

TRUSTEE COUNCIL
MEETING
13 MAY 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

RECEIVED
MAY 19 1993

May 13, 1993
8:30 a.m.

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

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. WALTER STIEGLITZ (Alternate)
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

DR. 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

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

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

BRAD PHILLIPS, Chairman
DR. JOHN FRENCH
CHARLES TOTEMOFF
PAMELA BRODIE
JOHN STURGEON

OTHERS IN ATTENDANCE who testified

CRAIG TILLERY, Alaska Attorney General's Office
WALT SHERIDAN
ART WIENER
KIM SUNDBERG
JOHN MERRICK
WALT EBELL
JIM WILKENS
JIM CARMICHAEL, Afognak Joint Venture
TIM MAHONEY, Afognak Joint Venture
DR. JOE SULLIVAN
MARY MCBURNEY, Cordova District Fishermen United
CRAIG PETRICH, Kodiak Audubon Society
CHARLES MCKEE
TOM FINK
CHARLES TOTEMOFF, Chenega Corporation

VIA TELECONFERENCE:

BOB PLUMB (ph)
NANCY BIRD (ph)
WADE WAHRENBROCK
JACQUELINE PAYNE
JEROME SELBY
CLIFF WARD (ph)
BOB PUDWELL

P R O C E E D I N G S

(On Record: 8:40 a.m.)

MR. ROSIER: Ladies and Gentlemen, if we could get started here. We've got a group of Trustees that seem to be anxious to get going here -- get all the important decisions made here today. I guess I've been elected as the state representative to chair this meeting here today. I'd like to say welcome to all of the individuals in the audience here. Before getting started, I'd like to introduce the Trustee Council members. On the far right over here, Steve Pennoyer, the Regional Director, National Marine Fisheries Service in Alaska; next to him is Charlie Cole, the Attorney General of the State of Alaska; I'd like to welcome Mr. Walt Stieglitz, its been awhile since we've saw Walt at the Trustee Council meetings, and it's a real pleasure to have you back with us, Walt. On the far left over here is John Sandor, the Commissioner of the Alaska Department of Environmental Conservation; and next to him and on my immediate left here is -- is a Mike Barton, the Regional Director of the Forest Service. I guess we've got quite a lengthy agenda here before us, so I think we'll move right along.

MR. PENNOYER: Mr. Chairman.

MR. ROSIER: Yes, Mr. Pennoyer.

MR. PENNOYER: In regards to the agenda, it is a lengthy agenda, and I notice that we have a meeting scheduled in just two weeks time for two days of business. This is a one day schedule, and I think it is mostly for update, but I know that there are at

1 least two or three action items that need to be taken care, and I
2 wonder if we could have Dr. Gibbons relate to us which the action
3 items are and maybe take those first, since I think the
4 informational items could drop off the bottom if they had to.

5 MR. COLE: Mr. Chairman.

6 MR. ROSIER: Yes, Mr. Cole.

7 MR. COLE: Before we do that -- the meetings on the
8 first and second pose sort of a conflict problem for me -- are --
9 do we need those meetings on the first and second and, if so, for
10 what reason?

11 MR. ROSIER: Mr. Gibbons.

12 DR. GIBBONS: The agenda for the first and second is the
13 draft restoration plan and the draft environmental impact statement
14 to get them to the public -- for your review and then turn around
15 and get those documents to the public -- and excuse me, the '94
16 work plan.

17 MR. PENNOYER: Mr. Chairman, I'm sorry I didn't get that.
18 The '94 work plan? Is on the agenda for the second or third for
19 final adoption to go out to the public for review.

20 DR. GIBBONS: Well, there's some question -- if that's
21 going to be comparative time for the first and second, or it might
22 be -- the schedule right now has us to the middle of June.

23 MR. BARTON: With a meeting in the middle of June?

24 DR. GIBBONS: That's correct, so --

25 MR. PENNOYER: I'm not (inaudible).

26 DR. GIBBONS: It could be postponed to the middle of

1 June. The first and second meeting could be set back to the middle
2 of June and handle all three of them at once, because the closing
3 date for the public comment on '94 work plan is May 20th, and if
4 you allow four days for the mail to come in, it's May 24. By the
5 time you analyze the comments, you know that pushing it to get your
6 document.

7 MR. BARTON: Mr. Chairman.

8 MR. ROSIER: Yes, Mr. Barton.

9 MR. BARTON: If we push the June first and second
10 meeting to the middle of June, what would that do to the time line
11 on the restoration plan?

12 DR. GIBBONS: It would set it back two weeks.

13 MR. BARTON: Why?

14 DR. GIBBONS: It's just the time frame date to get it to
15 a printer and out for public comment and back. You know -- we're
16 scheduled to go right now to you -- have it to you May 20th, review
17 it the first and second of June, and go to the public in the middle
18 June with a printed draft document.

19 MR. RICE: Mr. Chairman.

20 MR. ROSIER: Yes.

21 MR. RICE: Mr. Chairman, I have a -- I have a
22 schedule here that might facilitate some of your discussion, if you
23 would like me to hand that out. Then, you can look at the
24 different projects and -- and the estimated dates that we have down
25 for those.

26 MR. COLE: Mr. Chairman.

1 MR. ROSIER: Yes, Mr. Cole.

2 MR. COLE: Let me say -- I will be here on the first
3 and second, irregardless. But, I would like to make certain that
4 we really need to be here on the first and second, and if things
5 will be in order to deal with them on the first or the second.

6 DR. GIBBONS: The two documents -- you have a stack of
7 documents in front of you right now and this would be a -- draft
8 restoration plan and environmental impact statement. And so, those
9 will be ready for you on the first and second. The Restoration
10 Team is going to review these early next week. We'll get you a
11 reviewed copy. This is an unreviewed Restoration Team copy.

12 MR. ROSIER: This -- this middle of June session --
13 kind of gets my attention here. I was certainly planning --
14 planning to be here for the first and the second, but -- cause I'm
15 afraid that I'm -- certainly totally out of the loop until at least
16 the 18th of June, that would be the earliest that I could be
17 available.

18 MR. PENNOYER: I will be -- reached until about the
19 middle of that week until early July. I counted on the first and
20 second, I didn't count on a second meeting in June.

21 MR. ROSIER: Yeah, I had not counted on that either.
22 Other comments from the Trustees? John.

23 MR. SANDOR: Yes, I'm concerned that we actually need
24 a meeting for two days. I would prefer that we keep with the June
25 1 and/or 2 meeting date, but I think meetings expand at the total
26 amount of time you allot for it, and I can just hope that it can be

1 ...

2 MR. COLE: You talking about the legislature?

3 MR. SANDOR: Any meeting. Anyway, I -- I would prefer
4 that we stick with the June 1 meeting and/or 2, but not necessarily
5 both days unless its essential.

6 MR. PENNOYER: Mr. Chairman.

7 MR. ROSIER: Go ahead.

8 MR. PENNOYER: Could we look at this information
9 presented to us and maybe consider it and then take it up again,
10 perhaps after lunch -- that are on the schedule for the June
11 meeting. We're still, I think, faced with a long agenda here, and
12 if we can perhaps take the action items first and then proceed on
13 from there -- it's -- we will be able to get done with today's
14 meeting and in the process decide when we're going to have the June
15 meeting. I think there's some other conflicts here.

16 MR. ROSIER: Sounds -- sounds to me like there
17 certainly is here. If there's no objection then perhaps Mr.
18 Gibbons could go ahead and identify those action items that should
19 be on the agenda initially here, and we'll move ahead on those.

20 DR. GIBBONS: Well, items 6, 7 and 8 are the action
21 items for ...

22 MR. BARTON: Item 6, 7 and 8? Is there any objection
23 from the Trustees taking items 6, 7 and 8 out of order here -- at
24 the present time? Is there anything -- Dave, that -- that -- items
25 1 through 5 -- is that -- in the way of background material that
26 would enlighten the Trustees with ...

1 DR. GIBBONS: Brad Phillips is here -- number one and I
2 know Brad's a busy man and so we might want to do one and then --
3 if that's amenable to Brad -- do one and then perhaps five and six
4 go together.

5 MR. BARTON: Okay.

6 MR. ROSIER: I would suggest then to the Council that
7 we receive the report from Mr. Brad Phillips here -- item number
8 one and then go directly to items five and six and -- and then seven
9 and eight. Did I hear any objection? Mr. Sandor.

10 MR. SANDOR: No objection. Mr. Chairman, I would ask
11 the addition of an item -- an action item 8b, which is a fairly
12 quick assessment of updated shoreline assessment program for this
13 summer, but it requires a budget approval -- and -- so if we could
14 add an 8b that's shoreline assessment project, that would be
15 helpful.

16 MR. ROSIER: Add a section 8b. Any other changes
17 proposed to the agenda?

18 MR. COLE: Mr. Chairman.

19 MR. ROSIER: Yes, Mr. Cole.

20 MR. COLE: Are we dealing with the Seal Bay issue --
21 potential acquisition on -- in item seven?

22 MR. ROSIER: Dr. Gibbons.

23 DR. GIBBONS: Yes, that's correct.

24 MR. COLE: Okay.

25 MR. ROSIER: Okay. Hearing no other agenda change
26 items here then, let's proceed and call on Mr. Brad Phillips here

1 to enlighten us with the report on the Advisory Group April 16th
2 meeting.

3 MR. PHILLIPS: Thank you Mr. Chairman. There are nine of
4 these, and I know there are more of you here -- but this is for all
5 of the Trustees. It includes three items -- number one, just a
6 status report on the alternates for the PAG group, number two is
7 the page I'm going to be talking about on the items I've been asked
8 to bring to the Trustee, and the balance of it is a resume of our
9 last meeting that you can look at at your leisure. But -- with
10 your permission, I may call on one of our members who is eminently
11 more technically qualified than I on some of these issues to
12 assist, Mr. John Sturgeon -- if we get into some depth on some of
13 these because he does have a lot of background and experience, in
14 terms of management and the business aspect of forestry. I think
15 overall with this group -- in our last meeting was a concern about,
16 number one, about speed in dealing with some of the matters that
17 you have to have and I -- I think that probably -- ultimately it
18 boils down to whether the Trustees are an instrument of the federal
19 government or an instrument of the state government or an
20 instrument of the court. Hoping that if the latter were true, that
21 you could probably cut a lot more red tape out of things and get
22 things done faster. But, that's a decision you have to make.

23 MR. COLE: How about neither?

24 MR. PHILLIPS: What?

25 MR. COLE: How about none of the above?

26 MR. PHILLIPS: Well, God, I would love it -- if you were

1 -- were the case, but I'm afraid it may not be. As in the case of
2 item number one, we're all aware that the current timber market is
3 on escalation -- sort of like the space program going straight up
4 in the air, and I know that in some personal experience in business
5 recently that -- it -- the price of timber has -- lumber has
6 escalated an average of about three percent a week, and it is going
7 out of sight and for that reason, I think there's an urgency in
8 trying to conclude any acquisition. And, the whole group is
9 concerned that -- about the possibility of being able to speed up
10 the process -- of acquiring any habitat it may have to be -- or in
11 your judgment, should be acquired before it -- we really are out of
12 the market completely in terms of obtaining a fair price for it.
13 There are a lot of people out there that are anxious to talk about
14 it, and it just seems because of the nature of government processes
15 that it takes an awful long time to conclude any kind of an
16 arrangement between the owners and the government in land
17 acquisition. They have suggested that, if there is a possible way
18 to do it, that that process be speeded up and consideration be
19 given to methods other than total land fee simple acquisition.
20 And, in that regard, if you can give me just a minute, I would like
21 to really ask Mr. Sturgeon to just briefly outline some of the
22 alternatives to straight land acquisition.

23 MR. ROSIER: Please do, Mr. Sturgeon.

24 MR. STURGEON: Morning, Trustees, it's a pleasure to be
25 here. I guess what -- what, at least what my comments revolve
26 around are -- there are private landowners in the spill area that

1 are not willing sellers, are not willing to sell their lands, but
2 would also -- would like to assist recovery if their lands were
3 needed. And, that looking through the restoration plan, at least
4 I couldn't find very much where there were some management options
5 that -- that those people that did not want to sell their lands
6 could work with the government. For example, there's things that -
7 - some management options that could be done -- could be expanding
8 the size of the existing buffers, wildlife corridors, providing
9 private landowners with biologists to help them plan their
10 harvesting units. There's -- right now landowners pretty much
11 depend on artificial or natural regeneration, except for selected
12 areas -- or at least our company broadcast seeding -- if -- it
13 helped for cutting units to come back faster -- that -- what could
14 be done is artificial reforestation, actually plant seedlings, but
15 bring the trees back maybe ten years faster. But, I guess the
16 point is is that nowhere in the restoration plan did I see
17 management options as a way to help the Sound be restored for those
18 private landowners, like our company, who are not interested in
19 selling their land or not interested in conservation easements or -
20 - or the such, but we would be willing to assist by management
21 options in doing something, and, I just -- my point was there
22 should be something in the restoration plan for companies like
23 ours. We do own quite a bit of land, we own Montague Island,
24 Knight Island, eighty thousand acres on Afognak Island, quite a bit
25 of land, and we'd like to make that an option -- we think you
26 should make that an option.

1 MR. PHILLIPS: Thank you, Mr. Sturgeon.

2 MR. ROSIER: Thank you.

3 MR. BARTON: Mr. Chairman.

4 MR. ROSIER: Stay -- stay up here, I think there may
5 be some questions here, John. Mr. Cole.

6 MR. COLE: Yes, I had a question. What specifically
7 would you propose, Mr. Sturgeon, in that regard?

8 MR. STURGEON: Well, I guess I don't have any proposals
9 specifically. What I'm saying is that if -- if there is -- like on
10 Montague Island, for example, if the -- the government has
11 identified there is some very critical harlequin nesting sites,
12 there's some marbled murrelet sites in particular areas, no one has
13 approached us and said, would you work with us to reserve these
14 areas. It's critical habitat over here, would you mind postponing
15 harvesting in this area for the next five years and come back here
16 after five years. No one has come to us and asked us to and asked
17 us are you willing to work with us instead of -- the only options
18 that we have been faced with is, do you want to sell all your land,
19 do you want to put it in a conservation easement. And what we're
20 saying is that there are some options. I'm not a wildlife
21 biologist, I don't know what it takes to recover the Sound, but I
22 think there is a -- one other approach that could be used, another
23 tool that could be used, to help to restore the Sound, if biologist
24 say it's necessary for the restoration of the Sound.

25 MR. SANDOR: I may be...

26 MR. ROSIER: Mr. Sandor.

1 MR. PHILLIPS: I may be one of the few in this room old
2 enough to remember that in the depression the Department of
3 Agriculture, the Federal Department of Agriculture, had a program
4 in the mid-west to help farmers in terms of educating them on crop
5 rotation, on types of fertilizer, that type of thing, which worked
6 very successfully. And, I think that's -- is alluded to here as
7 the same type of program that might be considered to help those
8 people who cut trees or harvest trees, from a technical standpoint,
9 to enhance the operation rather than destroy.

10 MR. ROSIER: Mr. Gibbons.

11 DR. GIBBONS: Yeah, just a point of clarification here.
12 In the -- we contracted with the Nature Conservancy to prepare a
13 document which was a listing of all the possible options of habitat
14 protection, and in that document is some of this -- these types of
15 techniques to work with the landowners to do conservation
16 easements, to do fee simple -- there's a whole menu of these types
17 of things. So, it is -- it is available. And, it's up to -- you
18 know, the landowner -- you know, if the landowner comes back and
19 says, yeah, we don't want to sell our land, but we want to work
20 with you on the protection of these habitats, that's quite within
21 the realm of the habitat protection process.

22 MR. PHILLIPS: We recognize that in some case -- in some
23 cases, the purchase the land is not simple because it may have
24 three different, separate parties that have interests -- the
25 surface rights, the subsurface rights, the timber rights -- and
26 that just elongates the process in trying to get them all together.

1 So, if there could be a simplified process.

2 MR. ROSIER: Mr. Sandor.

3 MR. SANDOR: What your items -- one through eleven --
4 naturally deal with this in more -- in more detail, but I guess I
5 would ask Marty Rutherford or someone who -- who is with the
6 habitat protection group -- to what extent these options were
7 explored up to this point.

8 MS. RUTHERFORD: We are very aware that these options
9 are something that need -- the Trustees need to consider seriously.
10 At this point in time, those parcels that have been brought forward
11 to you have not included anything other than fee simple title.
12 However, there will be situations we're quite sure, where we're
13 going to be making -- based upon the landowners unwillingness to
14 sell fee simple title, we'd probably be making recommendations to
15 you on -- on extended buffers, conservation easements, all the
16 varied menu of possibilities. So, it's something we're taking very
17 seriously. Of course, it will be up to the Trustee Council to
18 decide whether that's anything they want to pursue.

19 MR. SANDOR: Just a follow question. Number nine
20 specifically in the selected issues that you put out, did you point
21 the letter to the landowners -- is not clear and, might have
22 considered management types of arrangement for protecting the
23 habitat. Mr. Chairman, these and other suggestions -- suggestions
24 in this listing -- eleven -- seem to me to be constructive items
25 that simply ought to be incorporated in the habitat protection
26 process and that -- you know, like future context, we ought to

1 raise them, clearly raise those options as being available.

2 MR. ROSIER: Mr. Cole.

3 MR. COLE: I think we've -- sour note. People say,
4 get this done quickly, habitat is -- you know, being slaughtered,
5 we need to move more rapidly, and the environmentalist say, we
6 haven't done enough. But, the problem is, as I see it, in the
7 first place, this type of agreement requires a lot of time to put
8 together. You just don't go out and say, well let's have one of
9 these comprehensive easements or habitat protection plans put
10 together with the landowner in thirty, sixty, ninety days. It's
11 very difficult to negotiate that type of agreement. Much more
12 difficult than say, hey, I mean, here's the check, give me the fee
13 -- you know, that -- we know certainly by now or -- it's difficult
14 enough -- that's number one. And number two is, given the -- the
15 restrictions, if you will, on the real property procurement process
16 imposed by the federal government, I think that reaching some
17 agreement of that type through the federal process -- this thing
18 will be history before we get the first one done. I mean -- that's
19 the reason that the impetus to me comes to fee simple title, so
20 that we can get it done quickly. I agree with you that we should
21 look at alternative means for habitat protection, and we did speak
22 in the Department of Law with the gentleman from Port Graham who
23 propose a broad easement, but it's hard to put those things
24 together within the time we -- I think really want to get something
25 done. I think its...

26 MR. ROSIER: Marty.

1 MS. RUTHERFORD: I just would like to respond just to
2 Commission Sandor briefly. I -- we intend to look at these
3 comments from the Public Advisory Group, and we're going to take
4 them very seriously. I -- I feel that it's unfortunate that we
5 weren't -- that the letter to the landowners wasn't a little more
6 concise. However, it was just sort of an opening, are you
7 interested in beginning discussions, and once we begin discussions
8 we will hopefully make it very clear that -- at least we're willing
9 to discuss and bring to the Trustees some other options.

10 MR. PHILLIPS: We have to -- to pass on to you that the
11 feed-in that we get from our constituencies is a -- attempt to try
12 to reverse the process or stop the process of getting all the land
13 in the hands of the government. We've fought this for what, how
14 many years in Alaska, and all of a sudden we turn around with the
15 possibility of owning the land that has tortuously gotten in
16 private hands and ending up back in the government hands and -- for
17 a multitude of reasons we've been asked that -- if there are
18 alternatives to be able to be used. And, I think the second thing
19 that we seem to get from people is that they have not had enough
20 direct contact with whoever it is that contacts these people in
21 discussions. There may have been a letter sent out, but we keep
22 hearing that nobody has talked to us about alternatives. And, so
23 we have to tell you that's the kind of public reaction we're
24 getting.

25 MR. ROSIER: Well, it seems to me that over -- over
26 time, we have talked about these different -- these different

1 options that were available. I think that certainly we've been
2 moving down the path -- of course, those lands that were imminently
3 threatened and from -- at least from my standpoint, I would hope
4 that we would have these other options available. I would tend to
5 agree with Mr. Cole though -- arriving at those kind of agreements
6 on a short-term basis on, quote, imminently threatened lands, is
7 going to be somewhat difficult, but that's just my personal view.

8 MR. COLE: I expressed my personal view.

9 MR. ROSIER: Mr. Cole.

10 MR. COLE: We have to play the hand that's dealt us
11 I mean, we know the government did at one time own these lands. We
12 know that they are now owned by largely Native corporations. Now,
13 do we want to acquire those habitat protection?. I mean, what is
14 the alternatives? You know, that's what we have to do if we're
15 going to acquire habitat protection lands or interest in lands.
16 And, I read these comments that people say, gosh, you know, just
17 buying the lands back from the Natives -- they know it -- I like it
18 probably less than most people, but, I mean, that's the hand we
19 have and -- I've seen no -- much of an alternative other than deal
20 with the problem that faces us. It's painful.

21 MR. ROSIER: John, do you have a response to that?

22 MR. STURGEON: I don't see the complication. I mean, a
23 letter was sent out to landowners saying, are you interested or are
24 you not interested. Those that have said we're not interested in
25 selling our lands, I -- I don't see why those people can't be
26 worked with simultaneously with those that are -- that you're

1 trying to acquire fee simple land -- fee simple title -- to work on
2 these other management options. Our company says, no way, no how,
3 are we interested. And so, there's others out there I assume in
4 the same boat, and I guess the decision has been made whether
5 you're going to buy it or you're not. The landowners said no.

6 MR. COLE: The decision hasn't been made.

7 MR. STURGEON: Made by us...

8 DR. GIBBONS: The letter said property or property
9 rights. And, it didn't say sell, do you want to sell your land.
10 It said are you interested in dealing and negotiations with your
11 property or property rights.

12 MR. ROSIER: Yes, Mr. Barton.

13 MR. BARTON: It seems to me this discussion gets
14 circular. I think the point has been made, it's a valid point, and
15 we need to look at options. I think -- you know, we should not
16 forget the objective is habitat protection, it's not land
17 acquisition, so we ought to look at all the ranges of alternatives
18 available.

19 MR. PHILLIPS: We don't -- certainly (inaudible) busy
20 schedule and it is lined up here in -- in not detailed form, but --
21 and I'm sure you understand what we're talking about...the only
22 last thing I would like to do is invite you, one more time, to take
23 the trip on the 24th if you can and come out with us on the
24 exploratory trip on the Klondike, and we really look forward to
25 seeing you if you can possible make.

26 MR. ROSIER: Any other -- any other questions or

1 comments? Mr. Sandor.

2 MR. SANDOR: Not on this listing, but at our last
3 meeting, you raised a number of questions from the Public Advisory
4 Group. Have those questions been adequately answered?

5 MR. PHILLIPS: We gone a long ways. Yes, and you
6 recognize, of course, we have fifteen very diverse people and
7 whether it's been answered for everybody, I don't know. But, I'm
8 reasonable satisfied that we are now in communication, for which I
9 thank you and feel much better about being able to come and talk to
10 you about things. And, we have had some feed-in and the staff has
11 been very good at keeping us informed. And, we may never agree on
12 everything, but I would say, generally yes, the answer is and if
13 there isn't we'll ask it specifically.

14 MR. ROSIER: Thank you -- Brad, I -- I -- in reviewing
15 the blue book of testimony here yesterday on the airplane, I
16 noticed that we were making progress on that in that one of your
17 members indicated in there that we finally found something he
18 agreed with the Trustee Council on.

19 MR. PHILLIPS: Thank you.

20 MR. ROSIER: Thank you. Yes Marty.

21 MS. RUTHERFORD: Could I -- I just note that -- I'm
22 having copies made for you of the current status of the landowner
23 letter response. And, I just -- I will have those for you shortly.
24 We've gotten a very good response and except for just a couple of
25 exceptions, everyone has said they're willing to discuss -- all the
26 major landowners have said they are willing to talk to us.

1 MR. ROSIER: Very good, thank you. Mr. Cole, you have
2 a comment?

3 MR. COLE: Thanks for that comment. I was just going
4 to say, Mr. Phillips says that people say we're not actively
5 pursuing -- talking with these landowners about alternatives. Is
6 that a valid comment?

7 MS. RUTHERFORD: I think there are instances where
8 some of the landowners don't feel like we've had enough
9 conversation with them, and I think they're right. Some of the
10 landowners we've begun to have extensive contacts with. It's
11 somewhat dependent upon available staff and time, and we've been
12 focusing to quite a degree on supporting the agencies who are doing
13 the negotiations on that -- the four imminent -threat parcels.
14 However, we have started a comprehensive analysis and begun
15 discussions with some of the non-imminently threatened landowners.
16 So, it is starting.

17 MR. ROSIER: Yes, Mr. Cole.

18 MR. COLE: Let me say that we have people in the
19 Department of Law here. I would suggest that anyone who says that
20 we do not communicate properly, we will call them up tomorrow --
21 you know -- call them up, and we'll make an appointment for them to
22 come in and meet us anytime they are able to get here. I mean --
23 I -- I -- I get impatient, now we've been dealing with this for two
24 months and we still hear that we have not spoken with landowners.
25 Who are we speaking. I just don't see why we don't just get them
26 on the phone and say, come in and we will talk tomorrow.

1 MS. RUTHERFORD: I appreciate that -- you're right.
2 And, I feel the same way. Some of your staff in the Department of
3 Law have been helping us along that line, and we will aggressively
4 pursue it tomorrow, I promise you.

5 MR. COLE: Why -- where's the breakdown in the
6 process that people are saying they haven't spoken, been contacted,
7 or whatever they're saying, with the people in the Trustee Council.
8 Where -- where does the fault lie, so we can analyze it and see if
9 we can find a solution?

10 MR. PENNOYER: Mr. Chairman.

11 MR. ROSIER: Yes.

12 MR. PENNOYER: I think that we have made that point, as
13 Mr. Barton said earlier, and I think that part of the fault lies
14 with the amount of staff and some of the time crunch. We've put a
15 load on the habitat working group to do a lot of evaluation of
16 imminently threatened parcels and reevaluation. Still, I think
17 they understand our desire that contacts that are asked for, more
18 specifically, should be responded to as expeditiously as possible.

19 MR. COLE: Mr. Chairman.

20 MR. ROSIER: Yes.

21 MR. COLE: It's -- with due deference, I don't --
22 that doesn't get it for me. I mean -- you know, there's some
23 reason that somebody is not -- speaking -- the landowners are
24 saying we haven't had the proper level of communication with the
25 Trustee Council. And, I'm trying to find out where the breakdown
26 occurs in that process. I mean, I think we ought to find out.

1 It's two months now and -- you know.

2 MR. ROSIER: Marty.

3 MS. RUTHERFORD: I think we've whittled down the list.
4 I think there's probably only one or two now that would feel that
5 way. I think it is to some degree a staffing problem, maybe we're
6 not working hard enough, but we will -- we will definitely get to
7 the rest of them by the end of this week, and we will make sure
8 that they are feeling -- that they understand the process and are
9 satisfied.

10 MR. ROSIER: Thank you, Marty. With that, I think
11 we'll move along, unless there's further comments from the -- from
12 the Trustees?

13 MR. COLE: Send them a fax.

14 MR. ROSIER: Okay, we'll move now to -- I guess, items
15 five and six. Dave, you indicated was -- was -- were tied
16 together.

17 DR. GIBBONS: Yes, at the February meeting the Trustee
18 Council approved some of the '93 projects, approved some of the
19 restoration organization budget. They approved a three month
20 budget for the Restoration Team and the working groups. They
21 approved a seven month budget for the long-term type contracts.
22 The contract for the building and the staff here, Chief Scientist,
23 and some environmental compliance work group. But, that funding
24 for the restoration organization ends the end of this month, and
25 so, funding needs to be -- some funding needs to be continued to --
26 after the end of the month, or it'll run out of money. The

1 Restoration Team -- there's a document in front of you dated the
2 10th of May -- the Restoration Team went through the budgets that
3 were presented to you earlier this -- this year. I've got a copy
4 of that document if anybody wants to look at it. It's this
5 document here that was sent to the public and sent to the Trustee
6 Council early this year. The detailed stuff -- the budget. We've
7 looked at those -- we reduced the -- our estimates for money
8 needed. We're recommending that we do away with four work groups -
9 - to save money. And, the amount of reduction is about \$260,000 --
10 a little over \$260,000. That's our recommendation to the Trustee
11 Council. Here's a summary of it if you want -- of our
12 recommendations for the next four months.

13 MR. BARTON: You're looking at this time then at a
14 request of a million five sixty -- that's the bottom line --
15 request?

16 DR. GIBBONS: That's correct.

17 MR. ROSIER: Comments from the Trustees. Mr. Cole.

18 MR. COLE: I'm -- none now.

19 MR. ROSIER: Mr...

20 MR. PENNOYER: Well I...

21 MR. ROSIER: Mr. Pennoyer.

22 MR. PENNOYER: A million five sixty is the summary total
23 and all the other pieces are elaborated in the follow up pages
24 then?

25 DR. GIBBONS: Yes. The pieces on the follow up pages
26 are the agencies - costs by agencies -- reductions.

1 MR. COLE: So, it's \$400,000 a month?

2 MR. ROSIER: Mr. Barton.

3 MR. BARTON: (Inaudible) Observations -- has the
4 finance committee reviewed this material, either as a -- in whole
5 or the individual members.

6 DR. GIBBONS: I believe Mr. Sheridan -- Walt Sheridan is
7 the chair of the finance committee -- can come up and...

8 MR. WALT SHERIDAN: We have reviewed -- we reviewed those
9 three draft and the final budget -- the administrative budget that
10 was submitted to the Trustees back last fall and provided copies of
11 the reductions, and I have talked to a number of finance committee
12 members and find no problem with the reductions. In fact, we'd be
13 glad to see additional ones.

14 MR. ROSIER: Mr. Pennoyer.

15 MR. PENNOYER: I'm not sure that exactly answered the
16 question. There's no problem with the reduction, how about the
17 stuff that isn't reductions.

18 MR. SHERIDAN: What we -- we reviewed the original draft
19 budget in total and we reviewed, after discussions with the
20 Restoration Team, a number of changes in that draft. We again
21 reviewed the one that came to you in the fall, and felt that it was
22 a proper kind of budget, that we had no recommendations for
23 specific reductions. We had looked at things like travel costs and
24 the factors that the Restoration Team used in putting those
25 together. We reached an agreement with them on standard kinds of
26 rates they would use. We reviewed the total package.

1 MR. COLE: What is the total annual budget for our
2 quote, proposed overhead, close quote?

3 MR. SHERIDAN: I don't have that number off the top of my
4 head.

5 MR. COLE: What I'm getting at it as if -- you know, you
6 look at four months at roughly a million six. You know, that's
7 four hundred thousand a month, times ten, that's four million,
8 times another -- you know, that's bumping up pretty close to five
9 million dollars for overhead for this operation. Now how much are
10 we spending on restoration projects and studies? Seven?

11 MR. SHERIDAN: Roughly.

12 MR. COLE: I mean, you know -- the numbers -- those
13 ratios, to me just give me pause. I don't know if anybody else is
14 paused, but five million for overhead, seven million for
15 restoration -- forgetting Kachemak Bay habitat acquisition.

16 MR. BARTON: Why would you forget that?

17 MR. COLE: That's permanent. You see -- forever.
18 Otherwise in the law known as perpetuity.

19 MR. PENNOYER: You need a shining light for example of
20 those.

21 MR. BARTON: That's why I was wondering why he forgot
22 it.

23 MR. ROSIER: Walt, you said you were doing (inaudible -
24 simultaneous talking) you were doing away with -- with four work
25 groups. What are the four work groups that you were doing away
26 with?

1 MR. SHERIDAN: I'm not doing away with.

2 DR. GIBBONS: I can tell you. We're doing away with the
3 Public Participation Work Group, the GIS Work Group, the Cultural
4 Resources Work Group and the Management Work Group. So, we'll
5 leave us with four working groups. The Restoration Planning Work
6 Group who is developing their restoration plan and that group will
7 be sunsetted at the latter part of this year when the plan is done.
8 The Environmental Compliance Work Group that's on board now, and
9 that one will also be sunsetted when the draft environmental impact
10 statement is done. There's the Habitat Protection Work Group
11 that's been working real hard, and then there's the '94 Work Group
12 that preparing the '94 work plan. And, that's the four work
13 groups.

14 MR. ROSIER: Yes, Mr. Brodersen.

15 MR. BRODERSEN: Mr. Chairman, thank you. Excuse me.
16 We're running into a minor difficulty hear that the administrative
17 budget is a little bit high as -- well, quite high as we get
18 started developing the restoration plan, developing the habitat
19 protection elements. As Dr. Gibbons was saying, the administrative
20 budget is going to decline with time, whereas the projects that are
21 actually run -- I hope, will increase with time, once we have the
22 restoration plan in place, once we have the comprehensive plan for
23 habitat protection done, but I would anticipate that the
24 administrative overhead will go down considerably in the next
25 budget, which you're going to see, and then it should go down the
26 year after that also, when we're down to -- basically what we'll

1 have is an annual work plan -- work group -- and depending upon
2 what kind of structure you all put in place, an RT or some other
3 independent group to actually do the management of it, and there
4 won't be a whole lot of other work groups, and with any luck at all
5 we'll see a whole lot more actual restoration habitat acquisition,
6 etc., going on once the restoration plan in place. So the ratio
7 between the administrative overhead and actual work should improve
8 immensely in the coming years.

9 MR. ROSIER: Mr. Pennoyer.

10 MR. PENNOYER: Mr. Chairman. Mr. Brodersen, I understand
11 that, and the actual fact, of course, these are projects. The EIS
12 thing is a project, the habitat -- the restoration plan is a
13 project. They're all projects. They're not deliverable in terms
14 of either concrete or directly in terms of some resource, but they
15 are projects. And I guess -- my question is then will the '94 work
16 plan, which we're going to be looking at in barely a couple of
17 three weeks or month or whatever we decide to have that next
18 meeting, would it reflect this position of the decrease
19 administrative requirement -- at FY -- '94 and in '95.

20 MR. BRODERSEN: I would anticipate the budget, which I'm
21 not sure we'll look at at that point, we're talking about the
22 restoration projects at the next meeting and the budget that you
23 will see will be in August or September when we actually get to
24 looking at dollar figures for this. I would anticipate the budget
25 to be down quite a bit because the Restoration Plan Work Group will
26 be gone. It's not clear to me yet on Habitat Protection Work Group

1 when it will be sunsetted, but I would anticipate some time during
2 the -- the '94 work year, that that group would be sunsetted.
3 These are expensive operations that we're doing right now that
4 we're not going to be doing, for sure in '95, and I anticipate in
5 '94 we're going to see major reduction in those also. So that, the
6 administrative budget should be -- should be headed on a fast slide
7 down in the coming years.

8 MR. ROSIER: Commissioner Sandor.

9 MR. SANDOR: Well, we commend you for the reductions
10 that were made and sunseting of work groups that no longer need to
11 function. This for the June 1, September 30, 1992 period of time,
12 which is just two weeks away? I move approval of this proposed
13 budget.

14 MR. PENNOYER: Second.

15 MR. ROSIER: We have a motion by Mr. Sandor, seconded
16 by Mr. Pennoyer, to adopt the proposed budget adjustment of a
17 million five sixty point four. Comments from the Trustees? I
18 think Mr. Cole wanted to make a comment.

19 MR. COLE: Well, I wanted to ask a question.

20 MR. ROSIER: Okay.

21 MR. COLE: When you say substantially, pretty much,
22 and so forth -- you know, the lawyer in me prompts me to say, how
23 much are you talking about in dollars when you say that -- a
24 million or two or \$One hundred fifty thousand?

25 MR. BRODERSEN: The numbers for the next budget have not
26 been developed. If you were to allow us an hour or two we could

1 certainly speculate upon it and have a better figure for you after
2 lunch. I'm reluctant to talk off the top of my head, but I'm -- if
3 you want speculation now, I think we're down at least a million
4 bucks for the overall year in the coming year because of the
5 reduction of these work groups. But, that's speculation.

6 MR. COLE: That's good enough.

7 MR. ROSIER: Mr. Barton.

8 MR. BARTON: I have a question on the motion -- is it
9 understood that these work group reductions are a part of your
10 motion?

11 MR. ROSIER: Was there a response? I didn't hear a
12 response.

13 MR. SANDOR: I said yes, pardon me.

14 MR. ROSIER: Oh, okay. Yes.

15 MR. PENNOYER: One follow-up observation, and I think Mr.
16 Cole's question is very germane. But, I don't know that this group
17 can totally speculate on that. We're going to discuss over the
18 next few months of how we're going to approach this organization
19 post-restoration plan. We talked about hiring and are in the
20 process of hiring an executive director, not an administrative
21 director, we've talked about hiring a staff for that director,
22 we've talked about some modification of the role of the Restoration
23 Team and how the agencies operate with that director, and I don't
24 know how we're going speculate on total administrative costs absent
25 some of those discussions. I presume that we would end up with a
26 big reduction from this initial planning days that has all these

1 plans or projects we're undertaking, and they're costly projects,
2 but they will all drop off, and we will be administering, although
3 we're still going to planning -- this thing's not going to be
4 inviolate over the next eight years -- there's going to be
5 modifications in each work plan. So, we probably need to have
6 those discussions at some point before they can totally give us a
7 fix on what administrative costs are going to be.

8 MR. ROSIER: I would certainly like to say you did --
9 you did a good job in bringing this forward Dave. I think that
10 it's been a good discussion on this. Is there any objection on the
11 motion before us at this time? Hearing none, the motion is passed.
12 Item seven is the next item, that's Marty Rutherford, would you
13 like to proceed with the introduction of the issue?

14 MS. RUTHERFORD: Yes, sir, Mr. Chair. What I think I
15 would like to do is on your agenda it indicates status report, and
16 that is on the four imminent-threat parcels. I believe I'd like to
17 start with the Seal Bay parcel and request that Alex Swiderski,
18 Craig Tillery and Art Wiener and Kim Sundberg come forward for a
19 presentation to you.

20 MR. ROSIER: That's fine. Will those individuals
21 please come forward?

22 MS. RUTHERFORD: I think I would like to refer
23 everyone also to the document that they were handed out -- you
24 received either the night before last or yesterday. It looks like
25 this. The public does have version of this, although it doesn't
26 have a great deal of information in it that you have.

1 MR. PENNOYER: (inaudible) administration budget earlier.

2 MR. ROSIER: You're plugged in both areas, I think.

3 MR. CRAIG TILLERY: As an introductory matter, we began
4 this process -- with Attorney General Cole -- by approaching Seal
5 Bay and asking them for a proposal for acquisition of the entire
6 parcel, which, if you look in your package, there's a -- you'll see
7 a series of maps and in any of those maps it is basically the
8 entire portion that you see in there. Specifically, it ultimately
9 turns out to be option three. One, that aerial photograph it's the
10 -- everything that's inside the black line, out there. We also
11 discussed -- as it turns out briefly, possibility of getting
12 conservation easements. What we received back from them was a
13 proposal for the entire parcel. It was a very expensive proposal,
14 and rather than bring it straight to the Trustee Council, we
15 believed it more appropriate to try to come up with some smaller
16 options so the Trustee Council would have a variety to consider.
17 As a result, working through Kim Sundberg, the Habitat Protection
18 Group, we identified some other options that made biological sense.
19 Those were presented to Seal Bay, essentially in the form of the
20 four options. No, we actually broke that big parcel down into
21 about eight or nine parcels, we arranged them in different manners,
22 and asked Seal Bay to come back with a proposal for the four
23 options. Seal Bay Timber took a look at that and came back with a
24 -- three of their own, which were slightly differently from ours,
25 primarily in that we had asked that parcel seven be included in a
26 parcel that would have included one, two, and also seven. They

1 came back and said seven does not make economic sense for us, and
2 we won't sell seven, unless we sell the entire parcel. As a
3 result, they came back with three options. Those options are:
4 option one which is the coastal fringe; option two, which is option
5 one -- was what you see as two; and then option three, which is
6 everything. We have -- in your package you have a copy of a letter
7 from Seal Bay that has their proposed prices for those various
8 parcels. It is our recommendation that prices -- and your response
9 to these particular requests -- these particular proposals, be
10 taken up in executive session. That's your decision. And, Kim
11 Sundberg will now give a view of the sort of biological meaning of
12 each of the options and a report on his own investigation down
13 there a week or so ago -- current timber prices -- current timber
14 cutting. And, I would also note for your information that the
15 representatives of Seal Bay are here with us today and are willing
16 to meet with the Trustee Council, to speak with them either here or
17 in executive session at your preference.

18 MR. ROSIER: Thank you, Kim.

19 MR. COLE: Mr. Chairman, I have a questions. Is
20 there any reason not to publicly state the price for each of the
21 three options?

22 MR. TILLERY: The...

23 MR. COLE: These are public monies we're dealing
24 with, and I sort of have the sense that it's the public's business.

25 MR. TILLERY: It's -- it's your choice. Certainly, it
26 would seem that responding might not be a good idea, but saying the

1 price is your decision.

2 MR. ROSIER: Mr. Barton.

3 MR. BARTON: Not clear what we have here, Craig, I
4 assume you're referring to the third page in?

5 MR. TILLERY: The what now?

6 MR. BARTON: Trying to figure out what (inaudible -
7 simultaneous talking).

8 MR. TILLERY: Yes.

9 MR. COLE: About the third, right of front (inaudible
10 - simultaneous talking). The second blue in. It's this one here.

11 MR. TILLERY: Yeah, that's it.

12 MR. BARTON: That's your -- okay, what are those
13 values? Are those appraised values or is that the offering price
14 or ...?

15 MR. TILLERY: This is a proposal made by Seal Bay.

16 MR. BARTON: Okay.

17 MR. TILLERY: And again, in your package, in something
18 labeled confidential, is the State of Alaska's Division of
19 Forestry's analysis and it certainly is not an appraisal -- it's
20 rough -- but there -- look at what the values might be. We had
21 hoped to get one from the Forest Service, but did not receive one,
22 at least as of yet, of their analysis in regards to the parcel.

23 MR. ROSIER: Yes, Mr. Cole.

24 MR. COLE: I propose that we tell the public what is
25 contained in each of the options, that is the acreage -- one this
26 map here -- the aerial photograph, and the -- the asking price for

1 the acreage within each of the options. It's the public's
2 business. Now, what our negotiating form might be to that is --
3 something I don't (inaudible), but at least the proposal as
4 presented to us should be made public. But, I defer to the
5 collective wisdom.

6 MR. ROSIER: Any comments from the Trustees?

7 MR. STIEGLITZ: Excuse me, I have a question, Mr.
8 Chairman. Would we be violating some confidentiality agreement
9 with the landowners if we divulge this information.

10 MR. TILLERY: Mr. Ebell has indicated there's no problem
11 in stating the price. The one thing that is confidential and
12 cannot be divulged is the timber mix and some of the assumptions
13 based on it.

14 MR. STIEGLITZ: What -- if I might continue, if a
15 landowner has no objection, then I certainly agree with Mr. Cole,
16 we ought to publicly disclose what the offer is.

17 MR. ROSIER: Sounds... Mr. Barton, do you have
18 something.

19 MR. BARTON: You mentioned there was something that we
20 could not divulge or the landowner did not want divulged, and what
21 was that, Craig?

22 MR. TILLERY: The timber mix that's in there, the
23 estimate of the amount of timber, the mix of timber, and their
24 estimates -- their market price estimates -- I don't believe that -
25 - it's not in this package for you anyway -- but, some of you some
26 have been privy, so I think -- actually not many of you have been

1 privy -- we have that information available. It's the basis for
2 some of this -- that's should not be divulged.

3 MR. ROSIER: There's nothing -- then there's nothing
4 that precludes no other agreements that precludes us from talking
5 about the offering price...

6 MR. TILLERY: Not the offering price, no.

7 MR. ROSIER: Okay, then let's proceed then.

8 MR. COLE: Okay, what is option number one, and what
9 acreage does it contain?

10 MR. TILLERY: Option number one is the coastal fringe,
11 identified by number one. It contains four thousand and four acres
12 and the offering price is twenty-seven million nine hundred and
13 ninety thousand.

14 MR. COLE: Twenty-eight million?

15 MR. TILLERY: Twenty-eight million, roughly

16 MR. PENNOYER: And it's ranking on our -- it's ranking on
17 our scale of imminently threatened evaluation numbers?

18 MR. TILLERY: It ranks eighteen on the score, relative
19 to other imminently threatened parcels that have been ranked.

20 MR. PENNOYER: That's just this option?

21 MR. TILLERY: Option one.

22 MR. PENNOYER: Option one, okay.

23 MR. STIEGLITZ: Point of clarification...

24 MR. ROSIER: Yes, Mr. Stieglitz.

25 MR. STIEGLITZ: That -- value is based on, surface values
26 and timber-only rights. Subsurface is not included.

1 MR. TILLERY: Not subsurface, surface and timber only.

2 MR. COLE: Option two.

3 MR. TILLERY: Option two, up on the map in the front, is
4 a combination of option one -- of parcel one and parcel two there.
5 You've combined those -- that's two. That's eleven thousand four
6 hundred sixty-one acres, and the proposal price is twenty-nine
7 million nine hundred and fifty thousand dollars.

8 MR. PENNOYER: And, again the ranking? The habitat
9 ranking?

10 MR. SUNDBERG: The habitat ranking on option two is
11 twenty-eight.

12 MR. COLE: What does that mean?

13 (Inaudible - simultaneous talking)

14 MR. SUNDBERG: If you look at a table in the back of your
15 packet there, it says parcel ranking and acreage summary. This is
16 a -- this is a reprint of the table that we presented at the
17 February 16 Trustee Council meeting where we ranked all the
18 imminent-threat parcels so you can see what the other parcels that
19 have already been ranked -- how they fall out relative to this one.

20 MR. PENNOYER: It's the score up there, right?

21 MR. SUNDBERG: The score.

22 MR. ROSIER: This -- this pertains to the entire
23 package -- of the option three -- this ranking that you have?

24 MR. SUNDBERG: This table in the back represents all the
25 imminent threatened parcels throughout the whole spill area that
26 were scored and ranked.

1 MR. PENNOYER: But for Seal Bay it's the entire...

2 MR. ROSIER: But for Seal Bay it's the entire package?

3 MR. SUNDBERG: Yeah, the KET 01 on this would reflect
4 option three, which I think is the third one that Craig is going to
5 get to.

6 MR. ROSIER: Yes, Mr. Cole.

7 MR. COLE: For the benefit of those here who may be
8 trying to follow this -- Seal Bay was rated number two -- that's
9 the fifteen thousand acres was rated number two and the
10 desirability acquisitions in the entire list. Right?

11 MR. SUNDBERG: Right.

12 MR. COLE: And -- but that was for fifteen thousand
13 acres. It's been reduced here to eleven five, essentially. So,
14 presumably the ranking goes down a little bit.

15 MR. SUNDBERG: That's correct.

16 MR. COLE: And, I gather your reason for that is that
17 there's some desirable habitat in three?

18 MR. SUNDBERG: Yes.

19 MR. COLE: Causes the ranking to go from maybe two
20 down a little bit?

21 MR. SUNDBERG: Yes. I was going into the -- up the
22 relative rankings in my presentation, but if you (inaudible -
23 simultaneous talking)...

24 MR. COLE: But we got a little confused when we
25 talked about eighteen and what's (inaudible - simultaneous
26 talking).

1 MS. RUTHERFORD: Could I point something out Mr.
2 Chairman?

3 MR. ROSIER: Ms. Rutherford.

4 MS. RUTHERFORD: The public package has that parcel
5 ranking and acreage summary that we provided in February 16th. It
6 is the last page. And, at the fifth page in is the side-by-side
7 comparisons with the scores for these parcels also.

8 MR. TILLERY: So option one would drop it significantly,
9 vis-a-vis other parcels. Option two still leaves it in second
10 place, even with only eleven million twelve thousand acres. And
11 the final place...

12 MR. COLE: (Inaudible - simultaneous talking) all
13 imminently threatened habitat with option two, this is in second
14 place only behind Kachemak? So with the acquisition of Kachemak --
15 Kachemak, presumably, this is now the highest-rated imminently
16 threatened parcels in the entire oil spill area?

17 MR. TILLERY: Option three is the entire parcel, which
18 is one, two, three, and that little dotted line see you -- seven.
19 You combine all that, that's option three. Seventeen thousand
20 three hundred ninety-one acres. It's forty-eight point seven
21 million dollars. The habitat ranking again is the same for the --
22 as it was originally. The score was thirty, which is two points
23 higher on the score than if you only paid the thirty million
24 dollars in option two for eleven thousand acres. In terms of
25 timing on this, you can probably get a more detailed explanation
26 from the Seal Bay timber people, but essentially, there's a parcel

1 that you probably can't see from here -- (inaudible) point out
2 that's six nineteen up here in the upper left hand corner is --
3 there's currently a road being constructed down to that parcel from
4 that direction. The -- timber for the road has actually been cut
5 most of the way down there. They have begun to actually rip the
6 road down there. Six nineteen is a very important parcel that Kim
7 can describe. I -- Seal Bay timber had agreed not -- however, at
8 the beginning of this week, or actually at the end of last week,
9 they agreed not to cut anymore timber on that road towards six
10 nineteen, pending the outcome of this meeting. It stands
11 essentially stayed at the moment.

12 MR. COLE: For how long?

13 MR. TILLERY: Until the end of this meeting.
14 (Simultaneous talking and laughter.) Again that's something you
15 should probably discuss?

16 MR. TILLERY: That's a summary of the status. If you
17 don't have anymore questions, then Kim can go into the biology of
18 the different options.

19 MR. ROSIER: Kim.

20 MR. SUNDBERG: (Inaudible).

21 MR. ROSIER: I think we probably ought to have it on
22 the record here. Go ahead Kim.

23 MR. SUNDBERG: Thought I would just show a few slides,
24 just to give you an idea what this parcel looks like. This first
25 slide is -- they -- log loading facilities and camp facilities on
26 the south end of Afognak and Kazakof Bay. There's some currently

1 two large timber harvest operations going on on Afognak Island.
2 One is being done by Koncor Forest Products for Seal Bay Timber and
3 other landowners on other portions of the east side of Afognak
4 Island. The other operations are run by Dan Thomas which is shown
5 in this photo. They're logging on the Afognak Native Corporation
6 land and some of the Afognak Joint Venture lands on the west side
7 of Afognak Island.

8 MR. COLE: Could we have it pointed out on the map --
9 show the people here what we mean -- east side and west side, south
10 side...

11 MR. SUNDBERG: I don't know if this thing is going to
12 work in this light, but you can see that little pointer. I don't
13 have one of those little high tech laser pointers. Can everybody
14 see that light right there?

15 (Inaudible - background talking)

16 MR. SUNDBERG: Well, what we're looking at right now is
17 Kazakof Bay, which is this large bay on the south side of Afognak,
18 which is where the timber is loaded out from Afognak. There's two
19 operations located down here. The Koncor operations are primarily
20 in this part of the island, of Seal Bay area, up in here, which is
21 the large east side of the island. They're also operating down
22 Izhut Bay area and down over in here. There's a road system that
23 connects up all this and takes -- they haul logs back down to a
24 sort yard down here and load them aboard ships, and then they are
25 exported to the Pacific Rim countries, Japan, Korea, Taiwan.

26 MR. COLE: Is any of that being sent to (inaudible -

1 out of microphone range) or is it all being sent to China and
2 Korea.

3 MR. SUNDBERG: I believe most of it is being exported to
4 -- the Far East. I think occasionally they send some pulp logs to
5 mills in the United States, but -- Mr. Sturgeon, if he is still
6 here, could probably clarify what they are currently -- most of
7 it's exported, it's my understanding.

8 MR. COLE: Is that in the round log?

9 MR. SUNDBERG: That's correct. Yeah, they just round log
10 export it. The other timber operations that are occurring are
11 active over in this part of the island, and they come back -- they
12 haul back on the road system already here to another camp and load
13 out in this area also. This is Seal Bay right up here in the -- in
14 the northeast corner.

15 MR. COLE: What happens to -- who owns the rest of
16 this timber on this island? Where is the ownership (inaudible -
17 out of microphone range)

18 MR. SUNDBERG: The ownership patterns are fairly
19 complicated. Afognak was partitioned under ANILCA and Native
20 corporations that could not get all their entitlement on Kodiak
21 Island were allowed to form a joint venture under ANILCA and
22 select, what were called, deficiency lands and they -- they --
23 include corporations like Ouzinkie, Natives of Kodiak, Afognak
24 Natives, Akhiok-Kaguyak, Old Harbor -- I'm probably leaving a few
25 out, but there were several -- a number of village corporate --
26 villages on Kodiak that -- that selected lands up on Afognak

1 Island. There was a joint venture that was formed -- Afognak Joint
2 Venture. I think approximately three years or so ago, Akhiok,
3 Kaguyak and Old Harbor split -- partitioned out their parcel in the
4 Seal Bay area from the rest of the Afognak Joint Venture lands,
5 which were over here, and formed their own company called Seal Bay
6 Timber Company, to manage and harvest their own timber. So,
7 they're separate from the Afognak Joint Venture now.

8 MR. COLE: So we're dealing with a joint venture for
9 Natives?

10 MR. SUNDBERG: We're dealing with a -- I believe a joint
11 -- set up as a joint venture between Akhiok, Kaguyak and Old Harbor
12 Corporation -- village corporations.

13 MR. BRODERSEN: Forgetting Seal Bay and Afognak (inaudible
14 -- out of microphone range). The project joint venture has lands
15 (inaudible -- out of microphone range)?

16 MR. BRODERSEN: Not Afognak. We're not dealing with
17 Afognak. The joint venture owns land in the area...

18 MR. SUNDBERG: The Afognak Joint Venture owns all this
19 land on this side of the island, including the north end of the
20 island -- northwest.

21 (Inaudible - background talking).

22 MR. SUNDBERG: They, I don't believe own any lands over
23 here.

24 MR. TILLERY: If you look at the aerial photograph map
25 of that parcel -- the lands to the west there are -- they're
26 Afognak Joint Venture. That's an area of significance.

1 MR. COLE: Who owns these lands here?

2 MR. SUNDBERG: That is also owned by Seal Bay Timber
3 Company -- Tonki Cape area. The state owns this, state owns this,
4 Fish and Wildlife Service owns this.

5 MR. COLE: What about Shuyak Island?

6 MR. SUNDBERG: The state and the Kodiak Island Borough
7 own Shuyak Island. State owns this chunk down here. And, that's
8 Native owned, I believe. Alright, this is an overview of the --
9 look from the south side of the Seal Bay Timber property -- looking
10 south back towards Kazakof Bay where the picture of that ship was
11 taken, and, you can see the patches here, the road system comes up
12 through these cutting units, and this is one of the more recent
13 cutting units called the six-thirty cutting unit, which was started
14 this April on Seal Bay Timber Bay Company property. Six-thirty
15 unit is shown approximately in that location there. This -- they
16 were still felling and decking timber when I was out there on April
17 21. I believe this unit is pretty much all harvested now. Their
18 intention was to go from the six-thirty up to the six-nineteen
19 unit, which is located up here. First of all, they were going to
20 have a harvesting unit called the six-sixteen. That one is
21 actively being harvested right now. Then they're going to move
22 onto the six-nineteen after that. So, six-thirty started in April
23 -- early April, the six-sixteen was begun in mid-April, and six-
24 nineteen, I believe, is scheduled to begin harvesting -- as Craig
25 mentioned, they have stayed their work on the road, but they are
26 scheduled to begin harvesting by the end of May. They also have

1 other units laid out for this summer's plan. They have a unit laid
2 out called the six twenty-five unit, which is on this peninsula
3 right here. The six thirty-five unit, which is located there and
4 the six twenty-eight unit, which is at the tip of that peninsula.
5 All those cutting units are scheduled to be harvested this year.
6 They also have some units laid out in their five year plan which go
7 up this coastline, the six thirty-eight, six thirty-nine, six
8 forty-one and six forty-three, up this coast. And, they have two
9 other units laid out, the six thirty-three and the six thirty-one.
10 The six thirty-three is in this evaluation unit seven, and the six
11 thirty-one, which is right down in this corner.

12 MR. SANDOR: Mr. Chairman.

13 MR. ROSIER: Yes.

14 MR. SANDOR: Can you again show, as best you can, what
15 area is covered by option one and option two?

16 MR. BRODERSEN: This area here is all option one. Option
17 two is all of this area and the fringe plus, this additional
18 parcels, so you have this ...

19 MR. SANDOR: Option two is one and two

20 MR. TILLERY: One and two, that's correct.

21 MR. BRODERSEN: And then option three would add this
22 portion.

23 MR. COLE: Why do we get so much more land in option
24 two for a couple of million dollars more than we do if we simply
25 went with option one?

26 MR. BRODERSEN: We need to have Kim make his presentation.

1 I think it would explain that.

2 MR. SUNDBERG: The short answer there is quite a bit of
3 non-commercial and non-timbered areas on that option two on the
4 east side.

5 MS. RUTHERFORD: There are maps in your packet that
6 show options one, two and three, Commissioner.

7 MR. SANDOR: Not the same as that.

8 MS. RUTHERFORD: They don't look exactly the same
9 (inaudible).

10 MR. ROSIER: Go proceed Kim.

11 MR. SUNDBERG: Okay. This is a photo showing the ongoing
12 timber harvest operation in the six-thirty unit in April. This is
13 a photograph of a older harvest unit to give you an idea of what
14 some of the older clear cuts on the island look like. I believe
15 they -- in the background, this area was harvested approximately
16 ten years ago. So, it is starting to regenerate. Generally, out
17 on Afognak Island, they get pretty good natural regeneration around
18 the edges of the stance. I think Mr. Sturgeon mentioned that they
19 have to do some broadcast seeding oftentimes on these ridge tops
20 and places that are in the center, this -- the clear cuts in order
21 to properly regenerate, restock spruce on to the stands.

22 MR. COLE: What is the growth cycle on clear cutting
23 on Afognak? (Inaudible -- out of microphone range)

24 MR. SUNDBERG: I believe most of the trees on Afognak are
25 in the range of two hundred to three hundred years old. They are
26 pure Sitka spruce. There is no western hemlock or any other

1 conifer on the island. It's a mature forest, but in some cases it
2 hasn't really reached the old growth characteristics at some places
3 -- there in a lot of places because it's a young forest and it's
4 been growing basically at about the same age. Quite interesting
5 area in Alaska. Very unique in terms of forest ecosystem.

6 MR. COLE: Once this system (inaudible -- out of
7 microphone range) two to three hundred years before it grows back
8 (inaudible -- out of microphone).

9 MR. SUNDBERG: Probably it would start to reach some of
10 the characteristics that would -- someone would say mature forest
11 characteristics -- you know, I would guesstimate that -- in the
12 neighborhood of a hundred and fifty years. But, in order to reach
13 where it's at right now, yes, it would take about three hundred
14 years. It's -- trees grow well on the island, but they grow -- you
15 know, slower than they do farther south. And, it's as if the --
16 far edge of the range of Sitka spruce in Alaska -- near -- near the
17 edge. This is a photo looking across the property from Seal Bay.
18 This is a cutting unit called six twenty-four, which was done last
19 fall and that's located on this map right in that area. It's about
20 -- approximately one hundred and sixty acres and it was done in
21 conjunction with another unit to the south called six twenty-two.
22 And, all the options that we're considering today include this
23 harvested unit. Six-nineteen unit, which we've heard about and
24 referred to is right here. This is this section, which is located
25 in the northeast -- northwest corner of the property, right there.

26 MR. PENNOYER: Could somebody shut those blinds over the

1 screen? It's real hard to see, it's (inaudible)

2 MR. SUNDBERG: I don't know if I can boost the power on
3 this thing. This is another view of that cutting unit, six twenty-
4 four -- six twenty-two and six twenty-four. This is the six
5 twenty-two, the six twenty-four, here's Seal Bay. This is looking
6 north. There's Mount Douglas on the Alaska Peninsula. Kenai
7 Peninsula is back here in the back ground. This is that road that
8 was referred -- that Craig referred to -- that they ceased felling
9 timber on -- this is the April 21st, they'd gotten to this point.
10 They're heading for this cutting unit right here, six-nineteen.
11 This is another view of the six twenty-four unit, Seal Bay in the
12 foreground. This is looking south, back towards -- looking back
13 towards the Alaska Peninsula to the south. This shows a salt chuck
14 and an anadromous fish stream that is next to the six twenty-four
15 unit. Now this was just harvested last fall, and when I was out
16 there in April the trees were still decked near the road, and they
17 hadn't hauled the trees or the logs back yet because the roads were
18 too soft. This photo illustrates what a sixty-six foot buffer
19 looks like along this anadromous fish stream. So this is an
20 anadromous fish stream here, and this is a sixty-six foot buffer.
21 In addition, Koncor, although they are not required under the
22 Forest Practices Act, generally always leaves a coastal fringe
23 around the edge of their cuts and you can see that. A lot of times
24 they also will leave fringes of trees around ponds or small lakes
25 on the -- on their cutting units. This is just a photo of six
26 twenty-four with the logs stacked ready to be hauled. Gives you an

1 idea of the size of the timber that comes off here. This is
2 looking out north out of Seal Bay. This is a look -- a view
3 looking back -- the property in the foreground is the Afognak
4 Wilderness Lodge that's run by the Randalls. They've been out here
5 for thirty -- thirty years -- thirty, forty years. They have a
6 small wilderness lodge that they cater to fishermen and hunters,
7 wildlife photographers. This is the six twenty-four cutting unit
8 here, and this is the six-nineteen cutting unit here. These
9 islands are not part of the acquisition.

10 MR. COLE: Where are they on this map here?

11 MR. SUNDBERG: They're right up at (inaudible -- out of
12 microphone range)

13 MR. COLE: Can you point to it more?

14 MR. BRODERSEN: Just trying to turn this light off
15 (Inaudible - simultaneous talking)

16 MR. SUNDBERG: Right -- right down there -- the area
17 right in there.

18 MR. COLE: These little lines?

19 MR. BRODERSEN: (Inaudible -- out of microphone range)
20 turn on the emergency system if I turn that light off too.

21 MR. SUNDBERG: This is a view of the central portion of
22 this peninsula where those three cutting units are laid out for
23 later on this summer. Looking to the north, so the Afognak Lodge
24 is -- is right in this little -- up right here. This is the six
25 twenty-four unit over here, the six-nineteen unit, and, this is a

1 major anadromous fish stream called stream number one hundred ten,
2 that's referred to in some of your materials -- it comes through
3 here. Okay. The next series of slides -- just sort of some
4 overviews of the whole property. This is looking again south from
5 this little bay at the south end, looking back towards Kazakof Bay.
6 The options that we're considering, both options one and option
7 two, the line that cuts off the acquisition would be approximately
8 in this location right here. So, the purchase would be everything
9 in the foreground and everything -- including this little frozen
10 lake here, and everything back would not be included, in options
11 one and two -- would be included in option three. This is a view
12 looking from the far extreme -- east side of the property out by
13 Tolstoi Point looking back across the entirety of Seal Bay. And --
14 this brown area in here is grass. This is looking down on Tolstoi
15 Point. This is a major elk wintering area. It's also spring bear
16 concentration area, and it's also an important deer winter habitat.
17 There's also sea otter concentrations, (inaudible) sea otter
18 concentrations occur right off here. This is looking from Tolstoi
19 Point, which is in the northern stand looking down south across the
20 property. Again, the line that would divide this property comes
21 across on the other side of this bluff, and this is the lot
22 basically right across here.

23 MR. COLE: Where's Tolstoi Point?

24 MR. SUNDBERG: See it, Tolstoi Point.

25 MR. COLE: Here?

26 MR. SUNDBERG: This is looking down the eastern edge of

1 the property here, it's very steep and this is called Tonki Bay,
2 that's Tonki Bay on this side -- the east side -- to the point all
3 the way down.

4 MR. ROSIER: Further down (inaudible)

5 MR. SUNDBERG: This is looking down on some of the forest
6 stands that are out on the this eastern part of the property. This
7 -- some of these forest stands are classified non-commercial, some
8 are classified commercial. The timber quality is lower out here --
9 much lower than it is down in this area. It becomes relevant when
10 you consider the cost of acquisition and, also, how they would
11 access timber out here from various -- scenarios.

12 MR. COLE: What's the relative habitat potential?

13 MR. SUNDBERG: Well this -- land out here would provide
14 important marbled murrelet nesting areas, probably be used by river
15 otters. Also, for non-injured species, this area is considered to
16 be really high value winter range for elk, along here. And, also,
17 for deer winter habitat.

18 MR. SANDOR: (Inaudible) species? Are we getting into
19 a discussion of the biology -- species that were injured in the
20 spill (inaudible) marbled murrelets.

21 MR. SUNDBERG: That's correct.

22 MR. SANDOR: That will be exclusion of option one and
23 two? Option three is -- includes one and two and three so I don't
24 understand that -- how that evaluation -- explain (inaudible).

25 MR. SUNDBERG: Essentially -- discussing with Cathy
26 Culitz (ph) about marbled murrelets on this property. There

1 haven't been any detailed marbled murrelets -- surveys on this
2 property. The Fish and Wildlife folks were not allowed permission
3 to do surveys on this property last summer when they were out there
4 looking at marbled murrelets nesting to the west.

5 MR. SANDOR: By whom? (Inaudible -- out of microphone
6 range.)

7 MR. SUNDBERG: I believe it was Koncor.

8 MR. COLE: What was the reason?

9 MR. SUNDBERG: They just didn't want them out there.
10 And, it was the same thing happened to the Fish and Game that was
11 trying to do some stream surveys out there to find out which
12 streams had anadromous fish in them. But, in Cathy's experience,
13 she said that marbled murrelets essentially are nesting in areas
14 above three hundred feet elevation. This is about the five hundred
15 foot contour here. And, it was her concern that if only option one
16 was purchased and logging occurred right up to that border along
17 the backside, that -- apparently -- in the Lower Forty-Eight
18 they're finding that if there's just a narrow fringe of timber left
19 and they open up the timber behind it, apparently the murrelets
20 don't nest there anymore. So, she -- she felt that there had to be
21 a sufficient amount of buffered area or timbered area behind this
22 narrow land, which is only, in some cases, about three tenths of a
23 mile wide, in order to maintain this areas as marbled murrelet
24 nesting area. And, they found some of the highest marbled murrelet
25 nesting that they found anywhere in Alaska. It was over -- just on
26 this side of the property, off -- off the property that --

1 basically over on the Afognak Joint Venture lands over here. So,
2 there's real high numbers of murrelets feed and concentrate out
3 here on the water. So, the feeling is and the belief -- best
4 guesstimates are is that this area is probably pretty important for
5 murrelet nesting. And that -- by more timber being provided higher
6 value for the nesting.

7 MR. SANDOR: Precisely why -- my question -- why since
8 the area east of the unit one is high, why area one is low?
9 Certainly, murrelets cannot distinguish between what's on the left
10 and right-hand side of that line. And, I don't understand why one
11 is ranked low in value.

12 MR. SUNDBERG: Okay, I understand. Actually, this is
13 high value for murrelets, but if you don't attack the adjacent
14 land, then it would drop to be a low value. So, in terms of an
15 acquisition, which is how we ranked in the tables the value of
16 benefit of the parcel to the species, you have to consider what
17 goes on adjacent to the land.

18 MR. SANDOR: So, what's happening to the left of parcel
19 one?

20 MR. BRODERSEN: They refused to sell that.

21 MR. SUNDBERG: Over here?

22 (Inaudible - simultaneous talking)

23 MR. SUNDBERG: This is not part of -- this is not owned
24 by Seal Bay Timber Company. This is owned by another company.

25 MR. SANDOR: My point though is, is that you cannot
26 (inaudible -- out of microphone range) marbled murrelet habitat to

1 just parcel one, two and three (inaudible -- out of microphone
2 range). What I hear you say is that, insofar as this evaluation is
3 concerned, all you've looked at -- all assessments been made with
4 respect to the marbled murrelet is just on parcels one, two and
5 three as listed there. This does not look at means of protection,
6 potential threat with any habitat attached to parcel one.

7 MR. SUNDBERG: That's essentially correct. The --
8 analysis is focused on the acquisition parcel. We do have some
9 criteria that I can go through that talk about what happens on
10 adjacent land and how that may increase or decrease the overall
11 score of the parcel.

12 MR. SANDOR: Well, I don't want to belabor this point,
13 but (inaudible -- out of microphone range). But, we're looking at
14 marbled murrelet is essentially the primary species that was
15 damaged by the oil spill that would be benefitted by this
16 acquisition, is that right?

17 MR. SUNDBERG: Well, there's a number of other species.
18 There would be oystercatchers, pigeon guillemots, bald eagles,
19 harbor seals, sea otters, river otters, (inaudible - simultaneous
20 talking) harlequin ducks. They're listed there, there's quite a
21 few species that have been identified.

22 MR. SANDOR: Which were damaged by the spill and which
23 are threatened by timber harvest (inaudible -- out of microphone
24 range)?

25 MR. WIENER: One thing we also have to factor in,
26 especially on this parcel is the value to services also. One of

1 the reason that we selected the boundary where we did on the
2 eastern side of unit one and -- it conforms to the five hundred
3 foot contour. So, it tries to capture the entire drainage basin on
4 -- at least on that side of the unit. The drainage basin all of
5 the water that flows into the bay from that ridge. The other thing
6 that it does, it protects the view-shed from the bay. So, that it
7 if timber harvesting is prohibited from the five hundred foot
8 contour down to the bay -- there would no timber harvest visible
9 from the bay -- to protect the tourism amenities and the tourist
10 services that the bay provides.

11 MR. SANDOR: Doesn't address the question then I was
12 asking, which was the species that were damaged by the spill.

13 MR. WIENER: We -- we -- we factored services and
14 living resources in the same package.

15 MR. SANDOR: As I understand that. I'm a supporter of
16 that, but that's still not the question with respect to the species
17 that were damaged (inaudible -- out of microphone range). I think
18 for the record we need to understand (inaudible -- out of
19 microphone range) But still I'm still troubled by this evaluation
20 of low valued of marbled murrelet than (inaudible -- out of
21 microphone range)

22 MR. WIENER: One of the ways we can also explain it...

23 MR. SANDOR: Seems to me it ought to be high (inaudible
24 -- out of microphone range) if in fact the area to the left
25 (inaudible -- out of microphone range).

26 MR. WIENER: Just the geometry of the parcel that's

1 problematic. The line, again on the five hundred foot contour,
2 although it protects the drainage base, it creates a very large
3 edge effect, because you have a two to three-tenth mile-wide strip
4 along a very long boundary. And, the experts, Cathy Culitz, and
5 some of folks in Oregon had told us, that a large edge effect is
6 very detrimental to successful nesting of the marbled murrelets.
7 There's very high nest predation from crows, eagles, hawks, if you
8 have a very narrow strip of land with a long edge effect. And, I
9 think that's one of the problems that we have in ranking that
10 particular parcel -- hard for marbled murrelets -- the geometry of
11 the parcel.

12 MR. COLE: Let me...

13 MR. ROSIER: Yes...

14 MR. COLE: Before we get...

15 MR. ROSIER: Mr. Cole.

16 MR. COLE: (inaudible - simultaneous talking) Are we
17 going to have a presentation so we get a record of how the
18 acquisition of these parcels, or the expected acquisition,
19 satisfies the requirements of the consent decree dealing with
20 restoration, enhancement or replacement ...

21 MR. SANDOR: That's exactly. (Inaudible - simultaneous
22 talking).

23 MR. COLE: In toto, I'm a little concerned about, you
24 know, how we get off on one species and then we get a record that's
25 not nice and compact and direct. Are we going to have a whole
26 presentation of that?

1 MR. SUNDBERG: We can sit here as long as it takes to try
2 to answer the questions.

3 (Inaudible - simultaneous talking).

4 MR. COLE: Give us the essential facts from which we
5 can make, if we can, conclusions that satisfies any requirements of
6 the consent decree.

7 MR. SANDOR: May I add to that -- and the reason that
8 this is so important is because this is really the first parcel
9 that we've -- parcels -- that we're dealing with, and we want to
10 establish a process by which subsequent proposals can be evaluated
11 on some of those criteria.

12 MR. COLE: We probably did that in Kachemak. I hope
13 we did. I'm getting a little nervous.

14 (Inaudible - simultaneous talking).

15 MR. ROSIER: Seemed to me that we had a very good
16 presentation, Mr. Cole, on that one -- but yes, Walt.

17 MR. STIEGLITZ: Just to follow up on John's line of
18 questioning. The -- the individual parcel now, considering the
19 green book (inaudible) -- now -- it -- seem to me to do a pretty
20 good job of summarizing the values of each of those options for the
21 primarily injured species, is that correct? (Inaudible) -- We list
22 all of the species that were in question or damaged by the spill
23 and evaluate them on a parcel-by-parcel basis. So, it seems to me
24 like there's already a pretty good administrative record of the
25 staff's analysis of the values of these tracts to any particular
26 species. Don't misunderstand, I still want to hear a verbal

1 presentation, but this is a good start, I guess.

2 MR. ROSIER: If I might, Marty -- I'm not sure where
3 we're headed here at the present time, but is there, will there be
4 -- who's going to present the information that Attorney General
5 Cole has asked for here?

6 MS. RUTHERFORD: It is, as Mr. Stieglitz said, it is
7 in your packet, it's behind each of the maps for each of the
8 parcels, and, basically the biological information for each of
9 these species will be presented by Art and Kim.

10 MR. ROSIER: Okay, let's proceed then.

11 MR. SUNDBERG: I think I will dispense with the rest of
12 the slides and maybe we can just go into the table.

13 MR. ROSIER: I think that would be a good idea. I
14 think we've got a pretty good idea of the geography and ...

15 MR. SUNDBERG: Great.

16 MR. ROSIER: ...and a look at the real estate.

17 MR. SUNDBERG: Okay, I guess what I would do is direct
18 you right now to the side-by-side comparison table, which is inside
19 the early part of the book. Should be in about three sections.

20 MR. ROSIER: Second page at the (inaudible) blue tab.

21 MR. SUNDBERG: This table gives you sort of an overview
22 of the three options, in acreage, what the commercial forest is.
23 Option one, we're calling the coastal fringe option; two is
24 expanded coastal fringe; option three is the entire parcel. The
25 acreage are four thousand four acres for option one, eleven
26 thousand four sixty-one for two, and seventeen thousand three

1 ninety-one for three. The commercial forest -- this is an
2 interesting statistic because option one contains primarily to
3 seventy-nine percent commercial forest, three thousand one hundred
4 fifty-six. In, option two, as you can see from the slides and from
5 the photos, it includes a lot of non-commercial timber area. It
6 drops down to forty-one percent commercial forest, and option three
7 goes up a little to about half commercial forest, forty-nine
8 percent -- harvested acreage -- so that's the acreage that's
9 already been taken out of these various different parcels, both in
10 cutting units and roads, is estimated at two hundred and forty-one
11 acres for options one and two, and one thousand one hundred and
12 ninety acres in option three. And the percent harvested is lowest
13 in option two of the entire parcel acreage, and highest in option
14 three at seven percent. Linear miles of shoreline -- so how much
15 shoreline are you buying? In option one you get twenty-one miles
16 of shoreline. In options two and three, you get thirty miles of
17 shoreline. The score is the overall habitat score, and I will go
18 into that in a little more detail, explain how that was done, but
19 option one has the lowest score of eighteen, option two goes up to
20 twenty-eight, and option three is thirty. And, again the twenty-
21 eight and thirty are still the highest-ranked imminent-threat
22 parcels in the whole spill area, according to our evaluation and
23 ranking system. The proposed expanded anadromous stream buffer is
24 something we can talk about later on. It's an option that's on the
25 table right now to expand some stream buffers on existing
26 anadromous fish streams. There's about two hundred acres involved

1 in that. And the other two figures talk about how much commercial
2 forest is in those expanded streams. At this point, I think what
3 I will do is -- you might just want to keep you hand or finger in
4 that tab just to look at that. There is ...

5 MR. SANDOR: Can I -- excuse me, I'm sorry, but can I
6 ask a question -- I'm not sure I understand the table. On -- on
7 that table, again the confusion I have between options one, two,
8 and three. Option one has a commercial forest acreage as three
9 thousand one fifty-six. That acreage there -- and option two, four
10 thousand seven forty-three, and so that total commercial forest
11 land is seven thousand eight hundred ninety-nine. And, eight
12 thousand -- is only five hundred and forty-four acres of commercial
13 forest land a balance of namely this section three? Is that --- I
14 don't quite understand -- the --- you know, why we should be
15 acquiring this five hundred acres of commercial forest land for the
16 extra increment of value that's involved in option three versus
17 option two and option one.

18 UNIDENTIFIED VOICE: Help me, where do you get those five
19 hundred acres, John?

20 MR. SUNDBERG: Yeah. Yeah. It's more like (inaudible)
21 thousand.

22 (Inaudible - simultaneous talking)]

23 MR. SANDOR: It's the total -- is all parcels, one, two
24 and three?

25 MR. SUNDBERG: Yes.

26 MR. TILLERY: And option two is one and two.

1 MR. SANDOR: Option two is one and two?
2 MR. TILLERY: Yes. What -- the map was a little bit
3 mislabeled. It's confusing. If you look at the ones...
4 MR. COLE: Option two is one and two. You get it?
5 MR. PENNOYER: Option two includes one and two.
6 MR. SUNDBERG: It's all cumulative. The smallest is
7 option one, and then you add in two to get...
8 MR. SANDOR: The percent of a -- the biggest percent of
9 commercial forest is on option one, which is just that one block.
10 MR. SUNDBERG: That's the good stuff right there.
11 MR. SANDOR: (inaudible) That's -- to me ought to be
12 of the highest value area we ought to protect.
13 MR. COLE: That's why they want twenty-eight million
14 for it.
15 MR. SANDOR: And that's fine. In that's in fact -- it
16 works out to the appraisal. But then, option two which adds yet
17 forty-seven ...
18 MR. COLE: You get all of this for another two
19 million.
20 MR. ROSIER: Two million dollars.
21 (Inaudible - simultaneous talking)
22 MR. COLE: We get all this for two million more than if we
23 just get this.
24 MR. SANDOR: But that only has forty-one percent
25 commercial forest land, right?
26 MR. PENNOYER: That's because you've added a lot acreage.

1 MR. SANDOR: And in the third, which is forty-nine
2 percent, is the total package that's in that total black line?

3 MR. SUNDBERG: That's correct.

4 MR. SANDOR: Okay. I'm mentally calculating the value
5 per acreage, commercial, as well as the precedent that you set Mr.
6 Cole in Kachemak Bay. There's a big question coming up.

7 MR. COLE: You see in parcel three it's easier to get
8 into these Chinese freighters that haul it off.

9 MR. SANDOR: Then those Chinese freighters should take
10 away that bad stuff and (inaudible) good stuff.

11 MR. BRODERSEN: Commissioner, this piece here, which
12 is only part of option two, as near as I can figure, contains
13 sixteen hundred acres of commercial forest. That's subtracting --
14 this number -- I'm subtracting thirty-one hundred acres from forty-
15 seven hundred acres to find out that there's roughly sixteen
16 hundred acres of commercial forest out here. I think you're adding
17 these two numbers together, and you don't want to do that. They've
18 already been added together.

19 MR. SANDOR: What I don't follow -- trying to figure
20 out is why in the heck we're buying commercial -- non-commercial
21 forest land.

22 MR. BRODERSEN: Habitat.

23 (Inaudible - simultaneous talking)

24 MR. COLE: Let -- I'd like to respond to that because the
25 point is we're not here just to buy commercial timber. It's the
26 reverse. To my view ...

1 MR. BRODERSEN: We're buying habitat.

2 MR. COLE: ... we should buy less commercial timber as
3 much as we could avoid buying, but buy habitat. But, habitat is
4 not necessarily commercial timber. That's my view.

5 (Inaudible - simultaneous talking)

6 MR. SANDOR: But what's being threatened? The timber
7 harvest to the commercial forest land, not timber harvest to the
8 non-commercial forest land.

9 MR. COLE: Not necessarily.

10 MR. WIENER: I can maybe shed some light based upon
11 your question about the murrelets earlier. A considerable amount
12 of the harvestable timber in option number two lies to the east of
13 that dashed line. And, if in fact -- we went ahead and protected
14 option one and didn't protect option two, we would end up with a
15 considerable amount of harvest operations, just on the backside of
16 that line to the east, which the experts tell us would diminish the
17 value of number one because you'd lose the buffer, plus you'd have
18 all that logging disturbance, possibly a road and cutting units
19 immediately to the east. So -- that acreage on option number two
20 provides a buffer to make the old growth forest along one much more
21 valuable to the murrelets.

22 MR. SANDOR: Exactly, and why we must look at the area
23 east of that line as well.

24 MR. WIENER: And to the west -- one of the things we
25 would like to point out to you, one of the very highly ranked
26 opportunity lands lies to the west of this parcel. So -- not --

1 very not too distant future we're going to be looking very
2 carefully at those lands to the west.

3 MR. ROSIER: Yes.

4 MR. SANDOR: Excuse me, what we really need to do is
5 (inaudible -- out of microphone range).

6 MR. ROSIER: Yes, Walt.

7 MR. STIEGLITZ: It occurs to me maybe we're getting a
8 little ahead of ourselves here. I'm starting to feel a little
9 sympathetic for the presenters because we keep interrupting them.
10 (Inaudible - simultaneous talking and laughing).

11 MR. STIEGLITZ: After I've been in that position a few
12 times, I know it's hard to keep things on track. But I think maybe
13 we'd better served to get a full explanation of the values of these
14 areas because before we get started talking about what we ought to
15 buy and not buy, we need to know what the relative values of those
16 parcels are. And, the real key is what value items do we get by
17 adding number two on that map to number one.

18 MR. ROSIER: With that ...

19 MR. STIEGLITZ: With that, I would suggest we go ahead and
20 hear these fellows out.

21 MR. ROSIER: Right. Without trying to confuse the
22 issue, I would like to ask one question. In regard to the one
23 hundred ninety-six acres in the proposed expanded stream buffer, is
24 that on top of the costs of the options as they are presented here
25 at this time?

26 MR. SUNDBERG: The expanded stream buffers is not

1 reflected in the costs that you have before you.

2 MR. ROSIER: Okay.

3 MR. SUNDBERG: It's still on the table.

4 MR. ROSIER: Alright. Good. Let's move ahead then.

5 MR. SUNDBERG: I think what I'll do now is go through the
6 habitat values on the options and mostly to point out what the
7 differences are, and, I would be more than happy to go into any
8 details that anybody has or questions. We touched on some of the
9 relative effects on marbled murrelets, and that's a major
10 difference ...

11 (Simultaneous talking and laughter)

12 MR. COLE: May I ask you a question here? Is the
13 marbled murrelet an endangered specie?

14 MR. SUNDBERG: Not in Alaska. It is in the Lower Forty-
15 Eight. It's a threatened species.

16 MR. COLE: It's a threatened species in the Lower Forty-
17 Eight, but not in Alaska.

18 MR. SUNDBERG: Right.

19 MR. PENNOYER: But it's an injured species.

20 MR. SUNDBERG: That's correct.

21 MR. STIEGLITZ: There's some folks that feel that maybe it
22 should be listed, but it's not.

23 MR. COLE: As an endangered species?

24 MR. STIEGLITZ: It should be.

25 MR. COLE: Will you elaborate on that a little bit?
26 I mean, that's a material thing, I think, as we consider this.

1 MR. STIEGLITZ: Just very briefly, when the -- when the
2 petition to list in the northwest game up, the whole issue of the
3 status of the Alaska population came under consideration. We took
4 a look at it at that time and did not feel like the population
5 status warranted listing. However, there is concern about the
6 status of the populations. As with most sea birds, we don't have
7 a real good fix on population trends. There is a -- there is a
8 fairly good suggestion of population is -- in a -- in a -- decline,
9 but we don't have definitive proof of that. So, in the total sense
10 is there is some concern about what's happening with marbled
11 murrelets. We, the Fish and Wildlife Service, don't think the
12 population is such that we should consider listing at this point in
13 time.

14 MR. COLE: Not as endangered, but perhaps threatened.

15 MR. STIEGLITZ: Well, when I say listed is -- from
16 (inaudible) category. It's a species -- we're going to continue to
17 take a real hard look at, but we're not ready to suggest listing.

18 MR. ROSIER: Mr. Barton, did you have something to add
19 to that? No? Okay. Excuse me. (Inaudible - simultaneous
20 talking) I thought you were looking to the floor there. Okay,
21 let's proceed with the presentation.

22 MR. SUNDBERG: Alright. Let's see. Take a look at this
23 table, which is right in front of the one that you were discussing
24 at the side-by-side comparison. This shows how these different
25 options score in terms of the ranking criteria that Habitat
26 Protection Work Group and the Trustee Council approved on February

1 16th. As you remember, there are eight different criteria that we
2 apply, detailed ranking criteria that we apply to looking at --
3 what the value to restoration is from various different parcels
4 that we look at. And, the ranking criteria number one is that
5 linkage criteria that says whether that parcels provides a link
6 benefit or that species actually occurs on the parcel, or can
7 directly benefit from protection on the parcel. The two, three,
8 four, five, six, seven, and eight are other criteria that we look
9 at to say whether yes or no these meet criteria that would provide
10 a benefit to restoration. The entire list of the eight criteria is
11 in the back in the appendix of your book. And, very briefly,
12 number two is -- looks at whether -- the number one is the linkage
13 criteria, number two is that the parcel can function as an intact
14 ecological unit, number three is that adjacent land uses will not
15 significantly degrade the ecological function of essential
16 habitats, four is the protection of habitats with benefit more than
17 one injured species, so if you have multiple species, you get more
18 -- higher rank. Number five is the parcel contains critical
19 habitat with depleted, rare, threatened or endangered species,
20 which gets to Attorney General Cole's last comment. Number six is
21 essential habitat sites on the parcel are vulnerable or potentially
22 threatened by human activity. Seven, management of adjacent lands
23 is or good easily be made compatible with protection of essential
24 habitats on the parcel, and number eight is that is the parcel
25 located within the spill-affected area. So, the overall table here
26 shows at a glance how those different options ranked out. And,

1 option three is this KP01-3, KP01-2 is option two, KP01-1 is option
2 one, and they're ranked from the highest score to the lowest score.
3 So, option three, which is the whole parcel, scores the highest
4 because it has the most habitat in it, it provides the most benefit
5 to injured resources and services. When you get to option two, you
6 take out that section in the south, once part of the parcel, it
7 drops down a little bit. Primarily where it drops down, is that
8 rather than providing a high level of benefit to marbled murrelets,
9 it drops down to providing a moderate level. And, the reason for
10 that is because of this buffer thing that we talked about and the
11 fact that if you were to harvest all the timber out within those
12 numbers three and seven in there, you would diminish some value of
13 that entire parcel to marbled murrelet habitat. It no longer can
14 provide a high level of benefit over moderate levels. In option
15 three, I mean in option one, excuse me, which is the coastal
16 fringe, you drop down from a moderate to a low for marbled
17 murrelets because of this effect that we talked about. Basically,
18 the whole eastern side of the parcel would cease to be very
19 valuable for marbled murrelets. And, the rest of the parcel would
20 also diminish in value. In addition, the value -- one of our
21 criteria, ranking criteria, deals with its value for wilderness and
22 for recreation. And, in option one it drops down to that too
23 because as more and more land is converted for timber harvest in
24 that area adjacent to parcel number one, the values is turned to
25 wilderness space recreation -- you're going to be able to see these
26 clear cuts -- lots of them there's going to be roads, there's going

1 to be disturbance and all those kind of things. It's going to
2 lower the value down to a low value for wilderness space
3 recreation. It still provides some benefits, but it will be at a
4 low level. If you add in some additional lands or buffer that, the
5 values go back up again. One of the other criteria that's -- is a
6 significant difference between options is number two, which is --
7 it exerts -- function is an intact ecological unit. Option one,
8 the staff did not believe that that area could function by itself
9 as an intact ecological unit. Because, it is -- problem with
10 murrelets and the fact that it's going to diminish values for
11 services. It was our opinion that that could no longer function
12 intact in and of itself, given the fact we knew the timber harvest
13 is going to be occurring all around that parcel. So that got a no
14 versus -- in ranking criteria number two. So all told, the scoring
15 dropped down significantly for option number one to eighteen. It's
16 still relative to the other parcels, it's still in a moderate
17 category. It doesn't mean it has no value, but it drops it
18 significantly down into sort of moderate value with other ranked
19 parcels in the rest of the spill area. I think that's about all I
20 was going to go through at this point. Does anybody have any
21 questions? Or any specifics?

22 MR. ROSIER: Marty, how much longer do you have there,
23 on the presentations?

24 MS. RUTHERFORD: We should have -- basically up to
25 you. I mean, Kim could walk you through each scenario in terms of
26 what's the biological values associated with these parcels.

1 However, it is there right in front of you. You might want to take
2 a minute to review it and see if there's any questions.

3 MR. WIENER: I think I would add one thing just to top
4 it off. The staff clearly feels option two is the recommended
5 option, cost issues notwithstanding. I mean, from a purely habitat
6 and ecological value, we feel that option two is ...

7 MS. RUTHERFORD: That is a...

8 MR. ROSIER: Mr. Pennoyer.

9 MS. RUTHERFORD: ...staff recommendation from the
10 Habitat Protection Work Group and the Restoration Team. It's near
11 the front of your document; it looks like that.

12 MR. ROSIER: Yes, we saw the staff recommendation. Mr.
13 Pennoyer.

14 MR. PENNOYER: Just for the record then, I know we have
15 the table in front of us, but option two gives you moderate
16 benefits for anadromous fish, high benefits for bald eagles,
17 moderate for black oystercatcher, moderate for harbor seals,
18 moderate for harlequin ducks, moderate for intertidal/subtidal
19 biota, moderate for pigeon guillemot, low for marbled murrelet --
20 and I'm not in the right section -- (inaudible - simultaneous
21 talking) -- moderate for marbled murrelet, and moderate for pigeon
22 guillemot, moderate for river otters, moderate for sea otters,
23 moderate for recreation and tourism, moderate for wilderness
24 values, moderate for cultural resources. It has a whole -- we've
25 talked about marbled murrelets all the time here, but there's other
26 injured services or resources here also present in a significant

1 degree within this option.

2 MS. RUTHERFORD: That's correct. I also want to point
3 out that the ranking of twenty-eight on option two is still higher
4 than the next imminent-threat parcel, which was Fish Bay, which had
5 a twenty-seven. So, it's in it's -- it's just right under the
6 whole Seal Bay parcel for thirty. I do want to reiterate something
7 Art Wiener said and, Commission Sandor, I think that, I'm not sure
8 you heard it, but this whole parcel ranking and acreage summary
9 that was presented in February, which is at the back of your
10 document, it does indicate that -- that number two opportunity
11 parcel, the Shuyak Strait, does abut this Seal Bay parcel on the
12 east side. So, it is something that we will be looking at in the
13 near term.

14 MR. PENNOYER: Mr. Chairman, do you have a response from
15 those people then? (inaudible). Has the opportunity to have the
16 response interested in negotiation on ...

17 MS. RUTHERFORD: They are very interested in
18 discussing.

19 MR. PENNOYER: It's just not imminently threatened...

20 MS. RUTHERFORD: That's correct.

21 MR. PENNOYER: Where is this -- would you point out on
22 the map please where -- while we're talking about it

23 (Inaudible - simultaneous talking).

24 MR. BRODERSEN: It's this.

25 MR. PENNOYER: I see, okay.

26 MR. BRODERSEN: We call it Shuyak Strait, but actually

1 it's (inaudible -- out of microphone range).

2 MS. RUTHERFORD: We have a -- in the February 16th
3 documents we show -- we could pass that around if you like --

4 MR. ROSIER: Okay. Other questions? Commissioner
5 Sandor.

6 MR. SANDOR: Well, I appreciate your reemphasizing that
7 point because that is -- that is under the direction of the Trustee
8 Council's earlier actions, something you've been directed to look
9 at.

10 MS. RUTHERFORD: That's correct.

11 MR. SANDOR: And so we, essentially, would be making
12 the same kind of assessment for that -- those parcels -- as we are
13 for this parcel?

14 MS. RUTHERFORD: Absolutely.

15 MR. SANDOR: And, so, we really ought to be looking at
16 them now -- mentally ahead as well.

17 MS. RUTHERFORD: The subcommittee that did the
18 analysis did -- what was thinking along those lines.

19 MR. WIENER: I can note -- I can't strongly, more
20 strongly emphasize our keen interest on the entire north side of
21 Afognak Island. Everything that we've learned up to this point,
22 everything we've learned from the study that's recently been
23 completed by the Fish and Wildlife Service, indicates that the
24 north side of Afognak, from a biological point of view, is
25 extremely value, both for injured resources and services and for
26 the non-injured resources and services in the area. So we will

1 very quickly be doing that analysis.

2 MR. SANDOR: Is it possible to say that, just from the
3 analysis you've done so far that, those lands that we've been
4 talking about, may in fact be as high or higher value than these
5 ones?

6 MS. RUTHERFORD: Commissioner, we did do a quick -- on
7 the Shuyak Straits -- that that section -- we did do, as part of
8 our opportunity analysis in the February 16th presentation -- we
9 had done a, sort of a down -- like all of these -- we did a down-
10 and-dirty analysis, and it ranked forty-eight, which is -- you
11 know, is very high.

12 MR. PENNOYER: But for fifty-one thousand acres.

13 MS. RUTHERFORD: Yes, it was fifty-one thousand acres.
14 And, acreage size parcels as -- Mr. Pennoyer has -- as Steve
15 Pennoyer pointed out in the past, and we have found in our efforts,
16 does play a major factor in the ranking.

17 MR. SANDOR: Thank you. I guess that's it.

18 MR. ROSIER: I suggest that we take a short five minute
19 break.

20 (Off Record at 10:40 a.m.)

21 (On Record at 10:52 a.m.)

22 MR. ROSIER: Take you seats here please, so we can get
23 started here. I guess at this -- Mike -- Could we get Mr. Barton -
24 - Mr. Barton in here? Is he out there? Alright, is there further
25 questions, comments, information for the staff panel here at the
26 present time?

1 The issue on the harvesting plan has been raised. We've discussed
2 this at length with Mr. Tillery and Mr. Swiderski. The problem is
3 this, it has to do with the mix of the logs. If I can approach the
4 map, maybe I can explain it a little bit better.

5 MR. ROSIER: Please do.

6 MR. EBELL: I should explain that Mr. Sturgeon is here
7 and he could also probably add his expertise to this because mine
8 is (inaudible). We are -- we have logged up in this area, six-
9 thirty and six-sixteen. We've been mixing these logs with the logs
10 that have been -- that were harvested last year but not sold, off
11 of six twenty-four. The mix requirement has to do with the size of
12 the trees. Your smaller trees are in this area, your larger trees
13 are along the coastline. The contracts have been let clear into
14 July. In order for us to continue and to meet our contractual
15 obligations, we need to -- to get into six-nineteen to mix the
16 larger trees with the smaller trees on six-sixteen. If we suspend
17 the operation, then Koncor, in order to meet the obligations, will
18 need to pull the loggers from this area, move them to a different
19 area of the island. In other words, we've really reached the
20 critical stage. If we don't go forward with the purchase, then we
21 have to go forward with the harvesting. A delay forces us to cease
22 the harvesting for Seal Bay, basically for the remainder of the
23 year. We have to -- and Koncor would pull out -- harvest in a
24 different area of the island. Seal Bay would lose the economic
25 opportunity that's available to us at this time because of the high
26 timber market. So, that's the issue.

1 MR. ROSIER: Mr. Barton.

2 MR. BARTON: The contractual obligation you're talking
3 about are market obligations? Or, obligations to your loggers?

4 MR. EBELL: They are obligations to the market --
5 market obligations. We also have obligations to the logger, but
6 they are over a longer period of time.

7 MR. WILKENS: Without getting into the specifics, the
8 logger's contract is also implicated in any of the options -- it
9 also creates a problem though its not the dry good problem.

10 MR. ROSIER: Yes, Walt.

11 MR. STIEGLITZ: This raises a question -- a concern I had
12 and that is -- here basically, it's okay -- you to remove a threat
13 from one place and you just remove that activity some place else.
14 And, Walt, you mentioned -- you have contractual arrangements that
15 had to be filled, so you have to cut trees somewhere on Afognak
16 Island. I guess -- I think I know the answer, but I would like to
17 be reassured that -- that there aren't any implications in all of
18 this for what will it be called the Shuyak Strait tract, that is
19 that to the west -- (Inaudible - simultaneous talking) I
20 understand there's different border there, but I just would like to
21 be comfortable that there's -- there's not movement (inaudible) --
22 are so (indecipherable) there to the west.

23 MR. EBELL: No, that's correct. It's my understanding
24 that (inaudible). That Koncor would move the logging operation
25 onto other lands owned by Koncor, and I'm not quite sure in what
26 area -- down in this area.

1 UNIDENTIFIED VOICE: There again, it has already been
2 designated? (inaudible).

3 MR. BARTON: You don't have any arrangements with the
4 adjacent landowner -- I mean, there's no way your decision would
5 influence their decision, is it?

6 MR. EBELL: That's correct.

7 MR. BARTON: But, it's still possible.

8 MR. COLE: Who owns the Tonki Bay property, Mr.
9 Ebell?

10 MR. EBELL: The Tonki Bay properties are owned by
11 Akhiok and Old Harbor, except for four sections at the head of this
12 bay. They are owned by Afognak Joint Venture.

13 MR. COLE: That's Old Harbor and Akhiok-Kaguyah?

14 MR. EBELL: Same owners as Seal Bay, actually I should
15 have said Seal Bay, it would make it easier. Seal Bay owns a
16 little over twenty-five thousand acres on Tonki Cape.

17 MR. COLE: Same as if we were buying this land from them.

18 MR. EBELL: Yes.

19 MR. COLE: Where are the other land-holding patterns
20 in that area? In the area north of that line?

21 MR. EBELL: To the best of my recollection, again Mr.
22 Sturgeon and Mr. (inaudible - coughing) correct me if I'm wrong,
23 the Natives of Kodiak own the land in this area, the Afognak Joint
24 Venture owns land in this area, Ouzinkie owns land in this area.
25 This is Afognak Joint Venture -- the Afognak Joint Venture and the
26 Afognak Native Corporation have holdings down in this area. Seal

1 Bay owns all of this, except for four sections at the head of this
2 bay.

3 MR. COLE: How many acres are owned by the joint
4 venture in here? Did you say?

5 MR. EBELL: Twenty-five thousand.

6 MR. ROSIER: Any other questions? Thank you, then.
7 Any other comments? Trustees? As I see it at this point, with the
8 information before us. We have the recommendations basically from
9 the staff to proceed with the -- looking for approval to proceed
10 with negotiations -- with the recommendations that we look at
11 option two as the preferred option. How does the council want to
12 proceed at this time?

13 MR. BARTON: Mr. Chairman.

14 MR. ROSIER: Yes, Mr. Barton.

15 MR. BARTON: Well, I move we authorize the appropriate
16 party, which I guess is the Department of Law, to move ahead with
17 negotiations for option two.

18 MR. ROSIER: Second to that?

19 MR. PENNOYER: Second, for discussion purposes.

20 MR. COLE: Do you have any other reservations?

21 MR. PENNOYER: I just wanted to hear what that meant. I
22 don't know exactly what that means in terms of where we've been
23 told the corporation feels they have to be versus other
24 considerations, appraisals. There's other stuff in here about
25 buffers, and so I'm not sure what it means. I like the idea, but
26 I'm not sure what all the pieces are that go with it.

1 MR. BARTON: Well, what I meant by that was to work
2 with the corporation to resolve those issues and come up with some
3 mutually agreeable pattern and get the appraisal work done and then
4 come back to the Council for the Council's further consideration of
5 the actual acquisition. I don't imply in my motion that we are
6 approving the acquisition itself at this time, but just moving on
7 into this next step.

8 MR. RUTHERFORD: Mr. Chair.

9 MR. ROSIER: Yes -- Marty.

10 MR. RUTHERFORD: It would mean a commitment of funds
11 to proceed with the appraisal, which could range anywhere between
12 fifty and two hundred thousand dollars.

13 MR. COLE: Oh -- Two hundred thousand dollars to
14 appraise that land?

15 MS. RUTHERFORD: That was the high end.

16 MR. COLE: I mean, they need a license -- they must
17 have a license to steal.

18 MS. RUTHERFORD: We would do our best to keep it down,
19 but that is the range, I believe. Is that not correct Craig?

20 MR. BARTON: Do we have a timber appraiser in the room
21 or land appraiser in the room that could ...

22 MR. ROSIER: Do we have such expertise in the audience.

23 Mr. WILKENS: Well, I can say this. We have an
24 appraiser going out on the site today, and the price is thirty-five
25 thousand.

26 MR. COLE: For the day?

1 (Simultaneous laughing).

2 MR. TILLERY: We have been looking into getting the
3 appraisal done. We started sort of an emergency procurement
4 processes within the state. We anticipate we will get this done by
5 -- I guess, next week. And, that we can have someone. We also, I
6 believe Alex has been doing this, but I think we've been told it
7 will take eight weeks to get the appraisal done. I believe the
8 Forest Service has said it will take longer than that to get the
9 appraisal done. And, I guess the Seal Bay tells me that this
10 timber is going to be cut by the time the appraisal is done.

11 MR. COLE: Mr. Chairman.

12 MR. ROSIER: Yes.

13 MR. COLE: Frankly, I'm really tired of hearing about
14 this is going to be cut -- you know, if we don't jump. I mean,
15 I've sort of heard it all of the last time, frankly, that I
16 personally want to hear it. And, I'm almost to the point if I hear
17 it once more, I'm just going to flat vote no on this whole
18 acquisition because we cannot run this business of the Trustee
19 Council under this hour-to-hour and day-to-day trip. I'm not
20 faulting anyone here, but I'm just getting to the end of my rope on
21 running this Trustee Council habitat acquisition process that if we
22 don't do it right this very instant, or tomorrow, or five minutes
23 from now, well we're going to cut and, gee, you better do it.
24 Because -- you know, as someone said they'll be cutting next door
25 tomorrow, and we'll have to face that then. So, why -- I just want
26 to say with a note of testiness that we should -- you know, not

1 hear quite so much about better move this very minute or there will
2 be a chain saw firing up.

3 MR. PENNOYER: Mr. Chairman.

4 MR. ROSIER: Yes, Mr. Pennoyer.

5 MR. PENNOYER: (Inaudible - simultaneous talking) You
6 mean if the appraisal took one week, one week of timber will have
7 been cut. If it takes two weeks, two weeks of timber will be cut.
8 I thought the idea was to slow -- we've indicated a priority for
9 this parcel. We already indicated a number two priority for
10 imminent-threat. So, it's got a high ranking. The motions are
11 very direct expression of interest. Now, if it's going to take us
12 a week or two weeks or a month to do this, then I've got to face
13 the that four weeks worth of timber harvest will occur. The faster
14 I do it, the less timber is harvested.

15 (Inaudible - simultaneous talking).

16 MR. ROSIER: One at a time -- one at a time here
17 please. Mr. Ebell.

18 MR. EBELL: Maybe I can speak to this. And --

19 MR. ROSIER: Mr. Ebell would you come up to the mike
20 please.

21 MR. EBELL: First of all, Seal Bay has bent over
22 backwards in order to accommodate the evaluation of this parcel and
23 these options. We have provided, under agreements of
24 confidentiality but we have provided them nonetheless, our market
25 data, our crews data, our audited financial statements, so that the
26 Trustee Council and staff have had available to it proprietary

1 information with which to evaluate the expense involved. In normal
2 negotiations, we would never furnish all that information to a
3 potential buyer. And, I think everybody should appreciate that.
4 We also have followed a business plan, which has been in place now
5 for two years. We have tried very hard to not threaten and do not
6 say, if you don't do this, we're going to do this. That's not how
7 we have approached these discussions, and, I don't want to leave
8 the council with that feeling. Now, I can understand why the
9 Attorney General would feel the way he does. If I was in his
10 position, I would feel the same way. I certainly would not want
11 anyone to have the idea that I could be blackmailed into a
12 particular course of action. However, you have to appreciate the
13 economic opportunity that's available to Seal Bay. If Seal Bay, on
14 the basis of this motion, which is not a firm commitment, it can be
15 a motion in the best intention, but it is not a firm commitment,
16 suspends its operation, it will forego the harvesting this year of
17 approximately eight to ten million board feet of timber. In this
18 market that represents a substantial profit and, therefore, a
19 substantial profit loss if this sale doesn't go forward. So what
20 we are here to do today, without threatening, because that's never
21 been our intention, it's never been our approach, is to reach an
22 agreement, if an agreement can be reached. Now, we are prepared to
23 structure an acquisition in such a manner that it allows the
24 Council to comply with what we understand are your requirements,
25 namely appraisal, NEPA, hazardous waste review, title search. Our
26 proposal that we would like to have the Council consider is that

1 these things be set up as a condition subsequent. In other words,
2 you commit to buy, subject to certain things happening. If you
3 don't object to the purchase within a set period of time, thirty to
4 sixty days, you buy. In that manner, Seal Bay is protected for
5 foregoing this economic opportunity. And, conversely the Council
6 is protected because you're allowed to perform your requirements,
7 but you're doing them, after you make the commitment. What we need
8 is a commitment. And, with all due respect, Mr. Barton, the
9 current motion doesn't rise to the level of commitment that we need
10 here today.

11 MR. COLE: That's the question. What level of
12 commitment today do you need?

13 MR. EBELL: We've discussed with staff several
14 different ideas. One approach would be this. The Trustee Council
15 commits to purchase option number two, if that's what we're talking
16 about, for the asking price, subject to an appraisal, subject to an
17 NEPA report or waiver, subject to title search, and subject to a
18 hazardous waste survey. If your appraisal comes in low, below the
19 asking price, then you would have -- you would not be obligated to
20 purchase at the asking price. However, Seal Bay would have the
21 option to sell at the appraised price, if it were less. Now that
22 takes care of the bottom side. Now the question from Seal Bay side
23 is, what happens if the appraisal comes in above the asking price.
24 And at some point, we feel that Seal Bay should have the option to
25 not sell. Conversely, we are prepared to give the Trustees though
26 the option to buy at the higher appraised price, if it comes in

1 considerable amount above thirty million. That's one approach.
2 Another approach would be this. You do your appraisal. If Seal
3 Bay does not agree with your appraisal, they could obtain their own
4 appraisal. If the appraisals are within a set percentage, for
5 instance, ten percent of each other, they are averaged, that's the
6 selling price. If they are not within that percentage of each
7 other, the selling price is arbitrated -- binding arbitration.
8 Those are the two suggestions that we have discussed. And, we're
9 happy to consider other suggestions.

10 MR. ROSIER: Yes, Mr. Barton.

11 MR. BARTON: Just explore (inaudible) a minute. If --
12 we have this letter from you dated May 4. And, it talks about --
13 can't find -- the total set forth or submitted, pursuant to our
14 agreement. In addition, as we discussed, they are submitted,
15 subject to approval by the Seal Bay board of directors. Does that
16 mean then that the attachment with the terms of the proposal for
17 the three options -- for example, if we voted today to purchase
18 option two for the twenty-nine nine, that's shown here, that then
19 has to go back to the Seal Bay board of directors for approval?

20 MR. EBELL: That is correct.

21 MR. WILKENS: Which -- they could be done tomorrow.

22 MR. BARTON: Thank you, Mr. Chairman.

23 MR. ROSIER: Mr. Cole.

24 MR. COLE: I'm not prepared to vote favorably on any
25 commitment by the Trustee Council to pay a purchase price, in any
26 way related to an appraisal when we don't know what it's going to

1 come in at. We could pay more if it comes in more, or average. I
2 don't think we can do public's business that way. Certainly, I
3 would not do my own business that way. So, I wouldn't vote for
4 that.

5 MR. EBELL: Well, then how do you tie the appraisal
6 process into the proposition. I mean, if -- if the Council is
7 taking the position that an appraisal was necessary, what...

8 MR. COLE: Well, we must be, we're doing the public
9 business. We have to do that. I mean, that's just a given. Okay,
10 so we start with that. But, we need the satisfaction for the
11 record, that are -- we're making rational business decisions. One
12 way, you test your rational business decision is -- of the comfort,
13 if you will, of an appraisal to make certain that we're not wasting
14 the public's money. But to say that we offer to pay or agree to
15 pay a price which is now undetermined, is not a way I'm prepared to
16 conduct the public's business. I mean, that we agree on a price,
17 then we need to have the satisfaction that our agreement is within
18 the range of -- business rationality. Suppose that we -- we agreed
19 to pay, say forty million, and the appraisal comes in at twenty-
20 eight five or twenty-nine. Well -- I mean that's something that I
21 would be prepared, for example, we say we can make this twenty-
22 nine, say thirty, although the appraisal was at twenty-nine,
23 although this may be the federal officials would have some trouble
24 with that -- but, by federal statute and regulations. But, I
25 recall at one of these meetings, I personally objected to an
26 acquisition process which said we would buy at fair market value.

1 My theory was that if we could buy land for less than fair market
2 value, we certainly should. I think we would have an obligation to
3 do that. But, I just can't say well, we're committing to pay --
4 suppose this came in at forty million, for example, appraisal. I
5 would say -- I'm not -- they can't vote to pay forty million for
6 some marbled murrelets. So, that's what gives me -- causes me to
7 say I couldn't do that.

8 MR. EBELL: Well, then I think that that then leads us
9 to discussing some mannerism then of doing the appraisal and giving
10 the Trustees an option to say -- just for example, the selling
11 price is thirty million, say your appraisal comes in at twenty-
12 five, and you say we're not going to pay thirty. We would ask that
13 Seal Bay be given the option to sell at twenty-five.

14 MR. COLE: That wouldn't trouble me.

15 MR. EBELL: That wouldn't trouble you, alright. Then
16 conversely though -- I think there has to be a flip side to this
17 for it to be fair -- Let's say the appraisal comes in at thirty-
18 five. I'm not asking you to say that the Trustees would buy at
19 thirty-five, but I'm asking that Seal Bay be allowed to elect to
20 not sell for thirty.

21 MR. COLE: My response is you shouldn't know that
22 before you give us a proposal to sell for thirty. I mean, that's
23 the way I see it -- I mean, you know. You ought to know that by
24 now. If you don't know, then what are we doing here getting your
25 proposal -- purchase price.

26 MR. EBELL: So, you're then asking us to bear the risk

1 of the upside entirely.

2 MR. COLE: I thought you would know that before you
3 made your proposal to sell for twenty-nine five. I mean -- you
4 know, what are we doing here if we're not considering your
5 proposal? We're not here negotiating, I presume. I mean, we're
6 acting in response to a written proposal.

7 MR. EBELL: Then I -- then I would suggest ...

8 MR. COLE: Let me say one other thing. I want to say
9 -- the negotiations of you and your law firm and your clients have
10 been exquisite. We could not have asked for any greater
11 professionalism or courtesies. My temper tantrum, if you will, is
12 just related to this general pressure that's -- you know, that goes
13 from -- from Cordova to Kodiak to Afognak, you name it -- you know,
14 you get buffeted daily, but certainly your -- you personally, your
15 firm, your organization has been wonderful, and I do appreciate it
16 on behalf of the Department of Law, and the Governor, I might say.
17 Now, enough said by me.

18 MR. EBELL: Maybe we can then -- if -- if the Council
19 is prepared to do, I would its half of this, then I would ask you
20 to -- to give us your...

21 MR. COLE: Pledge?

22 MR. EBELL: Pledge, yes. Give us your proposal and
23 let us take it to the board. I mean, if you're prepared to say
24 that we'll commit, subject to an appraisal. If the appraisal price
25 -- the appraisal is less than, and we would like some moving room
26 if the federal officials can give us that, like within five percent

1 of thirty million, then you buy at thirty. If you can't, we
2 understand, but give Seal Bay the option to sell at the lesser
3 price. If the appraisal confirms or verifies that the property is
4 worth thirty million or more, then you do the deal. If that's the
5 best you can do, then we'll take it to the board. We'll give you
6 an answer tomorrow. So -- but what we need, if at all possible, is
7 a firm proposal today. And, I know it may seem to the Trustees
8 that this is brinkmanship, but we have been working on this now for
9 -- three months, or two months.

10 MR. BARTON: Mr. Chairman.

11 MR. ROSIER: Mr. Barton.

12 MR. BARTON: I guess I'm still confused on what we have
13 in front of us. Is this or is this not an offer to sell at these
14 prices?

15 MR. EBELL: It's an offer subject to approval by the
16 full board.

17 MR. BARTON: Okay, it's an offer by whom then?

18 MR. EBELL: Well, it was approved by the executive
19 committee of Seal Bay.

20 MR. BARTON: Of Seal Bay board?

21 MR. EBELL: As in our discussions, Mr. Tillery was
22 careful to say that anything that he said was, of course, subject
23 to approval by the Trustees. We always -- say I'm forced to work
24 within those constraints.

25 MR. ROSIER: Mr. Sandor.

26 MR. SANDOR: I'm troubled with the main motion -- is

1 that currently unacceptable as it is in that is it doesn't look at
2 -- opportunity to look at the subsurface rights. I was going to,
3 in fact, offer an amendment to that motion -- that -- had the
4 appraisal also look at the subsurface rights. And, so, I would
5 feel uncomfortable going beyond the motion on the floor to the kind
6 of commitment that you suggested the Trustee Council should make on
7 this the May 13, 1993, and wonder if June 1 -- when we meet June 1
8 or 2, we could indeed have a firm offer on Seal Bay, rather than a
9 one that has to be yet taken back for the -- before the full board.
10 I share -- concerns that you have and that we have with respect to
11 this particular point in time, but I do not believe we can be
12 driven, that is, the Trustee Council can and should be driven by
13 the circumstance that -- you know, buy or else, or make this
14 commitment or else. My concern goes beyond this parcel, quite
15 bluntly, and I'm as concerned about these adjacent parcels, and, in
16 fact, the third amendment or second amendment I was going to make
17 to the motion was that as we enlist appraisers to look at these
18 particular parcels for this -- this package and proposal, that we
19 really look at the adjacent areas and try to get some sense of what
20 it is we want to do with this whole area and relative value of this
21 -- of these parcels that the -- apparently immediately threatened -
22 - potentially threatened parcels -- you know, in the near term.
23 So, those are concerns I have.

24 MR. COLE: Mr. Chairman.

25 MR. ROSIER: Yes, Mr. Cole.

26 MR. COLE: Well, I would move that as part of the

1 twenty-nine million dollar price -- purchase price -- that we
2 condition our interest on joint venture, throwing in, as it were,
3 the twenty-five thousand acres owned by it, down along Tonki Bay.
4 I think that should be included in the twenty-nine five purchase
5 price.

6 MR. ROSIER: I believe we have a motion on floor. It's
7 been seconded here, and I think we should dispense -- that's sounds
8 like a new motion to me.

9 MR. PENNOYER: Sounds like an amendment to me.

10 MR. ROSIER: Mr. Pennoyer or Mr. Sandor.

11 Mr. COLE: Really I'm serious about that.

12 (Inaudible - simultaneous talking)

13 MR. ROSIER: We have two -- we have at least two
14 proposals.

15 MR. SANDOR: I said I was going to, but I hadn't yet
16 (inaudible - laughing).

17 MR. COLE: I do make that motion.

18 MR. SANDOR: And I'll second it.

19 MR. PENNOYER: That's an amendment ...

20 MR. COLE: Yes.

21 MR. PENNOYER: ... to the main motion. I guess that's
22 open for discussion.

23 MR. ROSIER: Yes, is this -- I mean where does that ...

24 MR. PENNOYER: I'm not sure its a bad idea. Where does
25 it leave this in terms of doing anything today? Have you been
26 negotiating this whole process to bring something before us today,

1 and we're really reopening discussion on it. I'm not (inaudible)
2 about it. We had a team make a recommendation, based on
3 (inaudible), but they negotiated some type of process. This sounds
4 to me like sort of a different deal with new maps, new habitat
5 values, and new dollar values and so forth. So, in essence, your
6 motion has really, do we sort of put this off to go back and
7 renegotiate and bring it back to us. Is that what we're trying to
8 do?

9 MR. COLE: No. No because as I understood colloquy
10 that's taken place for the last twenty minutes here, we're still in
11 the negotiating process.

12 MR. ROSIER: Okay, is that right?

13 MR. STIEGLITZ: Mr. Chairman.

14 MR. ROSIER: Yes, Walt.

15 MR. STIEGLITZ: I might respond to Mr. Cole's amendment.
16 If I understand what you -- your amendment says, Charlie, it's
17 basically -- I heard you reference their price -- about thirty
18 million. Your suggestion is that -- that we commit to acquiring
19 option two plus this additional acreage for a set price at this
20 point in time, minus an appraisal?

21 MR. COLE: No. (Inaudible - coughing and laughing).
22 I say that we should -- proceed -- first I would like to give the
23 assurance to the Seal Bay group that we're serious about going
24 ahead with the acquisition, number one. Number two, that as part
25 of the continuing process, which we have just proved, that taking
26 up on Commission Sandor's concern over contiguous parcels, that we

1 say -- that the thirty million should -- purchase price should
2 include, subject to conditions subsequent generally stated by Mr.
3 Ebell, that the twenty-five thousand acres owned by the joint
4 venture, why -- (inaudible -- extraneous noise) along Tonki Bay.
5 See, that would give us protection of a parcel that provides broad-
6 ranging habitat referred to by Commissioner Sandor. Now, let me
7 say this, if I may, since no one else has. I am told by the
8 lawyers that -- Mr. Swiderski and Mr. Tillery -- that the owners of
9 -- within this area here lying to the west, have no current
10 interest in selling those land. They may wish to develop them. So
11 we have, at least, a solid thought that that's not likely to be --
12 have the habitat destroyed soon on it. That would give us a broad
13 parcel on the whole northern Afognak.

14 MR. ROSIER: Mr. Barton.

15 MR. BARTON: This is somewhat off the main line, but
16 was the question raised by Mr. Cole's remarks. I thought the area
17 to the west was an opportunity parcel. And, I thought that
18 indicated that the owners were willing to discuss selling.

19 MR. TILLERY: What the owners have indicated is that --
20 they want to talk to us. They have that whole section, if you get
21 the other map, that totally extends up to Shuyak Straits. They
22 want to talk about their western-most parcels first. And, the last
23 parcel they want to talk about is the (indecipherable) Lake parcel,
24 which is next to Seal Bay. They have indicated they have no
25 current plans to cut that. In fact, they're -- I believe that they
26 are considering, you know, other forms of involvement rather than

1 cutting it. They are willing to talk about it, but not now, not
2 first, is what they're saying.

3 MS. RUTHERFORD: Mr. Chair. I believe that there are
4 representatives of these landowners in the audience -- Tim Mahoney
5 or -- maybe you would like to call on them?

6 MR. ROSIER: What's the wishes of the Council?

7 MS. RUTHERFORD: It might clarify -- of the
8 landowners' intentions on -- regarding that parcel.

9 MR. ROSIER: Well, at the risk of further complicating
10 the issue, let's hear from the (inaudible - laughing).

11 MR. JIM CARMICHAEL: Jim Carmichael from Afognak Joint
12 Venture. Thank you all -- welcome the opportunity to further
13 complicate the subject. (Laughing). Craig's comments here are
14 essentially correct. AJV is interested in -- in having all its
15 ownerships -- on -- what you're referring to is the Shuyak area,
16 over to and including the Lower Lake-Falls Lake area and also the
17 area south of Red Peaks -- unit, yes, which is also on the western
18 part of the island.

19 MR. COLE: ... now.

20 (Inaudible - simultaneous talking).

21 MR. CARMICHAEL: It might be easier if I show on a map
22 or if Tim shows you on a map once it. We're interested in having
23 all of those areas considered as opportunity lands, just because we
24 feel that ...

25 MR. TIM MAHONEY: Everywhere west of this parcel that
26 we've been discussing, across to the Fish and Wildlife Service area

1 is in that so called Shuyak Straits unit. In addition, Afognak
2 Joint Venture owns this and has presented it to -- to your staff as
3 a whole for some agreed upon structure to identify parcels within
4 that, and, as recently as...

5 MR. ROSIER: Tim Mahoney.

6 MR. MAHONEY: ...we have communicated to Mr. Gibbons.

7 MR. ROSIER: What your -- Jim was pointing out, put
8 your finger on the map was a little bit confusing.

9 MR. MAHONEY: Well this Lower Lake Falls, which is west
10 of the Seal Bay property.

11 MR. CARMICHAEL: That's correct.

12 MR. MAHONEY: And then AJV owns land west of that -- to
13 that point, including -- I don't know, Shuyak Straits parcel. In
14 addition, the joint -- the Afognak Joint Venture owns the Paramana
15 (ph) Peninsula and Molina (ph) Peninsula. And that has all been
16 presented to you in earlier times. It's not considered a
17 threatened parcel because we've tried to be cooperative.

18 MS. RUTHERFORD: What it is for.

19 MR. CARMICHAEL: It is opportunity land. Now, to
20 clarify a point on Craig's previous description to you, is that --
21 because of the magnitude of -- of the area that transaction, it's
22 unlikely that there's perhaps enough dollars ultimately allocable
23 to -- to Afognak to acquire all of that. And, as -- as Attorney
24 General Cole was saying earlier, it's -- it's our understanding
25 that your intent is to by habitat rather than be in the timber
26 business. We're in the timber business. We assume you to be in

1 the habitat business. And, so we're ultimately looking for an
2 optimal win-win solution. Having said that then, we would want to
3 be -- have the time and the ability to -- to structure with you
4 something that made sense in terms of a balanced timbered and non-
5 timbered area -- of optimizing habitat. And, in doing that, I
6 think it's what you'll see when we get further into the process.
7 As a practical matter, it -- in terms of dollars expended -- and
8 dollars available to expend, that we would probably want to start
9 with the Red Peaks area or areas contiguous to the Red Peaks area,
10 and if Tim will point that out again. The Red Peaks unit is a --
11 is a unit or subunit, if you will, of the Kodiak National Wildlife
12 Refuge, approximately fifty thousand acres. And, we would want to
13 work (inaudible - background talking) in areas that are contiguous
14 to that so you end up with manageable resource units.

15 MR. MAHONEY: We can work in -- we can work out. We can
16 assume with -- that you'd probably want work out where Red Peaks
17 were and create a manageable unit.

18 MR. CARMICHAEL: Ultimately, if -- if some of the
19 Lower Lake-Falls Lake area were not acquired, then we would log
20 them. We would probably not log down to the water's edge. We
21 would look at individual subparcels within that area to manage it
22 to its highest and best use in our interest. So -- so, some of
23 those areas may be developed in other ways other than timber, but
24 it -- it would not be correct to say that there would not be
25 logging in there. There most definitely would be. We've tried to
26 do other things done as well.

1 MR. MAHONEY: We've tried not to propose logging first.
2 We've tried to talk to your staff about developing a proposal so
3 that we would know where to log.

4 MR. ROSIER: Yes, Mr. Barton.

5 MR. BARTON: It would help me if my -- somebody could
6 point out the fifty-one thousand acres of opportunity parcels,
7 KAP08, in other words. Could somebody just run a finger around the
8 map.

9 (Inaudible - simultaneous talking).

10 MR. SUNDBERG: KP08 parcel starts up here and goes
11 through this orange area, all the way out and it (inaudible) the
12 Seal Bay property here. It includes the (inaudible). All of this,
13 northern tier and goes across this line, right here.

14 MR. ROSIER: Thank you very much.

15 MR. BARTON: Mr. Chairman.

16 MR. ROSIER: Yes, Mr. Barton.

17 MR. BARTON: I had a question of Mr. Cole on his
18 amendment. As I understand the amendment, it's essentially option
19 two plus twenty-five thousand acres on Tonski (ph) Bay -- or Tonki
20 Bay?

21 MR. COLE: Yes.

22 MR. BARTON: All for the price of twenty-nine million?

23 MR. COLE: Twenty-nine plus whatever.

24 MR. BARTON: Whatever, okay.

25 MR. COLE: Yes.

26 MR. ROSIER: Mr. Stieglitz.

1 MR. STIEGLITZ: If I might, go back and ask Mr. Ebell
2 another question. I wasn't quite clear, Walt. Let me run this
3 scenario by you. Let's say the Council committed to pursuing the
4 acquisition -- contingent upon our doing the appraisal. Now what -
5 - the appraisal -- correct me, if the appraisal came in to twenty-
6 five mil, the landowners would like the option of accepting that,
7 even though it might be lower. Okay. What I didn't quite
8 understand is what if -- what if it came in at thirty-five? What
9 kind of commitment would you expect at this point, under a scenario
10 on which our appraisal came in over your asking price? I mean,
11 would you give the government any option in -- under your proposal
12 to back out at that point? Or, in your view, would the government
13 be committed? What's the landowner looking for? Is he looking for
14 a commitment -- if our appraisal comes in higher than your asking
15 price, are we committed to paying it?

16 MR. EBELL: Yes. Committed to paying the asking
17 price, not the appraisal price. That's what...

18 MR. STIEGLITZ: Okay, that's -- that's what we're trying
19 to get at.

20 (Inaudible - background talking).

21 MR. ROSIER: Okay, further questions of Mr. Ebell?
22 Thank you very much, appreciate it. Well, I'm not sure -- I'm not
23 sure I know exactly where we're at the present time, but ...

24 MR. COLE: Mr. Chairman.

25 MR. ROSIER: Yes, Mr. Cole.

26 (Inaudible - simultaneous talking)

1 MR. COLE: Commissioner Rosier has a good thought --
2 I mean, Commissioner Sandor had a good thought.

3 MR. SANDOR: I don't know if disposal of the amendment
4 to the motion ...

5 (Inaudible - background talking)

6 MR. ROSIER: The Tonki Bay amendment here as proposed
7 by Mr. Cole. Yes.

8 MR. PENNOYER: Does the amendment include all the other
9 provisos of -- has the amendment (inaudible) appraisal process
10 (inaudible -- out of microphone range) subject to an appraisal.

11 MR. COLE: If I understand what Mr. Ebell just said,
12 if I really understood -- that, if the appraisal comes in in excess
13 of the asking price, we would be expected to pay only the asking
14 price. But, I would agree that, as he suggested, we improve these
15 conditions subsequent -- other than the appraisal issue. I mean,
16 we obviously need title -- and we need a (inaudible) of hazardous
17 waste. There's other things, that are more or less standard
18 business practice that I'm sure we would have no difficulty
19 reaching accord with Mr. Ebell about. I -- I would say that we
20 could even hold a meeting by telephone on Monday.

21 MR. PENNOYER: So they could go back to their board.

22 MR. COLE: We could move quickly.

23 MR. ROSIER: Further discussion?

24 MR. PENNOYER: Relating to the other questions of
25 subsurface rights that Commission Sandor raised, that's not part of
26 this motion?

1 MR. SANDOR: Not a part of this motion. It might be
2 worthwhile to restate the motion on the floor plus the amendment.
3 I mean, just to be sure that, at least those of us (inaudible).

4 MR. ROSIER: Dave, would you restate the original main
5 motion on this.

6 DR. GIBBONS: Yes. Let me just capture it. Yes. Mr.
7 Barton moved that the Department of Law move ahead with
8 negotiations with the Seal Bay landowners using option two as -- as
9 the basis for the negotiations. And, the amendment would be that
10 Seal Bay landowners would also include Tonki Bay properties,
11 including approximately twenty-five thousand acres, into the
12 existing dollar value offer included in option two.

13 MR. ROSIER: Okay.

14 MR. PENNOYER: Mr. Chairman. If the amendment captures
15 the idea of a commitment to buy at that price subject to the
16 hazardous waste and the appraisal and that sort of thing. But the
17 original motion just was proceeding with negotiations. This is a
18 commitment to buy at twenty-nine five, including the twenty-five --
19 option two, plus the twenty-five thousand acres on Tonki Cape, if
20 all those other normal pieces are in, the appraised price reaches
21 twenty-nine five, and hazardous waste surveys, title search, and
22 all that type of stuff?

23 MR. ROSIER: That's my understanding. Walt. Walt.

24 MR. STIEGLITZ: (Inaudible) One comment on -- on a -- Mr.
25 Cole's amendment. I'm bothered by that because I'm still hearing
26 you say we're not going to do appraisals on all.

1 MR. COLE: No, I'm not saying that at all. I'm not
2 saying -- I think I said -- I thought I put that clearly -- that
3 public wills -- that's not W-H-E-E-L-S -- you know, we're required
4 to have appraisals. We're launching out on frolics of our own
5 here.

6 MR. STIEGLITZ: Your amendment then would mean if we do
7 our appraisal, it's twenty-five million dollars -- let's say. It
8 comes in at twenty-five million. That's the offer we made to the
9 landowner. Included in that offer is they throw this other twenty-
10 five thousand acres. Is that correct?

11 MR. COLE: I think so.

12 MR. STIEGLITZ: You know, we're talking about a major,
13 major project here, and I think there's enough confusion around
14 this table, we'd better make very sure we'll all clear on what
15 we're voting on.

16 (Inaudible - simultaneous talking).

17 MR. PENNOYER: Mr. Chairman, could we have it written
18 down, come back after lunch, and vote on it. I'd like to see it in
19 writing.

20 MR. COLE: But I think the -- the answer to the
21 questions is, would we pay only the appraised value? And, the
22 answer is yes. We would pay only the appraised value. I don't
23 think any of us can agree to -- either -- state or federal
24 representatives can agree to pay more than appraised value.

25 MR. PENNOYER: That's correct.

26 MR. ROSIER: Is there any disagreement on what anybody

1 has...

2 MR. GIBBONS: Isn't it appraised value or the offer
3 whichever is less.

4 MR. BARTON: Isn't that what -- that's what I
5 understood we agreed -- that was straight to the point.

6 MR. STIEGLITZ: We're putting our appraised value versus
7 theirs.

8 MR. ROSIER: I think Mr. Pennoyer's suggestion was a
9 good one here on this -- Dave, could we, in fact, get the motion
10 and the -- and the -- the amendment in written form here and...

11 MR. COLE: I have one other suggestion.

12 MR. ROSIER: Yes, Mr. Cole.

13 MR. COLE: If we can get a hold of these people --
14 owners of this twenty thousand -- five thousand acres in the next
15 couple of hours -- well, we put in a phone call and see if there's
16 any interest there. I mean, you know, switch the

17 MR. PENNOYER: (inaudible - simultaneous talking).

18 MR. COLE: Tonki Bay. (Simultaneous talking)

19 MR. SANDOR: Mr. Chairman.

20 MR. ROSIER: Yes.

21 MR. SANDOR: I'm unsure -- in this interim could staff
22 also look at this issue of (inaudible) appraise and deal with the
23 subsurface rights. I remain troubled by acquisition in fee without
24 -- without subsurface rights and what implications that would have.

25 MR. ROSIER: Dave.

26 MR. GIBBONS: You've offered that as an amendment. If

1 I could -- you know -- get a tentative amendment (inaudible -
2 simultaneous talking and laughing).

3 MR. SANDOR: (Inaudible) -- you know, not to start out
4 right after lunch with -- without some staff work done in the
5 interim.

6 MR. ROSIER: Yes, Mr. Barton.

7 MR. BARTON: I'm still somewhat confused about the
8 factual situation in terms of land ownership. The twenty -- is it
9 -- as I understand it, the option two parcel is controlled by the
10 Seal Bay board of directors. Who controls the twenty-five thousand
11 acres around Tonki Bay?

12 UNIDENTIFIED VOICE: Seal Bay.

13 MR. BARTON: Seal Bay. So, we're only talking about
14 dealing with one owner at least.

15 MS. RUTHERFORD: Unless you're talking about
16 subsurface.

17 MR. BARTON: Unless we're talking subsurface, I
18 understand.

19 MR. PENNOYER: Mr. Chairman.

20 MR. ROSIER: Yes.

21 MR. PENNOYER: One other request, would the Habitat
22 Working Group any observations on the habitat values of the twenty-
23 five thousand acres too? (Simultaneous laughter). Well -- I
24 didn't know if you'd did -- already done -- something like that.
25 Okay. Fine.

26 MR. ROSIER: Yes, Mr. Barton.

1 MR. BARTON: Let's go to lunch.

2 MR. ROSIER: That sounds like a good move here at the
3 present time.

4 (Off Record at 11:55 a.m.)

5 (On Record at 1:15 p.m.)

6 MR. ROSIER: If we could take our seats. It's -- it's
7 1:15 here; it's time to get started here. We've got a long ways to
8 go. I think at this -- this point, before we get started, we've
9 had a request from Mr. Ebell here to address the Council. With the
10 indulgence of the group here on this, I would like to have Mr.
11 Ebell come up, I believe they've got something further to say to us
12 here.

13 MR. WILKENS: I'm not sure that before we broke there
14 was clear (inaudible) of what the resolution was. We've gone back
15 over lunch and given some more thought to it. One of the things in
16 Mr. Cole's proposal, which was not previously in our proposal, was
17 the approximate 25,000 acres of surface estate on Tonki. We've
18 given some thought over lunch and would like to make the following
19 proposal which will supersede the proposal that we had in the
20 (inaudible). We would request that the Council consider adopting
21 a resolution agreeing to accept Seal Bay's proposal number three,
22 which was all of the timber lands around Seal Bay for the stated
23 price of thirty-eight point seven million. Seal Bay would agree to
24 donate its approximate twenty-five thousand acres on Tonki Cape ...

25 MS. RUTHERFORD: How much?

26 MR. WILKENS: ... It's approximately twenty-five

1 thousand. I'm not sure.

2 MR. COLE: The price is the question.

3 MR. WILKENS: Donate.

4 (Simultaneous talking)

5 UNIDENTIFIED VOICE: Thirty-eight.

6 MR. WILKENS: I'm sorry, thirty-eight point seven.

7 UNIDENTIFIED VOICE: The original offer was forty-eight
8 point seven.

9 UNIDENTIFIED VOICE: Okay.

10 MR. COLE: You're saying it's ten million dollars
11 less for all three parcels?

12 UNIDENTIFIED VOICE: Yes.

13 MR. WILKENS: The sales price would be subject to an
14 appraisal, and if the appraisal comes in at less than the thirty-
15 eight point seven million, Seal Bay would have the option to sell
16 at the appraised price, although it would not be required to, and
17 the Council would agree to purchase at that lower appraised price.
18 If the appraisal comes in more than thirty-eight point seven
19 million dollars, as long as it's within ten percent higher than
20 that, which is approximately forty-two million dollars, Seal Bay
21 would agree to sell at the sales price of thirty-eight point seven
22 million dollars. If the appraised price comes in more than
23 approximately forty-two million dollars, which is ten percent
24 higher than our agreed sales price, Seal Bay would have the option
25 to rescind. The agreement would also be subject to Seal Bay board
26 approval, which -- we could have a meeting by next Monday -- and

1 also satisfaction of the hazardous waste survey title search and
2 NEPA compliance or exemption and the subsequent conditions would be
3 completed within a reasonable time, say, sixty days.

4 MR. BARTON: Is that something you can reproduce?

5 MR. WILKENS: Yes, actually, I've got a copy that's --

6 MR. BARTON: Where's it at?

7 MR. ROSIER: Could we get a copy for each of the --
8 Council members?

9 MR. COLE: Mr. Chairman.

10 MR. ROSIER: Mr. Cole.

11 MR. COLE: So, if I understand your current proposal,
12 you will sell all of the lands within this solid black border,
13 designated there as one, two, three and seven?

14 MR. WILKENS: Correct.

15 MR. COLE: For thirty-eight ...

16 MR. WILKENS: Point seven.

17 MR. COLE: ... thirty-eight point seven. That's ten
18 million dollars less than your previous offer, and you will donate
19 approximately twenty-five thousand acres on -- where? In this
20 area?

21 MR. WILKENS: It's further to the right of that.

22 UNIDENTIFIED VOICE: It's Tonki Cape -- that area,
23 actually.

24 MR. BRODERSEN: This area, minus four sections in here.
25 Is that right?

26 MR. WILKENS: Right.

1 MR. BRODERSEN: The four sections in here are owned by
2 AJV.

3 MR. WILKENS: That's correct.

4 MR. BARTON: Who has the ownership on the west side of
5 Tonki Bay?

6 UNIDENTIFIED VOICE: AJV.

7 MR. BARTON: So, it's not completely --

8 MR. TILLERY: ... (Inaudible -- simultaneous talking)
9 second page -- second page of the resolution.

10 MR. COLE: So, if I understand this, we're getting
11 more than twice the acreage now. Parcels one, two, three and seven
12 comprise how many acres?

13 MR. WILKENS: Approximately seventeen.

14 MR. COLE: So, we'll get seventeen thousand acres
15 plus an additional twenty-five thousand acres -- ten million less
16 than the original proposal.

17 MR. PENNOYER: Ten million less than the original
18 proposal to hold the parcel -- Seal Bay?

19 MR. WILKENS: Yes.

20 MR. PENNOYER: But we're nine million more than what was
21 to us originally?

22 UNIDENTIFIED VOICE: That's right.

23 MR. BARTON: Nine million more, we've got (inaudible --
24 traffic noise).

25 MR. BRODERSEN: Plus whatever you have out in Tonki Cape,
26 which we don't have analyzed yet.

1 MR. PENNOYER: Nine million more and you pick up two
2 habitat values and the balance of Seal Bay, plus the Tonki Cape
3 non-analyzed land.

4 MR. COLE: Mr. Chairman.

5 MR. ROSIER: Yes, Mr. Cole.

6 MR. COLE: What about terms? Have you considered the
7 possibility of terms? I -- I have some thought about not -- you
8 know -- not drying up the treasury on a large acqui -- relatively
9 large -- I think large is perhaps accurate -- acquisition. Would
10 there be any negotiating room for that?

11 MR. WILKENS: I think there would be. I think that what
12 we would want to see is probably a relatively small timeframe, say,
13 maybe two years or three years for a reasonable interest rate, say,
14 federal statutory rate.

15 MR. ROSIER: Other comments? Mr. Pennoyer?

16 MR. PENNOYER: I guess the point I'm having problems with
17 is that the balance of the Seal Bay original part, the extra
18 acreage in parcel three, didn't have very high habitat values
19 according to our evaluation. So, you're basically paying nine
20 million extra dollars for -- I'm not arguing with the timber values
21 -- but for that -- that increase, plus an unknown value of the
22 twenty-five thousand acres at Tonki Cape -- and -- and I'd be more
23 comfortable if I had some idea of what was at Tonki Cape. I
24 haven't even seen an aerial photograph of it; they were all facing
25 the other direction.

26 MR. ROSIER: Kim, do you have information that you

1 might share with us on that particular area?

2 MR. COLE: Before we do that, can I just --

3 MR. ROSIER: Yes, Mr. Cole.

4 MR. COLE: Just -- I've thought this through -- but
5 you might consider putting Tonki Cape in the form of an option that
6 we could exercise when we got a little more data. It's a little --
7 anyway.

8 MR. ROSIER: Kim, what can you help us with on this?

9 MR. SUNDBERG: Well, we took a look at Tonki Cape over
10 the break, and it looks like there's approximately twelve
11 documented bald eagle nests there; there's four seabird colonies
12 documented on the parcel. It looks to us like, from a timber
13 standpoint, there's probably about an additional ten thousand or so
14 acres of timber on the property, although that's a very rough
15 estimate at this point. So, there would be some additional marbled
16 murrelet nesting, probably occurring more so in the middle part of
17 the island in that protected layment (ph) on the north side, rather
18 than the timber that you see on the east side, but nevertheless,
19 you'd be getting some additional marbled murrelet nesting areas.
20 There's probably some river otter use in that area from the three
21 sides, (inaudible) feeding area, considerable additional shoreline
22 habitat involved in Tonki Cape when you look at the whole thing.
23 We haven't summed it up, but there's probably an additional, say,
24 thirty miles or twenty to thirty miles of shoreline habitat in that
25 area. Getting the additional part of the southern part in option
26 three, does a lot more for marbled murrelets than -- than the

1 option two did. I realize that it's only two points more on the
2 scoring, but from a differential ability to protect marbled
3 murrelet nesting probably provides a lot more ...

4 MR. ROSIER: Look out!

5 MR. SUNDBERG: There's also five documented anadromous
6 fish streams on Tonki Cape area there, relatively short streams,
7 but there's five catalogued streams on Tonki Cape also. I think
8 that Tonki Cape gets, you know, some use by hunters and others that
9 go out there. You know, there some elk hunting, some deer hunting,
10 so there's recreational uses that are occurring out there too.
11 It's much more exposed -- a little bit larger boat situation
12 probably for people to use that area. But that's about what we
13 could do in short order for finding out what's out there.

14 MR. ROSIER: Yes, Walt.

15 MR. STIEGLITZ: I realize it hasn't been surveyed, but
16 you'd probably get some use by oystercatchers and guillemots too.

17 MR. SUNDBERG: Yeah. Before, those seabird colonies --
18 three seabird colonies that we looked at had pigeon guillemot
19 nesting. I think there was about five documented -- fifteen or so
20 pigeon guillemots that have been documented nesting. Also sea
21 otter on the other side out there. Sea otters, seals also make use
22 of that nearshore area.

23 MR. ROSIER: Yes, Mr. Sandor.

24 MR. SANDOR: This is first directed to the habitat
25 group. The total acreage that's subject to timber harvesting and
26 other disturbances have been outlined on the previous maps in our

1 previous discussion. Is it -- does this habitat evaluation group
2 feel comfortable that these parcels that are -- we've been
3 discussing here -- these three -- four and seven, plus the parcel
4 that's included -- is a most -- above average of the habitat on
5 Afognak Island that might be threatened over the next ten or
6 twenty-year period?

7 MR. SUNDBERG: Yeah, I think it's clear that the northern
8 part of Kodiak Island -- uh -- Afognak Island -- has the highest
9 habitat value for the restoration for the injured species and
10 resources that are the Afognak Island area. I would include Tonki
11 Cape in that and going across the norther tier area. That's just
12 a very productive marine system in that area. It seems to have a
13 lot of use by some of the species that we've been talking about.

14 MR. WIENER: Nature Conservancy workshop -- the extras
15 that participated in the Nature Conservancy workshop, a number of
16 them point to that area -- this area -- especially Shuyak Strait
17 for habitat values (inaudible -- coughing) the resources that they
18 have.

19 MR. SANDOR: Is it correct then to conclude that the
20 area to the left on the photograph might still be harvested then is
21 then potentially in the same category of value?

22 MR. SUNDBERG: I would say at least as high and possibly
23 even higher.

24 MR. SANDOR: At least as high and possibly higher. How
25 much acreage is roughly in that area?

26 MR. SUNDBERG: I think we've been working with about

1 fifty thousand plus changes.

2 MR. ROSIER: John, are you talking about the west side
3 of Tonki Bay with that question?

4 MR. SANDOR: Yes. Yes. (Simultaneous talking) What
5 I'm trying to do ...

6 MR. ROSIER: West of Seal Bay?

7 MR. SANDOR: Yeah -- total Afognak Island would --
8 worth acquiring -- certainly above the average -- the total -- what
9 I'm hearing though is because it's the northern part that's most
10 valuable that we don't have control over yet that's some potential
11 threats -- for habitat and the balance of that and about fifty
12 thousand acres, and that's in different ownership.

13 MR. BRODERSEN: (Inaudible -- out of microphone range)
14 that whole parcel.

15 MR. SANDOR: And no eminent or immediate plans, but
16 they are amenable to discussion -- discussing that.

17 MR. BRODERSEN: That's what they told us earlier this
18 morning.

19 MR. SANDOR: Hence, the areas that you move into for
20 harvesting for Seal Bay would be a lower value for the next
21 (inaudible) or two -- lower value from the standpoint of these
22 habitat protection criteria that we're interested in in that
23 they're in the southern part, is that right?

24 MR. WILKENS: The -- the areas one, two, three, and
25 seven shown on the map would all be on the north end of Afognak,
26 adjacent to the lands just described by Kim. Tonki would be -- as

1 you can see on the other map to the right -- that it's more
2 centrally located and certainly to the west -- or to the east side.

3 UNIDENTIFIED VOICE: Is it true that under the current
4 proposal, you would lose all the remaining Seal Bay property on
5 Afognak, so you would be off Afognak Island.

6 MR. WILKENS: All proposal entails all of the title we
7 have on Afognak Island.

8 MR. SANDOR: All -- so. Okay.

9 MR. WILKENS: Yes. Sorry, I didn't make that clear.
10 This is -- basically, this is all that Seal Bay owns on Afognak
11 Island.

12 MR. SANDOR: Well, the last offer is better than the
13 first one --.

14 MR. COLE: Which was the first?

15 MR. SANDOR: The original proposal.

16 MR. COLE: Oh, you mean option two? Let's see, Mr.
17 Chairman, if I look at this, we get -- we get acreage and -- and
18 parcel three, which is approximately six thousand acres, for nine
19 million -- close to nine million -- plus all of -- all of Tonki
20 Cape, approximately -- I thought -- plus another twenty-five
21 thousand acres thrown in. So, what we're really getting is, if
22 we'd taken option three -- we now have option three for ten million
23 dollars less than the initial price, plus the twenty-five thousand
24 acres of Tonki Cape. That's where we are now.

25 MR. ROSIER: Question for the lands group here, what do
26 we know about this forest section withdrawal of AJV land up in the

1 back there in the Tonki --?

2 MR. SUNDBERG: It is a forested area and has, I think,
3 one anadromous fish stream on it. There's a stream, an anadromous
4 fish stream, at the head of it. It looks like the stream is a
5 little over a mile and a half long. It has dolly varden, pinks,
6 cohos and chums in it. It's very steep. It looks like a steep,
7 callous slope on the east -- west side, sorry -- and more of a
8 timber area on the west side, I believe, at the head of the bay.
9 The four sections, if I'm correct, are square at the head of the
10 bay, so, basically, it would be a two square mile area right at the
11 head of the bay.

12 MR. COLE: Which bay are we talking about?

13 MR. ROSIER: The bay that splits Tonki -- there.

14 MR. COLE: Right there.

15 MR. SUNDBERG: And I believe the state owns that other
16 green area.

17 MR. COLE: Marmot Island?

18 MR. SUNDBERG: So, that would abut state land then.

19 MS. RUTHERFORD: (Inaudible -- out of microphone
20 range)

21 MR. SUNDBERG: Right. It goes through Tonki Bay, cuts it
22 --.

23 MR. ROSIER: Yes, Walt.

24 MR. STIEGLITZ: Yes. I have a question. A handout
25 (inaudible) subgroup were waiting to potential (inaudible)
26 restrictions on Tonki Cape peninsula, under section 1427. I wonder

1 if somebody could explain in more detail exactly what that means.

2 DR. GIBBONS: Yeah. If you just read -- turn it over
3 and look at section five it says the lands on Afognak Island
4 required to be conveyed pursuant to paragraph one of this
5 subsection shall remain open and available to sport hunting and
6 fishing and other recreation -- recreational -- uses by the public
7 under applicable law. So it says they are open to sport fishing
8 and hunting and other uses. And then if you turn the page -- that
9 section is starred there -- turn to page -- under section 6(c), it
10 says neither the joint venture or Koniag Village Corporation have
11 an interest in the joint venture or the lands conveyed hereto, nor
12 Koniak (ph) Incorporated shall take or permit any action which
13 shall -- which may be -- helpful to bear-getting activities on
14 Tonki Cape Peninsula -- restrictions.

15 MR. COLE: What happens when they are no longer
16 having an interest in the lands?

17 MR. ROSIER: Yes --.

18 MR. STIEGLITZ: One follow-up question, is anybody's
19 interpretation that section 1427 would restrict development of the
20 land?

21 DR. GIBBONS: It may have that potential capability,
22 yes, sure, if it disturbs bear-getting activities.

23 MR. STIEGLITZ: It seems to be restricted to that one
24 species.

25 MR. SANDOR: I'm curious (inaudible) earlier. That
26 section -- of course, this relates to sport hunting, fishing and

1 other recreational uses -- that goes on to say that -- that
2 employees of the state shall not be denied access for the purpose
3 of evaluating or managing fish and wildlife for recreation
4 purposes. And I was harkening back to the denial of someone's
5 ability to evaluate the marbled murrelet habitat, and this may not
6 well apply to this particular section, but -- as a birdwatcher
7 interested in marbled murrelets, a person might -- wanted to know -
8 - and the state might have wanted to know -- I was just curious as
9 to, you know, the denial of access when that kind of a provision is
10 in there -- just an aside question.

11 MR. EBELL: I can perhaps address that question if Mr.
12 Sandor would like. I think that what probably happened was that
13 the folks at Koncor were unaware of that provision and denied the
14 access and failed to make the distinction between Seal Bay lands,
15 which are subject to open access, and other lands owned by Koncor
16 joint ventures, which were conveyed earlier and are not subject to
17 those provisions. I think there was an understandable confusion on
18 the part of Koncor in that instance.

19 MR. SANDOR: I just wondered. The sum then, the
20 thirty-eight point seven million, is it for a total of -- how many
21 acres both -- in one, two, three, seven, plus the donated parcel --
22 what's the total acreage?

23 DR. GIBBONS: It's about thirty-two.

24 (Simultaneous talking)

25 MR. SANDOR: Forty-two thousand acres.

26 UNIDENTIFIED VOICE: Yes.

1 MR. SANDOR: Forty-two thousand acres -- and there are
2 a remaining fifty thousand in the northern part of this Afognak
3 Island remains threatened by other owners.

4 UNIDENTIFIED VOICE: (Inaudible -- out of microphone
5 range)

6 MR. SANDOR: Beg your pardon? Potential, yes. As high
7 or higher value.

8 MR. BARTON: Can we get a copy of this ...?

9 MR. ROSIER: I thought we were ...

10 MR. PENNOYER: They were passed around the table, I
11 think.

12 MR. ROSIER: Did they get short-stopped somewhere?

13 (Simultaneous talking)

14 MR. PENNOYER: Here they are right here.

15 (Simultaneous laughter)

16 MR. COLE: He's just trying to hold up the deal.

17 (Simultaneous laughter)

18 MR. ROSIER: What's the wishes of the group?

19 MR. PENNOYER: Do another amendment?

20 MR. COLE: (Inaudible -- out of range of microphone)

21 MR. PENNOYER: I was thinking rather, we might want to
22 amend the amendment.

23 MR. COLE: I would move to get -- like you -- and say
24 for the purposes of discussion. I move we accept the proposal
25 presented to us, in substance, conditioned upon paying the
26 additional nine million, plus or minus, and installments over a

1 three-year period at the federal interest -- whatever that is or
2 however you describe it.

3 UNIDENTIFIED VOICE: Second.

4 MR. ROSIER: Motion made and seconded to accept the --
5 the proposal from Seal Bay, conditioned upon payment over three
6 year -- over a three-year period -- at the federal -- federally
7 determined interest rate. Is that the motion, Mr. Cole?

8 MR. COLE: Yes.

9 MR. ROSIER: Discussion? Mr. Barton.

10 MR. BARTON: If the Council were to adopt or approve
11 Mr. Cole's motion, is then Seal Bay prepared to stop activity?

12 MR. EBELL: We would submit this to the board
13 tomorrow. If the board approved it tomorrow, yes, we would stop
14 activity.

15 MR. ROSIER: Mr. Pennoyer.

16 MR. PENNOYER: What if the board decide they want to do
17 something a little bit different, does activity go on or does it,
18 say, cease until you get back to us and we have time to consider
19 it? I don't understand exactly that this approval by the board
20 means. If they -- Tonki Cape ought to be ten thousand acres
21 instead of twenty-five, I mean, I don't know what your -- you
22 envision of how this process is going to work. You're going to
23 cease activity to talk with the board, after that then what
24 happens? You have pretty good assurance this is something they
25 would think is reasonable?

26 MR. WILKENS: Reasonable assurance, yes, that's a good

1 lawyer term. Reasonable because -- especially the twenty-five
2 thousand acres on Tonki Cape, this would be news to them and
3 (simultaneous laughter) they've not yet been presented with it.
4 Certainly, the general concept is something that has been discussed
5 now for basically a number of months if not more than that. I
6 would (inaudible -- coughing) propose that we commit to having a
7 Seal Bay board meeting within two days and advise the appropriate
8 person, whoever you designate, the results of that board meeting.

9 MR. PENNOYER: But that -- if -- Mr. Chairman -- if
10 something different came out of that, would ...?

11 MR. COLE: Don't suggest that we would do anything
12 different, please. That's the deal.

13 MR. PENNOYER: I was hoping the deal also included
14 ceasing activities.

15 MR. COLE: I mean that's what they said they were
16 going to do. It goes without saying the (inaudible -- out of
17 microphone range).

18 MR. EBELL: We obviously cannot commit without board
19 approval. I'm sure that -- we believe that this proposal will be
20 acceptable to the board, and Jim and I will recommend this proposal
21 to the board. The board, however, is the final decision-maker, and
22 if the board does not approve this, we will, of course, notify Mr.
23 Cole's office immediately, and if there is some minor thing that
24 can be worked, then obviously we will seek to work that out without
25 starting operations. It is not our desire or intent to use the
26 operations thing as a hammer. We very much want to avoid that, but

1 we are at a point where a decision has to be made. The board is
2 aware of that. The board is prepared to act. It's just a question
3 of rounding everybody up. The president is herring fishing down on
4 the south end of Kodiak, so he has to fly into Alitak, all those
5 kinds of things, but we will get that done tomorrow.

6 MR. ROSIER: Mr. Barton.

7 MR. BARTON: Will somebody clarify for me what the
8 impact of harvesting six nineteen would mean in terms of the
9 Trustee Council's interest in the deal at that point?

10 MR. WIENER: We could probably address that from a
11 habitat point of view that is satisfactory. For one thing, it
12 would certainly have pretty strong visual problems from the
13 coastline. Removal of the timber from six-nineteen, if anything
14 would be visually as strong as the removal of timber from six
15 twenty-three. You've got the same kind of an impact visually. So,
16 probably, you'd, from a ranking perspective, lose points in terms
17 of the service it provides to recreation and tourism because of the
18 visual impact of that unit being logged. It would certainly -- I
19 would say certainly, but it would probably remove habitat for the
20 marbled murrelet. There some pretty substantial forest in there,
21 but whether or not there's actual nesting murrelets, we don't know.
22 Kim just pointed out adjacent to it there's pretty high nesting
23 probability, but in the unit itself we don't have known nests --
24 high probability.

25 MR. BARTON: Do you know what that would mean
26 numerically (inaudible)?

1 MR. SUNDBERG: It's our opinion it would diminish the
2 score.

3 MR. BARTON: By?

4 MR. SUNDBERG: Points.

5 MR. PENNOYER: How much?

6 MR. SUNDBERG: Probably, I'd say at least two or three
7 points, possibly more.

8 MR. ROSIER: Mr. Stieglitz.

9 MR. STIEGLITZ: Yes. The first question is a
10 procedural one. I hate to be bureaucratic, but is it safe to
11 assume that by new action the board has eliminated all the other
12 motions and amendments that were on the table when we broke for
13 lunch?

14 MR. ROSIER: Yes.

15 MR. STIEGLITZ: Is that everybody's understanding? Okay.
16 I guess I have a question of the proposal-maker -- Charlie, if I
17 understand the motion, if our appraisal comes out at forty-five
18 million, for example, we are committing to pay the forty-five
19 million?

20 MR. COLE: No. We're not paying one penny more than
21 thirty-eight -- point seven.

22 MR. ROSIER: Point seven.

23 MR. COLE: -- point seven -- even if it comes out a
24 hundred.

25 MR. STIEGLITZ: Okay. I don't -- this isn't clear on
26 this point.

1 MR. EBELL: The way we envisioned it, Mr. Stieglitz,
2 is if the appraisal comes out a hundred million, the Seal Bay board
3 would have the option to rescind the contract, in other words we
4 would not sell the property, or it could accept the thirty-eight
5 point seven itself.

6 MR. STIEGLITZ: But they're not committing to sell at
7 thirty-eight point seven either?

8 MR. WILKENS: Not if the appraisal comes in
9 substantially above what we valued it.

10 MR. PENNOYER: If the appraisal is more than forty-two
11 million, they can agree not to sell it. Below forty-two million
12 (inaudible -- interruption by Mr. Stieglitz) ...

13 MR. STIEGLITZ: I understand, but this is -- this is
14 silent on what happens -- are we committing to pay a higher
15 appraisal price and ...?

16 MR. EBELL: No. That's not our intent.

17 MR. STIEGLITZ: Well, but Mr. Cole's motion is that -
18 - the key here is, and I heard Mr. Cole say, no, that's not the
19 intent, but then -- we will not pay more than thirty-eight point
20 seven million.

21 MR. COLE: We're prepared -- moved to pay thirty-
22 eight, but I --

23 MR. STIEGLITZ: Could I have a follow-up.

24 MR. COLE: Yes, by all means.

25 MR. STIEGLITZ: And that is when -- Mr. Ebell's
26 proposal here indicates -- I'm not a lawyer -- hope you appreciate

1 that -- but conditions, all conditions subsequent will be concluded
2 in sixty days -- is -- conditions subsequent -- review of NEPA
3 compliance, title search, etc.?

4 MR. EBELL: Yes, that is intended to be. Yes.

5 MR. STIEGLITZ: I say that's mission impossible to be
6 real blunt.

7 MR. COLE: But we've taken the position (inaudible --
8 out of microphone range) -- yes, NEPA compliance for such purposes
9 as land. Didn't we get a waiver -- didn't we decide that it wasn't
10 required for Kachemak Bay?

11 MR. BARTON: Yes, Mr. Chairman, but no, NEPA compliance
12 was required for Kachemak Bay, but it was subject to a categorical
13 exclusion. I would anticipate that this could be in the same
14 framework, depending which agent -- which federal agency -- was the
15 agency for the NEPA compliance.

16 MS. RUTHERFORD: Mr. Chair.

17 MR. ROSIER: Yes, Marty.

18 MS. RUTHERFORD: DNR has done a similar type of review
19 as we did on Kachemak, and we have available right now a letter to
20 the Forest Service that they would handle the NEPA under their
21 regulations, and we did Kachemak after we gave them something like
22 -- we did it in ten days. We have it available now for Forest
23 Service if you'd like to move on it.

24 MR. ROSIER: Yes, Mr. Sandor.

25 MR. SANDOR: Considering the well-documented rapidity
26 with which we've been able to do NEPA compliance exemptions in the

1 past, what happens in the unlikely event that all those conditions
2 cannot be completed in the sixty days? These -- all conditions
3 subsequent shall be completed within sixty days, what -- can we do
4 all of these things within sixty days? I guess --.

5 MR. STIEGLITZ: That's why I raised the point, John.
6 Based on our (inaudible) it's kind of difficult to do that.
7 (Simultaneous laughter) That's why I said mission impossible. I
8 would hate to see the entire proposition hang on completing those
9 in sixty days, if it's going to ...

10 MR. WILKENS: That's a good point. Sixty -- there's
11 nothing magical about the sixty days other than that is something
12 that may mean that we don't have a deal and we would be back on the
13 logging track. We would want some timeframe by which we'd know
14 that, and if we don't have a deal, that's fine, we would proceed.
15 Sixty days is not magical, but obviously from our standpoint we
16 would rather know sooner rather than later, so --.

17 MR. ROSIER: Mr. Barton has been asking for the floor.

18 MR. BARTON: A couple of comments -- I don't know how
19 long it takes to do a hazardous waste survey. Does anybody have
20 any feel for that? That would be one question. The other question
21 is -- does the sixty days include the completion of the appraisal?
22 It's not listed here, but that may be rushing that depending on
23 whose point of view you take.

24 MR. COLE: It depends on whose appraisal you're
25 doing. What if their appraisal doesn't get done in sixty days?
26 What happens. Mr. Chairman?

1 MR. ROSIER: Yes.

2 MR. COLE: My suggestion is that we just work these
3 things out by some hard negotiations between lawyers. I think we
4 can get these things essentially worked out, and in some ways it's
5 hard to get it worked out here this afternoon. But I -- if you
6 people are satisfied, if we adopt this motion, that we bring back
7 a more or less definitive agreement by June 1 -- if you want to
8 take our faith. If we perchance should do this motion, and then
9 between now and June 1 bring back something, I'd say more or less
10 definitive, to the Council. Could we consider all that for now and
11 say what if.

12 MR. EBELL: I think that's a good point. Mr.
13 (inaudible) had a good point. It's certainly not our intention to
14 trick the Attorney General into paying (inaudible) million dollars
15 for this property -- anyway.

16 MR. COLE: My status is tenuous enough.

17 (Simultaneous laughter)

18 MR. ROSIER: Yes, Mr. Sandor.

19 MR. COLE: It really is.

20 MR. WILKENS: I'd be happy to add or extended by the
21 parties, but I would anticipate that as with many agreements here,
22 if you start with an outline of the major points and we'll work
23 through the details later, and I would expect we could do that by
24 June 1.

25 MR. SANDOR: In anticipation of the usual rapidity at
26 which (inaudible) work...

1 MS. RUTHERFORD: Not unless you have some specific
2 questions.

3 MR. SANDOR: One question.

4 MR. ROSIER: Yes, Mr. Sandor.

5 MR. SANDOR: As I understand it -- just to confirm that
6 -- the values in this package excludes subsurface rights, right?

7 MR. ROSIER: Mr. Barton.

8 MR. BARTON: Along the same line, what efforts have
9 been made to acquire the subsurface rights? It seems to me that
10 some development of the subsurface resources could be as disturbing
11 to the habitat as development of the surface resources.

12 MR. TILLERY: We've done -- an analysis of the
13 subsurface resources, and it's in your package.

14 MR. BARTON: That letter from Ken Ross?

15 MR. TILLERY: Right, from my -- M. W. King.

16 MR. BARTON: Since there's no discussion on the
17 subsurface (inaudible -- simultaneous talking).

18 MR. TILLERY: Mr. Henning is here with us.

19 MR. ROSIER: Mr. Merrick is -- is here, I believe from
20 Koniag. With the council's indulgence here on this thing, I
21 believe that we probably out to hear from Mr. Merrick on this
22 particular subject. John, would you like to come forward here,
23 please.

24 MR. JOHN MERRICK: Okay. Yeah, my name is John Merrick
25 and I am the land management -- land and resource manager for
26 Koniag Incorporated. And I would -- I don't -- I have no intent of

1 throwing any cold water on this thing, but I would point out that,
2 we have not been consulted as to whether we're a willing seller.
3 That's not to say we wouldn't be, but we do own the subsurface
4 under everything that's been discussed here today. In fact, most
5 of Afognak Island subsurface belongs to Koniag. And with that --
6 that's all I need to say. You know, nothing has been -- the
7 subsurface is state. Mr. Cole probably can tell you that in some
8 cases it's considered the dominant estate. So, whatever it's
9 worth.

10 MR. ROSIER: Thank you, John. Any questions for Mr.
11 Merrick? Thank you John.

12 MR. SANDOR: I guess a natural follow-up question that
13 needs to be determined then -- in regard to the responses to
14 questions that both Mike Barton and I raised is that, is the
15 habitat group or the team look at potential adverse impacts of
16 mineral development? And, as Mr. Barton pointed out, is it not
17 possible that -- you know, mineral development would, in fact,
18 adversely impact the resources that we're indeed trying to protect?

19 MR. SUNDBERG: I'd -- I'd just respond by saying we did
20 look at that. We looked at the potential for mineral development
21 on the parcel, it was judged to be extremely low. There really are
22 no sand or gravel deposits on Afognak Island. All the road
23 construction that's occurred out there, hundreds of miles of roads,
24 logging roads, have been built out of native bedrock shale. The
25 geological reports were all negative in terms of -- or extremely
26 low in terms of mineral potential for other hard rock minerals in

1 the area, so we didn't consider it to be a significant threat.

2 MR. SANDOR: Mr. Chairman.

3 MR. ROSIER: Yes.

4 MR. SANDOR: Would it then follow -- would it then
5 follow that the value of acquiring the subsurface rights should
6 then be relatively low. Perhaps as low as that of Kachemak Bay.

7 MR. SUNDBERG: Presumably, I mean, if Koniag has some
8 data about the mineral values (inaudible - coughing) I'll make
9 certain that Dave requests that. See what they have and what the
10 government has in case there's extremely low mineral values.

11 MR. SANDOR: Thank you, Mr. Chairman.

12 MR. ROSIER: Sure. Yes, Mr. Pennoyer.

13 MR. PENNOYER: I'm not clear on what your recommending.
14 You're recommending that we proceed as a matter of policy with
15 acquisition of fee simple title land without the subsurface rights
16 tied up in it? Your judgment is -- I'm clear what your
17 recommendation -- you didn't go out and negotiate anything on
18 subsurface rights. Presumably, you didn't think it was important,
19 but you'll make that on a case by case basis for judgment then?

20 MR. WIENER: I would say yes. Our recommendation
21 stands in the absence of that which is subsurface mineral rights
22 based upon the information we have in hand from the geologists --
23 from our knowledge of the nature of the road building in the area.
24 The other thing I might add is that it's certainly not (inaudible).
25 But, if we had to grant an access easement to a mineral deposit, we
26 would certainly (inaudible) have some control over the nature of

1 the easement, and the way in which we would grant that easement.
2 We would certainly do it in a way that wouldn't adversely impact
3 the resources that we find. Then, we should have some control over
4 them.

5 MR. PENNOYER: I don't see the attorneys jumping up and
6 down at this point.

7 MR. TILLERY: The bottom line is that you get a road
8 that's going to destroy a substantial part of the value of the
9 parcel. You have timber cutting operations in three weeks. It was
10 our view that the -- it was a very low probability that there was
11 any mineral value there, and that bringing in the mineral value
12 into the mix was going to delay things and endanger acquisition of
13 the parcel in a timely manner. For that reason, it was felt like
14 if we can go ahead and deal with the surface estate and the timber,
15 and we can get -- after we do that, we can go back and talk to the
16 subsurface owner, but it's not necessary to be doing it at this
17 time, and it probably wasn't even advisable, given the extreme time
18 frame.

19 MR. ROSIER: Thank you. Yes, Mr. Barton.

20 MR. BARTON: Relative to this, another question. Are
21 there no alternatives to the logging operator to log something
22 other than six-nineteen at this particular point in time?

23 MR. TILLERY: I'm told no, but they are here, and they
24 have indicated they can respond to that question.

25 MR. WALT EBELL: Good morning, my name is Walt Ebell,
26 and this is Jim Wilkens. We represent Seal Bay Timber Company.

1 MR. WILKENS: And lawyers.

2 (Simultaneous laughter)

3 MR. SANDOR: The other point, Mr. Chairman -- cease
4 activity -- is troublesome in that, as I understand it, roads are
5 under construction and activity cannot cease until are properly put
6 to bed and resources that have been disturbed (inaudible) and all
7 this business, so there has to be an understanding that when
8 activity is ceased, it ceases for -- that proper environmental
9 protection requirements -- I guess -- do you have any problems with
10 that?

11 MR. WILKENS: No.

12 MR. STIEGLITZ: Mr. Chairman.

13 MR. ROSIER: Yes, Mr. Stieglitz.

14 MR. STIEGLITZ: Before we act on this motion, I don't want
15 to complicate things but I do want to lay something out on the
16 table and that's the subsurface interests. I personally feel like
17 that there's an obvious connection between timber, surface versus
18 subsurface, and frankly, I heard what was said here this morning
19 about the potential for the limits, but I do think that if the
20 Council takes positive action on this motion, that is the one on
21 the table, we also should take positive action on further exploring
22 the possibility of acquiring the subsurface, and that even should
23 be a separate action, but I think that's -- we consider that before
24 we take action on the motion on the table.

25 MR. SANDOR: That's why I raised that question earlier
26 on the subsurface rights, but I'm not so much concerned that we

1 actually acquire the subsurface rights if there's been an analysis
2 that's been made that reached a -- you know -- a professional
3 conclusion that the values weren't there. There's a different
4 owner involved or partly, that's part of the problem here, and in
5 the methodical way in which we reached the conclusion that we are
6 either going to buy the subsurface rights or not going to buy the
7 subsurface rights, so that a pattern is set for future activities
8 for acquisition. If we are able to acquire the subsurface rights
9 in Kachemak Bay, it may be preferable, but there may be a valid
10 reason. I understand -- perhaps maybe the geologists in question
11 could give us a brief summary -- at the last break we had an
12 analysis that eased my mind somewhat.

13 MS. RUTHERFORD: (Inaudible) over lunch time so that -
14 - in case you had questions he could answer them.

15 MR. ROSIER: Would you come up to the microphone,
16 please?

17 MR. MITCH HENNING: We were asked to review ...

18 MR. ROSIER: Would you identify yourself, please?

19 MR. HENNING: My name is Mitch Henning. I'm a geologist
20 with the Division of Mining and ...

21 MR. COLE: You know, I have great empathy for
22 typists. Would you mind spelling your name so that it can be
23 recorded.

24 MR. HENNING: Okay. My first name is Mitch and my last
25 name is Henning. H-E-N-N-I-N-G. Can you hear me now?

26 RECORDER: Yes.

1 MR. HENNING: Okay. We were asked to review this
2 parcel. We did that. The review involved basically a review of
3 existing data. (Inaudible -- extraneous noise) ... no known
4 discoveries or deposits on this parcel we're looking at here. The
5 island of Afognak geologically is split into two distinct
6 structural blocks. The eastern block is what we call geoge (ph)
7 terrain. The western block is what we call peninsula terrain.
8 That boundary basically would parallel the east side of those green
9 parcels in the northwest part that would come down through there
10 and is marked by what we call the border range's fault zone. Those
11 rocks in the northwest are composed of mesozoic (ph) sediments and
12 volcanics and intrusive rocks, and the rocks to the east are
13 composed of grey alagite (ph) slate complex of the Chugach terrain.
14 It is possible that this terrain does host epithermal, single-phase
15 gold quartz vein systems, similar to what you see in Ukik (ph) Bay,
16 Kenai Peninsula, Port Wells district, the Hope district, but at
17 this point there is no indication in the literature that any of
18 these types of systems have been found in this area. There are no
19 geochemical surveys that have been done in this region. There are
20 no geophysical surveys that have been done in any kind of detail in
21 this region. Most of the data that's available is of a regional
22 nature, and it's related to oil and gas exploration offshore. It
23 has been done by the USGS and the NMS (ph). So the database is
24 general in nature, not specific, and it is our opinion after
25 reviewing that -- that mineral potential for this region is low.
26 It does not carry the same value as the surface estate or land

1 estate. We would rank the land estate much higher in value at this
2 point in time based on the existing data.

3 MR. ROSIER: Questions of Mitch.

4 MR. STIEGLITZ: I have a follow-up question.

5 MR. ROSIER: Yes, Commissioner Stieglitz.

6 MR. STIEGLITZ: I'm not questioning your professional
7 ability at all, but obviously there's various comfort levels which
8 may or may not be there in way of minerals, and I realize you
9 probably did this over a fairly short period of time, how
10 comfortable do you feel with your appraisal? I realize you can't
11 put standards on it -- and I have this underlying concern, with any
12 piece of land you buy, there may be something there that we've
13 overlooked or we don't know about that could pop up in the future
14 and create problem for the surface owner.

15 MR. HENNING: Well, the problem with mineral deposits
16 are, like anything else, you know, concepts change over time, as
17 well as economics, so what may be non-economic today or may not be
18 a deposit today, fifty years from now someone comes along with a
19 different idea and, boom, you've got something that might be
20 marketable, but I would have to say that given the level of
21 intensity from the metal industry looking in this region, it seems
22 to have been, you know, people have come and looked on a regional
23 basis, but there hasn't been a lot of claims-taking activity in
24 this region; there hasn't been, I'm aware of any, real major
25 exploration efforts in terms of mineral deposits per se. Most of
26 the effort has been steered at oil and gas on state offshore lands

1 and federal offshore lands. So, if somebody was to find a precious
2 metal deposit which would probably occur in the Valdez group rocks
3 there, these things are usual small, they're high grade, low
4 tonnage-type systems. They would be the systems that you would see
5 in the Prince Williams Sound, in the Port Wells district, or in the
6 Hope district, and they would probably be mined underground.

7 MR. ROSIER: Yes, Mr. Cole.

8 MR. COLE: Is it true that the State of Alaska
9 reserves the subsurface estate in all deeds it grants.

10 MR. HENNING: I believe so.

11 MR. COLE: I mean, if -- the state never conveys any
12 land, any land, without reserving subsurface estate, and yet
13 there's a lot of transactions go on on state lands, and that's why
14 I'm not particularly concerned about the subsurface estate here.
15 In your opinion, based upon what you now know, are there any
16 commercially viable minerals on these lands we're talking about.

17 MR. HENNING: None that I'm aware of, and that's
18 strictly speaking related to precious or base metal deposits. I
19 don't include sand and gravel resources as part of the subsurface
20 estate.

21 MR. ROSIER: Yes, Mr. Pennoyer.

22 MR. PENNOYER: So would Tonki Cape too have the same
23 characteristics?

24 MR. HENNING: I would say so, yes. Everything --
25 everything to the east of that structural boundary.

26 MR. ROSIER: Yes, Walt?

1 MR. STIEGLITZ: One last observation, if the question only
2 arise, you -- there's two lines of argument. One is obviously if
3 there's some threat of development at some point, you ought to go
4 ahead and buy the subsurface, even though it might cost you a fair
5 amount of money. The other argument is, even though there's
6 nothing there, that means the values are very, very limited, and
7 you might be able to acquire the subsurface at a minimal cost, and
8 therefore why not go ahead and do it and eliminate any future
9 potential risk of something being found and developed on those
10 lands. You can argue that both ways. I kind of prefer the latter
11 preferably.

12 MR. HENNING: I would like to point out one thing. I'm
13 not privileged to confidential data Koniag might hold. Now, you
14 know, they may very well have something that they're looking at,
15 but if they do, in terms of value you would probably want to look
16 at it whether or not there are drill reserves there and what those
17 reserves would be worth.

18 MR. ROSIER: Mr. Cole.

19 MR. COLE: Well, you know, the United States could
20 always buy it. (Simultaneous laughter) I mean -- dominant estate.
21 (Simultaneous laughter)

22 MR. ROSIER: Yes? Further questions? comments? Yes.

23 MR. SANDOR: Just a comment on ...

24 MR. ROSIER: Mr. Sandor.

25 MR. SANDOR: I certainly appreciate the flexibility
26 with which your corporation has been able to generate this

1 additional proposal. I think it's very constructive. I appreciate
2 it.

3 MR. ROSIER: Yes. By all means. Mitch, we've
4 appreciated your help there also.

5 MR. HENNING: Okay, thank you.

6 MR. ROSIER: We have the motion before us.

7 MR. SANDOR: Call for the question.

8 MR. ROSIER: The question's been called for. Those in
9 favor, signify by saying aye.

10 ALL TRUSTEES: (In unison) Aye.

11 MR. ROSIER: Opposed? (No response)

12 MR. ROSIER: Thank you, gentlemen. Yes?

13 MR. WILKENS: Thank you very much.

14 MR. ROSIER: Mr. Barton.

15 MR. BARTON: I move that we instruct the -- or ask --
16 the Department of Law to pursue the subsurface rights on this same
17 parcel with the owners thereof and treat this as more of an
18 opportunity part -- in the opportunity parcel category. I think
19 it's important to try to get the surface and the subsurface up
20 together.

21 MR. PENNOYER: Second.

22 MR. ROSIER: Those in favor, signify by saying aye.

23 ALL TRUSTEES: (In unison) Aye.

24 MR. ROSIER: Opposed? (No response) Passes.

25 MR. COLE: Can we have a recess? The strain may be

26 ...

1 MR. ROSIER: Yes. We'll take a ten minute break here.

2 (Off Record at 2:10 p.m.)

3 (On Record at 2:25 p.m.)

4 MR. ROSIER: We've got a couple of items to clean up
5 here on the habitat issue, so, Marty, would you proceed there.

6 MS. RUTHERFORD: Okay. That -- that was the status
7 report on the Seal Bay, but we've actually got -- I want to turn it
8 over to the Forest Service for an update on what's happening on the
9 Eyak Power Creek imminent threat parcel. Ken or Mike Barton?

10 MR. RICE: Mr. Chairman, this won't take nearly as
11 long.

12 MR. ROSIER: Good. (Simultaneous laughter)

13 MR. ROSIER: Hopefully, you should have or if you
14 haven't I'm passing out again, a memorandum of understanding that
15 we have signed with Eyak Corporation to evaluate their parcels
16 around Eyak Lake. They would also like to have us take a look at
17 the Orca Inlet area and provide a biological evaluation of that by
18 the June 1st meeting. The Habitat Protection Work Group is going
19 to start -- or now is actually started on that, and we'll at least
20 have a preliminary report to the Trustee Council by the first of
21 June, and then the negotiations -- we are entering into
22 negotiations -- the Eyak Corporation has indicated that they are
23 not willing to discuss fee simple purchase but other options for
24 protection are available. The Tatitlek Corporation with the Fish
25 Bay area, basically the status is that we're discussing with them.
26 They are willing to talk with us, but we haven't received any

1 proposal from them at this time. Any questions?

2 MR. ROSIER: Questions from the Council? comments?
3 There's no action required on this?

4 MR. RICE: That's correct, sir.

5 MR. ROSIER: Go ahead, Marty.

6 MS. RUTHERFORD: Mr. Chair, then there's only one file
7 thing, and Dave -- you want to do it.

8 DR. GIBBONS: Yeah. I've got one. The Trustee Council
9 needs to approve the funding for a appraisal for the properties --
10 for the Seal Bay area. The funding would come out of the twenty
11 million dollar habitat protection fund that you approved for the
12 '93, but we just need to have you essentially approve the money
13 from there for an appraisal.

14 UNIDENTIFIED VOICE: So moved.

15 MR. BARTON: Second.

16 MR. ROSIER: Motion made and seconded to approve.
17 Discussion?

18 DR. GIBBONS: That would also include the hazmat survey?

19 MR. BARTON: The second intended that.

20 (Simultaneous laughter)

21 UNIDENTIFIED VOICE: Absolutely.

22 MR. ROSIER: Objection? (No response). Hearing none,
23 so passed.

24 MS. RUTHERFORD: Okay, Mr. Chair, I think -- I've
25 asked Dave to hand these down. There's two documents coming to
26 you, and I'll wait 'til you have them. At the May 10th Trustee

1 Council meeting, we presented a sheet of eight negotiation/
2 acquisition guidelines that -- it looks like this -- the clean
3 copy. When the Trustee Council reviewed these proposed guidelines,
4 which I think is one -- on the 29th of March, four of them were
5 removed, and I refer you to the second page, which is all marked
6 up. The ones that were removed were numbers A, C, D, and F. Five
7 others, which are noted on this written -- the noted page -- were
8 added by Commissioner Sandor, and these -- that left, I think,
9 thirteen, and I think -- no, that left nine -- and these nine were
10 approved. We -- the Habitat Protection Work Group then took these
11 nine guidelines and used them to develop a chart that was in your
12 packet sent out to you by Dave Gibbons, and there's a cover sheet
13 dated May 4th in it. The chart itself looks like this, and it's
14 three pages. And basically, this was a clarification of the roles
15 and coordination responsibilities of the different groups working
16 on implementation of the habitat protection process. If I could,
17 I would just like to quickly run through these nine items that were
18 left. I might note that, if you want me to, Mr. Chair ...

19 MR. ROSIER: Yes.

20 MS. RUTHERFORD: ... basically, there's a correlation
21 between this chart and the numbers that appear on this marked up
22 copy.

23 MR. ROSIER: Wait. Where is the chart?

24 MS. RUTHERFORD: The chart was in your package and it
25 looked like this.

26 MR. ROSIER: Oh.

1 UNIDENTIFIED VOICE: Cover memo.

2 MR. COLE: It's in -- it's in some of the materials
3 that we received earlier.

4 MR. ROSIER: Cover letter dated May 4th.

5 MS. RUTHERFORD: That's correct -- from Dave Gibbons.
6 On the chart itself, which starts on page two of that document, the
7 item number one, and again, I'm referring back to this marked up
8 sheet, which is to clearly identify the restoration objectives that
9 will be achieved at the acquisition of the tract, that is located
10 in number one of the chart on the left-hand side, the Habitat
11 Protection Work Group responsibilities side. That's identify,
12 evaluate and rank parcels, clearly identify restoration objectives
13 for each tract. Item number two, which is define and evaluate
14 acquisition options, such as easements, fee title, moratoriums,
15 etc., which could be used to achieve protection and restoration
16 objectives, can be found on the next page of the chart under the
17 left-hand side of number four -- evaluate acquisition options,
18 such as easements, fee title, moratoriums, etc., discuss with the
19 landowners which could be used to achieve restoration and
20 protection objectives. Item number three, which is to refine the
21 tract size and configuration to assure restoration objectives will
22 be achieved, that is located also on the second page of the chart,
23 up under number three on the left-hand side -- review proposed
24 tract size configurations and protections options to see if
25 proposal will meet objectives. Item number four, which was also
26 approved by the Trustees, is to consider the appropriateness of

1 alternative funding and to protect mechanisms -- oh, excuse me --
2 funding or protection mechanisms, that is also on the second page
3 of the chart, under item number five -- evaluate appropriateness of
4 alternative funding and protection mechanisms. Five was removed
5 from your list. I believe Attorney General Cole removed that, so
6 there's nothing in the chart that reflects that. Item number six
7 is, if the purchase price of any acquisition is estimated to be in
8 excess of one million dollars, at least two appraisals may be
9 obtained. If more than one appraisal is prepared and approved for
10 any acquisition, the review appraiser will select appraisal that
11 best supports its conclusion of value, and that appraisal shall be
12 the determination of fair market value. That item number six
13 actually appears -- a reference to it is in two places on this
14 chart. It's on the second page of the chart, under items numbered
15 four and six on the right-hand side under negotiator
16 responsibilities.

17 MR. COLE: Can you hold up just a minute. I'm having
18 a little trouble -- where are you reading from?

19 MS. RUTHERFORD: This one.

20 UNIDENTIFIED VOICE: And we're dealing with --?

21 MS. RUTHERFORD: Item number six. It's not actually
22 on there.

23 MR. COLE: That's what I was getting at. I didn't
24 see that number four, four six.

25 MS. RUTHERFORD: It's not there, and that's one of the
26 things I wanted to bring to your attention and that is you may want

1 us -- direct us -- to add that.

2 MR. COLE: Well, at the rate we're going, one million
3 dollar (inaudible -- out of microphone range) -- It's off the
4 chart, as Judge Holland would say, on the bottom side.

5 MS. RUTHERFORD: So that's one of the points ...

6 MR. COLE: (Inaudible -- simultaneous talking)

7 MS. RUTHERFORD: So that's one of the issues that I
8 think you need to address. Item number seven and eight on this
9 marked up document were removed at your March 29th meeting, so they
10 are not reflected in the chart. Item number nine -- hazardous
11 substance surveys will be conducted prior to title passing to the
12 state or federal government -- that is also on the second page of
13 the chart on the right-hand side of number, towards the bottom of
14 the box -- physically check the property to assure appropriateness
15 of parcel boundary and conduct level one hazardous material survey,
16 report to HPWG on the process. Item number ten of the marked up
17 paper was removed, so it's not reflected on the chart. Item number
18 eleven -- an opinion of sufficiency of title will be obtained from
19 the respective federal or state legal counsel prior to title
20 passing -- that is also located as the same place as nine on the
21 second page of the chart, right-hand column of number four, and
22 it's under -- first sentence -- begin acquiring needed data for
23 appraisal contract and acquire preliminary title evidence. Item
24 number twelve is not reflected on the chart, and the only place
25 that I think that -- and that is, when negotiating or acquiring
26 lands from corporation, personnel will deal with designated

1 corporate officials only, not individual board members or
2 shareholders. I think that's fairly obvious, but if you wanted to
3 add it, you could add it on the first page of the chart, number
4 one, right-hand column, and say something along the lines -- meet
5 with appropriate representatives of landowners -- instead of just
6 meet with landowners. And that would be a negotiator
7 responsibility. And then item number thirteen of the chart is --
8 provide for a process for evaluating the validity of restoration
9 assumptions and objectives as a guide for considering future
10 habitat protection strategies -- adjust best professional judgment
11 criteria. That is reflected on the last page of the chart, item
12 number nine, on the left-hand side -- monitor to validate
13 restoration assumptions and objectives for habitat protection and
14 used as a guide to define future habitat protection strategies,
15 adjust criteria as necessary. There's two other things I want to
16 bring to your attention. On the first page of the chart under item
17 number one, right-hand side under negotiating responsibilities, the
18 last sentence -- obtain written statement of preliminary to sell --
19 sell -- at fair market value. That is not necessarily reflected in
20 this chart that you approved on March 29th, and that was added and
21 is something you probably need to consider. And then the final
22 thing that you need to think about is on page two of the chart,
23 item number eight on the left-hand column, under habitat protection
24 responsibilities, it says make recommendation to Trustee Council on
25 approval of option based on appraisal price, ability of parcel to
26 meet restoration objectives -- and this is -- in that last portion

1 of the sentence -- and alternative parcels being able to meet same
2 objectives. I just wanted to make you aware that for these
3 imminent-threat parcels, we are -- a comprehensive process is not
4 complete. We were unable to do that last thing, and you may want
5 to consider whether that should remain in this document. But,
6 again, this is just a clarification of the roles and
7 responsibilities and coordination responsibilities of the various
8 parties involved in the process. I suppose it wouldn't have to be
9 approved today, but I wanted to run through it so you could -- may
10 be take it up on June 1 or 2.

11 MR. ROSIER: What's the wish of the Council? John.

12 MR. SANDOR: Well, Mr. Chairman, I think the staff is
13 doing a good job of coordinating these criterion to this definition
14 of work responsibilities for the group and the negotiators'
15 responsibilities. I think it should be subject to -- if we could
16 have some time -- modification, perhaps, at a later date, but at
17 least for now I would move approval of this.

18 MR. ROSIER: Do I hear a second?

19 MR. COLE: I'll second it for the purpose of
20 discussion. (Simultaneous laughter).

21 MR. PENNOYER: Mr. Sandor, I heard two thoughts. One,
22 you were moving it for approval, and second, it was subject to
23 consideration at a later date. Are you --?

24 MR. SANDOR: Well ...

25 MR. PENNOYER: Which one ...?

26 MR. SANDOR: Well, we're running short of time, and I

1 have a quarrel with -- not a quarrel, some suggestions on defining
2 the evaluation ranking criteria. For example, on the Seal Bay
3 parcel that we went through, the lumping together of -- just as a
4 for-instance -- of depleted rare, threatened or endangered species
5 into one category is, I believe, flawed and that we ought to
6 separate what is really covered by the Endangered Species Act
7 versus depleted species. There's some refinements that need to be
8 done, and I think there's some refinements to be done on this, but
9 I don't think we need to ...

10 MR. PENNOYER: So, it's subject to reconsideration then
11 ...

12 MR. SANDOR: Yes.

13 MR. PENNOYER: ... at a later date, but for guidelines to
14 start with, you're moving the approval.

15 MR. BARTON: Mr. Chairman.

16 MR. ROSIER: Yes, Mr. Barton.

17 MR. BARTON: I -- I suggest we specify when we're going
18 to reconsider it, and then -- I do think we need to provide some
19 certainty into the process for the sake of the habitat group as
20 well as the negotiators.

21 MR. SANDOR: The June meeting.

22 MR. BARTON: Exactly.

23 MR. ROSIER: I would only say in -- and I certainly
24 don't have any problem with the June 1, but as I understood it we
25 practically had a pretty full two days with our agenda for June 1
26 and June 2. Is it essential that we do it in June or would it be

1 possible to put it off until the July meeting or -- what's --?

2 MR. SANDOR: My problem, Mr. Chairman, is that with
3 whatever suggestions and refinements, they should be submitted in
4 advance of the June 1 meeting and laid on the table for Council
5 approval.

6 MR. ROSIER: Yes, Mr. Cole.

7 MR. COLE: Did we follow this today?

8 MR. SANDOR: Not completely.

9 MR. PENNOYER: Conditional approval, subject to
10 reconsideration at the June meeting.

11 MR. STIEGLITZ: Mr. Chairman.

12 MR. ROSIER: Yes, Walt.

13 MR. STIEGLITZ: I apologize, I'm kind of a late joiner
14 here, but -- and not having a lot of time to review this -- it --
15 my initial impression is it may be a little overly, procedurally
16 complicated. I'm not too sure they're aren't some unnecessary
17 steps in here. I personally think we ought to not approve it at
18 all at this sitting and leave it on the table until the June 1 and
19 give us a chance to analyze it a little better. Maybe I'm the only
20 one that hasn't had a chance to look at it.

21 MR. PENNOYER: Is that an amendment?

22 MR. STIEGLITZ: No. It means I'm going to vote against
23 the motion to approve it today.

24 MR. ROSIER: Well, that takes care of the problem.

25 MR. COLE: Next item.

26 (Simultaneous laughter)

1 MR. ROSIER: Well, at this time, I guess, the direction
2 of the Council would be to bring this back, you know, put it on the
3 agenda for the June meeting, and we'll consider it at that time.

4 MR. COLE: I was going to say, this is an example of
5 how wonderful the unanimity requirement works.

6 (Simultaneous laughter)

7 MR. ROSIER: Okay. Dave?

8 DR. GIBBONS: Just one other thing, I passed out earlier
9 a package called landowner response summary, Habitat Protection
10 Work Group. I'm not going to talk about it, but it just gives you
11 a summary of our responses so far to my dear landowner letter.

12 MR. ROSIER: Okay. Right. We had one additional
13 decision item, which was item eight, changes to the 1993
14 restoration work plan. I believe that Commissioner Sandor had
15 asked for an 8(b) also to go in at this time, so --

16 MR. COLE: I move we approve it.

17 UNIDENTIFIED VOICE: Second.

18 MR. COLE: -- Sandor? No, this fifteen thousand
19 dollar --

20 MR. ROSIER: No, we'll take that up -- we have a motion
21 to ...

22 (Simultaneous talking)

23 UNIDENTIFIED VOICE: We're on 8(b).

24 MR. COLE: Are we on 8(b)?

25 MR. ROSIER: Yes, 8(b).

26 MR. COLE: Did we skip 8(a)?

1 MR. ROSIER: We'll take that one up -- we'll take that
2 one up after. (Simultaneous talking) Is that the same thing?

3 MR. SANDOR: Mr. Chairman, what 8(b) is is simply an
4 update of the shoreline assessment project, which was, of course,
5 in the package, and it's attached -- the three pages -- and the
6 modification in requirement for an action here is involved in that
7 the Coast Guard has completed its work, the clean-up work and the
8 assessment associated with it, as of July of last year. It was my
9 proposal and belief that this assessment for restoration work
10 should follow very closely the processes that were conducted in the
11 first three years. And I met with the Coast Guard,
12 (indecipherable) commander and Coast Guard personnel, and they are
13 in agreement to participate in that assessment and co-chairing a
14 coordination role as they did in the part, but they require -- they
15 are not funded to -- to do that activity -- and this is not salary,
16 this is actually travel -- and it turns out to be between twelve and
17 fifteen thousand dollars. So, I would move the approval of up to
18 fifteen thousand dollars for the Coast Guard participation in this
19 assessment of the sites.

20 MR. ROSIER: Motion to approve up to fifteen thousand
21 dollars for the financing of the ...

22 MR. SANDOR: Coast Guard participation in this
23 assessment work this summer.

24 MR. PENNOYER: Second.

25 MR. ROSIER: Motion made and seconded.

26 MR. COLE: What will they expend the fifteen thousand

1 dollars on?

2 MR. SANDOR: Will they expend it?

3 MR. COLE: How did we get the fifteen thousand dollar
4 number in there?

5 MR. SANDOR: Mark, can you explain?

6 (Simultaneous laughter and talking)

7 MR. COLE: That's what I think too.

8 MR. BRODERSEN: Commander McGuire and I sat down yesterday
9 afternoon trying to pump with the numbers for their participation
10 in this, and primarily what it is is to allow one of their people
11 to go out in the field for approximately a month this will take and
12 pay that person's travel while in the field and also for three or
13 four trips for another person at the Coast Guard to do the
14 coordination with the state and other federal agencies during and
15 prior to that to get the thing arranged. So, you've got three or
16 four trips back and forth to Juneau and stationing a person up here
17 for approximately a month to get the coordination done. The number
18 we came up with, I say, was twelve thousand. We put in a little
19 bit extra so that if we need it, it's there as a contingency in
20 case an extra trip is necessary. Whatever they don't spend they'll
21 return. We wanted a cap on it so that there was a maximum not to
22 exceed.

23 MR. SANDOR: Commander McGuire explained this to me
24 that in their allocation expenditures for their personnel, they
25 have to have authorization, and their authorization for Exxon
26 Valdez work terminates July 1, and -- period -- and they need this

1 authorization.

2 MR. BRODERSEN: Yeah. They will fund their own people.
3 We're not looking for salaries. This is strictly travel to allow
4 them to participate.

5 MR. COLE: Is this what the Coast Guard does as part
6 of their normal duties and responsibilities?

7 MR. SANDOR: No, it is not.

8 MR. COLE: Shoreline inspections?

9 MR. SANDOR: Not for oil -- from the Exxon Valdez -- it
10 is not. Come on, you've just approved thirty-eight point seven ...

11 (Simultaneous laughter)

12 MR. ROSIER: I believe our bank account is getting
13 pretty thin though at that point.

14 MR. COLE: That's the point here.

15 UNIDENTIFIED VOICE: Question.

16 MR. ROSIER: ... further discussion? The question's
17 been called for. Those in favor, signify by saying aye.

18 ALL TRUSTEES: (In unison) Aye.

19 MR. ROSIER: Those opposed? (No response)

20 MR. SANDOR: The other point that should be made, Mr.
21 Chairman, is that we are going to invite Exxon to participate in
22 the assessment as they have in the past three years. But we'll go
23 on with the assessment whether or not they participate.

24 MR. COLE: Do we have to pay for their ...?

25 MR. SANDOR: Absolutely not. Absolutely not.

26 (Simultaneous laughter)

1 MR. ROSIER: Okay. Moving along, item 8(a) relates to
2 a project that the -- the Trustees have looked at previously.
3 We're back taking a look at it again primarily as a result of
4 what's identified as a need in the Prince William Sound area this
5 year. I think most of you are aware that we are continuing to
6 experience significant problems in the Prince William Sound area in
7 terms of salmon as well as herring. I sent to each of the Trustee
8 Council members May 6th a letter outlining a proposal here for the
9 implementation of a joint program on the coded wire-tag program
10 that we have discussed on numerous occasions. This is a stripped
11 down version, and it's a version that's, in fact, carrying a shared
12 responsibility of the state, the pink salmon production entities in
13 Prince William Sound, and we are asking for the help from the
14 Trustee Council here in terms of funding a project for this
15 particular year. In your packet, you have also a resolution from
16 the city council in Cordova, and I have passed out in addition to
17 that a couple of petitions which signed on a number of other
18 entities that were supporting this. I would say that the Prince
19 William Sound area is an area that's -- has probably had enough
20 disasters befall them in recent years in the fisheries arena to
21 last -- to last a lifetime. They've seen the oil spill originally
22 hit them in '89. Since that time, we've seen a pink salmon
23 hatchery program that has had significant problems because of
24 price, because of quality issues associated with the production of
25 fish from those facilities. We've seen run failures in terms of
26 pinks, pink salmon returns to the Sound. This year, they were hit

1 once again with a -- with a -- basically a disaster in their
2 herring fisheries with virtually no purse-seining operations taking
3 place on the sacro (ph) operations. They are looking at another
4 salmon year in which prices are severely depressed as far as the
5 pink salmon are concerned. They've had their share of problems.
6 They are asking for help. They have consistently asked for help in
7 the realm of better information to better manage the resources that
8 were in fact damaged by the oil spill. We've continued to reduce
9 the program in the Prince William Sound area over the last two to
10 three years, and the situation where I think we're seeing a lot of
11 public outcry here that we have not been that responsive to. And
12 we have put together a proposal here in which funding from a
13 project on the Kenai River sockeye project that was identified for
14 the purpose of purchasing a -- sonar equipment -- shelf-type
15 technology -- that did not work. As a result, we've got some
16 funding that is left over from that project, which, if the Council
17 -- Trustee Council -- so approved it would cover the Trustee
18 portion of a pink salmon coded wire tag recovery program in Prince
19 William Sound this year. The other funding that's roughly two
20 hundred and thirty-two -- two hundred and thirty-three -- thousand
21 dollars, the remaining two hundred and ten thousand dollars that's
22 involved would come from the state as well as the pink salmon
23 producing entities there in the Prince William Sound area -- PWSAC
24 is one of them, as well as Valdez Fisheries.

25 MR. COLE: From the state?

26 MR. ROSIER: Yes. From the state would come from

1 ADF&G. We would ask the Council's consideration of this proposal.
2 And -- you'll notice that the resolution from the City of Cordova
3 covers more than just pink salmon. It covers a request for
4 emergency funding for herring, a herring survey in the fall, to
5 determine what's truly left after the disaster that was observed up
6 there this spring. We've had -- we know we've got problems with
7 the '89 year class; we know we've got problems -- there's something
8 that we don't know exactly what's causing the problem in terms of
9 lesions and declining growth and -- in the other year classes
10 there. They've asked for that. They know that -- that they've to
11 got to have some help in terms of determining what's going to
12 happen to those herring fisheries this fall and again next spring.
13 Obviously, without the information on herring, it's a situation in
14 which we're looking at very conservative-type management in order
15 to protect the stocks. Appropriate measures will be taken if we do
16 not, in fact, approve the funding, and that's not a threat, it's a
17 fact of life that that's what will go along with the lack of
18 information that we currently have on those herring stocks. They
19 are also asking for covering -- recovery -- of the coded-wire tags,
20 which were in fact put on the longer-lives species in the Prince
21 William Sound. This is the chums, the cohos, and the kings. This
22 was put on their with Trustee Council funding, and those older,
23 longer-lived species are now returning this year, and at this point
24 there is no funding for covering that. But the proposal that I
25 have made at this point is to fund two hundred and thirty-two
26 thousand nine hundred dollars from -- from our project 93-015 to

1 cover the coded-wire tag recovery on pink salmon this year. I
2 would ask the Council's concurrence in proceeding with that project
3 and the transfer of those funds to pink salmon this year. Yes?

4 MR. SANDOR: This then is somewhat of a matching thing,
5 proposing to reallocate the two hundred and thirty-two thousand
6 nine hundred with the matching -- with the two hundred and seven
7 from the (inaudible).

8 MR. ROSIER: That's correct.

9 MR. SANDOR: I move approval of this proposal.

10 MR. PENNOYER: Second. Oops. Discussion.

11 (Simultaneous laughter)

12 MR. ROSIER: When we again arrange the table, I think
13 that the association of these two on my far right need to be
14 attended to.

15 (Simultaneous laughter)

16 MR. BRODERSEN: It was attended to and was done
17 specifically for these purposes.

18 MR. ROSIER: Is that right.

19 (Simultaneous laughter)

20 MR. PENNOYER: Got all the trouble-makers on one side...

21 MR. STIEGLITZ: Mr. Chairman.

22 MR. ROSIER: Yes, Walt.

23 MR. STIEGLITZ: It's not surprising. I've got some
24 reservations about the proposal, and I guess it might be helpful if
25 I had a little more information or maybe enlightenment from someone
26 as to whether or not we know this will work. Are we really looking

1 at an experimental project here or are we looking at something that
2 we know will work and we know we can effectively separate those two
3 stocks?

4 MR. ROSIER: We're -- we're fairly confident that with
5 the marks that are out there and the hatchery -- the hatchery pinks
6 on this that we can in fact separate the stocks within the fishery.
7 I have Joe Sullivan here. Joe is the -- is the technical person
8 that I think can probably provide us with some of the information
9 you need here, Walt. Joe?

10 DR. JOE SULLIVAN: First, let me give you a couple of
11 things here that I'm not going to ask you to read right now but it
12 might help you later, and then I will tell you what's going on.

13 MR. COLE: Mr. Chairman, could we get him to explain
14 that formula there -- nine -- this --.

15 (Simultaneous laughter)

16 MR. STIEGLITZ: I had a little trouble with that one
17 there, number four.

18 (Simultaneous laughter and talking)

19 DR. SULLIVAN: What I'm passing out -- I'm not asking you
20 to read it -- potentially covers this thing. One of them gives you
21 more or less the history of what went on in Prince William Sound
22 relative to coded-wire tagging, particularly last year, and how it
23 works, and so if you really want to know more about it, and the
24 other one is what we intend to do about it, and what we intend to
25 do this coming year relative to -- to maintain the wild stock. See
26 if I can get back to the original question here, and that was

1 basically you were asking could coded-wire tagging work, and do we
2 know whether it works. Basic coded-wire tagging is a (inaudible
3 and indecipherable).

4 MR. STIEGLITZ: I should explain, I was (inaudible) this
5 weekend and were proving to them assessment studies, and we heard
6 wire-coded tags out our ears, so I'm a little familiar with it.

7 DR. SULLIVAN: Okay. Well, in any event, basically, what
8 to summarize for you -- thanks -- that makes a difference. You
9 code a certain percentage, you tag a certain percentage of your
10 fish. You know what percentage you've tagged, and therefore when
11 the fish come back, you have this huge group of fish, you can make
12 a pretty good estimate as to what portion of those fish are fish
13 from your facility or from your stream or whatever if you know, if
14 you have this expansion. Let's say you tag ten percent of the
15 fish, then you multiply the number of tagged fish you get back by
16 ten to come up with the number of fish that -- that essentially
17 belong to you. That's very simplistic, okay. But in the situation
18 we have here, what we're saying is we've tagged a certain
19 proportion of the fish. In 1992, all of those fish were hatchery
20 fish that were tagged. Therefore, if a tagged -- if you have a
21 fish with a tag -- in pink salmon -- if you have a pink salmon with
22 a tag, then you know it is a hatchery fish from Prince William
23 Sound. You won't initially know what hatchery it is from, but you
24 will at least know that it's a hatchery fish. In the past, we have
25 used coded-wire tagging for a whole bunch of different reasons, not
26 just management. What we're asking for here is strictly for

1 management purposes, although I think we will get a little bit
2 better information than that out of the deal, but essentially
3 coded-wire tagging as a process has been used up and down the West
4 Coast for a very long period of time to determine, well, what are
5 your success rates from this group of fish or that group of fish.
6 Every coded-wire tag identifies something about the fish, usually
7 the hatchery, but oftentimes lots within a hatchery and so forth,
8 like that. They have a unique binary code that let's you -- that
9 you relate back to something you did to them at that particular
10 that you're looking for. In this particular case, okay, what we
11 want to -- what we've got are several different things going on in
12 Prince William Sound that we need fish for. We need fish for the
13 escapement coming back to the wild streams to -- for spawning for
14 the next generation, we need escapements back to the hatchery so
15 they will make their egg-take goals for the coming year, we need
16 fish for the commercial fishermen, and we need cost-recovery fish
17 also back to the hatchery so that they will be able to pay their
18 bills for the coming year. Okay. So, with those four goals in
19 mind then, when you come to a fishing season you're looking at
20 these fish coming back into Prince William Sound -- well, you have
21 one more goal too relative to one of those in that the better
22 quality fish that you get, the more money you will get. Okay. For
23 our -- from Fish & Game's mandate, we have a mandate to take care
24 of the wild stock. If we do not have this coded-wire tag program,
25 what we would probably be forced to do, in particular in Prince
26 William Sound, is until about the 10th of August we would have to

1 fish in terminal harvest areas. The reason I -- the reason that
2 date is important is that most of -- we know that most of the wild
3 fish in Prince William Sound return prior to that point. Some
4 hatchery fish also return at that point, but beyond that point then
5 most of the fish that are coming back are hatchery fish. Now that
6 doesn't happen precisely every year. 1991 was a really good
7 example of that not working out in that the fish held off until
8 about the 10th of August or so, and then everybody came back, you
9 know, and we were overwhelmed -- essentially had some difficulties
10 just making escapement goals and catching fish while they were
11 still bright, and it was a mess. In any event, in a normal
12 situation, you have a certain component that's coming back that's
13 wild, and a certain component that are coming back that are
14 hatchery fish. If, with your forecast -- if under -- if you have
15 the same proportion coming back year after year of hatchery and
16 wild fish, then you probably wouldn't need a coded-wire tag program
17 because you could assume that x percentage is hatchery, x
18 percentage is wild stock; therefore, if we go out and fish on this
19 day and x number of days a fish get through, then we probably
20 shouldn't send as many fish back up into the streams and that would
21 be okay or it will not be okay. The difficulty is when they don't
22 come back in predictable portion, and they often don't. For
23 example, last year in 1992, we -- our predictions for the wild
24 stock was right on the money, okay. We had predicted, I think,
25 about two and a half million fish, and we got something like two
26 point four or five million. Unfortunately, our predictions on

1 hatchery stock were about a third of what they should have been
2 last year. See, if we knew in advance and if our predictions were
3 accurate -- you see if our forecast each year was on the money, we
4 would be able to more or less apportion these things, but
5 unfortunately, it isn't on the money, okay. So, what we have to do
6 with the coded-wire tag program is at some point you take a risk
7 and say, okay, let's go out and do a test fishery -- it's more than
8 that, but you get out and let the fishermen have at it for a day or
9 six hours or twelve hours, depending upon where you're at, and then
10 you say, well, we're planning another opener say, Friday, this is
11 Monday now, and then go through the fish that you've caught and
12 pick out the fish that have a missing adipose. When you do a
13 coded-wire tag -- when you coded-wire tag a fish, you take an
14 adipose off, and that is supposed to indicate that the fish has a
15 metal tag in its nose. It doesn't always work because sometimes
16 the tag falls, and there's a certain proportion of wild fish that
17 are lacking adipose fins anyway, okay, so, you have an expansion
18 factor there that screws up your estimate a little bit, but
19 depending on how many fish are back, then you -- that expansion
20 either hurts you a lot or it doesn't. When it does hurt you, then
21 we use a metal detector to find out does this fish actually have a
22 tag. Well, for the purposes of this project, what we want -- the
23 answer that we want to know is, is this a hatchery fish or is this
24 a wild fish? We'll use some of our knowledge on runway
25 construction and when different hatcheries have their fish coming
26 back, as to figure out which hatchery is likely that they're going

1 to, but that is something that we don't really -- that information
2 we don't really have to have that well until two or three months
3 down the road, okay, when we actually read the tags. But to make
4 in-season estimates as to what proportion are wild and what
5 proportion are hatchery, we make -- it takes us about two or three
6 days, okay, and like I said, if we can't figure it out from based
7 on adipose clips, we will figure it out based on just taking a
8 metal detector over those heads and seeing if there's, in fact, a
9 tag present. The error on that is much, much tighter than it is on
10 whether the fish has an adipose fin or not. In any event, we have
11 that -- we get that information in two or three days. At that
12 point, we can make a -- using that information and the escapement
13 information we've got from our aerial surveys -- how many fish have
14 come back to the streams already -- we can take that information
15 and estimate whether or not we're lagging behind in meeting our
16 escapement goals or not. And if we are, and if there's a -- if we
17 need a larger portion of the wild component, at that point we have
18 to look and say, okay, what portion of this is wild, what portion
19 is this hatchery, what do we need -- what is the decision we need
20 to make for the next scheduled opener, and if we need those fish in
21 the wild stock, then we will close that -- that next scheduled
22 opener and wait until the next round. Like I said, at some point,
23 you know, if things are proceeding normally, and sometimes they
24 don't, then you would -- eventually be able to open it up and say
25 go get them off the capes, assume we've made our wild escapement,
26 and the hatcheries have got the brood stock they need and cost

1 recovery and so forth, and then you get bright fish more or less
2 after August 10th. But there have been times, and the coded-wire
3 tag program has helped in the opposite vein as well, okay, when,
4 say you -- you're escapement counts look good, you suddenly realize
5 you've got a huge proportion of wild fish, vastly more than you'll
6 ever need to make your escapement goals, you can say, hey, guys, go
7 out on the cape, their bright, you get more money, go get 'em.
8 Okay. That has happened. We have -- and in that case -- otherwise
9 on the one hand, our first goal is to make sure that we've got wild
10 fish back to the streams. On the other hand, using the coded-wire
11 tag in -- so the coded-wire tag information helps in two ways.
12 One, it helps -- can help you make your escapement goals. The
13 other way it helps is that if you have surplus wild fish, and there
14 are occasions when we do have surplus wild fish, then you can tell
15 the fishermen to go get them while they'll still bright and worth
16 more. If, in the absence of coded-wire tagging information then,
17 what you have to say is we have to take a more conservative
18 approach, we've got to wait until a larger proportion of the fish
19 are back to the stream and we know that they are back to the stream
20 and we're going to make escapement goals, and therefore you're
21 going to have to fish for a longer period time in a terminal
22 harvest area where the fish are worth less and where a lot higher
23 proportion of the wild fish, if there are any excess, will get
24 away, and you will -- in other words, what I'm saying is the fish
25 that you do catch will be worth less and you'll probably catch less
26 fish. See what I'm saying. Now, for an example, let's say that on

1 average year you have thirty million fish back. Am I getting too
2 far along here? Am I boring you?

3 MR. COLE: I'd say yes.

4 (Simultaneous laughter)

5 MR. PENNOYER: I take it your answer to his question is
6 yes.

7 (Simultaneous laughter)

8 MR. STIEGLITZ: One -- one quick follow-up question ...

9 MR. ROSIER: Yes. (Simultaneous laughter)

10 MR. STIEGLITZ: ... and that is, do you feel real
11 comfortable that you're able to adequately protect injured wild
12 stocks with this technique.

13 DR. SULLIVAN: Yes, I do.

14 MR. ROSIER: Mr. Pennoyer.

15 MR. PENNOYER: Small series of questions, too, then, to
16 clarify where we are on this project. I heard your answer to Walt
17 that you think this will work ...

18 DR. SULLIVAN: Yes.

19 MR. PENNOYER: ... as a management technique ...

20 DR. SULLIVAN: Right.

21 MR. PENNOYER: ... and I think we've agreed that
22 management is a valid restoration tool. It seems to me that with
23 the different productivity between wild and natural stock --
24 hatchery stock -- shouldn't we have to do something like this
25 forever ...

26 DR. SULLIVAN: That's right.

1 MR. PENNOYER: ... in Prince William Sound. It would be
2 part of the normal management program. At what stage -- what are
3 we funding? Are we funding a part of an ADF&G program that's
4 required to manage the resource irregardless (sic) or irrespective
5 of oil spills, and if so, are we funding something to get an answer
6 you can use in the future? Is this a long-term, ongoing process --
7 so, I -- I ...?

8 DR. SULLIVAN: Let me ...

9 MR. PENNOYER: I'm very sympathetic to doing this type of
10 work. I think it's a valid management technique and there ought to
11 be more interest in it ...

12 DR. SULLIVAN: Right.

13 MR. PENNOYER: ... but I -- I think we need to know where
14 it fits into our ...

15 DR. SULLIVAN: Okay.

16 MR. PENNOYER: ... scheme of doing business here, in
17 terms of restoration.

18 DR. SULLIVAN: Okay. Well, first of all, let me say that
19 the -- the -- unfortunately, the hand-out that you have has a
20 misleading -- a couple of misleading budget figures in it relative
21 to the -- to the detailed study -- project plan on this thing. It
22 shows us as needing -- as the whole project being somewhere four
23 hundred and twelve thousand dollars in this fiscal year and twenty-
24 seven thousand in the next fiscal year. That's not exactly right.
25 Here's what the deal is. For this particular group of fish that
26 are coming back now, what we're looking at is matching funds

1 between ADF&G, PWSAC, VFDA (ph) and the Trustee Council. Okay.
2 Part of what we have in there -- I think it shows twenty-seven
3 thousand for the next fiscal year -- what that means is that's the
4 portion that Fish & Game will spend to read those tags, and it just
5 happens to fall beyond October 1st, okay. So for that -- I mean,
6 we're spending other money as well. What I'm trying to say is that
7 far as an oil year is concerned, it's in a different oil year; as
8 far as Fish & -- as the state's fiscal year is concerned and
9 relative to this group of fish is concerned, it's -- you know --
10 the same group. So, what we're looking at then is right now we
11 don't have the money to fund the whole thing. PWSAC doesn't have
12 the money to fund the whole thing, nor does VFDA, okay. What we're
13 looking at is a similar program to this next year as well, and the
14 years after that and the years following that, yes, I do believe
15 there will need to be a program, but I also at that point, these
16 VFDS, PWSAC, and Fish & Game should be able to handle it on their
17 own without the involvement of the Trustee Council for any source
18 of money. Okay. At that point also, I think the entire program
19 will cost less because we will have a little bit more information,
20 and we will be able to back off a little bit on the sampling
21 effort. In other words, one of the things that's helping us, right
22 now -- the runway construction information is just now fitting in.
23 Every year you get this information, that helps you a little bit
24 better towards the next year. But, the answer is yes, we will be
25 asking for money next year. The year after and the years after
26 that the coded-wire tagging program will continue, we will not ask

1 the Trustee Council for help at that point.

2 MR. PENNOYER: Mr. Chairman, a couple of follow-up points
3 ...

4 MR. ROSIER: Yes.

5 MR. PENNOYER: ... that go along with the question that
6 Walt asked a little bit. We have and I think a lot of people out
7 there have been critical about funding or not funding coded-wire
8 tag programs. We did spend through the damage assessment process
9 the first year of restoration a considerable amount of money on
10 pink salmon coded-wire tagging, and we've had a lot of discussions
11 here about approving projects without having the results of what
12 was done previously. Now you're sort of asking for two years'
13 funding, although obviously we're not going to approve but one year
14 at a time ...

15 DR. SULLIVAN: Right.

16 MR. PENNOYER: How does that all that fit together
17 between an assessment of what we've done, what it meant, what
18 you're going to do this summer if it's approved, what it means
19 relative to the next year? When do we get this whole picture back
20 together so we understand the pink salmon management in Prince
21 William Sound?

22 DR. SULLIVAN: Okay. Relative to the coded-wire tag
23 programs that we have done in the past through the damage
24 assessment and early restoration projects, those reports are in to
25 the -- the coded-wire tag projects -- those reports are in to the
26 Chief Scientist now. They are under revision, and so, you know, how

1 ever long it takes to go out for review and being revised, so
2 however long it takes to do that, that's when the bottom line
3 answer will come on that. We do have runway construction projects
4 that I think will also assist greatly in understanding the dynamics
5 of Prince William Sound pink salmon, and that report I have been
6 promised either tomorrow or the first day or two of next week. So
7 as soon as we get that in, we will also ship that out to the -- to
8 the Chief Scientist and peer reviewers, so it's coming together
9 pretty fast. Okay. Tomorrow we should have the early marine
10 portion of that, although that -- the marine portion I don't think
11 will influence coded-wire tagging that much. It will simply help
12 us have a better understanding of the damage.

13 MR. ROSIER: Before we would be asking then for the
14 '94, anything in '94, we would have that information.

15 DR. SULLIVAN: Oh, absolutely. Absolutely.

16 MR. PENNOYER: Mr. Chairman, a follow-up then, one more
17 on this. The first time around we discussed this this year, both
18 the Chief Scientist and the Restoration Team fairly -- four to one
19 -- recommended against it, and my understanding now is the
20 Restoration Team went five-one voted for it; the Chief Scientist
21 approved it too. And, I'm still a little bit unsure as to what all
22 that means relative to either restoration activity or normal
23 management function funding activity and why they changed their
24 opinion around, and perhaps we could get an explanation on that
25 from the Restoration Team?

26 DR. MONTAGUE: Mr. Chairman? -- Is this on?

1 MR. PENNOYER: He can hear you.

2 DR. MONTAGUE: Alright. Relative to, I guess, describing
3 the chain of events that went about with the changes of opinions,
4 during the summer of last year when the '93 work plan was first
5 being developed, the coded-wire tagging proposal was much more
6 expensive, it was a more extensive project, and there was not any
7 commitments from any other funding source. So, one of the
8 objections was the size and the fact that the agency and users need
9 to recognize that they are not -- that they have a role in it too,
10 and it's not just the Trustee Council and the Restoration Team.
11 And another -- some other facts that relayed into that was that the
12 run reconstruction and life history models that predicted what the
13 real injury to the adults were was not presented until this
14 February meeting, so that information was not available during the
15 summer and one additional difference was the fact that the -- I
16 guess -- it's the same one -- the Chief Scientist was not as
17 convinced of an injury then as he is now.

18 MR. PENNOYER: I may think of something else later, go
19 ahead.

20 MR. ROSIER: Did you have something, Mr. Cole?

21 MR. COLE: Yes, I had a question. Was this project
22 presented to the Alaska Legislature in the recently concluded
23 session, I mean, as part of your budget request?

24 DR. MONTAGUE: Mr. Chairman and Attorney General Cole,
25 not part of the fifty million criminal money, you mean the regular
26 state budget request?

1 MR. ROSIER: I'm sorry, the general fund portion?
2 MR. COLE: It was not in either one?
3 DR. MONTAGUE: This was not in the fifty million dollar
4 criminal bill, but it is in the state budget request, general fund
5 ...
6 MR. COLE: And did the legislature reject it in the
7 general fund budget request?
8 DR. MONTAGUE: I'm not aware of what the outcome was.
9 MR. ROSIER: We know that basically we've been cut
10 about four million dollars in the state general fund dollars on
11 this. Now where that -- whether this specific project was, in
12 fact, remains to be seen, but we did not budget the entire four
13 hundred thousand dollars for this particular project.
14 MR. COLE: Why didn't we put it into the fifty
15 million dollar budget grouping?
16 MR. ROSIER: The -- because of the ongoing nature of
17 this, really. Mr. Pennoyer was quite correct when he indicated
18 that, you know, this is -- this is a long-term operational-type
19 program that will require that we, in fact, request the budget
20 cycle, at least the state portion of this, be funded by general
21 fund.
22 MR. COLE: My question is, the hurdle for me is, is
23 if the legislature doesn't want to fund this, why should the
24 Trustee Council meet it?
25 MR. ROSIER: Well ...
26 MR. COLE: Maybe Commissioner Sandor has a response.

1 MR. SANDOR: As I understand it, the reduction in part,
2 in major part, of the budget that you had run allocated, and you
3 have some discretion of where those cuts are to be made.

4 MR. ROSIER: That's correct.

5 MR. COLE: I know, but they cut four million, and
6 then -- I'm not being critical of Commissioner Rosier. Of course,
7 I'm not being critical of the legislature (simultaneous laughter) -
8 - you know, they cut four million, and then Commissioner can't do
9 these funding projects, so they come here and say we want the money
10 from this. I mean, you know, we're not sort of a catch-all, at
11 least as I understand it. I maybe wrong -- for what the
12 legislature, in its wisdom, decides not to fund. I mean, they had
13 -- I thought they had enough money from the income this year to be
14 able to fund projects like this, so why should we be, you know,
15 having to take the hit for -- the financial hit for this.

16 MR. SANDOR: But, Mr. Chairman, isn't it -- two hundred
17 and seven of this is coming from other sources?

18 MR. ROSIER: That's correct.

19 MR. COLE: I know, but if I may respond -- other
20 sources, that doesn't necessarily mean from the Alaska State
21 Legislature either. That's what I'm addressing.

22 MR. ROSIER: (Inaudible -- coughing)

23 MR. COLE: Well, I think we have to have a proverbial
24 hard look, as the Alaska Supreme Court says, at this sort of
25 business.

26 MR. ROSIER: Yes, Mr. Montague.

1 DR. MONTAGUE: Can I address that a little bit? The
2 primary answer to your question is for the restoration value, and
3 I understand the restoration value of both to the resource and the
4 service, I think it's key to know what the injury is, and the
5 injury to the service, first of all, was the closure of the fishery
6 in '89 -- the primary closure of the fishery -- and then the fish
7 that were in the early marine stage in 1989 in oiled areas was
8 estimated to result in a loss of several million adults coming back
9 in 1990, and the reduced egg and fry survival shown in the oiled
10 streams is estimated to currently result in several hundred
11 thousand -- a loss of several hundred thousand -- adult pink salmon
12 back to the wild streams. So, it is -- it had injury in the
13 beginning, both to the resource and the service, and it has a
14 chronic injury that's continuing up until now, so the reasoning,
15 you know, why the Council would want to participate in that would
16 be the same in many other restoration projects in that there's a
17 restoration benefit in terms of ensuring more fish back to the wild
18 oiled streams and ensuring better value and perhaps even a larger
19 catch for the commercial fisheries service that was injured.

20 MR. ROSIER: Mr. Pennoyer.

21 MR. PENNOYER: Mr. Chairman, I guess my question -- I was
22 sort of going along with that idea, and my problem was more at
23 which point do you slide from one to the other, and, in fact,
24 you've got an injured resource, and I think from Dr. Spies'
25 comments that he agrees with that, so I think we've got some
26 unanimity of -- agreement -- that there's some injury here even if

1 we can't quantify the total amount very well. But at some point,
2 this becomes a normal management function because, I'll guarantee
3 you, that everything you've said so far, oil or no oil, when we
4 slide back, if these did fully recover, and you went back to doing
5 your normal management job, they'd slide back down again. So, it's
6 some combination of management and oil spill that causes your
7 current problem, and in the long run it's going to be -- well,
8 heaven forbid another oil spill -- but the management anyway is
9 going to be your problem. So, at some point, the Trustee Council
10 has to have some way of deciding how long it's going to do this,
11 and if it's going to do it. I know we have done quite a bit of it.
12 I know a lot of people don't give the body credit for that, but
13 back over the last period of time since the spill, we've done quite
14 a bit of coded-wire tag and recovery work to get the, quote,
15 answer. Now, it appears to me that you think you've got, quote,
16 the answer, so we spent a lot of money to get the answer, now you
17 want funding to just go out and do the work. On the short term,
18 you're dealing definitely with -- well, I won't say definitely --
19 say, apparently -- with an injury, and also the funding is being
20 shared -- it's not all one thing or the other -- but at some point
21 it's going to slide over the other end and we get a normal
22 management, legislative requested function if it's really required
23 to manage fisheries in Prince William Sound, and it sounds like it
24 is.

25 MR. ROSIER: Well, yes. And in response to that, I
26 think that that's at least part of the strategy that we've put

1 forth here today on this is that this is important at the present
2 time. I think, as I stated early on, this is only one small issue
3 of one small problem that Prince William Sound has been faced with.
4 There is no question in my mind that we will, in fact, manage pink
5 salmon stocks in Prince William Sound this year, but the fact
6 remains is that we've got the opportunity here. We've seen it and
7 we've heard it, and we see it in the form of the -- certainly the
8 petitions have been put forth here -- that this is -- this is a
9 request. I certainly recognize, of course, that this is basically
10 an on-going management function at some point. However, we still
11 have questions in terms of the injury to the pink salmon resources
12 there. Those are continuing to be looked at, I think, by both
13 NMFS (ph) as well as ADF&G as part of the ongoing budgets. So,
14 it's not as if, you know, we're asking the Trustees to, in fact,
15 shoulder the entire load. I feel that, you know, if we can get
16 through, certainly this year and perhaps next year -- we're not
17 sure at the present time on this -- at that point then, the state
18 will, in fact, be willing to, in fact, take this program over,
19 probably in conjunction with the -- with the private sector, but
20 we're not geared to do that at the present time. Mr. Cole?

21 MR. COLE: Well, I -- my position -- I support the
22 project, but the reason is, notwithstanding my reservations about
23 legislative inaction, is that we have been a little shy of doing
24 what we ought to have done by way of restoration projects for the
25 fisherman in Prince William Sound. I think they were hit the
26 hardest, and I think it's a -- somewhat past time that ...

1 MR. ROSIER: Mr. Cole, we're getting the signal that
2 your microphone is upside down.

3 MR. COLE: Oh -- just as well (simultaneous laughter)
4 -- but I -- I think that we've got to move forward more rapidly and
5 -- in supporting restoration and helping the fishermen in Prince
6 William Sound. I think that come the June 1 meeting and June 2
7 meeting, I would like to see us prepared to move forward
8 aggressively in that arena. Sound alright, Mr. Barton.

9 MR. BARTON: Sounds good.

10 MR. ROSIER: Other comments? Pam.

11 MS. BERGMANN: I'd just like to make one point as a
12 participant in the conference call yesterday between the
13 Restoration Team and the Chief Scientist, I'm not sure that it's
14 accurate to say that the Chief Scientist supported the project. We
15 never really asked him that question directly. I think if we had,
16 he probably would have deferred and said this was more of a policy
17 call. I did ask him specifically if he had changed his mind about
18 pink salmon being injured at a population level. He indicated that
19 he had not changed his mind; he still had some concerns about
20 whether or not they were injured at a population level. I asked
21 him specifically how he viewed -- how effective he thought this
22 project would be in terms of restoring pink salmon, and he declined
23 to respond to that. He indicated that he thought it was good for
24 the resource, but he wouldn't -- didn't -- address the question as
25 to how effective it would be in terms of doing actual restoration
26 to an injured resource. So, again, I just think it was that -- he

1 did not clearly come out saying, yes, I'm behind this -- support
2 this project.

3 MR. PENNOYER: Mr. Chairman.

4 MR. ROSIER: Mr. Cole -- Mr.

5 MR. PENNOYER: Previously he came out and said --

6 MR. ROSIER: Mr. Cole.

7 MR. COLE: As a matter of personal request, I would
8 like to hear what Dr. French has to say about this. He's an
9 independent expert.

10 DR. JOHN FRENCH: I didn't really expect to say
11 anything about this. I guess, I should grab a mike so I'm on
12 record.

13 MR. COLE: Do you support this project?

14 DR. FRENCH: Yes. Very briefly, I do think that it's -
15 - with respect both to a management tool and to the effect of
16 rehabilitation of stocks in the Sound and elsewhere, it's important
17 to be able to use management tools that discriminate as much as
18 possible, and in that sense I think the coded-wire tags are a good
19 -- a good measure scientifically. Now, whether it's the best or
20 the only way to do it, that's another question. I think a lot of
21 other -- what everybody said about it being a policy call is
22 critical. I think the general lack of support of commercial
23 fisheries-affected activities by the Trustee Council is very
24 strongly felt, at least throughout the area I've been in, and I
25 think that's a critical factor to consider here also.

26 MR. SANDOR: You would support the project or not

1 support the project?

2 DR. FRENCH: I haven't seen the revised budget. The
3 first one was very expensive, but I -- this one I understand has
4 been pared down significantly, and I would support it at this time,
5 yes.

6 MR. ROSIER: Mr. Brodersen.

7 MR. BRODERSEN: Yes, sir. I would like to -- excuse me --
8 briefly characterize a little bit what I understood Bob Spies to
9 say yesterday about this project. Actually, Byron hit him up twice
10 specifically on this, and the Chief Scientist is still in the
11 position of saying that pinks as a species were injured, but he's
12 not sure there is a population effect yet, and I think that's
13 something that we need to clarify there, that it clearly was
14 injured, but it might not -- may not have been the population
15 effect, and so he was reluctant to come straight out and say he
16 supported the project as a restoration project, but he did say that
17 if one were to look at it in terms of an enhancement project, he
18 was fully behind it and would support it on that basis, and that he
19 could conceivably support it on the basis of a restoration project
20 once a better determination is made as to whether there was a
21 population effect on the species or not. As I'm sure you're all
22 aware, the Chief Scientist is very conservative on what he suggests
23 we do for restoration projects in looking for a population effect,
24 but that's a policy call that you, gentlemen, need to make.

25 UNIDENTIFIED VOICE: Question.

26 MR. ROSIER: The question has been called for.

1 MR. PENNOYER: Mr. Chairman.

2 MR. ROSIER: Yes, Mr. Pennoyer.

3 MR. PENNOYER: Excuse me, Mr. Cole. But, clearly, as far
4 as I'm concerned, if I'm voting on this, I'm voting on it for this
5 year, and we need to discuss this and arrange for the total
6 expenditures for next year, pursuing the many projects
7 aggressively, but this is not a two-year (indecipherable). We
8 review the results, and (indecipherable) we go from there.

9 MR. ROSIER: Mr. Barton.

10 MR. BARTON: I have one question related to loss of
11 service to commercial fishermen, is that a public loss or is that
12 a private loss?

13 MR. BRODERSEN: Mr. Chairman.

14 MR. ROSIER: Yes, Mr. Brodersen.

15 MR. COLE: ... the Department of Justice that
16 question.

17 MR. PENNOYER: Are you ducking?

18 MR. COLE: You know me.

19 (Simultaneous laughter)

20 MR. ROSIER: Mr. Brodersen.

21 MR. COLE: Let me respond to that if you will.
22 Several months ago, you will recall the Department of Law completed
23 its magna opus on the scope of restoration, replacement,
24 enhancement, etc., and we are trying -- have been trying -- for
25 sometime to get total agreement with the federal forces on that
26 document, and so, the reason that I do not respond -- the reason I

1 respond only obliquely to your question is because I wouldn't want
2 to pre-empt the Department of Justice and the federal forces'
3 analysis of that, you see.

4 MR. BARTON: Mr. Chairman.

5 MR. ROSIER: Yes, Mr. Barton.

6 MR. BARTON: I appreciate your desire to not pre-
7 condition the response from the federal forces, but, I mean, are
8 there private lawsuits -- have private lawsuits been filed because
9 of the loss of service to commercial fishermen?

10 MR. COLE: I'm not sure it's the theory of loss of
11 services; it's just loss of income from -- from the ability to
12 pursue their trade.

13 MR. BARTON: But that's essentially the same thing,
14 isn't it?

15 MR. COLE: Yes.

16 MR. ROSIER: Further comments? The question's been
17 called for. Those in favor signify by saying aye:

18 MR. PENNOYER, MR. COLE, MR. ROSIER, MR. BARTON, MR.
19 SANDOR: Aye.

20 MR. ROSIER: Those opposed?

21 MR. STIEGLITZ: Nay.

22 MR. ROSIER: Motion fails. We've got about ten minutes
23 until -- until we've got to break for setting up for the
24 teleconference on this, and we've got a number of items that are
25 still on the agenda sheet here. Dave, is there something that the
26 staff needs specifically off of here before the June meeting?

1 DR. GIBBONS: No, there isn't anything off here that --
2 Gary Thomas is here though. He made a trip in from Cordova, so if
3 we could talk perhaps about item ten, at least some feel for item
4 ten, which the MOU between -- do that

5 MR. ROSIER: Yes, Mr. Barton.

6 MR. BARTON: I'd like to know the Council's motives in
7 the blizzard of paper that went around here earlier, this May 13
8 letter from Koniag Incorporated, laying a formal offer on the table
9 for the subsurface rights at Seal Bay. I'm sure Mr. Cole noted that
10 and will pursue it as we earlier voted. The second thing I think
11 that needs cleaned up is that we did not designate a federal lead
12 agency for NEPA compliance on Seal Bay, and that probably needs to
13 be formally done -- or on the Afognak acquisition.

14 MR. COLE: Let the Forest Service do it, like they
15 did with Kachemak Bay (inaudible -- out of microphone range)

16 MR. ROSIER: Is that a motion Mr. Cole

17 MR. COLE: Yes.

18 MR. ROSIER: Motion made and seconded to identify the
19 Forest Service as the lead federal entity. Those in favor signify
20 by saying aye.

21 ALL TRUSTEES: Aye.

22 MR. ROSIER: Opposed? (No response) Congratulations.

23 MR. COLE: Glad you brought it up.

24 (Inaudible -- simultaneous laughter)

25 MR. ROSIER: Are there -- are there any other items on
26 the list here that the individual -- Dave?

1 DR. GIBBONS: You might talk about the next meeting. I
2 have a suggestion. It sounded like there might be a
3 teleconference, possibly early next week, so if you could adjourn
4 this meeting and not -- I mean, not adjourn it, but just continue
5 it on, to the first and the second, it might be -- facilitate a
6 teleconference or something that might be needed.

7 MR. ROSIER: I'm not sure I'm going to let you sit by
8 Mr. Pennoyer either. He's influence in both directions.
9 (Laughter) Alright. Are we on track -- are we on track as far as
10 the June meeting is concerned?

11 DR. GIBBONS: We are on track. There will not be a mid-
12 June meeting needed. The Trustee Council can deal with the '94
13 work plan on the 1st and the 2nd. Developing the assumptions,
14 we'll have a good feel there. So, I -- looking at the agenda, I
15 think we can conduct on the 1st and 2nd.

16 MR. COLE: Mr. Chairman.

17 MR. ROSIER: Yes, Mr. Cole.

18 MR. COLE: I -- I'd like to make another motion
19 dealing with this coded-wire. I -- I would move that instead of
20 transferring two hundred and thirty-two thousand from the Kenai
21 River sockeye salmon restoration project, number 93-015, that we
22 transfer only a hundred and fifty thousand from that project and
23 add it to the two hundred and seven thousand. I'll make that
24 motion now.

25 MR. SANDOR: I'll second it.

26 MR. ROSIER: Motion made and seconded to transfer a

1 hundred and fifty thousand from project 93015 to the coded-wire tag
2 recovery program for 1993 in Prince William Sound.

3 DR. MONTAGUE: Mr. Chairman.

4 MR. ROSIER: Yes -- Mr. Montague.

5 DR. MONTAGUE: The one thing we needed to mention about
6 that project, and that is that NOAA has completed National
7 Environmental Policy Act compliance on that and it did receive a
8 categorical exclusion. I probably should have said that before the
9 last vote.

10 MR. ROSIER: So that --

11 MR. PENNOYER: Mr. Chairman -- at least I understand --
12 I don't -- I guess I don't understand what that does to the
13 project, for the one thing, and two, what it does to change our
14 reasons for voting for or against it the last time. I -- maybe
15 what we need to do is just go back and having made modifications
16 and discuss again what the bases are for doing this or not doing
17 it, rather than just the change in the amount of money, even though
18 that is a rationale for doing it. Does a hundred and fifty thou --
19 first of all, does a hundred and fifty thousand dollars still leave
20 you a viable project.

21 MR. ROSIER: Mr. Chairman --

22 (Simultaneous laughter)

23 MR. PENNOYER: That's okay. It became kind of an
24 honorary title after being it for so long.

25 (Simultaneous laughter)

26 MR. ROSIER: I think we're about to begin sharing that,

1 Mr. Pennoyer, but -- (simultaneous laughter). But, I guess, at a
2 hundred and fifty thousand, basically, what that means is that
3 there would have to be additional match put -- put forward by the
4 participants in this, and -- and I'll certainly -- we would work
5 very diligently to, in fact, try to put that kind of match
6 together. But, if it's not a viable project and we can't put the
7 match together, it means the hundred and fifty thousand wouldn't be
8 spent. Yes, John?

9 MR. SANDOR: Well, I'd like to answer to the second
10 question that you raised, and I think perhaps the fishermen of
11 Prince William Sound and those who passed resolutions similarly
12 would like to know, really, and I do not know, why did that project
13 fail? I don't even know who voted against it. But if it failed on
14 a six to one vote or a five to one vote, or whatever else, what --
15 why did it fail?

16 MR. ROSIER: Mr. Stieglitz.

17 MR. STIEGLITZ: Yeah -- let me explain why I opposed the
18 motion, and it goes along the lines that Mr. Pennoyer was following
19 early on. At some point in time, you have to make the break, it
20 occurs to me, in leaving the use of restoration funds to support
21 this kind of project. And this is purely a management problem at
22 this point, and it's going to be a management problem for, who
23 knows, off into the future, and I don't think you can continue to
24 use Exxon Valdez restoration funds to fund a project that is
25 clearly in the management arena, even though -- you know, there's
26 even some question about the linkage between this and the damaged

1 resource, i.e., pink salmon. I just have a hard time funding, even
2 for one more year, a project that falls in that category. I'm very
3 sympathetic to the funding problems that ADF&G has, and I'm
4 sympathetic to the commercial fishermen in Prince William Sound,
5 but it appears to me like we have some responsibility to draw that
6 line, and in my mind and in that case -- in the case of that
7 project, it's time to draw it.

8 MR. COLE: Mr. Chairman.

9 MR. ROSIER: Yes, Mr. Cole.

10 MR. COLE: Well, isn't the purpose of this study to
11 make that very determination of whether what is occurring out there
12 in the Sound is owing to the spill and the subsequent effects?
13 That's what we're really getting at. That's why I support the
14 project -- because we haven't really said this is unrelated to the
15 spill, because we know that there's variations occurring out there
16 -- John?

17 MR. SANDOR: Well, we've also heard, Mr. Chairman, that
18 -- the Chief Scientist acknowledges that the species was damaged to
19 an extent, but the question of population is still up in the air.
20 But the other point that's significant, I think, is that the Chief
21 Scientist recognized this as an enhancement; it's not for
22 restoration. And it seems to me that the enhancement aspect of
23 this is as important and certainly is authorized by the consent
24 decree.

25 MR. ROSIER: This -- I think Mr. Stieglitz has raised
26 a good point here on this, but I think that, you know, this becomes

1 a policy issue in my mind at virtually every species that we're
2 dealing with. We've got bird projects, and we've got
3 (indecipherable) projects, and at what point does it become the
4 responsibility of the individual management agencies to pick up
5 those costs. There's -- you know, I feel badly, of course, that
6 this particular project is the one that's the focus here on this,
7 because I can think of several projects that have been approved for
8 this year which, in my view, following that particular policy, we
9 should not be funding. John?

10 MR. SANDOR: Well -- finally, the fact that this is a
11 shared funding, I recognize that this is both the restoration/
12 enhancement as well as a management function itself, and it just
13 brings -- gathers the remaining information that we need to really
14 define what, in fact, has happened and is happening.

15 MR. ROSIER: Mr. Pennoyer.

16 MR. ROSIER: Mr. Chairman, clearly one of the questions
17 we're asking here is when do we stop restoring and/or enhancing,
18 whatever we decide to do with our restoration funding in its final
19 analysis, and that's one of the questions we ask in our restoration
20 planning document we're sending around is when do you quit
21 enhancing or restoring, or whatever, an injured resource? When is
22 enough enough? Do you quit when that injured resource recovers to
23 pre-spill levels? Do you continue after that? We don't have the
24 answer to that question either to (indecipherable) legal because
25 this paper Attorney General Cole referred to has not yet been
26 responded to by the federal forces. We don't have it from a policy

1 standpoint because we haven't completed our restoration plan. And
2 I guess my druthers is the first time we voted on this was that we
3 wait until we get those answers and have the plan in front of us to
4 decide how ongoing management or management enhancement plays in
5 our total expenditure of restoration funds. For that reason, I
6 voted against it the first time. I'm compelled this time to have
7 done it on a one-year basis -- not for the second year necessarily
8 -- because there is an answer to be had out there, there's an
9 opportunity to be lost out there because of the money invested in
10 tagging those fish and the practical conditions come together to
11 work on getting these answers. I think it will become an ongoing
12 management responsibility at some point -- and whether we do some
13 of that even, as part of our enhancement, in the final analysis
14 it's going to depend on this total restoration plan that we put
15 together. Based on that, we sort of said for '93 we would not
16 undertake any of these things. We would wait until we had a '94
17 work plan and a restoration plan done to make that decision.
18 However, I am compelled by the fact that the resource was injured,
19 by the fact that we have an ongoing investment in this stock and
20 the research dealing with it, and we have people willing to
21 cooperate on the tagging -- or the tag and tag recovery -- to go
22 ahead on a one-year basis and say, let's do it. I still think that
23 at some point Fish & Game is going to have to make that decision on
24 priorities, but I -- that's why I voted for it, and I'm really not
25 -- with that discussion, I'd just as soon -- if we -- if we decided
26 to do it, I'd as soon not come back and do it at an amount that

1 wasn't going to provide for the full project. If you have to alter
2 it and make it two hundred and thirty thousand instead of two
3 hundred and thirty-two if you want to vote on it again, but I --
4 but that's why I voted for it this time, and I voted against it the
5 last time, and I'm not sure I'll vote for it next year.

6 MR. ROSIER: Mr. Cole.

7 MR. COLE: What I find troubling is that we committed
8 today thirty-eight million for habitat acquisition, and then we
9 say, well, you know, we want to take two hundred and thirty-two
10 thousand dollars off the backs of the fishermen in Prince William
11 Sound. Those are projects which I -- like I say, the people who
12 took the hardest personal hit of anybody in the spill, and say,
13 well, that's outside where we are. And I think we owe it to those
14 people to give them all the support that we can muster, and two and
15 thirty-two thousand dollars is not much of a contribution if we can
16 add some relief to the problems they're having out there. I think
17 we must do this.

18 MR. ROSIER: Yes, Mr. Stieglitz.

19 MR. STIEGLITZ: I'd think I ought to respond to that.
20 Charlie, I guess I'm not comfortable with your comment that this is
21 a shot at the commercial fishermen. It's not that at all.

22 MR. COLE: I don't say that personally.

23 MR. STIEGLITZ: I have -- I have -- as I said, I have
24 complete sympathy for the problem commercial fishermen had in
25 Prince William Sound for causes related to the spill. But it's not
26 in the context that we're trying to benefit one group of people

1 versus another group of people.

2 MR. COLE: Well, let me respond since we're narrowing
3 down ...

4 MR. ROSIER: Mr. Cole.

5 MR. COLE: I thought there were projects from the
6 Department of the Interior or somebody to spend a half a million
7 dollars piping music to the murrens out there, you know, on some of
8 these islands that were so steep that someone said you had to hire
9 mountain climbers to get up there to put the -- photograph them out
10 there.

11 MR. STIEGLITZ: I voted against that one.

12 MR. COLE: No, but I'm not saying what we did, I'm
13 saying this was a Department of the Interior project, and I'm
14 saying that -- you know, if you want to make a comparative
15 analysis, these fishermen who were hard hit I think we have not
16 done enough for them, and this is a project that they think is
17 important to them, those people who were out there plying the
18 waters as a way of life, and I think we should give great deference
19 to their views as to what's important to them to provide
20 restoration, replacement, enhancement of these injured resources.
21 They're the ones, in my view, who are better able than all these
22 scientists to, I think, make that decision, and I think we should
23 give great deference to what they think would help them most.

24 MR. ROSIER: Mr. Sandor.

25 MR. SANDOR: I am also somewhat troubled by Mr.
26 Stieglitz's last comment, as I understand it, with respect to the

1 fishermen and the fact that they were impacted and that we ought
2 not give consideration. A lot of resources and services damaged,
3 certainly harlequin ducks and the marbled murrelets, and so forth,
4 and so forth, but people as well. And individuals were impacted by
5 the spill, communities were impacted by the spill. They, too, need
6 to be restored and their benefits enhanced. And it's incredible to
7 me that we would not give as much recognition to the individual
8 people who were adversely impacted as we would by, you know, any
9 individual species. So, I guess I'm a little bit -- the rationale
10 for not voting for this particular thing has not been clarified by
11 the discussion of the last fifteen minutes, and I -- so, therefore,
12 move that if it's not possible to -- or recognize my support -- if
13 it's not possible to give the original proposal, I support the one
14 hundred and fifty thousand -- and get the additional matching money
15 from wherever. So, I guess --.

16 MR. ROSIER: Mr. Barton, a question?

17 MR. BARTON: Mr. Chairman, I -- I think we've got a
18 little tunnel vision here. We've spent millions of dollars on
19 fisheries studies and fisheries work over the last four years, so
20 to say that we've not done that and imply that we've not done that,
21 I think is a great disservice to the Council.

22 MR. ROSIER: Mr. Brodersen.

23 MR. BRODERSEN: Thank you, Mr. Chairman. We've spent a
24 tremendous amount of money on damage assessment, trying to figure
25 out what problems we had and didn't have with various injured
26 resources throughout the spill area. We have also determined that

1 the restoration measures available to us are somewhat limited. One
2 of the measures that clearly should be available to us is
3 enhancement of management action or increased management actions to
4 be able to restore some of these injured species through better
5 management. I heard statements earlier that troubled me greatly
6 that -- that perhaps we shouldn't now be doing any more restoration
7 implementation actions where they involve management. I -- I hope
8 that that's not the road that we're going down, because of the
9 dollars that we spent on damage assessment, clearly some of the
10 most cost-effective things we can do for actual restoration
11 implementation is to improve our management abilities to get these
12 injured resources restored.

13 MR. ROSIER: Mr. Brodersen, I think on that particular
14 point, I believe that the question was really one of when you make
15 the separation, not that we were, in fact, deleting the management
16 -- actions -- as a restoration-type approach.

17 MR. BRODERSEN: I heard that, and I also want to add on to
18 that that we essentially have not done much in terms of direct
19 restoration or restoration implementation through management or any
20 other activity, and that to cut off management actions now says
21 that we're not going to do direct restoration implementation
22 through management actions, at least that's my -- I thought I was
23 hearing. I was hoping to get that clarified.

24 MR. ROSIER: Yes.

25 MR. STIEGLITZ: Let me respond. I didn't hear anyone say
26 that. We're talking about one particular project that seems to

1 have management implications that are going to go off into the
2 indefinite future. Nobody has -- I haven't heard anybody say how
3 many years we're talking about here ...

4 MR. COLE: One, I thought.

5 MR. STIEGLITZ: No, that's not -- I heard Steve Pennoyer
6 comment that in his vote indicate he was voting for it for one
7 year. That's not part of the motion. The testimony I heard
8 indicated that this need is going to go on for a period of years.
9 Nobody knew how many years. Definitely this year and next year,
10 and I heard the gentlemen say, yeah, and beyond that. That's the
11 kind of project that I'm talking about that I have some concern
12 about starting off on a road that's going to commit restoration
13 funds off into the future with no known end to it. That's what I'm
14 concerned about. I want to make that very clear. That's the only
15 reason I made the comments that I did.

16 MR. ROSIER: Well, I think that if we, again, have a
17 restoration plan out that (a), pick any particular strategy to deal
18 with restoration and enhancement as part of this package that we
19 have as part of the whole restoration process. That has not been
20 decided that. We have not decided what that mix will be. We've
21 made a few decisions. We've bought some land here, we've committed
22 to a museum, done some other things, but by and large we've barely
23 scratched the surface on deciding what we're going to do for
24 restoration. One of the tools in that kit, and I think we've
25 agreed to send out there, is management action, and we then haven't
26 taken the next step in which is also in that kit for how long and

1 to what level of recovery. I think those are all possible options.
2 But, again, we're in a timing situation here because we said in '93
3 we probably wouldn't do very much restoration implementation unless
4 it's time-critical.

5 MR. COLE: And we axed several projects ...

6 MR. PENNOYER: And we axed several of them. And, again,
7 this one originally was one of those. The other reason I was
8 compelled to think of it differently at this time was not because
9 I was making a decision we're going to fund this thing all out into
10 the future at some level -- one year -- but because we were going
11 to lose an opportunity because of the tags that are already out
12 there, the ability of these people to come together and fund
13 something -- and that was also my question about when these reports
14 are going to come out -- to see how effective this strategy is
15 going to be and make those decisions when we get the restoration
16 plan review done. So, I don't think (indecipherable) we're ruling
17 that out. Walt, I hope you don't think I was voting for it because
18 I was agreeing we should fund, quote, normal, whatever those are,
19 management actions on into the future, because I wasn't.

20 DR. MONTAGUE: Mr. Chairman.

21 MR. ROSIER: Yes, Mr. Montague.

22 DR. MONTAGUE: There's a number of important points that
23 I just feel really compelled to talk about, and one of them is that
24 every natural resource agency has its management mandates. What
25 we're really talking about here is better management for the sake
26 of restoration. And there isn't any harvest that couldn't be

1 managed better, and one of our theses relative to restoration is
2 that dollar-for-dollar, we can put more injured resources of a
3 harvested population back into their wild breeding areas for
4 restoration purposes cheaper through better management than we
5 currently do than really any other restoration action. When you
6 compare, say, the value of how many more fish are you going to have
7 in these anadromous streams by purchasing these habitats, dollar
8 for dollar I think it would be far more expensive giving, you know,
9 having more fish back from that than it would be from better
10 management actions. I feel that better management is really being
11 short-shrifted as a real cost-effective restoration action, and,
12 you know, the argument has been, you know, this is something that
13 you should already be doing, I guess I would, not meaning to single
14 anybody out, but just an example that is well understood, for
15 instance is DNR's mandate to acquire state parks, and obviously,
16 Kachemak Bay State Park was one that's been wanted for awhile. I
17 guess, you know, you could use the argument that if the state
18 wanted it, they'd have bought it. And with the Department of the
19 Interior with their in-holdings in the wildlife refuges and in the
20 national parks, it is their mandate to eventually acquire those,
21 and my guess is that it's almost like saying you're supposed to get
22 them anyway, so why should the Trustee Council funds be used for
23 it, and, you know, it's the same thing ...

24 MR. ROSIER: Dr. Montague, I going to have to cut you
25 off here. We've got to vote on this -- this issue -- and we've got
26 to prepare for a public hearing here in about thirty seconds. Yes,

1 John?

2 MR. SANDOR: Quickly, since the issue really is a -- is
3 just is this a multi-year or just a single-year project, my vote
4 for it is a single year project, and if the mover of the motion
5 would agree that we're talking about a single year as opposed to
6 multi-year, maybe we can clear that one up.

7 MR. COLE: Of course. Only one year.

8 MR. SANDOR: I call for the question.

9 MR. ROSIER: The question's been called for. Those in
10 favor, signify by saying aye.

11 ALL TRUSTEES: Aye.

12 MR. ROSIER: Opposed? (No response) The project was
13 approved at the hundred and fifty thousand dollar level.

14 MR. STIEGLITZ: If I might comment?

15 MR. ROSIER: Yes, Mr. Stieglitz.

16 MR. STIEGLITZ: I was certainly swayed by the strong
17 arguments made by my colleagues on this board. The killing point
18 in my mind is the one-year funding. I'm concerned about the long-
19 term trough we might place ourselves into.

20 MR. ROSIER: Let's take a break here. We've got to set
21 up now for the public hearing -- the public comment period. Ten
22 minutes? Alright.

23 (Off Record at 4:00 p.m.)

24 (On Record at 4:15 p.m.)

25 MR. ROSIER: Good evening. Good evening, ladies and
26 gentlemen. We'd like to get this public comment period started

1 here. We're sorry we're running a little behind time here. The
2 Council has been working very hard. It's taken some very
3 significant actions here today that we're outline for the various
4 groups. Could we -- I'd like to know how many sites are on line
5 here at the present time. Is Chenega Bay on?

6 TELECONFERENCE BRIDGE OPERATOR: This is the bridge
7 operator. No.

8 MR. ROSIER: Okay. Cordova?

9 TELECONFERENCE BRIDGE OPERATOR: Yes.

10 MR. ROSIER: Okay. Fairbanks -- Legislative
11 Information Office?

12 TELECONFERENCE BRIDGE OPERATOR: Yes.

13 MR. ROSIER: General Legislative Information Office?

14 TELECONFERENCE BRIDGE OPERATOR: No.

15 MR. ROSIER: Homer teleconference center?

16 TELECONFERENCE BRIDGE OPERATOR: No.

17 MR. ROSIER: Kenai Peninsula, Soldotna, Legislative
18 Info' Office?

19 TELECONFERENCE BRIDGE OPERATOR: Yes.

20 MR. ROSIER: Kodiak Legislative Information Office?

21 TELECONFERENCE BRIDGE OPERATOR: Yes.

22 MR. ROSIER: Seward volunteer teleconference center?

23 TELECONFERENCE BRIDGE OPERATOR: No. No one else is
24 on. You've hit the ones that are on.

25 MR. ROSIER: Okay. Tatitlek, Valdez, and Whittier,
26 those stations are not on?

1 TELECONFERENCE BRIDGE OPERATOR: That's correct.

2 MR. ROSIER: Alright. Good enough then. I would --
3 we'll start the comment period here this evening with Chenega Bay,
4 and I would ask that the individuals that are there to testify,
5 please -- oh, yes, I would ask the participants to, in fact, hold
6 their comments to five minutes or thereabouts, if possible, but
7 before we're getting started here, I would like to have Dave
8 Gibbons give a review of the information regarding the actions that
9 the Trustee Council has taken here today. Dave, would you proceed,
10 please.

11 DR. GIBBONS: Thank you, Mr. Chairman. The first action
12 item today dealt with the budget. The Trustee Council adopted a
13 reduced four-month administrative support budget for a period June
14 1st, '93, to September 30th, '93. That was proposed by the
15 Administrative Director and the Restoration Team. The Trustee
16 Council next approved a motion that the Trustee Council agreed to
17 accept Seal Bay proposal number three for thirty-eight point seven
18 million dollars for the purchase of seventeen thousand three
19 hundred and ninety-one acres in the Seal Bay, and Seal Bay will
20 donate its approximately twenty-five thousand acres on Tonki Cape,
21 so the total acreage is probably approximately about thirty-two --
22 forty-two thousand -- acres, excuse me. Their sale price, subject
23 to the appraisal. If the appraisal is less than thirty-eight point
24 seven million dollars, Seal Bay has the option to sell at the
25 appraised price, and the Council will buy at the sales price. If
26 the appraisal is more than thirty-eight point seven million

1 dollars, one, if more than thirty-eight point seven million dollars
2 and less than forty-two million dollars, Seal Bay agrees to sell
3 and the Council agrees to buy at sales price of thirty-eight point
4 seven million dollars. If appraisal is more than forty-two million
5 dollars, Seal Bay has option to rescind the offer. The agreement
6 is also subject to the Seal Bay board approval and satisfaction of
7 hazardous waste survey, title search, NEPA compliance, and the
8 appraisal as mentioned above. All conditions of this agreement
9 will be completed within sixty days or can be extended by the
10 mutual agreement of both parties. The payment will be installment
11 payments of a three-year term agreement at the federally determined
12 interest rate. The Council also specified that they will not pay
13 more than thirty-eight point seven million dollars, and that Seal
14 Bay board or activities will cease further land use activity in the
15 Seal Bay area. The next motion the Trustee Council passed was to
16 have the Department of Law work with the subsurface rights owners
17 of the Seal Bay and Tonki Peninsula properties for possible
18 acquisition. The next motion they approved was to approve funding
19 for an appraisal and hazardous waste survey for the Seal Bay
20 properties. The Trustee Council took an action to review the
21 habitat identification and acquisition coordinating and approval
22 process guidelines at the June 1st and 2nd. The Trustee Council
23 has deferred this item for further review for the June 1st and 2nd
24 meeting. The Trustee Council approved a motion to approve up to
25 fifteen thousand dollars to cover Coast Guard participation travel
26 costs in the shoreline assessment project 93038 previously approved

1 by the Trustee Council. The Trustee Council approved that the U.S.
2 Forest Service would be designated lead federal agency for the Seal
3 Bay NEPA compliance work, and the final motion passed today was the
4 Trustee Council approved a hundred fifty thousand dollars for the
5 pink salmon coded-wire tag study -- that it's matching the two
6 hundred and seven thousand eight hundred dollars from other
7 sources, the state and private, for 1993 only -- a one year
8 funding.

9 UNIDENTIFIED VOICE: (Inaudible -- out of microphone
10 range)

11 DR. GIBBONS: Yeah, it was transferred from 93015.

12 MR. ROSIER: Thank you, Dave. I think, with that, if
13 we could start with individuals present at the Chenega Bay site,
14 please step up to the mike and speak loudly so that we can hear
15 you, and go ahead, Chenega Bay.

16 TELECONFERENCE OPERATOR: There's no one there.

17 MR. ROSIER: Oh, Chenega Bay is out? I guess we go to
18 Cordova. Cordova is next.

19 MR. BOB PLUMB: (ph) Yes, my name is Bob Plumb. I'm a
20 commercial -- am I coming in sound-wise?

21 MR. ROSIER: Yes, you're coming in loud and -- loud and
22 clear, Mr. Plumb.

23 MR. PLUMB: Yes. I've got a couple -- one suggestion.
24 I'd like to see the public comment period happen twice. I would
25 like to see it happen at the beginning of your meetings and at the
26 end so that action that you take during your meeting can reflect

1 the public comment. Also, I was going to speak in favor of coded-
2 wire tagging for the salmon. My -- matching funding to me is when
3 you match everything that's there. That's what I'd say on that,
4 and I'll pass the microphone on to somebody else here.

5 MR. ROSIER: Okay. Hold on there, Mr. Plumb. Any
6 comments or questions for Mr. Plumb from the -- from the Council?
7 Hearing none, we'll take a second speaker from Cordova there,
8 please.

9 MS. NANCY BIRD: (ph) Yes. This is Nancy Bird in
10 Cordova. I would like to thank the Council very much for many of
11 the actions it appears you have taken today. I was trying to take
12 notes as Mr. Gibbons gave the summary, but it sounds like there are
13 some very good things finally happening. I would like to thank you
14 for the monies for the coded-wire tag project. It will mean a lot
15 to this community, as well as the commercial fishermen in Prince
16 William Sound, sport fishermen, subsistence users, the whole gamut.
17 Can I ask a question about the other two projects that the City of
18 Cordova's resolution 9325 spoke to, what kind of actions were --
19 what kind of discussions occurred, and if there is some future
20 action that might happen on those.

21 MR. ROSIER: Those two projects regarding herring and
22 the coded-wire tag recovery on the longer-lived species will have
23 to be considered at a future meeting. There was -- they were
24 brought up, but there was no debate or discussion on those. It
25 centered entirely on the pink salmon project.

26 MS. BIRD: Okay. Well, if I could just reiterate.

1 I guess it's my understanding, unless I'm mistaken, that the coded-
2 wire tag recoveries for the chum, sockeye, coho and chinook salmon
3 fisheries are just as important as the pink salmon project. Those
4 tags, if they aren't recovered this summer, they're not going to
5 get recovered, and the data will be lost forever. You know, it
6 seems like a relative small amount of money for what could be very
7 important data for Prince William Sound and the residents of this
8 region that depend on those fisheries. So, I would just like to
9 urge that that be reconsidered at your June 1st, 2nd, meeting if
10 I'm correct in hearing that that's the date of the next meeting.

11 MR. ROSIER: Thank you, Ms. Bird. Okay. I think --
12 how many people -- how many people do we have to testify in
13 Cordova.

14 TELECONFERENCE BRIDGE OPERATOR: There are several
15 other observers, but I don't see anybody else raising their hand to
16 testify.

17 MR. ROSIER: Okay. Then we'll move on to Kenai
18 Peninsula -- I believe that was the next -- or Fairbanks? Okay.
19 Let's move on to the Fairbanks Legislative Information Office then.
20 Is there anyone there to testify in the Fairbanks office? Is there
21 anyone to testify at the Fairbanks office?

22 TELECONFERENCE BRIDGE OPERATOR: No, there is not.

23 MR. ROSIER: Okay. And according to my notes, the
24 general is off, Homer is off. The Kenai Peninsula, Soldotna office
25 is the next office, is there anyone at the Kenai office to testify?

26 TELECONFERENCE BRIDGE OPERATOR: Yes, there's two folks

1 here.

2 MR. ROSIER: Yes, please proceed with your first
3 individual, please.

4 MR. WADE WAHRENBROCK: My name is Wade Wahrenbrock, and
5 I guess as compared testimony or maybe some questions to start off
6 with, and concerning the Seal Bay area, your proposals there ...

7 MR. ROSIER: I'm sorry, what was -- what was the name
8 again.

9 MR. WAHRENBROCK: Wade Wahrenbrock.

10 MR. ROSIER: Would you spell that, please.

11 MR. WAHRENBROCK: First name is W-A-D-E. The last is
12 W-A-H-R-E-N-B-R-O-C-K.

13 MR. ROSIER: Okay. Go ahead, there Mr. Waynebrock (ph)
14 (sic). Is it Waynebrock?

15 MR. WAHRENBROCK: Wahrenbrock.

16 MR. ROSIER: Wahrenbrock. Okay.

17 MR. WAHRENBROCK: I guess I just wanted to ask a couple
18 of questions, if I might, in regards to the Seal Bay purchase
19 proposal here. Is there some information as far as the basis of
20 habitat protection your decision was made on there, or what are we
21 protecting, I guess is what I'm after?

22 MR. ROSIER: Yes. There's a substantial amount of
23 information there on that. Dave, do you want to ...?

24 MR. COLE: Mr. Chairman.

25 MR. ROSIER: Yes.

26 MR. COLE: Could we make arrangements to have Mr.

1 Gibbons mail that to Mr. Wahrenbrock. We have some data, and I
2 think it would be more beneficial perhaps if he had the written
3 supporting data than if we tended to summarize it and -- in ten
4 seconds on the teleconference.

5 MR. ROSIER: Would that be satisfactory, Wade?

6 MR. WAHRENBROCK: Yes, it sure would. I appreciate
7 that. In view of that though, is there going to be another chance
8 to provide public comment after that's received?

9 MR. ROSIER: Well, certainly, with every new -- new
10 meeting of the Council, we have a public comment period.

11 MR. WAHRENBROCK: Okay. If you could mail that to me,
12 I guess that would be appreciated, and that's about all I have to
13 say. Thank you.

14 DR. GIBBONS: Could I get your address, please.

15 MR. WAHRENBROCK: Yes. It's P.O. Box 628, Soldotna.

16 MR. ROSIER: Okay. Good enough. Is that all you had,
17 Wade.

18 MR. WAHRENBROCK: Well, maybe one other question here.
19 In regarding -- if that land is purchased, presumably there would
20 be some agency set aside to -- as a land manager. What agency is
21 identified for that?

22 MR. ROSIER: That --

23 MR. COLE: Department of Natural Resources.

24 UNIDENTIFIED VOICE: Department of Law, I thought.

25 MR. ROSIER: That and the ownership of that -- has not
26 been determined at this point in time, Wade.

1 MR. WAHRENBROCK: Okay. DNR is the designated agency
2 at this time, I presume?

3 MR. ROSIER: Mr. Cole.

4 MR. COLE: Well, I think we can say this much, the
5 title will vest in the State of Alaska, and I would imagine that
6 the Department of Natural Resources as the land manager for the
7 State of Alaska would have the management authority, in
8 conjunction, of course, with the Department of Fish & Game.

9 MR. WAHRENBROCK: Okay. (Indecipherable) giving me the
10 opportunity here. Thank you very much.

11 MR. ROSIER: Thank you, Wade. Is there another person
12 to testify there in Kenai?

13 MS. JACQUELINE PAYNE: Yes.

14 MR. ROSIER: Please proceed.

15 MS. PAYNE: The name is Jacqueline Payne, and the
16 address is Post Office Box 1982 -- that's Kenai, Alaska.

17 MR. ROSIER: Was that Jacqueline Kenney? Kunny?

18 MS. PAYNE: Payne. P-A-Y-N-E.

19 MR. ROSIER: Payne. Okay, thank you. Please proceed.

20 MS. PAYNE: Yes, I just have a question. I had spoke
21 earlier. I just returned from Dallas, Texas, getting treatment on
22 one of the Exxon Valdez oil spill workers that has been injured by
23 the hydrocarbons, and I guess I'm here representing the workers
24 that are injured. And what I would like to know is there any
25 possibility of getting established a fund to help these workers?
26 You know, most of the workers they have lawsuits pending, but that

1 is not helping us survive at this point, and I guess what I want to
2 know is there any possibility of getting an established fund to
3 help these people survive? It's pretty asinine to have spent
4 seventy thousand dollars per otter and not one dime on any of the
5 workers that suffer from the same ills and problems.

6 MR. ROSIER: This -- this is the first time that this
7 particular issue has been even raised with the Trustee Council to
8 my knowledge. Mr. Cole, do you have anything you might add to that
9 in way of a response to the lady.

10 MR. COLE: No.

11 MR. ROSIER: Okay.

12 MS. PAYNE: One of the workers, sir, is right now
13 hospitalized in the Soldotna Hospital. He needs a liver
14 transplant, but it wouldn't do him any good because he has many
15 hydrocarbons in his body at this point. It would make life a
16 little easier if there was a fund established to help us buy the
17 vitamins and the minerals and the supplements we need right now.

18 MR. ROSIER: Yes.

19 MR. COLE: Don't you have workers' compensation
20 benefits?

21 MS. PAYNE: We've all been denied our workman's
22 compensation benefits with these hydrocarbons. I know of no one
23 that has received any help from workman's comp. And time is of the
24 essence, sir. I would be happy to bring you any information to
25 Anchorage and give it to Mr. Gibbons or anybody else to help get
26 this promoted -- some kind of a fund to help us.

1 MR. PENNOYER: Mr. Chairman, I'm sorry, but -- very
2 sympathetic to the plight, but isn't that outside the scope of the
3 settlement agreement, an agreement to provide funds directly for
4 injuries of that nature?

5 MS. PAYNE: We're talking about restoring the health
6 to the works, sir. You're restoring the beaches, the forests, the
7 mammals, the birds, the fish. You're restoring the -- I understand
8 this -- they're suffering too. They just can't talk about it.
9 They're blind too. They can't talk about it. But we need to have
10 help to restore us.

11 MR. ROSIER: Well, I think -- I think, Jacqueline, that
12 -- that is the rehabbing of the human beings that might be
13 associated with the spill, might be a little bit outside of the
14 agreement here on this, but it seems to me that you do have the
15 recourse to the -- to the courts on this, and it would seem to me
16 that that's really where the ultimate -- ultimate settlement would
17 have to occur, rather than the Trustees. I believe we have to do
18 deal with the resources, the natural resources, that were in fact
19 harmed, but I'm afraid that's about the best I can offer you at the
20 present time.

21 MS. PAYNE: If there's any help at all, I would be
22 happy to come to Anchorage and to discuss it with the Council. Is
23 there any way we could take a vote on it in the State of Alaska?

24 MR. ROSIER: Well, I'm not aware of a procedure for
25 dealing with that -- that particular issue, but certainly you're
26 more than welcome to -- to approach the Council at any time with

1 these, but at this point I don't think we have a definite answer
2 for you.

3 MS. PAYNE: I appreciate you having the opportunity --
4 giving me the opportunity here to discuss this. Thank you very
5 much.

6 MR. ROSIER: Thank you. Let's move on to Kodiak at the
7 present time. Is Kodiak on line?

8 MR. JEROME SELBY: Yes, Mr. Chairman. This is Jerome
9 Selby, Mayor of the Kodiak Island Borough. I -- thanks for putting
10 us on teleconference. I just want to say thanks for -- sounds like
11 you did a lot of hard work on Seal Bay. We really appreciate the
12 consideration. Sounds like you have a pretty good package put
13 together, and just want to say thanks a lot, and we're just
14 listening in. Thanks.

15 MR. ROSIER: Very good. Thank you, Mr. Mayor. Are
16 there other people there to testify there in Kodiak?

17 TELECONFERENCE OPERATOR: No, we just have a couple of
18 other folks listening here, thanks.

19 MR. ROSIER: Okay. And Anchorage, do we have anyone
20 here that would like to testify? Ms. Mary McBurney, would you like
21 to come forward, please.

22 MS. MARY MCBURNEY: For the record, my name is Mary
23 McBurney. I'm Executive Director for Cordova District Fishermen
24 United, and I would just like to express my appreciation for the
25 funding that you provided to support the coded-wire tag recovery
26 for the pink salmon this year in Prince William Sound. You did the

1 right thing. Thank you. One thing that wasn't mentioned though in
2 the resolution that was recently passed by the City of Cordova is
3 that we are extending an invitation to each and every one of you to
4 come and visit us, and we would certainly hope that sometime in the
5 future, perhaps after the fishing season is complete, maybe in
6 September or so, that you would consider coming and visiting, and
7 so that we could take you around the Sound so you can see some of
8 the places that are very near and dear to us, and most importantly
9 to also meet us and talk to the people that have been living with
10 the spill ever since March of 1989, and have a little bit of face-
11 to-face contact. We talk to you through the teleconference. There
12 are various ones of us that pop up at these various public meetings
13 from time to time and introduce ourselves, but there are many, many
14 other people, many, many other faces, that would very much like to
15 meet you also. And, in closing, I would also like to let you know
16 that I will be back, and I'll be looking for a herring study and
17 look forward to working with you on that. That is a very real and
18 very immediate need for us right now. The recent failure of
19 seventy-five percent of our expected herring return to even come
20 back to Prince William Sound is extremely alarming, and it has some
21 devastating implications for us in the future, and I think that is
22 something that we should really be directing some attention to in
23 the very, very near future, and I look forward to working with you
24 on that.

25 MR. ROSIER: Thank you very much. Mr. Cole.

26 MR. COLE: The Governor has asked that, at least the

1 State Trustees and certainly the Federal Trustees, are welcome for
2 us to go to Juneau -- not to Juneau -- glad to get out of there --
3 to go to Cordova and Valdez and Kodiak and speak directly with the
4 people in those areas who are concerned about the actions of the
5 Trustee Council. We want to do that as soon as we can. We wanted
6 to do it before this meeting, but the legislative session required
7 us to stay in Juneau, and I think we will try to get there before
8 the next meeting, if at all possible, at least some of us.

9 MS. MCBURNEY: Well, we would welcome you. Thank you.

10 MR. ROSIER: Thank you very much. Other comments?
11 Questions? Okay. One more from Anchorage here. Yes.

12 MR. CRAIG PETRICH: My name is Craig Petrich and I serve
13 as the conservation chairman for the Kodiak Audubon Society. And -
14 - this has been a good day for me; it's been a great day. The
15 action that you took today on Seal Bay is -- I've talked to some
16 people, friends, in Kodiak, and I can tell you it goes over very
17 well. Anyone who hunts or fishes in that area is going to thank
18 you for this type of activity, and it's the kind of thing that
19 gives a sense of justice to people who were hurt by the spill and
20 by the subsequent activities. To actually do something for the
21 environment and to protect a very important biological resource
22 like this means a lot to people, and I want to thank, in
23 particular, Attorney General Cole and his staff. They worked very
24 diligently on this. Given the time frame that was involved, I
25 would have said it would have never happened. Carl Rosier's people
26 in habitat division did a great job. And in addition to producing

1 a good product, I was going to say along the way when concerned
2 people would contact these different folks that they were
3 understanding, and while they would give you limited information
4 due to the confidentiality of some of these negotiations, you could
5 always tell that they cared and that they were working hard, and
6 they were concerned on the issue, and that's the kind of work that
7 we're glad to see. You've done a good job on that issue. I want
8 to thank all the Trustee Council people.

9 MR. ROSIER: Thank you, Craig. Any comments,
10 questions?

11 MR. CHARLES MCKEE: I'd like one minute.

12 MR. ROSIER: Okay, one minute.

13 MR. MCKEE: My name's Charles McKee, and I came to
14 this public meeting of April 26th and regards of proposals that
15 haven't been submitted to the restoration of the Prince -- Prince
16 William Sound restoration. What I'm handing out to you people is
17 a copy of the 1978 who owns Alaska's fish, with a Japanese
18 individual on the front cover. Alaska Advocate is the newspaper no
19 longer in business -- and explains exactly what happened to the
20 seafood industry monetary benefits to our global economy and where
21 it went, and I would like to point out the Governor and his certain
22 people in the administration are heading over or have already left
23 to Japan and Korea to try to sell what we don't own, and therefore
24 we don't have anything else to sell either. The next stapled
25 paperwork is merchant vessels, and inside you'll find -- you'll
26 recognize the Treasury seal is a little bit different but close to

1 the original and you'll see what constitute United States money and
2 coin, and the value and the amount of gold and silver and what
3 legal tender currency is, and so on, and further on you'll see some
4 other information in there. Then I went and I submitted this
5 copyright to you people, I've been subjected to what I refer to as
6 hate crime because I'm not being recognized for my -- my efforts as
7 regardless whether it's now before you or in the past, and if you
8 look at my copyright on the back page where I listed reference
9 books, I did place in there the thirty-third degree Scottish Rites
10 Mason book, and if you look at this newspaper clipping, it
11 indicates that Albert Pike (ph), who was the supreme commander of
12 the Scottish Rite Freemasons in the eighteen hundreds, also
13 established the Klu Klux Klan, and then here's the front page of
14 the book that I have, Moral Dogma, and there's his name, Albert
15 Pike, 1871. And you have people within positions of power, whether
16 it be national, state or local that have perpetrated insidious hate
17 crimes against me in various manners. So, I would like to discuss
18 with you at length my approach resolving the sunken oil within the
19 Prince William Sound, below the water level, but I don't the
20 opportunity or the time to discuss it. I -- I mentioned it in
21 brief about extracting gravel out of Turnagain Arm, for instance,
22 and cleaning it, and guarantee you put something in Prince William
23 Sound in areas that have been contaminated, and algae and plankton
24 will cling to it. I have fished out there in Prince William Sound.
25 It doesn't matter what you put in the water, long enough you'll
26 have to scrape the hull of the boat or whatever it is, so if you do

1 that with gravel, you will reseed and then basically cover your
2 contaminated area there below the surface of the water with gravel,
3 clay, and then another set of gravel that has already been
4 reseeded. You've got to cover up that oil.

5 MR. ROSIER: Yes, Mr. Cole.

6 MR. COLE: I'm more concerned about these allegations
7 against the Stanford Research Institute that's in here.

8 MR. MCKEE: That came out of a book that you have ...

9 MR. COLE: Robert O. Anderson.

10 MR. MCKEE: Yeah. You have --

11 MR. COLE: Has there been any follow-up on that.

12 MR. MCKEE: No. I don't -- I was given the book by a
13 descendent of MacFadden (ph), Congressman MacFadden, who gave me
14 that information on the Federal Reserve, the Federal Reserve Board,
15 which is also a masonic lodge. So, you see, it involves the
16 Federal Reserve and all that stuff, and they don't -- they don't
17 care about the resiliency of the United States Treasury and whether
18 we have any hard currency or not to substantiate any resolution of
19 our debt, national or municipal.

20 MR. COLE: Maybe we can take this up at the next
21 meeting.

22 MR. ROSIER: I think that would probably be a good
23 idea. Mr. McKee, would you proceed there.

24 MR. MCKEE: All I did was copy the pages that are
25 pertaining to a certain company that does business in Anchorage,
26 Alaska, and Turnagain Arm, and so on, and we're not -- you know, I

1 just thought that since I'm an unpaid journalist working for a non-
2 existent newspaper, I thought that if I submitted my documentation,
3 then I would be believed because people don't believe that I know
4 what I'm talking about unless I actually submit it. This is the
5 second time that I have submitted. In fact, I called Richmond,
6 Virginia, last night. They're sending me the full layout of this
7 newspaper. It was printed on September the 28th. It's by Linden
8 LaRouche (ph), and he talks about the historical process of
9 perpetrating hate groups and, you know, it's -- the first time I
10 submitted the Morals of Dogma, all I did was give a front page copy
11 here, it was to the mental health committee that was discussing the
12 settlement before it was hashed through with the legislature, and
13 I -- I mean, if you want -- if you want -- this is part of the hate
14 crime process. If you want a psychosis to develop, you know, just
15 don't do anything, just create stress, deny adequate funding for
16 things, and don't look at the real situation, and you'll have all
17 kinds of problems in society, and you'll just -- kind of like a job
18 security for the social service organization and the doctors in
19 psychologists. I talked to a social worker for the Hope Cottages,
20 and they say, you know, you've got people you're working for got
21 Ph.D's and I -- I've got a ninth grade education -- and I can find
22 information and compile it and submit it, and they have the Ph.D.
23 I have a ninth grade education. And yet they -- apparently, that
24 doesn't come -- cover their pocketbooks. So when I expose this
25 information, I've been, you know, catching a lot of resentment from
26 state and local police, the state police, Anchorage Public

1 Employees Association -- it's a union here in the state -- you'll
2 see ...

3 MR. COLE: Mr. Chairman, I have a call ...

4 MR. ROSIER: Yes?

5 TELECONFERENCE BRIDGE OPERATOR: Excuse me. This is
6 Cordova. There is two additional people here who would like to
7 testify if you have time.

8 MR. ROSIER: Yes, thank you, Cordova. Mr. McKee, would
9 you wrap up your testimony, please.

10 MR. MCKEE: Yes, I would like to indicate that I do
11 have an instrument. It's called a redemption coupon. It has the
12 original Treasury seal with the map included, and I'm looking at
13 using that as an instrument of value to increase the monies spent
14 on the restoration of Prince William Sound other than what you
15 already have allocated from the court decision.

16 MR. ROSIER: Thank you very much. Any questions?
17 Thank you again, Mr. McKee, appreciate your comments. We'll go
18 back to Cordova now. Is Cordova on the line?

19 MR. CLIFF WARD: (ph) Yes, my name is Cliff Ward. I
20 am a commercial fisherman here. I'm involved usually in the
21 herring harvest that's in the springtime every year, and salmon as
22 well, and we just wanted to -- I just wanted to express my concern
23 that there be continued data taken on the health of the stocks
24 here, and since we kind of blew the database that would have been
25 taken this spring but not funding anything for surveys and spawn
26 deposition studies, I mean, we could go ahead with a hydro-acoustic

1 trawl or circle, some kind of survey this fall on the biomass, and
2 I just want to make sure we keep that database going in the future
3 since we saw such as diminishment in the biomass this year, all
4 kinds of strange occurrences that normally happened. There's
5 another fellow here that would like to also add something.

6 MR. ROSIER: Please, hang on there, Mr. Ward. Any
7 questions or comments for Mr. Ward? Next person there in Cordova.

8 MR. BOB PUDWILL: Yes, my name is Bob Pudwill. I'm a
9 commercial fisherman as well, and I would just like to reiterate
10 what Cliff Ward just said, that we're facing a real crisis here, us
11 commercial fishermen, with the situation with the herring as it,
12 and not knowing exactly where that fishery is going, as well as the
13 salmon, and we would just feel that it would really be to the
14 fishermen's best interests to further study and fund any studies
15 that we can to get a line on what's happening. Basically, we've
16 all got our lives on hold here, trying to know which ways the
17 fisheries are going, and it's just a real crucial time, and I feel
18 that further study is definitely needed, particularly for herring
19 and salmon.

20 MR. ROSIER: Thank you very much. Any questions from
21 the Trustees?

22 STAFF: Mr. Chairman.

23 MR. ROSIER: Yes.

24 STAFF: Would you ask, could that speaker please spell
25 his name for us. We didn't quite get that.

26 MR. ROSIER: Would the last Cordova speaker, please

1 spell his name for us, please.

2 MR. PUDWILL: Yes. Bob Pudwill. P-U-D-W-I-L-L.

3 MR. ROSIER: Thank you, Bob. Okay. Are there any
4 other people to testify in Cordova?

5 MS. BIRD: I just -- this is Nancy Bird again. I
6 just would like to clarify a question on the -- on -- it says June
7 1st, 2nd, meeting is that that the date, and is there a possibility
8 of us getting on the agenda the request for the herring study and
9 the coded-wire tag studies for the other salmon species?

10 MR. ROSIER: Yes. I think that there's that
11 opportunity.

12 MR. COLE: I'll so move.

13 MR. BARTON: Second.

14 MR. ROSIER: We have a motion to accept that item. Do
15 I hear any objection from the Council members? Consider it done,
16 Nancy.

17 MS. BIRD: Thank you very much, and thanks again for
18 your work today.

19 MR. ROSIER: You bet. Thank you. Is that the last
20 person to testify in Cordova?

21 MS. BIRD: Yes, that is.

22 MR. ROSIER: Alright, good enough. Then we go to
23 Kenai. Anyone left in Kenai? Kenai, are you there? (No response)
24 Okay. Apparently not. Kodiak? Anyone left to testify in Kodiak?

25 UNIDENTIFIED VOICE: No one else, thank you.

26 MR. ROSIER: Thank you very much, Kodiak. Anchorage?

1 Anyone else to testify? Yes, sir.

2 MR. TOM FINK: Thank you, Commissioner Rosier. My name
3 is Tom Fink. I'm an environmental consultant here in Anchorage.
4 Chuck Totemoff of Chenega was going to speak this afternoon but he
5 was called away on urgent business. He asked me to speak for him.
6 He is representing thirty-five citizens of Chenega ...

7 MR. COLE: He just returned.

8 MR. ROSIER: Mr. Totemoff, do you want to join us at
9 the front table? You're right on time.

10 MR. TOTEMOFF: Okay. (Inaudible -- out of microphone
11 range) public comment period?

12 MR. ROSIER: Yes.

13 MR. TOTEMOFF: Okay. My name is Chuck Totemoff. I
14 represent Chenega Corporation. What -- what I am presenting today
15 is a petition that the citizens of Chenega Bay wanted me to convey
16 to you. It has to do with removing subsurface oil from identified
17 subsistence beaches close to the village of Chenega Bay. We do
18 have a listing of the subsistence beaches that we would like to
19 have some further restoration work done on. Virtually all of the
20 adult population at Chenega Bay has signed this petition. They
21 feel that strongly about it.

22 MR. COLE: Mr. Chairman.

23 MR. ROSIER: Yes, Mr. Cole.

24 MR. COLE: I'll defer to Commissioner -- DEC
25 Commissioner Sandor.

26 MR. SANDOR: Mr. Chairman and Mr. Totemoff, the

1 shoreline assessment project that was discussed in earlier
2 (inaudible) today will be dealing with proposals such as this, so
3 I would move, Mr. Chairman, that the listing of proposed sites for
4 examination for what additional restoration work is needed be
5 assigned to that shoreline assessment project. They have, I
6 believe, you know, a scientific team that looks at opportunities
7 and options for the restoration of (indecipherable), so I move that
8 that listing be submitted to that group for action.

9 MR. BARTON: Second.

10 MR. ROSIER: Motion made and seconded to defer action
11 and have the -- the project listing to the beach monitoring program
12 that we approved earlier -- those in agreement?

13 MR. SANDOR: Let me just say that what might happen as
14 a result of this then, Mr. Totemoff, is that these -- the specific
15 sites and any other that are identified will be examined and a
16 determination made on what clean-up work might be feasible.

17 MR. TOTEMOFF: Okay. Thank you.

18 MR. ROSIER: All those in favor?

19 ALL TRUSTEES: Aye.

20 MR. ROSIER: Opposed? (No response) So ordered.

21 MR. COLE: Did that take care of your concerns there,
22 Mr. Totemoff?

23 MR. TOTEMOFF: I think so. Was there anything else, Tom?

24 MR. FINK: Oh, there's one thing referenced in this
25 petition. The last sentence is, we call your attention to and
26 support the letter from the Pacific Rim Villages Coalition to you

1 addressing this issue. That letter is in draft with Pacific Rim
2 Villages Coalition board (inaudible) and will probably come to you
3 next week. It sort of addresses the technology that can be used in
4 (inaudible -- extraneous noise).

5 MR. ROSIER: Yes, Mr. Sandor.

6 MR. SANDOR: Mark Brodersen, can I make certain that
7 you convey that to the coordinating team of federal and state
8 agencies for that type of -- that (inaudible) will be coming.

9 MR. ROSIER: That take care of it? Thank you, both.
10 Is there anyone else in the Anchorage audience here that wishes to
11 testify? (No response) Go through the list one more time.
12 Cordova, anyone there?

13 UNIDENTIFIED VOICE: We're still here, but we've all
14 testified who want to, thank you.

15 MR. ROSIER: Alright, thank you. Kenai, anyone there?
16 (No response) Kodiak, anyone there?

17 UNIDENTIFIED VOICE: No one else, thank you.

18 MR. ROSIER: Alright, thank you very much. That
19 appears to be all of the -- all of the people wishing to comment
20 today. So, with that I think we'll -- we'll terminate the
21 teleconference.

22 MR. COLE: I move we -- we recess to the call of the
23 gavel on June 1.

24 MR. PENNOYER: Mr. Chairman, we can't actually do that
25 because we're going to have a new agenda June 1st, so we can't just
26 carry over the process. We've got new items, restoration plan and

1 '94 work plan on the agenda.

2 MR. GIBBONS: The -- the restoration plan and DEIS is on
3 this agenda.

4 MR. PENNOYER: The '94 work plan?

5 DR. GIBBONS: The '94 work plan is not.

6 MR. PENNOYER: (Inaudible -- extraneous noise) new agenda
7 and take public comment.

8 MR. COLE: Well, I move we adjourn.

9 MR. ROSIER: We are adjourned.

10 (Off Record at 5:00 p.m.)

11 END OF PROCEEDINGS

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CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

That the foregoing pages numbered 03 through 214 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by me on the 13th day of May, 1993, commencing at the hour of 8:40 a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me and Sandy Yates to the best of our knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 18th day of May, 1993.



Linda J. Durr

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