst at least some folks or misperception amongst some folks regards to things like the symposium, establishment of the Public Advisory Group, the hearings that we've had around the oil spill-affected area. A lot of those activities are not well known or not clearly enough identified, I think. I suggest that we ask the Executive Director and the Restoration Team to take a look at that and make some recommendations as to how we might correct that misperception, perhaps some sort of newsletter, more active public information

program, some of that nature might take care of that.

MR. PENNOYER: Any other comments? Dr. Gibbons, you want to make a recommendation at the next meeting, then? Thank you.

Okay. We missed the snow storm back there; it was the good news. The weather improved by the time we got there.

I guess the next thing on the agenda, Dr. Gibbons -- or John, Alaska Clean Seas. Somebody want to introduce that?

MR. SANDOR: Thank you, Mr. Chairman. I've -- I'll be briefly -- summarize the issue itself. You recall at the last meeting I had passed around to the members of the Trustees the proposal by the Coast Guard and the -- the Marine Pollution Control and Salvage Administration of the Russian Federation. Let me simply say that the U.S. Coast Guard has been planning a in situ test burn of oil with the Alaska Clean Seas and the Marine Pollution Control and Salvage Administration of the Russian Federation. This test burn is similar to the failed Beaufort Sea proposal and which was not approved by the Environmental Protection Agency. And this test, if it takes place, would take place in July in Russian waters near Nakhodka and -- in situ burning of spilled oil can be important tool if a decision to burn is made quickly. It is reported that the removal rates of up to ninety percent are possible compared to recovery rates of twenty percent with conventional oil spill recovery systems. Burning may be particularly important for Alaska because in cold, shallow, northern waters dispersants are less effective and poor weather and distances make mobilization of people and equipment for mechanical

recovery more challenging. In remote coastal areas, in-situ burning may be the most feasible method for removing oil. State and federal agencies have given conditional pre-approval for in-situ burning of spilled oil in northern Alaska and substantial quantities of fireproof boom and specialized igniters are now on hand. However, agencies and industry need more information if this tool is to become a reliable part of a spill contingency plan. A test involving a discharge of one thousand barrels of North Slope-type crude oil has been proposed by the U.S. Coast Guard and Alaska Clean Seas, the oil industry oil spill cooperative for the North Slope. This will test the capability of fireproof boom to withstand heat and wave action, assess the efficiency of the burn, how much oil is actually removed, and allow government and university scientists to measure air and water pollution effects. Last year the U.S. Coast Guard proposed this test in the Beaufort Sea. Although it had light support from state agencies, the North Slope Borough and federal agencies, the EPA office did not issue the final permit. This year, the Marine Pollution Control and Salvage Administration of Russia has offered to coopt -- to co-sponsor the same test with the U.S. Coast Guard in eastern Russian waters. Although this test will be virtually the same as that planned last year for the Beaufort Sea, the more remote site has increased the cost. The cost is now estimated to be three million dollars. Industry and the federal government have raised close to two million, and by the end of March will have raised two million. The State of Alaska has been invited to join in co-sponsoring this

research project. A one million dollar contribution from the state will finance, among other activities, the environmental research program by the University of Washington and University of Alaska, which will focus mainly on air and water column pollution effects. Mr. Chairman, members of the Trustee Council, you will recall at the conclusion of our last meeting I said it was my understanding that this type of project might not meet the requirements that are spelled out in the memorandum of agreement in the court decree, and so I suggested that it ought to be perhaps withdrawn and considered in the fifty dollar (sic) criminal settlement monies, which the state of course administers, and that is being considered. However, I think it's important that this project at least be endorsed as something that is needed, and consequently I'm pleased to see that it's been added back to the agenda. I'll have to leave it to the attorneys, I think, to determine whether or not it's appropriate and meets the criteria. On the other hand, this in-kind -- in-place burning of oil is an important tool, particularly in waters, in the northern waters, and one that merits support. I would ourselves that over the last thirty years there have been at least eighteen accidents in which ten million gallons or more of oil have been spilled around the world. This Exxon Valdez is, of course, the largest one in the United States waters, but is certainly not the largest in the world, and I think we've got to assume that despite our best prevention efforts and activities, accidents may occur either by accidents of vessels or by other means, and this kind of tool needs to be in our arsenal of efforts

to protect the waters. One other point I'd make is the State of Alaska now has three environmental cooperative agreements with the federal regional -- or regional governments in eastern Russia, and I believe we want to develop a stronger cooperative relationship with the Russian Far East in dealing not only with this potential hazard to environmental protection but others as well. So, that's a summary of the project in the materials that have been given to you. There's the project summary that is on this sheet -- the single sheet dated February 10, 1993. I don't know whether there's anyone from Alaska Clean Seas or the U.S. Coast Guard here. If not, they were here last time, but I don't believe they are available today, but I would, I guess, defer to counsel as to whether any funds might be allocated from the civil settlement money, but at least would endorse the desirability of such a test and the cooperative arrangement with the Russian government. So I move the endorsement of the project without any funding commitment until this can -- until the legal aspects and its conformancy to the consent decree or the court could be developed.

MR. PENNOYER: Mr. Cole.

MR. COLE: Yes, Mr. Chairman, may I ask Commissioner Sandor, with respect to the funding, what government agencies have contributed how much to the two million dollars? I see on the project summary data that the Coast Guard, Minerals and Management Service, Marine Spill Response Corporation, Cook Inlet Spill Prevention and Response, Inc., and 3M, and the ACS -- Alaska Clean Seas, I gather that's what that means -- how much has each of those

units or agencies contributed?

MR. SANDOR: Industry and the federal government have raised close to two million dollars out of that three to split between those entities. I don't know what the split is.

MR. COLE: And how much is the University of Alaska participating as compared to the University of Washington?

MR. SANDOR: I cannot answer that.

MR. PENNOYER: I don't know if we have a legal opinion here, but that now my understanding is it's our opinion at this time that this doesn't qualify for civil settlement money and there's some questions about expenditures in Russia of this funding anyhow. I think we considered this also and the federal restitution process is looking at this, and I think in concept we generally agreed that this type of test is a good idea, but I don't know that we've specifically underwritten this particular project or the circumstances surrounding it. So, I'm not sure what action we'd be going to take at this time except to endorse the idea in concept and see when seeking funding.

MR. COLE: Mr. Chairman, is that the view of the federal attorneys?

MR. PENNOYER: I believe it is?

MR. COLE: What do you ...

MR. PENNOYER: That's right, that basically it doesn't qualify for civil settlement funding at this time. I see two of them here, and I ...

MR. COLE: I think that the state is concluded

otherwise, have you not, Mr. Tillery?

MR. CRAIG TILLERY: That's correct.

MR. BARTON: Why don't you go out in the lobby and settle this? (Laughter)

MR. COLE: ... could be a door to the boxing ring.

MR. PENNOYER: Including the expenditure in Russia?

MR. TILLERY: Our conclusions were to the issue -- the use of it for spill prevention, not this particular project. But, yes, you could use it in Russia as long as the Trustee Council unanimously agreed.

MR. COLE: Well ...

UNIDENTIFIED VOICE (from audience): The restitution funds or the joint trust funds?

MR. TILLERY: Joint trust funds.

MR. PENNOYER: Joint trust funds -- that's clear. Restitution funds are not so ...

MR. COLE: Well, the test is the same, of course.

MR. PENNOYER: Not exactly.

MR. COLE: Really?

MR. CRAIG O'CONNOR: I think -- there's a specific -- just roughly.

MR. COLE: There's one little sentence in there that was put in in the criminal restitution provision ...

MR. O'CONNOR: Yeah, it has (inaudible -- simultaneous talking) in Alaska.

MR. COLE: ... and that was focused on another type

of project, but anyway, did we ever see a motion on this?

MR. SANDOR: The motion was to endorse the project without any funding commitment until an assessment could be made of whether or not it would meet the requirements of the settlement agreement and the court decree.

MR. COLE: Well, I'm -- I'm told that it's necessary to -- that if this project is to get off the ground, a decision should be made today. I have some concern about a project of this type which, theoretically, could benefit our friends in the European block as well as those in Alaska, and I see no contribution from any agency in European. I would think the state would contribute, but in order to get this moved on I will move to amend to appropriate from this group five hundred thousand dollars in furtherance of this project.

MR. PENNOYER: It's moved that we allocate five hundred thousand dollars from the civil settlement fund at this time. Is there a second? Any further discussion? I think based on our legal advice we're going to have to object, not to the fact that we don't like the project in concept, but I don't think our advice says we can do what you propose. So, is there any objection? to the motion? Yes?

MR. BARTON: Well, I object to the amendment 'til we get the legal questions resolved.

MR. PENNOYER: So, we're back to the main motion then?

MR. COLE: Knowing lawyers, we may never get that addressed, but I won't comment on that.

MR. PENNOYER: Is your motion, Mr. Sandor, that this specific project is appropriate for the concept of doing it? That this is appropriately put together and we are endorsing the way this has been put together specifically or ...?

MR. SANDOR: Yes, Mr. Chairman.

MR. PENNOYER: Or just that we endorse this type of thing?

MR. SANDOR: Yes, Mr. Chairman, the United States Coast Guard is really taking the main lead with respect to the United States and developed closely with the Alaska Clean Seas the Beaufort Sea proposal, so this project has been well prepared, so the motion is just to endorse this specific proposal.

MR. PENNOYER: Let me ask one further question then because I've heard this is still being reviewed and various levels of the federal government haven't actually been -- totally signed off by EPA and other groups. I mean, if we're going to vote for this as a good idea in its specificity, I would like to have some idea of where this review process stands. Is this -- in other words, your inference, Commissioner Sandor, is this has all been talked out and now everybody is supporting this and all they need is money.

MR. SANDOR: The -- no. The Environmental Protection Agency would not approve the testing in the Beaufort Sea, the previous proposal, and the difference here is that this is moved to Russian waters, which puts it under a different jurisdiction.

MR. PENNOYER: I thought though there was some question

by federal attorneys whether we could simply move it to another country and therefore endorse a project that is in contrary to our environmental laws. I know what that's got to do in the North American Free Trade Agreement, mind you, but still what -- is there comment on that?

MR. O'CONNOR: Yeah, there probably should be, but I'll tell you what's going on. EPA said no. We're trying to run around EPA by going to Russian waters. Politically that doesn't look very good for the United States Government to be doing that, trying to avoid its own environmental protection laws. The Environmental Protection Agency has raised the issue, and the decision of NOAA is that until such time as we have worked out this situation with its sister federal agencies, we are not going to (inaudible -- coughing) this project. We would like to participate in this project. It thinks it is important to do in-situ burning in cold water environments. We have tried to do it ourselves. As long as we have this internal, political opposition to the regulatory opposition, we can't go forward to approve it.

MR. PENNOYER: That was the essence that I was trying to come out on the record. I guess it's not that I don't think that we are in favor of doing something like this, and I think NOAA has indicated that in the past -- from a response standpoint it's a tool that should be in our kit bag -- but this specific project and the way of doing it, I don't think had been agreed, and I'm going to have a hard time saying that we've agreed to it here if, in fact, the agencies are still trying to work out how to do it. Ms.

Bergmann?

MS. BERGMANN: Mr. Chairman, one of the comments -- the Alaska regional response team did give conceptual approval to the project in the Beaufort Sea in 1992. It was the EPA folks at headquarters that then had difficulty in terms of processing the permit. But locally, within the state of Alaska, there has been broad support, both in terms of the communities up in the Beaufort Sea, as well as all of the agencies here in Alaska.

MR. PENNOYER: I understand that. I think it's something we favor, I'm just not sure how to get around the fact that we haven't worked out how to do it. Commissioner Sandor?

MR. SANDOR: Yes. For the record then, Mr. Chairman, I think it's most unfair that anyone would charge the U.S. Coast Guard for deliberately going around the United States Environmental Protection Agency just in order to get this project done. The other motive for doing this is to, in fact, work out a cooperative arrangement with the Russian Far East, and I do not think it's inconsistent with the policy of the United States to have a cooperative working relationship with the Russian governments of the Far East. I would like to say that any characterization that the United States Coast Guard is deliberately trying to go around the Environmental Protection Agency's objection is at best unfair.

MR. PENNOYER: Mr. O'Connor.

MR. O'CONNOR: I see no reason why the Trustee Council could not go forward with endorsing the concept of implementing the project addressing the issue of in-situ burning in cold water

climates.

MR. PENNOYER: No, I don't have a problem with that. That's not the motion. The motion was -- do we in concept -- the motion is we approve this project and support it.

MR. O'CONNOR: That's fine. It's a recommendation -- you're ultimately going to make recommendations to your federal secretaries on the restitution projects obviously. I have discussed this with EPA. EPA has suggested as soon as possible to convene a gathering with NOAA and the Coast Guard to work out our differences on this issue, and that will be resolved fairly soon.

MR. PENNOYER: Okay. Well, we, I think, are saying that we agree with it in concept. This -- details might have to be worked out -- but ...

MR. COLE: Mr. Chairman.

MR. PENNOYER: ... it's been moved and seconded that -- go ahead, Mr. Cole.

MR. COLE: I want to say, why are we even addressing it further if we can't spend any money on it. We should just say, you know, we wish you well, and get on with the next item on the agenda. I mean -- you know.

MR. PENNOYER: Mr. Cole, I agree with you. Yes, the motion is sort of we wish you well and, by the way, we think you ought to do this specific project. So, that's as I understand the motion in front of us. Commissioner Sandor, if, in fact, you wish to change that and into simply make it that we agree with getting on with this type of thing and we think it ought to be done,

whether we can do the funding or not, I think that's ...

MR. SANDOR: Yes, Mr. Chairman, that's the tragedy of this kind of situation is that we are trying to not only build up prevention capability, but also a response capability and to be better prepared for the next spill, whenever it occurs. We hope it will never occur, but knowing it will, and we -- and certainly the Department of Environmental Conservation believes that the Arctic waters, sub-Arctic waters, North Pacific waters are particularly vulnerable, and we just need to get on with applying this test. Endorsement of the concept is important because, I think, our business is to not only to correct the damages to the resources and services, but also to prevent and be more responsive and better respond -- have better responsive mechanisms for future spills. So the motivation in the motion was to simply endorse this concept, not only for the in-situ burning itself, but actually as well the association with the Russian Far East in readiness response capability.

MR. PENNOYER: Mr. Gates.

MR. GATES: Well, the Council's conceptual approval or agreement, count the state and -- okay (inaudible -- coughing) their restitution fund for the project.

MR. PENNOYER: Commissioner Sandor? Are you asking me?

MR. GATES: I'm asking Mr. Sandor?

MR. SANDOR: Would you repeat that question, I don't understand it.

MR. GATES: The question is, if the Council

conceptually agrees with the proposal, will that help the state in its effort to fund projects through its restitution fund?

MR. SANDOR: I'm not -- I don't particularly think so because I think what's involved here, Mr. Gates, is an independent assessment here that these six Trustees -- we discussed this within the state, and as a matter of fact they do have -- this is before the senate -- I think both the house and senate committees, oil and gas committees. I think we ought to just reach a conclusion of our own of whether or not believe that in-situ burning is a desirable concept to pursue.

MR. PENNOYER: Commissioner Sandor, would you amend your motion to the Trustee Council approving in concept the fact that in-situ burning is a valuable thing to pursue and we hope that people who have experiments out on the street now can get them funded and going as soon possible?

MR. SANDOR: That's the intent -- that's the intention of the motion.

MR. PENNOYER: Okay. Is that -- can we -- any further observations or should we just ...

MR. COLE: Do we really know enough about this particular project to be able to bless it? I mean --

MR. PENNOYER: Mr. Cole, I think that's ...

MR. COLE: I have some questions, frankly, about who's putting up what section of money, but let's have the question, and ...

MR. PENNOYER: Our motion is not necessarily this

specific mix of project, but the fact that in concept in-situ burning is an important tool to pursue, and we hope that people can get on with it as soon as possible. Is that the sort of thing -- with the approval of the second, is there any objection to that motion? (No audible response) So, the Trustee Council endorses the experimentation of an in-situ burning and hopes that it can be moved forward as soon as possible. Okay. Anything further on that topic.

The next item on the agenda is the 1993 work plan. Dr. Gibbons.

DR. GIBBONS: Yes, I've got a new matrix. You got one in your package, but this is a new one dated the 26th. It has the approvals from last meeting on it. There's three projects left to be determined or in some way dealt with. First, there's the Kodiak Fisheries Industrial Technology Center -- was deferred from the March 10th meeting; some further (inaudible -- coughing) on the museum, the Kodiak Museum and Cultural Center; and then the project 93030, the Red Lake project. So --

MR. PENNOYER: Find what page then -- what page is the first one on?

DR. GIBBONS: The first one, the Kodiak Center, is on the last page.

MR. PENNOYER: Dr. Gibbons, would you refresh our memory on this project? State the -- where the plan's at and so forth.

DR. GIBBONS: I believe the request by the Kodiak Fisheries and Industrial Technology Center is to request a hundred

thousand dollars for the design of an expansion of the center in Kodiak for fisheries related matters dealing with commercial fishing and those types of activities. It was presented by Mayor Selby previously in the February, and I didn't bring that package again. There's been two sets of those passed out. I can get you another copy of their proposal if you would like.

MR. PENNOYER: Is there any motion on this project at this time? Hearing none, I would assume that it would be deferred to consideration with the '94 work plan then, perhaps? Thank you.

The next project, please.

DR. GIBBONS: Yes -- the Museum and Cultural Center. There's a memo I passed out this morning, dated the 24th, concerning some discussion on this project.

MR. COLE: I -- I -- Mr. Chairman?

MR. PENNOYER: Mr. Cole.

MR. COLE: I can't resist, I move we disapprove this proposal to add another forty-two thousand five hundred for general administration of this project to the Department of Environmental Conservation.

MR. SANDOR: I'll second that motion. (Laughter)

MR. PENNOYER: It's been moved and seconded that we delete the forty-two thousand. I'm not sure I understand what the forty-two thousand is. I -- last meeting, we voted on one and a half million, and where in this project detail, the funding detail, is the forty-two thousand? Is it the -- I see, it's the memo.

MR. COLE: Mr. Chairman.

MR. PENNOYER: The March 24th memo. Mr. Cole.

MR. COLE: I don't know where this came from. I recall us particularly grilling Mayor Selby about the need for administrative support for this project, and he said no, we have it well under control, and my friend, Commissioner Sandor, is, you know, has repeatedly said during these hearings that this is the type of thing which the state and federal agencies should absorb as part of their general budget. I've always agreed with him on that, so I am pleased to see that he and I remain in agreement.

MR. PENNOYER: I guess I'm not sure what the disagreement or the agreement is about at this stage. At the last meeting when we approved this, there was a million and a half dollars for the construction of the -- of the center. At that time, we didn't discuss agency costs or any other matters. I'm not clear whether this is a new concept or this standard to what we've done in the past or when we usually get a -- now, don't forget, this archeological museum, we did not have a detailed study plan in front of us for the million and a half dollars, and we sort of went around our usual concept of doing business by that fact, and should this have been part of that million and a half, then, at the start? Or, you know, is this the fact that we approved it late, without a study plan in front of us, that this was omitted, or what is it? Commissioner Sandor?

MR. SANDOR: Yes, Mr. Chairman, I seconded the motion because I'm concerned also about the process by which we -- that we'll be administering grants. Actually, it was going to be my

intention that -- that as we look at the ways in which this -- not only the Trustee Council but it's restoration, financial group, and so forth -- look at this whole question, because it seems to me that funding individual grants through one of six agencies, or seven including DNR, would not likely be the most efficient way to administer grants. As we checked this out, what we would be doing, what the Department of Environmental Conservation would be doing would -- actually passing this on to Community and Regional Affairs for them to -- because they're in the grant business and works very effectively with that -- in this process. So, I think last time, when this was approved, and the Trustees were asked to volunteer who, what agency might be willing to take the lead on this, I opened my big mouth and said, well, we'd be glad to do this. I had not thought about the question of actually administering this grant, and I question really whether we want -- we, the Trustees -- would want six different agencies to administer grants that might come their way. So I think that whole process of the cost of administering grants ought to be examined as a part of this question of how this Council and its subordinate bodies operate and manage these monies. So -- Mark Brodersen and I had a frank discussion of this yesterday afternoon, and I was -- and we essentially reached -- I reached that conclusion. (Laughter)

MR. PENNOYER: Mark, before you say anything -- I thought that this was part of the financial operating procedures, that this had received some level of Trustee Council consideration and the process had been set up to do this, and are you suggesting we

change the financial operating procedures, or how does this relate to that?

MR. SANDOR: Yeah, Mark pointed out that that was part of a procedure this group has already -- that this group had approved sometime ago.

MR. PENNOYER: We can change those.

MR. SANDOR: And I said, you know, we ought to re-examine this. So, actually, what I was going to do is to suggest that that project be approved or reaffirm its approval with -- you know, administrative costs cannot be absorbed out of the -- out of the grant itself -- I think it ought to be included in the grant money, quite frankly -- then any additional costs ought to be identified ahead of time and the process itself worked. Because if that one point five million cannot absorb forty-two thousand five hundred dollars, I think it is -- something's wrong. I can't believe ...

MR. COLE: Or DCRA can't.

MR. SANDOR: Well -- I -- I don't know what their business is or how they administer grant monies. Forty-two five out of one point five million is -- I don't know what percent that is, but anyway I was troubled by that.

MR. COLE: The point is, Mr. Chairman, where's the forty-two thousand number come from anyway?

MR. PENNOYER: I think it's by formula.

MR. COLE: Well --

MR. PENNOYER: Financial operating procedures ...

MR. COLE: Could we have the question so we can get on with the agenda, please.

MR. PENNOYER: Mr. Brodersen, did you want to say anything?

MR. SANDOR: Please do.

MR. BRODERSEN: Excuse me. Every project that you gentlemen have approved to date has an indirect or general administration cost associated with it, per the financial operating procedures that you approved earlier. It's fifteen percent, salaries; seven percent of contracts up to two hundred and fifty thousand; two percent of any contract amount over that. Applying that formula to this project, comes up to forty-two thousand five hundred. It's the money that is difficult to identify costs, such as time sheets, such as grant administration, such as supplies, and it's a long discussion that the Trustee Council has had several times in the past as to how to handle this cost. The project that came to you last time came via an alternative method other than the Restoration Team so that a detailed budget had not been developed for it. Had it been, this item would have been identified as part of the cost. You all approved the project for the amount requested by the agency that wishes to build the museum. It did not include the money for the agency to do oversight of this project. I would hope that some oversight would be desirable here. I would be reluctant to give any group a million and a half dollars without a fairly clear understanding of what they were going to do with the money, checks along the road to parcel it out over time rather than

just giving it in a lump sum. Were the people, for instance, that are going to build this be on a plane, crash into a mountain, you might end up with a hole in ground in which you can bury your million and a half without a museum. You need some kind of check as you go along to make sure that everything is working right. That costs money. I'm reluctant to go ask another agency that's been chopped pretty heavily in this last legislature to try and do this for nothing. DCRA is just not in a position to do this. I'm reluctant to have DEC set up a granting authority. It's not something we ordinarily do. That's one of the reasons that Commissioner Sandor was mentioning perhaps we need readdress. We actually plan to pass these grants out in the future. Under our operating procedures right now, one of six agencies has to do this work. End of discussion, I guess.

MR. PENNOYER: Before we proceed with the forty-two thousand dollar question, I think we ought to review where we are in the project as a whole. At the last meeting, the Trustee Council voted to endorse this project, and I don't think that was anything but a full affirmation of the need -- that we agreed it was a time-critical need to address this situation. At that time, we discussed -- (cough) -- excuse me -- NEPA, and the agencies were asked to look at whether a categorical exclusion was possible or do we have to do a NEPA document on this, and I think a decision has been made that a NEPA document will be required. Normally in past practice, we've -- have had to (inaudible) that the NEPA document be completed before we take final action, before we go to the court

and request money, and that we have a detailed study plan in front of us to evaluate it. And we don't have either one. That doesn't change the fact that I think we all are interested in this project proceeding and proceeding as quickly as is feasible. So, I think we now have to have the NEPA document back in front of us at some point, and I think we have to have the detailed study plan, because I agree with Mr. Brodersen, we've got a letter from the Kodiak Borough that's helpful but doesn't exactly pin down who's going to maintain, how it's going to work, and so forth. And there will be other things as well that are going to come along that have that requirement. I don't think we have any problem with going forward to the court registry at this point, with the understanding that this is an exception, and that funds would not be passed out until these aspects were completed: the NEPA document and the -- the NEPA process and the detailed study plan. And Mr. Brodersen is right, somebody's going to have to oversee that. So whether the forty-two thousand comes out of the million and a half or doesn't is sort of, I don't know, each agency's going to have to decide what it can do in administering this type of grant, but we are going to have to have some of these things back in front of us and have reviewed them, and we're going to have to sign off before the funds are actually disbursed. So, if some agency comes and says they don't want the money, I guess I don't know what to do with that, but as a concept at this stage, I'm not sure I'm willing to change the financial operating procedures. Mr. Gates?

MR. GATES: Well, I think the Community and Regional

Affairs will say (inaudible) grant project. Why don't we take a look at this when they come back when you have a plan of action developed to the plan and the NEPA's completed, then we can see what the --

MR. PENNOYER: So you're suggesting is that we not go forward to the court ...

MR. GATES: Let it go before the court, but before -- at the point -- the Council needs to take a look at it when it comes back.

MR. PENNOYER: Are we going to the court with a million five or a million five four two?

MR. GATES: I'd say a million five.

MR. PENNOYER: And then cross the second bridge when we come to it?

MR. GATES: If it's needed to.

MR. PENNOYER: So you'd agree with the motion then -- at this stage?

MR. GATES: Basically, right.

MR. PENNOYER: Mr. Barton?

MR. BRODERSEN: Do I understand that? We're supposed to go back to the people proposing the museum and ask them to allow us to absorb the forty-two out of the one point five million then. Is that the motion?

MR. COLE: No. It's really pretty clear cut in my view, Mr. Chairman. We agreed for a million five last time. That was the action. I mean, let us just go ahead with the action we

took last time. I mean, now, we agreed to the project for a million five. Nobody said anything about another forty-two thousand, you know, we get nicked for another forty-two thousand. Let's just go ahead with the project and get on with it, and it's done. I will not approve another forty-two thousand for this project.

MR. PENNOYER: So, Mr. Cole, the million and a half then is to -- the total project, including administrative costs. If they have to come out of it, they come out of it.

MR. COLE: We can deal with any administrative costs next time, in the future. I'm not sure that we should ever agree to administrative costs. Forty-two thousand for this project to oversee this, I mean, how much is that -- about six months time for a DCRA employee, and that seems a little excessive to me -- to oversee this.

MS. RUTHERFORD: Mr. Chair, I talked to DCRA on behalf of DEC just to get an idea whether they'd be interested in this, and they are willing to do it. They said that they do need some money because they've sustained a lot of budget cuts lately. I think, I think it would be less than that, significantly less than that, but that we just simply applied the formula that was applied to all the other projects in terms of the percentages, and often many of these projects, the monies are not being fully expended and returned to the fund.

MR. PENNOYER: Can we proceed with this, with the million and a half. We've agreed that the detailed study plan and the NEPA

process document will have to come back before us anyhow, so we'll proceed with the million and a half to the court, and that if something additional is required, and you'll have a better idea of it then, you can come back and present it to us when we have those other documents in front of us. So, at this time we would proceed with only the million and a half and then come back and decide if, in fact, some part of that would have to go toward administration, if we get that presentation, but not approve it at this point in time. Is that an acceptable way to proceed with this? I don't know if I restated the motion or not, but if I didn't ...

MR. BARTON: (Indecipherable)

MR. PENNOYER: ... if I did, acceptable to the second and the maker of the motion, could we -- is there any objection to proceeding in that fashion? Okay.

MS. BERGMANN: Mr. Chairman, I just have a question about funding for the completion of NEPA. The Restoration Team had talked about that and had, I think Ken Rice had suggested that it might take about ten thousand dollars to prepare the NEPA documentation.

MR. PENNOYER: Why couldn't that be done out of the million and a half? And then if that...

MS. BERGMANN: That's my question.

MR. PENNOYER: ... in fact the million and a half won't work for what it was designed with the administrative costs and the NEPA taken out it, then we'll have to discuss where we go from there.

MS. BERGMANN: So there would be up to ten thousand dollars out of that one point five million ...

MR. PENNOYER: Build the project for a million and a half dollars, and I guess -- is that acceptable? That includes NEPA compliance.

MR. BRODERSEN: Mr. Chairman, I have been in contact with Rick Knecht, and he has agreed to write an environmental assessment for no additional cost at this point.

MR. PENNOYER: And NOAA's agreed to be a lead on this, and Mr. O'Connor's contributing his time, so ...

MR. BRODERSEN: NOAA has agreed to be the lead, is that correct? Did we hear that?

MR. PENNOYER: You heard that.

MR. BRODERSEN: Okay, so we'll -- we'll get Mr. Knecht in touch with NOAA real quickly then to let them get started on it.

MR. PENNOYER: Okay. Is that -- is this topic concluded for the moment then? Okay.

Okay. What else is on this agenda item, Dr. Gibbons?

DR. GIBBONS: Got that for the Kodiak Museum.

MR. PENNOYER: We just finished that, didn't we?

DR. GIBBONS: Yes, so the next project is the Red Lake restoration project. The NEPA document was completed by NOAA. I -- what was left was that it was passed on to the Department of the Interior for review, and that's the status what I know now.

MR. PENNOYER: Mr. Gates.

MR. GATES: We're presently, Fish & Wildlife's

presently reviewing -- they've reviewed the EA and have presently done a compatibility study, and we should have something for you at the next meeting.

MR. PENNOYER: Comment on where that leaves us relative to -- that means not going forward to the court until that's completed. Any comments on this season. When's the Red Lake run? Carl?

MR. ROSIER: Thank you, Mr. Chairman. Yeah, let's -- delay until the April meeting would be, would be satisfactory here. There would be no impact.

MR. PENNOYER: Since we've agreed on an April meeting. Wait a minute, wait a minute, wait a minute -- delay this to the April meeting. Does that mean a main meeting in April, or are we starting a new one? (Laughter) Let's get this straightened out now.

MR. ROSIER: You're doing such a fine job, Mr. Chairman, we thought one more month really wouldn't hurt anything.

MR. PENNOYER: There's a one agenda item meeting then. Okay. So, then, by the April meeting we will have the NEPA review completed, and we can take action at that time.

MR. BARTON: When is the April meeting?

MR. PENNOYER: We haven't gotten one yet. The other question I have is this is a question of going forward to the court to request funding. So, you don't automatically have funding in the April meeting, do you, if we have an April meeting? Are you in a position to, with the approval, go ahead and move the project

ahead? I guess it doesn't make any difference. We don't have the NEPA completed anyway, but I'm just trying to find out if, in fact, we are going to do this project this year if it is approved.

MR. ROSIER: Mr. Chairman, if I might -- on this present time, we are trying to meet with some of the Fish & Wildlife people to discuss some, some questions that are still there as far as the project is concerned, and those people have not been available and we have not been able to complete those discussions at this time. So, until we get that out of the way on this, we feel that we've got adequate time to, in fact, accomplish the project this year, and I don't think there's anything that insurmountable that's out there, but I think that, that we do need to address those items.

MR. PENNOYER: Okay. Is there further discussion on this project?

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Do we need to seek the funds into our account for this project? By that I mean, if we approve this project at the April meeting, would we then have time to go to the court and seek monies to perform the project this season or should we seek funding through the court now?

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Thank you, Mr. Chairman. The project would probably not go into the field until, well, at the earliest would be late June or early July on this, so I believe, I believe

that there would be time there in terms of seeking the funding.

MR. PENNOYER: Mr. Cole, the other statement that was made in connection with the Kodiak museum as well, and that is I think our position is that the NEPA document needs to be completed before we go to the court registry in as many cases as possible. We made an exception in the case of Kodiak, but that was an exception to, I think, our general feeling, so hopefully this project can work out anyhow, and we'll just have to plan our NEPA things a little more time-critical.

MR. COLE: And that brings up -- is it our position, have we taken the position that we can't seek funding, the availability of money in our account, so to speak, until the NEPA documents have been concluded? Is that our position?

MR. PENNOYER: Mr. Cole, if you'll recall an earlier session, we even had a position that the federal side couldn't vote on something until the NEPA document was in front of them, and we've made an exception in the case of Kodiak museum and did proceed, but lacking any further instruction, I'm afraid that's where we're at, and hopefully that won't hold us up because in most of these cases I think we can get these things done concurrent with the detailed study plan, which also ought to be in front of us at the time we make a decision. It was in this case. So, I'd like to give you a different answer, but I'm afraid that's it for the moment.

MR. COLE: Alright.

MR. PENNOYER: Dr. Gibbons, there's one other item in

this list of memos we've got here, and that was the Kachemak Bay resolution. Do we have to take action here on that as part of the '93 work plan?

DR. GIBBONS: That's correct.

MR. PENNOYER: Would you lead us through that, please.

DR. GIBBONS: Well, turn it over to the -- it's a state matter, I believe.

MR. BRODERSEN: Mr. Chairman, the Kachemak Bay resolution that the Trustee Council passed earlier requested the state to take the money and put it into the Alyeska settlement account. Our OMB has requested that instead of putting it in the Alyeska settlement account that we leave it in the Exxon Valdez settlement account for purposes of bookkeeping, and this is a request to ask the Trustee Council to amend their motion to allow us to keep it in the Exxon Valdez settlement account rather than the Alyeska settlement account.

MR. PENNOYER: Would you tell me why we wanted to put it in the Alyeska account to start with?

MR. BRODERSEN: That was just what the resolution said, and we were following orders.

MR. COLE: So moved.

MR. SANDOR: Second.

MR. PENNOYER: Further discussion? Any objection? (No audible objection)

Does that complete all action on items on the '93 work plan, Dr. Gibbons?

DR. GIBBONS: Yes, it does, Mr. Chairman.

MR. PENNOYER: Okay, does anybody want a five minute break or shall we plow on 'til lunchtime. The audience is nodding their head. Let's take a five minute break.

(Off Record: 11:05 a.m.)

(On Record: 11:15 a.m.)

MR. PENNOYER: Could everybody take their seats or carry on their conversations outside, please. We'd like to get started if we could. Thank you.

Okay, I think we'd like to go ahead and get started and see how much of the '94 work plan pre-discussion, anyway, we can complete by the noon hour, and the next item on our agenda is the 1994 work plan framework and sort of where we go from here, and Dave Gibbons, would you give us a brief overview of what's in the framework and what the proposal is, and some other people may have some alternate suggestions.

DR. GIBBONS: Okay. Thank you, Mr. Chair. In Dr. Montague's absence, I'm going to be giving you an overview of the 1994 framework development. It's development -- the assumptions that we put together and some projects that also appended to the back of it. Ken Rice will give you a brief overview of a timeline that the '94 work plan will operate under. We intended this to be a working session. I -- we tried to get a session earlier with the Trustee Council on giving us some ideas of what they wanted to see in the '94 work plan, and therefore we put together the framework, the draft framework, and in hopes to get feedback from the Trustee

Council and to helping us tailor the '94 work plan and so we save the public's time and everybody's time. What we are proposing is that we develop work plan for public comment, and that's strictly what it is. Go to the public with requests for comments on the draft plan. It's developed or intend to cover a strict spectrum of projects in order obtain, you know, a wide public comment, but also tailor it somewhat. In the '93 plan, we asked the public please give us your ideas, and we got a long list of ideas, and we hope to provide a framework for ideas this year, so we can focus the public's attention in areas that, that perhaps need attention. The framework was initiated in January of this year, with a combined Restoration Team, chief scientist, and peer review meeting, where we looked at the injury status for all the resources and services, and put together suggested recommendation for possible work in 1994. The Restoration Team then conducted a follow-up meeting to develop examples of service-related work. We were a little bit shy on service-related work versus resource-related type activities, and then in the development of the framework before you, we've used the initial recommendations of the January meeting, the 1993 projects -- approved projects -- also 1993 ideas that were submitted by the public to the Trustee Council, all 460 of them. We've drafted assumptions to try to focus our attention somewhat, and those are before you in the package, and we also used the draft -- the restoration options -- being put together by the draft restoration work group. The package contains, like I said, examples of projects for inclusion in the draft '94 work plan.

There is some difference of opinion amongst the Restoration Team as how these projects should be viewed. Some team members believe that these are tentative projects for inclusion in the '94 and represent the SWEDA projects, and others believe that these are just examples of projects and that other projects could be added. What we hope to get today from the Trustee Council is to get a set of assumptions that we can use in developing the '94 work plan, and I'll briefly go through those in a minute and defining mix of restoration, resource, and service-related activities that the Trustee Council would like to see in '94, and then ask the Trustee Council to give us guidance on the preparation of a draft 1994 work plan, if possible, some possible funding levels, or specific projects they would like to see or not see in the 1994 work plan. The assumptions -- I can do it two ways. There's two sets of assumptions. One set of assumptions that we put together as the Restoration Team, and then there's a second set of assumptions that was passed out at the last meeting from the federal Trustees -- and I've got a set of those if you'd like to look at them.

MR. PENNOYER: Pass those out too, Dr. Gibbons, so we've got them both in front of us.

DR. GIBBONS: And briefly, I'll run down through the assumptions that we put together. The first assumption is that a restoration plan will not be finalized by the time the '94 work plan needs to be approved. What we mean here is that comments on the draft close, right now, on the 6th of August, and the schedule in front of you for the 1994 proposes that the Trustee Council

approve a final work plan in October 6th. What we're seeing here is that they'll be a draft restoration plan prepared, sent out, and public comments back, but a final plan will not be prepared -- will not be approved by the time that a '94 work plan needs to be on line. So, we're in between a draft of a final, but we will have public comments concerning the draft restoration plan in hand. The second assumption is the restoration plan should be in place by the time the work of the '94 work plan proceeds. And that's a step that we;re saying that the Trustee Council approves the restoration plan on the 10th of November, and the work for the '94 would take place after that time. The third assumption, the Trustee Council can approve any appropriate restoration action prior to having the approved restoration plan in place. What we mean here is that the fundamental mission is to restore the injured resources and services in a timely manner. The implementation of some projects would, however, be contingent upon a final restoration plan. What we're saying is there's some opportunities here that the Trustee Council can take. This is an assumption that the Department of Interior does not agree with, and I'll try to highlight those as I come down through. That's the first one that they do not agree with. The fourth assumption that all available settlement-approved actions will be considered to implement restoration. This is intended to mean that the Trustee Council can restore, replace, enhance, rehabilitate or acquire equivalent resources, and, again, this is an assumption that the Department of Interior does not agree with. The next assumption is that some '93 projects will

need to be carried over into 1994 to complete all the work. Since many of the 1993 projects will end the field portion of their work in September of this year, it is not feasible for them to complete the analysis of the work and prepare the necessary reports by October 1st, beginning of the next fiscal year or funding cycle. The next assumption is that implementation activities will be emphasized. Examples, lake fertilization, recreation development, archeological restoration -- those, we intend to emphasize those in the 1994 work plan. This is an assumption that the Interior Department, at present, does not agree with. Next assumption, there will be increased emphasis on the restoration enhancement of services -- we -- more activities in recreation-related activities, subsistence, commercial fishing activities. And this is the last one that the -- no -- this is another one that the Department of Interior does not go along with. The next assumption, identification and protection of critical habitat needs to be proceeded as quickly as possible. This is habitat protection -- and continued emphasis on habitat protection. Another assumption is that normal agency management will not be funded. Very straightforward -- not intend to fund normal agency management. And another assumption is that restoration projects will be limited to resources and services that have suffered consequential injury, which is defined -- which was defined in the draft restoration framework, pages thirty-nine through forty-one. I won't read that section. The last assumption is that the restoration activities will be restricted to the oil spill-affected area. We used the

map, the draft map and the draft restoration plan to define the oil spill-affected area. There is one more. The final work plan and budget needs to be approved by the Trustee Council by August 15th to obtain the money for the next fiscal year commencing October 1st, 1993. As discussed with you at the March 10th Trustee Council meeting, the Trustee Council will need to approve interim -- interim funding for any delay beyond October 1st, and that appears to be the case now, so that we'd have an interim period starting October 1st until some length of time until a final '94 work plan was prepared. On the other set of assumptions, I have reviewed those. There's some word changes, but the real two differences, in my opinion, are, one, that the -- the federal approach is a phased approach, with phase one being time-critical projects being approved, and phase two, the remaining projects conditionally approved until a final restoration plan is completed. And that -- that follows the basis for development of a basically -- of the '92 and '93 work plans where we dealt with time-critical projects and deferred projects that were not time-critical until a final restoration plan is completed. And the other major differences that NEPA compliance -- where all projects must comply with NEPA before they are approved or conditionally approved, and perhaps a stepped approach here might be, might be worked out in that the Trustee Council might conceptually approve a project and NEPA funding, and then based upon the NEPA compliance conditionally approve the project pending the approval of a final restoration plan. But that -- that needs to be looked at some way to comply

with NEPA compliance. I won't go through the projects. The projects are divided into three main categories: resources, habitat, and services. And basically in a nutshell, there are fifty-plus projects in the draft '94 work plan, examples of projects in the '94 work plan, totalling over fifty million dollars, of this there's twenty-five million for habitat protection of that, of that total. The Restoration Team has made a cut on the time-critical projects within this package, and that's basically where we're at. We're looking for guidance from the Trustee Council on how you want to proceed or not proceed.

MR. PENNOYER: Did you want to say something about timetable before we proceed with this?

DR. GIBBONS: Yes. Ken Rice will run through the timetable.

MR. PENNOYER: Ken's been stamping something over here frantically, so ...

MR. RICE: Mr. Chairman, we were stamping this draft because it is not final at this time, but what we're handing out is a timeline that shows the key elements for development of the '94 work plan. Mr. Brodersen has a copy of where the '94 work plan is embedded into all of the projects that we need to work on for 1993. You've seen a previous version of the one that Mr. Brodersen is handing out. I'll run through this very briefly. Basically, the top black line indicates ...

MR. PENNOYER: I'm sorry? We have a different one coming from the other end of the table?

MR. RICE: You have one that has this '94 work plan embedded into all of the projects, the completion of '93 work, the restoration plan, and this shows all of the -- these are major tasks that are in front of the Trustee Council for 1993. What we're going to discuss right ...

MR. PENNOYER: The small chart -- and tell me which one is ...

MR. RICE: Yeah. You have a big chart and a small chart, and what, what I'm going to focus on is the small chart. The big chart is just to show you how the '94 work plan relates to the other tasks in front of us.

MR. PENNOYER: I'm not sure I feel left out because I don't have a small work plan or not.

MR. RICE: It's getting ...

MR. PENNOYER: That's quite alright. I -- but I can roll this one up for the time being?

MR. RICE: You can put that one away for right now.

MR. PENNOYER: You want to roll it up. Why don't you proceed then with the small chart.

MR. RICE: I'll proceed with the small chart. The black line that you see at the top of the page and half way down the page basically summarizes the length of time for completion of the development of the work plan, and then the second line is implementation of the work plan. The black diamonds that you see on there are Trustee Council meeting dates. We have today's meeting down there, and then we have an interim date or a Trustee

Council meeting scheduled for August 20th for interim funding. The work plan of the way we have it developed here does not have us arriving at approval of the final work plan until October, and hence, as Dr. Gibbons mentioned, the need for some interim funding. We do have an October 12th and 13th dates set out for the Trustee Council to make final approval of the work plan. The way we've developed this work plan is to assume that pending -- or after Trustee Council guidance on the framework for -- as a result of this meeting, the Restoration Team would go back and revise the instructions to which projects would go into a draft document that would go out to the public. The agencies would then develop some detailed write-ups, giving sufficient information for the public to review the projects. We would then evaluate that information and, again, while that public was out for public review, we would have a Public Advisory Group meeting, which is scheduled on the chart here for around July 19th. We would take that comment and revise our recommendation back to the res -- to the Trustee Council and hold a Trustee Council meeting in October 12th and 13th, at which time the Trustee Council would make their final approval for the '94 work plan. And, then, below the second line, you see the steps or at least the major steps for implementing the '94 work plan, which I won't discuss unless you have some specific questions on it.

MR. PENNOYER: Ken, would you, without getting the large chart out, elaborate on how those dates relate to the restoration plan -- the dates that are going out to public review and approval

and so forth. As you now have this document on the '94 work plan going out to public review July 19th?

MR. RICE: Yes. I think there's an overlap, but I need to have the big chart in front of me to -- We have public meetings going out to the public, let's see, in June. So the middle of June, around June 18th to August 6th we would have public -- the draft restoration plan and EIS would be released -- would be available to the public for comment.

MR. PENNOYER: So this actually has the '94 work plan going out to the public after the restoration plan has gone out, the draft?

MR. RICE: It would be going out to the public after the initial release of the draft restoration plan, yes.

MR. PENNOYER: Okay. Previously it was --. Dr. Gibbons, do you have more comments at this time?

DR. GIBBONS: (Inaudible -- out of microphone range)

MR. PENNOYER: Let me -- let me pass something out then, just for food for thought over lunch to cause indigestion amongst the Council. This is something I've just been playing with, an idea of how to proceed on this question of the restoration plan and the '94 work plan. Let me preface the remark by sort of a catch-22 where we're into at the present time. We don't have a restoration plan approved or completed, and so many people are loathe to, in '94, get into major implementation of restoration until a restoration plan has been completed. At the last meeting you saw a suggestion that we go out with a '94 work plan and a restoration

plan-EIS sort of separately, and have the '94 work plan then adopt -- be adopted in a contingent-type fashion so projects that weren't absolutely time-critical or an emergency nature or continuation projects would be approved contingent upon the final restoration plan being put in place. Now all this still seemed to be sort of be going down separate tracks, so the public would get an EIS, get a restoration plan, they get a draft '94 work plan with a -- some general assumptions in it -- and the key or the hook between all of those wasn't totally clear. What I'd like to propose, and I think this maybe starts to get at it, is that the restoration plan itself contains the elements of the '94 work plan. You get passed the initial alternatives and all of the text, you find toward the end a section that looks remarkably like what I just passed out that has a resources identified, has the restoration options identified, has the potential projects identified, and then a potential cost. Now, it doesn't have detailed study plans for individual projects. It doesn't pick out, for example, if you are in line on fish ladders which fish ladder gets put in first, and it doesn't -- and it doesn't necessarily tell you which year. So, as the public comments on the restoration plan, they are going to be asked to comment on restoration options, potential projects, estimated cost, and then which year you start them in. The fact is, we're not going to get all this funding in one shot. We get -- we have some funding in the bank at the present time that we have not spent because we haven't implemented are major (inaudible) restoration program yet, and there are some funds left over for restoration.

In addition, there will be a draw from Exxon in December, but then those draws will continue over a number of years, so you have to make up your mind not just what you're going to do, but the priority for doing it. You can't do it all at once, and obviously, particularly in the first year, doing some of it is going to restrict your options on what other things you can do. It seems to me that we ought to be able to combine these in some fashion so in fact the '94 work plan becomes year one of the restoration plan, not a contingency, not an only time-critical, but year one of the restoration plan. A lot of the problem we've had with doing that, outside of the fact the Trustee Council can't get passed the alternatives and hasn't really gotten down to the individual projects very well for what should be in the plan itself, the only way to do this I think is to actually lay out a document that mirror -- that mirror each other, so the restoration plan and EIS and the '94 work plan draft look very similar -- and what you're asking people to comment on is, one, the assumptions -- okay, you're going to get through those, you're going to get through the resources you want to deal with, you're going to get through the big questions -- do we just deal with population damaged species or full injuries, how do we deal with services in and out of the spill area -- those big questions get answered, but then you logically lead down to the '94 work plan, and it seems to me you ought to have a way to put out the restoration plan, take the last chapter of it, which -- you've got to dig through a lot of stuff to get through -- bring it up front and tell the public, yes, that as you

deal with these assumptions, we want your comments on them, but then we want you to get down to looking at the tail end of this plan that dictates our schedule and the types of projects we're going to do by species, and then further, get to the '94 work plan that tells us when to do it. It really comes out, lays out that in fact you may want to do -- well, I picked on fish ladders, not specifically trying to get your reaction on fish ladders, Mr. Cole -- but, as an example, and you're going to do that, and that's a strategy you come down to decide. If your comment is yes and it's a viable thing to do, well you've got eight years or more, depending on the strategy selected, to do it. How many do you want to do the first year? How important is it to you to go out and do fish ladders the first year as opposed to the third, fourth, fifth or sixth? If you get done with that, and somehow we can combine this approach, you'll have a '94 work plan, and it will be consistent with the assumptions and criteria in the restoration plan, it will be consistent with the type of options and the type of projects that are picked out in the restoration plan, and I think it will track. I think it will get around the objections of doing implementation in '94 before you have the restoration plan because they're really going to be the same thing. I'm not even sure you can't send them out at exactly the same time. This was a suggestion by Mr. Barton about a month ago that we do that, and we started dealing with the schedules, and god, we had to have the '94 plan done by August 31st and there's no way to do that, and on, and on, and on. It seems to me we can do it, particularly if we accept

the fact that it's now being presented to us that the '94 work plan will not get us through the first two months of the new fiscal year. We'll have to do some type of a contingent thing anyway. Given that, I think you can put these on the same track, and I think you can make them track, particularly if the up front synopsis of what you're asking the public to comment on says that. So you're tracking from assumptions in the plan, but you take them right down so people get worn out by the time they get to the last chapter don't have to get worn out. They'll see that last chapter right up front in the context of what it means for project decisions and for decisions for '94. So then, hopefully we can combine these and get them out as one unit and get around the problems we've been dealing with with trying to have separate things the public won't know what to comment on and separate actions that aren't going to track in time.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Do you want the indigestion before lunch or after?

MR. PENNOYER: I don't care.

MR. BARTON: After. (Laughter)

MR. COLE: Shall we go to lunch now?

MR. PENNOYER: Fifteen minutes to lunch -- you really -- unless there's something you want us to think about over lunch, instead of just worry about -- well, would you give us a slight clue so we only have a little bit of indigestion ...

MR. BARTON: Question, before we get views ...

MR. COLE: I defer to Trustee Barton.

MR. PENNOYER: Mr. Barton.

MR. BARTON: As I recall, well, I'm -- I'm puzzling over why we needed this '94 program of work finalized by the 1st of September. Does anybody remember that?

MR. PENNOYER: It was simply to have it into the court in time to get all the money by the time the start of the new federal fiscal year, but I think the schedule we've been presented this morning shows that isn't necessary. You won't be doing field projects, you'll be doing supervisory, writing of the data, and analyzing data. We can provide for that on a contingency basis for two months, and put off the final plan until October 1st or whatever.

MR. BARTON: Was there not another reason related to the federal budget cycle?

MR. PENNOYER: Good point. Yes. But apparently the schedule we've been presented with gets us -- purports to go around that. Can you comment, Mr. Rice, on how we managed to put the cycle off and still comply with the OMB congressional mandates.

MR. RICE: Just forgetting about it, I think, is probably how we did that.

MR. COLE: Probably the best thing.

MR. PENNOYER: You mean all this work I did won't work?

MR. COLE: Well, anyway, could I talk?

DR. GIBBONS: Mr. Chair, I think I've got a little

better answer than that. We -- this year, we came up with an estimate that we gave for the federal people, you know, for a budget for 1993, and we can give an estimate for 1994 so -- to plug into the budget cycle.

MR. PENNOYER: So you'd have a place-holder (ph) in effect that was generally picked out.

DR. GIBBONS: That's correct.

MR. PENNOYER: Mr. Cole, indigestion time.

MR. COLE: Well, first, I think that the restoration plan and the 1994 work plan or any subsequent work plan are two fundamentally different-type documents. I think the restoration plan should be a plan in the nature of an organic document -- broad, general terminology, without focusing on specifics -- and then allow the restoration plan as a document more like a constitutional document be implemented by the annual work plans. I think it's a mistake. We will get in trouble to try to make a restoration plan so specific that we do not have the flexibility to change it markedly as the years go on. That's number one. Number two is I think that we need a fundamental re-scoping, if you will, to use one of the terms in vogue these days, of the Restoration Team. I think we need to broaden the people on the Restoration Team and not have it comprised exclusively of members of state or federal agencies. We've discussed that at about every meeting we've had recently, but yet we never seem to pursue the subject any farther than to simply comment on the public's suspicions about the composition of the team. And, next, I think the -- we should not

get focused on the '94 work plan until we have recomposition of the Restoration Team, and that time has come if not passed when we need to focus directly on restoration. As I look on the '94 proposed work plan, it's largely, if you'll pardon the use of the term, a re-hash of what we've done in the last two years, and I think we just need a fundamentally different approach. So, if that's indigestion before lunch, so be it. I feel quite strongly about each of those positions.

MR. PENNOYER: Mr. Cole, I'm not sure we're saying totally different things, although we may be approaching it somewhat differently. I was approaching the restoration -- '94 work plan -- from the standpoint of the restoration plan as it now exists. If it doesn't exist that way, maybe the '94 work plan could provide the details. But in any case, you'd still have to make a choice for '94 of which things you wanted to do in '94, as opposed to '5, '6, '7 and '8, because certainly with the amount of money available precludes your options in '94 of doing certain things to undertake other things. So there is some multi-year concept that has to come in there anyhow, whether it's laying out very specific for the whole eight years, because I'm sure as the money comes in, no matter what we write, four years from now somebody is going to have a different idea of something better to do. So, we can't -- you're right -- we can't put this thing in concrete so greatly that we assume the whole period of time we are going to do exactly what we lay out right at this minute, because we're not.

MR. COLE: And lastly before lunch, we're going onto a proposed '94 work plan; we still do not have data on '92 work plans, finally, before us, and we will be proposing in '94 work plan before we have any of the '93 data. I think we've got to get this sort of under some form of logical control of what we're really doing here besides just having, it seems to me, almost uncoordinated projects. That may be slightly too strong a statement, but -- let's say, slightly different, not well-coordinated direction. Thank you.

MR. PENNOYER: Mr. Barton, another before-lunch comment?

MR. BARTON: Well, I missed my third round of indigestion. I wonder if Mr. Cole could repeat that? You had the ...

MR. COLE: That was the hors d'oeuvres. (Laughter)

MR. BARTON: The recomposition of the Restoration Team, can you clarify that, what you had in mind there?

MR. COLE: Yes. I think the Restoration Team should be composed of people in addition to those already on the Restoration Team who are unrelated to state or federal agencies as employees. I think that people generally, the public generally, and even ourselves, would feel more comfortable if these projects at the Restoration Team level were being selected and -- and formulated by a group composed of people other than state or federal employees. I mean, we just -- look, here's my illustration, we're looking at the '94 with many of the same projects which we've discussed for '92 and '93, and I think that we

need in addition a broader look at where we're going, and I just don't see us doing that, and that's a little bit of a carry-over in addition to the answer to the question you directed to me, but I see that of an illustration of some of the fundamental problems which we're dealing, and as you will recall, Mr. Barton, it was one of your thoughts that we should get a management group to have a -- to advise us on where we're going with respect to our process, and I think I'm somewhat commenting upon that thought, although I was then and am now prepared to do it on our own rather than waiting for a management consultant to tell us where our inadequacies lie.

MR. PENNOYER: Further questions? Then we'll adjourn for lunch. Can we be back by one o'clock, one fifteen, what's your pleasure? One o'clock?

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

(On Record: 1:03 p.m.)

MR. COLE: Mr. Rosier won't mind not being here.

MR. PENNOYER: Oh, okay.

MR. COLE: Where are we with respect to completing the reports for the 1992 work plan, lest we overlook that at these meetings.

(Mr. Rosier arrives)

DR. GIBBONS: We're in the process right as we're speaking, the principal investigators are writing those, and they're coming in. Bob has a better handle on that than I do. I might ask Bob -- is wondering what the status of the '92 final reports were.

DR. ROBERT SPIES: I gave, yeah, I gave the Trustee Council a very brief rundown at the last meeting. I think we received about forty percent of them. We have some (inaudible -- out of microphone range) in the last several weeks. And also there's been some extension of those deadlines, so those are not necessarily technically overdue (inaudible -- out of microphone range).

MR. COLE: Mr. Chairman, I mean, why cannot we get those done? I mean, it's the old familiar refrain that we're now looking at the '94 work plan, we've made decisions on the '93 work plan, and we do not have a lot of the '92 work plan reports completed. I mean, you know, what do we have to do to say get it done or else. That's what I think we should do. I think we're shirking our responsibility but not insisting that those reports be completed. I mean these people are long over the time that, in my view at least, that these reports should have been completed, and I think it's hindering our ability to use the data constructively as we contemplated, that we should take some action. Each time we have a meeting, we bring this up, and it's, well, they're working on it or they're writing their reports, but in my view that's not sufficient.

MR. PENNOYER: Dr. Spies, would you care to comment as to whether you think any of these are truly laggardly or is it just a question of getting analysis of hydrocarbons done and things like that? We've had preliminary results when we constitute our '93 work, we knew to some degree what these studies were going to show,

even though they had not completed them. Some of these, of course, are continuations -- they're being allowed to continue even though they haven't completed their '92 work plan. Are there any at this stage, or is this just too soon since the last meeting for you to give us a real progress report?

DR. SPIES: Our plan was to try to deal with these on a case-by-case basis, and I haven't had a lot of contact since -- over the last several months with our individual principal investigators to understand exactly where they were in the process and their data. I think we saw some interesting new interpretations of data at the symposium, and certainly they've made some progress as we saw in the last set of final reports, and I think we have to deal with this on a case-by-case basis. I'm just not prepared to make any kind of general statement about whether -- to what degree -- particularly reports may be hindering our ability to understand the nature of a resource recovery right now.

MR. PENNOYER: Mr. Cole.

MR. COLE: Who has this contact with these people?

MR. PENNOYER: Well, I think each agency has some type of product -- project -- coordination function, and I would ask if, Dr. Gibbons, if you know if the agencies have had that type of expression of urgency that came from the Council passed down to the PIs.

DR. GIBBONS: I'm sure it has been. Each one of the individual Restoration Team members is responsible for seeing that

those reports are -- are completed and brought forward, and I know the urgency has been passed along. Frank Rue is just new to the process here, but I think heard it too, but, Frank, you might --?

MR. RUE: Yes, Mr. Chairman, I know at Fish & Game we are very concerned that they do complete these projects, and so we met with the supervisors of the PIs internally and gave a very strong message to them to get their work in. Carl wrote a letter to them, saying you will have it done and sort of set the timelines, and so I think that urgency, at least within Fish & Game, has certainly been passed on, and if Joe Sullivan is here, he can reaffirm that, that we're working to get them in, and we've laid the law down.

MR. PENNOYER: I guess the question that comes to mind is what does lay-the-law-down mean? Can you identify -- have you identified specific projects that are not coming along, in your view, appropriately, and when can we expect the last of these reports to be completed?

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Mr. Chairman, yes, the instructions that went out to the people within my agency on this was that those reports will be done and ready for peer review no later than June. So, we've established a deadline -- I have not looked at the individual projects themselves on this -- I'd rather the direction was given to all -- to all of the PIs, and that that work will be completed before the end of June.

MR. PENNOYER: So then, the direction that's gone out has

been the end of June being the date at which some are still outstanding we've got a problem. Is that adequate for our decision process? Having finalized the '93 work plan, is that still adequate for our decision process to have the end of June as our deadline?

MR. COLE: Mr. Chairman.

MR. PENNOYER: ... If it is, then we wait 'til the end of June and ask who's in and who isn't. Mr. Cole.

MR. COLE: After the end of June, then do we have to have this peer review, these projects, before we see what is presented to us as a completed project?

MR. RUE: Would you like Joe to give you details on that? Joe Sullivan is here. At least from Fish & Game's perspective, he might give you some ...

DR. GIBBONS: There's a ...

DR. JOE SULLIVAN: I was going to say all we've got is Fish & Game's perspective on that. I guess I've often been confused (inaudible -- coughing) in getting these reports in and out. The only one that I'm aware of that would go beyond the end of June is (inaudible) 105. Is that your perception as well?

MR. DEAN HUGHES: Correct, because they're currently -- this spring we'll be pulling in the temperature level reports on the (inaudible -- out of microphone range).

DR. SULLIVAN: Basically, that -- that would become a 9363, and the problem with that was we had instruments out that we needed to get in in order to get the end of that data, and we can't

get those instruments until the ice goes out. So, essentially when that's out, we can get the data in and then we'll finish that one up, and hopefully we'll have a draft, if not a final report, by the end, the end of August on that one, but all the rest of them should be done by the end of June, and again, all I can address is Fish & Game's projects.

MR. COLE: What about peer review? Does that follow the end of June?

DR. SULLIVAN: That -- I think there, do you know what we've got in the way of review at the end of June? I think we're assuming a two month turn-around for that peer review.

MR. HUGHES: The first thing is, the ones that we're talking about that are due the end of June, that is -- those are a minority of the projects. We have projects come in every week. The last ones that we are asking come in will be in in June, with the exception of our 105 (ph), which won't be in until mid-July. But it's -- the date does not include peer review.

MR. COLE: How many have come in within the last thirty days?

MR. HUGHES: Either two or three.

MR. COLE: How many are still outstanding?

MR. HUGHES: Umm ...

MR. COLE: Just round about.

MR. HUGHES: Maybe ten.

MR. PENNOYER: And how many came in previously from '92?

MR. HUGHES: I don't remember what ...

MR. PENNOYER: Twenty?

MR. HUGHES: Er, no.

MR. PENNOYER: Fifteen?

MR. HUGHES: Probably.

MR. PENNOYER: I guess the question is, rather than ask this at every meeting, can we achieve some form of understanding of when the things are supposed to be done, and then come back and decide what to do if they're not. I hear end of June seems to be the time period. I see Bruce Wright over there. Bruce, are there a couple of outstanding NOAA projects too, I believe?

MR. BRUCE WRIGHT: We have a total of about fifteen final reports that need to be turned in. I think we have five that have been turned in. Within the next sixty days, we'll have all but one, which is (inaudible -- out of microphone range). That's contingent upon getting results from other final reports. I think we're making progress in getting them in. I've been in touch with Bob Spies to let me know where the standing is for each outstanding report.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Who is writing -- who is the ones who have the responsibility to write these reports and have not yet written them? I mean, are they employees of the state and federal government?

MR. WRIGHT: These would be the actual principal investigators in those cases that would write those reports.

MR. COLE: Are they employees of the state or federal government?

MR. WRIGHT: Yes, they are.

MR. COLE: Are they working on things other than completing these reports in the course of their weekly timeslips?

MR. WRIGHT: In some instances they are -- they are working on continuing their project. This could be a -- this could be a project that's gone into a restoration project, so they're doing a final -- a final report is a damage assessment final report project. They're continuing to work on that project. In most instances though, they're working on other unrelated projects that are not related to oil spill.

MR. COLE: And why are they doing that if they haven't got completed their reports for which this Trustee Council has paid their agency money to complete?

MR. WRIGHT: That's the question I bring up to them weekly. They're tired of hearing that question from me.

MR. COLE: But look, here's what I -- gentlemen of the Council, I mean we've expended monies as Trustees, given that money to these agencies to these projects, and now it develops that these people at agencies who have received monies to complete these projects are doing other things than working on these projects.

MR. WRIGHT: In some cases ...

MR. COLE: I know. I'm not saying everyone ...

MR. WRIGHT: ... there are -- there are lots of examples that excuse -- some of which, they've only recently

received hydrocarbon data, and so they need to manipulate that. We have, we have -- you know, I hear these excuses all the time, but you're right, there's an element of concern, but I feel that there's progress, at least at NOAA -- I can speak for NOAA projects -- there's definitely progress.

MR. COLE: But see, my point is if these agencies, state or federal, have received money to complete these projects, the recipients of those funds, those people who have through their agency received money to work on these projects, should be doing not a single thing other than working on the projects until they are completed. No wonder we don't get these reports. No wonder we don't get these things done, because these people are doing other things. I mean, I'm not faulting you here now, you understand.

MR. WRIGHT: Yeah.

MR. COLE: I'm not faulting anybody, but, I mean, I've been wondering why these things didn't get done, and now it comes out that they're doing something else rather than completing these projects. I don't say that's the reason for everything that's not being done. I realize there's an inner-agency, somebody's got to do this and hand do it, but that's not -- it's just not satisfactory, gentlemen, and I don't think it should be satisfactory and acceptable to this Council.

MR. PENNOYER: Comments, Mr. Barton?

MR. BARTON: Were we not given a status report on each project last session or the session before this?

DR. GIBBONS: That's the last sess -- the last session

it was in the status report with the letters going to the various Restoration Team members on the urgency of doing the work and getting it completed and the process for doing the completion of the final report.

MR. BARTON: And some of these write-ups are awaiting the results of other studies, like the hydrocarbon analysis study -- that's key to a number of them, I suppose -- but I think we all share the frustration with getting the reports completed. I don't know if there's any merit in having the Chief Scientist work with the Restoration Team or the Executive Director to look at each of the projects and identify those projects that the Trustee Council might be able to help with in getting that completion accomplished. Is there merit in that?

DR. GIBBONS: We could -- we could gladly -- I'd gladly work with Bob, or the Restoration Team can work with Bob, and we can give you a status of where we are and if satisfactory progress is being made on those. There's a lot of detail there. We'd be glad to do that -- to give you an updated status of that.

MR. BARTON: I don't think we'd want a lot of detail, but it would be useful to know whether you feel that satisfactory progress is being made, and if it isn't, what actions the Council might take to speed things up.

DR. GIBBONS: Yep. I might add -- mention one of the letters that went to the Restoration Team and the staff of the principal investigators, I know, was that the possible elimination of funding or not funding the work into the future, and I think

that is the mechanism we have to control that. So, if there's a couple of projects, or whatever, reports that are not proceeding satisfactorily, you know, we have that avenue of doing that.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: I move that no money be paid to any state or federal agencies under the '93 work plan until all of the '92 reports are completed. That might serve to expedite the completion of these reports.

MR. PENNOYER: Is there a second?

MR. SANDOR: I'll second it.

MR. PENNOYER: I'm not sure what that means -- is -- the '93 work plan is sort of started in the interim on March 1st, and I guess I'm also not sure in the normal course of business on any research project that is in the field until the fall of one year, how long it normally takes to complete the final project report, including peer review, and I'm not sure that March, end of March, is that much out of the ordinary for scientific analysis of results from a given season. I think there is disparate rationale for different projects. Again, some don't have the hydrocarbon analysis, maybe through no fault of their own; some are dependent on the results of a different project. I have problems with a sweeping motion of that nature. I think the intent is clear, and I think the intent is good, but just a sweeping certification we're not going to give them any money in -- that includes carry-over from '92?

MR. COLE: Yes. No more money. Here's the problem. The problem that is disturbing to me is that is the fact that these people, these agencies, whomever it is -- no particular finger-pointing -- have these people who should be completing their reports doing other things than completing the reports. I mean, I'm not saying that that's the reason every one of these things are not completed, and I'm not saying that there aren't some holdups -- we all know how this generally works -- but my point is that when employees who have received monies -- not employees themselves, you understand, but the agency -- the managers have these people working, doing things other than completing these reports. And this goes on meeting after meeting. We're always working on it; we're always looking at -- into it -- coming along, we got a couple of reports in since last time. You know, it just goes on and on. I think it's just unacceptable, and we have to take some forceful action in order to get this apparently completed. I think remiss in discharge of our responsibilities if we don't insist on it. People not completing reports, working on other projects, no wonder the public gets upset when they say these agencies, you know, are taking this money and doing things that they ought -- with these funds -- that they ought to be doing as part of the discharge of their general responsibilities. Now we find out that they're taking the money and doing other things.

MR. PENNOYER: Well, at the last meeting we heard that some of the work that we've directed -- a few people -- to even these people for the symposium and preparation of '93 work plan

interfere with their getting done the '92 work as well. I'm not sure what Bruce is saying, but I'm not clear these people are off just ignoring their responsibility. It seems to be the sort of impression we've left here, and I don't want to leave that impression. We're doing a lot of work, and I think there -- some of them do have multiple responsibilities, and real-time field needs to get some of this other multiple responsibilities taken care of. I wish there was a message we could send that said you've got to get them done, folks, but not pick a particular date like as of right this minute unless it's completed. Commissioner Sandor?

MR. SANDOR: Well, Mr. Chairman, I speak in favor of the motion, with the understanding that each of the agencies involved would, you know, would have a process in place of, you know, giving appropriate consideration to those individual projects that might not be finished because of hydrocarbon data or whatever else. And as I understand it from what Frank Rue and Commissioner Rosier pointed out is that they've instituted such policy and that individual project leaders were contacted and that kind of a process in place. Unless there is some kind of mechanism to, you know, cease funding, it just seems to me like it won't be taken seriously. Perhaps Carl could outline the process by which they're going to be following through in that effort.

MR. PENNOYER: One more question first though on the motion, is the motion all projects to be completed then by the end of June, which is what Fish & Game is proposing, or is right now?

MR. COLE: The intent of the motion was right now.

Let me say one other thing, to think that people are working on '93 projects and saying, well, the '93 projects are hampering our ability to complete '92 projects is another great concern. So, you know -- that's enough said by me.

MR. PENNOYER: Commissioner Rosier.

MR. ROSIER: Thank you, Mr. Chairman. Yeah, this, as far as my agency was concerned, we took the conversation from the last Trustee Council to heart on this in terms of getting -- being sure that we were, in fact, going to get those reports in. It's my intent that we will, in fact, follow up through the oversight of the habitat and restoration division -- the chief -- on this to be sure that those reports as per schedule. I -- the issue of a hundred percent of staff timing on this I think is something that goes back a long time to the set-up in terms of going to the agencies, because that's where the expertise was for conducting a number of the studies that were in fact out there, and I'm, you know, I'm a little skeptical that in most cases, as far as the agencies are concerned, that funding was ever there for a hundred percent of those people's time. The work was there as part of their normal routine to in fact do, but the fact still remains that we were drawing on the expertise of the agency, and we have never, and in most cases that I'm aware of anyway, funded a hundred percent of the people's time that's involved in the -- so, basically, if that's the case, if that's what the Attorney General is after, I think there's only -- there's two options. One, that you in fact fund those people for a hundred percent of their time

on this, or you, in fact, go to a total contracting process in which you contract out all of the work, in my view. And quite frankly, the way, you know, with some of these road blocks that we've talked about here within this group in terms of the changes in the budget process, the number of demands on people's time associated with the budget process over the last year, I don't know how many times we've rewritten budgets for basically every project within my agency, anyway, to the point that people are essentially dedicated to the process, and I find it -- I find it extremely objectionable, and, quite frankly, I am in fact moving toward a total contracting arrangement within my agency. We will withdraw the people from my agency as the principal investigators on this thing because it just isn't working for us as an agency.

MR. PENNOYER: Mr. Cole.

MR. COLE: This at least highlights where perhaps one of the problems with the -- this whole process is. I was under the impression that there were sufficient funds to pay for, if you will, the work on these projects by someone who was (inaudible -- coughing), and one of the one who voted to completing these projects. Now, if we don't have enough money in these appropriations that are presented to us to provide for timely completion of the projects, whatever time it needs in a sense, then I think we should take another look at how we're funding them. I don't mean to criticize any of these people or agencies unfairly, but at least with your remarks we now, I think, have a better understanding of the problem of why these things don't get done.

It's because, as you seem to say, there's inadequate funding. That's -- I might say something that I hadn't thought about before. Maybe somebody else or a trustee had a different understanding of what we were funding.

MR. PENNOYER: Can we bring this topic to some type of closure here. We have a motion on the floor to cut off funding for any project that has not completed a 1992 final report.

MR. COLE: Well, I guess at this time ...

MR. PENNOYER: Do you want to amend that?

MR. COLE: Well, I wanted to say that, I mean, I think that we shouldn't sweep aside this proj -- this -- I don't want to say revelation, but this comment that apparently there haven't been -- has not been adequate funding for these projects to allow the timely completion. You should at least get them on the next agenda. And if that's the case in the '93 funding, whether we should review the funding for these projects in '93 so we don't come up against this in '94.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Mr. Chairman, it seems to me that what we should do, and I guess I would propose amending the motion on the table to -- to in effect -- if in fact the funding was inadequate to complete the project, that means that some monies are still needed to do that or else it was stretched over time -- but the essence of the motion was to actually correct this problem. I guess I would propose to amend the motion only to the extent that each agency review all of the projects that were funded in '92,

develop a plan for the completion of those projects, report to the Trustee Council the process by which the '92 projects are to be completed, and if additional monies are necessary then it ought to be on the table, but we cannot sweep this under the rug or not deal with this. So, unless a -- an agency that has these projects pending has a satisfactory way of completing them, that no additional funding ought to be given until the '92 projects are somehow slated for completion. So the amendment would be funding would cease unless there was an approved plan in place to complete those projects.

MR. COLE: I would consent to that amendment.

MR. PENNOYER: Okay. It's been moved, as amended, that every agency have a plan in place to complete the project or funding will cease. Now, my understanding is that Fish & Game has put out a proposal that all their projects would be completed by the end of June. Is that an adequate plan, and is that date adequate? If it is, then perhaps we should go with that date for everybody, and simply say after the end of June the funding will cease unless the project final report is on or a substantial reason to the contrary is given that the Trustee Council approves on an individual basis. Is that what we're trying to do? Ms. Bergmann.

MS. BERGMANN: Mr. Chairman, as I understand it, the date of June 30th did not include the peer review time, is that correct? That's just the time at which it would then be submitted to the Chief Scientist, and then it goes through a peer review process and may need to go back for the principal investigators to do

additional work, and based on the information we've been getting from the Chief Scientist that has been the case in most of the reports that have come forward to date. So, we caution against saying June 30th because of the fact the reports will not be completed and signed off on by the Chief Scientist.

MR. PENNOYER: I understood that. I guess the question still is, is June 30th at that point in the procedure adequate? If it isn't, then we should set a different date. I mean, setting a date right now, but setting a date in the future time certain unless on a case-by-case basis the agency comes back in and presents a rationale that we accept seems to me to be a reasonable thing to do, and I don't know what the date would be but the date proposed right now under this motion for a plan. The plan by Fish & Game is June 30th. Now, if we don't like that, recognizing it's going to be August by the time we actually get a final report that's been peer reviewed, then we should pick a different date, go back to Fish & Game, if Fish & Game can come back and tell us why they can't make the June 30th date. That way we won't be arguing about this at every meeting. So, I'm just saying let's, if we can, with the help of the Chief Scientist, pick a date at which the agency had to have submitted its final report for a project for peer review, and if they haven't done that they would have to come in to present a good rationale as to why not or this Council would cut off the funding. Now, I'm not sure that's June 30th or June 1st or May 15th, I don't know. But the plan we've been presented with so far is June 30th. That's why I was using that as my

example.

MR. SANDOR: Dr. Spies, from your perspective is June 30th a reasonable date?

DR. SPIES: As I said, I don't know in every case what exactly is going on within each project, so it's difficult for me to make a projection. I just know that it's a month, month and a half, for us to get the first round of review done, to get done as quickly as possible -- our reviewers are very busy now. They are responding pretty quickly, usually within a couple of weeks (inaudible -- out of microphone range). The reason question becomes how long does it take to revise a report. In many cases they do seem to require revision -- how long that takes to get that second round of revision.

MR. PENNOYER: When, in your view, should be have a final report in before people start spending money on the 1993 season. I mean, I know we had preliminary results and we based our actions on those preliminary results. That's past us. But at what time is it reasonable for a scientist project to write its final report on something they did the year before and have it into us for peer review and then finalize the peer review process. Do we need to back this thing up to June 1st? Except on a case-by-case basis as an agency gives us its rationale for not being able to do it by then, then we pick that date and do it, but I was trying to find out what a reasonable date is to set for completion of that report, recognizing that probably most of them are in already -- or half.

DR. SPIES: You're talking about the final, accepted

...

MR. PENNOYER: I don't care if it's the final submitted to peer review and you recognize it's a month and a half after that before we get to final closure, or we just take the whole thing.

DR. SPIES: Well, in the case of the first draft being turned in, I think something around June is pretty reasonable.

MR. PENNOYER: June 1st? June 30th?

DR. SPIES: We'll know at that time whether there's considerable problem with the report.

MR. PENNOYER: June the 1st, June 30th, or just June?

MR. COLE: Something around June.

DR. SPIES: About June 15th.

MR. PENNOYER: How about June 15th. Would the motion then be something that any report -- final reports have to be -- should be in to this -- for peer review from the PIs by June 15th, except on a case-by-case basis as the agency comes back to the Trustee Council and gets an exception. Is that what -- the type of thing we're talking about?

DR. SPIES: I think that's reasonable. You may want to put two different levels on it because there were five million dollars expended in '92 to close out projects that essentially had no more field work, close-out of damage assessment projects. In my mind, those could come -- be completed before the projects that actually did do (inaudible -- out of microphone range).

MR. PENNOYER: That would be then asking the question of how many of those projects are still outstanding versus those that

did field work in '92, and is that a problem or have most of those been completed already?

DR. SPIES: Those are about thirty to forty percent turned in, first drafts, and I think we only have one or two out of all the '92 restoration projects that have reports in, so they're lagging further behind.

MR. PENNOYER: So the ones that did field work in '92 are lagging further behind.

DR. SPIES: Yes.

MR. PENNOYER: Everyone want to try for June 15th and ...

MR. SANDOR: Call for the question.

MR. PENNOYER: Are you accepting June 15th then as the date?

MR. SANDOR: There seems to be a consensus.

MR. COLE: Well, Mr. Chairman, are we talking about projects in '92 which were simply writing up the field work done in '91, and those are only thirty to forty percent done.

DR. SPIES: Those will be close-out and assessing projects. They are essentially summarizing all the work done from '89 to '91.

MR. COLE: And those -- those are thirty to forty percent done.

MR. PENNOYER: But of those, we're really talking about a summary of the injuries of the whole life since the spill.

DR. SPIES: Right. A complete wrap-up.

MR. PENNOYER: That's -- it may take more than one year's

results.

DR. SPIES: Yeah, in most cases it's multiple-year results.

MR. PENNOYER: Can we still pick June 15th as the date final reports come in from the agencies for peer review. If it's not going to be made by June 15th, an exception has to be gotten through the Trustee Council on a case-by-case basis with the agency coming back and giving us the rationale we can buy on why this should be allowed to continued funding. Is that all right? So, the next meeting in May or whenever, if we have the project -- if somebody has a project they know isn't going to make the June 15th deadline, then you'd better come in and give us your reasons then because on June 15th that funding might go away if we didn't (inaudible -- coughing).

MR. COLE: If that's alright with Commissioner Sandor, it's alright with me.

MR. PENNOYER: Alright. Is there any objection to that procedure to follow to try and get those reports in. Okay, fine.

MR. BARTON: Mr. Chairman.

MR. PENNOYER: Mr. Barton, you've had your hand up for a while.

MR. BARTON: Well, I wanted to talk a little bit about Mr. Cole's thoughts ...

MR. COLE: I need to bring up one subject first, just to follow on with this other one.

MR. PENNOYER: Sure, if it's follow up.

MR. COLE: Are we going to be in this same position for the '93 work plan data as we are for the '92 work plan data, or have we placed mechanisms to see that this doesn't happen again next year.

MR. PENNOYER: I suspect we've set a precedent. If the precedent should be an earlier date, I'm not sure how quickly after the first of the year you can expect final reports from projects of the previous season, but I think we've at least set a precedent of June 15th as a cut-off. If we decide to move it earlier, I suppose we could do that.

MR. COLE: Well, is that acceptable to the scientific minds here who were working on these plans? I mean, my thought is if we need more money for these '93 work plan projects, we should do it, because I think we must clean up this backlog in not getting these data done timely so we can use it for the next year. As I understand what we've been doing, we have a project this year, and then we say, well, we will -- based upon the data that we get from the '92 work plan we will decide whether further studies should be done in '93 or at what level, and I don't see how we can make the '93 or the next year, '94, decisions until we have a pretty good sense of what data we retrieved or developed from the '93 plan. Maybe I'm mistaken about what we've been doing here.

MR. PENNOYER: I think we've asked PIs each year to give us their preliminary results. They have actually sort of written a preliminary report on their findings in the late fall of the year we're making a decision for the following year. They just haven't

wrapped up the final analysis. We've actually been preparing budgets, work plans, and reports right along. It's not as though this thing just sort of was sitting there with nobody got a chance to look at it, but -- Jeep Price (ph) had his hand up and Jeep's got a more scientific mind, I know, so --.

MR. JEEP PRICE (ph): Well, I think that you're right. I think you can expect the final reports of succeeding years to be a little more advanced than say a June 1 date. There are several complicating factors this year. One is you have the oiled year ending March 1. This creates lots of management problems. Do we have funding after March 1 or do we not, and in our lab, for example, we've had four people leave in just the last four weeks or so just because of funding issues. One has taken a full-time, permanent job in Idaho, etc. So, these are issues. The symposium was a major issue where basically, I think, there was an awful lot of PIs (inaudible) whatever they were doing in order to focus on the symposium, which isn't wasted energy because it goes on into the final report, but it did stop that final report process probably for a total of about six or eight weeks or so in the process. So I think when we get back and we need to get back into a much more advanced stage than (inaudible).

MR. COLE: Is April 1 a realistic date -- '94?

MR. PRICE: I think it should be.

MR. COLE: I move that we require the '93 reports by April 1 of '94.

MR. PENNOYER: Have a second?

MR. BARTON: Second.

MR. PENNOYER: Okay. With the proviso again, individual agencies have to come in and give their individual rationale which we would review.

MR. COLE: Yes. It's good.

MR. PENNOYER: Frank?

MR. RUE: It's just a question -- you mean the draft final to -- before peer review?

MR. PENNOYER: I assumed that was the motion since it takes a month and a half to peer review, and I don't think you're going to have them done by January 15th. Is there any objection to that motion? Okay, it's been adopted then. Mr. Barton?

MR. BARTON: Are we ready to return to the last subject of the morning. I gave careful, careful thought to Mr. Cole's comments during the lunch hour, and he raises some interesting points. I do think though that we ought to focus on the '94 program of work for the moment and deal with the recomposition of the RT during the organizational discussion that we have on the agenda later in the afternoon, and set aside the discussion of the restoration plan and NEPA compliance 'til after we've dealt with the '94 program of work. I just think that's the urgent issue. It's the issue that the Restoration Team has sought guidance on for three sessions now of this meeting, and I just feel like we ought to get on with that, then come back and deal with the question of the restoration plan itself and then whether we want to incorporate the '94 program of work in that restoration plan, as Dr. Pennoyer

suggested, or deal with it as a separate matter. Having said all of that, I, at this time, would move that we adopt the format that Dr. Pennoyer provided us with his March 26th letter for dealing with the '94 program of work.

MR. SANDOR: I second the motion for discussion purposes.

UNIDENTIFIED VOICE: Only?

MR. SANDOR: Yes. I have some questions.

MR. PENNOYER: It's been moved and seconded that we take up the '94 work plan now and -- initially -- for the other topics, and that basically the motion is that we adopt the outline approach in my memo of March 26th for the '94 work plan.

MR. SANDOR: There were questions I had, Mr. Chairman. I thought the -- specifically the six points listed on page one of your memorandum were excellent and were really what is needed for the projects. What bothered me is the integration into the restoration process itself, and I don't think that is workable, as I understand it. In what I understand Mr. Barton's motion is that in practice relates to the 1994 work plan itself and is not related to the restoration plan, or is it an integral part of the restoration plan?

MR. PENNOYER: Mr. Barton.

MR. BARTON: No, my motion is intended that this be dealt with as a stand-alone at this time. If do discuss the restoration plan, and after that discussion I might have another motion to incorporate this, but at this point in time, this is a

stand-alone.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Mr. Barton, are you talking about addressing the '94 work plan in light of the six items listed there.

MR. BARTON: That's correct.

MR. COLE: Do we have ability to provide copies of this to those who are here in the audience who may like to follow along with this. Could we just, while we're working on this, make some copies of this first two pages, or first page, for those who like to follow along.

MR. PENNOYER: You'd better copy the chart too. Thank you. Mr. Barton, a question on your motion, the --

MR. COLE: He makes the motion and then leaves. (Laughter)

MR. PENNOYER: We can turn it down rather quickly then. (Laughter)

MR. COLE: Well, assuming he would vote for the motion, can we have the question? (Laughter)

MR. PENNOYER: Well, the question -- your calling for a vote -- just by itself doesn't deal with the fact we still have the fact we still have the assumptions and other things up front we have to deal with. There's more to the '94 work plan even if it's stand-alone than simply the chart, although I think the chart was the step that was missing before. So, I'm not sure what he

intended. We could go for this much of it, which while not -- does not have to be connected to the restoration plan, but in effect it uses the back end of the restoration plan as a building block.

MR. COLE: Well, I think the chart -- we could dispense with this chart for the time being.

MR. PENNOYER: Well, I think the Restoration Team needs instructions on how to present the project scope for the '94 work plan to public review, more than just giving -- us giving them assumptions. Am I incorrect in that, Dr. Gibbons?

DR. GIBBONS: Yes, if you agree though with the chart the way it's laid, we're taking all the potential projects from the draft restoration plan, the assumptions really don't apply to -- your assuming that all projects are -- will -- are available, you know, for the '94 work plans.

UNIDENTIFIED VOICE: I'm not sure ...

DR. GIBBONS: Because you see the assumptions right now tend to limit somewhat the potential projects that would be in the '94 work plan. If you're going out to the public, I think, and asking them here's all the possible projects we've received all from your ideas, from the public meetings, from everything, which ones do you want to go forward in '94, then the assumptions, I think, would just be basically that all restoration options are available for the '94 work plan.

MR. PENNOYER: Dave, I'm still not clear on all of that. This says, for example, all available settlement-approved actions will be considered to implement restoration. Numerous '93 projects

will need to be closed out or continued in '94 as appropriate. Implementation activities will be emphasized. I mean, I don't know that these are ruled out by going the way ...

DR. GIBBONS: They're not.

MR. PENNOYER: ... work out a suggestion.

MR. GATES: Those options -- that set of options -- this other set has (inaudible).

MR. COLE: Which set are we dealing with?

MR. PENNOYER: I think the assumption is --. This is what you're going to present. The framework for presenting it, however, is still contained in these assumptions, I believe. Aren't they? I mean, this says you're going to provide an estimated cost per year, and that's a presentation assumption. This says you're going to identify the potential projects that have been suggested. It doesn't speak to things like numerous '93 projects will need to be closed out or continued in '94 as appropriate -- increased emphasis on restoration and enhancement services -- all available settlement-approved actions will be considered to implement restoration. These are the type of assumptions that are generic to how you get to these things you're going to make these presentations about, I think, aren't they?

MR. RUE: If I read it -- as quick reading, I would take the instructions to mean that you look at every restoration option and sub-option. You don't limit yourself to time-critical or not time-critical. Under the one through six listing that you were handed today, time-critical is no longer a concern. You're

looking at whatever might work and detailing to the public or telling the public what options have been considered, which ones are thought to be practical to address -- restoration of an injury -- you aren't limiting yourself. That's how I would read one through six.

MR. COLE: Are you talking about NOAA's one through six?

MR. RUE: Yeah, the one that was just handed to us this morning -- correct -- and I don't see those as tracking with the assumptions that we had under the federal (inaudible) here.

MR. PENNOYER: I think it's a mix and match, but okay.

MR. RUE: Yeah. I just see that ... (Simultaneous talking) some of each.

MR. PENNOYER: There not all (inaudible) each other. I mean something that says, for example, in the original assumption, it said numerous '93 projects will need to be closed out or continued in '94 as appropriate. That's true, even with this list, and there are any number of these that truisms that would go with this.

MR. RUE: Right.

MR. PENNOYER: So it's not all strictly one or the other.

MR. RUE: Yes, that's correct.

MR. PENNOYER: But, yeah, you could go with these and just assume that any options open to us, as long as we later on talk about the tie to the restoration plan that we haven't gotten to yet, but if you would take that approach, then all of them are

available to us that are currently listed in the back of the restoration plan.

MR. BRODERSEN: Mr. Chairman.

MR. PENNOYER: Mr. Brodersen:

MR. BRODERSEN: One other question on this, the framework that the Restoration Team developed contains projects primarily put forth by the peer reviewers and the Restoration Team and agencies to some respect as to ones that needed to be done in '94, not necessarily time-critical but in the sense there had been a gap since projects were done and that kind of thing. As I read what you've presented here, you're saying to take all available options, which in my mind would be a greater list and put them out, and I guess this is a question to you, is that what you intended or had you intended to do some kind of limitation like the Restoration Team had put together in the framework?

MR. PENNOYER: If we could identify something that we thought was an absolute for '94 and we wanted to highlight that in some fashion, I don't think I have a problem with that concept, but my problem was that the list you presented was your view of things that were critical, and it's not easily in context of years on beyond for years '95, '96, and so on.

MR. BRODERSEN: I would not to claim that everything in the framework was critical. It's more what should be done, what should be skipped. There's a big difference between that and time-critical that as we did with the Restoration Team a few weeks ago, we went through and made a list of what we thought was time-

critical and what was not of what's in the framework. That doesn't mean that there aren't still things that should be done in '94 just because we need to get on with restoration, and I think that's an important distinction to make. The list of time-critical projects in the framework that's been presented to you is much smaller than the total list of opportunity to do restoration. One other thought as you're discussing the framework to keep in mind too that the Restoration Team never did prioritization between projects within the framework. It was more of a list of examples that we've had discussion on. It was a list of examples of the types of projects that you have an opportunity to do in '94 that makes sense. That isn't to say that we're advocating you do them all or that the list is all-inclusive. I think there are things that are still missing from it. But I'm trying to get an understanding between how that list was put together and what you're proposing here. It looks like this list that you're proposing here is much more inclusive and looks at all options, for instance, that are available to you as listed in the restoration plan and elsewhere. Is that what you intended by this?

MR. PENNOYER: Well, we've skipped the tie to the restoration plan, and it's kind of hard to get into this discussion in detail without talking about that because I was trying to overcome at least a couple of agencies' objection going forward with broader restoration options if we didn't have a plan in place. That was my intent. My intent also was that I don't think any single work plan can easily be put into the context of one year.

And that, of course, is the idea of having a plan, so to speak, and I'm talking about a plan now, and unless any restora -- work plan for any given year has to tell people what they might see in ensuing years, so they know they're either not being cut or that fact or there are priorities -- still address their priority, but it doesn't have to be this year. So, I was really trying to put all those options so people would know that although we picked this one, it doesn't mean we're not going to do this. That's what I was trying to do with this framework. But you're right, it is more inclusive, and in fact what's listed in '94 might be exactly the things that you propose, so it would be in the context of all the options that are available to us. I agree with Mr. Cole, I don't think -- as we get three years -- the money doesn't come in all at once any way. I don't think as we get four years down the pike, whatever we put in the plan is going to specifically tell us we can't do something else. I think after we get into this for two or three years, and we start down doing some things -- for one thing some things won't work. You know, we're going to change our minds after we see that they don't work. For another thing, things are going to happen out there in the environment that may change our minds because of just the way the resources are reacting. The third thing, the whole condition of lands, for example, and what is actually giving us problems or not giving us problems may change after three or four years. But I think you can't just take one year, without any context of what might be done beyond that, and expect people to agree that this is the best plan for this year if

they have no idea if that particular option, yet alone project, might not be addressed two or three years out. So I was trying to put it in that context.

MR. GATES: You were trying to put it in that context (inaudible) restoration plan?

MR. PENNOYER: Well, ultimately, although frankly, you could still do it -- it -- if we weren't in this NEPA question on the restoration plan, you could do a work plan, if it was a multi-year work plan. You know, only tie up money for one year, but in context put that money -- in context -- with which we're going to do in out-years. So, the answer to your question is yes, but it doesn't have to be. I think it may -- I think with the questions we have on NEPA and the restoration plan, we going to have to put it in that context when we get to it. I think for any single work plan, you've got to go beyond a single year.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Would it be out of line to ask at this time where are we with respect to the NEPA-compliance document for the restoration plan -- number one -- and number two, how can they prepare a NEPA-compliance document for the restoration plan that we don't yet know what the restoration plan is?

MR. PENNOYER: Well, we weren't going to get into the restoration plan, but could we have a quick elaboration since I think the two are tied -- Dr. Gibbons?

DR. GIBBONS: Yeah. Mr. Rice is the chairman of the

environmental compliance, and he can tell really where the status is. We -- the Restoration Team heard it last week but --.

MR. RICE: Mr. Chairman, the first three chapters of the restoration plan EIS, which is the proposed -- or are the purpose and need -- proposed action, and the chapter on the existing environment will be given to us for review by the end of this month. I have been told that the draft chapter on the effects will be given to us by the 1st of May for our review. That's based on the alternatives that the Restoration Planning Work Group has developed already.

MR. PENNOYER: I'm not sure you answered the Attorney General's question of how can they possibly be doing this thing when they don't have any idea of what projects we're finally going to buy off on.

MR. RICE: The EIS is going to be a very generic document based on the level of detail that's in the restoration plan. It will analyze in a broad, general basis the effects without being able to be site-specific, because I don't think anybody has anticipated the restoration plan as being site-specific on where or exactly what things would occur at what time.

MR. SANDOR: Mr. Chairman.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: A couple of questions -- what is the proposed action being assessed.

MR. RICE: Well, the proposed action is to develop a plan that would lay out the kinds of activities that would occur

for the course of the next ten years, and what some of the site needs are for conducting restoration, and what we know now as to what some of those activities would be, with some estimate of how much of different activities would occur within that ten-year period. And there's five alternatives that are based around that as to how you could approach that mix and match of different restoration options.

MR. SANDOR: The second question, Mr. Chairman, is -- relates to, in fact, how general or generic the restoration plan is and how site-specific it is, and it seems to what you're describing, Ken, it's so generic and so broad as to raise the question of whether or not an environmental -- a full-fledge environmental statement is even necessary. Is there -- is the group that's looking at this both with respect to the Trustee Council organization as well as the contractor looking at the level of specificity and the level of site -- both project specificity as well as site specificity to require an environmental impact statement? I'm troubled, Mr. Chairman, by -- and why I asked the question -- is that -- that -- it gets to the point that we're talking about these specific projects -- without the specific projects, it just seems to me the restoration plan is so general in nature as to not, you know, not be -- not warrant, in fact, the EIS.

MR. BARTON: It sounds like we're going to discuss the alternative again. Recall that we did vote on those alternatives at the meeting before last, and this council selected the

alternative that we wanted addressed in the EIS and in the plan. If we want to change our mind, we can certainly change mind, but we need to recognize the impacts on the timeline, and so doing at this late date -- it took us, what, four months to pick the ones that we have. A second comment I would make is that I know we've talked a lot about what this plan should do for, and I guess what I had in my mind at least as result of those discussions was that this plan would provide the programmatic guidance, general guidance, and that the specifics would be built in the annual programs of work. They might be multi-year programs of work, but they -- but indeed be programs of work rather than necessarily being built right into the EIS. And I think there's a lot of advantages in doing that from the standpoint of being able to learn as we go forward and make changes in the projects themselves, so long as they're within the broad framework that's laid down by the restoration plan. There -- each of the projects in the annual programs of work are also subject to NEPA and have to go through the NEPA compliance process. Early on we had, I think, a discussion as to whether we actually -- whether the restoration plan itself needed to comply with NEPA or whether all the NEPA compliance could be carried by the compliance for the individual projects. At that -- a year ago, I think it was, we decided that the plan did need to comply with NEPA and an EIS would be necessary. I'm certainly open to considering any new information that could be brought forth on that question, but I hate to see us get off the '94 program of work, which was what we were on.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Well, agree with that. The reason I raised the question though was because one of these plan assumption sheets, and I'm not sure the genesis of this listing of eight, but it says National Environmental Policy Act compliance must completed on all projects prior to approval or conditional approval by the Trustee Council, and prior to approval or conditional approval, which would seem to rule out conditional approval pending the completion of the NEPA compliance, and it just seems to me our process has evolved or is evolving into a kind of chicken and egg thing -- you know, I'm troubled now by the fact that -- well, I guess it's December at the earliest that the restoration plan is going to be completed, and I'd hate to see -- and then we have the individual projects -- so I think it is relevant to re-examine, not necessarily redefine, but re-examine the course of action we're on with respect to the restoration plan and the fact or the -- and I guess the course of action that we're on already that the impact will require a full-fledged EIS. I'm not only concerned about the time already invested in this, but I guess we've got three hundred thousand dollars as well, so maybe that's -- that's not even retrievable. But I was looking at the meshing of the work plan, which I think we've got to go on with, and then it's -- it's a combination or the way in which it's to be combined with the restoration plan, and one reason I was hoping that the motion on the floor had the work plan separate from the restoration is because of the questions that are -- that seem to plague us on what

does require NEPA compliance and what doesn't. So, I'm in favor of dealing with the work plan separately.

MR. PENNOYER: Mr. Gates.

MR. GATES: Well, I just want to put out for -- I'd like to make a comment on this one point on NEPA is it's stated here in this one assumption listing is that -- and that's been the normal process that NEPA compliance would be completed on any project before the Council action. That's not unusual or different; that's the way it's been in the past, except one case --

MR. PENNOYER: Mr. Cole.

MR. GATES: ... that I'm aware of.

MR. COLE: The Department of Law has prepared, in my view, an exquisite analysis of the need to comply with NEPA for the restoration plan. Copies of that are available. I'm completely satisfied that the restoration plan need not comply with NEPA because -- in the words of the Ninth Circuit -- the NEPA compliance is not required unless there is an irreversible and a irretrievable commitment of resources, in the infamous Sierra Club versus National Energy Regulatory Commission case, Ninth Circuit, 1985. That's what the Ninth Circuit said. There again, an EIS is not required when the proposed federal action will effect no change in the status quo. Another case, "because the commission has not yet made key decisions that will result in a particular course of action, we decline to order it to prepare an environmental impact statement now." I just think it's clear that the restoration plan is not an irretrievable commitment of resources and action by this

Council, and therefore is not required, and I think before we go further in the preparation an EIS for the restoration plan, we should give some careful thought among all Council as to whether it is required. We have a lot of money out there for that, and it's, I think, going to have an adverse impact on our planning process. There's lots of cases that decline to require an EIS, just when there is a view-type document that's not a commitment of resources in an irretrievable course of action. I think we should hold up on that at this time until we get the proverbial, quote, hard look, close quote, at that requirement.

MR. PENNOYER: Mr. Barton.

MR. BARTON: It seems to me that that's a question that we, the non-lawyers, on this panel at least need some legal advice on. I understood, again a year ago, that the consensus amongst the attorneys at that point was that we did need to do NEPA. I would be delighted to learn that we don't. It seems like it would have a positive effect on the timeline, but in arriving at the decision that don't, we need to give a lot of consideration as to how the public involvement that the NEPA process mandates will be replaced and ensure that the functional equivalent that we're utilizing does, in fact, replace that. But, I guess, this is another situation where the lawyers need to go out in the lobby and come back and tell us what they decide is the legal requirements. I do have a lot of concern with stopping the EIS process though while this lobby discussion takes place because I expect we're at the point where every day we delay now will push the record or

decisions further into '93 -- or '4 -- what year are we in? -- '94.

MR. COLE: We will make this document available to all of the federal Council attorneys to see if they might agree with us. I mean, I -- I acknowledge that for many of the work plan projects that we propose in '94 will require -- those are go-no-go decisions where we've committed ourselves irretrievably to a course of action -- but the restoration plan, where we're just talking generally about what we might do, certainly commits us to no irretrievable course of action or commitment of funds. So -- that's the reason I think we should separate the approach here.

MR. PENNOYER: Mr. Barton.

MR. BARTON: We can go ahead now and talk about the '94 program of work.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: No.

MR. PENNOYER: Well, thank you, Mr. Cole, and I presume we will be provided this, and we'll have our lawyers -- not literally go in the hall and give us some advice back on the EIS relative to the restoration plan, but I presume that regardless of how that discussion does turn out, we're still going to have to frame the '94 plan in the context of what our overall objectives are. An EIS, the NEPA or whether it's just a restoration plan that spells out the types of things we want to consider over the next eight-year period of time, we still need to put a '94 plan out and put it into some type of context of how it fits in with where we want to go overall. The attempt here was not to take the place of

the restoration plan; it was simply to arrive at a '94 work plan while showing people all the various things that we might consider doing in '94 and beyond, and therefore we made a '94 column that's going to have a rather small number of check marks compared to the total thing because we only have a relatively small amount of money, compared to the total amount of money that will be available over the time of the settlement. But to those who want to buy land, to those who want to build hatcheries, to those who want to deal with visitors' centers, it puts in some context of how those fit in with the amount of money available in '94 and what might be available beyond that. So, I guess, I sort of felt this is something you had to do with or without a NEPA-driven restoration plan, and that's the context I tried to put it in, and actually I lifted it out of the back of the restoration plan because it seemed to take you part of the way there already. It just was buried in the rest of the restoration plan. So I brought it up front, and highlighted it so the '94 decisions are made in the context of the various types of things we've identified over the last two years and through the public process that we could do. I don't know what problem that gives you, Mr. Brodersen, as far as a number of things, since I think they're available, and then maybe the projects you pick out are the ones we decide on for '94 after that public input.

MR. RUE: Mr. Chairman ...

MR. PENNOYER: Mr. Rue.

MR. RUE: As someone who's new to the process,

perhaps I can ask a dumb question that will help me understand exactly what we're talking about here. If what we're talking about is a very conceptual -- literally a chart -- I don't see a problem with giving context -- if what we're talking about is having to develop a detailed project description of all the things that were rejected or might be done, we're talking about a huge amount of work. One of the purposes of the framework plan is to let the Council take a look at projects in concept before a huge amount of work had been invested so that we could get some direction -- you know, if it's a good idea, a bad idea -- kind of push the RT and direct our work, direct our effort. So it really depends on the level of detail you think is needed to present to people. Certainly, that's something I would be concerned about in terms of trying to get people to produce this thing, and it's actually a broader question or a question I also have for the work program for '94, how much detail do we need to make a decision?

MR. PENNOYER: Ms. Rutherford.

MS. RUTHERFORD: Mr. Chair, I think what Frank indicates is a concern of all of us. The options that are going out in the brochure and then the draft restoration plan, they've taken a -- the agencies have taken a good shot at the budget estimates, but I don't think anybody's totally comfortable that they're completely accurate, and I think to -- before you probably could make any decisions, they'd probably have to be quite a bit more work done with those, and I guess the timing of that -- I mean, would you want that work done on all the projects before they

go out for public review or only on those projects that the public said they're interested in, after the comments come back in, or -- that kind of information would be very helpful to us.

MR. PENNOYER: Well, I think that's a very good question, and I certainly had the intent here was not, after all seven hundred potential projects, a detailed plan be prepared for each one, and how you nick that down then in context of what your total choices are, I'm not exactly sure, and this might require a two-phase chart. You could take, for example, the general things you presented to us in your conceptual framework, you could present to us in this type of a framework, maybe only deal with us picking in the next meeting, which will be in May, I guess -- I've heard a lot of discussion of April, but May maybe -- how we specifically get down to those. Obviously, you can't do it for every -- what I'm concerned about is that we take the '94 work plan and send out to the public, after all of their comments and all their detail, another thing that says, well, here's our -- what we want to do, and (inaudible) here's what we want to do -- and this in context tells people that we've taken into account all the suggestions we've had, that I think are embodied in the options -- now Frank's and your question is a good one of which ones do we actually prepare the detailed plans on before they go out to public review, and it would be nice if you could somehow do a two-part process ...

MR. COLE: Mr. Chairman.

MR. PENNOYER: -- Mr. Cole.

MR. COLE: Do we have a process for soliciting from

the public what they think the projects should be in '94?

MR. PENNOYER: Well, I guess that's what we sort of did in '93 when we got our four hundred proposals back, and this, I guess a lot of those proposals are the basis for the options that appear in the restoration plan draft now, and this sort of tried to take that, build on it, but put it in the context of that people seeing that we want to tag pink salmon in '94, which we may want to do, but that if you do it, here;s the number of years we think you've got to do it, or we -- you're going to do it next year instead of this year, or something of that nature which kind of brought that idea back -- you weren't just sort of broad scatter-gun of, well, let's throw out these general things of everything that's out there. It sort of brings the focus back on the number of years it takes to do something, the number of years you're going to have money for, and that type of thing. It's a '94 work plan in a broader context. Now, how we get down to how many detailed project plans you're going to prepare, that's a tougher question.

MR. SANDOR: Mr. Chairman.

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: One of the things that struck me favorably was that this -- the more specificity, the better -- that, indeed, independent researchers might, you know, look at that and say, well, this is fine, but make alternative proposals or even, you know, new proposals, or more cost-effective proposals. So I saw this chart as having blank spaces in it as well so that as this went out for review by the Public Advisory Group, the public-at-

large, and other research institutions, action institutions, that this would give us, in fact, an opportunity to weigh the proposals that were generated up to this point and new ones. I don't know if Mr. Barton, who made the original motion, had that in mind, but that's one of the reasons I seconded this thing.

MR. PENNOYER: Mr. Barton.

MR. BARTON: That, in fact, is precisely what I envisioned when I -- with this concept -- is that there would be an opportunity for the others to add to this list.

MR. PENNOYER: Mr. Gates.

MR. GATES: In this list, are you going to identify time-critical elements?

MR. PENNOYER: Well, I think you identify time-critical elements to some degree by the year you put it in.

MR. GATES: You could prioritize it but that wouldn't tell you whether it was time-critical or not. I mean, it might be a priority for '94, but it might not be -- it might not have to be done in '94 unless you specify that.

MR. PENNOYER: We could certainly identify that on the table. Mr. Cole.

MR. COLE: Help me a little bit with this document, this chart that you prepared for us under your March 26th memorandum date. What do you intend we do with this document?

MR. PENNOYER: This document is simply instruction to the RT to prepare something to bring back to us in May to be prepared to send out to public review. We're trying to flesh out the type

of questions that Mr. Rue has brought up as the things we have to answer before we give them those instructions.

MR. COLE: See, what I like about this is that I would like to send a document of this nature out to the public now and have them respond to this framework before we get the RT -- Restoration Team -- preparing specific projects. That would avoid the public's criticism that this is all an agency conspiracy and the public doesn't get an opportunity to participate in the early stages when these projects are formulated. That's what I like about this is to send this type of framework out to the public soon, then get their comments, then after we get the public comments on this framework, we could then instruct the Restoration Team to move forward -- another step in the process.

MR. PENNOYER: After that point you'd do the detailed project plans.

MR. COLE: Yes.

MR. GATES: If you went out with this -- wouldn't you have to have some assumptions go with it so you could -- so there'd be some guidance on what you're -- looking at? In other words, this by itself won't -- it seems like you need some -- what your '94 work assumptions are -- you'd need to accompany that ...

MR. PENNOYER: Well, you'd have to write some type of synopsis up front that says what you're trying to do with this.

MR. GATES: Right. Assumptions or criteria.

MR. COLE: Here's what I'd like to start, Mr. Chairman, -- first, and I don't know if its -- repositories will

have resources -- harbor seals; number two, killer whales; number three, sea otters. If we sent this out, we could have three or four sentences summarizing generally the status of the data, known about the injury to this time -- to this resource -- at this time, and then people could give us proposals dealing with each of the injured resources in this framework. That's what I would have in mind, and then -- the Restoration Team look at what the public's comments are with respect to restoration for each of the injured resources listed here, then we could develop a more specific project.

MR. PENNOYER: But, it's no coincidence that I lifted this out of the back of the restoration plan. In fact, that's exactly what the restoration plan currently does. Gives the status of the individual resources and our knowledge and a few -- other background materials. So, what I've done was lift -- what was buried -- kind of in the back of it -- help -- brought it up front so people could see that in context of the '94 work plan, but they would have the restoration plan as a reference with all of the things you've discussed. The problem Mr. Rue brings up, it's a difficult one, is when do we actually tell people to write the detailed work plans to go out. And --

MR. COLE: No problem, after the public's response.

MR. PENNOYER: So that would simply require moving the restoration plan up forward -- excepting out of the restoration plan the parts that are germane to the things you've talked about.

MR. COLE: Mr. Barton, I think, says, let's put the

restoration plan off on the side presently.

MR. PENNOYER: Not calling it a restoration plan would require taking the things out of that unnamed document that are pertinent to the questions you've asked and putting them up front with this. That's all I meant. I didn't mean sending the restoration plan out. I meant that the restoration plan currently does have the resources and injuries addressed in it.

MR. COLE: Too specific, the restoration plan for my view because we go to that detail in the restoration plan.

MR. PENNOYER: So we go to that detail in the work plan instead.

MR. COLE: Yes.

MS. RUTHERFORD: Mr. Chairman.

MR. PENNOYER: Marty then.

MS. RUTHERFORD: I just want to point out that the brochure that's going out around the 8th of April, has the alternative, but it does not have all the options. The one that goes out in June, the more detailed version, does have all the options in it -- it is much more detailed, and that's where, I think, excerpt those option information from.

MR. COLE: I have a lot problems giving the public all these -- what I regard is confusing documents about options and alternatives -- all these things. The public can take this document, I think, judging from the comments they made on the '93 work plan, and deal with it very well and be less confused than by getting this -- what I regard as many alternatives or options.

MS. BERGMANN: Mr. Chairman.

MR. PENNOYER: Ms. Bergmann.

MS. BERGMANN: I'd just -- I'd like to ask a few questions I'm still trying to sort out in mind exactly how this would work. This basically includes all of the options that are contained in the draft restoration plan to date. So we would be -- we would be sending all of these out, and basically say in 1994 you could do all of these things, because you could, theoretically.

MR. PENNOYER: Basically possible, but -- not physically, but theoretically.

MS. BERGMANN: So, are we asking the public then to tell us which ones they think are important to do in '94?

MR. PENNOYER: That's the idea.

(Inaudible -- simultaneous talking)

MS. BERGMANN: Well, I guess -- but we need to put some constraints on that so that the public doesn't say, sure, do everything.

MR. PENNOYER: But a clear constraint -- a clear constraint is you don't have enough money to do everything. You only have the fifteen million with two million you've got left over, plus whatever the draw from Exxon is in September, minus what expenses are.

MS. BERGMANN: So, that's -- we would tell the public this is the ceiling on this.

MR. PENNOYER: Sure. Well, we would tell them that here's the way the money comes in from Exxon so that people

recognize we don't have all of it starting in 1994. We've got to make choices about which things you're going to do first.

MR. COLE: I think the public understands that -- that much, I hope.

MR. PENNOYER: Well, but I think each person that recommends a project -- has to do it with the understanding that that shoves something else out the door.

MS. BERGMANN: Or maybe we ask the public to list their top ten projects, or something like that. I don't know.

MR. PENNOYER: That's possible.

MS. BERGMANN: There is a concern that if we basically say, here is the entire suite of options that are possible, tell us which ones you think should be done in '94. We just need to make sure that we ask that question in a way that we get something constructive back.

MR. PENNOYER: You've got to ask it in a way you get something constructive back. Your chart may indicate the fact that it's not even feasible be do some things next year. I mean, you may have to collect a lot of information to do something. It may not even be feasible to do it.

MS. BERGMANN: I think -- two other concerns I have is that in -- in 1993 the detailed budgets did indicate for any particular project how many years beyond '93 those projects could go forward, and there were budgets associated with those. I think that the agencies and people feel pretty comfortable with doing that on -- you know -- on specific projects that are being

proposed. On some of these options that we have, I don't think that the out-years have been thought through very well, and people may not feel that comfortable saying for a given option, you could do this every other year, every three years, or whatever, especially those associated with monitoring, because we have a contract currently in place and one approved in '93 for people to tell us specifically how often we should be doing a lot of the monitoring studies. So, we simply haven't developed that information yet and can't really truly provide that to the public. So I have just a little concern about some of the out-year numbers as well. I'm not quite sure how we get around that.

And, my last thought is that, all of -- by listing all of these options, that would include the most liberal alternative, basically alternative five in the restoration plan. If the Trustee Council choices to go forward ultimately with alternative four or three or two, then some of these options won't be available, necessarily. So, you may be presenting options to the public that in reality -- you know -- wouldn't go forward because the Trustee Council selects a different object -- or a different alternative ultimately in the plan.

MR. PENNOYER: Mr. Barton.

MR. BARTON: It seems to me we need to lay out the payment schedule from Exxon, not just the '94 payment, but the entire schedule if we're going to ask people to lay these projects out by -- or up through 2001, as this sheet shows. So that there can be those constraints that we have to deal with -- dealt with --

by the public as they go through this.

MR. PENNOYER: Well, originally that -- sort of did that in the final page where it says total funding available. But it wasn't yet sure exactly what available was, so we thought we'd just show the Exxon payment schedule across the bottom. I don't know what available is with reimbursements and other questions that are going to come up.

MR. BARTON: Mr. Chairman.

MR. PENNOYER: I don't know how to answer all of your questions. Certainly, if we are not going to wait until a restoration plan is completed, we're always going to face the question you brought up for '94 -- unless we wait until '95 to do anything. So, somehow we have to bridge the fact that although somebody may come in and say, yes, I would like you to do that next year, we adopt a restoration plan in January that says, uh-uh, we're not going to do that. Part of their comment to us on the '94 work plan is a comment on the restoration plan. They think you ought to do restoration monitoring for murres, and that clearly tells me we're not going to buy off an option one -- I mean, option two, which is land acquisition only. You might have a natural recovery or monitoring program, whatever. So, some of the answers -- and that might not be a very good example -- but, some of the answers they give us will, in fact, be answers that are relevant to the restoration plan. I don't know how to prejudge that. I don't think we want to. But, I don't know how to do restoration across a broad base of restoration-type things in '94 unless we do have

the ability -- the public has the ability to comment on what they think is important.

MS. BERGMANN: Mr. Chairman, I guess that gets back to one option, is looking at -- taking the same approach this -- the council basically took in 1993 and that was looking at projects that were time-critical or considered to be a lost opportunity, and one would assume, you know, that -- that is a more conservative approach, but that gives you a safer approach in terms of not going ahead with projects that ultimately not -- may not fit underneath the final restoration plan. Or, another way to deal with that is the -- is the second set of assumptions that has the part one and part two approach, where you have the time-critical projects and then you also have projects that are not necessarily time-critical but could move forward with restoration, once you have the plan in place.

MR. PENNOYER: Thank you. Mr. Cole.

MR. COLE: Two points. One, did we not ask the public in -- for the '93 work plan generally about their views as to what projects we should implement in '93? I thought we did that. And, I thought it worked reasonably well, so, I'm simply suggesting that we do the same thing in '94. It seemed to have worked well in '93. That's number one. And, number two, I am unwilling -- and I hope my fellow Trustees agree -- to defer restoration for another year -- we must get on with restoration. And, as I looked at the proposed projects for the last meeting, I thought a great majority of them were more studies and very, very

few restoration projects. And, I think we must get on with restoration. I had occasion recently to read Judge Holland's comments about restoration, and he was emphatic that when he signed the consent decree that he wanted us to address restoration and to address restoration promptly. We've now had two years and that's enough.

MR. BARTON: Mr. Chairman.

MR. PENNOYER: Mr. Barton.

MR. BARTON: I agree with Mr. Cole. I don't think we should bind ourselves to just time-critical projects because they do tend to emphasize studies rather than implementation of things on the ground by and large -- not entirely. So, I would -- I would like to see us either leave this wide open at this point in time, or adopt the necessary assumptions that allow for the consideration of more than just time-critical projects.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: I agree with Mr. Barton and Mr. Cole. I'd like to ask the Restoration Team and Mr. Gibbons, if -- when we might be able to get this package out to early public review. I know that you folks have been burdened with a great deal of work and material, and I think it is important that this -- get out fairly early.

MR. PENNOYER: The question -- I think the question is you give a two-part process that Attorney General Cole has suggested, how -- what would it take to get sort of a multi-year thing out to people to comment on, get it back in time for us to do

detailed study plans on some part of it, and then go out and finalize the '94 work plan, which would require a second public review, I suppose.

MR. SANDOR: Good question.

MR. PENNOYER: Is that an agreeable thing.

DR. GIBBONS: Difficult to answer right now.

MR. BRODERSEN: I'll be glad to do take a stab at it if you want me to.

MR. PENNOYER: Forget the forty-two thousand now, just answer it straight up. (Laugher)

MR. BRODERSEN: I'm planning to get even for the forty-two thousand (inaudible - laughing)

UNIDENTIFIED VOICE: Matter of fact you wish (inaudible -- simultaneous talking).

MR. BRODERSEN: We have the month of April effectively taken up doing public meetings on the brochure. The second, third, fourth week, the RT and the RPWG is pretty much committed to doing that schedule. That gives us next week to start on this -- I'm poring down through the schedule here as we go. I always look to see where there's a half a cup of work and a full cup of work to do, so I am trying to go back in terms of when we might come out in May or June. But, we're starting to lose time here pretty rapidly in getting this out, and I don't think that's what we want to do. We could cancel the public meetings, but that's seems like it would be a rather in -- or hasty action to take to do there. I guess really before -- now jumps (inaudible) are over, we would like to

take the chance to go and sit off in the corner with my compatriots, and think about how we would do this and get back to you in a day or two with what really is a reasonable thing to do, and what's do-able rather than be just negative like I was there for a few moments. I would like to see this somehow work --

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Rather than a day or two, how about after coffee break? Well, seriously, I think this brochure that we're going to be having public meetings on would be a mistake if we don't deal with this very subject at the same time -- or else we'll -- you know, we're heading for field seasons, the activities of -- of folks making a living and recreation, and so on. Why not, combine this meeting and focus (inaudible) whatever was in this brochure. Why not caucus -- the legislature does this every day to a variety of -- (inaudible - simultaneous talking and laughing).

MR. BRODERSEN: If that's what you've gotta do. (Simultaneous laughter)

MR. SANDOR: So why don't we follow then --.

MR. PENNOYER: I guess the question is that most of this -- most of this is already done. I think this is largely lifted -- these tables were largely lifted out of the back of the restoration plan.

MS. RUTHERFORD: Why -- why don't you let us take a fifteen minute break because a couple of us --

MR. PENNOYER: That's fine by me.

MR. COLE: Just let me say one thing before we take

a break.

MR. PENNOYER: Mr. Cole, Mr. Rue -- want to say something.

MR. RUE: No, I think I'm not going to say anything if we're going to take a break.

MR. COLE: Well, here's what I would like to say. I agree with Commissioner Sandor that -- I have a lot of reservation about this brochure and taking out such brochure. Has anybody seen this brochure and looked at it carefully on the Trustee Council? I don't recall having seen it -- and to take a whole month and (inaudible - simultaneous talking) brochure, I think we should reconnoiter here, and see where we're heading.

MR. PENNOYER: I think that's not a bad idea. The idea on the brochure originally was the fact that the restoration plan and work plan were going to come out during the summer, and lot of people weren't around during the summer, and the brochure concept was to sort of put people on notice as to what the process was going to be, so they could have some input -- although how meaningful it's going to be without that extra detail, I'm not exactly sure. So, we can come back and talk about that, but I think we've all seen at least an outline of it. Mark?

MR. BRODERSEN: Yes. The brochure is an attempt to get at a generic, flexible restoration plan to not bind the Trustee Council members in what they are able to do in terms of the annual work plan. It was to try and get input to you all on the types of things -- types, not projects -- types of things that you might

want to consider for restoration. It was to look at the alternatives, and then what were the ramifications within the alternatives, and to go much more than that, gets into the kind of thing that I'm hearing several Trustee Council members talk that they do not want to be bound by a very site-specific restoration plan. If you then turn around and try and go out with what, in my mind is a very site specific-type project list that may give folks the mistaken impression as to what the restoration plan is supposed to do for them and for you. This is something that we do need to chat about here, but we don't want to bind the ability of a Trustee Council to react to whatever they need to do to implement restoration.

MR. PENNOYER: Mark, quite clearly our problem is that, as soon as possible, people want to get down to the stage of picking the sequence of projects over time, and you said you have to have a restoration plan to do that --

MR. BRODERSEN: I have not ever ... (inaudible - simultaneous talking).

MR. PENNOYER: ... and you have to have a '94 work plan to implement it, and, somehow, that is going to require us to get down to specific projects in '94. Somehow in the context of how the money is going to come in and what we totally want to do over time. And, I mean, if you don't build a fish ladder this year, again -- my first example -- (laughter) okay, let's try this -- if you don't want to fertilize the lake this year, it doesn't mean you can't do it next year. But, people may want that as a priority --

one, to do it, and second, they may want it done this year. Somehow you've got to bridge that fact that we don't have this restoration plan on the street, and I'm like Commissioner Sandor, Attorney General Cole, and Mr. Barton, I don't want to leave '94 as a limbo year that sort of a simple transition. You're not really quite doing restoration until you get to '95.

MR. BRODERSEN: I've never quite understood why taking the '94 work plan out for public comment isn't sufficient for folk's input on what should and shouldn't be done specifically in 1994 and not tie it to any other year. I --

MR. PENNOYER: Try to avoid getting 500 projects that we know we can't do all in one year back by showing people that there's a multi-year approach to this thing, and that it's going to take certain amounts of money over certain years, and that there are -- you'd be surprised how many people testified that there are no restoration options around -- in D.C. and other places -- that they just don't exist. Well, this is a whole list of things you can do. I mean, it's a list of things we think it might be feasible to do, and folks just don't have a lot of that out in their hands.

MR. BRODERSEN: Well, I've got to just caution you to be careful about how the thing is formatted, so that folks don't feel that the restoration plan ends up telling the Trustee Council exactly what they have to do in -- in following years. That concerns me a lot.

MR. COLE: Mr. Chairman.

(inaudible - simultaneous talking)

MR. COLE: If you adopt this generic approach -- organic approach to the restoration plan, it will in no way tie our hands. That's my point. I mean, we can have this broadly-based organic-type, generic-type restoration plan, where we don't deal with specific projects, then we don't get hung up on this, and each year we draft a work plan. It seems to me that it would work very easily and quickly and the public would understand it. And to go out to the public and talk about restoration plans and '94 work plans, it's plain -- it'll generate a lot of confusion. And, by the way, do we have a copy of this draft of this brochure that we can look at -- I can look at?

DR. GIBBONS: We'll check and see if the mock-up is still upstairs.

MR. PENNOYER: Weren't we provided that earlier.

MS. RUTHERFORD: Yes, it was provided earlier, and that's what we talked about when we talked about the April meetings.

MR. BRODERSEN: Prior to the last Trustee Council meeting, you all got a copy of it. It was about a forty-page document, that'll be ten pages when it's printed.

MS. RUTHERFORD: And it's been edited down. And, again, it's very generic -- it's organic in nature.

MR. SANDOR: Some folks are going to say, where's the beef. (Laughter)

MR. COLE: Ten pages? Ten pages?

MS. RUTHERFORD: Yea -- it's -- it's a newspaper type of layout.

MR. PENNOYER: Shall we take a fifteen minute break then and allow the RT to get together -- try to figure how to get us out of this.

(Off Record 2:46 p.m)

(On Record 3:20 p.m.)

MR. PENNOYER: We -- could we go ahead and get started, please. I see Dr. Gibbons has come back. I think we've self-destructed the rest of the RT, but -- not that I blame them. Dr. Gibbons, was there a resolution to the discussion relative to the proposal we had in front of you for the '94 work plan?

MR. GIBBONS: Yes, there was. After a little bit of arm wrestling and explanation, we arrived at a solution, I believe. We can prepare a document that you're requesting, lists the resources, the restoration options, sub-options, potential projects in the time frame -- we can get that prepared by the middle of April. Our proposal is to mail that out at that time to the mailing list and also carry it out with us -- hand carry them to the public meetings -- and explain this package at the public meetings and explain clearly that it's different from the restoration plan -- this is '94 work plan -- and request their input within thirty days. It looks like that -- by doing that and then doing the analysis of the comments and then preparing -- it will set us back several months, but I think we can do that by mid-April.

MR. GATES: How long would you have it out?

DR. GIBBONS: Thirty day comment period.

MR. PENNOYER: This wouldn't be the final '94 work plan though -- it would just allow to put the final draft of the '94 work plan out. It would be narrowing the scope of objections for the '94 plan. This would be a narrowing process then in other words.

DR. GIBBONS: That's correct. We would develop the detail for the -- draft '94 work plan. Go out to the public again for comment and then back. It's just titles, but it also -- gives us some input on years.

MR. PENNOYER: Would you say that at the May Trustee Council meeting, which will be about thirty days past -- a little over thirty after that -- that the Trustee Council can take a look and give further guidance, and, maybe by that time have -- these assumptions developed before we can come down on the specific projects that you would have in the '94 plan.

DR. GIBBONS: It depends on what package the Trustee Council would like. The package like we did with '93 were -- we provide them all the comments with no analysis, we could probably have that done. If the Trustee Council wants some analysis by us of some -- what the content is -- we cannot make that.

MR. PENNOYER: We didn't require it for '93 though.

DR. GIBBONS: That's correct. In '93 we gave you a package of all the public comments.

MR. PENNOYER: Is this process acceptable to this Trustee Council? Commissioner Sandor.

MR. SANDOR: Mr. Chairman, I wanted to say that I think the staff deserves a commendation for -- you know, coming up with this constructive proposal, and I think in recognition of the relatively short time that they had to do this, they probably want to refine it more completely, but I certainly would move its endorsement and the proposal to combine this and to have just the one hearing or set of hearings to accomplish both these purposes.

MR. BARTON: Second.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: I'm not sure what Commissioner Sandor means when he says, quote, both of these purposes. What purposes are we dealing with?

MR. SANDOR: Well, there is this brochure that was noticed for this original public discussion, which we apparently looked at before, and agreed to, and it just seems logical to combine that -- discussion overview with this first set of 1994 work plan proposals.

MR. COLE: Mr. Chairman, could I follow up on that?

MR. PENNOYER: Mr. Cole.

MR. COLE: What will this brochure address?

MR. PENNOYER: Mr. Cole, would you mind coming to closure on the '94 work plan first, then we'll come back.

MR. COLE: No, I'm perfectly satisfied to do the '94 work plan --

MR. PENNOYER: We have a couple of other things to do on

that, I think, first, but could we finish that and then come back. Right now the meetings -- we'll only talked about the '94 work plan. When we talk about the brochure at the same time later, we'll have to find out. But --

MR. COLE: This is what I'm asking Commission Sandor about -- this second thing they're going to talk about, but I'll be glad to defer --

MR. PENNOYER: Can we finish the '94 work plan first, and then come back to that --

MR. COLE: Excuse me, I -- I gather the brochure does not address the '94 work plan at all then, is that what you're saying?

MR. PENNOYER: The brochure deals with the restoration plan, it may have briefly mentioned the '94 work plan -- had some of the information in it, but it's not to sell the '94 -- it's not to request input on the '94 work plan.

MR. COLE: The brochure then deals with the restoration plan?

MR. PENNOYER: That's primarily correct.

MR. COLE: Okay.

MR. PENNOYER: So, Mr. Gates, do you have a comment on '94?

MR. GATES: We're going out to the public now with this list. How does this affect the federal and state agencies on their proposals or their ideas? Do they put theirs together at the same time, or did you address that point, or how will that be dealt

with?

DR. GIBBONS: Mr. Chair.

MR. PENNOYER: Dr. Gibbons.

DR. GIBBONS: I would assume you send it to everybody -- the agencies, the public -- anybody who wanted to comment on it.

MR. PENNOYER: I don't think it affects that. I think -- when you come back to take your shot at the -- come up with the draft -- at that time the agencies are going to have to come forward and be prepared to put together the details. We wouldn't do it at this initial stage.

MS. BERGMANN: Mr. Chairman.

MR. PENNOYER: Ms. Bergmann.

MS. BERGMANN: I was under the assumption in our discussion upstairs that -- that what would be going out to the public would be a combination of what's in the framework that's been developed to date, plus any other information people might have, including RPWG or agencies or whatever, just to make sure that we flesh out and come up with as many titles of projects as we can. So, there would be room at that point in time as well for additional ideas for projects that agencies might have.

DR. GIBBONS: Yeah, there's always additional, but right now the rest -- the draft restoration plan lists of options includes all the input we received from the public in 1990 and 1991, 1992 -- framework -- as well -- that includes agency and public. It includes all those.

MR. PENNOYER: The assumption was -- what you're talking

about -- was this type of an approach, based on what's in the back now of the unmentionable document -- that has in the back of it -- and, in fact, that there are a couple of things that are missing, I guess you could add them in, but I thought this was generally everything everybody knew to date kind of thing. So --

MS. BERGMANN: Mr. Chairman. It just doesn't get down to project titles in the draft restoration plan --

MR. PENNOYER: I understand that. I'm not sure we get down to draft titles in this first thing -- specific projects in this first thing that goes out. You're not going to have tag fifty pink salmon on point A, and hundred pink salmon on point B, are you? I thought -- basically we're dealing with the options and costs and asking for public input as to the type of things you wanted to see done in this year.

MS. BERGMANN: But we would include the third column, the potential projects, that's what I was referring to in terms of types --

MR. PENNOYER: Oh yeah, sure. Those are cabin A, cabin B of -- potential type of projects. Okay, yeah, we're saying the same thing.

MS. BERGMANN: Right, that's right. I was just simply calling that titles.

MR. PENNOYER: Are there any other comments on this?

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: I would like to add a category to this

document if we're going to use a document of this nature, which in general says the comprehensive study of the ecosystems of the spill-affected areas. I not sure if this is a list -- this, by the way is not exhaustive. The list in back of the document is longer than this and does include studies. So, I'm not clear whether it covers that concept or not, but if that concept needs to be in there --.

MR. COLE: Well, I think that that's an important -- phase of what we're doing here. You'll recall that at the symposium, there were the comments of the peer reviewers and others who appeared there who said that it was difficult to quantify the damages from the spill because of the lack of baseline data -- so many of these species there. And, it seems to me that, as I've said before, we get fairly narrow in the -- it seems to me -- projects which we're developing, and what we should do, I think, is to have a broad study of all the species in ecosystem affected by the spill. And, I would -- I intend to propose that as a project at some stage in the '94 work plan, and that's one of the reasons I would like it mentioned in some degree in the document that goes out.

MR. PENNOYER: Any objection? Okay. Any other discussion on what needs to go out initially in the '94 work plan. Any discussion on the assumptions or anything else that we'd like the public to be able to look at, at the same time?

MR. PENNOYER: Who's going to draft an initial statement or explanation of this -- package? Are you going to do that?

DR. GIBBONS: The Restoration Team, yeah, we'll draft that.

MR. PENNOYER: I think if we're not going to meet again, it would be really very good if you draft an introduction that describes -- if you can -- what we're trying to do here, that that be circulated and the Trustee Council members have a chance to comment on it before you go out because, I think, putting this in context of '94 and maybe, depending on our later discussions, the context of the balance of the restoration plan -- maybe important. So, if you're going to draft that after the instructions you receive here, it would be really helpful if you could send it out to all of the Trustee Council members, get comments back, and then if there's an major disagreement, we'll have to figure out what to do with it.

MR. GATES: I don't think you can completely ignore the fact you've done a restoration plan. I think --

MR. PENNOYER: I was holding that topic until we get to the restoration plan, which we're going to get to, presumably shortly.

MR. GATES: Okay. But I've got some more --.

MR. PENNOYER: Anymore comments on the '94 work plan? Mr. Rue.

MR. RUE: Yes, I just wanted to make sure everyone heard that it probably puts us back two months, and I'm not sure what the implications are for funding the following year in terms of people not being around for a few months. Just so you know that.

MR. PENNOYER: I don't know what you mean by puts us back two months, when I heard the schedule this morning that already put it back two months from our original May mail-out on our '94 work plan until July something. Are you talking about September now?

MR. RUE: Well, probably later than that.

(inaudible - simultaneous talking)

MR. COLE: Mr. Chairman. Why does it put us back two months.

MR. PENNOYER: I don't understand that.

MR. BARTON: Well the (inaudible) chart shows the middle of October. Are you saying it's two more months.

MR. RUE: That's my understanding of our discussion upstairs. That's correct. Someone with the timeline can describe why, perhaps better than I can.

MR. PENNOYER: Maybe someone with the timeline better describe why.

DR. GIBBONS: I'm the timeline now? (Laughter)

MR. RICE: Mr. Chairman.

MR. PENNOYER: -- design is the little line.

MR. RICE: Look at the small chart we have here. It has -- the way we had the schedule drafted up for this morning -- it had at the conclusion of today's meeting, we would start developing the work plan and start writing the brief project descriptions by the middle of next month. After that -- they were reviewed -- they would go out to the public for public comment period. Basically what we're doing here -- our interpretation is

that we are putting that aspect of the development of the work plan on hold, going out to the public with this chart of project ideas -- a thirty day comment -- so, it's going to take us about two weeks to go out to get that developed ready to go to the public -- thirty day comment period on that and a couple of weeks to analyze the comments, come back to the Trustee Council and, then, start developing the '94 work plan. So, basically, we figure a minimum of six weeks, probably closer to two months delay in concluding the subsequent steps in the work plan, which it would be -- probably early December, at the earliest, which we would be able -- you would be able to make a decision on the '94 work plan.

MR. PENNOYER: And that would then be consistent with unmentionable document's final approval.

MR. RICE: It would be very close.

MR. SANDOR: Well, Mr. Chairman, another way to look at this is that it moves up the schedule. Actually the public comment period was to have been later, and I don't see this as anything but an improvement in the work -- prospects. So --

MR. PENNOYER: Commissioner Sandor, what I think they're trying to say is that you have two public comment periods, you have the first one in this initial go through, and you're still going to have to have the final one which will be shoved back later than the July 19th -- scheduled to start by a period of an outside two months.

MR. SANDOR: But I also would question whether everything is frozen during this interim process. But in any case,

I think this is preferable to what was proposed. Mark, you're about to say something?

MR. BRODERSEN: If I may, Mr. Chairman. Actually Mr. Cole is wanting to say something. You want to go first?

MR. COLE: I wanted to supplement Commissioner Sandor's comment that I don't think everything is frozen during this time. I don't think these are a discrete series of action that we're dealing with here. I see no reason why during this process of some people being in the field, others cannot be formulating detailed descriptions of some of these plans, which, if nothing else, are a carry-over from last year. I mean, we don't have to just stop everything in a freeze-frame. We can be moving ahead and preparing these project descriptions, and I would venture to say that if we coordinated it well by the time the last public hearing is held, we should be almost ready to turn around and send these materials back out again. Sure, there's a little period of time, maybe a couple of weeks, when it's necessary to analyze the comments. We can have a short, almost emergency meeting of the Trustee Council, and get on with it.

MR. BARTON: (Inaudible) more detailed study plan is developed. I mean, is that why this length of time -- ?

MR. COLE: Sure. Well, we're developing the more detailed study plan -- is -- is part of the process. What I'm saying -- what Commissioner Sandor is saying that while some of these people -- from the Restoration Team or whoever, are out collecting public comments, presumably some people remain here who

can be working on some of the projects, if no other than the carry-over projects. You know, I mean, this thing doesn't have to be, like I say, freeze-framed.

MR. PENNOYER: I guess the other question I have to ask is we're trying to get on the federal fiscal year, okay. We have tried to move this thing up so we can make this transition October 1st, but what happens if that doesn't occur? This is the first year of the restoration process -- formal restoration process -- '94. Does it make any difference if this thing doesn't get adopted and final until November? If, in fact it's lock stepped with whatever we do on the restoration plan, so we're not faced with all this problem of getting one ahead of the other -- we do have a time sequence vision of what we want to do, I'm not sure it makes that much difference, if it does delay it by a month or two -- if it's more meaningful. Now there you might argue with me, so go ahead.

MR. BRODERSEN: Initially, I was going to comment on what Commissioner Sandor there said and amplify on it. One of the advantages that this does for us is that per this schedule, we've got staff allocated at over two hundred percent time for April, May, and part of June, and by backing this up a little bit and getting public input at this point, we overcome some of these allocation problems of available resources. So, it actually takes care of some of our difficulties that we were approaching here in the next couple of months, of how to get everything done. I would hope that we were not developing detailed project descriptions in too large a sense while we were asking the public to comment on

these documents until we'd gotten that public comment back. Otherwise, it would make the public comments not as valuable as it might be to us and -- we'd hope that, while it's not lock-step, but there is a progression to this. And that we would decide what ones to put into detailed project descriptions, partially based upon public input back to us from sending this first document out.

MR. PENNOYER: Mr. Sandor, anything further?

MR. SANDOR: No, I -- I think -- the most important thing is we're going to have a better process. We're going to have public involvement earlier, we're going to have new ideas, and the process is going to be better. And I don't think it's going to be two or three months later.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: It seems to me that -- I mean, this work can go on -- if from the public comment we have to scrap some of the work or revise some of the work we've done, amplify some of the work, all well and good. That's -- Commissioner Sandor says the way the process are functioning, that it just seems -- I think, to Commissioner Sandor and me, we can continue with detailed project descriptions, at least in broad conceptual framework, during the time some of the Restoration Team or subgroups are out in the fields. I don't presume that the entire Restoration Team and subgroups will be out on the circuit.

MR. PENNOYER: So, we've had it moved and seconded that we proceed as proposed with a -- a '94 work plan, detailed injured

resources services, restoration options, sub-options and potential projects with some concept of the time sequence on those; go out and get public comment during the upcoming round of public meetings, and that the RT will prepare a lead into this, kind of a synopsis of what we're doing here and why we're doing it to make the comment more meaningful -- and, I guess that was the sum total of the motion, but after that we were intending to come back -- we'll do that -- at our May meeting -- go to final on detail project plans, as quickly thereafter as possible get the detailed '94 work plan out to the public, general synopsis. Mr. Brodersen.

MR. BRODERSEN: Mr. Chairman, please leave as much flexibility in your motion as you can here to allow us to develop the schedule over the next couple of days -- a few days -- to get back to your for your perusal. Let us see what we can do to implement what the Attorney General is requesting to take stuff out of lock-step and do things concurrently, etcetera, and move it along as quickly as possible. I would like to not make it look like we're trying to go against you if you make your motion too inflexible in terms of timing and such.

MR. PENNOYER: I thought I said as quickly as possible. (Simultaneous talking)

MR. BRODERSEN: Okay, one other thing to toss out at you here is that if we go out to the public just with project titles, I am sure that we're going to hear back that we are giving the public way too little information to comment. And, I think that we all need to comment back to the public on this that this is where

we are now, that we're trying to give the public a chance to have input prior to a draft plan, and this is important to get across that this is their chance for input at the level of thinking that we have right now, that this is another step that we're allowing for this to happen.

MR. PENNOYER: Then I think your synopsis, when you write it up, ought to say just that -- ought to say something about the multi-year aspects of the program, ought to say something about the fact that this is test basis and all the public input we've had in the last two or three years, the work plans we've worked on -- all those factors ought to come in, including a general idea of the schedule we're trying to address here.

MR. BRODERSEN: Do you as a group, or as individuals, want to look at this document before it goes out to the public?

MR. PENNOYER: I think we're -- our discussion was that we would like you to mail it out to us with the synopsis and the back-up before you send it out -- give us a chance to make sure there's no huge heartburn.

MR. BRODERSEN: I would like to suggest that you look at as individuals, and then if necessary have a teleconference or something on it down the road.

MR. PENNOYER: Is that acceptable to everyone? Is there any further discussion on this motion?

MR. COLE: Fax it, don't mail it.

MR. PENNOYER: Any further discussion of the motion? -- faxing it? O'Connor

MR. O'CONNOR: Is it intended that this be a meaningful exercise for the purposes of NEPA compliance or --?

MR. PENNOYER: What do you mean, are you talking about meaningful from a legal meaningful, or meaningful to people who are trying to devise a restoration plan?

MR. COLE: The answer is no.

MR. PENNOYER: Is this intended to meet NEPA compliance?

MR. O'CONNOR: There was no attempt to have this meaningful exercise (inaudible -- out of microphone range) because these (inaudible) are meaningless. I want to amplify what Mark has said, as a member of the public, to sit down and say, gee what do I think about a project that says information and education of fishermen, and give you some sort of meaningful input, my thoughts on that subject are (inaudible). As a member of the public, I would suggest you save a lot of money (inaudible) to give you any kind of meaningful input on that.

MR. COLE: Well, Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: I -- I read the comments of the public about the '93 work plan, two hundred fifty of them, plus or minus. I thought many, many, many of them were remarkable perceptive and demonstrated an acute knowledge of the problems and what should be done, and I have every reason to believe that we will get the same sort of response from many, many people when we send this document out. I think if we send a short description of five, six, seven sentences of what we know about the injury to each of the affected

species along with that, and ask the public generally to tell us what they think should be done by way of remediation or rehabilitation to these injured species, we will get a surprisingly helpful response. That's what I have in mind.

MR. PENNOYER: I guess I'm having a little bit of trouble with your comment, Craig, in terms of some of the information and education of subsistence users. That's a project that was approved in a '93 work plan. It's one we've done for three of the last four years, and I suppose if people don't have any idea what that means, then we probably really do have a bigger problem than we can envision now. So, some of these may not be real easy to understand, but, of course, that's one of the reasons we're holding the hearings too, so that if people have questions on this list, they can ask them. I'm not sure -- your only alternative then -- that you're suggesting is to do detailed project descriptions on all of these and send them out, and there's simply not time to do that. In terms of NEPA compliance, how that mixes in with the restoration plan is something we haven't discussed yet.

MR. O'CONNOR: NEPA compliance is totally meaningless -- okay -- that's -- that's assumed right as you go into this (inaudible -- out of microphone range)

MR.PENNOYER: Yes.

MR. COLE: Okay, so the next question is, is this going to accomplish something to provide the public meaningful opportunity to help you prioritize, to evaluate how best to spend the money, the total pot of money that's available to spend, and if

I was a member of the public, a casual observer -- fortunately I am these days -- some of this doesn't mean much to me, I would say two hundred and twenty-five thousand dollars to habitat use identification and satellite tags for the next four -- three years, how do I rank that as compared to, for instance, construct a public use cabins and outhouses?

MR. PENNOYER: I guess if you're concerned with cabins and outhouses, you'd probably rank it rather well. If you somebody whose concerned with satellite tags ...

MR. COLE: Here's the problem, we're not asking them to prioritize these projects. We're asking them, in view of this knowledge which generally we will impart, dealing with the affected species, to tell us what they would like to see us do by way of restoration. Then we will pass this information on to the Restoration Team and others to get their advise. Then the next step is develop specific project proposals. As Commissioner Sandor says, it seems like it's a better project with greater public participation.

MR. O'CONNOR: They're going to be able to come back and say, yeah, we agree with these, and in addition we want seventy-three others or ten others or whatever. You'll have a composite recommendations.

MR. PENNOYER: Craig, the alternative at the moment is to send out a pie chart. That's all we've out at the present time that has how much percent you want to spend on generalized activities. Now, is that more meaningful? Maybe it is. I suspect

those who know about satellite tagging or concerned about harbor seals, probably will comment on harbor seals satellite tagging. I suspect someone who isn't, probably won't comment on this as being a priority.

MR. O'CONNOR: We've (inaudible -- out of microphone range) all categories that are not touched -- all resources that are not touched, including sea otters, killer whales (inaudible) and so on, there are no projects we are going to consider in '94?

MR. PENNOYER: No, this is an example. Two things were fleshed out. There's a whole bunch of stuff at the end of the restoration plan currently that deals with all those species. This is only dealing with a few as an example. I didn't try to do them all because I only had one day to do them in.

UNIDENTIFIED VOICE: Look at the project sheet.

MR. COLE: Isn't it -- unless I misunderstand it, it's asking the public what restoration projects they would like to see us implement during the 1994 work plan season for each of the various injured species. We'll take all of that data and all the responses, evaluate it, analyze it, and make some decisions about what projects should be included.

MR. PENNOYER: It's also trying to put in context the timeframe, but you can't do it all at once.

MR. O'CONNOR: Similar in nature to the brochure (inaudible)

MR. PENNOYER: Somewhat -- but a little more detailed because the brochure has got pie charts. This has projects.

UNIDENTIFIED VOICE: Pie charts are nice.

MR. PENNOYER: Pie charts are nice, I agree. I don't know what they mean, but they're nice. (Laughing) Mr. Brodersen.

MR. BRODERSEN: Mr. Chairman, let me try a slightly different tack on perhaps what we can get out of this request to the public. I look upon it as an attempt to have them help us prioritize which projects do we develop into three-page documents to put into the draft work plan and this helps us get around --

MR. PENNOYER: For '94.

MR. BRODERSEN: For '94 -- and that helps us get around a little bit to difficulty that folks are going to have responding back to this. But all this is, is a request of them to prioritize which projects they want to see appear in the draft work plan. At that stage when they have more information, they then give us their thought on whether the project should go ahead or not.

MR. PENNOYER: Rather than simply saying give us the whole projects you want to go ahead, it is saying, this is what we've heard up to now. Given all these possibilities, what do you want us to do?

MR. BRODERSEN: And what do you want us to add? What would you like to add that's not here.

MR. PENNOYER: Any further discussion on the '94 Work Plan?

MR. SANDOR: I would just --

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: Mr. Chairman. That -- certainly some of

the testimony last Wednesday for the congressional committee in Washington dealt with communication and the need to improve communication, and specifically in subsistence and other areas. This would simply provide an additional opportunity -- if I was -- know had the opportunity to comment again, particularly in this early stage, I would realize that this was -- at an early enough stage so that it was more meaningful. I think it's going to strengthen the whole process and effort.

MR. PENNOYER: Further discussion on the '94 work plan. Is there any objection to proceeding as moved? Okay, then we'll be waiting for something to come in a fax with the synopsis of what we're trying to do, an overview of what this is, in this package. Thank you.

Next item on the agenda under these various brochures is the habitat protection status reports, or do we need now to talk about the restoration plan and the synopsis? Okay, it's not on the -- specifically on the agenda, but it's relative to it. Should we talk about the restoration plan and the synopsis process that we're into this next month. Who's first? Mr. Cole.

MR. COLE: Mr. Chairman, is this what you're going to put on the -- send out to the public these things that are on the flyer?

MS. RUTHERFORD: Mr. Chair.

MR. PENNOYER: Ms. Rutherford.

MS. RUTHERFORD: That is simply a mock-up, the text in it is badly outdated. I'm having the most recent draft that I

could lay my hands on upstairs copied for you right now. It's going to be between nine and eleven pages. Those two documents off to the right are an insert in this -- off this ten-page newspaper-type brochure, and it is at the lay-out artist right at the moment. And, we hope to have it in hand and in the mail between the fifth and the seventh of April.

MR. PENNOYER: And again, this synopsis basically tries to put a process in perspective for restoration plan.

DR. GIBBONS: That's the basis.

MR. PENNOYER: But it doesn't provide for -- if somebody comments on the synopsis it doesn't have the same effect as a comment on the restoration plan itself. It's out of context with the time period for public review of the EIS and the restoration plan, or is it?

MS. RUTHERFORD: Those are -- the comments that we received on the -- on the brochure will be factored in and, Ken, jump in if I misspoke -- mis-speak here -- but the comments received on the brochure will be factored in to the comments that we -- the draft restoration plan is going out in June, and we will not actually take comments on this until that is also out, so we'll just factor them in, and they'll be rolled into the same comment period.

MR. PENNOYER: So you can legally then and process-wise include them in the same public comments that come in during the normal public comment period on the EIS.

MS. RUTHERFORD: Yes, all of -- everything that's in

the brochure will also be in the draft restoration plan -- it's just that more detail is currently planned for the draft restoration plan.

MR. PENNOYER: Mr. Cole.

MR. COLE: Where are we in this million and a half dollar restoration plan?

MR. PENNOYER: Mr. Rue?

MS. RUTHERFORD: Want a guess?

MR. COLE: No.

MR. PENNOYER: Dr. Gibbons.

DR. GIBBONS: The document is due to the Trustee Council -- May 20th, I believe is the date.

MR. PENNOYER: Including both the EIS and the draft plan.

DR. GIBBONS: That's correct.

MR. COLE: Does anyone have a sense of what's in -- that's being put into this document.

MR. PENNOYER: I hope so.

DR. GIBBONS: We presented the material on the alternatives to the Trustee Council and various other things. Mr. Craig Thompson is on the restoration planning work group. He's got some real detail on -- can probably respond to.

MR. PENNOYER: Craig, will you help us?

MR. CRAIG THOMPSON: Well, Mr. Cole, if you restate your question, how detailed do you want to get on this. I can sit here and show my -- show what I know for several hours, or I can do it do it in five minutes. The restoration plan, of course, is a

document which will be drafted in a -- I just don't remember the words that were used here -- but it will be a programmatic document, and it will give us general direction and guidelines which can be used for the settlement period for restoration processes. And in -- in doing that -- to develop the restoration plan, we're currently in the process of dealing with alternative approaches to restoration. And, as you remember two meetings ago, the decision was made to use five different alternative approaches. Okay, and that is being done. Those alternative approaches will be fleshed out -- what do they contain, you know, how will that affect restoration, what's the impact of the work -- the options that are contained in those alternative on restoration resources and services. So, all of those kinds of things will be included in the restoration plan. And, if you want a more detailed outline, I can -- you know, go through that, certainly. It's a document which in effect parallels much of the information that will be in the environmental impact statement. Environmental impact statement will give more detail on effects and evaluate the implication of doing certain kinds of options, singularly or in combination, as we move through the restoration process. The restoration plan is actually a programmatic document that gives us what we can do and a general discussion of the implications of doing those things. And, the EIS will parallel that and gives us more detail on the impacts -- you know, following the NEPA procedures and guidelines and the EQ regulations to, you know, document the impacts of restoration. I mean, that's -- that's a fairly simplistic outline

of where we go with this thing. And, the restoration plan right now is being drafted. I'm not specifically sure how much of that you might have seen. I know the restoration brochure as it exists up on the wall is somewhat similar to the document that was prepared for you folks several weeks back. And, since that time and working with the Restoration Team, we've summarized that more. We've made it clearer. I don't think it's simpler; I think its clearer. And, there you see lots of pie charts and the current one we have the no-action alternative, which is basically a blank pie chart, and the four alternatives that go along with that, so it's significantly different than this. But, the document that you'll see here in a few days which is the restoration information -- restoration plan alternative information brochure will be like it was stated up here by Dr. Gibbons, a summarized version of the restoration plan. What you see in this document will be built upon in the restoration plan. And, Marty, I believe, mentioned that she's having copies of what we've made. We could've done that earlier, but not being on the agenda today, we didn't do that.

MR. PENNOYER: Mr. Cole.

MR. COLE: Does this restoration plan deal with specific injured resources, for instance, river otters?

MR. THOMPSON: It will deal with river otters and options that may be available for restoring river otters in that context. Everything that was injured, a resource or a service, will be dealt with in the restoration plan in some way and, without getting into a lot of detail, I'd -- and I'm not a resource expert, I can't tell

you specifically how that would be done, but they are all dealt with, everything that was injured -- that we have records of that was studied, NRDA studies, and so forth.

MR. COLE: What troubles me is in line with the Commissioner -- the question Commissioner Sandor asked earlier. If we have a restoration plan that deals with specific injured resources and will give the options, like five options -- alternatives to take to deal with this injured resource for restoration, enhancement, whatever purposes, how can we prepare a meaningful EIS before we know what action will be taken with respect to each such resource.

MR. THOMPSON: Well, it's a chicken and egg sort of thing. I think the decision was made earlier by the Trustee Council not to have a preferred alternative in the draft restoration plan and EIS. And, the documents would go out at the draft stage as a equal representation of all five alternatives, any one of them which could be chosen in whole or in part as a preferred alternative. Preferred alternative will have to be represented in the final restoration plan and EIS. And, that will be a decision you folks will have to make on which direction you want to go, which combination of restoration options are to be included in the alternative that is chosen to be the preferred -- in the final.

MR. COLE: Will the EIS address each -- the consequences of each of the five alternatives?

MR. THOMPSON: Yes, it does both in the draft and in the

final. And, in the final you'll have a preferred action, the direction you want to go. And, all of them have to be addressed by law. You can't just address one and say you have alternatives to this, because that would be indifference to the law. So, you have to deal with all of the alternatives and evaluate the effects of all the alternatives.

MR. COLE: So, we will have a restoration plan that will contain a number of alternatives for the restoration or enhancement of whatever -- each injured resource -- and the EIS will address the consequences, if you will, of each alternative. That right?

MR. THOMPSON: Uhh-huh.

MR. PENNOYER: Further questions about the restoration plan? Timetable or content? Or the synopsis that we've got up on the wall here?

MR. COLE: How many pages will this restoration plan?

MR. THOMPSON: It's planned for ten pages --

MR. COLE: In the final plan?

MR. THOMPSON: Oh, the plan? It's too early to tell, Mr. Cole. I just -- I don't know.

MR. COLE: Two hundred, three hundred pages?

MR. THOMPSON: It will be closer to the latter, probably.

MR. COLE: Three hundred pages.

UNIDENTIFIED VOICE: Wait, wait, wait --- (inaudible -- laughing)

MR. THOMPSON: Let me preface that a little bit. You

know, we have completed an injury chapter and I may call on -- I think Karen was back there a minutes ago, but the injury chapter that was originally drafted up for the restoration plan was well over a hundred pages itself, and that's only a small fraction of what would go into the plan. So, our work is cut out for us in eliminating a lot of superfluous material in there in order to come up with an appropriate length of document. If you should give us a document that you feel is appropriate in size and you want us to meet that, we'll certainly try, but I would expect that the restoration plan will probably be not much different than the document that was put out, for let's say, in 1993 work plan, the blue book.

MR. PENNOYER: Mark Brodersen.

MR. THOMPSON: It could be.

MR. BRODERSEN: There's probably going to be a much shorter document than your hearing here by the time all is said and done. I would envision something not much longer than the brochure as the lead chunk, and then there will be chapters coming behind that for people who want to delve into the technical aspects of it -- to understand it -- that that -- it will not be necessary for people to delve into that to understand, to get a grasp of what's going on. There will be back-up material available, but -- and, this is not -- you know, we're not set on this yet -- but I would hope that we would have a much, much shorter, more user-friendly document by the time all is said and done -- not much longer than the brochure in case of the actual document, the working document.

MR. PENNOYER: The action part of it?

MR. BRODERSEN: The action part of it.

MR. PENNOYER: The rest will all be -- back-up.

MR. BRODERSEN: The rest will all be back-up. So, if you want to go in and look at -- and see what's there, how we got to the action part.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: We're to have a presentation of this draft in May?

MR. BRODERSEN: I believe -- let's see -- it goes to -- by this draft schedule -- May 21ST.

MR. SANDOR: What we see there is what we'll get except that we will not have preferred alternative -- in each of the categories?

MR. BRODERSEN: I'm confused.

MR. SANDOR: Well, we heard that for each of the injured species -- injured resources and services -- that there will be an array of alternatives, courses of action, all which will be analyzed, but, no preferred alternative proposed in the draft. But, in the final, there will be.

MR. BRODERSEN: We'll ask you all, the Trustee Council (inaudible -- simultaneous talking)

MR. SANDOR: So essentially what we chose in the draft **(inaudible - coughing)** will be what we get except for the display of proposed alternative then.

MR. BRODERSEN: Well, in the final -- we started

discussion on this -- but I would hope in the final that we would -- in the final restoration plan that we would pull out all the extraneous information on the alternatives that you don't pick, but that would still be in the final EIS, but not in the final restoration plan. So, basically, you're chucking out four-fifths of it.

MR. SANDOR: I understand, but in other words, all the alternative analysis -- it's there, and then you'd get comments back from that, and that would be refined and the basis for selection of a third alternative.

MR. BRODERSEN: Unless we go totally missed it, in which case we have to rewrite this thing, but I would hope we hadn't.

MR. PENNOYER: Mr. Rue.

MR. RUE: Mr. Chairman, again being new to this -- I can only use that excuse until the end of the day -- I would assume that the RT is getting briefed by the restoration planning work groups -- so we're tracking it -- we should be also checking in with our Trustee Council members to make sure we're not doing something strange that you all don't find acceptable go out in the draft. If that's the concern I'm hearing, we can make sure that -- I mean, I will personally make sure that happens with my Trustee Council members, so that I'm not out there approving something in draft, that's going to have major problems. Maybe there's -- is that the concern I'm hearing? Is there something you want to make sure you see before it gets too far?

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Yes.

MR. RUE: That's what I thought.

MR. COLE: I'm very, very uneasy about receiving on May 20 a voluminous document which -- in many ways will lock us in to the restoration plan, and we will then be in a position of saying, what can we do now, time's running, we have to adopt this plan, and it may be a document, the thrust of which is inconsistent with what one or more members of the Trustee Council has in mind.

MR. THOMPSON: Mr. Chairman.

MR. PENNOYER: Yes.

MR. THOMPSON: I'd like to clarify something. Mr. Cole I think that what you'll see -- what you will see in May is a draft restoration plan and that doesn't commit us to anything at that particular time. We're trying to manage the process and make things available in their draft form before we come up with a final. And, certainly, if you are presented with something that was a final action in May, I'd be just as concerned as you, but it will be a draft, and we will present the five alternatives that have been prepared and discussed with you already in that draft. And, from there you make a move depending upon what you hear from the public and how you feel about it on what you want to see in a final.

MR. BARTON: It will be a draft of a draft.

MR. COLE: I'd like to see on May 21st.

DR. RUE: I think we'll have a -- see a draft.

MR. PENNOYER: Further questions on '94, I mean the restoration work plan?

MR. COLE: Yes, is there any chance of seeing before May 20th an outline of what is being done?

DR. GIBBONS: Mr. Chairman.

MR. PENNOYER: Mr. Gibbons.

DR. GIBBONS: Yes, an annotated outline was given to the Trustee Council -- and, I believe, in December, if I'm not mistaken, and, it was fifteen pages long or -- we can get you another copy of it if you --

MR. COLE: I would hope that in the ensuing four months that -- there's more meat on the outline bones. I'm just concerned about getting the document there without having an opportunity to follow it true. I would hope that there's more to the outline now than there was in December.

MR. PENNOYER: Dr. Gibbons, I think what is being indicated is we want to be kept informed as you go along and receive something more comprehensive in draft form well in advance of the May meeting.

DR. GIBBONS: We can do that, we can give you chapters. Now, after we get the chapter from the Restoration Plan Work Group and the Restoration Team goes through it and make changes, I'm sure we will, then we can get you those copies -- to the Trustee Council -- so you can be reading pieces of it, so you're not taken aback with a big voluminous document on May 21.

MR. PENNOYER: Mr. Brodersen.

MR. BRODERSEN: Chapters three and five is currently outlined -- are the guts of the restoration plan. There have been presentations on those, and draft copies of those two chapters have gone to the Trustee Council already. We could either have another presentation of those two chapters or we could get out the draft chapters, depending upon which the Trustee Council desires, and pass them around again, if you wish. Chapter three is the summary of injury table; chapter five is the alternatives chapter -- and, as I say, that is the guts of the document right there. The rest is basically boilerplate. Would the council like to have copies of those drafts circulated again?

MR. PENNOYER: Sounds like the answer is yes.

MR. BRODERSEN: Okay.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Here's what I'm uneasy about -- is come May 20, we get this rather voluminous document, and maybe the approach is not exactly what we had in mind, and then what do we do? Start from go again, or do we say, let's go to work on it? It seems to me that we ought to be following it along as it develops, so if we get to some juncture that doesn't seem to fit, we can say, whoa, let's take another look in this area. That's what I have in mind.

MR. PENNOYER: Dr. Gibbons, I think you've heard the intent of the Council to be kept up to date and as you go along -- and -- do you see any problems doing that?

DR. GIBBONS: No, we can give you the annotated outline and the chapters as they are completed by the Restoration Planning Work Group and reviewed by the Restoration Team and give you those as they're completed and bring you right along.

MR. PENNOYER: Further comments? Can we leave this agenda item and proceed to the next item? Thank you. Next item on the agenda is habitat protection status reports. Status report on imminently threatened lands, opportunity lands, comprehensive program. First, says Trustee Council -- we reporting to ourself or were you going to report to us -- Dr. Gibbons?

DR. GIBBONS: There's -- there was two lead agencies identified to begin the discussions on the imminently threatened lands, and the reason I put it that way is, I don't know what's transpired, and maybe we don't, so I thought I'd leave that up to the two lead trustee agencies on -- to filling us in on the status on the discussions with the four imminently threatened --.

MR. PENNOYER: Well, I think that was the Forest Service and the State of Alaska. Would one or the other care to go first and then describe where we are on that discussions. You're going to defer to Mr. Rice -- okay.

MR. RICE: Mr. Chairman, I'll keep it fairly brief. We have made contact with Tatitlek Corporation on the Fish Bay parcel and Eyak (ph) Corporation on the Power Creek drainage and basically made some initial contacts and discussions are ongoing. Beyond on that I really don't have anything more to report.

MR. PENNOYER: Thank you. The State of Alaska -- Mr.

Sandor, Mr. Cole -- who is -- Marty?

MS. RUTHERFORD: I think my comments on this are real brief. We've made contact with Akhiok-Kaguyah on Seal Bay and Nanwalek, and Lower Kenai Peninsula, and I think the discussions are ensuing.

MR. PENNOYER: Can I ask about the other eleven parcels we asked for some follow up on the ranking and contact and whether they would change in ranking number or priority if, in fact, they're reconfigured after discussion. Can we -- tell me where we are on that?

MS. RUTHERFORD: Let me hand out a couple of things here. What I'm sending around to you now is a copy of the landowner letters that were sent to the non-imminently threatened landowners around the state and those that were sent to the imminently threatened landowners. This is a list of each of -- each of them includes a list of those entities on the front and then an example of the letter attached. We had sent those letters out on March 18th, and we are currently receiving -- we're beginning to receive responses. In the meantime, we also -- as directed by the Trustee Council -- we also contacted all of these landowners via the telephone, and I'm sending around to you a list of landowner contacts with some -- just some very brief text on their reactions. Additionally, this chart of the twenty-two parcels that we analyzed at the February 16th meeting, there is a quick synopsis of what the owners' level of interest in response was to those telephone contacts. Basically, most of the contact

responses we're getting, both written and verbal, are positive and I think it pretty much speaks for itself. The other thing that I just kind of wanted to bring to the attention of the Trustee Council, is that -- you're guidance on the three opportunity parcels that were presented on the February 16th meeting was -- we are not sure we understood what it was, and we're wanting to know that in addition to the telephone contact and the landowner letter contact, was there anything we should be doing on these three parcels? Because right now, aside from the landowner letter and the telephone contacts, that's all we're doing.

MR. PENNOYER: Trustee Council comment? You mean in terms of treating that as an imminent-threat and doing them this year.

MS. RUTHERFORD: Yes, that's correct. The Restoration Team members has various interpretation of your guidance.

MR. BARTON: Even after reading the transcript.

MR. PENNOYER: That's not surprising at all. (Inaudible) I'm not clear -- when we sent this letter out to everybody -- my assumption -- what I understand is that we're getting a lot of people indicating to us that have parcels that might enter into opportunities, not just these three that we initially have, so, why would we consider just those three out of context of everything else?

MS. RUTHERFORD: There were some Trustee Council's that sounded like they expected us to. I'm not sure that --

MR. PENNOYER: Let others speak for themselves, if they wish. Commissioner Sandor.

MR. SANDOR: Yes, Mr. Chairman. I just feel it's important to look at opportunity parcels as well. I think this -- you know, is a beginning process, and I'm really delighted that -- in fact, in this very short period of time -- relatively short period of time -- you've made these contacts -- gotten this kind of feedback. Meanwhile the process of identifying critical habitat criteria -- the best professional assessment of -- you know, of threats is going to be refined. I do think that we do not want to set a process in motion that looks at only imminently threatened parcels, lest we send the wrong signal. And, so I just think we have to take this one step at a time.

MR. PENNOYER: Mr. Gates.

MR. GATES: It seems to me like on the opportunity parcels, we want to continue receiving the input -- or interest -- and then proceed with ranking those and develop a list on the opportunity lands, just like we have on the imminent threatened.

MS. RUTHERFORD: Yea, we have now begun just -- the very basic start of analyzing all the opportunity parcels around the state. Basically, the first step was to identify those landowners where there is interest in participating in this analysis, to find out -- you know, willing seller basically. And, we will start that, but I wanted to be sure there was nothing that immediately you expected to be done to these three currently analyzed opportunity parcels.

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: I've been comforted in knowing Nature Conservancy has played a continuing role in this whole process, and I presume you're continuing to solicit their professional advice in this process. How is that working, incidently?

MS. RUTHERFORD: They've played a very big role in that contract that -- where they went out and gathered expert input on -- in terms of injured species and services locales, and they still are involved in a -- sort of a phase two to that same contract, which is working with the agencies to gather together all of the information and -- and getting it in a format where we can use it for this comprehensive analysis. Apart from that, we sometimes pick their brains on an individual -- people on the Habitat Protection Work Group -- pick their brains and other professionals in this field -- their brains -- whenever we run up into some kind of a complicated issue. So they have been very helpful and open with us in terms of assisting us. We -- other than that though, we don't have any formal relationship.

MR. SANDOR: I think -- Mr. Chairman, we're going to have to refine the process of identifying what is critical, for example, in the harlequin duck habitat. My reading of the work that's been given to us to date, does not distinguish between those habitats in Prince William Sound versus those in the other parts of the oil-impacted areas, and I think that's going to ultimately have to be done. And, I presume that process is going to be underway. I'm reassured that -- at least there's activity underway here.

And, we're on the right track.

MS. RUTHERFORD: One of the other things we are doing is, we are trying to take the process that was laid out in the ugly book that draft -- the restoration frame book -- back in April or May, and we're refining it, and then we're going to work with some peer reviewers in sort of a collaborative effort to try to make the comprehensive process more appropriate. One to things we'll be addressing is defining the boundaries for parcels and for analyzing parcels. Like, we might look at watersheds, for instance, and not just confine ourselves like we did during the imminent -- imminent-threat process to those areas that are -- were going to be logged. So we'll be trying to work with peer reviewers to define parcel boundaries.

MR. GATES: Do you have a --

MR. PENNOYER: Mr. Gates, go ahead.

MR. GATES: Do you have a ball park figure on the number of landowners that -- parcel landowners and the (inaudible) opportunity lands?

MS. RUTHERFORD: Um -- was it three million? I -- I would be hesitant to say right now. I'm -- I'd be speaking off the top of my head, and I'd have to look it up. I know we've looked at it. Ken, do you remember?

MR. RICE: I think there's roughly, somewhere close to a million and a half acres within the spill area of private land, depending on how you want to include parts of the Kenai Peninsula.

MS. RUTHERFORD: And that's just, again, private landowners.

MR. RICE: That's correct.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: In those discussions, are we looking at a variety of acquisitions of interest in land, such as easements, options, related covenants?

MS. RUTHERFORD: Whenever we talk to any of the landowners, we try to emphasize that we want to be as flexible as possible in whatever kind of protection tools are finally applied -- and we -- not only will reference the document that the Nature Conservancy did for us about a year ago, but also to be open to the input from the landowners themselves. They may actually come up with some new and innovative protection ideas. So, that's one of the things we want to emphasize.

MR. COLE: I'm not sure I understood -- would you say that again, please.

MS. RUTHERFORD: We're trying to keep the menu of protection tools as wide as possible, and let you the Trustee Council decide when -- well, let the negotiators work with that full menu and then let you the Trustee Council decide on what's the program and what's not.

MR. COLE: Are the negotiators now working with a full menu?

MS. RUTHERFORD: We've tried to -- we -- the Habitat

Protection Work Group has met with both teams and negotiators and we've tried to share so there's a background of how we got to the point of analyzing the imminent-threat parcels -- all the different protection tools that were available to us. Just sort of bringing everybody up to speed and that's one of the things we've tried to emphasize.

MR. COLE: Are the negotiators now negotiating?

MS. RUTHERFORD: I believe so. I know more about the state's status than I do on the federal status. Maybe Ken or Mike Barton could comment on that.

MR. RICE: Yes, we're -- in fact, we're taking copies of the handbook that the Nature Conservancy put together for us and making that available to some of the landowners so that they're aware that there are other than just fee simple options out there. I know there is concern on some of the landowners' part as to whether they would want to discuss fee simple, but they may not be aware of some of the other options. So we are trying to make sure that we're all working on a level playing field and have the same kind of information as to what is available out there.

MR. PENNOYER: Further questions on land acquisition?

MR. RUE: Quick clarification. I believe we're only negotiating with those critical -- I mean, the imminent-threaten parcels -- we are not negotiating with anyone else?

MS. RUTHERFORD: The current rate -- the only direction I understand -- the Restoration Team believes -- we're only negotiating for those four parcels where the Trustee Council

assigned a lead negotiating team.

MR. PENNOYER: Although you were authorized to pursue in some more detailed discussions on the other eleven parcels.

MS. RUTHERFORD: That's right.

MR. PENNOYER: You have three configuration of areas -- that includes some level of negotiation and discussion.

MS. RUTHERFORD: Right, we're --

MR. COLE: When will we get a report on the status of the negotiations?

MR. BARTON: Mainly -- you'd ask the report have -- no particular date or any particular milestone that we would like.

MR. COLE: Well, that's what I had in mind is -- are we going to look forward to a report at the next meeting, for example, or will this be on the agenda, or will it just be -- whatever?

MR. PENNOYER: I assume it would automatically be on the agenda until some conclusion is reached.

MR. RICE: Mr. Chairman.

MR. PENNOYER: Mr. Rice.

MR. RICE: We are in the process of developing our procedures with -- discussions with -- how the negotiators will come back and report to the Habitat Protection Work Group and have asked them at least to come back to us when they've -- after they've had some discussions with them. But, in terms of how much information to present at these meetings as to where the negotiations are at any particular point -- we haven't resolved

that -- asked Trustee Council for guidance on -- you know, how much of an update the want, given the discussions are just starting at this point, they don't have any firm --

MR. PENNOYER: Mr. Cole.

MR. COLE: Given -- given the fact that we're dealing with imminently threatened habitat, I think that it's the expectation -- at least, my expectation that this proceed expeditiously and that we have a report soon. I mean a report in September, for example, of where we are, is not fulfilling our objective.

MR. PENNOYER: Further comment? I hesitate -- I assume we've asked for that report, and so we will get continual updates on where it is, and there is a need, an urgency, otherwise we wouldn't have identified the lands as imminent-threat. So, I turn to Attorney General Cole, my presumption is that that level of urgency has been transmitted to those doing the negotiations, and they will respond to us periodically on where they are, but certainly the ball is not going to be dropped. I hesitate to ask one other question, Ms. Rutherford, by in our -- I probably shouldn't then -- but in our discussions previously, we talked about a coordinating committee, and there was some real discussion as to whether we went with negotiation options one, two, three or four. We went with one modified to two, in a way, by having some overall coordination appointed to this, and then looking at that process and deciding later if we ought to come back and do it again so that everybody wasn't off doing their own thing. Is that at

least level of discussion occurring?

MS. RUTHERFORD: Yes -- the Restoration Team and I understood you folks to provide the guidance that the Habitat Protection Work Group was to provide that coordinating effort, and we are -- we think that's appropriate because we're constantly having to work with the negotiators on identifying, you know, parcels, boundaries that may be changing and doing analysis only on that. So, we are attempting to do that. Now, of course, you'll have it -- once we're through this first round, you'll have the opportunity to step back and analyze whether that worked.

MR. PENNOYER: Okay. Thank you.

MS. RUTHERFORD: I just realized, we did not handle -- hand out -- one of the documents I referred to, and that's a little more text associated with the contact with each landowner.

MR. PENNOYER: Thank you.

MS. RUTHERFORD: The other thing I just want to add is that those landowners that we were not successful in identifying in a proactive fashion, we are going to try to capture through display ads. Again, those are landowners of -- of above a hundred and sixty acres, and those will be appearing this -- during this week.

MR. PENNOYER: Thank you. Mr. Cole.

MR. COLE: As I understand where we are as of the adjournment of this meeting, we will look forward to some report at the next meeting, which maybe in May?

MR. PENNOYER: It's the next item on our agenda.

MR. COLE: Well ...

MS. RUTHERFORD: We will ...

MR. COLE: ... here's what I'm getting at, obviously -- I mean, we're going to be nearly sixty days down the pike at the next meeting with respect to dealing with critical habitat, and if that's acceptable to everyone, well, fine. But it seems to me that that's not proceeding with the alacrity that might be necessary. I mean, you know, come May 20, well, whenever -- we'll say, well, that's fine, take another, see where -- go back and talk again, and you know, that's another thirty days away, and I -- at this pace unless we put some more process in there we're not going to acquire any critically habitat to the fall. I don't think that's at all unrealistic, given what seems to be the agenda. If that's acceptable to everyone, fine. But I think we should recognize that.

MS. RUTHERFORD: Mr. Chair.

MR. PENNOYER: Ms. Rutherford.

MS. RUTHERFORD: I would suggest that we do be prepared to present a report at the next meeting, but I also would suggest that should in the interim one of the negotiating teams be prepared to present to the Trustee Council some type of -- of a proposal, that maybe you could schedule a teleconference.

MR. PENNOYER: Is that acceptable to the Trustee Council? The other thing is whether we acquire properties specifically -- I think that may take considerable time to actually acquire land under various guidance. We have addressed the imminent -- the imminent-threatened question if negotiations are going on and the

land is not actually being developed in some fashion. We may not have actually purchased something by this fall, but we probably won't have satisfied the need if the process was ongoing. So, we would get a report back then in the interim if any breaks, and at the next meeting if it hasn't then?

MS. RUTHERFORD: Thank you.

MR. COLE: One final comment.

MR. PENNOYER: Mr. Cole.

MR. COLE: I think if we follow, as I said before, the federal guidelines for the acquisition of property, we are not even going to acquire any property in the calendar year 1993. I mean, it remains a great concern to me how that process is going to work, and I want to again emphasis that at this meeting. I just don't think that we'll acquire any of these imminently threatened properties in 1993 through the federal process. Now, we'll see.

MR. PENNOYER: Thank you.

MR. BARTON: I think the objective is to protect the lands. Whether the title passes or not is something else.1

MR. PENNOYER: Further discussion on the habitat protection status report? Ms. Rutherford, anything further?

MS. RUTHERFORD: No, I -- except I just want to note that we're handing out the text. It's in draft form, but this is the most recent version of the brochure text that I could find. So, be aware that this fits on ten or less, nine or ten, newspaper pages.

MR. PENNOYER: Okay. Still warm. The next item on the

agenda is restoration organization, and certainly, as -- Mr. Cole had indicated some proposals earlier in the day, one that was indicated -- that we do have, I know, on the agenda, and need to deal with is the question of the executive director position. I would like a status report, if I could get it, from either Mr. Rosier or Mr. Barton, or both of them in combination, as to where we stand on the certification of the lists, and I think we have some decisions we discussed earlier about the process of selecting an executive director that we didn't actually take any final action on and probably need to do at this meeting, because I think key to any organizational discussion is going to be filling that position. Mr. Barton.

MR. BARTON: I can fill you in on the federal process. The list of applicant -- or the applications -- were compared to the job requirements, and those individuals that met the basic qualifications were determined. I don't have that list with me. I think there were four out of twenty-four that were determined not to meet the basic qualifications.

MR. PENNOYER: So we have how many on the federal list?

MR. BARTON: I think twenty, but I'm not positive that that's the exact number.

MR. PENNOYER: Down from the seventy or something we had earlier?

MR. BARTON: No, that's just the federal list.

MR. PENNOYER: State -- okay, yes, that's just the federal.

MR. BARTON: Yeah, the state list --

MR. PENNOYER: Mr. Rosier, tell us where we are on the state list.

MR. ROSIER: Yes, Mr. Chairman, roughly the same -- same place. We have -- we have now assessed sixty state applications on this, and basically we're just waiting further -- further direction from the Trustee Council.

MR. PENNOYER: So then, to paraphrase where we are in the process, the lists have been gone over once. What we need to do now is to certify, in the federal parlance, the lists. At that point there's a timeframe within which we have to make a selection, is that the case? And the timeframe is sixty or ninety days?

MR. BARTON: I think it's ninety days.

MR. PENNOYER: Ninety days.

MR. BARTON: Sixty days with a thirty-day extension.

MR. PENNOYER: So we're ready to certify the lists as to -- all the applicants on it being qualified. At that point we need to be prepared to move forward with actual selection. How we're going to whittle the list down, and two, make the selection. My understanding at one of the previous meetings, it was discussed amongst at least some of the Trustee Council members, and a proposal was presented, I believe, as to whether we use the RT, minus a couple of members, as the screening process to get the list down to a manageable number, like ten or something, or whether we constitute a separate group to do that. There was some discussion of each agency appointing a single individual to then work as a

group of six, I suppose, and to narrow the list down to the top ten applicants, or something of that nature, and at that point bring it back to the Trustee Council for either interviews -- (inaudible) interview and selection at, perhaps, the next meeting. Is that -- are those the two proposals that are before us? Are there any others? Can I have a motion as to which way to go? Commissioner Sandor, sorry -- wave your hand at this hour of night. My peripheral vision is shot at this time.

MR. SANDOR: I -- at a previous meeting, I think it was the last meeting, I said I thought we ought to look at both the proposed reorganization of the Restoration Team -- you know, how its constituted -- the whole organizational structure of the Trustee Council staff, plus the executive director, administrative director or whatever. But I thought the change of administration might potentially bring a fresh look, examination, of the whole process in that we ought to -- you know -- look to that opportunity or option and not foreclose it by any action of this group before that change was made, and I guess, perhaps, that doesn't -- doesn't change. I guess what I'm trying to say is that ...

MR. COLE: If that's what you were trying to say ...

(Laughter)

MR. SANDOR: ... we shouldn't be presumptuous in reaching decisions before the new direction and new team is on board -- is what I guess I'm trying say.

MR. PENNOYER: Mr. Sandor, I understood that from your last presentation at the last meeting. I guess what I'm saying is

that I don't think it's presumptuous for us to proceed in an expeditious fashion to hire an executive director. It seems to me that regardless of whatever steps we take, that is probably a first step that we need to -- need to have accomplished.

MR. SANDOR: Well, the problem though is that that the job description as its presently constituted is more of a coordinator of the Restoration Team as opposed an independent executive director -- in my interpretation -- and I think that's a very fundamental -- it's a very fundamental issue how that director functions and how independent it is from the Restoration Team or whether it, in fact, directs the Restoration Team. And I'm thinking that it's not outside the realm of possibility that that job description might potentially be revised drastically, and it may in fact warrant re-advertisement or republication of that. That's a personal opinion.

MR. COLE: Are you so moving?

MR. SANDOR: No, I'm not so moving. I'm just saying ...

MR. PENNOYER: If we could get an answer to that, that might help us, and I think that's a very good point. But my understanding of the job description that was sent out that it would accommodate an executive director, and if that's incorrect maybe we'd better find that out because that certainly would clearly be setting a tone that we may not want to set.

MR. SANDOR: Yeah, that's one trustee's opinion ...

MR. PENNOYER: Mr. Barton.

MR. SANDOR: ... and I hold it strongly. (Laughter)

MR. PENNOYER: I assumed that. Mr. Barton.

MR. BARTON: Addressing it from the federal application process standpoint, the job description as presently written reflects what we all endorsed sometime ago. I can't recall exactly when that was, and it is more of a coordinating role than some of us would like to see. Now, I've asked our personnel people how much of a change can be made without the -- the job description having to be reclassified or re-advertized, and that is a judgment call. I'm told that there can -- that some change can be accommodated without having to go to reclassification and re-advertising. It just depends on how far we want to go, and we would need to lay that out for the appropriate specialists to look at.

MR. PENNOYER: Is the relationship to the Restoration Team that type of change that would cause a re-advertising of this position. In other words, if we had a strong executive director who wasn't responsible to the Restoration Team, but the other way around, or independent, is that -- would that cause a change in the classification?

MR. BARTON: I don't believe it would, but I -- we have to really, actually, construct those changes and have it examined.

MR. PENNOYER: Mr. Cole.

MR. COLE: I move we reclassify the position and re-advertise it.

UNIDENTIFIED VOICE: For the executive director?

MR. COLE: Yes.

MR. PENNOYER: I guess in terms of planning, how long is that going to take? We've gone out, we've got eighty people -- or some number -- who have expressed an interest in this position, and if, in fact, we can accommodate our desires under the current situation, why would we put the process off for three or four months or whatever.

MR. SANDOR: I would second the motion if the motion was intended to be triggered after the -- whatever changes are made by the new administration so that they could examine the job description as its presently written.

MR. GATES: I -- I would -- Mr. Chair.

MR. PENNOYER: Mr. Gates.

MR. GATES: (Inaudible -- simultaneous talking) job description read? Is it --

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Yes, thank you, Mr. Chairman. I don't believe that there's any problem with the state system because we're talking about an exempt position under the state system, and basically we've got a maximum amount of flexibility in terms of what we want to do under the state system. The problem, I believe, is on the federal side here.

MR. BARTON: If there is a problem.

MR. ROSIER: If there is a problem.

MR. PENNOYER: I guess I hate to go away from this meeting perhaps not making a decision on anything and letting this

thing float for another two months, unless we are sure -- unless we -- I said it wrong -- unless -- I'd like to find out what the federal problem is.

MR. BARTON: Well, and I think that's a worthwhile objective. I guess at this point perhaps what we need to do is make the appropriate changes in the job description to everyone's satisfaction, and we can do that by fax perhaps, and then let the personnel specialists take a look at it whether it would require reclassification, re-advertisement at that point. There is another alternative, and that would be to go ahead and hire somebody and then change the job description.

MR. SANDOR: Mr. Chairman, the motion on the floor I think is what Mike Barton outlined. Is it to redraft the job description?

MR. COLE: (Inaudible)

MR. SANDOR: And I will speak in favor of that.

MR. BARTON: Is that the intent -- is redraft?

MR. COLE: Yes. That seems like the best solution, so that's what I intended.

MR. PENNOYER: I'm sorry, where's that leave us?

MR. BARTON: Mechanically then, your friendly personnel sub-council will take the job descriptions and draft some changes to incorporate what we understand to be the will of the Council, fax that to the individual Council members for agreement, and once we have achieved agreement on a redrafted job description, then I will take that to our personnel specialists and get their opinion

as to reclassification or re-advertisement.

MR. PENNOYER: Is the redrafting then -- just so we're clear on what's being sent out is that basically it reflect an executive director position more than a coordinator, and allow for that option.

MR. BARTON: With the -- yeah -- and implicit in the executive director title, I assume we wish to convey or confer some authority?

UNIDENTIFIED VOICE: Reports to the Council.

MR. PENNOYER: Reports to the Council.

MR. BARTON: Reports to the Council, has some authority to manage the Restoration Team or whatever you do to the Restoration Team -- what do we do to the Restoration Team? -- Well, I know what you're going to tell me -- but -- (Laughter)

MR. PENNOYER: Don't ask -- don't ask for an opinion -- we're asking (Laughter) -- it's too late in the day. Is that -- Mr. Cole?

MR. COLE: I'm sorry -- (Laughter) -- that's another subject.

MR. PENNOYER: Well if we could finish this subject then. If that -- if that is -- does anybody object to that procedure then? Okay, if we're closed on that, and if in fact the redrafting does not result in the need to re-advertise, can we then proceed on the hiring, and if so, how do we wish to do it? We have two proposals in front of us. One was that we have a committee of the RT minus any applicants for the position. The other was that each

agency appoint one person to participate in the committee to do the initial screening, with the final top ten or whatever to come back to us, perhaps at the next meeting, for interview and selection -- if we can proceed on the reclassification without a problem. Mr. Gates.

MR. GATES: Knowing the workload that the RT has, I make a motion that each Council member identify a person to serve on a screening committee for selection of an executive director.

MR. PENNOYER: Is there a second?

MR. GATES: It would be an evaluation committee.

MR. PENNOYER: Right. The proper term is an evaluation ...

MR. GATES: Evaluation committee.

MR. PENNOYER: ... committee. Second?

UNIDENTIFIED VOICE: Second.

MR. PENNOYER: Is there any discussion of that process if, in fact, everything else goes as intended? If it doesn't, we'll obviously be back at the next meeting recirculating an advertisement. Any objections to that procedure. Okay. Thank you.

MR. SANDOR: No objection, but the presumption that the -- these would be permanently identified Trustees.

MR. COLE: Permanently identified Trustees?

MR. SANDOR: Well, the people -- the people or --

MR. PENNOYER: Or alternates.

MR. SANDOR: Yes -- Interior's replacement.

MR. PENNOYER: For the screening process?

MR. COLE: No, not the screening. No, that's --

MR. SANDOR: No. For the selection committee -- yes.

MR. PENNOYER: The final selection committee.

MR. GATES: (Inaudible) selection, the new administration's person should be in place.

MR. SANDOR: Yeah. Okay, thank you. That -- any -- what other topics do we need to take up? Mr. Cole.

MR. COLE: I move that all Restoration Team meetings be open to the public and advertised.

MR. SANDOR: And advertised?

MR. COLE: Well, I mean, it's no use having them open to the public if nobody knows when or where they are. That seems self-evident but --

MR. PENNOYER: I think, Mr. Cole -- do I have a second before we discuss it?

MR. SANDOR: I'll second it for discussion purposes, but I have problems with -- with -- all meetings? -- or are these continuing meetings? I'm concerned because of, in another instance, if you don't give adequate notice -- what, ten days or something -- then you cannot meet, and you can working sessions, and the implications of this are potentially worrisome.

MR. COLE: Well, can't we simply announce publicly that the Restoration Team will, you know, meet every Friday or every Thursday and Friday or whatever -- you know. Here's the point, I don't care what the details are, but I think these meetings should be open to the public. I think we would avoid a

lot of criticism from the public that these are just some federal and state nominees in the back room, chewing on cigars, coming up with these plans affecting the public interest. So I think some process should be made to open up that the public can come and attend, and the Rick Steiners can come and have their say and see what goes on. I think it's wholesome, and -- so that's why I made the motion.

MR. PENNOYER: Mr. Barton.

MR. BARTON: I forgot what I was going to say. (Laughter)

MR. BRODERSEN: You were going to complain about Marty's cigars. (Laughter)

MR. PENNOYER: Do you want to try again, or do you want to --

MR. BARTON: I think it's important to remember that the meetings of the Restoration Team are not decision meetings. They are meetings at which they develop recommendations to the Council, and the Council makes the decisions.

MR. COLE: So, what are you saying?

MR. PENNOYER: He's going to object.

MR. COLE: Are you objecting?

MR. BARTON: (Inaudible -- simultaneous talking) well I don't know whether I am or not. I want to hear more.

MR. COLE: Well, I presumed that they weren't making decisions for us, but I guess I --

MR. PENNOYER: I don't know how all the Restoration Team

meetings go, but my assumption is a lot of them are working sessions, relatively informal, somewhat an ad hoc basis because of the way the assignments come down from this group, it would be difficult as a general characterization to advertise and hold in rooms and places conducive to public testimony and input. And those plans supposedly come back to us, and supposedly the Restoration Team is going to present detail on what they're recommending to us in open public session, and we will review that in open session and only take decisions in that fashion. Maybe there's some way ...

MR. COLE: Mr. Chairman.

MR. PENNOYER: ... to get the Restoration Team more interactive with the public, but opening every meeting and having some type of advertising requirements sounds like it might be a little bit difficult.

MR. COLE: I don't see why it should be difficult if we tell the public that you may attend these meetings of the Restoration Team. What's so difficult about that. I mean, I'm not suggesting that people can come there and testify publicly, under oath, or otherwise. I'm simply saying people will know when the Restoration Team is meeting, what these discussions go, and I think it would be a salubrious procedure.

MS. BERGMANN: Mr. Chairman.

MR. PENNOYER: Salubrious -- grease the system along.

MS. BERGMANN: It seems like one way to deal with the advertisement would be in a similar way as we dealt with the

advertisement for the PAG working group meetings, and that's that we post RT meetings out here on the calendar, next to the elevator, and also if people knew that they were posted there so they could come in look or they could simply call the CACI staff and ask them when the next meeting is going to be held, that they could do that. In addition, we usually schedule the next meeting at the meeting that we're having, so I think it wouldn't be that difficult for people to determine when they're going to be held and participate if they wanted to.

MR. PENNOYER: No legal requirement though for time of notice or anything like that?

MR. COLE: Correct.

MR. PENNOYER: Commissioner Sandor, and then Commissioner Rosier.

MR. SANDOR: Well, I think that's the concern is the formal legal notice because in another instance because there wasn't exactly ten days notice, the group in question was barred from taking any action in the meeting, and in this instance if there is informal process or the meetings are open, then that wouldn't be a problem. I -- I just would believe it would be very difficult and perhaps counter-productive if, for some reason, because of this public notice requirement, legal requirement, the Restoration Team couldn't actually do their job.

MR. PENNOYER: Commissioner Rosier.

MR. ROSIER: Mr. Chairman, I would agree with Commissioner Sandor. He stated it much better than I could there

on this. My only problem is with the legal noticing. As I understand it, those meetings are open at the present time. It just comes down to a matter of notice, but I know that speaking for -- unless I've been misled along the way, that Jerome certainly seems to be in a kind of a continuous meeting mode operation with the Restoration Team here along the way, and well, I think about the changes in direction that we frequently give the Restoration Team, and the legal noticing thing would be, I think, would be an impossible barrier here myself.

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

MR. BARTON: I'm curious -- there are two things. One, what's a typical week in the life of the Restoration Team? -- my first question. My second question is, what does the Restoration Team think about that idea?

MS. RUTHERFORD: May I add something, Mr. Chair?

MR. PENNOYER: Ms. Rutherford.

MS. RUTHERFORD: Maybe this'll give you some idea. I'd like a divorce from all five of them. (Laughter -- simultaneous talking)

MS. BERGMANN: Mr. Chair.

MR. PENNOYER: I think, Commissioner Sandor, do you have -- Ms. Bergmann.

MS. BERGMANN: During January and February, the Restoration Team was meeting pretty frequently a couple of times a week, and since the schedule has smoothed out a bit I think we're meeting about one day a week, something like that. And speaking

for myself, I would certain welcome having the Restoration Team meetings open to the public. I think that would be very beneficial.

MR. PENNOYER: Mr. Cole.

MR. COLE: I didn't have in mind that we advertise in the legal advertising section of the Daily News. I simply think to give reasonable notice to the public that these meetings are going on and that people are free to attend. Ms. Bergmann says put notices out here on the elevator. When we go out to the circuit with our teams, we could tell people there about these notices, about these meetings, and that they are free to attend, just generally in the course of the Restoration Team's activities get passed to the people that they can attend them, and to the extent that the Restoration Team wants their participation, that they are invited to participate. I think that we will get less criticism before Congress, for example, about the lack of communication if we open this other avenue of public involvement, and the downside in my view is about zero.

MR. PENNOYER: Mr. Barton, any further comment?

MR. BARTON: I would just like to hear more answers than I thought.

MR. PENNOYER: Restoration Team, do you have any further comment? -- at some peril. Ken.

MR. RICE: I think, looking at these schedule of work that we have to do over the next two months, I would be surprised if we meet as infrequently as once a week. Even with the change in

the '94 work plan, we have a tremendous schedule ahead of us for the next two months, and a lot of that is going to take the group working as a whole, not as individuals. I would raise one question concerning having the meetings open to the public -- we do -- or are proposing that we receive updates, especially through the work group, the Habitat Protection Work Group, on the status of discussions with the landowners and just how open those discussions should be, given the sensitivity of the discussions -- would be a question we'd like to have answered.

MR. COLE: (Inaudible -- extraneous noise)

MR. PENNOYER: So, you'd have to use some discretion on which was public and which wasn't. Further discussion, Dr. Gibbons.

DR. GIBBONS: Yes. I'd kind of like to echo what Ken Rice just said. I see the -- if you look at the spreadsheet of work for the Restoration Team in the month of April and May, it's a tremendous amount of work, reviewing the restoration chapters, the EIS chapters, the brochures -- I just think we're going to be meeting more than one day a week. I view these as staff -- you know, meetings -- and we do a lot of work that I am sure would totally bore the public. If that's the case, they can probably get up and leave, but we do a lot of editing and that type of work too, so -- it's just -- we're going to be very busy the next two months is the only point I was trying to make.

MR. PENNOYER: As I understand the proposal, there's no obligation to hold a public hearing, take testimony, there's no

obligation to advertise, you know, legal notice, all it is the door is open unless you're discussing private and confidential land issues, and you're under no obligation, I suppose, to make sure you have a hall big enough to accommodate anybody who might want to come. So, wherever you're meeting, your door is just not closed, as I understand the proposal. Is that correct?

MR. COLE: Yes. I mean --

MR. PENNOYER: So you're not setting yourself as a public body that has to advertise and has to provide meeting rooms and time for public comment. You're simply opening the door and letting people listen if they wish, if there are accommodations -- I guess.

MR. COLE: It raises the question that is there something going on there that we don't want the public to hear?

MR. PENNOYER: No. I'm simply talking about ...

MR. COLE: I can't imagine there is.

MR. PENNOYER: I was talking about time commitments, because obviously in their work if they have to hold hearings each time and so forth, and the advertising question. We're not doing that, it's just open the door. Mr. Rue.

MR. RUE: I think it's a great idea. I don't see what the problem is. If the public gets bored, they'll leave. I've held any number of staff meetings, and they sometimes show up and they sometimes contribute, sometimes don't. I think we ought to make -- you know, give some sort of public notice to initiate this -- say, hey, it will be posted at this building, come one,

come all, phone this phone number over time, if you're interested, and I'd make it widely known the first time. Put a little ad in the newspaper. I don't see any problem with it at all.

MR. PENNOYER: It's been proposed and seconded. Is there further discussion of the question?

MS. RUTHERFORD: Mr. Chair.

MR. PENNOYER: Ms. Rutherford.

MS. RUTHERFORD: I also think it's a good idea. I do want to have you discuss one point. If the -- if we -- if these are public, I'm sure occasionally the press would attend, and from time to time, based upon actions that we take to make recommendations to you, that could make it into the press. I know that there was some concern when we presented the habitat protection analysis on the nineteen -- or twenty-two -- parcels to the Public Advisory Group before it was presented to the Trustee Council. I just wanted to make sure you guys are comfortable with the fact that our recommendations may be hitting the press before they get to you.

MR. GATES: I think in those cases where there's situations coming up like that, the meetings could be closed.

MR. PENNOYER: We can always try and change if we don't like it.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: I -- I think if the public -- if the press had been at the Restoration Team meetings and had heard the full

discussion, that article in the paper about the acquisition of habitat would have been much more accurate than it was. The problem was the writer did not have the full information, and if the writer had been at the Restoration Team meeting, he could have gotten the full picture. The article would have been, I'm confident, much more accurate. Like I say, I try to run the -- my office down there in the Department of Law where the Daily News reporter can sit there all day and find out how tough it is. I have no problem having the public there -- find out what's going on.

MR. PENNOYER: Again, we can try it; if it doesn't work, we can always change it, I suppose -- and it seems to be -- anybody object to this process? Okay. Can we discuss the next meeting and a date for it, or do we want to do that by correspondence. I think Mr. Brodersen wants us to do it here.

MR. BRODERSEN: I would at least like to suggest that we try to pick up the June 1st meeting date that we've identified in the schedule for the restoration plan, EIS, and also (inaudible) habitat. (Simultaneous talking) No -- that's when it goes to them, and then ten days later on six one on this draft schedule we have here, we put that down as a tentative date so people can keep it on their calendars a little bit in advance, and I would suspect you want to have one intervening, but I'd like to mention that one as a possibility to get it down on your calendars for future reference. That would be quite a key thing -- launch off of that particular date, and if we slip on that then we can get set back.

MR. PENNOYER: So June 1st would be your suggestion?

MR. BRODERSEN: Yeah -- at this point in time, I would reserve two days and see if we don't need ...

MR. PENNOYER: June 1st, 2nd -- how does that fit in people's calendars? No, Mike?

MR. BARTON: After -- we'd have to work around that. That's not convenient.

MR. PENNOYER: Later in the week looks convenient?

MR. BARTON: The 4th is fine, except that I figure we need two days.

MR. BRODERSEN: How about the Friday and the Thursday before?

MR. PENNOYER: The 27th, 28th?

MR. BARTON: But you have an alternate.

MR. SANDOR: Was that May 27th, 28th?

MR. BRODERSEN: Yeah.

MR. PENNOYER: May 27th, 28th, or June 1st, 2nd, or 3rd, 4th. You heard the June dates won't work for -- oh, the May dates won't work for Mr. Barton either. How about the following week, Mark?

MR. BRODERSEN: Things just start to slide -- that's your discretion.

MR. PENNOYER: Well, it would be preferable, I think, if this is going to be to sign off on this '94 work plan draft and a restoration plan draft that we have ...

MR. BRODERSEN: It's not the work plan, it's the

restoration plan, EIS, and also I see some habitat protection stuff here. I'm not sure exactly what that is. I don't remember -- '94 work plan -- find some other date that we haven't scheduled in.

MR. PENNOYER: The first shot would be earlier in the '94 work plan then?

MR. BRODERSEN: We haven't scheduled yet. I really don't know.

MR. PENNOYER: Well, I'm just -- okay.

MR. BRODERSEN: I would suspect so.

MR. PENNOYER: What's your pleasure? No time during those two weeks except the 4th, am I right?

MR. BARTON: Or the 31st?

MS. RUTHERFORD: Memorial Day.

MR. PENNOYER: Could we do the 4th and lap into the 5th if we have to?

MR. COLE: Mr. Chairman, I'm not sure that those dates are available. Oh, I know -- I could not make it on the 4th.

MR. BRODERSEN: How about the 31st?

MS. RUTHERFORD: That's Memorial Day.

MR. BRODERSEN: So what. This is a holiday today too.

MR. PENNOYER: We need two days -- so.

MR. BRODERSEN: Maybe do, maybe don't.

MS. RUTHERFORD: The only thing I'll say on the Memorial Day is that it seems to be an important day for Alaskans, and it would be hard for them to participate.

MR. COLE: The 31st. Is it that Mr. Barton is not

available any time in May?

MR. BARTON: No, I'm available the week of the -- well, right now, I'm available damn near all month, except for that last week.

MR. COLE: The 24th?

MR. BARTON: Yeah.

MR. COLE: The week of the 24th?

MR. BARTON: Right. And then the following week in June, I'm not available.

MR. COLE: You mean the first week in June?

MR. BARTON: Yeah. June 1st through three. June one through three, and then I'm not available seven through nine.

MR. PENNOYER: How about the third week in May?

MR. BARTON: The third week in May is wonderful.

MR. SANDOR: What week is that?

MR. BARTON: 17th.

MR. PENNOYER: Is that possible, Mark, for these things that we have to do -- the third week in May?

MR. BARTON: May sounds ...

MR. BRODERSEN: No, no. No. The stuff will not be back in time.

MR. COLE: From whom?

MR. BRODERSEN: From us or from Walkoff (ph), either one, both the restoration plan and EIS. We're pressing to get it done by then. How about pushing it to June 17th and 18th?

UNIDENTIFIED VOICE: Too late.

MR. BRODERSEN: I was listening to what Mr. Barton was saying about ...

MR. BARTON: The 10th would work too.

MR. COLE: Mike, you're not available during the week of the 17th?

MR. BARTON: Of May?

MR. COLE: Yeah.

MR. BARTON: Yes, I am, but I understood we wouldn't have the materials -- we wouldn't have any to work with.

MR. PENNOYER: How about the -- the 7th to the 9th you're gone, you said?

MR. BARTON: I'm gone 7th through 9th, but I could be here the 10th and the 11th.

MR. COLE: That -- I'm just not available during that week.

MR. BRODERSEN: How about the 17th and 18th of June?

MR. SANDOR: 17th and 18th of June.

MR. BARTON: What does that do to our timeline?

MR. BRODERSEN: What's two weeks? We'll try and make it up elsewhere.

MR. PENNOYER: What about earlier that week? Why the 17th and 18th?

MR. BRODERSEN: I won't be back.

MR. PENNOYER: Oh, you're gone.

MR. COLE: What about the 20th and 21st?

MR. BRODERSEN: Of June?

MR. COLE: Of May.

UNIDENTIFIED VOICE: Won't have the materials.

MR. COLE: I thought we were going to get something on May 20.

MR. BRODERSEN: You want ten days in advance.

UNIDENTIFIED VOICE: You can't review it the day you get it.

MR. BRODERSEN: If you want to come in without it in advance, then by all means.

MR. COLE: How about Saturday, the 22nd -- Sunday, the 23rd? I mean, I don't think we can delay this two weeks or a month.

MR. PENNOYER: Will you have the materials by then?

MR. BRODERSEN: The schedule says we will. We should have it to you the 21st of May if this schedule ...

MR. PENNOYER: We'll have it to us -- the first look at it the 21st of May?

MR. BRODERSEN: Correct. Right.

MR. COLE: Have we told these people we would like it a few days earlier and they said they just can't do it?

MR. BRODERSEN: This is also -- we're producing the restoration plan, and it's -- we're working folks weekends and evenings to get it to you by the 21st. And Walkoff (ph) is producing the EIS and will get it to us about that same period of time.

MR. PENNOYER: Mike, the 1st, 2nd, we'd have to do with

an alternate for you. At some point -- we'll have to deal with alternates. It looks like we're going to go for the three week period of time here, right at the critical phase when we can't get everybody at the table. Everybody else make it on the 1st and 2nd of June?

MR. COLE: Well the 1st and 2nd is not what I would prefer.

MR. PENNOYER: The 3rd and 4th?

MR. COLE: Well, that's totally out.

MR. PENNOYER: The 3rd and 4th's totally out, and the 1st and 2nd is not very convenient?

MR. COLE: No, it's not good for Mike. Is it, again, Mike, that you can't be here on the 24th? The week of the 24th?

MR. BARTON: That's right.

MR. COLE: At any time during that week?

MR. BARTON: Not as I know it now.

MR. COLE: Not even Friday or Saturday?

MR. BARTON: It might be possible Friday or Saturday, yeah, but this is -- my boss wants to see me, and I don't yet have the agenda. (Laughter)

MR. COLE: Well, tentatively could we schedule it for the 21st and 22nd, and then make a change perhaps?

UNIDENTIFIED VOICE: 28th?

MR. COLE: What do you want to make it, the 28th and 29th, I guess?

MR. PENNOYER: The 28th and 29th, is that maybe possible,

Mike? (Laughter) All of you can't make it on the 28th and 29th?

MR. SANDOR: May 28th and 29th?

MR. COLE: It's out for Carl.

MR. PENNOYER: Carl can't make it, and Mike may not be able to make it. So we lose two if we go to the 28th and 29th, potentially. The 1st, 2nd, we lose one.

MR. RUE: When does the RT review the restoration plan? Could we do it simultaneous with the RT?

MR. BARTON: Not a good idea.

MR. RUE: Not a good idea.

MR. COLE: Is it -- excuse me, John, go ahead.

MR. SANDOR: Well, the question was raised, why not do it when the Restoration Team is meeting?

DR. GIBBONS: Well, we'd like to have a little bit of quality control perhaps before we give you the document. We do a lot of that type of quality control, and sometimes the documents we get are not quite on track with what we want to see.

MR. RICE: Mr. Chairman, we're not going to see the effects chapter of the EIS until the around the 1st of May, so that gives us three weeks to review and demand rewrites and get those rewrites back to us. I don't think we can bring that schedule up.

MR. BRODERSEN: If we did schedule it for the 21st, 22nd of May, you would have seen the early drafts against what we give you on the 21st (inaudible -- out of microphone range) the documents early on, just not the final -- the final draft version that you're looking at on the 21st, 22nd, but that just means a

separate couple of weeks.

MR. PENNOYER: And the process as we go along here -- you'll feed us chapters and what not as we go along, so we won't be totally unfamiliar with it if we read our mail.

MR. BRODERSEN: Yes.

MR. PENNOYER: How about the 21st and 22nd -- we give it a try?

MR. SANDOR: I'll have an alternate, since my daughter is getting married that weekend.

MR. PENNOYER: How about the 20th and 21st then? Is your daughter getting married on the 21st or the weekend?

MR. SANDOR: That -- she's getting -- I'm to be gone from the 19th to the 24th.

MR. COLE: Let's move it back to the 17th and 18th -- no -- Mike's going to be gone then.

MR. BARTON: No, I'm here, but we won't have the document.

MR. COLE: Let's do it the 17th and 18th then.

MR. PENNOYER: You won't have the document on the 17th.

MR. BRODERSEN: We'll do the best we can. That sounds like --

DR. GIBBONS: I'm not sure we can guarantee the 17th.

MR. PENNOYER: I'm not going to be here then.

MR. BRODERSEN: Let's go back to the middle of June.

MS. RUTHERFORD: There's was only one person gone on the 1st and 2nd, wasn't there?

MR. PENNOYER: Mr. Barton.

MR. SANDOR: Go with --.

MR. PENNOYER: One person was gone on the 1st and 2nd. Charlie -- sorry?

UNIDENTIFIED VOICE: Mr. Cole didn't want the 1st and 2nd.

MR. PENNOYER: I thought he didn't want to be because Mr. Barton was going to be gone.

MR. COLE: Well, my view is, this is a critical document -- the restoration plans -- does this -- even down to the level of the '94 work plan -- of all the documents that we're going to be dealing with for the next three years, it seems to me it's the restoration plan. I think it's essential that the Council members themselves be present.

MR. PENNOYER: We're not approving it. We're basically approving a draft for either -- the only next time it's available is the week of the 14th, correct?

MR. BRODERSEN: I'd like to propose to you the 16th and 17th here. What that does for us is it gets -- of June now -- this gives us the opportunity to spend quite a bit more time with each of each of you as individuals and see if we can't keep that meeting down to one day at that point by having had individual time with all of you for the preceding month. All that's doing is adding two weeks over the course of the thing. Then if we go into the schedule, we can pick up that two weeks between now and the end of December to be able to make this thing work. Let's give us time to make a document that we can all agree to and spend some time with

you all as individuals and schedule that period of time. (Inaudible)

MR. COLE: I don't find that acceptable because I have a lot of apprehension about this document. If we get it only for our preliminary approval in the middle of June -- or draft --

MR. BRODERSEN: You'll have the document May 21st.

MR. COLE: I know, but we won't be in a position collectively to respond to it.

MR. BRODERSEN: If there's a fair amount of concern there we're hearing from individual TC members that's fed back through the RT, it gives us even more opportunity to rewrite the thing before it ever comes to you.

MR. COLE: I would just worry about rewriting on the basis of a single trustee's views.

MR. BRODERSEN: We can have a -- teleconferences to discuss these minor points to take care of them in advance. Actually, it might work better if we try to do it that way.

MR. RUE: If we're going to be rewriting it on the basis of individual RT member's view, it seems to me it wouldn't hurt to check in with the Trustee Council members.

MR. COLE: Lastly, I'm not sure I'm available that week. (Laughter) Well, we're having the Conference of Western Attorneys General -- all attorneys general of states west of the Mississippi are coming to Fairbanks about that time, at our instance, and I'd sort of like to be there to greet those -- the eminent -- their eminences.

MR. PENNOYER: When we look two months out, there's a possibility any of us could get preempted. There's a new administration in D.C., and people talking about coming to Alaska to do various types of things, it could happen. I think we need to pick a date, and one or two of us might not be there to start with -- we need to pick a date and give it a shot and see, but I can't guarantee anything in June -- people calling up and saying they think they want to come to Alaska and look at Pribilof Island clean-up problems and so forth, and any of that type of thing could happen. Let's -- can we tentatively pick the 16th and 17th?

MR. BARTON: Well, if we're going to use that philosophy, why don't we pick the 1st and 2nd, like was originally suggested?

MR. PENNOYER: Well, I kind of like the date that you might be there -- alright, how about the 1st and 2nd. Tentatively pick the 1st and 2nd, change it by correspondence if we have to. Is that acceptable for starters? If that's acceptable for starters, do we need an interim meeting to look at the results of this April synopsis, work plan, whatever, and when would that be available for us to take action -- to give some action to the Restoration Team to do the final detailed study plans based on the public input they got and our input at that meeting. What date do you want for that? Early May sometime?

MR. BRODERSEN: Early May is after the end of April. It's May -- it's back to your June 1 meeting actually.

MR. PENNOYER: That's adequate, June 1? So we could do

both?

MR. BRODERSEN: Well, if -- if you figure you're going to ...

MR. PENNOYER: Work plan, restoration plan and ...

MR. BRODERSEN: EIS.

MR. PENNOYER: ... three day meeting, right?

MR. BRODERSEN: If you're going to give people thirty days to comment on this document that you propose going out, thirty days from the end of April, which is when the public meeting is, is the end of May, and that basically gives us no time at all to look at ...

MR. PENNOYER: June 1st, 2nd, we do both. Is there a need to meet before June 1st, 2nd, on any particular topic? If there is, we can get together by telephone and agree on it. Is that acceptable? Is that acceptable?

MR. COLE: Well, I remain concerned about the habitat issues. If we're truly endeavoring to head off logging, I mean, in critical habitat areas, I think those acquisitions or agreements should be addressed before June 1. I mean, the horse is out of the barn by that time. People are going to say we have our logging operations under way, we have crews in the field -- it's too late.

MR. PENNOYER: What is the Trustee Council going to do in that interim, if in fact somebody has decided they don't want to negotiate and nothing's going on -- they proceed to select an alternate parcel and go with that, you mean? What is -- what is our action except to tell people if it's not acceptable they

haven't gotten the job, I guess. What specific action did you have in mind, for example?

MR. COLE: I think we should be prepared to meet and act on recommendations or tentative agreements before June. That's all I'm saying. Who knows whether we'll even be that far.

MR. PENNOYER: Is there a need for an early May meeting then? A tentative early May meeting?

MR. BARTON: I think we could be prepared to meet, without actually scheduling a meeting. I mean, we don't know when we're going to need to meet.

MR. COLE: Furthermore, if we had an early May meeting, we would have a lot of these papers that we could maybe take a squint at and ask questions, talk about it a little bit, massage the documents a little.

MR. PENNOYER: What's a date in early May that everybody would be available?

MR. RUE: (Inaudible -- extraneous noise) you can also maybe look at '92, '93 projects (inaudible) may be helpful.

MR. BARTON: '95.

MR. PENNOYER: How about the 4th and 5th? Is that acceptable?

MR. COLE: It will be nice -- the legislature may be winding up about that time, or they threaten to.

MR. PENNOYER: So you want the meeting up here on the 4th and 5th then?

MR. COLE: Well, I would want it -- but not that week

because that's sort of a turbulent week, I would think. The state Trustees would be --

MR. PENNOYER: So, what do you -- 11th and 12th then?

MR. COLE: Well, the 11th is the target day. I have big red marks on that day on my calendar.

MR. BRODERSEN: The 13th, 14th?

MS. RUTHERFORD: The only thing is -- well, they could extend, but they won't.

MR. COLE: 13th, 14th would be better.

MR. PENNOYER: 13th, 14th of May -- tentative meeting.

MR. BARTON: Fine.

MR. PENNOYER: Check back and see if it's necessary --

DR. GIBBONS: Would that just be a one-day meeting on the 13th?

MR. PENNOYER: Yes, I would hope.

MR. BRODERSEN: While we're sitting here harassing you, may I ask all of you to tentatively look at November 10th as a possible date for final (inaudible -- simultaneous talking)

MR. COLE: No. Is that an answer (Laughter)

DR. GIBBONS: Mr. Chairman, can we advertise this as a new meeting in May, then the continuation meeting on the June.

MR. PENNOYER: It's a new meeting.

MR. COLE: May 13th. (Simultaneous talking)

MR. PENNOYER: It's a new meeting and it's Mr. Rosier's turn. (Simultaneous talking)

UNIDENTIFIED VOICE: Are we adjourned. Who made the

motion? (Simultaneous talking)

UNIDENTIFIED VOICE: I did.

UNIDENTIFIED VOICE: I seconded it too. (Simultaneous talking)

MR. PENNOYER: This meeting is adjourned not recessed.

(Off Record: 5:20 p.m.)

E N D O F P R O C E E D I N G S

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

That the foregoing pages numbered 03 through 199 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by me on the 29th day of March, 1993, commencing at the hour of 10:00 a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me 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 1st day of April, 1993.

Linda J Durr

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