

TRUSTEE COUNCIL
MEETING

1-2 JUNE 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

June 1 and 2, 1993

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EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

VOLUME I

June 1, 1993
10:00 a.m.

TRUSTEE COUNCIL MEMBERS in attendance:

State of Alaska

MR. CHARLES COLE
Attorney General

State of Alaska Department
of Environmental Conservation

MR. JOHN SANDOR
Commissioner

United States Department
of the Interior

MR. 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

JEROME MONTAGUE

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

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

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

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

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

VERN McCORKLE
PAMELA BRODIE
CHARLES TOTEMOFF

OTHERS IN ATTENDANCE who testified

BOB LOEFFLER
JOHN STRAND
MARIA LISOWSKI, U.S. Department of Agriculture
BILL BRIGHTON, U.S. Department of Justice, Washington, D.C.
DR. ROBERT SPIES, Chief Scientist
JOHN JOHNSON, Chugach Alaska Corporation
CHARLES McKEE
KATHY ANDERSON, Eyak Corporation
MIKE BRITTAIN
PAM BRODIE, on behalf of The Sierra Club

VIA TELECONFERENCE

CHARLES K. WEAVERLING, Mayor, City of Cordova
RICK STEINER
GLEN "DUNE" LANKARD, JR.
CHIP THOMA
GARY KOMPKOFF, President, Tatitlek Village Council

PROCEEDINGS

(On Record at 10:02 a.m.)

MR. BARTON: Call to order this Trustee Council meeting. Let the record show that Walter Stieglitz, the Director of the U.S. Fish and Wildlife Service here in Alaska, is representing the Department of Interior today. Otherwise all Council members are present. We have quite a full agenda. I assume there have been no revisions to this agenda since Friday. We have a public comment period scheduled from 4:00 to 5:30 this afternoon. Are there any changes in the agenda that any Council member wants proposed? Mr. Pennoyer.

MR. PENNOYER: Mr. Chairman. Just a -- maybe a brief discussion as we start on how -- how we're going to proceed. We've got two days scheduled for this and do we really intend that it take two days, which I think looking at the agenda we're probably going to spend a better part of those two days doing it, maybe as we get to some of these topics we would wish to defer action until tomorrow morning, and the reason I bring that up is the possibility for further -- consideration of them -- they're very complex topics we're dealing with, and second we're going to get a public comment period tonight, and it might be some time allowed itself on some of these issues, the reason we got public comment after they hear from Dr. Gibbons -- some of our deliberations during the day. I'm not specifically requesting that for any item, but as we get to each item, it seems we have the opportunity to do that if we wish. And, some of these like the restoration plan, '94 work plan are

1 complicated enough, it might not hurt to think about them over
2 night either. So, I just made that point and suggestion.

3 MR. BARTON: Thank you. Any other comment?

4 MR. COLE: Yes. Mr. Chairman.

5 MR. BARTON: Mr. Cole.

6 MR. COLE: What was -- what was Mr. Pennoyer's point.
7 Sorry, I missed it?

8 MR. BARTON: I think basically there, we might wish to
9 defer final action on topics that we take up today until after the
10 public comment period tonight, and take final action in the
11 morning. In other words, we're committing to at least meeting in
12 the morning.

13 MR. PENNOYER: Mr. Cole, I wasn't prejudging which topics
14 but I was simply saying as an observation that is supposed to be a
15 two day meeting, and it looks like it's going to us -- that
16 opportunity would be, and I was simply highlighting that -- topic
17 by topic -- I mean, some of these we can just get rid of right
18 away. If we run into problems on any of them or we wish to hear
19 further information on something that -- some of the comments in
20 front of us, use this -- and that opportunity would be available to
21 us.

22 MR. BARTON: Mr. Rosier.

23 MR. ROSIER: Thank you, Mr. Chairman. Yeah, I'd like
24 to support Mr. Pennoyer's idea here on this. I think one of the
25 things we've heard a little bit about here, in the last couple of
26 meetings anyway, is that the public would like to have a comment

1 period preceding our taking final action on various items, and it
2 would seem to me that this would be a good opportunity to in fact
3 try that approach.

4 MR. BARTON: Any other comments? I assume that as the
5 topics come up that you -- anyone feels that we should defer it
6 until tomorrow, they'll so state at the end of the discussion
7 before we take final action. Anything further? Can we proceed
8 then with item one on the agenda, the meeting report of the Public
9 Advisory Group, May 24, 25 meeting? Is Mr. Phillips here?

10 DR. GIBBONS: Mr. Chair.

11 MR. BARTON: Mr. Gibbons.

12 DR. GIBBONS: Vern McCorkle is here representing the
13 Public Advisory Group for Brad Phillips. Brad could not make it
14 today.

15 MR. BARTON: Please to see you Mr. McCorkle.

16 MR. McCORKLE: Members of the Council, ladies and
17 gentlemen, I bring you the best wishes of Admiral Phillips who is
18 sorry he can't be with us today. And, in deference to your tight
19 schedule, I'll try and make my comments and report as brief as
20 possible. The Public Advisory Group, all except two, couldn't be
21 there for emergency reasons, the Valdez local government
22 representative and the subsistence representative from Kodiak could
23 not be there, but all the rest were; also, there was one member of
24 the Trustee Council, General Cole was there and the assistant -- or
25 the alternate for the Forest Service, Jim Wolfe, was present,

1 together with two members of the general accounting office. We
2 never did figure out why, but I'm sure it was for a good purpose.
3 The group itself met on May 25, following the fact-finding trip to
4 Prince William Sound on the 25th. And, that meeting summary was
5 mailed to people, and the transcript is in process now and should
6 be available shortly. I actually think that the minutes of that
7 meeting are in your packet this morning to study. With respect to
8 the fact-finding trip, we found that it was more successful than
9 anyone might have expected. What it allowed us to do, besides go
10 ashore at points and to travel a small section of the affected
11 area, was to become more familiar with members of our own group and
12 those people who attended. The entire Restoration Team was there,
13 together with other dignitaries and officials. And, as with your
14 meeting, most of our time is given to business and debate --
15 discussion, and we don't have much chance at all for interpersonal
16 reaction with one another. During that eight or ten hours, that
17 took place, I think we all felt, and those of our senior observers
18 who were there, also believed that that was an extremely valuable
19 meeting. The Public Advisory Group has only been together a few
20 months, and has been going through the normal stresses and strains
21 of trying to seek its direction and is close to doing that now as
22 the material you'll received today in the mail will show. The
23 Advisory Group unanimously passed a motion at its May 25 meeting
24 that the Seal Bay property being negotiated for purchase by the
25 Trustee Council be placed in the State of Alaska's ownership. That
26 recommendation will be coming along as a point of advice. The

1 Group also deliberated upon restoration alternatives and options,
2 and an overall approach to long-term restoration. That will be
3 discussed again next week, or at the next meeting. In the packet
4 that you have before you, at about page five, you see a page that
5 looks like this, that says, draft approach to restoration, May 25,
6 1993, and it's not my desire to go over that point by point, except
7 to say that here is the first physical evidence that the Public
8 Advisory Group is taking its mission to heart and feels that it has
9 received enough information and learning in the six months since it
10 has been on board -- six or eight months -- to be able to come up
11 with a matrix upon which it could make recommendations to the
12 Advisory Group. The next meeting of the PAG is going to be July 15
13 and 16 here in Anchorage, and we will continue to work on that
14 matrix that will lead us to making recommendations to you. What is
15 evolving from the Public Advisory Group is exactly, I think, what
16 you intended should, that is that among the members, all of whom
17 represent definable constituencies, there is a -- a -- very
18 considered and pointed debate taking place, so that each of the --
19 the constituencies represented, are actually having a good
20 representation on the Public Advisory Group. So, when suggestions
21 from that Group come to you for your consideration, I think you
22 could feel confident that they do reflect the broad view of
23 citizens of the state. They will make recommendations for the 1994
24 work plan at its next meeting, but as an aid to doing that, it's
25 quite essential that we receive the draft restoration plan just as
26 soon as it's available. A point -- moving to the close of my

1 report -- that may be of interest to you, even though we have been
2 advised of -- the present state of the art indicates that such
3 vehicles as endowments may not be within our grasp, we,
4 nonetheless, are not persuaded that if a good idea came along,
5 that's the law and the judge's recommendation could not be
6 modified. So, there will be some discussions at our next meeting,
7 which will focus on whether or not to continue discussing the
8 possibilities of an endowment, so as to extend the work of the --
9 the Trustee Council or the fund indefinitely. That is being
10 discussed. Finally, a package of proposed alternates to Public
11 Advisory council members is nearing completion and will be
12 submitted to you for your consideration soon, perhaps within a week
13 or so. That's -- covers the high points of our meeting. I'll be
14 glad to respond to questions, if there are any. Otherwise, thank
15 you very much for letting us make this report to you.

16 MR. BARTON: Thank you, Mr. McCorkle. Any questions on
17 the part of the Council members? Mr. Pennoyer.

18 MR. PENNOYER: One question. You didn't -- in respect to
19 the report, I appreciate your starting to discuss some of the
20 things, I thought you'd all delve into after this process got
21 little bit more underway. On the '94 work plan, you're going to
22 discuss that at the next meeting? Did you have any advice at all
23 for us as to how we should handle that at this meeting?

24 MR. BARTON: Alright Chuck, we're not actually defining
25 the '94 work plan at this meeting, we're defining its concepts and
26 outlines and staff can start to work on putting something together

1 we'll look at in August, that's my assumption. Correct? Chuck, do
2 you have any advice at this stage or instructions for the staff.

3 MR. McCORKLE: No, sir, I don't think that the Advisory
4 Group is ready to state anything, but I could -- I could call your
5 attention to this draft, which is just a couple of pages long and
6 it -- it gives an indication as to the direction the Public
7 Advisory is -- Group -- is thinking. They -- with their motion to
8 suggest that the Seal Bay property stay within the jurisdiction of
9 State of Alaska management, and with their suggestion -- that's the
10 -- that the restoration plan not necessarily be restricted to the
11 identified zone of the spill -- should give you some indication as
12 to the kinds of things they're thinking about, but it would be
13 premature for me to suggest that the Advisory Group has reached any
14 concrete conclusions yet, although they are close to doing that, I
15 feel. I know that's not very instructive, but it's meant -- I
16 guess illuminate more than instruct.

17 MR. BARTON: Let -- Mr. Cole.

18 MR. COLE: Where Mr. McCorkle are -- is the Public
19 Advisory Group satisfied that it now has a good sense of its
20 function and what is being asked of it by the Trustee Council?

21 MR. McCORKLE: The Advisory Group is reaching the
22 conclusion that it should provide a broad base of -- of viewpoints
23 and information to the Trustee Advisory Council. It is developing
24 an agenda, which will help it do that.

25 MR. COLE: Do you think that the Advisory Group wants
26 or should have further suggestions or directions from the Trustee

1 Council as to what is asked of it, or sought of it, or desired of
2 it?

3 MR. McCORKLE: I believe there is a two part answer here.
4 In our early days, we felt that we needed to have a list, I think.
5 We wanted a manifesto -- here's what you should do, and perhaps the
6 Council, in its wisdom, avoided doing that for awhile, and what is
7 emerging now is a group that is focusing on restoration and has
8 done enough reading from material that's been provided by staff, to
9 be able to make its recommendations, feeling that -- they're
10 studied and they're reviewed -- and the information coming in from
11 our constituencies -- is sufficient enough to give the Council the
12 best recommendations that we can come up with, and we'll probably,
13 as a result of work represented in this draft, add another outline
14 that they're working on -- come up with a mode of operation that
15 will later come to you for your review and approval.

16 MR. BARTON: Thank you. Mr. Sandor.

17 MR. SANDOR: From reading your notes for the summary of
18 the meeting, I get the impression there's three different types of
19 endowments that are being looked at, one, the University of Alaska
20 endowing chairs for search and monitoring; and then a separate
21 endowment proposals for fisheries endowment; and then, Senator
22 Sturgulewski's monitoring research and research endowment, and does
23 these -- as I interpreted it, there'll be the separate proposals
24 will be summarized and then available for further discussion on
25 July 1. Is that right, please?

26 MR. McCORKLE: I think the proper answer there is to say

1 that that was a recommendation of one of the members of the Council
2 that's representative of the conservation group, and the Public
3 Advisory Group -- I mis-spoke a moment ago when I said the Council,
4 I meant the Public Advisory Group conservation member. I think
5 you've got a copy of that person's letter in your packet. The
6 Public Advisory Group has taken no position on environments --
7 endowments, and really doesn't have enough information to -- to go
8 beyond what's their goal would be, and their goal would be to find
9 a way to set aside from the funds now available, enough money to
10 perpetuate, perhaps indefinitely, the work of the Restoration Team
11 that's scheduled to be completed in the next several years. They
12 have asked people who know about endowments to -- to tell them what
13 kind of endowments might be available. Now, I realize that -- that
14 we've -- are not going to be experienced enough to provide detailed
15 recommendations on endowments, but there are -- I guess, the most
16 important point to glean from this is that the Public Advisory
17 Group has the feeling that some of the money should be set aside
18 now to create a means of -- to provide ongoing restoration for some
19 indefinite time in the future. How that should be done, how many
20 of the funds available should be involved, has not been discussed,
21 and perhaps won't be, but I do feel that there will be a paragraph
22 in our report to you that addresses that topic and urges that be
23 considered.

24 MR. SANDOR: In follow up, by July 1, '93, these
25 synopses are to be submitted for distribution to the PAG. Maybe --
26 if these synopses are prepared, you could also distributed them to

1 the Council, just for their information. I'd be interested in
2 those three different concepts.

3 MR. McCORKLE: Absolutely, that -- can certainly be done.

4 MR. SANDOR: Thank you.

5 MR. BARTON: Any other questions? Thank you Mr.
6 McCorkle. The second item on our agenda is the draft restoration
7 plan. Dr. Gibbons?

8 DR. GIBBONS: Yes, we have John Strand and Bob Loeffler,
9 co-chairs of the Restoration Planning Work Group, here to briefly
10 walk you through the package in front of you.

11 MR. LOEFFLER: Well, the decision today -- I guess on the
12 part of the Trustees, is whether to approve the draft restoration
13 plan for public review. What we'd like to do is take about five or
14 six minutes of your time and go through three things which might
15 help with that decision. First -- described -- this is in some
16 ways been summarized for us -- brochure -- response to the
17 brochure, what we've heard -- from the response coming in from the
18 public. Second, is to tell you the differences between the
19 brochure, which went out a month or so ago, and the restoration
20 plan, and third, to show you how it fits in the overall schedules,
21 so you understand the consequences of approving it or not approving
22 it.

23 MR. BARTON: Mr. Cole.

24 MR. COLE: Do we have any written compilation or
25 documentation of the responses to this -- what I call newspaper?

26 MR. LOEFFLER: The newspaper -- we haven't got the

1 compilation yet, and that's because the comment period hasn't
2 closed.

3 MR. COLE: And, when does the comment period close?

4 MR. LOEFFLER: It's coincident with the draft plan,
5 August 6. So the two run concurrently.

6 MR. COLE: I'm sort of touching off something here,
7 I'm afraid, but maybe (inaudible) how it works.

8 MR. LOEFFLER: Sure.

9 MR. PENNOYER: Mr. Chairman. We got something.

10 MR. BARTON: We've got a blue book with a whole summary
11 of comments that you got during your -- going around and seeing...

12 MR. LOEFFLER: Yes, sir. That is the minutes of the
13 public meetings -- sort of an uncompiled and unorganized, so it's
14 organized by public meeting. At the meeting, people also submitted
15 some written comments and brochures which are not in there.

16 MR. COLE: Do we intend to have some summary of this,
17 which I have read?

18 MR. LOEFFLER: We intend to have a summary of all the
19 comments received during the period, which will include that, the
20 brochure, and written comments -- phone calls, and that should be
21 sort of organized by issue and community.

22 MR. COLE: Thank you.

23 MR. LOEFFLER: Okay, quickly just to go through the --
24 what we've seen -- the response that we've heard so far on the
25 newspaper insert. In the twenty-two public meetings that we gave,
26 four hundred and seventy-seven people signed in, which means that

1 probably between five or six hundred people came to the meetings.
2 We're approximately half way through our comment period, and we
3 received about three hundred and sixty brochures. That's --
4 particularly -- it's sort of an interesting number in that -- that
5 the last planning document, the Framework document, put about this
6 time last year, we received about forty-five comments total. So,
7 we're hoping to get a few hundred more by August 6. While I've not
8 read every comment that's come in, I haven't done it for about two
9 weeks, I've looked in -- we're getting a pretty good distribution
10 through the spill area, including a number from Native villages,
11 and of course, many from Anchorage, much from Prince William Sound,
12 Kodiak, and the Kenai Peninsula. The people have been relatively
13 articulate in their comments. Most have used the check off boxes
14 on the questionnaire, but a lot -- a lot haven't. So, that's the
15 kind of -- what we've been seeing so far from the kinds of
16 questions we're asking. What I'd like to go through quite quickly
17 is, since you've seen the newspaper insert, what we call the
18 brochure, how this document is different. What -- what's added.
19 And, the two points are -- that I would like to sort of -- bear in
20 mind while I do this, is that the plan itself is relatively sort.
21 It's quite brief, and it is approximately the same as the
22 information in the brochure with a few minor differences. The
23 appendices are where the detail is added, and they are added
24 partially because staff thought additional detail was useful and in
25 part because we were answering questions at the public meetings.
26 So the plan itself, the brief part, has only four chapters. After

1 the brochure, it explains the process, the civil -- civil
2 settlement, who the Trustee Council is. Then chapter two -- that's
3 the first chapter -- chapter two is -- includes information that
4 was in the brochure, information to understand the alternatives,
5 that is the policy questions -- five policy questions -- wanted
6 people to answer, what the categories of restoration are, things
7 like habitat protection, endowments. Chapter three describes the
8 alternatives, and chapter four describes ways of changing the plan
9 -- annual work plan -- sort of the implementation over the life of
10 the settlement. So, with some additions, this is approximately the
11 same language, and almost -- mostly the same information that was
12 in the newspaper insert. The inserts that we have -- the addition
13 the draft plan does, are really in the appendices, and there are
14 five of those. The first one is how the civil settlements have
15 been allocated to date. And, we were asked that question at a
16 number of public meetings, specifically in Valdez and Cordova.
17 People sort of wanted to know how the money is being spent. This
18 provides that information. The second is, every public meeting had
19 a lot of discussion on injury, more than there was in the insert.
20 People wanted to understand -- people wanted to know how we viewed
21 injury in more than the summary fashion, and they wanted to be sure
22 we heard what had happened to them. So, appendix B is an expansion
23 on injury, and I believe it responds to a lot of the questions we
24 got from the public. Appendix C provides more information on
25 habitat protection and acquisition, and it's -- it provides the
26 process which people have seen before, but it also provides

1 examples of the five imminent threat process -- parcels, so people
2 can work through the process and see how it works. Appendix D is
3 more detail on the general restoration options. It is -- that's
4 that long list on page nine of the brochure, different things that
5 we can do on -- and it provides for more information on evaluation
6 and sort of what they are. The last is on the restoration and
7 monitoring programs. The final gives people information is the
8 comment sheet which is identical to the brochure. So, what we have
9 is a relatively brief draft plan with more detail in the
10 appendices, hopefully that responds to questions. People have
11 said, hey, we want to hear more. They can find more, and it keeps
12 the plan itself brief, and -- I see I've gotten everybody to turn
13 pages, so perhaps I've gone too quickly. If there no questions,
14 I'll go on the third thing I was going to say, which -- which is
15 how this fits into our overall process, and that is in a few days,
16 assuming that you approve this for distribution, within a few days
17 or week, it goes to the printer. There will -- there will probably
18 be some wordsmithing, changes in it because we developed it rather
19 -- rather quickly at the public meetings, so we're doing some final
20 changes, but nothing substantive. If distributed to the public on
21 December 21 -- June 21, sorry -- the comment period closes August
22 6 and that puts us on the fast track for a final plan out in
23 November, for adoption in 1993. And, I think that is all I have to
24 say.

25 MR. BARTON: Are you going to go forward now John?

26 MR. STRAND: No, that was the presentation for the day.

1 MR. BARTON: Comments from the Council members? Mr.
2 Pennoyer.

3 MR. PENNOYER: In terms of purpose, I think a lot of what
4 you've done here is to respond to the comments from public
5 hearings. By the way, the amount of work done on the public
6 hearings held and everything is impressive. Should (inaudible) say
7 a little bit more about what we're doing and why we're doing this
8 in addition to the brochure -- the brochure we've sent out? Does -
9 - it takes into the comments from the brochure? You've had six
10 hundred and -- whatever you have, three hundred and sixty comments
11 back -- people I presume filled out this questionnaire, do you want
12 to do it again? We put out the brochure because we're afraid
13 people would not be available during the summer months to comment
14 on a final plan. Does that adequately explain why we've been
15 bombarding people with a double document that is going catch them
16 somewhere -- why I already did this, why do I have to do it again?
17 (Inaudible - simultaneous talking) And, that is the relationship
18 of the final chapter here on the response. It seems to me that
19 sort of buried back in the appendix. Maybe that and the purpose of
20 the document could be better highlighted, brought up front. That's
21 not informational. That's what you want people to comment back to
22 you on, and perhaps that should be brought up front as part of your
23 real -- whatever it is -- forty page plan, rather than part of the
24 appendices, unless mine's organized wrong.

25 MR. LOEFFLER: What -- I believe it's in there, we will
26 highlight that. We put the comment sheet at the back so people

1 could find it without -- at the very back, so people could look to
2 the back and there perforations. So what we'll do is -- is we'll
3 make sure that's highlighted up front, so that it's really clear
4 and have a divider. In other words, make it easier for people to
5 find. We'll also -- we'll also further elaborate on why we're
6 doing this.

7 MR. BARTON: Mr. Cole.

8 MR. COLE: I have a fundamental problem with this
9 document in that -- in that I don't see that it's a restoration
10 plan. I -- that's my problem. I don't see that this is a
11 restoration plan, and I think that it causes confusion by labeling
12 it, draft restoration plan.

13 MR. LOEFFLER: I think your comments are well taken, and
14 I don't necessarily disagree.

15 MR. COLE: I -- it seems to me that we're going to
16 have to come up with the plan after we go through all these other
17 things, which will be a document entirely different than this
18 document.

19 MR. LOEFFLER: I think we came -- I mean, I think there's
20 a lot -- a lot of truth to that. We're at the point where we have
21 planned alternatives, which have different directions we can go,
22 and that's the point where they -- write the draft EIS, and so,
23 that -- sort of nomenclature, I believe is a compromise between
24 sort of what we were doing and sort of the typical federal
25 nomenclature used for the EIS process. So, I think having the EIS
26 go on with this document provides us enough steps to do the final -

1 - so we can get the whole package signed off on during 1993, but it
2 is not a draft plan in the sense of saying what we're going to do.
3 It has a number of different paths, and I think you're right, it
4 will create some confusion for that reason, but I don't have a
5 solution for you.

6 MR. BARTON: Mr. Sandor.

7 MR. SANDOR: Why, I agree with both of your comments
8 about -- is it a draft product of a situation that we have that we
9 were driven by the environmental impact statement process itself,
10 and cannot really develop the path -- the alternative -- that until
11 we analyze the different alternatives, is that part of the problem?

12 MR. LOEFFLER: I'm not an expert on -- on the EIS
13 process, and Ken Rice is sitting next -- near you. He has -- much
14 more an expert than I, but I think it in part it is a compromise
15 between a number of different, so that's clear...

16 MR. SANDOR: So follow up, on August 6th we'll have the
17 remaining comments of the brochure, and we'll have the comments on
18 the plan...

19 MR. LOEFFLER: Yes...

20 MR. SANDOR: And, will we also have the EIS...?

21 MR. LOEFFLER: Yes, sir.

22 MR. SANDOR: And -- and will the EIS essentially
23 reflect the same material that's in this and this?

24 MR. LOEFFLER: It analyzes the ecological and economic
25 consequences of (inaudible - simultaneous talking).

26 MR. SANDOR: Well, I think that's probably why -- why

1 we're in the circumstances of not knowing which of these paths
2 we're going down. Ken, what's your -- why are we where we are?

3 MR. RICE: Mr. Chairman, I'm not sure that where
4 we're at is purely a function of the NEPA process, which you
5 decided to follow in February of '92. Clearly, in the NEPA
6 process, you do look at alternative approaches to achieving your
7 desire end result. I think within the planning process that we had
8 here, there were a number of different policy questions that could
9 have taken you in different directions depending on how you handled
10 those, and by providing the public and yourselves with a variety of
11 answers to those policy questions, you can see -- see the results
12 of answering them in different ways and, hopefully, get a better
13 picture of what course of direction is most appropriate. The
14 environmental impact statement tried to -- as Mr. Loeffler said --
15 analyze the consequences of those alter -- of those very same
16 alternatives, and give you a little more information than what's in
17 the restoration plan, a little different information, to help you
18 with that decision process.

19 MR. BARTON: Mr. Sandor.

20 MR. SANDOR: Well, I guess I'm really encouraged by the
21 number of people who attended these meetings and the written
22 comments that you've gotten, and then, as we expressed before, many
23 of the Trustees' frustration with this process dragging on and on
24 and on, but the NEPA process -- I think, in part, has led to that
25 delay, but Mr. Chairman, I would move that we approve the
26 distribution of this -- this draft quote plan, close quote, which

1 it's -- it's not yet a plan, but will be once -- after August 6th.
2 I move approval of the distribution of this plan.

3 MR. BARTON: Is there a second? Further discussion
4 then? Mr. Pennoyer.

5 MR. PENNOYER: Mr. Chairman. I think I'm going to
6 support that, but I think the Trustee Council needs to spend some
7 time discussing where it is in the process and what this means, and
8 I think Mr. Cole was trying to get at that. This -- I think is a
9 requirement, sort of a first step. It's -- it's a -- a big first
10 step obviously -- it's still the first step. It's laying out
11 criteria, ideas, accepting concepts, and that sort of thing, but
12 somewhere you've got to make the bridge between that and the actual
13 projects we're going to undertake. And, Mr. Cole in the past has
14 talked about the real restoration plan being the aggregation of the
15 annual work plan, sort of when you're done, you've got this -- all
16 of you've agreed -- a year at a time, and I think that's part of
17 it. I think, however, we also get from this to the next step is
18 sort of a multi-year project plan, which this is not, and then, as
19 an annual work plan, and the multi-year projection plan may be of
20 not more two, or three, or four years, you may not be able to see
21 that much farther until you see the results of the project that
22 you've undertaken. So, this doesn't get us there, and I think
23 that's what I was talking about explaining to people what we were
24 doing. Why we send out the first brochure and why we're now
25 sending another document out and where that leaves us. Maybe when
26 we do the final on this, there needs to be something in there that

1 sort of explains how that's going to occur. We send the public out
2 also the '94 work plan that's bombarded then with the whole idea of
3 what's in front of them. Multi-year projects, how long they might
4 take, how the funding comes in, and that's part of planning. So,
5 we haven't finished the plan, this is a conceptual framework you
6 can chose alternate -- an alternative -- out of this and still
7 doesn't tell you exactly what you can do. It doesn't give you the
8 exact mix of activities that you can undertake under that
9 alternative. You're simply deciding here that you're going to
10 restrict your scope of thinking to only certain things, or
11 something else, but it doesn't tell you what that mix is going to
12 be exactly, although it gives some examples, it doesn't bind you to
13 them. So, I'm going -- I hear a lot of confusion about that. I
14 agree with the Attorney General, there's is a lot of confusion
15 about that. I think this is a step we've got to take, but I'm sort
16 of anxious to explain both to ourselves and the public where that
17 step is in the process we're going to go through.

18 MR. STRAND: I agree that we can try up front to better
19 capture where this process is going, but maybe it's implicit -- I
20 think I need to say it anyway -- clearly the next step in the
21 process is for the public to read this, to comment, that they've
22 been doing, and at some point in time, later this summer after the
23 closure of public comment, whether it be through the Restoration
24 Team at first, or clearly if it then comes down to you and the
25 Trustee Council, you have to help select and determine which of
26 those paths we go down. Maybe it isn't exactly one of those

1 alternatives, it could be then also sort of mix and match-type
2 (inaudible) exercise, but clearly the -- if you will, the general
3 approach to restoration you will chart, later this summer. Then,
4 that becomes more of the element of the -- the plan, since there
5 isn't any alternatives. Practically -- there is just but one sort
6 of general path to go down.

7 MR. PENNOYER: Mr. Chairman.

8 MR. BARTON: Mr. Pennoyer.

9 MR. PENNOYER: Just as an example, we have -- obviously
10 in all the public discussion you've had on the '94 work plan and is
11 it clearly (inaudible - feedback) monitoring and studies and better
12 management, and at some point, rather than ad hoc tag and recovery
13 of the pinks in Prince William Sound and genetic studies on pinks
14 in Prince William Sound, I'd like to see a program that says what
15 we can do to improve management of pink salmon in Prince William
16 Sound. Then agree if -- if they were imminent damaged or not, and
17 some multi-year program. It can't be just one year. I don't want
18 to just go out and tag one year's on the committed to recovering
19 the next year, and so on. It's got to have a finite out end point
20 that says at this point we cut off the management agency picks up
21 the tool and runs with it -- or however we're going to do it. I
22 mean, are we going to involve management or not? That then is
23 multi-year plan, not an annual work plan only, but as multi-year
24 plan that will be expressed an annual work plan, and that's not
25 what we're doing here. We're dealing with the concept that that
26 might be a viable thing to do and asking for comment on the back of

1 -- people support the idea. But, where -- where in the process
2 will it get back to the multi-year plan of dealing with something
3 like pink salmon in the Prince William Sound. I don't do it
4 specifically in the '94 work plan, although I sort of tried to do
5 that, but I'm suggesting you send out multi-year projects. So,
6 where in planning does that come in? How does the public
7 understand that, because that's still an idea that's missing?

8 MR. LOEFFLER: I would like to get there in the final
9 plan. My -- or at least -- or at least start down there, down that
10 road. I think in part there's not been a lot of discussion on what
11 the final plan will look like, so I -- I don't feel like I can
12 among RPWG or among the Trustees, and I -- so I don't feel I can
13 make a promise. The public, at this point, is sort of exactly
14 where we're narrowing in on -- for example on the concepts, that
15 you just articulated. But I think it's the feeling of RPWG that we
16 want to be going that direction in the final plan.

17 MR. PENNOYER: Mr. Chairman.

18 MR. BARTON: Mr. Pennoyer:

19 MR. PENNOYER: You'd envision that this document that's
20 going out for final review and, hopefully, when you put the put the
21 final out will include things like multi-year programs for
22 management of pink salmon in Prince William Sound? That's the
23 subject here -- by November?

24 MR. LOEFFLER: Well we think -- they could set up a
25 framework for that, yes, but I don't think I'm -- I think I'm
26 delivering the plan here.

1 MR. COLE: Mr. Chairman, I have -- some continued
2 reservations, or -- I see this letter addressed to dear interested
3 citizen as trying decide why Michael A. Barton, Regional Forester,
4 so perhaps I should have less concern about it.

5 (Inaudible - simultaneous talking and laughing)

6 MR. BARTON: Yes (inaudible - simultaneous talking and
7 laughing).

8 MR. COLE: I thought that was the cc's -- well,
9 anyway, it starts off, we are proud to present a draft Exxon-Valdez
10 oil spill restoration plan. Now, that's just what somebody
11 received this in the mail will initially read. And then, it comes
12 to light this is -- is not the plan, and what is this dear
13 interested citizen going to think? He'll be more confused, I hope
14 not more confused, but as confused as we are. That's troubling.
15 And then, are we going to put the final plan, as we will call the
16 plan, out for public review too?

17 MR. LOEFFLER: I don't see anyway to avoid it.

18 MR. COLE: So, it would be the thought of the
19 Restoration Team that after we've prepared the true plan, we will
20 send that out and ask for public comment on that. Now, I'm just
21 trying to figure out where we're going here so I get a sense of....

22 MR. LOEFFLER: That's my understanding.

23 MR. BARTON: Mr. Gibbons.

24 DR. GIBBONS: That's not mine at all. My understanding
25 is you go out with a -- with a draft, that the Trustee Council then
26 reviews all the comments on the EIS, the draft -- whatever we want

1 to call this document here -- and the brochure, then they pick an
2 preferred alternative, and then there is a thirty-day cool- down
3 period, or whatever that is -- after the decision is made, and then
4 sent, that's it. (Inaudible)

5 MR. BARTON: Ms. Rutherford.

6 MS. RUTHERFORD: I think I just wanted to add that --
7 that when we went out to the public meetings -- the public
8 understood that this -- what was coming out to them was not the
9 final approach, but they appreciated the opportunity to have some
10 input to it, and they recognized that the document that was going
11 to be coming out June 21st was going to be just an expanded version
12 of the brochure, and again, they wanted that opportunity to have
13 some input to tell you what they thought about what the final plan
14 should have in it. I think in a perfect world, it would be nice if
15 you could go out, once you've picked the preferred alternative and
16 we had some opportunity to flush that out, it would be nice to go
17 out for another review. But, given the fact that everyone wants to
18 get on with it, I mean, I think we decided to collapse it as we
19 have.

20 MR. BARTON: Any other member of the Restoration Team
21 want to help? Mr. Rice.

22 MR. RICE: Mr. Chairman, I think that that's
23 essentially correct. You can set -- the plan -- the planning
24 process for restoration doesn't have any regulations. You can
25 basically set your own course on that, and if you want to go out
26 with another round of public comments, it's certainly your

1 discretion. Following the NEPA process, we'd go out with a draft
2 that-- that hopefully, but not required, would have a preferred
3 alternative in it. Under the federal thinking -- if you let the
4 public know just what your course of action or what direction you
5 would like to take is, to give them the opportunity to focus on
6 commenting on that. On the state side, they usually go out with
7 alternatives without focusing on one particular alternative in --
8 in --in the course of the direction that you're going. That's sort
9 of the direction we've taken so far with this. Once we come out
10 with a draft plan and draft environmental impact statement, under
11 the NEPA process, once we've come out with a final, there's a
12 thirty day period where it's available to the public, but you can't
13 start implementing that plan until thirty days after it's been
14 filed and made available to the public.

15 MR. BARTON: As I remember -- a time table that we
16 issued on November 10th and the record of decision will be -- on
17 December 27th.

18 MR. RICE: That's essentially correct.

19 MR. BARTON: Mr. Cole.

20 MR. COLE: I don't -- I know virtually nothing about
21 NEPA, but how can you prepare an environmental impact statement
22 when you don't know what your plan is on which the statement is
23 being prepared?

24 MR. RICE: The -- the direction that we took back
25 when the Framework document came out was -- we said basically our
26 proposed action is to implement restoration for the spill area, and

1 there's a variety of different courses of direction that you can
2 take. These are very broad directions that we're giving in this
3 document that we have here. If we had more specific information,
4 maybe along the lines of multi-year projects that we could
5 implement, certainly we could have -- we could have put that into
6 the draft plan. We can be as specific as we wanted to be. In this
7 case, we're very, very general, but we're giving some side boards,
8 as -- you might say, as to the source of things that we could
9 undertake or would not undertake.

10 MR. BARTON: Mr. Stieglitz.

11 MR. STIEGLITZ: A couple of observations, the first one
12 being is I suspect there's certain elements that the public that
13 may be getting a little tired of being asked what they think we
14 should do for restoration and would like to see us get on with it,
15 and one way we can get on with is by finalizing an overview type
16 restoration plan, which you've been talking about here, and then
17 start implementing it on a year-to-year basis. I -- I think we're
18 all uncomfortable with the -- the fact that the draft restoration
19 plan doesn't have a lot of detail, but it occurs to me the nature
20 of the beast is, it can't. As much as we'd like for it -- I mean,
21 it's not typical plan the way we normally look at a plan. It
22 doesn't lay out in great detail where we're headed, and those of us
23 in government, at least, probably just aren't real comfortable with
24 that sort of plan. But, I don't see how -- how we can do it
25 otherwise, frankly -- you know, I don't think anybody's prepared to
26 lay out a program for the -- up to the year 2001. As much as we'd

1 like to do that, I just don't think it's possible. So, I think the
2 restoration plan is written, provides a general policy, and -- and,
3 at least in a general sense, tells the public where -- where we're
4 headed, at least the options of where we're headed. I guess I'd
5 feel a little more comfortable if the Council were a little more
6 specific as to which of the alternatives we like the best. That
7 might give the public something to shoot at. The way it is now,
8 they don't really have anything to react to as to where the
9 Trustees might be coming from.

10 MR. BARTON: Mr. Pennoyer.

11 MR. PENNOYER: Mr. Chairman. I -- I think I agree with
12 Mr. Stieglitz. I don't -- I'm not against finalizing this first
13 step. As Mr. Cole said, this is not a restoration plan by itself.
14 It's a guideline on some of the concepts and parameters we're going
15 to choose as we look at projects, and I'd -- I'd feel a little more
16 comfortable, if somehow in this it described how we got to that
17 next stage. And, it isn't just an annual work plan -- I mean, my
18 example on pink salmon, I don't want to beat that to death, but
19 it's clearly not just '94. Although we went out in '94, we've got
20 to decide what we're going to do over the next ten years on pink
21 salmon, and we'll probably change it four or five times as we go
22 along, but we've got to have a starting point, and the goal for any
23 one year of pink salmon project, I want an idea what our ten is
24 relative to pink salmon over the long-term in Prince William Sound.
25 So, this doesn't get you there, or are you telling me the final
26 plan will try to do that? I don't think it can. I agree with Mr.

1 Stieglitz, there's no way between now and November we're probably
2 going to accomplish all of that. What will lead to '94 work plan
3 will have to do some of it. Maybe it just needs to describe up
4 front what this animal really is, and how then we're going to go
5 out and stock the kennel later on with specific breeds, because
6 this doesn't get you there. And, I'd feel more comfortable with
7 this if the public and the Council had an understanding of what the
8 next step was, and I'm not sure we've come to any agreement on that
9 yet -- that I'd be more comfortable with this if that was the case.

10 MR. BARTON: Mr. Cole.

11 MR. COLE: I disagree with my federal colleagues. I
12 think it has too much detail. I think we need a broad statement of
13 principles. I don't know, maybe it's only ten pages only. It's
14 the principles we will apply -- for -- the remainder of our work.
15 I think there's huge danger in getting too detailed. I think this
16 is too detailed. I think we should -- receive all the views, put
17 in the food processor and come out with ten pages of principle that
18 will direct the implementation of the annual work plans, and then,
19 follow through of annually applying those principles to each year's
20 work, and -- I mean, that's my idea of a restoration plan.

21 MR. BARTON: Mr. Pennoyer.

22 MR. PENNOYER: Mr. Chairman. I wasn't -- I don't think
23 Mr. Stieglitz was saying at this time we ought to get that
24 detailed, and I think a lot of the detail in here is -- could be
25 extraneous material that's been prepared in response to questions
26 people had and a lot of it is background. Maybe it doesn't clearly

1 enough enunciate those principles. I don't disagree with you, and
2 the questions at the end here are not so much should we spend
3 twenty dollars on this, thirty dollars on that, as criteria for --
4 we should use to evaluate the projects. I was more concerned with
5 stating that that's what we're doing here, and that the next step
6 will be annual and multi-year plans for specific projects and
7 programs, and -- how -- how we get to that next stage.

8 MR. COLE: I -- let me say this, and I agree that we
9 ought to spell out in the document at the outset where we're
10 heading, what this document truly is, the purposes for which we
11 intend to use this document, i.e., preparation for the restoration
12 plan. And, I don't think we're doing that, saying that, in this
13 document. I think Mr. Loeffler said, we're simply saying this is
14 more like the brochure, but with significantly greater detail, and
15 I think what we're asking the public to do is to synthesize all
16 this material to what they think our overall plan will be.

17 MR. BARTON: Any more comments? Mr. Stieglitz.

18 MR. STIEGLITZ: Yeah, I guess I'm a little puzzled. It
19 seems to me, Charlie, the plan involves more -- major more detail
20 than I could -- but it does lay out general policies that we're
21 asking the public to react to. In a general sense, we're asking
22 them if you think habitat protection is the most important thing we
23 should be doing, or is research or monitoring is the more important
24 thing -- you know, which of these mixes do you like? You know,
25 that's the real guts of it, it seems to me. That's fairly -- very
26 general, and maybe I don't understand what you mean when you use

1 the term principle.

2 MR. COLE: Well, I -- I -- I agree that we should --
3 you know, ask the public and to develop some of the public's
4 response in our own staff -- the broad approach which we should
5 take in exercising our options and judgments to carry out
6 restoration, rehabilitation and enhancement. I think that there is
7 great danger in trying to be too specific about asking people, for
8 example, to -- make selections about what we intend to do with
9 respect to archeological resources now, for example, or dolly
10 vardens, or Pacific herring. I mean those are -- I think things
11 that should go into the annual work plan, and it should be based
12 upon what we're finding from the studies as we go down trial. And
13 to talk about herring in a restoration plan or pink salmon in a
14 restoration plan and the various species in the restoration plan,
15 is getting more detailed than I think it should. I -- have a lot
16 of trouble with these pie charts putting out specific percentages
17 to be applied to habitat protection or anything else. I think
18 slightly more specific.

19 MR. BARTON: Mr. Sandor.

20 MR. SANDOR: Well -- this is a -- a very complex thing,
21 and I guess I'm sympathetic to the -- to the -- what must have been
22 a very difficult challenge to the Restoration Team, to try to put
23 this into focus for these different -- for these three different
24 things, namely the -- that the draft plan -- draft environmental
25 impact statement, and this final, and the fact that people impacted
26 in -- were -- have vocations and activities that would not make

1 them available at such times of the year, and -- I guess, re-
2 reading this letter, it seems to me that with just a few changes
3 that we could say something like this letter and the -- draft
4 restoration plan. A list of additional information that relates to
5 the preparation of the final plan and the environmental impact
6 statement, you go on to say that with twenty-two public meetings
7 and that this information has been utilized and it -- you find out
8 that the earlier draft was sent out because people weren't going to
9 be available later in the summer -- in the summer. I mean, the
10 comment period was deliberately extended to provide adequate public
11 involvement, and then in the next to the last paragraph, we say
12 because the restoration plan is a major federal action, this draft
13 is accompanied by a draft environmental impact statement and the
14 draft plan focuses on the resources and services injured by the
15 spill and how to restore them. The draft environmental impact
16 statement projects both the positive and negative impacts that may
17 result from alternative restoration action, and then, although this
18 is a busy season for you, we ask you to comment, and that we want
19 to adopt the final plan by December -- hope we receive your
20 comments by August 6th. I think if people take the time to read
21 this whole letter and if they've been with us, and particularly
22 these five to six hundred people who attended the meetings and that
23 -- it's important this process continue the way it is. I think
24 we're -- what we're really committed to -- to essentially get this
25 package out and shoot for comments on the environmental impact
26 statements, the draft plan by August 6th, and then to come out with

1 a final plan which can then be reformulated to with -- what we're
2 talking about here. I think that everybody agrees with -- can the
3 staff -- is that's what's intended?

4 MR. GIBBONS: We're -- Mr. Chair. We're intending to
5 take the public comments and come to the Trustee Council with a
6 preferred alternative. What course of action do you want us to
7 take, and if we can, in the detail that you're asking? I'm
8 somewhat hesitant to say, yeah, we're going to chart the course for
9 pink salmon and the plan. I -- have some hesitation on that part.
10 I think that probably belongs to perhaps the implementation that
11 goes underneath that that says -- you know, like the work plans --
12 they might be multi-year work plans, tiered under this plan, and to
13 get at that. But, yeah, we're clearly continuing to bring back
14 preferred alternatives, based on the public to the Trustee Council
15 to course -- to strike a course of action.

16 MR. BARTON: Is that today?

17 DR. GIBBONS: Yeah, that's going to be after the August
18 6th closure of the public comments.

19 MR. BARTON: Is that -- is it not inappropriate in this
20 plan if they ask what we want done with, not necessarily how we
21 want to do it?

22 DR. GIBBONS: That's correct.

23 MR. BARTON: What we want done, and shouldn't we do
24 that resource by resource, injured resource by injured resource,
25 injured service by injured service? I asked what the technical
26 planning people tell me is the desired future decision.

1 MR. STRAND: I think so. In a sense we tried to do
2 that very conceptually or generically for each of the resources and
3 services, and I think that as we get additional information, we
4 will be able to do that in more detail by the time the final plan
5 is developed.

6 MR. STIEGLITZ: Mr. Chairman.

7 MR. BARTON: Mr. Stieglitz.

8 MR. STIEGLITZ: It seems to me, maybe I'm too close to it,
9 but it seems to me the draft plan does that. Now the question is
10 can the public sort through this and react -- you know, as we hope
11 that they will. It doesn't necessarily -- I think, take it species
12 by species and put everything related to that species up -- you
13 know, under one heading, you might have to jump to a couple -- of
14 couple of different places in the plan to see what the plan might
15 envision relating to any particular species, but the basics are all
16 there, in my view. Whether it needs to be simplified a little bit
17 more, clarified a bit, that's possibly so. I certainly think we
18 need a much better introduction that -- that lays out what this
19 precisely means and how we're actually going to get down to the
20 details that everybody's talking about. But -- you know, my
21 reaction after reading through this thing a couple of times over
22 the weekend is that the basics are there, but can John Q. Public
23 easily pick up on those basics and react to them?

24 MR. COLE: Can we?

25 MR. BARTON: That's the question -- can the John Q.
26 Public pickup on it easily? And I have to confess, having gone

1 through both these documents in the last forty-eight hours, I'm
2 having -- confused with one another, but -- it's -- it just seems
3 to me that we need to describe the relationship of the plan, the
4 EIS, newspaper, and, I think, it's not obvious to me what we want
5 done resource by resource in there, Walt. Maybe you can help me
6 understand that. Mr. Pennoyer.

7 MR. PENNOYER: Mr. Chair. I agree with you. You look at
8 the questions we're asking people to tell us. Those questions do
9 not tell me that for pink salmon we want to tag and recover pink
10 salmon to better manage natural and hatchery stocks. Those aren't
11 the questions we're asking the public. The background information
12 in there -- the type of things you might do under a particular
13 alternative -- under this alternative you might very well deal with
14 pink salmon, but it doesn't ask the public should we be doing this.
15 It just says, should we have that option open to us. And I think
16 that's -- clearly we're saying to chose, for example, alternative
17 four and five, the options of better management of pink salmon is
18 open. If you want to -- but it doesn't say you're going to do
19 that, it doesn't say how much of that you're going to do, it
20 doesn't say how many years you're going to do it for. So -- are
21 you telling me the final restoration plan that comes back to us in
22 the fall, late summer, will have that type of detail in it? So,
23 there still is a second step? This step then is the multi-year
24 work plan step, and then there's the annual work plan adoption.
25 Isn't this sort of a three step process? This is giving us
26 principles, Mr. Cole talked about, background -- people understand

1 this is the type of things you might do if you chose that
2 alternative. The next step is to sit down and decide which one are
3 we going to do over how many years, not the specific number of
4 dollars, but the type of things we're going to do over a certain
5 number years, like pink salmon, how much are we going to do. Think
6 back annually that as the money comes in and adopt specific
7 projects to do it. And, if it is a three-step process, then that
8 isn't totally clear by what we presented here.

9 MR. BARTON: We really need to define the end point,
10 not how many years we're going to do, but how -- how do we
11 recognize -- on the adoption where we want to get to. Mr.
12 Brodersen.

13 MR. BRODERSEN: I'm generally -- somewhat reluctant to
14 jump into this. It's been a rather interesting discussion. It
15 still seems like -- might want to do so at this point, but I think
16 where we've been trying to go with the restoration plan is that
17 it's the philosophical guidance in terms of what we get from the
18 Council and from the public, the Council gets (inaudible -
19 coughing) of where do we go with restoration, and then actual
20 implementation is what Mr. Pennoyer is talking about, and that is
21 the next step after -- we have philosophical guidance of the
22 restoration plan. One of things we've been kicking around a little
23 bit is that, as part of the restoration plan, it gives us this --
24 this philosophical guidance, but there should be (inaudible) of
25 problems. That this is something we've been hearing from -- from
26 a group in these public meetings that -- that perhaps a step that

1 has been missing, in large part, is that we've been trying to go so
2 quickly to the solutions, that we haven't really focused as much as
3 we should on the problems, and that perhaps as part of this
4 document, which results from the public hearings that we had around
5 various communities, that I think if we could get a list of
6 problems that we've talked about, that would go a long way towards
7 helping us identify the solutions we need to do. As I say, it's
8 just been kicked around, there hasn't been agreement at any level
9 about whether this was a good idea or not, but I'm throwing it out
10 and trying to help in this discussion as to what are the steps that
11 we need to do here.

12 MR. BARTON: Okay, what's an example of a problem.

13 MR. BRODERSEN: A problem could conceivably be that the
14 commercial fishermen are not able to get the full benefit of pink
15 salmon like they used to do in the past, just because the pink
16 salmon is reduced. Another problem might be that in the intertidal
17 zone, the fucus aren't coming back as quickly as they should. I
18 hadn't really -- those are actual, specific injuries that we've had
19 occur out there, and then you address how you go about fixing them.
20 A little bit more on where -- Mr. Pennoyer, I think was trying to
21 go here, is that I think we do need multi-year, many plans, if you
22 will, perhaps a better term, and I've been racking my brain for
23 months here trying for better expressions, by injured resource and
24 service as to how we're going back to take care of them. I've
25 assumed for quite a while now that those would not be included in
26 the restoration plan, that then binds our hands too much as we find

1 more information; that we want to do this multi-year resource
2 planning effort as part of implementation, as part of the annual
3 work plans. I've heard several folks suggest that maybe the work
4 plan may be -- over several years, I think that's a fine idea.
5 You all tried to get at this in the '94 titles projects that you
6 threw out, wanting people to be able to see when we actually were
7 going to do things at the time. People are much more understanding
8 of not having their projects done this year, if they can see their
9 project is going to be done next year, or the year after, and they
10 realize we haven't forgotten them. People do seem to be aware
11 there's a limited amount of money, and we can only do so much per
12 year. But, that was my vision, I'm not sure I'm in tune with
13 everyone else, but that -- that the actual implementation of this,
14 as Mr. Pennoyer was talking about, is done as part implementation,
15 as part of the work plan. The restoration plan here is to answer
16 five basic questions and come up one alternative, which I assume
17 will be a mix and match of the five, and then that's it. It's to
18 be where Mr. Cole was talking about, I think.

19 MR. BARTON: Go ahead, Mr. Stieglitz.

20 MR. STIEGLITZ: Well, I'll say it again. I don't think
21 there's anyway we can crank into what we're going to call the
22 restoration plan, the kind of multi-year plan, species by species,
23 like people are talking about. Things are not constant;;
24 conditions are going to be changing. Population levels are going
25 to be changed in these species. Who knows, and new things may pop
26 up that we haven't even identified yet -- some sublethal effects.

1 I just don't think it's possible to crank a lot of detail into this
2 plan. The point I really want to make is this though, it seems to
3 me like what we really want out of the public reaction to this
4 draft restoration plan are answers to the five questions on page
5 thirteen. You know, those are the major policy issues that are on
6 the table. Those are going guide where the whole restoration
7 process goes. The answers to those questions are going to
8 determine, over the long haul, which projects we agree to -- you
9 know, it lays out the kind of guidance I think Mr. Cole is talking
10 about -- you know, that's the real guts, I think, of this whole
11 plan. And -- if we can get adequate public input to those five
12 issues, we can digest that information and come up with Trustee
13 Council's decisions about how we're going to address those over the
14 long haul of restoration, and we will have done what we're seeking
15 to do here. MR. BARTON: Mr. Pennoyer.

16 MR. PENNOYER: What they said (inaudible) but the
17 introduction, or the letter, at least, better explain where we are
18 in the process. This is the preliminary thing out, we did it for
19 this purpose, this larger document is coming out for this reason,
20 that's sort of addressed here, this will lead us to using these
21 general precepts, to guide us into finding multi-year
22 implementation plans and annual work plans -- just where we are in
23 the process, so people don't think this automatically tells me I
24 want to tag pinks in 1996.

25 MR. BARTON: Mr. Sandor, then Mr. Stieglitz.

26 MR. SANDOR: This discussion is very helpful, and I --

1 I think when we go through the next item on draft environment
2 impact statement that discussion will also relate to this. I
3 believe that some modifications in the letter might be -- might be
4 helpful. For that reason, Mr. Chairman, I move that the motion be
5 tabled until either a period following the discussion of the draft
6 environmental impact statement or -- or tomorrow morning.

7 MR. BARTON: The motion fails for a lack of a second.
8 No motion on the floor to table.

9 MR. SANDOR: Yes, my motion was to adopt or approve
10 the....

11 (Inaudible - background talking - simultaneous talking)

12 MR. BARTON: Failed for lack of a second -- who
13 seconded?

14 MR. SANDOR: You did.

15 MR. BARTON: I didn't.

16 MR. COLE: No one seconded.

17 MR. COLE: Mr. Chair.

18 MR. BARTON: Mr. Cole.

19 MR. COLE: Let me, just highlight a little bit what
20 I think some of the problems that we are asking ourselves to face.
21 As you look at, perhaps page thirty-two and page thirty-five and
22 thirty-six, and your dear interested reader sees those tables, I
23 think that they would be very confused. And in reading those
24 because they're apt to say, what does the Council want with these
25 affected mammals? Should I make a selection as to each one of
26 those items there with a star, or whatever you call that symbol.

1 You know, are we asking the reader to respond any of these tables?

2 MR. BARTON: Mr. Loeffler, can you answer Mr. Cole's
3 questions?

4 MR. LOEFFLER: The answer is that we're looking for
5 policy guidance. If someone has specific comments to the tables,
6 we'd glad to take then.

7 MR. BARTON: Mr. Gibbons.

8 DR. GIBBONS: Yes, just -- just to point -- these were
9 in the brochure that were released in mid-April, and the public
10 meetings that I attended at least, that the public understood these
11 quite well -- surprisingly well, but with all the check marks. So
12 -- I only went through about seven or eight of them, so that was
13 just my impression that they -- they did fully understand.

14 MR. COLE: Well, are we supposed to put these various
15 alternatives that they may select by majority vote in the
16 restoration plan? And, if they're not, why are we asking for them
17 to comment on these?

18 MR. BARTON: Mr. Loeffler.

19 MR. LOEFFLER: I -- I think that these are -- there are
20 designed to show the implications of -- these are the policy
21 choices. So, for example, if someone says I want to hold you to
22 not doing things for species that haven't -- population haven't
23 declined -- that has some implication for the projects, and these
24 are designed to show that. But, they're -- we do not necessarily -
25 - taking one up with the other.

26 MR. BARTON: Mr. Stieglitz.

1 MR. STIEGLITZ: This -- first, a point of order, I heard
2 a motion on the table (inaudible - simultaneous talking). Okay,
3 the comment I want to make then is a follow up, and that is, an
4 option -- I think delete the table that Mr. Cole refers to from the
5 plan if -- if Council members are concerned that that might be
6 providing unnecessary detail and might be further confusing the
7 whole situation about what we really want the public to provide to
8 us. It's an option.

9 MR. BARTON: My concern would be that we simply discuss
10 these options earlier in the draft, it would -- helpful to me to
11 finally find them. So, we either need to delete that discussion or
12 delete the tables. Mr. Loeffler.

13 MR. LOEFFLER: I think that -- I'd like to summarize what
14 I've heard so far because I think you directed us to go back and do
15 some things, and, if it pleases the Council, I'd like to tell you
16 what I think we're going to do and you can tell us if it's right or
17 not....

18 MR. BARTON: Are we ready for this, or do we want
19 further discussion?

20 (Inaudible - laughing)

21 MR. LOEFFLER: So far, and I don't mean to say this
22 (inaudible) we've been told -- I think that we've been told to
23 provide the introduction letter as chapter one, or the cover
24 letter, to make it clear the relationship between the plan, the EIS
25 and the newspaper brochure. Second, to make it clear that what we
26 are asking for, what the plan -- what the final plan will be, is

1 not a comprehensive project list -- our marching orders for ever,
2 but rather what we -- we'll be getting is policy guidance, and that
3 the details will be determined under implication -- under
4 implementation -- and specifically under that, we refer people to
5 the five questions on page thirteen to tell them if there are other
6 policies, and they should add those as well -- and, the details of
7 which options are provided to show you the implications of the
8 policies. I think that we've been told that that's kind of where
9 we're going, and that to make that clear in the cover letter -- for
10 -- the introduction. Have I heard that correctly?

11 MR. BARTON: Comments? Mr. Pennoyer.

12 MR. PENNOYER: I think generally, I still would like to
13 make it clear the relationship between this and multi-year and
14 annual implementation plans. Even if you approve of the '94 work
15 plan, the Trustee Council is considering a '94 work plan, which
16 we'll take into account implementation of projects over multi-years
17 after '94. This information has been sent out previously and that
18 will be finalized and sent out again for public comment -- just
19 clearly where this is in the process. People comment that's it
20 like an old (inaudible), say, well, I thought we told them what to
21 do. Now, what are they asking us some more questions for?
22 Clearly, you're not being asked in this specifically whether you
23 should build a sea otter hatchery. I mean, you're choosing an
24 alternative to allow you to build a sea otter hatchery, if you like
25 one, but you're not being asked when to do it, how much would you
26 spend on it, or how many years we ought to run it. That will come

1 up later. Well, maybe it won't, but something like that will come
2 up later, and just clearly where this is in the process. But,
3 again, this is not to say that we're not going to think about this
4 stuff another three years after we do this. We have to come back
5 with a '94 work plan -- I believe will be the first example of
6 having to deal with the multi-year implementation plan concern,
7 because we're not going to pass on some of the '94 projects, I
8 don't think, until we know how they fit into the longer scheme of
9 things.

10 MR. BARTON: Mr. Gibbons.

11 DR. GIBBONS: Yeah, I -- I think -- you know, a little
12 bit -- provide -- I think you want the whole process at this point
13 -- you know, how the brochure led to the draft plan, draft EIS --
14 how the work plans -- get the whole process, that's what I'm
15 hearing. Just so...

16 MR. BARTON: (Inaudible)

17 DR. GIBBONS: Yeah, very succinct -- you know...

18 MR. BARTON: (Inaudible)

19 MR. LOEFFLER: Mr. Chairman -- Dave -- I think our
20 printer deadline, they need to see that before the next Trustee
21 Council meeting.

22 DR. GIBBONS: Well get it....

23 (Inaudible - simultaneous talking in background)

24 MR. BARTON: (Inaudible) Mr. Cole.

25 MR. COLE: Could we stay on this a bit more? See, I
26 think that if we get too much detail in this document, we lose

1 focus of what we would like the public generally to tell us about
2 the restoration plan, and I would like to see the document limited
3 so as to focus on our receiving from the public what we would like
4 them to tell us about the restoration plan itself. That's one.
5 Also, what -- if we were to approve this document going out to the
6 public, does that mean we as the Council agree with everything
7 that's said in here?

8 MR. BARTON: It wouldn't be my understanding -- that's
9 all -- all we've done is approve it to go out for public comment,
10 not necessarily that we were involved with anything -- on all of
11 it. I don't know -- other Council members have contrary views?
12 Mr. Pennoyer.

13 MR. PENNOYER: Well, since we haven't chosen a preferred
14 alternative, we may end up not agreeing with something -- something
15 that's in there anyway. I -- I guess I would say that we shouldn't
16 send anything out we consider to be completely ridiculous or
17 immoral.

18 MR. COLE: I didn't say anything immoral.

19 MR. PENNOYER: (Inaudible)illegal anyway.

20 MR. BARTON: Is there any other waiting to comment?
21 Yes.

22 MR. STIEGLITZ: I would assume -- I would assume that if
23 this goes out to the public, the public is going to assume that the
24 Council endorses it. If I were a member of the public and this
25 thing came out to me to comment under the signature of the Trustee
26 Council, I would assume that everybody, at least ten -- would have

1 agreed with everything that's in there.

2 MR. BARTON: Well, but I'm not sure what you mean
3 endorse. How can we endorse five alternatives -- I mean, that
4 doesn't mean that we necessarily support all five, We can't
5 support all five.

6 MR. STIEGLITZ: It's like -- again, I would assume, if I
7 read this, that no one on the Council has a significant problem
8 with anything laid out in the plan.

9 MR. BARTON: Mr. Cole.

10 MR. COLE: Let me give you an illustration. On C1
11 part A, habitat protection and acquisition on private land, quote,
12 the goal of habitat protection and acquisition on private land is
13 to prevent further damage to resources and services injured by the
14 oil spill by protecting key fish and wildlife habitat or human use
15 areas. That's not my understanding of the full scope of habitat
16 protection and acquisition. It's not simply to prevent further
17 damage to resources, it's to enhance already damaged resources. I
18 -- I don't mean to elaborate on that, there's a number of other
19 things in here that I -- about which I could make the same comment,
20 but what I'm saying is -- I just brought this up to make sure that
21 we all realize that there are a lot of statements in here -- that
22 we may not -- Bob (inaudible) or somebody said, well, look here's
23 what you said in this -- draft restoration plan, and then we may be
24 locked into it. For example, there are a number of very positive
25 statements in there about endowments, and -- I question whether
26 they're accurate, and -- let me see if I can find them....

1 MR. STRAND: On page 20.

2 MR. COLE: Page 20. Yes, it -- it says -- for
3 example, for these and other reasons, restoration needs will
4 continue long past the year in which Exxon makes the last scheduled
5 deposit under the civil statement. I'm not sure we're all
6 comfortable with that -- along that -- then all of these and other
7 endowments are possible. Do we really want to say that? Should
8 all these categories of endowments be possible? It is in the next
9 page 21, it is possible to place any portion of the remaining
10 settlement funds into an endowment. I'm not sure that our good
11 friend Mr. Brighton, from the Department of Justice, here, would
12 agree with that. So, I just want to highlight that to make sure we
13 all have an understanding of what we're doing if we were to vote to
14 send some of these things out.

15 MR. BARTON: Well, it seems to me that we have an
16 obligation to be sure that what is said here is accurate and does
17 (inaudible), and that's ...

18 (Inaudible - simultaneous talking)

19 MR. PENNOYER: There's one more option here because I
20 think this may apply to other factors as well, the state and
21 federal government may still be dealing with some of the legalities
22 of expenditures, and maybe we should put that in some of those
23 discussions that are ongoing, and just -- just like this statement
24 on endowments, because we don't know if all forms of endowments are
25 possible, and maybe it would be appropriate where we make
26 statements like that -- to change will to maybe, or something like

1 that. Maybe we should just somehow asterisk this thing, or
2 highlight it and say something to the effect -- the fact that
3 discussions are still ongoing on the appropriate -- on the legal
4 use of settlement funds and some specific projects may fall -- some
5 fall out, or something like that -- just highlight it, because I
6 don't think that discussion has been completed yet.

7 MR. BARTON: Mr. Stieglitz.

8 MR. STIEGLITZ: Yes, a few comments. One is that I agree
9 with Mr. Pennoyer. It seems to me because of the uncertainties
10 regarding the question and legality of using funds for certain
11 kinds of purposes. If the plan basically isn't changed from what
12 we're looking at, I think there does need to be a qualifier in
13 there -- I mean -- to the effect -- this kind of project may
14 require and basically authority, or whatever. The other is, I
15 personally don't have any trouble with the draft plan going out,
16 more or less in the form it is with the modification we talked
17 about, again, with another qualifying saying, the fact that this
18 plan is on the street doesn't necessarily mean that all members of
19 the Council completely agree with everything in it. Those aren't
20 good legal terms, but something to that effect.

21 MR. BARTON: You do agree it needs to be accurate --
22 you do agree that it needs to be as accurate as possible?

23 MR. STIEGLITZ: Yes.

24 MR. BARTON: Other comments? Mr. Cole? What other
25 action does the Council wish to take? Mr. Stieglitz.

26 MR. STIEGLITZ: I would move that the Council basically

1 endorse the draft restoration plan as presented to us today, with
2 the modifications that we have agreed to as a result of all of our
3 discussions, and proceed expeditiously with printing the plan and
4 distributing it for public comments.

5 MR. PENNOYER: Second.

6 MR. BARTON: Further discussion? How -- I have a
7 question, how will we get the modifications that we discussed
8 completed, and then what -- what process will we use for that?

9 MR. LOEFFLER: (Inaudible - out of range of microphone)

10 MR. BARTON: If you need to get together by
11 teleconference?

12 MR. COLE: Well, I have some more questions.

13 MR. BARTON: Mr. Cole? Or, Mr. Rosier hasn't had a
14 chance yet.

15 MR. ROSIER: Well, that's fine, I just wanted
16 clarification of the motion in regards to, are we endorsing this
17 plan or -- we endorsing plan going to the public at the present
18 time? As I understood it, we are, in fact, looking at some type of
19 qualifications, that would be either in the letter -- cover letter
20 -- or something, along those lines, without endorsing this as it
21 stands. We're endorsing this going to the public for comment.

22 MR. STIEGLITZ: The intention of my motion was the latter
23 understanding, and with the understanding those qualifiers should
24 be written into the plan itself, because cover -- cover letters get
25 lost sometime. I think it will be written in the introduction of
26 the plan.

1 MR. BARTON: Or we could just bind the letter right
2 into the plan. Mr. Cole, do you have further discussion?

3 MR. COLE: Can we change the title of this document
4 so that it does not appear as though -- draft restoration plan? I
5 think everybody agrees that it isn't.

6 MR. BARTON: Do you have a suggestion?

7 MR. COLE: No.

8 MR. BARTON: Does anybody have a suggestion?

9 MR PENNOYER: (Inaudible - coughing) get around to NEPA
10 concerns about approving work plans without a restoration plan in
11 place? I mean it is -- it is -- I'm not sure totally what a
12 restoration plan is. If it's an accumulation of work plans, when
13 we're done, or it's implementation plan for our guidance. It's
14 supposed to be an umbrella -- restoration plan to guide us in our
15 specific activities, and I hate to call it a restoration umbrella,
16 that doesn't sound thrilling -- that's too far.

17 MR. LOEFFLER: Mr. Chairman.

18 MR. BARTON: Mr. Loeffler.

19 MR. LOEFFLER: One suggestion to meet Mr. Cole's
20 comments. We could call it restoration plan alternative. That's
21 really what it is. I don't have any perception of whether that
22 throws wrenches into the NEPA process and I cannot...

23 MR. BARTON: Somebody to speak to that.

24 MR. RICE: Mr. Chairman, NEPA requires that you
25 disclose the effects of -- of the actions and if -- if you think
26 it may be a major action, then you do an environmental impact

1 statement. Whatever you call this, I think is -- is irrelevant to
2 NEPA. And, if you don't want to call this a plan, whatever name
3 you come up with, I think we'd go in and do a global replacement in
4 both documents -- go out and say here's what -- here's what we're
5 proposing to do. We -- we have a proposed action, then we can go
6 forward with the NEPA process.

7 MR. BARTON: What happens when we do have plan? Do we
8 do another EIS?

9 MR. RICE: I'm not sure I, I'd like to talk to my
10 counsel before I answer that.

11 MR. STIEGLITZ: Mr. Chairman.

12 MR. BARTON: Mr. Stieglitz.

13 MR. STIEGLITZ: It seems to me like what's a restoration
14 plan may be in the eyes of the beholder, and -- you know, different
15 people sitting around this table have different ideas about what a
16 restoration plan should look like or what all it contains, etc.,
17 etc. I also struggled with other names for it, but wasn't able to
18 come up with a better one. I -- I think, with the kind of
19 clarification and qualification that we're talking about now in --
20 in the introduction of this plan, that the public shouldn't be
21 confused. They should understand we're calling this the
22 restoration plan, and this is what it looks like period. I -- you
23 know, if the motion calls for sticking with the name restoration
24 plan, I personally think we ought to do that, for the lack of a
25 better one.

26 MR. BARTON: Mr. Cole.

1 MR. COLE: Well, I think people would be confused.
2 They presumably will keep these documents in the top drawer of
3 their desk, they will see this document entitled draft restoration
4 plan. Four months later we will come out with the restoration
5 plan. Presumably it will be a document entirely different, than
6 this document here. We ought to, at least, preserve our integrity
7 to call these documents what, at least, we think they are, that's
8 number one. And, number two is I think a lot of the trouble that
9 we're facing is, is we haven't clearly thought out ourselves what
10 a restoration plan is...

11 MR. BARTON: Most of us.

12 MR. COLE: And -- pardon me.

13 MR. BARTON: I say, I think that's most of us.

14 MR. COLE: Yeah. And, no wonder the public out there
15 is confused, because we're confused. We haven't done ourselves the
16 type of analytical thinking that I think necessary to -- enough to
17 lead this process. And, I think it's about time we do it, frankly.
18 I mean, we shouldn't be going on farther with this whole thing
19 until we ourselves are clear in our minds, articulated precisely
20 what the restoration plan ought to be.

21 MR. BARTON: Mr. Rosier.

22 MR. ROSIER: Mr. Chairman. Well, I don't know whether
23 Mr. Loeffler's suggestion is -- meets Mr. Cole's objections here or
24 not, but it seems to me that the addition of alternatives gives us
25 some additional flexibility, and as to what we're, in fact, calling
26 this -- and I-- I tend to like the suggestion that I heard down

1 here myself, but then -- it seems like that was a reasonable --
2 reasonable adjustment -- to myself.

3 MR. BARTON: (Inaudible) It certainly sounds that way
4 but I -- before we go down that path, I hope we take the time to
5 talk to the legal folks in terms of the NEPA compliance aspect of
6 the thing. Mr. Sandor.

7 MR. SANDOR: I'd remind ourselves that what we put out
8 in April was a draft Exxon Valdez oil spill restoration plan
9 summary and alternatives for public comments, and on -- in the
10 second page, what is the restoration plan? And the time we all --
11 you know, qualified this and said it wasn't a plan -- but, you
12 know, perhaps what we suggest -- or, you know, building on this
13 alternative for public comments stuff, well, anyway we're -- we've
14 been riding a horse that's called a draft restoration plan for some
15 time. So, I don't know when we get off of it, but we ought to be
16 able to make sure that we've got a better vehicle than the one
17 we've been riding.

18 MR. COLE: We should get off when we can get off
19 gracefully.

20 MR. BARTON: Before we get bucked off at the end. Mr.
21 Loeffler.

22 MR. LOEFFLER: I was going to suggest we set a
23 compromise, and you can call it draft restoration plan,
24 alternatives for public comment. So, it's clear that's it's
25 alternative to that. I don't know if that compromise manages to
26 confuse both sides of this or not.

1 MR. BARTON: Motion of the floor is to follow the plan
2 and go ahead and issue it for public review with the qualifiers
3 that we adopt -- discussed earlier.

4 MR. COLE: At this juncture, I'll move to adopt
5 Trustee Pennoyer counsel that we defer final action on this until
6 we've heard public comments.

7 MR. BARTON: There's been a motion to table. A second
8 to that? Any objection on the motion to table? So tabled. Is
9 there a twenty minute subject on this agenda, anywhere, Mr.
10 Gibbons?

11 MR. PENNOYER: Go to the restaurants early and save some
12 time.

13 MR. BARTON: Why don't we adjourn until 12:45 for
14 lunch. Is there a motion to that effect?

15 MR. PENNOYER: Could you make it 1:00 you may want to --
16 so check-in we're not that rushed.

17 MR. BARTON: Okay, so moved. We'll readjourn --
18 reconvene at 1:00.

19 (Off Record at 11:40 a.m.)

20 (On Record at 1:00 p.m.)

21 MR. BARTON: Reconvene the meeting. When we left for
22 lunch, we just completed a good discussion on the restoration plan
23 and had moved to table any decisions on that until tomorrow
24 morning. The next item on our agenda is the draft environmental
25 impact statement, but before we go into that, is there anything
26 more we want to say at this time on the restoration plan? Alright.

1 Dr. Gibbons, the draft EIS.

2 DR. GIBBONS: I'll turn that over to Ken Rice.

3 MR. RICE: Mr. Chairman, you've been given a copy of
4 the draft environmental impact statement which is accompanying the
5 draft restoration plan. As you remember in February of '92, you
6 decided to comply with the National Environmental Policy Act and
7 develop an environmental impact statement to go with this
8 restoration plan. The team that has been working on this is headed
9 by Walcoff & Associates. They were given the alternatives in late
10 February and came to us with a draft document that's been through
11 a couple of Restoration Team reviews. I'll briefly run through the
12 major chapters of it, it's basically set out in the format of a
13 standard environmental impact statement, chapter one being your
14 proposed action, purpose and need. The proposed action is taken
15 from the Restoration Framework document that we came out with in
16 March of -- April of '92, and basically it's to implement the
17 restoration of the oil spill area. The plan identifies five issues
18 that are tracked through the document and basically tries to answer
19 those issues. For example, well, they're on page nine through --
20 pages eight through ten identify the five issues that are tracked
21 in the document, and -- and basically attempt to answer those. The
22 first issue being how would restoration activities contribute to
23 restoring injured resources and services? How would activities
24 directed at injured resources and services effect non-target
25 resources and services? In other words, if you have an activity to
26 enhance habitat for pink salmon, for example, what would happen to

1 any non-target organisms that use the area, cutthroat trout, dolly
2 varden or other organisms. Chapter two is the alternatives, and
3 that -- that chapter parallels the -- the alternatives that are in
4 the draft restoration plan. Chapter three is the affected
5 environment, which basically describes what is out there in the
6 environment now, as it relates to the activities that we propose to
7 undertake and the effects that those activities may have. And,
8 then chapter four is the -- impacts to the environment that -- this
9 a -- that may occur as a result of any activity we undertake. It's
10 a programmatic document, very general in nature, and it does not
11 get into site-specific impacts. It basically looks at the
12 cumulative impacts of the activities that we may undertake over the
13 course of the restoration, and attempts to project out what changes
14 could occur to the environment over -- over the next ten years or
15 so.

16 MR. BARTON: Mr. Cole.

17 MR. COLE: I move we combine the EIS with the quote,
18 draft restoration plan, close quote.

19 MR. BARTON: Is there a second?

20 MR. PENNOYER: Second, for the purposes of discussion.

21 MR. BARTON: Moved and seconded that we combine the
22 draft EIS and the draft restoration plan. Discussion?

23 MR. PENNOYER: (Inaudible) Mr. Chairman, could I ask the
24 maker of the motion for his rational for wanting to combine them?

25 MR. BARTON: You just did.

26 MR. PENNOYER: Thank you.

1 MR. COLE: Well, I am of personal view, long held,
2 that we don't need an environmental impact statement at this stage,
3 especially when we reached the conclusion that the restoration plan
4 will be largely a statement of principles, or as Mr. Brodersen puts
5 it, philosophy. And you need only -- an environmental impact
6 statement when you reach a decision to take affirmative action, and
7 that's not the case here. So, I think we're getting off the track,
8 again, on this proverbial horse that Commission Sandor was talking
9 about.

10 MR. BARTON: Was your motion to not have any EIS?

11 MR. COLE: No, just put in whatever compliance we
12 need to make a pass at it in the draft restoration plan. And,
13 frankly, if you read this EIS -- with profound respect for those
14 who prepared it, because the mental ability required to put that
15 thing together, I think one needs almost a main frame computer, if
16 not a super computer to work through that, and I think that we
17 should try to simplify what we're doing as very much as possible,
18 if we're going to get, quote, meaningful participation, close
19 quote, as the Justice Department implored us to do, at the time we
20 negotiated this agreement.

21 MR. BARTON: Well, there is certainly a lot of
22 duplication between the two -- two documents.

23 MR. COLE: One other thing, I'm just not sure they're
24 all entirely consist, if you read every sentence of every one, it
25 would be an interesting exercise. I presume that the people who
26 did it -- prepared the document -- did, but if one had time, it

1 would be interesting to see if they're fully consistent with
2 statements of injuries, etc., etc.

3 MR. BARTON: I'm sure they are. Mr. Stieglitz.

4 MR. STIEGLITZ: Well, it's certainly an interesting
5 concept. I guess, I would be interested in hearing some reaction
6 from whomever as to how complicated this might be and how much time
7 it might take to marry the two documents. Whoever is appropriate
8 to respond to that.

9 MR. BARTON: There's Mr. Rice, there's Mr. Strand,
10 there's Mr. Loeffler.

11 MR. PENNOYER: Mr. Chairman, before you start there --
12 yeah, there's a couple of different thoughts here, you got exposed
13 to both of them. One is that we might not need it, and that we
14 might be able to, sort of, do something simpler, and the other is
15 that basically their horribly duplicative, and going out to the
16 public, they'd wade through the history of the spill and all --
17 what describes the alternatives and all the rest of them. So they
18 are horribly duplicative, and that's a lot of paper for somebody to
19 receive. So, from just the standpoint of getting meaningful public
20 input, rather than have people turn around and say, what in the
21 heck they sent us this three times now. One is a draft synopsis,
22 the second was a detailed restoration plan, quote plan, and the
23 other is this EIS, and they basically, sort of, say the same
24 things. So, you have two different concepts there, but in
25 combining them, I guess we'd allude to the fact that, at least, at
26 this stage we're accepting the fact that to proceed on we've got to

1 do an environmental impact statement, but is it necessary to have
2 all this stuff in here, and in the restoration plan? Could you put
3 them together somehow?

4 MR. BARTON: Would it be worthwhile to examine again
5 why we thought -- concluded once before we needed an EIS or needed
6 NEPA compliance?

7 MR. PENNOYER: We need someone to assure us that we can
8 continue with our business, if we don't do it?

9 MR. COLE: I could give you qualitative assurance
10 that it's not required for the restoration plan. I say
11 qualitative.

12 MR. BARTON: Under that scenario the NEPA compliance
13 would occur at the project level -- projects implementation.

14 MR. COLE: Yes.

15 MR. BARTON: Are there -- who can recall why we
16 concluded that we needed to do NEPA compliance on the plan?

17 MR. PENNOYER: Mr. Chairman, we were advised we had to do
18 a NEPA compliance on the plan.

19 MR. BARTON: Is the advisee here within range, or
20 advisor?

21 MR. COLE: Advisor....

22 (Inaudible - simultaneous talking)

23 MR. BARTON: Apparently not. No one is not going to
24 take credit for it anyway. Mr. Sandor.

25 MR. SANDOR: Well, since the advice...

26 MR. BARTON: Yes.

1 MS. MARIA LISOWSKI (from the audience): The primary
2 reason why -- the primary reason why -- I think, there is not total
3 agreement within the legal counsels on whether there needed to be
4 compliance at this point, at the time the Interior Department
5 convinced the rest of the federal agencies that the best approach
6 to take is, that if a plan was being considered, that there should
7 be a programmatic EIS because the plan itself could be considered
8 a major federal action. And, that's why we've been advocating that
9 there should be an EIS attached to the restoration plan. One major
10 advantage to having an EIS with the restoration plan is that there
11 should be an cumulative effects analysis that goes along with the
12 restoration plan. This will give you a document analysis to tier
13 back to during your annual work plans or even on -- on individual
14 projects that you can tier back to that cumulative effects
15 analysis. That's a primary advantage to having the programmatic
16 document.

17 MR. BARTON: Mr. Sandor.

18 MR. SANDOR: Question. Would projects or plans in the
19 future not have to have an environmental impact statement or --
20 because of this umbrella coverage?

21 MS. LISOWSKI: The individual projects themselves would
22 have to have NEPA compliance, just as we've always said that -- in
23 the last two years we've said that they've -- the individual
24 projects should comply with NEPA in themselves. They can now, tier
25 back to this programmatic document and the effects analysis there,
26 and it can be very beneficial in -- in your analysis on an

1 individual project.

2 MR. SANDOR: But there is no savings (inaudible - out
3 of range of microphone) as result of the fact that individual
4 projects will have to have an EIS?

5 MS. LISOWSKI: The savings is that they may not
6 necessarily have to have as significant a cumulative effects
7 analysis, they can tier back to that analysis in the programmatic
8 document.

9 MR. COLE: Mr. Chairman.

10 MR. BARTON: Yes, Mr. Cole.

11 MR. COLE: What troubles me is how can you have
12 cumulative effect analysis if you don't know what you're going to
13 do? That really troubles me.

14 MR. LISOWSKI: Well, the document -- the way that the EIS
15 has been set up and Ken -- Ken can correct me if I'm wrong -- but
16 I think that they've -- they've taken each alternative and looked
17 at what the cumulative effect would be if that were the alternative
18 that was chosen by the Council to implement.

19 MR. COLE: That's the cumulative effects per species,
20 or the cumulative effects -- effects of the plan?

21 MR. LISOWSKI: Of -- of the act -- undertaking the action
22 of choosing that alternative and implementing that alternative.

23 MR. COLE: Like I say, I know a little -- about it,
24 but if you did a cumulative effects analysis, it seems to me you'd
25 have to have a cumulative effects of the entire plan, or otherwise
26 you're just getting back to the annual work plan, NEPA compliance.

1 I mean -- that's where I'm hung up. I don't understand the act, so
2 -- but -- I know -- realize when Congress acts it not -- doesn't
3 always -- only occasionally makes sense, but let's assume this time
4 they're making sense.

5 MS. LISOWSKI: I think what the analysis that they tried
6 to do is to take each option that's been outlined under that
7 alternative and making the assumption that all of them would be
8 implemented, and therefore doing a cumulative effects analysis of
9 implementing all of those options within that alternative -- so
10 that -- so that any alternative that you chose, would -- there
11 would be cumulative effects analysis for each one of those
12 alternatives.

13 MR. BARTON: Mr. Pennoyer.

14 MR. PENNOYER: Oh, I was just going to point out that --
15 Commissioner Sandor, I don't think its programmatic you're going to
16 do an EIS for all the projects. We've had EA's and categorical
17 exclusions, and all sorts of stuff. So, it's just your going to
18 have to have NEPA compliance for each project, but that might be a
19 far less arduous a task then this one seems to be turning out to
20 be.

21 MR. SANDOR: Mr. Chairman, when we embarked on this
22 course of action, there was the price tag associated with it. Is
23 my memory correct that it exceeded three hundred thousand?

24 MR. RICE: Mr. Chairman, the original price tag was,
25 I think, two hundred and eighty-four thousand, something like that
26 -- that Walcoff estimated they could do the entire project for.

1 MR. SANDOR: Are we contractually obligated to complete
2 that contract?

3 MR. RICE: I thing that the arrangements that we had
4 is that we have a -- agreement with the Justice Department to
5 provide the environmental impact statements. They have the actual
6 contract with Walcoff & Associates, and we transfer the money to
7 the Justice Department and they are paying Walcoff & Associates.
8 If we terminated our agreement with the Justice Department, then I
9 suppose that all that would be remaining is to pay any outstanding
10 bills that came in.

11 MR. BARTON: Mr. Cole.

12 MR. COLE: This whole thing then is the Justice
13 Department's fault? (Laughter)

14 MR. BARTON: I don't think so.

15 MR. STIEGLITZ: Mr. Chair.

16 MR. BARTON: Mr. Stieglitz.

17 MR. STIEGLITZ: Yeah, reminder -- I have -- I have a
18 request on the table and I'd like -- I would like a response to my
19 question.

20 MR. BARTON: Could you repeat your request? We've
21 forgotten it already. I apologize.

22 MR. STIEGLITZ: You're forgiven. Basically, it's some
23 reaction from the staff about the implications of marrying the two
24 documents. What kind of time facts are we talking about? Are we
25 going to lose a lot of additional time by doing that?

26 MR. BARTON: Mr. Rice.

1 MR. RICE: Mr. Chairman. I'm -- somewhat hesitate to
2 say how much time would be lost. I don't -- I think that several
3 weeks, at least, would be lost, but it may not be as much as a
4 month, and I would need to discuss with a couple of other people to
5 arrive at that. It's not out of the question, in fact, at least
6 within the Restoration Team, there had been discussion early on,
7 and within RPWG there had been discussion earlier on, about whether
8 we would have two documents or one document, and inasmuch as the
9 environmental impact statement has the alternatives that are
10 discussed in the restoration plan, there is a tremendous amount of
11 duplication there. It's not an impossible task, it would take some
12 more coordination and we would lose a couple of weeks, at least.
13 A month -- RPWG is saying one month?

14 MR. LOEFFLER: A couple of weeks for sure, three
15 weeks...

16 MR. RICE: Somewhere in that time frame.

17 MR. BARTON: Mr. Cole.

18 MR. COLE: Could we get some -- what one might term
19 loosely on the authoritative statement as to whether, from the
20 federal standpoint, if this NEPA compliance is required in the
21 restoration plan. I think the state is satisfied that it's not
22 required on the basis of -- of a recent memorandum, which the
23 Department of Law prepared, which -- and it's a memorandum I'm very
24 comfortable with -- you know. I mean, I like the theory to keep
25 this stuff simple.

26 (Inaudible - out of range of microphone - laughing)

1 MR. COLE: Oh, oh, I should have known better.

2 MR. BILL BRIGHTON: Mr. Cole, I'm not going to give you
3 an opinion right now, but (inaudible - simultaneous talking). What
4 I will say though is that -- whether NEPA compliance is required or
5 not, assuming it is, it's not going to hurt your position in anyway
6 to combine the two documents together. The information that was
7 going to be in the EIS is also in the other document. I think it
8 also should be clear that -- that were this really a restoration
9 plan, it would make sense for you to engage in the same kind of
10 cumulative effects analysis and evaluation of alternatives as would
11 appear in an EIS in the restoration plan itself. So, it's
12 appropriate from all perspectives to -- in my view, to combine them
13 in a single document. Whether this is the type of plan that
14 actually requires an EIS, I'm not really not in a position to give
15 you an authoritative opinion on -- and I also think that you're
16 pretty far down the road on, at least, preparing the substance of
17 what would be in any EIS, or as -- as part of the overall
18 restoration plan alternatives, as I think you're calling it now.

19 MR. COLE: You support the motion, I gather. As long
20 as you're there, you know.

21 MR. BRIGHTON: I see no legal objection to the motion.
22 (Inaudible - laughing)

23 MR. BARTON: Any other discussion? Mr. Pennoyer.

24 MR. PENNOYER: On the Walcoff(ph) contract, is this
25 something we could depend on them partially -- to fulfill their
26 contract, to do some of that combining? Would they send people

1 out, or is this just something you're just going to have to sit
2 down and do in-house here?

3 MR. RICE: I think -- Mr. Chairman -- I think it's
4 going to be a little bit of both. We have the electronic version
5 of what you have in front of you, and we so could either work with
6 them on any changes or -- and work with the Restoration Planning
7 Work Group would have to be heavily involved, I think, in doing
8 that.

9 (Inaudible - out of range of microphone)

10 MR. PENNOYER: Is this something that would have to come
11 back that would have to come back to us then? We'd have to
12 schedule another meeting to go back through the whole thing again,
13 or is this something that could be handled between now and the
14 subsequent Trustee Council meeting, which won't be for another
15 month plus...

16 MR. BARTON: Who are you asking the question?

17 MR. PENNOYER: I don't know? Us?

18 MR. BARTON: That's what I thought...

19 MR. PENNOYER: I posed the question because I didn't have
20 an answer. If we have to come back and re-approve the whole
21 document, its going to be a considerable -- probably be
22 considerable time, unless we could give the instructions and then
23 handle it through a mail-out, statement of objection, if there is
24 any, I would assume that if no major components in here are
25 changed. But as Mr. Cole pointed out, there may be discrepancies,
26 and (inaudible) we'll have to referee. I don't know. Ms.

1 Rutherford.

2 MS. RUTHERFORD: Mr. Chair, I think there's one thing
3 that the Trustee Council needs to consider. One of the things we
4 struggled to do is on the draft restoration plan, to make the plan
5 itself pretty concise, and the appendices -- you know, are fairly
6 lengthy. I think by combining them, the draft EIS and the draft
7 restoration plan, you'd come up with a -- you'd probably come up
8 with a pretty bulky, rather ugly document. The other thing I think
9 that should be considered is, the public is expecting two different
10 documents. I mean, that is something that we've said in the
11 brochure, and it's something we've said over and over again in the
12 public meetings.

13 MR. BARTON: I would think the public would thank if
14 we'd only sent them one, however. Dr. Gibbons.

15 DR. GIBBONS: My -- my only point is, earlier this
16 morning, the Trustee Council requested a review of the re-writes of
17 the link between the brochure and all that. I would make a
18 suggestion that perhaps we can -- if that's the wishes of the
19 Trustee Council to combine these two, is to handle that the same
20 way. Combine them with the rewrite, give it to you and -- and do
21 it on a mail-out, rather than -- than a meeting.

22 MR. BARTON: I suppose we could do it that way, then if
23 we determined that a meeting was necessary, I suppose we could
24 figure out how to get together. More discussion? Mr. Cole? Mr.
25 Sandor?

26 MR. SANDOR: Well, I'm still worried about that two

1 hundred and eighty-four thousand dollars on the table, and does
2 this change -- the combination that is proposed -- going to save
3 any money? Cost any money? Or, is it going to be neutral in that
4 regard? Does anybody know the answer to that question?

5 MR. BARTON: Mr. Rice.

6 MR. RICE: Mr. Chairman, I -- I think a large portion
7 of the -- of money for the EIS has been expended. I could envision
8 that if we combine the two documents that basically we would --
9 complete the rest of the process in-house. In other words, using -
10 - using the staff that we have on hand and may not need to continue
11 with services of Walcoff. Given that we have a draft plan, the
12 next step from the NEPA standpoint is to analyze the public
13 comments and make changes as appropriate in the document before you
14 come out with your final. We may be able to handle that in-house,
15 we may have to use Walcoff. I'm -- I'm not totally sure on that,
16 but I don't think there would be a tremendous savings, in that a
17 lot of the money has already been expended on that Walcoff
18 contract.

19 MR. BARTON: Would there be a savings in the
20 preparation of both finals, preparing one final, instead of two
21 finals? Analyzing one set of public comments instead of two sets?
22 Dr. Gibbons.

23 DR. GIBBONS: There would be savings in the printing
24 cost of around fifty thousand dollars.

25 MR. BARTON: Mr. Sandor? Mr. Cole.

26 MR. COLE: You know -- see if you'd take a look at

1 the description of the common murre in the EIS, on the one hand,
2 and -- you -- that's on page Roman numeral three, dash fourteen,
3 and then you see how the common murre was treated in the
4 restoration plan -- which I don't quickly find, but maybe I can --
5 yeah, on page B-10. If you take a look at a discussion of the
6 common murre on the EIS, it contains a lot of information such as
7 this, breeds in the Commander Islands, St. Matthew Islands,
8 Kamchatka Island, Kuril Island, Schalin, Eastern Korea, Hokkaido,
9 etc., etc. I mean that's a lot of information which seems to me is
10 not directly relevant to what we're doing with the EIS. It goes
11 on, one large polyform, pear-shaped egg is laid. If disturbed, the
12 egg usually rolls in a small circle around its pointed end, etc.,
13 etc. Now, I mean, it seems to me that that information does not
14 really get to what we're trying to do here, and we could eliminate
15 so much of that if we combined them. I mean, people would spend
16 hours, if not days, reading a lot of this information, and I could
17 go on, but that's just an illustration of -- of a lot of data in
18 here which I think we could eliminate, by combining these, and get
19 it down to something that would focus on what we want, so people
20 could understand, so it would be meaningful to us.

21 MR. BARTON: Well, it seems like the first thing to do
22 would be to decide whether we want to do it, and then the second
23 thing, figure out how to do it. Mr. Stieglitz.

24 MR. STIEGLITZ: Yeah, I just might observe, there was --
25 some precedent for doing plans and EIS is this -- for instance all
26 the comprehensive plans for refuges here in Alaska were done as

1 combination plans, and EIS's, plus wilderness review. So, Mr. Cole
2 is right, you'd certainly save a lot of time and a lot of verbiage
3 by combining the two.

4 (Inaudible - out of range of microphone)

5 MR. BARTON: Mr. Pennoyer.

6 MR. PENNOYER: Two questions. One that -- Mr. Rice were
7 you done with presenting what's in this EIS before we finally
8 decide how appropriate it is to combine it? And the second, what
9 does the delay due to -- Dr. Gibbons, to our schedule?

10 MR. RICE: I didn't have anything more to present on
11 this.

12 MR. BARTON: Thank you. Mr. Gibbons.

13 DR. GIBBONS: Well, I have -- just informed that perhaps
14 --if the Restoration Planning Work Group has a different estimate
15 of the time, they would like to come up and say that, but I -- I
16 think -- you know, the documents -- you know, they can be combined.

17 MR. BARTON: Does the work group want to come up and
18 address that question?

19 MR. LOEFFLER: In terms of how long it would take to
20 combine them, I think it would take a significant amount, I'd say.
21 In terms of how long it would take to combine it, it would take a
22 significant amount of time, whether that's three weeks or a month,
23 I don't know. And -- that also -- the only -- the implication to
24 me that's important is that it puts the final date for adopting
25 this back about the same amount of time, so you could expect
26 approximately February 1st for adoption of the restoration plan.

1 And, I think that's the major -- that and the cost of staff time --
2 for a savings in cost. I'm sorry, you know the implications.

3 MR. BARTON: Thank you Mr. Loeffler. Other comments or
4 questions? Mr. Brodersen.

5 MR. BRODERSEN: Excuse me for jumping in, but I can't help
6 myself here. If -- I'm -- I'm going to track back over some of the
7 discussion we've had for -- at staff level for the last year and a
8 half, two years, over whether to do these documents separately or
9 together. At this stage, I guess it's not as important that they
10 be separate, but I would certainly hope that by the time that we
11 get to the final of each, that we have separate documents, and the
12 primary reason for this, is that once you're done with the EIS,
13 you're done with it. Whereas, the restoration plan is something
14 that I would hope that we referred back to regularly, and that it's
15 something that needs to be simple, as Attorney General Cole was
16 saying earlier, and that it needs to be something that's useable --
17 user friendly, whatever, so when it comes time to do the finals for
18 each of these, I think it's imperative that they be separate
19 documents, so that when you're done with EIS, you can shove it into
20 your bookshelf and refer to it if you need to, but that the
21 restoration plan is there and can be used over and over easily --
22 and as easily addressable. At this stage, it's not quite as
23 important, other than that people have been geared for seeing two
24 documents. As Mr. Barton said, they might thank us immensely if we
25 were to only give them one. I'm not sure what the ramifications
26 are of giving them one at this point, other than that I would

1 suspect -- well, a person like myself when I go into read this
2 stuff, I would not look at the EIS. I would go in and spend my
3 time reading the restoration plan, and that is a risk we run in
4 that we give them too intimidating a document, and they just don't
5 look at it at all. I don't know if that's true or not. Thank you
6 for your indulgence.

7 MR. BARTON: Would it not be possible under a scenario
8 you laid out, Mr. Brodersen, to make the record of decision, the
9 plan?

10 MR. BRODERSEN: You've gotten into an area that I don't
11 know about, and I would have to defer to someone who is familiar
12 with those kinds of issues.

13 MR. BARTON: If we do combine them, I would urge that
14 we look at that possibility. I think your assessment of the
15 relationship of the EIS and the plan is right. But I do think it
16 is worth a good hard look at using the record of decision as the
17 plan.

18 MR. BRODERSEN: What does that mean -- for those of us
19 that are not conversed in some of the legal, federal jargon, what
20 does that mean? I don't understand what that is.

21 MR. BARTON: Well, one way this could play out would be
22 that the record of decision would then pick the -- the alternative
23 -- an alternative that's been laid out in the EIS. The -- finally
24 EIS would come out with preferred alternative, then the record of
25 decision would adopt that alternative or quick craft a different
26 one than the preferred one.

1 MR. BRODERSEN: What kind of document do you have for
2 referring to in the future once you've done that?

3 MR. BARTON: Well, you could -- you -- if you -- I
4 think you could shape it to lay out just what it is we want for
5 future use. In other words, what this condition -- general
6 philosophy and the general guidelines, as Charlie lays out, and I
7 think we can structure that in such a way as to provide those sorts
8 of things, and then you do have a clear break with the EIS, but I
9 think the legal folks need to advise us on that, and they don't
10 need to do it today, because that's a decision they can make later.
11 But, it does strike me as a fairly neat and clean way to make that
12 break. Other comments or questions? Mr. Pennoyer.

13 MR. PENNOYER: I guess before we vote on this, I'd like
14 to be sure what we're saying when we say combine the plans. Sort
15 of slap them together -- one document? Edit them down to the level
16 of the plan from the EIS, or up to the EIS from the plan? More --
17 (inaudible) we did talk about the pointed eggs, and I think that
18 would be agreed that -- probably everybody would agree it may not
19 be necessary to that in either document, but how much do we want
20 taken out of there? What does this task we're setting people? It
21 could be quite a task, and if you go through and edit every piece
22 of this and come out with different wording and different
23 descriptions by species, or is it just best judgment to the
24 shortest description, exactly what are we asking the staff? I'm
25 not clear what that is at this stage?

26 MR. BARTON: Does the maker of the motion want to

1 clarify?

2 MR. COLE: Mr. Rice understands.

3 MR. RICE: Mr. Chairman, I think there is a lot of
4 duplication, but there is also two fundamentally different purposes
5 for some of the chapters. The summary of injury chapter, for
6 example, in the draft plan was attempting to present to the public
7 what we know about injury. The affected environment chapter in the
8 EIS, while it draws upon some of that, and paraphrases some of it,
9 also is presenting some other information that was -- was designed
10 to help the reader understand that if we implement any of the
11 options, or if they're asked to make a choice on looking at those
12 options, what is it about that species that would help them in
13 deciding whether doing work on one species was relevant or not.
14 And picking on the same example that Mr. Cole used, as you know a
15 little bit about their life history, you can understand a little
16 bit about some of the options that we put forward there, whether
17 it's restricting -- reducing predation or looking at creating
18 habitat for nesting, or whatever it is for that species. So the
19 were -- they are designed for somewhat different purposes, and we
20 would have to struggle a little bit to make sure that the
21 information we feel important to the plan is there as well as to
22 the EIS. I'm not sure that fully answers your question, but we do
23 have a lot of work ahead of us to try and -- and decide what we cut
24 and what we keep.

25 MR. BARTON: Mr. Sandor.

26 MR. SANDOR: Well, I was assured by the statement that

1 this was -- this combination would not cost anymore money, might
2 possibly save some in production costs, but -- might cost something
3 in the additional time for -- for making the modifications, but I'm
4 afraid I heard a statement that this change might precipitate a
5 delay -- a further delay in the completion of the restoration plan
6 itself and I thought I heard February 1994 as opposed to November
7 1993. Did I hear correctly?

8 DR. GIBBONS: I refer you to this schedule I passed out
9 and the key points are line item nine, and that's where we are
10 today; line item fourteen -- Trustee Council pick alternatives for
11 the final plan, which would set this schedule -- well, I'll go
12 through it -- then line seventeen, Trustee Council decision in
13 November; and then nineteen is the implementation of the plan.
14 Those are the key points. You would probably set those back a
15 month, that's what I'm -- that's what we're seeing.

16 MR. SANDOR: Just one month.

17 DR. GIBBONS: One month -- that's what...

18 MS. RUTHERFORD: January 27th to February.

19 DR. GIBBONS: December 27th to January 27th.

20 MS. RUTHERFORD: Excuse me.

21 MR. BARTON: Mr. Stieglitz.

22 MR. STIEGLITZ: I could have sworn I heard the other
23 gentleman say February, then.

24 MS. RUTHERFORD: End of January, early...

25 MR. BARTON: February (inaudible). Mr. Stieglitz.

26 MR. STIEGLITZ: Yeah, another comment. While the idea of

1 combining these does have a certain appeal, it -- it just occurs to
2 me that there's several factors arguing against that, which have
3 been discussed here. One is possibly further confusing the public.
4 Secondly, and it really concerns me, about slowing down the process
5 on the restoration plan. I thought it'd been delayed a long, long
6 time and even a month bothers me a bit. I don't know, I guess at
7 this point in time, I'd be inclined to go the path of continue with
8 separate documents. One other thing I would add, Mr. Brodersen had
9 mentioned the possibility of combining them now and splitting them
10 out when we go final, I don't think that would work too well. I
11 think that would really confuse folks. You know, if we're going to
12 combine them, they've got to stay combined, if we're going to keep
13 them separate, they need to remain two different documents.

14 MR. BARTON: Further comments? Mr. Cole.

15 MR. COLE: Will there be more work done on this
16 Environmental Statement before it goes out?

17 MR. RICE: Mr. Chairman. The -- we're trying to
18 rectify inconsistencies between the two documents, and have
19 additional stuff going back to them, and then there will be final
20 editing of the document. In terms of doing further analysis of
21 effects or anything like that, no.

22 MR. COLE: The reason I mention that is I think this
23 document needs a lot of editing. Let me give you a couple of
24 illustrations. You know -- on page one -- you know, we put in --
25 second paragraph -- we put an Arabic numerals the figure three and
26 in the third sentence Arabic numeral six. Ought not those to be

1 written out if you follow standard -- you know, grammar?

2 MR. RICE: Mr. Chairman.

3 MR. BARTON: Mr. Rice.

4 MR. RICE: I suspect those would be corrected during
5 a final editing.

6 MR. COLE: How do they get this far in this
7 condition? That's what troubles me.

8 MR. RICE: Well, Mr. Chairman, they -- the team
9 basically had from sometime in early to mid-February, when they got
10 the alternatives to put this document together, and they didn't
11 have more than about two months to get the first draft to us, so
12 this has not been through final edit. We reviewed this -- the team
13 was up week before last, working with the restoration team on it.
14 We made some editorial changes on that, and printed this for your
15 review.

16 MR. COLE: Well, if you look at paragraph Roman
17 numeral three dash thirty-eight, the sentence is: historically --
18 comma -- government -- comma -- the social economic environment of
19 the EVOS has been dominated by resource related industries such as
20 mining, commercial, fishing, timber, harvesting and tourism. That
21 sentences is -- I find, confusing. Historically -- comma --
22 government -- comma -- I mean, what are we saying there? And, you
23 know, the same thing in the bottom of page forty-one Roman numeral
24 three: nevertheless in the absence of a standard methodology
25 addressed the value of subsistence in mixed cash economy,
26 subsistence economy the concept suggests to means of suggesting a

1 contribution of subsistence activities to overall household income.
2 I mean that's just -- I just hate to put -- see us put our name to
3 a document like this where -- unless there's a lot of editing.
4 And, if there's a lot of editing yet to be done, why is it
5 presented to us at this stage to address -- for approval.

6 MR. BARTON: Mr. Sandor.

7 MR. SANDOR: Mr. Cole so excellent questions raises
8 another question with respect to the contractor that is doing the
9 EIS, in fact for a substantial part of that two hundred and eighty-
10 four thousand, which -- I presume the contractor should be held
11 accountable for the documents and these kinds of questions should
12 be able to be addressed and then corrected. Is this combination of
13 the -- proposed combination of the EIS, plus the restoration plan,
14 going to compromise in anyway our ability to hold the contractor
15 accountable for the product that it produced with regard to the
16 EIS? Can anyone answer that question?

17 MR. BARTON: Mr. Rice.

18 MR. RICE: I'm not sure that I can provide an answer
19 to that question. We would have to decide how much additional work
20 the contractor would need to do in combining the two documents, and
21 how much we would need leave to the RPWG. A -- valid comments on
22 the readability of this document and all I can say is that they're
23 editing it now to make it more readable.

24 MR. BARTON: Presumably, I would think the contractor
25 would still be responsible for this document and giving the
26 readability and the questions resolved within it. Once we combine

1 them, I don't know.

2 MR. STIEGLITZ: Mr. Chairman.

3 MR. BARTON: Mr. Stieglitz.

4 MR. STIEGLITZ: It occurs to me that somebody must be able
5 to answer Mr. Sandor's question, and I think we've all got the same
6 one. I'm wondering if we wouldn't be well served to put this on
7 the table for a while and get some answers. What are the
8 implication from the standpoint of our contractual arrangements if
9 we combine these documents? We could be talking about substantial
10 amount of money here. I'd like to have some answers from someone
11 who knows the answer, and not taking a shot at you, Mr. Rice, but
12 somebody must know the answer.

13 MR. BARTON: But, I think it's just a different
14 question than I hear running around...

15 MR. STIEGLITZ: But the question that we're dealing with
16 here is, what are the implications of combining the two documents,
17 which, as I understand it, would remove any further work on it for
18 the contractor? Do we have an obligation to pay them another
19 hundred thousand bucks for work their not going to do? That needs
20 answering before we make a decision, I think.

21 MR. BARTON: Mr. Cole.

22 MR. COLE: Well, my trouble is -- I mean this documents
23 are just not in -- in a condition, from my standpoint, of three
24 state commissioners and federal authorities, to put our names to,
25 and are we ever going to see them again before they go out? I
26 mean, I'm just very troubled about that, and we just sort of bumble

1 along -- you know, from one thing after another and there's always
2 some excuse, there isn't enough time. There's no reason there
3 wasn't enough time -- I'm a little cranky today, you'll have to
4 forgive me but I don't think there is any excuse for this date,
5 June 1, when we knew this was coming to us for months and months,
6 to get a document presented to us in this condition. Now, if this
7 were in the Department of Law and somebody handed me the document,
8 a brief or a memorandum like this, in this condition, say this is
9 ready for your review and then file it -- you know, I mean, I think
10 that lawyer would be in big trouble. I know that lawyer would be
11 in big trouble. And I don't see why we're sitting here accepting
12 this product, saying, well, it'll hurt the time schedule. I mean,
13 I don't want to put my name to something that is not a quality
14 product. I mean, but I'm not going to hold up this -- this time
15 line, or whatever you want to call it, but, I tell you, I'm not at
16 all pleased with the products we have for our review here today.
17 And, that doesn't -- I'm not talking about the restoration people.

18 MR. BARTON: This contract -- you've got us going out
19 on three different tracks.

20 MR. PENNOYER: That's unusual for us...

21 MR. BARTON: No, it isn't. Let me see if we can get a
22 little order out of this. Can we get somebody checking the
23 questions that Mr. Stieglitz and Mr. Sandor have raised on our
24 liabilities under the existing contract? Can you get somebody?

25 MR. RICE: Mr. Chairman, the way I understand it, the
26 question is, if we terminate the contract with Walcoff, are we

1 going to be essentially out any additional money. Is that the
2 basically what you're asking?

3 MR. SANDOR: No, the question was two-fold, actually
4 with regard to any additional financial obligations that we're
5 undertaking, I'd ask initially if the decision was going to save us
6 money, cost us money or be neutral in that regard, and was told
7 that it would be neutral in that regard, possibly saving money for
8 publication costs, but perhaps count -- counteracted it by the
9 additional time it would take to write, and so, if it was neutral,
10 I -- and is going to result in a better product -- you know, I'm
11 all for it. I then though raised the question of does this
12 combination of the documents release the contractor, for the EIS,
13 from being held accountable to make the kind of corrections the
14 Attorney General so correctly identified, and, if that happens and
15 the contractor is off the hook and cannot be held accountable, that
16 would be very troubling, because somebody pays for this in the end
17 and, as the Attorney General points out, we want to be proud of the
18 products that are produced. So, the question that I have, and Mr.
19 Stieglitz may have another is, does the combination or would the
20 combination of these two documents at this point in time relieve
21 the contractor of any obligation to the Trustee Council to produce
22 a first-class product that six of us would be pleased to endorse?

23 MR. BARTON: Do you have the question? Are there other
24 questions of that same nature that we would like answered? Hearing
25 none, can you charge somebody to get those while we continue this
26 discussion. I'm concerned about the time difference between here

1 and the D.C. amongst other things.

2 MR. RICE: It will be hard getting a hold of my
3 contact in the Justice Department at this time, but I can try to
4 have something for you by -- first thing in the morning. I can go
5 make an attempt at it now.

6 MR. BARTON: Yes, Mr. Cole.

7 MR. COLE: If this causes -- too much of a problem
8 and there's not support on the Council for it, I would withdraw my
9 motion to join the two documents, as unsatisfactory as that
10 approach to me maybe. So if there's not strong support for joining
11 the two in the Council, let's eliminate that question.

12 MR. BARTON: Let me say, that's very attractive to me.
13 I'm just trying to understand all the ramifications of it before I
14 make up my mind. Does anybody?

15 MR. COLE: And very attractive to me. I -- enforces
16 -- the record will reflect I have been bemoaning the EIS process
17 for the last eighteen months, and I'm not suggesting anything but
18 continued discomfort with this two hundred and eighty-four
19 thousand dollar price tag. But, the worst part of that, Mr.
20 Chairman, would be the letting off the hook of the contractor and
21 having spent that money.

22 MR. BARTON: That's the question Mr. Rice is going to
23 get answers for, so do you withdraw your motion or not, Mr. Cole?

24 MR. COLE: Well, if the people want me to withdraw
25 the motion, I would be pleased to withdraw it, and if that
26 simplifies where we're going.

1 MR. BARTON: I don't think anybody wants you to. I
2 haven't heard anybody say that yet.

3 MR. COLE: Alright then, I won't.

4 MR. BARTON: Mr. Pennoyer.

5 MR. PENNOYER: Mr. Chairman, (inaudible) per actions, we
6 get that answer, could I also make sure the team takes close look
7 at what combining them costs in terms of time and capability. I'm
8 still not convinced in looking through this, that this is more than
9 just a job of sort of sandwiching chapters together. I think it's
10 going to require major editing, maybe it's a warranted venture, I
11 don't know, and some real discussion about philosophy as to what
12 has to be in there for one purpose versus another. So, if the
13 team's going to go and look at the fiscal question, I would
14 appreciate a closer look at the cost too, because if this jumps
15 from January 27 to March 27, you'll get a lot different answer. As
16 far as I'm concerned, we're sort of dealing with a procedural
17 requirement here, and I'm not willing to give up another two or
18 three months of time to make that a little bit more palatable.

19 MR. BARTON: Any further discussion on that? We
20 started talking about the content of this thing. Do we want to
21 pursue that? The content of the EIS. Mr. Cole raises several key
22 concerns. Mr. Stieglitz.

23 MR. STIEGLITZ: Yes, I have the same concern Mr. Cole has.
24 The document needs a very severe editing. It has, not only bad
25 grammar, but -- errors. For instance, it says that sea otters is
26 listed as a threatened under the Endangered Species Act. Yeah, the

1 southern sea otter is, the northern sea otter isn't, and that's
2 kind of a major faux pas it seems to me. I haven't read it in
3 great depth, word by word, but I suspect that if there's one error
4 like that in there, there's probably others, and I'm also rather
5 appalled that it got this far with that kind of sorts of mistake in
6 it.

7 MR. COLE: I move we eliminate the entire section on
8 subsistence.

9 MR. BARTON: I was just going to bring that section up.

10 MR. COLE: Then, I'll defer to you.

11 MR. BARTON: Oh, I just -- is there a second to Mr.
12 Cole's motion?

13 MR. PENNOYER: Second.

14 MR. BARTON: It's been moved and seconded that we
15 remove the entire discussion of subsistence. Any discussion on
16 that? Mr. Pennoyer.

17 MR. PENNOYER: Which part (inaudible) purpose, it is a
18 use that we're dealing with in terms of our restoration, so our
19 plan certainly discusses subsistence uses and subsistence
20 restoration, and so on. So, I don't know which section you're
21 referring to, or just taking out of the EIS entirely, which I don't
22 think you can do. I could be surprised...

23 MR. BARTON: Mr. Sandor.

24 MR. SANDOR: I have troubles with some of the wording,
25 and also the degree of qualifications on -- in that -- Roman
26 numeral three, page forty-two, this approach is a concept only and

1 should not be considered the definitive approach for value and a
2 portion of total income represented by subsistence harvesting.
3 Degrees there -- and reduced by the averaging, etc., etc. The
4 concept is offered only as potential means of identifying the
5 contribution of subsistence harvesting control income of EVOS
6 residents. I find the -- the language of this not really succinct
7 and not to the point. I'd like to see the section removed, but I
8 would like to see it replaced, and I think maybe this is where we
9 should really hold -- you know, whoever is the author is,
10 accountable to doing more -- you know, a better job. I support the
11 motion with the hope that it could be replaced. I don't think, as
12 Mr. Pennoyer points out, that we can have an EIS without a
13 discussion of subsistence.

14 MR. BARTON: Further comment?

15 MR. COLE: Well, let me say this. It contains a lot
16 of superfluous material. Page fifty, quote, generous hunters are
17 considered good men. Good hunters are often leaders. I mean --
18 you know, I -- it just seems to me that that type of comment,
19 sociological comment, has no place in an environmental impact
20 statement, and I guess I agree with Commission Sandor that we could
21 -- should not eliminate it entirely, but I think that someone needs
22 to go through this document and say, as we do in the Department of
23 Law whenever I can have any say, is this sentence really necessary
24 in this document, and we try in the Department of Law, to get down
25 to is this word really necessary. And, I think the document is
26 overwritten considerably. I think it could be shortened to about

1 half, or maybe a third. Somebody, maybe an editor, if that's the
2 way these things are done, should go through and look at every
3 sentence in this hundred-page document, and see if it's necessary,
4 because why should we be giving the public out there a lot of
5 superfluous material to read? You know, they can go to all sorts
6 of resource books and find this material, if they're interested in
7 it.

8 MR. BARTON: I share your concern with the subsistence
9 section, but I too don't feel that we can just delete it. We do
10 need a discussion of subsistence, but the discussion we have in
11 here, I think brings forth information not relevant to what we're
12 doing. Some of it is factually inaccurate, and the rest of it
13 legally argumentative, and other than that, I liked it.

14 (Inaudible - out of range of microphone - simultaneous talking
15 and laughing)

16 MR. BARTON: And then, as long as I'm cranking, I had
17 a hard time understanding the write-up on the economics
18 implication. I don't remember what page that's on now, so -- well,
19 the table on four dash seventy-nine, I must not understand that,
20 and I just think the whole write-up went down the wrong track. If
21 I understand it right, this forty-six thousand government employees
22 in the oil spill-affected area, forty-eight thousand people
23 employed in services, one hundred eighty-seven -- one hundred and
24 eighty-eight thousand -- employed totally. It seems pretty high.

25 MR. RICE: Mr. Chairman, that includes the Anchorage
26 area, in the population base.

1 MR. BARTON: But, even then it seems high.

2 MR. RICE: All I can say is these are based on 1990
3 census data and statistics from the Department of Labor, I think.
4 It includes military.

5 MR. BARTON: The economic -- oh, it does, that might be
6 part of the answer then. The economic analysis itself, doesn't
7 seem to me to recognize all the costs associated with implementing
8 the various alternatives or the benefits with implementing all the
9 various alternatives. And, I guess, maybe I just don't understand
10 it, but it talks in terms of a one-time payment of having a greater
11 economic contribution than continuing employment, and I'm not
12 trying to make a judgment one way or the other on that, but it just
13 doesn't seem to me that they add up. Mr. Sandor.

14 MR. SANDOR: In follow up then -- these data are not
15 confined or focused to the oil spill impact area, but beyond those
16 borders, apparently?

17 MR. BARTON: Mr. Rice.

18 MR. RICE: The data that was used to -- for the model
19 -- to analyze the impact includes the Anchorage community.
20 Apparently, the sensitivity of the model wasn't able to capture any
21 changes without including Anchorage in there.

22 (Inaudible - aside comments out of range of microphone)

23 MR. SANDOR: Could I ask Mr. Brodersen to reflect on
24 that? I see your nodding your head or shaking your head. What do
25 we have here?

26 MR. BRODERSEN: I was just agreeing with you, there could

1 be a potential problem within the Restoration Team. We talked
2 about it extensively. Basically, what it came down to is -- I'm
3 going to need Ken's help here a little bit, because he explained it
4 to me -- but, basically, that's how the data is broken out and
5 that's how the model works, and to create something that worked
6 just for the spill area was beyond our price tag, I guess would be
7 the way to put it, and also, beyond the information that we had in
8 hand to be able to analyze. And so, this is once more an example
9 of doing the best you can given the information and dollars that
10 you have. We didn't particularly like it either.

11 MR. BARTON: Any comments or questions? What's the
12 wishes of the Council? Mr. Sandor.

13 MR. SANDOR: Mr. Chairman, how can we -- since these
14 people aren't lawyers working for the Attorney General -- how can
15 we hold -- you know, these authors, these people responsible, and,
16 in fact, ask for a rewrite? How can we do this? Accountability is
17 certainly a part of the contract process, and it -- this doesn't
18 meet our expectations, we ought to -- you know, within a week or
19 two or some area of time, convey what our problems are and insist
20 that we have a rewrite, unless we go the combination. But, even if
21 we go the combination, we certainly want it rewritten to -- for the
22 combination process. Can that be accommodated, Ken?

23 MR. BARTON: Maybe you could reclaim -- and where do we
24 go from here with this...

25 MR RICE: Mr. Chairman, when -- under a scenario of
26 two separate documents, I told the contractor that we would need a

1 camera-ready copy, and that would be, basically, a document that
2 had been through final edit, and by -- I think -- around the 7th of
3 this month. We realize that in order to get the document to you,
4 that we could not have that editing completed in time. The
5 Restoration Team had just gotten a look at it and made substantial
6 changes to it, so there are a lot of grammatical errors in this
7 document. Under a combined document, I am struggling to -- in my
8 own mind understand where the contractor would have obligations and
9 where we would pick up those obligations within RPWG. Certainly,
10 inasmuch as they are working on it -- editorial -- final edit of
11 these chapters now, we can hold them to that, and then take and cut
12 and paste as we see the need to in a combined document. So, yes,
13 we would still get a much higher improved product out of the
14 contractor.

15 MR. STIEGLITZ: Mr. Chair.

16 MR. BARTON: Mr. Stieglitz.

17 MR. STIEGLITZ: This conversation is really reinforcing my
18 feeling that we better proceed with separate documents. I would
19 suggest on the EIS that -- I would -- personally like to see a
20 clean draft, severely edited document before the Council endorses
21 it going out. It -- would it be possible for your -- for you to
22 get with the contractor and do your best to get the document in the
23 best possible shape, give that to the Council members -- for short
24 turn around we could ask the staff to take a look at it and make
25 sure it's clean, which might delay this thing a week or so, but at
26 least we'd be confident the EIS that goes out is going to be

1 something that more or less meets our approval.

2 MR. RICE: Mr. Chairman, we could certainly do that.
3 The schedule, the way we had it laid out was that, we would get the
4 final camera-ready copy and go to the printer with that -- about a
5 two week turn around for the printer, so that would throw off our
6 schedule by approximately a week, assuming we'd still get it around
7 the end of this week or the first of next week -- a camera-ready
8 copy.

9 MR. BARTON: Mr. Cole.

10 MR. COLE: Is there a -- a good reason why this
11 document -- draft impact statement -- had not been through final
12 editing before it was given to us on May 21?

13 MR. RICE: I need to reconstruct some of the history
14 here, as I go along, basically the EIS team received the
15 alternatives sometime in February from RPWG, and then had less than
16 two months to put a document together and get it to the Restoration
17 Team for review. We reviewed some earlier drafts of it, got
18 comments back to us. Two weeks ago they came up to spend a week
19 with the Restoration Team, and we made substantial editorial
20 changes to what they had provided us. They worked throughout that
21 week with us. Last week we were still sending them some additional
22 changes based on their rewrite that we had had. So, the
23 Restoration Team did not have a significant amount of time to spend
24 with this editing it. They did not have a significant amount of
25 time to spend with it, getting a product to us. They basically
26 wrote it and sent it off to us, so they could see if they were in

1 the ballpark of what we were after.

2 MR. COLE: Let me...

3 MR. BARTON: Mr. Cole.

4 MR. COLE: Let me pursue this just a little more. I
5 don't find that an explanation. It's an explanation in a way, but
6 I don't find it a justification for not having this document in
7 better condition before it's presented to us. I mean, when we set
8 forth these time-lines, the ones we're supposed to have these
9 things completed, it's my understanding that it -- it should be
10 completed by that time and not saying well, we still have two more
11 weeks work to do on it. I mean, where is this system breaking
12 down. Because in -- from my standpoint, as I look at these things
13 -- I mean, it seems to happen repeatedly. We never can meet time
14 lines. And when we meet them, then well -- you know, we really --
15 say we just have to move this on and we leave with an unsettled
16 view of what we've done. Somebody should have had, in my view at
17 least, this document in a better condition by May 21. When we
18 established these guide -- time-lines, that was our -- the
19 Council's understanding -- you know. If we needed more time to get
20 it in a good shape for us, then we should have allowed it more
21 time. Somehow, some place, the system is constantly -- and that
22 may be too strong a statement -- breaking down. I just think we've
23 got to find out, and maybe it's the Trustee Council's fault that
24 these things are not getting done timely. But, certainly it seems
25 to happen, and I don't see there's any explanation for it.

26 MR. BARTON: Questions or comments?

1 MR. PENNOYER: Mr. Chairman.

2 MR. BARTON: Mr. Pennoyer.

3 MR. PENNOYER: I notice on the EIS that in the fall the
4 schedule is to develop the public comments and views starting June
5 18th, develop a final EIS starts August 5th, revise the draft
6 starts August 5th, and the final EIS is to the Trustee Council on
7 November 1st. There's a three month period of time in there. Is
8 that enough time to absorb an extra week to get this thing in its
9 final shape? I --I'm not sure you slip the whole schedule by
10 taking out a week or two to -- I guess I'm not asking -- because
11 I'm not sure what takes three months to respond to comments to make
12 the thing final.

13 MR. RICE: The slippage would be in being able to get
14 it out to the public, and, you're right, we may -- we may have a
15 week that we could absorb in getting a final EIS back to the
16 Trustee Council in November. Certainly in terms of going out to
17 the public by our 21st of June deadline, that definitely would slip
18 if we request another edit, and it could slip more than that if
19 there's changes on the next edit that comes to us, the next draft
20 that comes to us. Certainly, if there were requests for changes,
21 then we have to get them back and have those changes incorporated,
22 so it could be two weeks added on before we can get it to the
23 printer and out to the public.

24 MR. BARTON: Other comments or questions? Where we
25 going on this?

26 MR. COLE: Let me say what troubles me again. On the

1 first page of the draft EIS, fourth paragraph, second sentence --
2 also studies began as soon as possible following the spill, some
3 opportunities to gather data were lost. The shortage of resources
4 and the difficulty of the work made immediate response -- immediate
5 response impossible. Is that what we mean there?

6 MR. PENNOYER: (Inaudible - out of range of microphone)
7 cover all areas, comprehensively?

8 MR. COLE: Well -- you know, I think they're
9 switching from scientific study and then they use the word
10 response, which has a rather fixed connotation dealing with
11 response to the spill -- you know, and it just -- what I mean, is
12 just the words that -- it's not carefully written. And, I think
13 somebody should pick that up in editing.

14 MR. BARTON: Well, I think we've all come to that
15 conclusion that that needs to be done. What we need to do now is
16 figure out how to do. Do you have a suggestion for us, Mr. Rice?

17 MR. RICE: If you have identified any additional
18 comments on this, I will get those back to the contractor by
19 tomorrow morning, and they can incorporate those into the changes
20 that they're doing now. Some words, such as the one Mr. Cole just
21 brought up, I'm not sure the contractor would have caught -- we
22 missed it in our review.

23 MR. BARTON: Well, how do you want to handle our -- our
24 content concerns. Do you just want us to work individually with
25 you, or how do you want to handle that?

26 MR. STIEGLITZ: Mr. Chairman.

1 MR. BARTON: Mr. Stieglitz.

2 MR. STIEGLITZ: Yeah. I would move that the Council defer
3 action on the EIS at this point in time, direct the Restoration
4 Team to go back to the contractor, tell them the Council is
5 displeased with the quality of the product, ask for a severe edit,
6 correct the errors -- we identified some of them, make sure they
7 know others in there -- get back the clean document to the Trustee
8 Council members by the 14th of June, and allow us one week turn
9 around time for one final review before this thing goes to the
10 printers. That's assuming the Council is going to make a decision
11 not to merge the two documents.

12 MR. BARTON: Mr. Pennoyer.

13 MR. PENNOYER: Sir. Well, we've talked about editing,
14 we've talked about combining documents...

15 MR. SANDOR/COLE: Second, do we have a second on the
16 (inaudible - out of range of microphone)

17 MR. BARTON: Is there a second to Mr. Stieglitz's
18 motion?

19 MR. COLE: I'll second.

20 MR. BARTON: Mr. Pennoyer.

21 MR. PENNOYER: I'm not still clear whether we combine
22 these documents or just edit one and not the other, or what we're
23 going to do with it. How do you send this out? I mean, is this
24 going out in one folder, these umpteen thousand mail outs? Is it
25 clearly saying on the front cover, read this one, don't read this
26 one -- or something -- I mean, is going out on separate time lines

1 a problem -- I'm not -- I'm not clear what your intent was in
2 mailing this out. How you identify the pertinence of one or the
3 other -- that both -- that everybody got the same thing and two
4 things in the same envelope, or...

5 MR. BARTON: Dr. Gibbons.

6 DR. GIBBONS: The intent was to go to one printer, you
7 have two separate documents that go in one envelope to the mailing
8 list.

9 MR. PENNOYER: So that basically, whatever we do with one
10 we do with the other, in essences, from the time standpoint.

11 DR. RICE: That would be the net result. I don't see how
12 you could evaluate the EIS on a draft plan -- without the draft
13 plan.

14 MR. BARTON: Dr. Gibbons.

15 DR. GIBBONS: One other thought I had on Mr. Stieglitz
16 suggestion would -- I would give the Restoration Team a couple of
17 days to try to catch some of the stuff -- before it goes to the
18 Trustee Council. We had a short turn around time on this, and a
19 lot of ours was major moving of sections, and major stuff, that we
20 didn't get a real good chance to sit down and catch stuff like that
21 response. If the Trustee Council would like, we might be able to
22 save you some by going through the document again, looking for
23 technical type -- not editorial, but technical-type stuff -- after
24 the -- the EIS contractor did there sever -- sever edits on it...

25 MR. BARTON: Mr. Rosier.

26 MR. ROSIER: I'm thorough confused on this as to who is

1 responsible for what. Why is the staff here doing the read -- the
2 review and all of this? I mean, what did the contract --
3 originally require on this? A rough document like this to come
4 back to the -- to the staff of the -- the group, or -- or a
5 finished document, or why are we doing this? I thought we'd spent
6 three hundred thousand dollars, or two hundred and eighty-four
7 thousand dollars, to get a clean document.

8 MR. GIBBONS: I think it's just the sequence of events -
9 - that's what we paid for, that's what I understand. I'm not the
10 contractor representative on this contract. But, what I understand
11 is -- you know, they are obligated to give us a clean, edited
12 document at the end -- you know, that's readable and
13 understandable.

14 MR. BARTON: Part of the delay, as I recall was related
15 to the difficulties with which the Council identified the
16 alternatives that we wanted to consider, back sometime ago, and
17 that caused part of this. So, I know the contractor was concerned
18 that they weren't getting the materials in a timely manner, that
19 they needed to deal with them, but it seems like we got six lines
20 going now. One, we need to get the editing done, the technical
21 editing done, the second is, we need to get the content edit done,
22 and somehow we need to identify process to do the second. I assume
23 the contractor can do the first without anymore than us telling
24 them to do it, but now what about the content edit. How do we
25 accomplish the content edit? Dr. Gibbons.

26 DR. GIBBONS: I might have a suggestion -- if we tell

1 the contractor that we want that severely edited copy as quickly as
2 possible, the Restoration Team go through that document -- you
3 know, need it be mark it up or whatever, depending on the severity
4 of it, on the content. If it's not too severe, pass that
5 commented, edited copy onto the Trustee Council. If it is severe
6 go back to the contractor and have him make the changes and then
7 give that document to the Trustee Council.

8 MR. BARTON: So that the Council members then need to
9 work with their individual Restoration Team on the content edit, so
10 that the Restoration Team members can carry that information into
11 the review of the severely edited version that we get back from the
12 contractor. Is that right? Is that what needs to happen?

13 DR. GIBBONS: That would be the most expedient method of
14 doing that, yes.

15 MR. BARTON: Okay. Is that the wishes of the Council?
16 Does anybody see any other way to do it? I move we do that, is
17 there a second?

18 UNIDENTIFIED VOICE: You've already motion on the...

19 (Inaudible - simultaneous talking)

20 MR. BARTON: Is that the intent of your motion?

21 MR. STIEGLITZ: This will be -- covered my motion. The
22 bottom line of my motion is by the 14th of June, we should have
23 back a completely clean document with input from the Restoration
24 Planning Team, the work to be done by the contractor.

25 MR. BARTON: So, that's the intent of your motion.

26 MR. STIEGLITZ: Right.

1 MR. BARTON: But, as far as separate documents, have
2 you superseded Mr. Cole's motion of combining them?

3 MR. COLE: Well, we've tabled that, until we got this
4 information.

5 MR. BARTON: Okay, if we vote on what Mr. Stieglitz
6 wants to do, I don't think the intent is that we come back and at
7 a subsequent meeting recombine them?

8 MR. ROSIER: I don't think that's appropriate at all.
9 I think, if we're going to combine them we need to get a corrected
10 version to combine.

11 MR. BARTON: Then, you would review a subsequent
12 combining them exercise after June 14th.

13 MR. ROSIER: That's the second decision. No, not
14 necessarily after that.

15 MR. BARTON: Mr. Cole (inaudible)

16 MR. COLE: I was going to say that, it looks like to
17 me that we're going to have our hands full getting an acceptable
18 EIS within the available period of time that we're dealing with.
19 It looks as though we just -- will not have time to reach a
20 meaningful melding of the two documents. That's about -- the fact
21 of the matter. Once again our decisions are governed by something
22 other than what we would like to decide.

23 MR. BARTON: Is it possible that some preliminary
24 efforts at melding could go on while this correction was taking
25 place so that the whole thing would not have to occur after the
26 corrections? I mean, it seems to me we could do a conceptual

1 melding, and then just fill in the blanks when we get the right
2 information back.

3 Mr. Cole: Mr. Chairman, maybe by tomorrow morning we
4 could get a solid report on whether an EIS is required at this
5 stage, and, or what in lieu of this entire document we could do to
6 make or reach compliance. Our research indicates that the Ninth
7 Circuit has consistently held that until the (inaudible -- tape
8 interruption) ... waffles that come out of the shelf across the
9 street.

10 MR. STIEGLITZ: Mr. Chairman.

11 MR. BARTON: Yes, Mr. Stieglitz.

12 MR. STIEGLITZ: I would like to call the question on the
13 motion on the table.

14 MR. BARTON: Would you restate the motion?

15 MR. STIEGLITZ: Probably not. The essence of the motion
16 is that by June 14, 1993, through a process involving the
17 Restoration Planning Team and the contractor, the contractor be
18 required to produce an accurate clean, highly edited version of the
19 EIS. That version to be provided back to the Trustee Council for
20 a one week review, and response back to the Restoration Planning
21 Team, at that point the document to be finalized. We need -- I
22 think we need to make sure that contractor performs and that -- we
23 got the best quality EIS possible. If the decision is then to
24 merge, which I assume we'll make one way or the other tomorrow,
25 we're going to need a good, clean EIS in any event.

26 MR. BARTON: Does -- does the June 14th version that we

1 get back include both the technical edit as well as the content
2 edit?

3 MR. STIEGLITZ: Exactly.

4 MR. COLE: Mr. Chairman.

5 MR. BARTON: Mr. Cole.

6 MR. COLE: I would tend to vote against that motion
7 unless it's clear that the Restoration Team does not have an
8 obligation to edit this document. I mean, that's taking state or
9 Trustee Council resources and putting them into the -- three
10 hundred thousand dollar contract.

11 MR. STIEGLITZ: I thought I made it clear, I'll repeat.
12 The responsibility for doing that lies with the contractor, because
13 they're being paid to do it. The Restoration Team, I think can
14 provide some comments to the contractor about errors in the
15 document that they would otherwise not pick up ...

16 MR. BARTON: On the content edit, I think this has got
17 to be done through the Restoration Team because the contractor
18 doesn't know.

19 MR. BARTON: As Commissioner Rosier would say, is that
20 in the contract, that the Restoration Team would be furnishing the
21 contractor with the contents of this plan? That wasn't my idea
22 when I voted on it -- maybe it was yours.

23 MR. PENNOYER: I know we had -- Mr. Chairman, I know we
24 had held up on the preparation of the EIS until we gave them better
25 guidance on some things that might be in it. There were several
26 delays. So, I think all along we've assumed the would require some

1 guidance for the content.

2 MR. BARTON: The question's been called -- any
3 objection to the motion? Hearing none, the motion passes.

4 MR. PENNOYER: Have we (inaudible) for tomorrow, Mr.
5 Chairman?

6 MR. BARTON: Pardon me?

7 MR. PENNOYER: Have we made a decision on deferring
8 something until tomorrow?

9 MR. BARTON: Well, we would be deferring -- deferring
10 a decision on the combination as I -- as I recall, we were
11 deferring the decision on the combination until we got the answers
12 to the questions that Mr. Sandor and Mr. Stieglitz have raised in
13 terms of contractual liability, and also possible savings to
14 accrue.

15 MR. PENNOYER: And a definitive statement on whether it's
16 a legal requirement or not?

17 MR. BARTON: A definitive statement, now I don't know
18 if we've got anybody started on that. Could we get the attorneys
19 from the three federal agencies and Mr. Brighton from the
20 Department of Justice that can give us an authoritative responses
21 together and advise the Council, either late today or first thing
22 in the morning as to the legal requirements?

23 MR. BRIGHTON: We'll talk about it. I'm not sure we're
24 going to be able to give you an authoritative response. We'll see
25 what we can do.

26 MR. COLE: Mr. Chairman.

1 MR. BARTON: Mr. Cole.

2 MR. COLE: Is there no one in the Justice Department
3 who is an expert in this field? Maybe we could find him within
4 that fortress back there on Pennsylvania Avenue.

5 MR. BRIGHTON: There's no one here today. (Inaudible -
6 out of range of microphone)

7 MR. BARTON: At any rate, we appreciate your
8 willingness to help, and look forward to any information that will
9 help resolve this situation.

10 MR. STIEGLITZ: Just make sure we have all the pieces out
11 on the table -- remember we do have a motion tabled, which would
12 say proceed with the restoration plan posthaste which we're also
13 going to reconsider in the morning, as I remember.

14 MR. BARTON: That's correct. We tabled that until
15 tomorrow morning the decision on the restoration plan. Is there
16 anymore to be said, at this point, on the EIS? Or, may we pass on?
17 Anything more that would be helpful.

18 MR. PENNOYER: (inaudible - out of range of microphone)
19 Can I suggest a ten minute break?

20 MR. BARTON: When you chair this thing, you go two,
21 three hours. That's an excellent idea. Let's reconvene in ten
22 minutes.

23 (Off Record at 2:33 p.m.)

24 (On Record at 3:00 p.m.)

25 MR. BARTON: If we could get started. The next item on
26 the agenda is the 1994 work plan. Dr. Gibbons.

1 DR. GIBBONS: Yeah, I'm going to turn this over to the
2 co-chairs of the '94 work plan, Jerome Montague and Ken Rice.

3 DR. MONTAGUE: Yes, Mr. Chairman and Council members, I'd
4 like to call to your attention to memo and supporting documents
5 dated May 28 from Dave Gibbons of the Trustee Council, titled 1994
6 Work Plan. First of all, I'd like to briefly summarize some of the
7 constraints under which this was prepared. The comment period
8 ended May 20th and comments had to be postmarked by that time, and
9 our internal final receiving date was May 25th, and these documents
10 were turned over to the Council on May 28th. So, I'd really like
11 to commend the staff at CACI and those on the 1994 Work Group that
12 worked on this for doing such a good job and essentially getting it
13 done in two and a half days. Particularly, would like to thank Ken
14 Holbrook (ph) and Ward Lane, Melanie Bouch (ph), Diane Munson and
15 others on the '94 Work Group, at CACI, Ron Bruyere and Rebecca
16 Woody. This was faxed out to the Council members on Friday, and on
17 Saturday, I tried to deliver a cleaner version to most of the
18 Council members. I -- I hope you received it. What I would like
19 to do now is first of all go through and outline what we were
20 hoping -- for the Council to act upon today, I'll talk briefly
21 about the schedule and go over some of the documents, the summary
22 of public response, considerations and use of the data, and the
23 assumptions. And then, after I go through that, would return to
24 what's expected of the Council today and answer any questions, and
25 pretty much turn it over to the Council at that point. What we
26 hope for the Council to do today, is approve a set of assumptions

1 for the Restoration Team and the Work Group to use in developing
2 the 1994 draft work plan, give specific guidance to the Restoration
3 Team on the make-up of the list of projects, in terms of land
4 acquisition, resources and services, and perhaps even specific
5 resource categories. And then, we'd also find it useful to have
6 some guidance on a target funding level for the draft 1994 work
7 plan. A schedule was passed out to you here recently, again today,
8 I think, and I've outlined here, or Dave's outlined here in this
9 memo some of the key upcoming dates for the development of the
10 draft plan, and today we're to have some guidance from the Council,
11 and over the next five days, in conjunction with the Council's
12 wishes and further analysis of the public input, to develop a list
13 of projects that at the Restoration Team level would propose
14 appearing in a draft plan, and, to give this list to the Trustee
15 Council for approval soon after that. The steps after that would
16 be for lead agencies to pretty much assign and prepare the brief
17 project descriptions that would make up the draft work plan, and
18 with the goal of having the draft work plan to the Council by mid-
19 August. I'd like to go through some of the considerations for use
20 of this data. First of all, approximately two thousand of these
21 were mailed out and -- and an unspecified number, but perhaps up to
22 a thousand more were given out or picked up -- given out at public
23 meetings or picked up here at this office, and we received one
24 hundred and thirty-three replies to this distribution. The most
25 comments that anyone -- project received to go forward was thirty-
26 five or thirty-four, I believe. Of the two hundred and ninety-

1 seven projects that were on the original list, the respondents
2 added a hundred and eleven new projects. Two trustee agencies
3 didn't respond formally to the distribution. Sixty-eight projects
4 of the list of two hundred ninety-seven were positively identified
5 to go ahead, and by that I mean that the number of respondents that
6 were in favor of it were greater than the number of respondents
7 that were against it. So, a lot more projects than sixty-eight got
8 positive responses by somebody. The distribution geographically is
9 outlined here, but -- for the public's -- public's use, twenty-two
10 were from Prince William Sound, thirteen from the Kenai Peninsula
11 and Cook Inlet, six from the Kodiak area, twenty-three from
12 Anchorage, eleven from outside the oil spill area, nine outside of
13 Alaska, and forty-nine unknown, and these unknown ones did not have
14 names or addresses either. There was significant public response
15 to the restoration options where no project titles were presented.
16 For instance, for particular species, the common murre was listed
17 under the projects that we put in there. We also put blanks for
18 people to add projects, and in some options we didn't have any
19 projects for them. In those cases, the public had a pretty high
20 probability of adding something in. One thing that was never our
21 intent and probably worthy to pass on to the Council is that, we
22 never really intended for these to be used as -- as votes for a
23 project, and it just gives some idea of the general public feel of
24 the projects. Twenty-two Port Graham residents sent in individual
25 form letters, meaning that all letters said the same thing, but
26 they had different signatures, and the projects that they asked for

1 were the Chugach Region Village mariculture project, a clam
2 restoration project, Seward shellfish hatchery, sockeye enhancement
3 and pink salmon hatchery projects. Several petitions were received
4 and they're listed here with various numbers of signatures, and
5 there wasn't one request to have a head of an organization
6 represent more than one signature. But, for all of these that were
7 either form letters, had multiple signatures on petitions, we
8 counted those as one entry as opposed to one entry for each
9 signature. It was the Council's intent, I believe, in putting out
10 the 1994 to 2001 year columns to get some idea of -- you know, when
11 the public wanted projects to be conducted. For the most part,
12 people either checked 1994 exclusively, or in many cases, checked
13 every year. So, all in all, I don't think much can be gained from
14 that in terms of what's the yearly distribution of projects that we
15 might want conducted. And, just to look at the first page of the
16 list of projects that we sent out and how the responses are
17 presented, these yearly columns, including 1994, we entered that
18 here as the year in which the project would start, and it does not
19 mean every year that the project should be conducted. Then we have
20 the column of -- of fund in '94, fund later, which sort of
21 summarizes the yearly column, the do not fund column, the total
22 number of entries that responded to that particular project and the
23 number that didn't respond to that particular project. And, there
24 were no projects that did not have, at least, one response. And,
25 highlighted in the 1994 column -- shaded as your copy may show --
26 are projects that had more positive than negative entries. If

1 there's no other questions on that table, I'll finish up here with
2 discussion of the petitions and the assumptions. At the end of
3 your table should be a list of the petitions we received. The first
4 one was to notify the Council that a quarter million acres of lands
5 that are available for acquisition on Kodiak. The Cordova City
6 Council requested funding for two-coded wire tagging projects, and
7 a herring project, and another Cordova petition requesting -- I
8 guess those are the same ones. Citizens of Chenega requested the
9 restoration of subsistence beaches. Now, these assumptions,
10 there's two sets in here, the first set is two pages long, were the
11 assumptions that the Restoration Team prepared in late December,
12 early January, and the one page set of assumptions attached to it
13 at the end is a set of assumptions that was submitted by the
14 federal trustees, I think, in February. So, if there's no other
15 questions, I'd like to move the Council back to the three main
16 action items today of approving a set of assumptions, giving some
17 guidance on the mix of what types of projects should be conducted
18 and a target funding level. Thank you.

19 MR. BARTON: Thank you, Mr. Montague.

20 MR. COLE: Mr. Chairman.

21 MR. BARTON: Mr. Cole.

22 MR. COLE: At the outset, I think we should move to
23 restore another seventy thousand dollars to the coded wire study in
24 -- in Prince William Sound, if Commission Rosier is supportive of
25 that. The last time I erred, I only moved for the -- transfer one
26 hundred and fifty thousand into that, and the request was really

1 for two hundred and twenty thousand.

2 UNIDENTIFIED VOICE: Mr. Chairman.

3 MR. BARTON: It was moved and seconded to provide an
4 additional seventy thousand to a project that we approved at the
5 last meeting, relating to coded-wire tagging. I don't know the
6 project number. Commissioner Rosier, can you help us?

7 MR. ROSIER: I can't help you on the number, off the
8 top of my head here. I think one of the -- we can run that number
9 down very quickly here. I assume that's -- this is for the pink
10 salmon coded-wire tag program.

11 MR. BRODERSEN: It's 67.

12 DR. GIBBONS: Yeah, 93067.

13 MR. BARTON: On project 93067, it's been moved and
14 seconded that we add seventy thousand dollars to project 93067.

15 MR. PENNOYER: Mr. Chairman.

16 MR. BARTON: Mr. Pennoyer.

17 MR. PENNOYER: I think that's a '93 work plan item which
18 is on the agenda with some other things for tomorrow. Should we go
19 ahead with the '94 work plan and just defer that until we get to
20 the rest of the...

21 MR. COLE: I withdraw that motion, I just didn't want
22 to forget it.

23 MR. BARTON: Yes, Mr. Cole. The '94 or '93.

24 MR. COLE: Well, this has to do with both of them.
25 I would move that -- that for each of the projects that we have
26 funded, that the Council be provided with an executive summary of

1 the results of the projects or studies.

2 MR. BARTON: It's been moved and seconded that the
3 Council be provided an executive summary of each study or each
4 project that we have funded. How does that relate to item eight,
5 Dr. Gibbons?

6 DR. GIBBONS: That's -- funded in '92, is that the
7 request? '93 has just been approved, and do not -- you know,
8 they're just starting field work. So that would be a status of the
9 projects funded in '92.

10 MR. BARTON: So, this is a status report of what -- Mr.
11 Cole's asked for executive summary of each project, not just for
12 status of the project.

13 DR. GIBBONS: Yeah. In early -- in spring of this year,
14 we provided one to you. I can -- I can try to find that and blow -
15 - you know, blow the dust off. It was more than -- it was longer
16 than the executive summary. It was a paragraph or two on every
17 study, or page on every study and what the status was at that --
18 that point. We can look at that again.

19 MR. BARTON: Mr. Cole.

20 MR. COLE: I'm not sure I'm following you
21 (inaudible). I would envision that for each project or study, we
22 would have, perhaps depending upon study, three pages summarizing
23 the study and the results, and the reason I say this is as follows,
24 the studies are done, then the Trustee Council is called upon to
25 make decisions on the basis of these studies. We never really see
26 the studies, or a summary of the studies. I think we need some

1 mechanism to get some summary of the results of this study to the
2 Trustee Council. It may not be long, but more than a paragraph,
3 just some meat.

4 MR. BARTON: That's -- and potatoes too.

5 MR. GIBBONS: That can be done. The '92 final report
6 schedule has ninety plus studies in it, and we can pull those out.
7 A lot of -- all but two of those will meet the June 15th final
8 draft deadline to the -- to the Chief Scientist. We could pull out
9 a summary out of those documents -- out of those documents.

10 MR. BARTON: Let me suggest you do that, and let's see
11 if that meets Mr. Cole's concern...

12 MR. COLE: Is there other members of the Council that
13 have that same sense that they would like to see something in the
14 results of the study?

15 MR. BARTON: Mr. Pennoyer.

16 MR. PENNOYER: Mr. Chairman, Mr. Cole through -- what
17 timing and what purpose? I had that feeling too, but -- I mean,
18 when do we want this, before what decision point, or how would we
19 use this? Just as a general thing, it's not a bad idea, but -- I
20 mean, is this relative to approval of projects in '94? We want to
21 seek a '93 result -- an executive summary? It might be a little
22 tough by August of '94. I'm just wondering about the timing of
23 this?

24 MR. BARTON: It's have to be '92.

25 MR. PENNOYER: So, it would be an executive summary of
26 '92 before we make the '94 decision?

1 MR. COLE: Well, '93 if we have them.

2 MR. BARTON: Well, we're not -- they're not in the
3 field yet.

4 MR. COLE: When they're done -- not before they're
5 done, obviously. We'll read them when they're done. I mean, we do
6 these things, and I would just like to have a sense of -- you know,
7 why I voted for that, or I had some reservations about it -- you
8 know, it turned out well. It would just help us to monitor the
9 results of our decision-making process. Did it lead to good data?
10 Is it something in which we should base another study for the
11 ensuing year? Things just get done and then they sort of float out
12 there, we lose track of them.

13 DR. GIBBONS: We could prepare that for '92. '93 -- I'm
14 not sure -- I know by August we wouldn't have that. We could
15 certainly do that for '92.

16 MR. BARTON: Mr. Rosier.

17 MR. ROSIER: Well, I was just -- I was just wondering,
18 are we not producing quarterly reports on most of these projects?

19 DR. GIBBONS: Financial.

20 MR. ROSIER: Only financial.

21 MR. BARTON: Okay, it's been moved and seconded that we
22 get executive summaries of all the projects, the '92 projects.

23 MR. COLE: Mr. Chairman, and '93 as soon as they're
24 completed. I think the executive summary should accompany the
25 final report.

26 MR. BARTON: I mean the '93 projects upon completion of

1 the report. Any further comments or discussion? Mr. Gibbons.

2 DR. GIBBONS: Yeah, how soon -- if you combine '93 into
3 what you're talking -- fall -- I was thinking we could pull these
4 out of the draft final reports and get that to you within a pretty
5 short time-frame.

6 MR. BARTON: Mr. Cole.

7 MR. COLE: I'm not sure why it would take to October
8 to get a summary of the '93 study.

9 DR. GIBBONS: Well, right now the '93 studies were just
10 -- just funded in projects in March, April and May. Okay, and
11 they're out in the field until September.

12 MR. COLE: Of course. You're right.

13 MR. BARTON: Dr. Spies you...

14 DR. SPIES (from audience): Well sir, we're getting most
15 of the reports in now and most of them are written with an
16 executive summary on them. I'm not sure if it would satisfy all
17 your concerns, Mr. Cole, but they do have executive summaries on
18 the reports that are coming in the draft -- on the reports.

19 MR. COLE: That's sufficient. If we could xerox those and
20 put together a package.

21 DR. GIBBONS: That's what I had in mind, Bob. Just --
22 pulling the documents.

23 MR. BARTON: Any objection to the motion? Hearing
24 none, the motion is enacted.

25 MR. COLE: One other matter...

26 MR. BARTON: Mr. Cole.

1 MR. COLE: ...if you will, '93. As I recall, the
2 University of Alaska had sent us a letter saying they refused to do
3 any projects for less than forty-four percent overhead. What ever
4 happened to that? Did they back off that?

5 DR. GIBBONS: Mr. Chair, they saw the wisdom of the
6 decision of keeping twenty percent, and they agreed to that.

7 MR. BARTON: Any further comments? (Inaudible -
8 coughing)

9 MR. ROSIER: Mr. Chairman, I'm not sure whether this is
10 the time yet -- to introduce this or not, but as part of the '94
11 potential project listing here, on May 23rd Attorney General Cole
12 and myself met with people in -- in Cordova and in -- and Valdez.
13 During the course of the Cordova meeting, we were presented with a
14 Resolution 93-2EC which suggests -- which was suggested -- or
15 submitted, I should say, by Prince William Sound Aquaculture
16 Corporation here, and I'll make copies of this available.
17 Basically, what this -- this asks for is -- therefore, be it
18 resolved, it is requested that EVOS Trustee Council pay off Prince
19 William Sound Aquaculture's debt to the state of twenty-four
20 million dollars. Further, the Prince William Sound Aquaculture
21 continues to write seventy percent of its hatchery production to
22 the common property fishery, while using the funds which would
23 otherwise have been used for debt service to establish an annual
24 budget for evaluating the stocks and associated species of the
25 Sound for the purpose of assessing their condition, providing
26 improved opportunities for fishery users on this. I don't know how

1 we interject that into this plan at the present time. There is an
2 item twenty-nine on the first page of the summary of public
3 responses here which identifies these same type of project for --
4 for the Valdez Fisheries Development Association, and we also heard
5 at the hearing in -- in Valdez about this and -- and there was some
6 support for that as far as the Prince William -- excuse me, the
7 Valdez fishermen's group was concerned. So, I'll give this to the
8 secretary and introduce this as -- into the record anyway.

9 MR. BARTON: Thank you Commissioner Rosier. Other
10 comments before we launch into '94 and address the three items
11 we've been asked to address? I guess the first item is what
12 assumptions we want to use in development of the program, and we
13 were given two choices at the tail end of the package -- the last
14 three pages -- end of the package. We didn't take action on these
15 at the earlier meeting. Mr. Pennoyer:

16 MR. PENNOYER: Mr. Chairman, before you launch into the
17 assumptions, can we talk a little bit about what we intend to do
18 with the '94 work plan at -- where we're going with it, and it
19 might lead us a little bit -- decide whether these assumptions are
20 reasonable, or when needed, or whatever. The '94 work plan is, I
21 guess, is going to the first work plan under the restoration plan,
22 because we're going to finish -- finalize restoration plan before
23 we implement a '94 work plan, and I think one of the assumptions in
24 here, which is probably applied any year, would be that somehow the
25 umbrella of this work plan -- restoration plan -- is going to cover
26 what we're going to do here, and some of the policy questions that

1 are outstanding, for example, (inaudible) and other things --
2 appropriate use of the funds in our view. Are you going to be
3 settled from learning what we get back on the restoration plan, and
4 where we -- what we finally put out as the restoration plan that
5 will deal with some of these major criteria and how you allocate
6 funding. I guess, I still view the '94 plan as the first part of
7 that step two we haven't taken. We talked -- when we talked about
8 a restoration plan, we talked about really having three steps.
9 And, in the first is sort of the restoration umbrella, and we just
10 talked about principles and general things. The second was dealing
11 with some concept of a multi-year approach to certain types of
12 activities, and the third was an annual work plan. And, we're
13 probably going to have a hard time jumping into a '94 work plan
14 myself without talking about some of those longer term things. I'm
15 not saying put off the assumptions, but as we do these assumptions,
16 I think they have to be looked at as whether you're going to stand
17 us in good stead to developing this sort of multi-year approach to
18 our first year's restoration effort. And, as we go through them,
19 I wanted -- I just wanted to bring up -- point ups, so everybody
20 could keep that in the back of their mind. This is not, as it
21 started out to be, I think, just the assumptions that were to get
22 us through some of the objections to doing restoration in '94. It
23 should probably guide us in the way we're going to approach annual
24 work plans and their relationship to a longer term. I just wanted
25 to bring that up as we looked at these, and see if they provide us
26 adequate guidelines.

1 MR. BARTON: Any comment? What's the will of the
2 Council with regard to the assumptions?

3 MR. PENNOYER: Want to go through that Mr. Chairman,
4 and just see what everybody -- what's going on.

5 MR. COLE: Mr. Chairman.

6 MR. BARTON: Mr. Cole.

7 MR. COLE: Are there not two sets of assumptions?

8 MR. BARTON: There are -- there are alternative sets of
9 assumptions. We're being asked to pick one or some combination
10 presumably, or some additional assumptions.

11 MR. COLE: May I ask, what is the source of each?

12 MR. BARTON: Dr. Montague?

13 DR. MONTAGUE: Yes, Mr. Chairman. The two page version
14 that should be first was prepared by the Restoration Team in late
15 December, early January, and the second one page set of assumptions
16 was prepared by the Federal Trustees approximately two months
17 later.

18 MR. COLE: I move we strike the second set.

19 MR. BARTON: It's been moved that we strike the second
20 group, is there a second? Mr. Pennoyer.

21 MR. PENNOYER: Mr. Chairman, could somebody outline for
22 us, purportedly being the author of the second, I don't know the
23 answer -- one of the authors, but I don't -- outline to us what the
24 difference is -- what we gain by dropping one. I looked through
25 these and I sort of -- not exactly mirror images, but they're some
26 strange differences and inconsistencies between the two, and I'm

1 not sure what we gain by taking one or the other or mix or matching
2 them somehow.

3 MR. BARTON: Dr. Montague. Can you explain the
4 differences?

5 DR. MONTAGUE: Mr. Chairman, I'll explain some. The RT
6 was intimately involved with this, I'm sure other members may wish
7 to help me on this on occasion. Relative to the first one, I guess
8 contradicts on the first set of assumptions. We're basically
9 saying that the restoration plan will not be done before the '94
10 work plan is approved, meaning that the '94 work plan technically
11 should begin October 1st and the restoration plan would not be
12 approved until December.

13 MR. BARTON: Mr. Pennoyer.

14 MR. PENNOYER: Just as an example, the one on the other
15 list says the same thing, but just with more words. I'm not sure
16 whether -- anyway, go ahead. I'm sorry.

17 DR. MONTAGUE: Well, simply put, the difference between
18 the two-page version would be that there wouldn't be a bifurcated
19 program of -- of before December and after December. There would
20 just be the one plan. The fourth one in the first version, all
21 available settlements -- approved settlements -- actions approved
22 by the settlements, can be considered for restoration in 1994, and
23 that is not on the federal version. Item five on the first
24 version, says '93 projects will need to be closed out in 1994 is
25 appropriate. The federal version says that 1994 -- or close outs
26 of '93 projects must be fully justified. Item six, implementation

1 activities will be emphasized is not in the federal version.
2 Number seven, there will be increased emphasis on restoration and
3 enhancement of services is not in the federal version. Number
4 eight is identical in both. Number nine is essentially identical.
5 Number ten describes what type of injury can be restored -- similar
6 basically, not significant difference.

7 MR. BARTON: Mr. Sandor.

8 MR. SANDOR: What was the rationale for developing the
9 second listing which is so similar two months later? Is this to
10 eliminate the three, four, six, or whatever, items that were
11 unacceptable in the first -- in the two-page listing, or what was
12 the rationale?

13 DR. MONTAGUE: Mr. Chairman, I believe that is so, but
14 perhaps Dr. Pennoyer can...

15 MR. PENNOYER: Mr. Chairman, I think, and I wasn't --
16 primary author -- but, I think that -- that item two -- or item two
17 in the second page is really the difference which we sort of didn't
18 -- that Dr. Montague alluded to, and that was the fact that, in
19 essence we had a contingent '94 work plan that somehow would
20 approve projects that were time critical or lost opportunities, as
21 we have in the past, regardless of further consideration, and would
22 have the second class of projects that would be approved only if
23 they were later certified as being possible under -- the finally
24 adopted restoration plan. So, this is sort two-piece approval
25 process where the first set of criteria did not require that,
26 although it did make the assumption. As a matter of fact, the

1 first set of criteria doesn't specifically link the '94 work plan
2 to the restoration plan anywhere, I don't think. The second set of
3 assumptions goes farther than that, and actually makes it approval
4 with projects contingent on adoption of the '94 work plan, unless
5 their time critical. The other differences are -- there are a few
6 things in the second package that aren't in the first one. I think
7 there's just the NEPA compliance question is spelled out. I --
8 they're not controversial there, just some differences. So that,
9 I think, is the primary differences, simply one of paying more lip
10 service to the fact that the restoration plan has to be completed
11 and projects that are -- will only be finally implemented if
12 consistent with that restoration plan.

13 MR. BARTON: Mr. Sandor.

14 MR. SANDOR: Would it be acceptable to simple modify
15 the two page listing -- in those items that you refined in the one
16 page listing? In other words, restoration plan number two, on the
17 two page listing, your restoration plan should be in place by the
18 time most of the 1994 work plan is implemented. One could simply
19 add the qualification and requirements that is incorporated in the
20 -- in your number two.

21 MR. PENNOYER: Well, I don't think, Mr. Chairman, I don't
22 think that quite does it. Again, the footnote on the second one
23 says the Department of Interior does not agree with assumptions
24 three, four, six, seven and ten, so maybe I should let Walt do it,
25 but I don't think he was here when it was done, so that's why I'm
26 saying it. For example, number three says the Trustee Council

1 hasn't approved any appropriate restoration action prior to having
2 approved restoration plan in place. That's a specific statement in
3 the first set. I think that was disagreed with by the -- by the
4 Department of Interior specifically at the time. They felt that
5 the restoration plan had to be in place before the action received
6 final approval, and, I think, we were trying to get around that
7 concept by having a -- a process whereby either you approve all the
8 projects, but they are sort of contingent on the final --
9 restoration plan finally being approved, or you do it in a two-step
10 process, as suggested in that second list of documents. So,
11 there's one -- that's, I think, the basic difference between these.
12 The first document says that all restoration options are approvable
13 without any real discussion of -- only if they fall under the
14 restoration plan. Whereas, the other one makes -- ties it more
15 closely to the restoration plan. I don't know if anybody here from
16 the Interior would like to speak more to that, that's as I recall,
17 Mike, the rationale for that -- that difference, and just adding a
18 couple of things, like NEPA, doesn't quite solve that discrepancy.

19 MR. BARTON: Mr. Brodersen.

20 MR. BRODERSEN: I -- I believe that -- providing we don't
21 have anymore slippage in adopting the restoration plan, that this
22 issue becomes moot, because of the slippage in the '94 work plan
23 that occurred a couple of meetings ago. If one looks at the
24 schedules, the Trustee Council was adopting the restoration plan in
25 November and then it becomes final thirty days later, and you're
26 also being asked to approve the '94 work plan in December. So,

1 these two dates are pretty concurrent. As long as we recognize
2 that some agencies might have a problem with doing one before the
3 other, I don't think there will be a problem. That -- that these
4 actions are now more or less parallel in time.

5 MR. BARTON: We were trying to move the work plan --
6 program up, as I recall earlier, when this -- when we were
7 discussing this second set of assumptions, or shooting for pre-
8 October 1st.

9 UNIDENTIFIED VOICE: I can't hear you.

10 MR. BARTON: I said I think we were shooting for pre-
11 October 1st for the '94 work plan when we were discussing these
12 assumptions originally...

13 MR. BRODERSEN: That's correct. That's to say we slid
14 that time schedule because of some other considerations where the
15 '94 work plan now is not being formalized by the Trustee Council
16 until December, and in theory the restoration plan will also be
17 finalized in December, so we shouldn't have a problem here,
18 providing we don't allow any slippage in the -- adoption of the
19 restoration plan.

20 MR. BARTON: Which we just discussed.

21 MR. BRODERSEN: Right.

22 MR. PENNOYER: Mr. Chairman.

23 MR. BARTON: Mr. Pennoyer.

24 MR. PENNOYER: I thin the practical effect may be moot,
25 but the fact that the statement of principles still says your not
26 going to do it, unless it's included, still is a difference.

1 Because under your scenario, if the slippage occurred, then the
2 project could still go ahead even though -- in principle, due to
3 the concept of (inaudible - coughing) difference is that under one
4 of these assumptions, you tied the work plan specifically to the
5 restoration plan, for restoration projects. Under the other one,
6 you don't, and I think that's the key difference, and I have not
7 heard yet a contrary view from the federal side is the one is
8 acceptable.

9 MR. BARTON: Mr. Rosier.

10 MR. ROSIER: Well, I was wondering, on that if there
11 might be a compromise there on this -- with the first part of item
12 two, in terms of the time-critical nature here on this, if we had
13 something to the effect there that -- that those projects would be
14 only those that would be, in fact, started between October -- the
15 1st of October and December of '93. That would clear those
16 projects and then the restoration plan would be in place for the
17 remainder of the projects.

18 MR. BARTON: Other comments or questions?

19 MR. COLE: I call for the question.

20 MR. BARTON: Question's been called on the motion. Any
21 objection to the motion?

22 MR. PENNOYER: I object.

23 MR. BARTON: Motions fails.

24 MR. COLE: I can speak in support of the motion? Well,
25 here's the thing. Why don't we just start with the first two page
26 document, and work with it, and then put into it what you would

1 like to incorporate from the federal document -- that's really what
2 I had in mind

3 MR. COLE: Mr. Chairman -- misunderstood my motion --
4 I thought we were simply adopting item one if -- using it as
5 working reference document, I have no problem with that.

6 MR. BARTON: Is there a motion?

7 MR. COLE: I so move.

8 MR. BARTON: What are you moving, just so we all
9 understand?

10 MR. COLE: I'll move that we use the two page
11 document -- the first document prepared, as a working draft for the
12 purpose of formulating the '94 work plan assumptions, and that they
13 incorporate into that document the provisions in the federal
14 document which they would like to insert.

15 MR. BARTON: Is there a second? It's been moved and
16 seconded that the first alternative assumptions be used as the
17 basic document from which then items in the second alternative will
18 be inserted. Any more discussion on that motion? Any objection to
19 the motion? The motion passes. Now, what...

20 MR. COLE: Could we take a short recess here, can we
21 just stand here for just a second? Go off the record

22 MR. BARTON: We're off the record.

23 (Off Record at 3:35 p.m.)

24 (On Record at 3:40 p.m.)

25 MR. BARTON: Will everybody take their seats please.
26 We've, do we have a proposal or a motion?

1 MR. PENNOYER: Mr. Chairman, using the two pager as the
2 working draft and with the assumption that we'll go ahead and
3 approved something here -- public hearing is in fifty minutes, get
4 it typed up tonight, and if there are any problems once people see
5 it we can leave this to the exact wording in the morning, but to
6 give the instructions how to proceed -- I propose using the two
7 items -- two place -- two page document, that we go with item one,
8 two unchanged -- I'm sorry -- let's say item two, I think we ought
9 to get rid of the word most. Restoration plan would be in place by
10 the time the '94 work plan is implemented. These are rather vague
11 in terms of ---

12 MR. COLE: Most of -- you're striking most of.

13 MR. PENNOYER: Striking most of, yes, not just most.
14 Item three, I -- insert some wording here, which people may be able
15 to do a better job on tonight, but this gives the thrust of the
16 thought. And looking -- using item two in the original federal
17 draft, and trying to incorporate that concept of sort of a dual
18 standard for approval, depending on the work plan adoption. What
19 I didn't want to do is to wait, and even past -- doubly pass
20 projects -- having to doubly pass projects that are in fact -- we'd
21 approved the plan and either would either take place or parts of it
22 wouldn't, that didn't end up being approved in the restoration
23 plan. I changed that entry wording to say, the Trustee Council can
24 approve -- insert for implementation any appropriate restoration
25 action prior to having approved restoration in plant -- in place,
26 if that item is time critical, or represents a lost opportunity.

1 Other approved...

2 MR. BARTON: This is a new sentence?

3 MR. PENNOYER: Yep. Other approved restoration projects
4 must be consistent with the adopted restoration plan to be
5 implemented. Must be consistent with the adopted restoration plan
6 to be implemented. The concept is that we might approve the '94
7 work plan -- depending when the restoration plan is adopted,
8 specifically precludes something, we just never would implement
9 that project. So, we might have sent a court request forward to
10 get things started, but we just would never implement that project
11 if it didn't actually get approved under the umbrella restoration
12 plan.

13 MR. COLE: Why don't we just say, must be consistent with
14 the restoration plan when it is adopted?

15 MR. PENNOYER: That's fine. I was...

16 MR. BARTON: Let's... concept down.

17 MR. PENNOYER: I was just assuming the implementation is
18 what you're really concerned about. The -- you could do it either
19 way.

20 MR. COLE: Well, we use implement -- implemented in
21 that sentence, with the adopted restoration plan to be implemented,
22 I find it a little confusing.

23 MR. BARTON: Maybe move the to be implemented after
24 project. Other approved restoration projects to be implemented
25 must be consistent with the restoration plan. (Inaudible -- aside
26 comments) Other changes?

1 MR. PENNOYER: Well, I just wanted to go the list so
2 people can say something if they want to. Five is okay, there's
3 not -- all the same there. Six, implementation activities will be
4 emphasized -- I'm not -- that wasn't in the federal draft. I'm not
5 totally sure, one -- what it means, or what we lose with it.
6 Implementation activities -- everything, I guess -- restoration
7 implementation -- every implementation activity is any type of
8 research or anything else, I would assume, so I didn't know what
9 that statement added.

10 MR. COLE: You don't know what it means. Dr. Montague?

11 DR. MONTAGUE: Maybe Dr. Spies will -- I mean Gibbons.

12 DR. GIBBONS: I -- I think intent here's to do on-the-
13 ground activities, actually restoration work, not monitoring or
14 something, but actually doing something visible on the ground.

15 MR. COLE: Restoration activities will be emphasized
16 then? Why don't we just say restoration will be emphasized.

17 DR. MONTAGUE: Mr. Chairman.

18 MR. BARTON: Dr. Montague.

19 DR. MONTAGUE: That isn't the point that's trying to be
20 made. I guess planning projects, monitoring projects, blueprint
21 projects, we wouldn't consider being implementation, or another
22 word we use is hard restoration. And, I guess it -- criticism is
23 doing too many studies and too much planning, we wanted to
24 emphasize hard restoration, on the ground implementation
25 activities, and, that's what is meant by it. If we just say
26 restoration, restoration includes monitoring, includes injury

1 assessment.

2 MR. COLE: I don't think so.

3 MR. BARTON: Well, do we agree with the concept, that
4 what we're trying to emphasize here is actual on the ground work?

5 MR. COLE: Restoration -- restoration is a defined
6 term in the memorandum of agreement. I think that's what we're
7 trying to do -- trying to say here, restoration.

8 MR. BARTON: What would the alternative choice be to
9 emphasize, if we didn't emphasize restoration?

10 MR. PENNOYER: Well, Mr. Chairman, I think a lot of the
11 criticism -- Dr. Montague is correct about studies -- a lot of the
12 criticism has been to get on with restoration, and a lot of ours
13 has been background, continuation of damage assessment. I think
14 restoration -- the concept is we're going to start really doing
15 some restoration in '94. I think it's understood what we -- what
16 we mean if we say restoration will be emphasized.

17 MR. COLE: Mr. Chairman.

18 MR. BARTON: Mr. Cole.

19 MR. COLE: I would like to say that -- hope
20 Commissioner Rosier will bear me out on this -- but, in Cordova, I
21 was surprised that there was as much support, and there appeared to
22 be strong support, for continued studies among the fifty to
23 seventy-five people who attended this meeting a week ago Saturday,
24 in Cordova. So, I wouldn't want the record to -- to show is as Mr.
25 Pennoyer just said that, there's a strong feeling out there in
26 places, that we should get along with restoration activities --

1 direct restoration activities. That was a sense, which I had
2 before I went to Cordova, but there's a lot of support in Cordova
3 and Valdez for continued monitoring and studies to be used as a
4 management tool. Commissioner, do you...?

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: I guess -- I guess -- I guess I'm hooked
7 up here. Yes, I certainly concur with Attorney General Cole on
8 that. The -- I think that the message that we got there -- that I
9 got anyway in Cordova and in Valdez, was that -- that they were
10 really looking for applied -- applied type research. They were not
11 looking at research just for research purposes on this. They were
12 really looking at projects that in fact addressed management --
13 management-type needs in the community. That there was really a
14 feeling of strong support for -- for better information about the
15 resources that were important to all user groups, as a restoration
16 method and, so, there was very strong -- no question in my mind --
17 that it, especially in Cordova -- that there was very strong
18 support for that concept.

19 DR. MONTAGUE: Mr. Chairman.

20 MR. BARTON: Dr. Montague.

21 DR. MONTAGUE: Relative to our use internally, I
22 guess, is the word implementation of projects supported on the
23 ground management actions would be considered implementation
24 activities, so -- you know, when we said implementation activities
25 would be emphasized, that excluded studies that weren't intended
26 for -- an immediately management action.

1 MR. BARTON: What do we want to say in item six? Do
2 you want to change implementation to restoration, is that the sense
3 of the group?

4 MR. COLE: Yes, one, but I think we should add what
5 Commissioner Rosier has just talked about -- if he can put that
6 concept in the words.

7 MR. BARTON: Are you in agreement on that? -- that
8 Commissioner Rosier to put that concept into words and well get it
9 incorporated into the typed version, which we'll have one more
10 crack at it in the morning. Dr. Pennoyer?

11 MR. PENNOYER: Mr. Chairman. Item seven, wasn't it in
12 the federal version, to increase emphasis on restoration and
13 enhancement of services? I don't know what the rationale was for
14 us not wanting that it in doesn't say how much emphasis, it says
15 increased emphasis. So...

16 MR. COLE: We've already -- we will have covered that
17 in six, won't we?

18 MR. BARTON: Shall we strike seven? Is that the sense
19 of the group?

20 MR. PENNOYER: Eight and nine were the same in the two
21 drafts, basically. Ten...

22 MR. SANDOR: I would propose adding identification
23 protection of critical habitat needs to be -- to proceed as rapidly
24 as possible, giving priority consideration to habitat and species
25 directly or consequentially injured by the spill. It seems to me
26 we need -- what that says is that -- there isn't any distinction,

1 just as long as critical habitat is identified, because I think
2 that -- you know, it should be linked to the -- to the priority
3 restoration activities in item ten -- should be consistent with
4 item ten.

5 MR. PENNOYER: Should we be giving priority to those?
6 Isn't that mutually exclusive? You can't do it unless it's going
7 to the spill?

8 MR. SANDOR: No, what it says is as rapidly as possible
9 is the ...

10 MR. PENNOYER: Oh, priority in time?

11 MR. SANDOR: Yeah.

12 MR. BARTON: Any objection to the inclusion of that
13 modification?

14 MR. PENNOYER: Mr. Chairman, item nine was about the same
15 between the two -- could be elaborated on, I guess, but that's not
16 -- they were about the same.

17 MR. COLE: Should we just put in functions after
18 management?

19 MR. BARTON: Sure, so done.

20 MR. COLE: Carl, did you get that language you want?
21 (Inaudible - out of range of microphone)

22 MR. PENNOYER: Item ten, first draft takes about a third
23 of the page to say what purports to be said in the other draft in
24 about a paragraph, but I'm not sure they're too much different,
25 except, I guess this has for seven as restoration services and
26 resources, as does ten. Ten goes through definition -- elaborate

1 definition of consequential injuries to services or to resources.
2 I -- I guess I don't care.

3 MR. BARTON: Does anybody care?

4 MR. COLE: Well, if we use number ten in the first
5 set, I would like to add separate direct or -- I'd like to add
6 direct or, so it reads it separate direct or consequential injury.

7 MR. PENNOYER: Mr. Chairman. Out of the two paragraphs,
8 you'd also insert direct or consequential injury -- and natural
9 resources (inaudible - coughing) direct or consequential injury --
10 add on here.

11 (Inaudible aside comments)

12 MR. BARTON: Any objection to (inaudible)? Any
13 objection on the part of the Council members to that modification?
14 Dr. Pennoyer.

15 MR. PENNOYER: Mr. Chairman. Item eleven is the same
16 essentially. And, Mr. Chairman, item twelve doesn't work anymore.
17 I guess, we need to substitute December 1st, or just leave it out.

18 MR. COLE: I move we just (inaudible - simultaneous
19 talking)

20 MR. BARTON: Any objection to striking twelve?

21 MR. PENNOYER: Shall we also strike the parenthetical
22 statement at the end?

23 MR. COLE: Yes.

24 MR. PENNOYER: Although, I think that's up to Interior.

25 MR. BARTON: Do you object, Mr. Stieglitz? Alright, so
26 the plan at this point would be to have these typed up over night,

1 and then presented in the morning for adoption, or do we want to
2 adopt them now and then just modify them if we need to in the
3 morning? Alright, any preference? Why don't we get them typed up
4 tonight, and we'll take action on them in the morning then. At
5 this time, we need to move into the public comment period, are we
6 ready for that? Okay, we'll stand in recess for ten minutes.

7 (Off Record at 3:56 p.m.)

8 (On Record at 4:12 p.m.)

9 MR. BARTON: We'll reconvene and start the public
10 comment session -- project. LJ, who's on line? What communities
11 are on line?

12 STAFF: I'm not certain. At this point, I'm not
13 certain, sir, I think we've had some other communities come on line
14 in the last few minutes. Operator, would you let us know please --
15 who's on the teleconference.

16 OPERATOR: Yes, yes I will -- Cordova is on line,
17 Mayor Weaverling is there, Valdez is on line, Gary Kompkoff in
18 Tatitlek, Juneau is on line, and, of course your site.

19 MR. BARTON: Thank you very much, Operator. If we
20 could get started. What I'd like to do is go down the list, we'll
21 take two commentators at each location, including Anchorage, and
22 work our way down the list, until we've exhausted everyone, and at
23 this point, we'll ask Dr. Gibbons to give a brief summary of what
24 the Trustee Council did today. Dr. Gibbons,

25 DR. GIBBONS: Thank you, Mr. Chair. Can everybody hear
26 -- okay. The first action the Trustee Council took was concerning

1 the Public Advisory Group meeting. The Public Advisory Group --
2 excuse me -- the Public Advisory Group is in the process of
3 developing three options for endowments, and the Trustee Council
4 would like to review those endowments after their prepared. So,
5 that was the first action Trustee Council made today, was to --
6 ensure that they get a look at the endowment process that the
7 Public Advisory Group is to be developing. The -- the next item on
8 the agenda was the draft restoration plan. The Trustee Council
9 spent considerable time discussing the draft restoration plan, and
10 had some changes in the verbiage for the introduction, and at this
11 point in the meeting, the Trustee Council moved -- or took action
12 that the new verbiage for the draft restoration plan be inserted
13 into the plan and the Trustee Council get a copy of that as soon as
14 possible. Some of the items to include in the modification,
15 included a qualifier on the legal basis of some of the items in the
16 plan. Also, a qualifier that -- not all the Trustee Council has
17 agreed presently on everything that's in the plan, and also that --
18 most importantly, I believe, is the better -- better introduction
19 linking the brochure that was released in April to the draft
20 restoration plan, and its link to the draft Environmental Impact
21 Statement, and finally the linkage to the annual work plan. So,
22 please -- they were to explain the process of -- of the development
23 of all these various facets of the restorations. The Trustee
24 Council next tabled the decision on the draft restoration plan
25 until tomorrow's meeting. There will be -- the meeting will be
26 continuing on tomorrow. The Trustee Council directed the

1 Restoration Team, or members of that -- Restoration Team to explore
2 the decision to combine the draft restoration plan and draft
3 environmental impact statement and what ramifications that would
4 entail, including such items as would there be a savings in money,
5 would there be an increased cost, does the -- is the question also
6 -- this is of a legal question being explored -- is an EIS required
7 for a draft restoration plan at this time, and other items such as
8 any contract penalties and stopping the contract to the EIS
9 contractor? And, the answers to some of these questions will be
10 reported on tomorrow on the June 2nd meeting. The Trustee Council
11 approved the motion that by June 14th the Trustee Council is to get
12 a copy of a highly edited version of the draft environmental impact
13 statement, which has been reviewed by the Restoration Team for
14 content, not edited, and with a one week turn around review by the
15 Trustee Council. The next item dealt with on the -- on the agenda,
16 was the '94 work plan. The Trustee Council moved that the Trustee
17 Council is to be provided with a copy of the executive summary of
18 each study funded in 1992 and then in projects of 1993, executive
19 summaries as soon as possible. These are just beginning in the
20 field or have just begun. And, the final motion of the day was
21 that the Trustee Council use the two page list of assumptions
22 developed by the Restoration Team earlier this year, as a working
23 draft, for the purpose of developing a final set of assumptions for
24 the development of the draft 1994 work plan. The second set of
25 assumptions, included in the package, items -- appropriate items
26 from this package would be inserted as -- as the -- were

1 determined. The Trustee Council has developed a combined listing
2 and which will be typed over the evening and will be reviewed again
3 tomorrow morning for adoption.

4 MR. BARTON: Thank you Dr. Gibbons. At this time,
5 we'll move to Cordova. Is there anyone there at Cordova that
6 wishes to testify?

7 MAYOR WEAVERLING: Yes, thank you Mr. Chairman. As
8 there are three people here, there's myself Mayor Weaverling, Mr. -
9 - Professor Steiner, also Glen Lankard, Jr., let's see, Evelyn
10 Brown and John Wilcox. I think at this time Mr. Steiner would like
11 to testify.

12 MR. BARTON: Alright, go on, thank you. Go ahead Mr.
13 Steiner.

14 MR. RICK STEINER: Good evening folks. The -- first of
15 all, I didn't hear in Mr. Gibbons' summary whether the Eyak land
16 conservation easement acquisition and the status of that and the
17 status of Seal Bay negotiations were discussed. Were they, or will
18 those be discussed tomorrow?

19 MR. BARTON: Those will be discussed tomorrow, we
20 haven't gotten to that on the agenda yet.

21 MR. STEINER: Okay, fine. Yeah, I just wanted to make
22 a quick couple of comments, one about -- first of all it's very
23 enjoyable not attending the meeting and then coming in from the
24 blue here, not knowing exactly what was discussed, but your role --
25 your job as Trustees, I think, it's starting to get very crucial
26 that we all pay very close attention to what your trusteeship here

1 is, and I grab -- the consent decree -- and I'm sure you all know
2 this probably much better than the rest of us, but might be
3 something that all of you stand up and put your hand over your
4 heart and say your pledge of alliance to this sort of code before
5 every Trustee Council meeting. Trustee is defined in the consent
6 decree between the government -- are officials to act as trustees
7 of natural resources injured, lost or destroyed as a result of the
8 spill, and then secondly that -- that the government shall act as
9 co-trustees in using all -- and that's all, natural resource damage
10 recovery to the benefit of natural resources injured, lost or
11 destroyed is as a result of the spill, and finally the definition
12 of natural resources means land, fish, wildlife, biota, air, water,
13 ground water, drinking water supplied and other resources owned and
14 managed by the state and the feds. This may seem trivial to a
15 number of folks, but seems to be taking on extraordinary importance
16 when we start seeing some of the proposed projects that are being
17 forwarded to the Trustee Council. Many of these have to do with --
18 I think more appropriately with municipal claims against Exxon and
19 the claims of the private industries against Exxon -- the private
20 litigation. We have to keep very clear about what the job of the
21 Trustee Council is in this -- in this sense. I've heard a number
22 of towns that start talking about hiring people to quote go after
23 some of the money, end quote, and that becoming the objective
24 rather than the means of using this money for doing the job that
25 the Trustee Council is legally entrusted to. If the Council can do
26 something to help the private industries and municipal claims, I

1 think it's to try to help get that toward settlement. If we could
2 use some of the considerable energies -- Attorney General Cole who
3 put together the government settlement, and some of the other
4 people of the Council politically, if there's something you can do
5 to stabilize the economic situation in the region, and to try to
6 help Exxon see the wisdom in settling the private cases. Lastly,
7 I would just like to mention very quickly the Eyak negotiations
8 going on with the Forest Service seem to be moving slowly, but at
9 least they are moving, we're glad they are, and some negotiation.
10 I think what a lot of people I have talked with around here would
11 like to hear -- see -- is a three-year moratorium on all logging on
12 Eyak land that would provide -- all the monies being applied toward
13 any final purchase price -- so it's time and trees that you'd get
14 with that. I guess, lastly the idea of buffers, in our mind is
15 very, very -- it's not a purchase in extended sideboards on buffers
16 and such, doesn't make a heck of lot of sense for two primary
17 reasons. One, it does satisfy certain objectives of fisheries
18 protection and certain wildlife protection, but it completely
19 misses cultural, recreation and tourism values that should be
20 considered along side the other wildlife values, and last -- the
21 other part of that is it would be an absolute nightmare to survey,
22 manage and enforce. If the Forest Service thinks it would be
23 difficult to enforce a conservation easement in this region, which
24 it wouldn't over large areas, to think about what it would mean to
25 try to enforce such easements on extended sideboards on certain
26 buffer strips in place of some. That's all I have.

1 MR. BARTON: Thank you, Mr. Steiner. Mayor Weaverling,
2 we'd like to take one more from Cordova for this round, and then
3 we'll come back in the second round.

4 MAYOR WEAVERLING: Thank you, Mr. Chairman. Mr. -- Glen
5 Lankard, Jr. would like to speak.

6 MR. GLEN LANKARD, JR.: Hello, how are you today?

7 STAFF: Excuse me, would you please spell your name for
8 our court reporter?

9 MR. LANKARD: Yes, my name is Glen -- on N -- Lankard --
10 L-A-N-K-A-R-D, Jr., and I go by the nickname of Dune -- D-U-N-E.
11 Okay. A couple of things I'd like to mention, first off is that I
12 am a Eyak Corporation shareholder and a Chugach Corporation
13 shareholder, and a spokesperson for the Eyak Traditional Elders
14 Council here in Cordova, and so when I speak, I speak for the trees
15 and the animals that are not represented, and have not been
16 represented as of yet. And, the important thing that I would like
17 to point out is that since no agreement has been agreed upon over
18 this moratorium or conservation easement to take place at this
19 time, and basically you needed two more weeks to collect more data
20 and information, what that's allowed the loggers to do here, the
21 Eyak Corporation loggers, is to go ahead and speed up their
22 operations and clear cut as much as they possibly can over the next
23 two week period. So, I can't stress enough how important it is for
24 you to come to some sort of a decision on how to address this
25 entire issue, because if there is a way to halt the logging
26 operations and preserve anything here in the Sound, then there has

1 to be a moratorium, because then what would -- would happen is that
2 would give you the three years, on the moratorium, what that give
3 you, is it would purchase time for us habitat at the end of the
4 three year period for habitat protection. Also, you'd be able to
5 collect your data, you'd be able to make your assessment, you'd be
6 able to determine what your definitions are to conservation
7 easements. So, basically, my message is that -- that the
8 moratorium has got to be instituted as quickly as possible because
9 these loggers are cutting as fast as they possible can, and they
10 did work over the Memorial Day weekend. Also, what I'd like to see
11 incorporated into your thoughts, is that what we call the Native
12 people, the seventh generation factor, that we would like to see
13 one hundred and fifty year cycle purchased and not a sixty to
14 ninety year cycle, because basically, what you're dealing with is
15 a sixth to ninety year cycle that just encompasses the second
16 growth tree. So, basically, you're talking nine to ten inch
17 diameter tree that is all they grow to in ninety years here,
18 because basically what the loggers are taking out of this region
19 are -- is second growth trees. So, we would like you to
20 incorporate the hundred and fifty year cycle into your thoughts,
21 because also what it'll do, is it'll give the Native people seven
22 generations to think about how to do the right thing the next time
23 around, rather than jumping back into another clear cut. And, also
24 on your extended buffers, I'm concerned about the three hundred to
25 five hundred foot buffer zones that you have talked about as far as
26 moving it in the different areas, like -- such as the coastline,

1 because what it doesn't adequately address, is it doesn't even --
2 it -- address the cultural resources of the Native people in the
3 Sound. We ventured further than the three hundred to five hundred
4 feet off of the -- off of the coastline. So, we would like you to
5 consider that the entire area to us is considered sacred and is of
6 a high cultural value to all of us. And also, that the protection
7 of the wildlife is definitely -- has to be extended beyond that
8 three to five hundred foot buffer zone. And, as far as tourism and
9 recreation goes, if you're cruising along the river and you have
10 the three to five hundred foot buffer zone, yes, it's going to be
11 nice to have those trees visually right close to you, but
12 everything above that will be clear cut. And, as you can see, in
13 Two Moon Bay last year, a logger was killed because of the
14 landslides that are caused by this clear-cutting on these huge
15 cliffs, and because the -- the Prince William Sound has a lot of
16 these cliffs, we're just going to have a lot of landslides, and I
17 think it's just going to be more trouble than it's worth. So, in
18 the interest of restoration, I think that as quickly as you
19 possibly can to stop these loggers and to figure out some sort of
20 a three year moratorium, we would greatly appreciate this. And, to
21 give you an idea of the economics involved for the shareholders as
22 people who are supposed to receive dividends from these clear
23 cutting operations, last year they dropped almost twenty million
24 board feet of timber, and our dividend was zero. So, there's
25 nothing at stake for us other than the preservation of our lands
26 and our future, so anything that you can do to help speed up this

1 process would be greatly appreciated. Thank you.

2 MR. BARTON: Thank you, Mr. Lankard. At this time
3 we'll move onto Juneau. Anyone in Juneau wishing to testify?

4 MR. CHIP THOMA: Yes, can you hear me.

5 MR. BARTON: Yes, go ahead.

6 MR. COLE: No.

7 CHIP THOMA: This is Mr. Thoma in Juneau, do you hear
8 me Mr. Cole?

9 MR. COLE: Yes, now.

10 MR. THOMA: Very good. Two points, I identify with
11 the comments that were made by Mr. Steiner and Mr. Lankard, I
12 thought they were very well reasoned. I think that is the emphasis
13 that should be put on in Eyak lands. I think it's time to move
14 into Prince William Sound and address these issues. I'd just like
15 to comment that I attended the public hearing that was held here in
16 Juneau about three weeks ago. I was very disappointed in the way
17 that the issues were supposedly laid out. I didn't think that the
18 -- the format and the choices that were given to the public -- what
19 public was there, it was mostly biologists from their various state
20 and federal agencies that were there -- I didn't think that those
21 choices that were laid out were done in a reasonable manner. I
22 thought it was more like a Tongass land-use plan scoping session
23 where a variety of choices, one going from bad and the others going
24 to worse, were laid out. And, again I would like to reiterate my
25 own concerns that -- I just don't think that we're moving in the
26 direction of habitat acquisition as speedily as we should before

1 this money is going to be sucked up by the various agencies that
2 want to spend it. And, finally, I'd like to again put in a request
3 that the Restoration Council, or whoever, consider that we should
4 be spending money, what little money it's going to take, probably
5 in the area of a million or two dollars, to go out to some of these
6 islands on the Aleutian Chain and rid them of rats and foxes, and
7 I think that is a -- something that Fish and Wildlife has wanted to
8 do for years and years, and I think it's something that the
9 scientists ought to look at very closely. If we did that, we could
10 save and ensure a variety of bird species, many of whom were
11 affected by the spill, and I think it would go a long way to
12 protect the entire Pacific fly-away from some of the ravages that
13 are occurring. And, I think that since this money is available for
14 these types of projects, that we should look at the Aleutian Chain
15 and see that we can address these problems that have been ongoing,
16 of course, for over a hundred years. And, that's my testimony.

17 MR. BARTON: Thank you, Mr. Thoma. Anybody else in
18 Juneau that wishes to testify.

19 MR. THOMA: There's no one else here, sir.

20 MR. BARTON: Thank you. Tatitlek, is anybody in
21 Tatitlek -- oh, excuse me, Mr. Cole.

22 MR. COLE: I would like to tell Mr. Thoma that we
23 read the transcript of his testimony there in Juneau and are well
24 acquainted with it.

25 MR. THOMA: Thank you Mr. Cole, I sure appreciate
26 that.

1 MR. BARTON: Tatitlek, is there anybody in Tatitlek
2 that wishes to testify?

3 MR. GARY KOMPKOFF: Yes, sir, this is Gary Kompkoff, I'm
4 the Village Council President in Tatitlek.

5 MR. BARTON: Could you spell your name, please?

6 MR. KOMPKOFF: Yes, Gary -- G-A-R-Y, Kompkoff -- K-O-M-P-
7 K-O-F-F.

8 MR. BARTON: Okay, thank you, go ahead, please.

9 MR. KOMPKOFF: Yes, first I'd like to thank you all for
10 allowing us the opportunity to testify. We appreciate the work you
11 guys are going through and I'll go on with the testimony.
12 According to scientific studies, as much as seventy-five percent of
13 the oil spilled by the Exxon Valdez in Prince William Sound remains
14 there. Yet funding for the restoration for the environment
15 services lost or damaged by the spill in Prince William Sound has
16 been minimal. Organization -- areas is far from the recognized
17 spill zone have received significant benefit from the disaster,
18 apparently due to better access to the Trustee Council, or more
19 political clout. We find it very difficult to understand why land
20 purchases in Kachemak Bay, or a salmon hatchery at Fort Richardson
21 can hold a higher priority in the restoration process than the
22 restoration of Prince William Sound area that has been the most
23 impacted in all aspects by the oil spill. The primary focus of the
24 Exxon-Valdez Oil Spill Trustee Council should be the restoration of
25 the environment, resources and services that were damaged or
26 destroyed by the oil spill. The real impact of the spill on the

1 resources and services is becoming more noticeable with each
2 passing year. Subsistence resources that our people have depended
3 on for generations are no longer available to us. The commercial
4 fishing industry is collapsing. Many residents over-capitalized
5 following the spill. Because of the adverse impacts of the spill,
6 we are all witnessing a heightening sense of despair amongst the
7 residents who depend on these resources for the livelihoods and
8 lifestyles. Things are not getting better, and we are tired of
9 being studied. We'd like to see some restoration done where it is
10 needed the most, in Prince William Sound. And, that's all we have
11 today.

12 MR. BARTON: Okay, thank you, Mr. Kompkoff. Any
13 questions? Is there anybody else in Tatitlek who wishes to
14 testify?

15 MR. KOMPKOFF: No sir, there isn't.

16 MR. BARTON: Okay, thank you very much. Valdez, is
17 there anybody in Valdez?

18 UNIDENTIFIED VOICE: No one here to testify.

19 MR. BARTON: Okay, thank you. Anchorage. Yes sir.

20 MR. JOHN JOHNSON: Yes, shall I come to the center?

21 MR. BARTON: You bet.

22 MR. JOHNSON: Greetings. My name is John Johnson, I'm
23 the -- for the past twelve years I've been working with the Chugach
24 Alaska Corporation as their regional cultural -- cultural resource
25 manager, and I also work with -- administrative assistant for our
26 Chugach Heritage Foundation. Just got a few comments here I'd like

1 to place in there. One, is -- this one -- I don't know what's
2 appropriate place to put this in, but -- I don't know if you've
3 been following the paper -- last week or so, but there's a story in
4 there about our repatriation process (inaudible - background
5 talking) Chugach is working. Is going through and, right now we're
6 getting human remains, Native human remains from Prince William
7 Sound that were taken from the 1900's and in the 1930's,
8 approximately about thirty of them from Pennsylvania in the
9 Smithsonian. And right now, one batch just arrived in Anchorage.
10 It's at the museum, temporary stored. Another batch should be
11 coming in from Pennsylvania next Friday, I think and our problem is
12 we got the money to get them to Anchorage, but we have no money to
13 actually do the -- reburials out there. Some of the remains are
14 directly in the oil spill zone, and others are within the general
15 area around Prince William Sound. I'd like to, just for your
16 consideration, see if it's possible for -- make any special
17 appropriation of possibly six thousand dollars for building
18 crosses, coffins -- for local Native communities to do these
19 projects and to pay for travel to go out and actually put these
20 remains back. And, I kind of consider this of -- lot of the
21 projects funded so far is more time critical. Right now these
22 remains are going to be sitting in the museum here in Anchorage,
23 and, if possible, we'd like to get the job done this summer. We've
24 been working real close with the Forest Service, and I think this
25 amount of extra money would be enough to finish our project I
26 think. On another note, I -- I'd like to express support for a

1 Native cultural centers and museums throughout Prince William
2 Sound, and, including a large center -- or center at Nucheck (ph)
3 at Hinchinbrook Island. I feel that a lot of things have been
4 damaged from the oil spill, and besides -- besides the animals, the
5 land and the various biological resources, I think a lot of the
6 spirit of the people in the Sound have been damaged. I think by
7 pulling -- putting these centers together, either getting money for
8 design or actual construction, I think it will help to heal a lot
9 of that. And, my last comment is, after looking over this public
10 comment sheet that was passed out, I hate to say, but I think this
11 whole sheet has been stacked, and has been manipulated by a
12 professional opinion takers or -- for example, the people in Port
13 Graham, they may not be the best ones for going through the public
14 process, but they add so many -- some twenty people that had
15 comments, and their comments were reduced to one. Why? Other
16 organization or groups that are well aware of this public process,
17 they can -- they can manipulate the process and make the votes
18 stack in their direction, and I'd like to -- for example, this
19 Nuchek Cultural Center, I've got -- I stress that the Trustees
20 should really look at these letters and look at the quality of the
21 letters rather than the quantity. For example, this Nuchek
22 Cultural Center, I've got a -- probably thirty letters from
23 anywhere from the Governor of Alaska to Prince William Sound
24 tourism coalitions to -- I mean, some of the key groups throughout
25 our area supporting this project, and just -- by looking at this
26 public form here, I -- just kind of baffles me, I guess. And, I

1 guess that about wraps up my comments. If anyone has any
2 questions?

3 MR. BARTON: Thank you, Mr. Johnson. Any questions
4 from any Council members?

5 MR. JOHNSON: I guess the main one I was just thinking -
6 - if were -- consideration of -- if it's possible for -- any help
7 for the reburials.

8 MR. BARTON: I suggest you talk with Dr. Gibbons and
9 see if you can develop a project for consideration of the group.

10 MR. JOHNSON: Thank you very much for your time.

11 MR. BARTON: Mr. Sandor.

12 MR. SANDOR: Yeah, I would think that it would be
13 desirable for him to also offer some suggestions on our public
14 information form. It was certainly not intended to be stacked, and
15 the process is certainly open to suggestion for improvement.

16 DR. GIBBONS: Can we...

17 MR. BARTON: Dr. Gibbons

18 DR. GIBBONS: Yeah, we noted that and that's why we
19 specifically highlighted that as -- how to deal with some of those
20 petitions and types of things.

21 MR. COLE: Mr. Chairman.

22 MR. BARTON: Yes, Mr. Cole.

23 MR. COLE: I wanted to say that in this blue book of
24 comments, I think I noticed extensive transcript of testimony from
25 people at Port Graham, so there wasn't complete absence of response
26 to that plan from the people at Port Graham.

1 MR. BARTON: Add anything further on Mr. Johnson's
2 comments.

3 MR. COLE: Just say, we had -- furthermore, we had a
4 letter of April 23 from the Port Graham Village Council in response
5 to the plan. So, I think -- you know, we're getting some
6 information from them in response to the brochure.

7 MR. BARTON: Anything else? Well, Mr. McKee, it
8 appears that you're next.

9 MR. CHARLES MCKEE: Yes, I'm next. Thank you. My name
10 is Charles McKee. First of all, I'd like to start out with this
11 Exxon Valdez Oil Spill Trustee Council -- restoration and its -- to
12 the Trustee Council May 3rd, 1993, from the administrative director
13 and Restoration Team, I wanted to point out to the Trustee Council
14 meeting -- meeting topics are often complicated and difficult to
15 follow, hand outs to the public are also complicated and sure bulk
16 can be overwhelming. The public cannot participate in meetings
17 except in the very defined formal format of public comment period
18 at the end of the Trustee Council meeting. I'd like to point out
19 that -- I myself would be more capable to -- participate in
20 deciphering the overwhelming and complicated -- sheer volume of
21 documentation that comes before this board, as a public member, if
22 I wasn't beset by difficulties outside of this Trustee Council,
23 which I've stressed to before, last meeting, I might add. To point
24 out that on the documentation already submitted to you people were
25 -- I have this design here, with the treasury seal on the map,
26 overlapping each other, one above the bottom one. What you have

1 there is a delta symbol which is -- it's the strongest energy
2 symbol -- electrical energy symbol that we know of, and so, I'm not
3 a private individual on public because I knew what I was doing when
4 I submitted this to the public as it is. I knew what it meant,
5 it's -- the potential of containing fusion -- fusion reaction --
6 cold water fusion reactions -- see, and so, I'm capable -- given
7 the opportunity not to be distracted by all the outside
8 disenchanted hate mentality that prevails in our administrative
9 bodies, unfortunately, to that end. To distract an individual,
10 such as myself, to get involved in the complicated and, as I say,
11 sheer bulk of the documentation provided to this Trustee Council.
12 And, on top of all that, I really -- and I've stressed this, but
13 I've never said it in this form before, if the pipeline was built
14 on a cost-plus basis, this indeed should be considered likewise.
15 I worked on the pipeline, I've seen the cost-plus expenditures in
16 its reality and its extent, in many different forms. So, what I
17 handed out to you people today, was what I received from the
18 Trustee Council the day after I met last meeting, and -- indicating
19 that the -- the plea agreement entered into by Exxon Corporation.
20 And the following page is a situation where I've got thrust into,
21 which is an example of the distraction that I've been dealing with,
22 and what I did, was I submitted the documentation that you received
23 into this court record. I've also, prior to this being served on
24 me as of Friday, at 4:00 o'clock in the afternoon, which made me
25 vacate my premises for the whole Memorial Weekend, with nothing on
26 my -- but, what I had on my back. But, I had called the FBI, which

1 I also submitted to them, all the documentation of hate crime and
2 this subversion that was subjected to me, to them, against the
3 Anchorage Police Department for entrapment and harassment, because
4 they're regulated by this secret society that I mentioned before.

5 MR. BARTON: Mr. McKee.

6 MR. McKEE: Charles McKee. I understand...

7 MR. BARTON: (inaudible - simultaneous talking) there
8 are other people.

9 MR. McKEE: ... I'm almost finished now. The
10 following page is the Washington Post, March 14, 1993, that
11 elaborates more on the organization I'm speaking to, and then the
12 following page is the same material, but from a different
13 organization. So, now, I'm going to, in superior court, drag this
14 Trustee Council into this harassment agenda.

15 MR. COLE: Mr. Chairman.

16 MR. BARTON: Mr. Cole.

17 MR. COLE: Well, I have a question to Mr. McKee.

18 MR. BARTON: Yes, go ahead.

19 MR. COLE: Mr. McKee, at the last meeting when you
20 were here, you sent out and handed to us this collection of papers.
21 You'll see the first page was Merchant Vessels of the United States
22 1955, put out by the Treasure Department, and then the second page,
23 as I was reading it, I find out the Foreward, also put out by the
24 Treasury, but what confused me then in the third page, you had this
25 modern commercial arithmetic and some problems there, and I was
26 trying to get the relationship of the yachts and the arithmetic.

1 If you could explain that, I'd appreciate it.

2 MR. McKEE: Well, the Merchant Marine, I was showing
3 the insignia that is of -- of the Treasury seal. That's what I
4 wanted to point out...

5 MR. COLE: I see -- I see.

6 MR. McKEE: ...and the fact that Exxon Valdez was a
7 merchant vessel that happen to run aground on Bligh Reef, and then,
8 all -- all merchant vessels are suppose to be registered by the Act
9 of Congress, which is stated there. And, in the following page,
10 about the arithmetic and stuff, it's not so much that, but that
11 came out of a grammar school, 1940 edition, and it talks about
12 money, the extent of money, the amount of -- metal per gold coin,
13 silver coin, and then you're -- talks about currency. If you'd
14 flip those pages -- it talks about American currency, more so than
15 I was wanting. I could have blanked out that -- the one page
16 talked about the arithmetic, but I just went ahead and copied it
17 and then -- I was just wanting you people to focus on what American
18 currency was taught in 1940s.

19 MR. BARTON: Does that answer your question?

20 MR. COLE: Yes, that's very good. Thank you.

21 MR. BARTON: Thank you Mr. McKee.

22 CHARLES McKEE: Thank you.

23 MR. BARTON: At this point, we'll go back to Cordova.
24 Anybody else in Cordova wishing to testify?

25 MAYOR WEAVERLING: Yes, Mr. Chairman, this is Mayor
26 Weaverling.

1 MR. BARTON: Go ahead, please.

2 MAYOR WEAVERLING: And thank you very much for this
3 opportunity to testify and all the good work that you're doing on
4 the Trustee Council. I would like to call your attention to three
5 projects, which we consider extremely important here in Cordova.
6 The Cordova City Council has passed a resolution, Resolution 93-25
7 which you may have there, I'm not sure. Have you received this
8 resolution?

9 MR. BARTON: Did we receive that? Oh yes, we have
10 received that. Commissioner Rosier brought that to our attention
11 earlier today.

12 MAYOR WEAVERLING: Yes, it concerns the full 1993
13 hydroacoustic trawl and histological surveys of Prince William
14 Sound herring. Also, a second item is the coded-wire tag
15 recoveries from commercial catches, cost recovery catches and
16 hatchery brood stock in Prince William Sound pink salmon fisheries,
17 and the third item is the coded-wire tag recoveries from commercial
18 catches, cost recovery catches and hatchery brood stocks in Prince
19 William Sound, chum, sockeye, coho and chinook wild salmon
20 fisheries. The Council expended funds to tag wild salmon in 1989,
21 1990 and '91, also hatchery releases of chum, sockeye, chinook and
22 coho salmon in 1989 and 1990. A large portion of these tagged --
23 returns of chum, sockeye and chinook salmon, will be returning in
24 1993. Rehabilitation of the sockeye salmon run in Coghill Lake and
25 management of other wild sockeye and chum populations are dependent
26 upon the catch, contribution, timing, and distribution data from

1 this tag-recovery project, and I would certainly like to encourage
2 you to fully fund this project. And, I would note that even though
3 some of these projects are directly related to the injured
4 resources, they also have positive impact on the community to use
5 these resources. Thank you very much.

6 MR. BARTON: Yes, Mayor Weaverling, we will be taking
7 those up tomorrow. We appreciate your comments.

8 MAYOR WEAVERLING: Certainly, will there be a
9 possibility tomorrow to make public comment as well?

10 MR. BARTON: We don't have, a system set up for that
11 tomorrow.

12 MAYOR WEAVERLING: Thank you.

13 MR. BARTON: Is there anybody else there in Cordova,
14 who wishes....?

15 MAYOR WEAVERLING: There's no one else in Cordova who
16 would care to testify at this time.

17 MR. BARTON: Thank you. Juneau, are you still on line.

18 MR. TOMA: Still on line.

19 MR. BARTON: Anybody else there that wishes to testify?

20 MR. TOMA: No, sir, there isn't.

21 MR. BARTON: Tatitlek, we covered. Valdez, anybody
22 else in Valdez? Any other station on line? Okay, Anchorage, who
23 else wishes to testify?

24 MS. KATHY ANDERSON: Kathy Anderson, Cordova, Eyak, and
25 mine's going to be a little different than normal. I usually come
26 up here and badger you all, but today, I want to say thank you. We

1 have been in negotiations for the last two months with the Forest
2 Service. We would have hoped to be ready with a presentation to
3 maybe accomplish something. I don't see that happening tomorrow,
4 although we will be on for a status report tomorrow, I hope in the
5 morning, but I wanted to thank Mike personally for what's going on
6 with -- we've been meeting with the Forest Service, the subworking
7 group has been out and done their data collection. They've been
8 enjoyable to work with. I was afraid that -- you know after
9 Charlie's act for Seal Bay that it would be a very difficult act to
10 follow. We're going to ask for front page cover and a middle
11 spread sheet for the Forest Service when we get done with ours. I
12 want Mike Barton to glow just like Charlie did. And, I've been
13 trying to think of a name for you, Mike, maybe not the dealmaker,
14 but something along those lines.

15 MR. COLE: Do you want another edition of National
16 Inquire, do you?

17 MS. ANDERSON: Right on. Cause we find out a lot about
18 you, and I want to know more about you Mike. I was hoping we'd get
19 to it today, but I'm willing to wait until tomorrow. I just passed
20 Ken a letter that I received late Friday night to prove that the
21 Forest Service does not close their office at 4:30 on Friday. We
22 worked until 7:00 to come to a closure on a letter, at least
23 expressing on behalf of the Forest Service that our negotiations
24 were not just spending a lot of my time and their time, that we are
25 going somewhere, that the ranking in our area was high, and I look
26 forward to it. I guess, I heard Duner on the line while I was

1 trying to pick up the letter, and I hope Ken will run copies of
2 this and get it to you so you can all read it this evening, so
3 we'll be ready to hit it hard in the morning, and hope that the
4 Cordova faction will stay on line during the teleconference
5 tomorrow to add some credence to what we're asking. I guess I'm
6 disheartened that we would only have three people from Cordova, but
7 the sun doesn't always come out and we're experiencing some very
8 warm weather. So, I'm going to cut mine real short, but again, I
9 want to thank the Trustees for being here today, and the subworking
10 group for working very diligently on this, that we're not just
11 wasting time and maybe we'll see something concrete come out of
12 this. So, again, thank you.

13 MR. BARTON: Thank you, Ms. Anderson. We do not have
14 a teleconference set up for tomorrow, however.

15 MS. ANDERSON: (Inaudible - out of range of microphone).

16 MR. BARTON: Okay, yes, sir.

17 MR. MIKE BRITTAIN: My name is Mike Brittain, I'm from
18 Seward, and I'd like to address a topic that I assume will be
19 talked about tomorrow here, which is the public involvement in the
20 process that the Council is taking. What I find, in general, is
21 that some of these mail outs that -- that sheet that was sent out
22 with all the projects on it to the various people in the spill-
23 affected area -- was too complicated and not clear enough as to
24 what these projects concern. Basically, what it boils down to is
25 that there needs to be, I feel, some, possibly a facilitator in
26 each of the spill-affected cities, that is not necessarily an

1 expert on the subject, but at least has all the materials available
2 in a central spot, possibly a public library, this sort of thing,
3 so that people with questions can go in and get somebody, at least,
4 if not in full possession of the knowledge, at least able to get
5 it, maybe they can call the library up here, answer any questions.
6 It's just the amount of return on -- on that from the two thousand
7 that were mailed out, there were several other hundred that were
8 given out, I just found it -- I found it deplorable. I myself --
9 I wasn't able to respond it because I work out in Dutch Harbor. I
10 didn't know anything about it. If I'd -- I'd gotten in the mail,
11 it would have been forwarded, this sort of thing, but hopefully
12 that problem will be taken care of now. But I just think -- I
13 think that the public -- and I -- as I hear the council talking,
14 they mention it many times during their meetings about public
15 input, and I see percentagewise very little of it, and you're not
16 going to get a lot of it here in Anchorage, because Anchorage is
17 not in the spill-affected area. I come up from Seward myself to
18 sit and watch and see what's going on. So, I would like to -- like
19 say, just express my concerns on that, to try to make it easier for
20 the people to get involved. I know there's a lot of people out
21 there that would like to get involved, but quite often they see
22 these complicated forms, thick studies that -- it's just
23 overwhelming to them. Thank you.

24 MR. BARTON: Thank you, Mr. Brittain. Any questions or
25 comments? Mr. Gibbons.

26 DR. GIBBONS: Just a comment, I helped facilitate the

1 Seward meeting. We had an excellent turn out, forty-five plus
2 people, and I thought it was a very good meeting.

3 MR. BARTON: Mr. Cole.

4 MR. COLE: Well, just let me comment to Mr.
5 Brittain's testimony. It heartens back to our discussions earlier
6 in the day about quote, draft restoration plan, close quote, and
7 the proposed environmental impact statement, and if you think the
8 newspaper brochure was complicated, you ain't seen nothing yet. I
9 think it highlights what we ought to be looking at when we take
10 another cut at these documents.

11 MR. BARTON: I'm sure that the Council would be pleased
12 to have any specific suggestions as to how to improve its public
13 involvement process. We recognize we've put a pretty heavy burden
14 on the general public and our concern that we do get responses from
15 the general public as opposed to professional involvers, we'd
16 appreciate any concrete suggestions that ...

17 MR. BRITTAIN: Yes, I -- I agree with you that the
18 suggestions should come from our end also. Possibly, like I say,
19 maybe a public library as a central spot, maybe just get volunteers
20 of some sort in these communities. There's some organizations in
21 some of these towns that are involved quite heavily in the oil
22 spill restoration and recovery, and somebody -- somebody there
23 instead of, well in Seward's case, a hundred and twenty-five miles
24 up the road, several hours away. Nobody -- there's nobody --
25 there's not even anybody from Seward that's really on any of the
26 Council, the PAG, Restoration Team, any of that. Basically

1 speaking of Seward, we have no representation, whatsoever. The
2 closest we get is having somebody on the RCAC, and that's it. So,
3 we're out in the cold, and we were right in the middle of it. Like
4 I say, I'm just speaking for Seward, but I feel it's also true to
5 a certain extent with all the spill-affected cities.

6 MR. BARTON: Mayor Selby had done an admirable job of
7 participating on these teleconferences. It isn't that you're
8 totally unrepresented.

9 MR. BRITTAIN: Right.

10 MR. BARTON: I'm sorry that's Kodiak -- yeah, I'm
11 sorry.

12 MR. COLE: Mr. Chairman.

13 MR. BARTON: Yes, Mr. Cole.

14 MR. COLE: Just to show you how difficult the problem
15 is, we had a two and a half hour meeting a week or two or go, with
16 which there was the implicit criticism about the expense of travel,
17 of holding these meetings even in Anchorage, and the backhanded
18 comment was, well, you really could hold these meetings of the
19 Trustee Council in Juneau, and that would save money. You know, so
20 it's not easy out there trying to cut the line.

21 MR. BRITTAIN: I understand it's not easy, I understand
22 it is a quite a thorny problem, but I -- I would like to see some -
23 - some effort, I don't know what to -- made to get the public more
24 involved in the process. I think it would make your job easier.

25 MR. ROSIER: Mr. Brittain, are you familiar with the
26 proposed list of items to improve that -- yes, from the Restoration

1 Team, and how to you think of that particular list?

2 MR. BRITTAIN: I think the list -- I think it's a heck of
3 a good start. I think there's -- possibly some items missing, such
4 as, my suggestion of a facilitator in each oil spill-affected town,
5 which would be a central source for people to go to that -- that
6 would actively report to the Restoration Team, PAG, whoever, the
7 Council itself. Somebody there with all the materials and an open
8 line to whoever has the answers, just to make it more of an active
9 thing. The way it feels now is that every -- once every couple of
10 months something happens down there. Well, the teleconference is
11 not participated in all that well, but I think as you saw from the
12 Council's visit to Seward, that there are people down there that
13 are concerned. It's that we feel -- we get -- well, Seward is kind
14 of its own little corner there, there's no doubt about it,
15 geographically speaking. I think if more interest were shown,
16 again, I don't have the perfect solution to it, but I'm just
17 stating the problem more than anything. If more interest were
18 shown, I think more -- more interest -- more feedback would be
19 coming your way, not only in Seward, but the other towns.

20 MR. BARTON: Dr. Gibbons.

21 DR. GIBBONS: Just one quick other thing. The thirteen
22 spill-affected communities and Seward Public Library, get the copy
23 of all the -- the documents that the Trustee Council, so...

24 MR. BRITTAIN: Right.

25 DR. GIBBONS: Those documents are getting down there,
26 they don't just say -- you know...

1 MR. BRITAIN: Yeah, the documents are there. I think to
2 have somebody that knows where to find something, instead of trying
3 to peruse through the reams of paper. Somebody that can -- is more
4 familiar with it than -- than they are now.

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: Just following up on the list there on
7 this. One of the things that -- that Attorney General Cole and I
8 encountered in Cordova, was an open invitation for all Trustee
9 Council members to -- visit Cordova on fairly regular basis, and we
10 encountered this same threat, in terms of public involvement in
11 both Cordova as well as -- as well as Valdez. It was -- it was
12 something that -- that people were concerned about and there was,
13 at least in my view, the interchange that occurred between
14 ourselves as individual members and the -- and the people that
15 participated -- we had a good turn out at both places -- was quite
16 excellent, and there was a lot of misconception out there about
17 what we were in fact doing and how we were spending the money, and
18 a lot of things of that nature. I mean, serious -- serious
19 misunderstandings of truly what was going on within the Council.
20 I found it very informative anyway.

21 MR. BRITAIN: Precisely, I -- I think too that more
22 interest would come with official visits, whether it be of the
23 Council, maybe members of the PAG or Restoration Team, doesn't have
24 to be the whole group -- you know, just a few -- just a couple of
25 people come down to show that, hey, they're here. I know they're
26 here, I've seen them in this room, but -- to most of the people

1 they're either folks in the newspaper or disembodied voices on the
2 -- on the -- at the teleconference, and that's it. So...

3 MR. BARTON: Thank you again, Mr. Brittain. Anybody
4 else want to testify?

5 MS. ANDERSON: Can I just, respond (inaudible - out of
6 range of microphone).

7 MR. BARTON: One minute, so we can get somebody who
8 hasn't -- thirty seconds was your...

9 MS. ANDERSON: I guess it's to him I want to speak then.
10 Because in Cordova, and I would suggest to him that if he really
11 has this great need to know what's going on here, we did it
12 voluntarily -- you know, we've got office space available in all
13 communities. I mean, I'm sure he can go to city hall and use their
14 conference room, and it took about ten phone calls to bring in all
15 the sectors, including the commercial fisherman, PWSAC, science
16 center, the school system, the City of Cordova, the Native
17 community, where we sat down and tried to collectively come out
18 with some strengths towards projects so that we were not sending in
19 fifteen of the same things from fifteen different entities, that we
20 were all -- I guess we were all conspiring against this body, and
21 we worked through a -- Harley Oberg (ph), who's our representative,
22 and at his pleasure, they met in Valdez, the different communities
23 of Prince William Sound, including the Native communities, so they
24 could all get behind, instead of a hundred projects, maybe ten
25 really strong good ones that we in -- in the spirit of Prince
26 William Sound collectively, coming out with some good projects that

1 we could take to this body, that everyone could stand behind. And
2 I thing that could work in Seward too. I would suggest, rather
3 than complaining about it that he go back and be a volunteer and
4 start that process in his community, because it seems to work in
5 ours.

6 MR. BARTON: Thank you, Ms. Anderson. Yes, sir.

7 MR. TOM VAN BROCKLIN: Mr. Chairman, members of the
8 Council, I will be brief given the time of day. My name is Tom Van
9 Brocklin, for the record, and Kathy just alluded to what I'm going
10 to refer to today, and that's public participation. I believe the
11 Council has received by this time, a letter and a resolution from
12 a new group formed in Prince William Sound called the Prince
13 William Sound Communities Organized to Restore the Sound or PWSCORS
14 -- Prince William Sound CORS. I'll like, just for the record, to
15 read the brief letter so it's on public testimony, a letter which
16 I hope you've received as well as the resolution. It'll be very
17 brief and we can all head for the heavy traffic outside. This
18 letter here was addressed to Attorney General Charles Cole. On May
19 26, individuals from all the Prince William Sound communities met
20 in Valdez to form an organization representing interests of the
21 Sound and its people in dealing with the Exxon Valdez Oil Spill
22 Trustee Council. Now, Whittier didn't make it due to weather
23 problems, but they have since agreed to the content of this letter
24 and the resolution, so it was a unified voice of all communities,
25 both large and small, and many of the local organizations. As a
26 result of that meeting the Prince William Sound Communities

1 Organized to Restore the Sound or Prince William Sound CORS. The
2 reason for this groups creation was a basic one. The people of
3 Prince William Sound feel that to date the needs of the region, the
4 location of most of the documented damage from the oil spilled in
5 1989, have not been given attention, commensurate with the level of
6 damage to the environment, and the lives of the people. It is our
7 hope that by forming Prince William Sound CORS, we can help change
8 a situation, again here are the communities between -- forth to
9 help in this process. As our first motion of the meeting, the
10 members voted unanimously to oppose a reported -- a reported, and
11 I emphasize reported, recommendation made by the Exxon Valdez Oil
12 Spill Public Advisory Group, to designate the entire state as the
13 1989 oil spill-impacted region. We believe that such a motion, or
14 action, would serve to trivialize the effect of the oil spill had
15 on the environment, and the people within the region directly and
16 most significantly affected. Now, again that was something, which
17 was purported to have been recommended and we don't know if it went
18 beyond that stage. Secondly, Prince William Sound CORS voted
19 unanimously to send a resolution pointing out that since documented
20 evidence indicates seventy-five percent of the oil spilled by the
21 Exxon Valdez never left Prince William Sound, a proportionate
22 amount of the oil spill settlement funds ought to be directed to
23 the region. That resolution should have been included for you
24 review. Finally, it is the intent of Prince William Sound CORS to
25 work in a productive manner with the Council and the Public
26 Advisory Group to see that the needs of the Prince William Sound

1 region, its environment and its people are adequately represented
2 in the development of restoration projects and programs. To that
3 end, we have begun by agreeing on a list of initial projects we
4 believe would be appropriately funded through the settlement funds.
5 That list will be presented shortly, and again, I hope that was
6 also included in your packet. It is our intent that PWSCORS become
7 a constructive organization whose mission will be to help ensure
8 Prince William Sound continues on the long road towards positive
9 restoration. As a member of the five community executive council,
10 and that would have been Doug Griffin who is not here right now,
11 our city manager of Valdez rather, it has been my task to complete
12 this initial communication, and bring it to your attention. So,
13 again, I'm simply here briefly today to put this down for public
14 record that there is an organization working on behalf of the
15 Sound, for all the different communities, and we hope are --
16 beginning to start a productive relationship with the Council and
17 the various Trustees and staff, and I thank you very much for your
18 time, unless there are any questions.

19 MR. BARTON: Are there any questions? Steve.

20 MR. PENNOYER: Thank you very much for this presentation
21 (inaudible - out of range of microphone). You alluded to a list of
22 projects (inaudible - out of range of microphone) might of gotten
23 those. We have not received a list yet, is one forthcoming?

24 MR. VAN BROCKLIN: Mr. Chair, I thought a list had been
25 sent. I'll make certain that it gets to you, hopefully -- I'll fax
26 a copy -- probably tomorrow morning.

1 MR. PENNOYER: If there's any way to fax a list to Mr.
2 Gibbons -- Dr. Gibbons by tomorrow morning, we could use it because
3 we've not yet finalized our action on the '94 work plan. I'd like
4 to see it if you have it. Thank you.

5 MR. VAN BROCKLIN: Thank you.

6 MR. BARTON: Any other questions? Thank you. Mr.
7 Sandor.

8 MR. SANDOR: I certainly want to express appreciation
9 for that constructive effort to, I guess look collectively at the
10 projects within the Sound and to prioritize them and I think that
11 as you mentioned and was previously mentioned, this prioritization
12 as conceived and perceived by the individuals within that Prince
13 William Sound area is extremely helpful, at least to me, and I
14 think that's -- that is another thing that GAO needs to, I think,
15 be aware of, is that there are opportunities for this independent -
16 - opportunity for comment. I certainly commend those who initiated
17 it, and invite that person -- I look forward to receiving the list
18 too, you'd mention and to put into perspective with the other
19 projects. Thank you.

20 MR. VAN BROCKLIN: Mr. Sandor, thank you very much.
21 Thank all of you.

22 MR. BARTON: Thank you Mr. Van Brocklin. Anybody else
23 who wishes to testify? Ms. Brodie.

24 MS. BRODIE: Thank you, Mr. Chair. I'm Pam Brodie with
25 the Sierra Club. First, I would like to thank each of you deeply
26 for protecting Seal Bay and Tonki Cape. I'm sorry I did not thank

1 you in public testimony at the last meeting when you took this
2 action. I was running of to talk to every reporter I could find at
3 the time to tell them what a wonderful thing you did, but I want to
4 thank you now, and say it's a heritage that is going to last
5 forever, and a truly positive thing that has come out of the oil
6 spill that I think you can all be proud of. I'd particularly like
7 to help -- to thank -- Craig Tillery and Alex Swiderski from the
8 Department of Law for the tremendous amount of work that they put
9 into it, and also Marty Rutherford and the people working on the
10 Habitat Acquisition Group, and I would like to thank Attorney
11 General Cole for the extraordinary negotiating you did, and I think
12 that the Trustee Council got a very good deal on this land. I
13 think it shows that the Trustee Council -- this in combination with
14 the Kachemak Bay acquisition -- shows that the Trustee Council is
15 going ahead with very good restoration work, now, even in the
16 absence of restoration plan. I, of course, represent a group that
17 has done a lot of griping about the Trustee Council, and I want to
18 say that, although we have been pushing you to act faster, that we
19 are happy if there are -- is good restoration going on and aren't -
20 - don't feel that you need to -- that you should be worrying too
21 much about, week by week moving the restoration plan, as long as
22 restoration activities are going forward. That the restoration
23 plan should be a good thing, and if it takes a little longer to do
24 it, that's alright with us. About the restoration plan, I agree
25 with a lot of the comments that you folks were making today, that
26 it should be simple, and as far as public comment is concerned,

1 more information is not necessarily better, that people can be
2 inundated with information and the inundated with paper, and we
3 would appreciate a plan which is a simple statement of principles
4 or philosophy. One thing that -- I'm a little puzzled about, is
5 what projects are -- would be considered legal and which ones not
6 legal, and I might be misunderstanding, but I think I got the
7 impression that at least the Department of Justice has not had a
8 chance to review the draft restoration plan, the draft EIS and the
9 list of 1994 projects that went out. I don't know what legal
10 review has been -- has happened about these, but I am concerned
11 that if a lot of projects are put out for public comment and then
12 they turn out not to be legal under the terms of the settlement,
13 that this raises a lot of expectations on the public that they
14 might be able to get certain things that they want, and then it
15 turns out that they can't. So, I'd appreciate it if that could be
16 clarified. And, finally, I'd like to say, I'm -- regarding Eyak
17 negotiations -- negotiations with the Eyak Corporation, I'm very
18 glad to hear today that that is going better, because we've been
19 very concerned about that. I'd like to say we're particularly
20 concerned about Orca Narrows, also called Nelson Bay (sic), because
21 this is definitely an imminent-threat area and should be part of
22 the negotiations for protecting imminent threat areas. And, if, in
23 fact, the Trustees can't come to an agreement soon with Eyak
24 Corporation, I realize this is complex, we hope, as Rick Steiner
25 was saying, that there could be a moratorium worked out to stop the
26 logging now. Another concern of ours regarding Eyak Corporation is

1 the meaning of one rotation. We have heard numbers thrown around,
2 like sixty years and ninety years, as a definition of one rotation,
3 but bear in mind that this is an old growth forest now, and if
4 those trees are cut now, the trees that would be cut in sixty years
5 would be very small trees, and if the Eyak Corporation is selling -
6 - if it's protected now for one rotation, then the Eyak Corporation
7 would have still old growth forest sixty years from now or whenever
8 the rotation comes up, and they would have something, in fact, far
9 more valuable than sixty year old trees. I have been to Eyak Lake,
10 and the area around there was logged, as I understand it, eighty
11 years ago, and it's very clear that it was selectively logged, that
12 there are very large stumps and much smaller trees there now, so
13 that the trees that would be taken at this point would be much
14 smaller than the trees that were taken eighty years ago. And,
15 that's the end of my testimony. Thank you.

16 MR. BARTON: Any comments or questions? Thank you Ms.
17 Brodie. Anybody else care to testify? Anybody else on line? If
18 not, do I hear a motion to recess until tomorrow?

19 MR. COLE: So moved.

20 MR. BARTON: Until tomorrow morning at 8:15.

21 (Off Record at 5:12 p.m.)

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TRUSTEE COUNCIL
MEETING

1-2 JUNE 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

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

VOLUME II

June 2, 1993

1 C O N T I N U A T I O N O F P R O C E E D I N G S

2 (On Record at 8:17 a.m.)

3 MR. BARTON: I understand Mr. Rosier will be with us
4 shortly, so that we don't make any decisions before he gets here,
5 we'll be alright. When we broke off yesterday evening, we were
6 working on the 1994 work plan assumptions. Do we want to resume
7 with that discussion?

8 MR. COLE: No.

9 MR. BARTON: What do you want to resume with?

10 MR. COLE: Well, Mr. Chairman, it would be my thought
11 that we're all struggling with what to do with that -- with our
12 draft EIS statement and what to do with our draft restoration plan,
13 and it's sort of my thought we ought to hit both of those subjects
14 head on first, since that's the principal exercise of the day.

15 MR. BARTON: Well, it -- it certainly is, but I do
16 think the '94 work plan is almost as equal caliber, but we
17 certainly can start with whatever, but I would think we need to get
18 to at least those three things done.

19 MR. COLE: Well, we can throw the 1994 work plan into
20 the mix.

21 MR. PENNOYER: Mr. Chairman.

22 MR. BARTON: Mr. Pennoyer.

23 MR. PENNOYER: Well, I agree with Attorney General Cole.
24 I think we've got to resolve the question of what we do with the --
25 restoration plan and EIS before we can really decide what we're
26 going to do with the '94 work plan. Even the assumptions here

1 build on things like it says, must be -- other approved restoration
2 projects to be implemented must be consistent with the adopted
3 restoration plan. I mean, depending on what we do with the
4 restoration plan, this may or may not work.

5 MR. COLE: So, I'm not saying we need to start with
6 those, I wasn't -- wasn't meaning to start a debate here, I think -
7 - all I'm saying is that I think those three things need to be
8 completed before we get done today.

9 (Inaudible aside comments)

10 MR. COLE: I move that we not send out draft EIS
11 statement at this time, not until further decision of the Council.

12 MR. PENNOYER: Seconded.

13 MR. BARTON: Moved and seconded that the Council not
14 issue the EIS at this time pending further discussion, further
15 decision of the Council. Discussion?

16 MR. COLE: Well, you seconded it.

17 MR. BARTON: Mr. Sandor.

18 MR. SANDOR: Are you asking the mover and seconder to
19 defend their motion?

20 MR. BARTON: (Inaudible - simultaneous talking) Mr.
21 Sandor we've been - bailed you out.

22 MR. SANDOR: How long are we going to -- hopefully we
23 can resolve this darn thing today. But -- I'm -- I'm concerned if
24 we do not send out the EIS that we will set a chain reaction of
25 delaying the -- the restoration plan -- you know, beyond late
26 January or February of 1994.

1 MR. BARTON: Mr. Cole.

2 MR. COLE: How long is the....

3 MR. SANDOR:have this delay?

4 MR. COLE: I remain of the view that logic should
5 direct us to compare an EIS only after we have a restoration plan.
6 To endeavor to prepare an EIS before we have a restoration plan is
7 like shadow boxing. So, I think that we should concentrate on the
8 development of a restoration plan. Once we adopt a restoration
9 plan, then we can undertake steps to -- comply with NEPA. I think
10 that the critical action required of us at this stage is the
11 adoption of the '94 work plan. I see no exigency in preparing a
12 restoration plan in November, or December, or January, or February
13 for that matter, and the reason that I say that is I think that if
14 -- if we could get a good restoration plan done before that, all so
15 much the better, but given where we are in our current track, I
16 don't see us able to adopt a restoration plan, at least I would be
17 comfortable signing, until we do a lot more work.

18 MR. BARTON: Mr. Pennoyer.

19 MR. PENNOYER: I agree with Attorney General Cole on the
20 restoration planning -- plan -- and the EIS. I don't think you can
21 really design an EIS around what we've got so far in the
22 restoration plan and accomplish the goals we meant to accomplish
23 with that EIS, which was a programmatic EIS that will deal with
24 cumulative effects and serve as a basis for annual work plans,
25 which do not require that level of analysis -- of NEPA analysis --
26 and should perhaps be handled on a project-by-project basis. So,

1 where -- I guess the real question is where we are in this process.
2 We sent out a newspaper version of a policy document -- restoration
3 plan. And we all agreed it's not a specific restoration plan,
4 doesn't specific -- it really identify, for example, if a pink
5 salmon were injured and that how they were injured, in our view and
6 what it means we're going to do about it. It asked policy
7 questions from the public, given the knowledge we have on pink
8 salmon -- what do you think we ought to do with them, and should we
9 restore to pre-spill condition, enhance them -- those type of
10 questions. It doesn't really tell you what the next step is. Are
11 we then in this restoration plan going to use that policy response
12 to get into these detailed planning questions, and our final plan
13 is then is going to incorporate that type of information? If it
14 is, then in fact, that's probably what we should be writing the EIS
15 around. We have a -- a newspaper document out, have document --
16 Commissioner Sandor has in his hand with a requested response by
17 August 6th. A lot of what's in here was apparently prepared in
18 response to public comment and hearings on that newspaper document,
19 and it's further elaboration, further information for the public,
20 but the questions that are asked here, in the EIS, are the same
21 questions that are asked of the public in that document, and
22 they're basic policy questions that are not specific to -- enough
23 for us to derive an annual work plan. So, there are things they
24 don't say, for example, how were they injured, second what our
25 objective is in dealing with pinks, and third, how are we going to
26 implement that? Any work plan that we adopt for pink salmon

1 projects for '94 or beyond, really ought to be in a context of what
2 we're trying to do for pinks. And, the plan as constituted right
3 now doesn't get you there, but it could. Policy questions and the
4 background information are in here for us to get certain
5 information back from the public and then for us to make those
6 decisions before we finalize this restoration plan, that would in
7 essence allow us then to take multi-year approaches to dealing with
8 some of these -- some of these resources. The time line for doing
9 -- two questions are, one is the utility to sending this all back
10 out again, as a backup to the newspaper document that asks some of
11 the same questions, or part of it, and then once we get those
12 responses August 6th, what do we do with them? It seems to me at
13 the time you get the responses back on August 6th, then you sit
14 back and you derive -- derive your final restoration plan with a
15 preferred alternative, which we knew we'd have to deal with, and
16 more specificity in what we think we're going to do on some of
17 these resources. Now on some of them, there may very well be
18 simply, I don't know, and we don't have enough information. We
19 don't have a final damage assessment report. We have to sit back
20 and do some studies to decide where we're going to go. On others,
21 may have enough information now to make those initial decisions on
22 what we want to do with them. So then, you go into the process of
23 choosing up a preferred alternative, dealing with the -- some of
24 the detail on injuries by resource and some of the strategies we
25 want to employ. Now, at that point, I suppose, you could start
26 your EIS process. Now, I don't know what the timing would be of

1 doing this, but restoration plan that only has the level of
2 specificity that's in here right now, probably doesn't have a lot -
3 - (inaudible) to the EIS process, or to our ability to make
4 decisions on work plans. So, I think there has to be a subsequent
5 period of time and work carried out to make this document into
6 something we can -- we can use better as our basis for multi-year
7 work plans.

8 MR. BARTON: Mr. Sandor.

9 MR. SANDOR: That's persuasive, but this publication
10 that went out made this commitment to the public. "The information
11 you will -- you provide here will be used to prepare a final
12 restoration plan that will be presented to the public this fall.
13 Final plan may contain parts of several of the alternatives
14 presented here plus -- plus new information you provide." So, I
15 felt that what this commitment was -- was to just gather this
16 information and then to prepare the final restoration plan this
17 fall. So, I was comfortable with that. With regard to the draft
18 environmental impact statement, which has troubled us all along,
19 this says, "the National Environmental Policy Act requires an
20 environmental impact statement be part of any significant federal
21 actions such as a restoration program. In addition to including
22 information found here, the draft environmental impact statement
23 will analyze the impacts of these alternatives on the physical,
24 biological, social and economic aspects of the environment. It
25 will help the Trustee Council and the public understand the
26 consequences of alternative ways of restoring injuries caused by

1 the spill." Now, it says "the draft environmental impact statement
2 and the full text of the draft restoration plan," which is I
3 presume what was -- was proposed to be sending out, "will be ready
4 in June '93. Because many people are busy during the summer, this
5 summary is being released now to gather your ideas. If you prefer,
6 you may wait to see the draft environmental impact statement and a
7 draft restoration plan this June before you respond." So -- and --
8 you know, we can deviate or correct that, but that was the game
9 plan in April, which we approved and sent out. And I -- and I
10 really do like the idea of challenging this EIS thing, and if we
11 got a report that isn't needed -- you know, my God, let's not do
12 that, but that -- that's the game plan I think if people read this
13 they'd believe we're following. So I'm just wanting to -- to be
14 able then to have a rationale and a -- a reasonable explanation of
15 what -- what we're changing and why. But, it says here, literally,
16 that we won't be preparing the final restoration plan until the
17 fall.

18 MR. BARTON: Mr. Pennoyer.

19 MR. PENNOYER: So, basically -- appreciate Mr. Sandor
20 referring us back to what we already sent out. We have a record of
21 changing our mind occasionally, and it's one we'd like to not do
22 anymore than we have to. But, so our -- our proposal is for the
23 restoration plan, that sort of purports with what went out anyway,
24 that we would get public comment back on the policies, the injuries
25 and then do a final restoration plan from that. What we're
26 wrestling with is how we do an EIS based on what we are sending out

1 now, which is sort of policy questions rather than an actual plan
2 of the type I think we're going to need. And, I'm not sure how to
3 convincingly state why our view now is different than it was when
4 we put the brochure out, but I think that explanation could go
5 along with whatever we send out. It would have to.

6 MR. BARTON: Mr. Stieglitz.

7 MR. STIEGLITZ: I'd like to clarify the motion on the
8 table. For one thing, is it to find -- if I understand the motion
9 correctly, basically what we're saying is we want to defer further
10 work on the environmental impact statement, at this point in time,
11 but with the recognition that ultimately we will have to prepare
12 one.

13 MR. COLE: Yes.

14 MR. STIEGLITZ: Then, a second question I -- I think,
15 because it does relate, I'd -- would appreciate a report back from
16 the folks that were going on -- investigate the status and were
17 contractual arrangements with the preparer of the EIS because --
18 you know, I think we need to know that before we make a decision on
19 the motion. Have we exhausted our arrangements with them -- you
20 know, or do we have further obligations if we put everything on
21 hold now, etc.?

22 MR. BARTON: Mr. Rice.

23 MR. RICE: Mr. Chairman, I am handing out a copy of
24 the interagency agreement that we have with the Justice Department.
25 As I mentioned yesterday, we have an interagency agreement. They
26 have a contract with Walcoff & Associates for a variety of tasks

1 and one of the tasks ordered that they wrote to Walcoff was to do
2 some work towards producing an environmental impact statement. I
3 talked to Lisa Polizar (ph) this morning, and she indicated that if
4 we were to, basically suspend or stop work on the environmental
5 impact statement, there would be no consequences or financial
6 consequences that we would incur beyond paying those bills that
7 were still outstanding. They have -- there's no authority to spend
8 any additional money then what has already been obligated, and
9 certainly any unspent money would be returned to the -- the Trustee
10 Council. So, in essence, if we were to suspend work on this, we
11 should stop it as of today, or we could wait for that camera-ready
12 copy which, according to a message I got again this morning, will
13 be Fed-Exed to us on the 7th of this month, going through that
14 editing process, and we should receive it here on the 9th. That
15 would essentially bring that task to closure, the work that Walcoff
16 was doing.

17 MR. BARTON: Does that answer your question, Mr.
18 Stieglitz?

19 MR. STIEGLITZ: Yes, it does.

20 MR. SANDOR: In part, but projecting then that we have
21 this period of six or eight months, or whatever, in which this work
22 is suspended, and then will the contractor complete the EIS -- say
23 between January and July of 1994, without additional cost?

24 MR. RICE: I don't think they would be able to
25 complete it without additional cost. I think significant portions
26 of the funds that we have provided were -- have been expended,

1 based on changed time schedules and the need to accelerate work
2 over the last couple of months. I don't have billings beyond
3 March, but some of the indications I've gotten is that over the
4 last two months there have been a -- significant expenditures. My
5 first reaction, if we were to suspend work on it, given that what
6 I think the Trustee Council is saying, that we would have a very
7 different product as a draft restoration, it may be time to go out
8 for a bid and start the process over again. It would be a very
9 different environmental impact statement. Maybe, some of that work
10 could be used, but I suspect some of the analysis would change
11 significantly.

12 MR. BARTON: Mr. Pennoyer.

13 MR. PENNOYER: Your statement that we'd have a very
14 different restoration plan is a little bit troubling to me. I'm
15 not -- I'm not clear what you mean by that. We've always had --
16 we're getting EIS -- we're getting all that -- all the other
17 requirements, just thinking specifically what we need to do our
18 job. We need a plan of some kind, that at least deals with some of
19 the basic questions of how we view these different resources and
20 what we want to do with them. I mean, just as simply stated at
21 that. It's -- okay, do we think murrelets were injured, what do we
22 want to do with them. We need to make that statement, yes, we
23 think they were injured. We think there's a population -- level
24 injury, we think that this enables us to proceed with work to
25 restore them. Restoration option seems to be -- a number of years
26 approach -- we can approach in this fashion. So, we've got -- it

1 won't be restrictive, not something that says in '93 you got to do
2 this, and in '94 you got to do that, '96 you got to do that. Well,
3 based on the information as we get it and projects as we perceive
4 it. A general game plan. We probably need that for each species,
5 sockeye certainly. Were they really injured? If we -- don't know
6 then it's a question mark, and if they were how do we want to
7 proceed to restore them. And, as a general concept, my view always
8 was the restoration plan probably wouldn't get down to the dollars
9 and cents of individual projects by year, but at least we'd get to
10 the stage where we answered some of those questions. It would
11 force us to answer some of those questions, which we have not
12 answered yet. And so, what -- what's different. I mean, the only
13 alternative then is to have this sort of umbrella, very vague
14 umbrella, and do specific annual work plans with individual
15 projects, and that doesn't hang together enough. What's the in
16 between step we would have done if -- if in your view, this plan
17 what we're talking about doing is so much different than....

18 MR. BARTON: I think Mr. Rice was addressing the EIS,
19 not the plan.

20 MR. RICE: If -- if what we go out with is more than
21 policy direction and has some specificity that you're requesting,
22 then the analysis that we would do in an EIS would be -- could be
23 more specific, and we could get more precise with some of what
24 we're doing there. And that's....

25 MR. PENNOYER: What's you are anticipating we would have
26 done to bridge this in-between step, between this generalized

1 policy document that the EIS is currently written around, and one
2 that guides us on how to approach our annual work plans. Would you
3 envision an in-between document we'd do another EIS on?

4 MR. RICE: No, no, not at all. I think -- my -- my
5 statement was more that given what we have now is a very, very
6 general document. Building on that, makes it a -- somewhat of a
7 different plan, and that -- that was what I was alluding to. It
8 wasn't that -- I'm trying to understand what it is that you're
9 saying you want in a -- in a final restoration plan would -- seems
10 to me -- has more specificity in it than what we have now.

11 MR. BARTON: I'll tell you what I want in a final
12 restoration plan is -- consists of these sections. One is a
13 distinct statement of background; the second is a statement of
14 injuries, those that we can definitively say occurred, and those
15 that we still are check -- determining; a statement of objectives
16 of what we want to do to restore the injuries or to enhance if we
17 want to go to enhancement; the alternatives for getting us to the
18 objectives; the constraints on the expenditure as set forth in the
19 MOA and the settlement agreement and the law; and the end point --
20 how do we know when we got there and how do we know when we're
21 done. That's what I want to see in a restoration plan. Mr.
22 Pennoyer.

23 MR. PENNOYER: Mr. Chairman, that's why I was trying to
24 decide what Ken was saying was different because that's all in
25 here, those choices just haven't been made. The pieces are all
26 here, there's a table on injuries. It says here's what happened to

1 this species, here's our level of knowledge. It just doesn't say
2 yes we've made that conclusion, and therefore we want to do
3 something about it. And all those pieces are here. The policy
4 questions we're asking the public to respond to by August 6th,
5 enable us to jump to that next step, which is what you're saying,
6 cause it is here. We just haven't underlined the appropriate one.
7 We haven't chosen the, quote, the preferred alternative on
8 injuries, on actions it'll take to restore that injury, on
9 questions of enhancement or pre-spill conditions. All those are
10 listed in here, but not fit. My assumption was always that to some
11 degree we would make those choices for the final restoration plan.
12 We have a preferred alternative. A preferred alternative would
13 also lead us to make some decisions and some assumptions on
14 injuries. And, so I wasn't quite sure what your view of the final
15 restoration plan was, because all that stuff is here, we just
16 haven't underlined the appropriate section. We haven't made the
17 choice.

18 MR. BARTON: Well -- Mr. Cole.

19 MR. COLE: Well, you say it's there, but it may be
20 there in one hundred fifty pages or so, but it is not clearly
21 focused on what we want to do and what we ask the public to do. I
22 mean, one of the problems is we have five hundred sheets of paper
23 here that we haven't focused on what we really want to do and
24 intend to do. You know, we're just sort of drifting with a lot of
25 paper. Calling things a draft restoration plan when they're not a
26 draft restoration plan. It's somewhat of a far cry from it. What

1 we have to do is get our fundamental thinking straightened out and
2 then go from there, but -- while I'm on this subject -- can I make
3 another motion?

4 MR. BARTON: No, not with one on the floor. No. Mr.
5 Stieglitz.

6 MR. STIEGLITZ: Well, (inaudible - out of range of
7 microphone)

8 MR. COLE: I like -- be in favor of not paying this -
9 - this EIS contractor any more money until we have a heart-to-heart
10 talk with him about the quality of the product. Why should we just
11 continue to pay him more money, and look what we get. I -- I don't
12 think we ought to pay him.

13 MR. BARTON: Well, are you going to make a motion to
14 that later so we can discuss that later?

15 MR. COLE: Give me to permission.

16 MR. BARTON: We'll certainly act on the motion that you
17 just made.

18 MR. COLE: Okay.

19 MR. BARTON: Mr. Stieglitz.

20 MR. STIEGLITZ: Well, I want to speak to it. It seems to
21 me, like at this point, while yesterday we talked about merging two
22 documents, that clearly, that's not in the ballpark at this point
23 in time. So, we're talking about two -- separate documents. If
24 so, let's put the restoration plan aside just for a minute, we keep
25 mixing them up here. Let's deal with the motion, and -- but part
26 of that -- and I would -- I would amend the motion, if you will, at

1 this point in time -- and I'm going to make this for this reason.
2 At this point in time, until we have a -- at least a draft final
3 restoration plan in place, it's going to be hard to decide exactly
4 the scope and direction of the EIS. It is going to take some
5 modification. It is going to take additional work to make the
6 conversion, but -- but I would amend the motion to the effect that,
7 we require the contractor to produce a camera-ready copy. A -- a
8 cleaned up version, you know, of what we have now, so the
9 government, in fact, gets what we paid for. I understand we
10 already paid for that. So...

11 MR. COLE: I object to the amendment. I think that
12 that amendment is not germane to what we're doing. Is it, or is
13 it?

14 MR. BARTON: The original motion was not to go forward
15 with EIS, and this is dealing with EIS, and the Chair rules it is
16 germane.

17 MR. PENNOYER: Trying to clarify your motion, Charles, in
18 supplements.

19 MR. BARTON: Is there a second to the amendment?

20 (Inaudible - out of range of microphone)

21 MR. BARTON: Is there a second to the friendly
22 amendment?

23 (Inaudible aside comments out of range of microphone)

24 MR. COLE: Well, let me say this with respect -- why
25 ask them to do more work on something we don't want to use.

26 MR. STIEGLITZ: Well, because in fact we may be able to

1 build off of what we have right now. We've already paid for -- and
2 there's a lot of background material and so forth, that's in this
3 document that's useable in another EIS. Why redo that? And, if we
4 paid for a clean, quality EIS -- you know, whether you would get
5 that or not, I think we ought to demand that of the contractor.
6 (Inaudible aside comments out of range of microphone) and a better
7 product we end up with out of this process, it will make it easier,
8 I think, to get into the -- to the next EIS, whenever that....

9 MR. BARTON: Mr. Pennoyer.

10 MR. PENNOYER: I know what he says -- as much of the
11 contract money we've spent, and would this require more money? I
12 mean, do we cut our loses now in terms of knowing we have to
13 produce something different. Use the draft we've got, even if it
14 isn't final, and cleaned up, or is this actually is, as Mr.
15 Stieglitz is suggesting, and it costs us more money out of this
16 contract.

17 MR. RICE: Mr. Chairman, I don't have a -- up-to-date
18 billing as to exactly how much has been spent to date. When I
19 talked to Justice Department this morning, I was told that Walcoff
20 had been informed they were not to incur additional expenses beyond
21 what was already authorized, which is the money that we've been
22 provided to date, and that if they were unable to complete a
23 camera-ready copy within the estimated -- their estimate of
24 expenditures -- that they would get with the Justice Department,
25 they would then contact me, and tell me what could be done and what
26 couldn't be done. They expected to have that yesterday. They were

1 waiting for some information from the subcontractor, and therefore
2 didn't have their meeting to be able to tell us where they were at,
3 in terms of expenditures to date. I would not -- unless the
4 Trustee Council authorizes additional expenditures, then once those
5 funds are used up, the contractor basically stops work.

6 MR. BARTON: Mr. Stieglitz.

7 MR. STIEGLITZ: I'll clarify my amendment. If it costs
8 more money to obtain the camera-ready copy, then I would propose we
9 not do it. If it's already paid for, in other words, it's already
10 -- the contractor arrangement has been paid for -- then I think we
11 ought to require it.

12 MR. BARTON: Mr. Cole.

13 MR. COLE: My first -- my first motion was, let's
14 make a decision that we aren't going to do -- complete EIS at this
15 time. We'll wait and do an EIS when we get the restoration plan.
16 That's one motion. Now, I would prefer that we address -- make
17 that decision and then decide what we will do with the contractor
18 on this piece of work that....

19 MR. BARTON: There's been no second to the...

20 MR. COLE:have here now. You know, we keep
21 saying, pay. My theory is we don't send them another check -- you
22 know.

23 MR. RICE: That's fine.

24 MR. COLE: Yeah, don't sent them another check. We
25 haven't paid for this because what they've done is certainly of --
26 not of the quality that -- you know, we were represented to get.

1 That they were required, in my view, to produce, and -- so why
2 should be pay them.

3 MR. BARTON: It might be enlightening if Dr. Gibbons or
4 whoever knows could lay out just the sequence of events that has
5 gotten us to this point in terms of -- of providing -- when we
6 started the restoration plan, when we had something to provide the
7 contractor, when that was provided the contractor, how long the
8 contractor actually had versus what the contractor thought they
9 were going to have.

10 DR. GIBBONS: I -- I can briefly lay that out. On the
11 original schedule for the contractor, the Trustee Council was to
12 approve a restoration alternatives in November of '92. And, then
13 the schedule was to have the contractor build upon those to produce
14 a document by June 1st. The contract -- my understanding, got the
15 alternatives in February, which was about two and a half to three
16 months late, still held to the June 1st date. And so, there was --
17 they -- they cut their basic time to develop the DEIS -- the draft
18 environmental impact statement -- in half about, and just
19 accelerated the whole process as much to get it. Well, that's part
20 of the problem that we're facing.

21 MR. BARTON: Thank you.

22 MR. COLE: Where do we have a copy of the contract
23 here?

24 (Inaudible - out of range of microphone)

25 MR. BARTON: No, that's the annual review. The
26 contract itself....

1 (Inaudible - out of range of microphone)

2 MR. BARTON: Yeah, between Justice and Walcoff.

3 MR. RICE: Mr. Chairman, I was unable to locate a
4 copy of it. It's basically a task order where the Justice
5 Department did -- wrote a very brief task order to Walcoff to
6 produce -- give an estimate of the cost of producing a draft
7 document.

8 MR. COLE: We have (inaudible - out of range of
9 microphone).

10 MR. RICE: We have an agreement with the Justice
11 Department, and we have provided them two hundred and eighty-four
12 thousand dollars.

13 MR. BARTON: Provided Justice Department.

14 MR. RICE: That's correct.

15 MR. BARTON: Justice then has some arrangement with the
16 contractor. What's the nature of that arrangement? Is that a
17 contractual arrangement or...?

18 MR. RICE: They have a contract with Walcoff for a
19 variety of tasks, and they can change those task orders as their
20 needs change. And, basically once we had an agreement with them,
21 my understanding is they wrote a task order basically to Walcoff
22 and said do this task.

23 MR. COLE: Prepare an EIS?

24 MR. RICE: That's correct.

25 MR. COLE: That's the extent of the contract?

26 MR. RICE: That's essentially correct. Is there --

1 does anybody know?

2 MR. BARTON: Well, it seems there must be more to it
3 than that. I mean that would be the basic thrust of thing, but
4 there -- I would assume there's more to this than this thing. Can
5 we get a copy of that task order, somehow?

6 MR. RICE: I was looking through -- through my files
7 and didn't see it, but I could certainly try to get one.

8 MR. BARTON: Maybe Justice could fax us one.

9 MR. PENNOYER: Mr. Chairman.

10 MR. BARTON: Mr. Pennoyer.

11 MR. PENNOYER: Part two of the question if that
12 (inaudible - out of range of microphone) Mr. Cole's motion
13 (inaudible).

14 MR. BARTON: The amendment has failed for lack of a
15 second.

16 MR. STIEGLITZ: I'm going to call the question on the
17 motion.

18 MR. BARTON: The motion again was dispense with the EIS
19 until some later date as determined by the Trustee Council. Is
20 that a fair summary of the motion, Mr. Cole?.

21 MR. COLE: I want to make sure Mr. Stieglitz's
22 clarification that... (Inaudible aside comments)

23 MR. STIEGLITZ: That's my understanding.

24 MR. BARTON: Is that your understanding?

25 MR. COLE: Suspension of the -- of the activity not
26 canceled.

1 MR. BARTON: Until some later as determined by the
2 Council.

3 MR. COLE: I'm not sure what the distinction is between
4 cancellation and suspension. I mean, my idea is not do any more
5 work on the EIS until a later date as determined by the Council,
6 and I think our sense is that work would be initiated again after
7 we have developed a restoration plan.

8 MR. SANDOR: Clarification of the motion on the floor
9 ...

10 MR. BARTON: Mr. Sandor.

11 MR. SANDOR: ... the matter of suspension versus
12 cancellation was with the unknown circumstance on the contract,
13 whether or not it exists and what it says. I would feel more
14 comfortable if -- if the word was suspension of the activity, so
15 that we're not unilaterally canceling the contract, and I would
16 speak in favor of the motion if it's a suspension.

17 MR. BARTON: Fine with the mover?

18 MR. COLE: That would be acceptable.

19 MR. BARTON: And the second? Does everybody understand
20 what it is we're about to vote on? Anybody who does not understand
21 what we're about to vote on?

22 MR. COLE: Why don't you restate it -- so we all
23 understand it.

24 MR. BARTON: It's the Chair's understanding of Mr.
25 Cole's motion, as seconded by Mr. Pennoyer, that we will suspend
26 all work on the EIS on the part of the contractor until such time

1 as the Council determines it wishes to proceed again. Is that
2 fair? Any objection to the motion? Motion passes. Mr. Cole.

3 MR. COLE: Could we notify the Justice Department of
4 that -- rather formally and have them so notify the contractor?

5 MR. BARTON: Yes, Mr. Rice, you -- your contact with --
6 on this.

7 MR. RICE: I will notify them by phone this morning
8 and follow up with a letter today.

9 MR. BARTON: Mr. Pennoyer.

10 MR. PENNOYER: Moving on to the next topic, I think --
11 restoration plan, I guess.

12 MR. BARTON: Are we done with EIS before we move on, to
13 add? Is there anything further? Mr. Sandor.

14 MR. SANDOR: I would -- I would ask the Trustees to
15 agree that in this notification to the Justice Department of the
16 suspension, and that we formally convey to them our dissatisfaction
17 with the product itself.

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

19 MR. BARTON: Mr. Cole.

20 MR. COLE: And that the Justice Department not pay
21 the contractor anymore money until we've sorted out the
22 relationship.

23 MR. BARTON: Is that -- said that -- are we -- form of
24 a motion.

25 MR. COLE: Yes, it's so moved.

26 MR. BARTON: Moved and seconded that we inform the

1 Department of Justice not to pay the contractor anymore of the
2 restoration settlement funds. Mr. Stieglitz.

3 MR. STIEGLITZ: Back to my previous at this point. I
4 assume if we vote this motion up, that means -- even though it
5 doesn't cost anymore money, that we're not going to have an in
6 effect a finished product out of Walcoff. I mean, just so we need
7 to understand that, if that's our druthers.

8 MR. COLE: My motion is that the contractor not do
9 anymore work on -- on this EIS project.

10 MR. BARTON: Even if we can -- even if they can -- can
11 clean this up with no more money.

12 MR. COLE: Yes, they do no more work, period.

13 MR. BARTON: Mr. Stieglitz.

14 MR. STIEGLITZ: Just wanted the clarification.

15 MR. BARTON: I think we're cutting our nose off to
16 spite our face.

17 MR. COLE: Well, here's my thinking. But maybe I'm
18 down the wrong road, but why do anymore work at this time on an EIS
19 that we're not -- well, that clearly is not focused on the
20 restoration plan which we intend to adopt. I mean, that's why I
21 think we shouldn't do anymore work on the EIS. I think further
22 effort on the EIS should be done after we adopt a restoration plan,
23 so that work on the EIS can be tailored to the restoration plan.
24 Now, that's what got me where I am, but maybe I'm thinking wrong.

25 MR. BARTON: No -- I don't disagree with that. It's
26 just that if -- if the contractor has already committed to a

1 technical edit of this document that we have in front of us, and
2 it's not taking anymore money to do that, it seems to me that that
3 might be a good thing to proceed with. Portions of this may be of
4 some utility in -- in the -- when we do finally do an EIS, such as
5 the background material.

6 MR. COLE: (Inaudible - out of range of microphone)
7 everything's taking more money. Whenever you commit resources to
8 work on this document, it takes more money.

9 MR. BARTON: I say, if it does not...

10 MR. COLE: Well -- you know -- I would like to say in
11 a sense, not to be flippant, but why would it not? And -- and
12 further end -- we're dissatisfied economically with what we have,
13 we should stop right now because to the extent they put more work
14 into it, our -- position that this is not a good document, loses
15 attractiveness.

16 MR. PENNOYER: Mr. Chairman.

17 MR. BARTON: Mr. Pennoyer, and then Mr. Stieglitz.

18 MR. PENNOYER: This is sort of a circular argument -- I
19 mean, I don't need a camera-ready copy of something I'm not going
20 to use, but I might need the pieces to use later. My assumption is
21 we've got the product, we paid for it, we got something. The
22 corrections are editorial or substantive. If they're substantive,
23 then maybe we need it. If they're basically editorial,
24 organizational, then I don't know if we do need. We've got the
25 pieces if we decide to use this stuff later, I -- assume it can be
26 delivered to us in a form on disk or something we can use them.

1 So, what would camera-ready do for us. I'm not clear that that --
2 help solve anything.

3 MR. RICE: Mr. Chairman. We do have an electronic
4 version of what you have in front of you, and so we could use that
5 in the future. They are going through a technical edit at this
6 time, cleaning up the document. They were not pleased with having
7 to provide the Trustee Council with the document in the form that
8 it's in now. The work that they were doing prior to delivering it
9 to the Restoration Team was very fast, and they -- they did not
10 feel comfortable with what they had provided us, but we demanded it
11 on a certain date, and they delivered on that date. If we go for
12 a camera-ready copy, then we will have basically brought that task
13 to closure and say, okay, you've completed your task, then we can
14 move on to the next task.

15 MR. BARTON: Mr. Stieglitz.

16 MR. STIEGLITZ: Well, I guess I can't come up with any
17 valid argument about why not requiring the contractor to provide a
18 camera-ready document, if it doesn't cost us anymore money, and we
19 don't know that it's going to cost us more money. I -- you know,
20 nobody can verify the cost factor, but if it's a requirement of the
21 contract, they would have been paid for the work, why not have them
22 finish the document, because there's -- I'd say there's a good
23 chance, when we get around to initiating work on an EIS, this may
24 well be the basis for that, and the better document we have now,
25 the easier it will make it when we get back into the process again.
26 I don't see that we have anything to lose, if the commitment is

1 already there in the form of the contractor, the payment's already
2 been made, why not have them give us a finished product?

3 MR. BARTON: Mr. Sandor, then Mr. Rosier -- no, Mr.
4 Rosier.

5 MR. ROSIER: Not -- it's not clear to me at the present
6 exactly what we have in fact bought. How much of the two hundred
7 eighty-four thousand dollars have we actually expended, paid to the
8 contractor at this point? Can you help me on that Ken?

9 MR. RICE: Not very much, because the last billing I
10 have is from the 12th of April, which was basically through March.
11 At that time, the billing was a hundred and twenty-four thousand
12 dollars. However, because they have a subcontractor and they were
13 waiting for the bills to come in from the subcontractor, they were
14 kind of -- a month late on some of that. So, I suspect that they
15 were billed -- that money that had been spent in March, we haven't
16 been billed for. April, May, and now into June have not been -- I
17 have not seen any billing records on that. When I talked to
18 Walcoff, they indicated that they were very closed to using up all
19 the funds. But, again because they hadn't received their bills
20 from the subcontractor, they didn't know exactly where they were at
21 with it. The Justice Department had said, don't spend -- you're
22 not authorized to spend beyond the money that has been approved by
23 the Trustee Council, and you'll stop work at the point where you've
24 -- have used up all of that money.

25 MR. BARTON: Mr. Sandor.

26 MR. SANDOR: What I'm -- kind of uncertain -- is that -

1 - is that there may be billings in the pipeline that have utilized
2 all the two hundred and eighty-four, and we don't even have the
3 camera-ready copy anymore as of this date. And so -- so the
4 question that raised -- what if anything would it cost to complete
5 with a camera ready copy is -- appears to be -- it would probably
6 cost more. That -- most -- conclusion (inaudible -- out of
7 microphone range).

8 MR. RICE: My understanding, Mr. Chairman, is that
9 Justice would not honor those bills that exceeded the two hundred
10 and eighty-four thousand that we have -- already authorized.

11 MR. BARTON: Mr. Rosier.

12 MR. ROSIER: If we've expended the two hundred and
13 eighty-four thousand dollars, then certainly I think that -- that
14 Stieglitz's argument, is right on point. We should, in fact, force
15 the contractor to come up with a camera-ready copy. If we have
16 funding then -- that's still to be expended, as far as the contract
17 is concerned, then it would seem to me then that that Mr. Cole's
18 motion is the appropriate motion. If we've expended two hundred
19 and eighty-four dollars, I'd like to see something other than the
20 rough draft copies that we've got at this time.

21 MR. BARTON: Mr. Cole.

22 MR. COLE: Well, my theory is that we find out -- I
23 mean, where we are with respect to how much money we paid them and
24 what if any more it will cost to complete the job, get us a final
25 project, what we should say, don't do anymore work until we find
26 out exactly where we are. That's the idea that behind my motion.

1 And, I'm not saying that they haven't earned the two hundred and
2 eighty-four. Maybe some of the responsibility for where we are
3 lies with us. I don't know. I just think we ought to put the
4 brakes on, freeze everything 'til we find out. And by the way, who
5 is the subcontractor?

6 MR. RICE: Mr. Chairman, the subcontractor is a firm
7 called Dynamac (ph). They're a firm that specializes in doing
8 environmental work.

9 MR. COLE: Have we approved subcontractors?

10 MR. RICE: List of the team that would be working on
11 this was provided to the Forest Service, and we reviewed that list
12 and basically bought off on the qualifications of the personnel
13 that would be working on it.

14 MR. BARTON: Mr. Stieglitz.

15 MR. STIEGLITZ: There -- there has to be someone in this
16 universe that knows the answer to the question.

17 MR. COLE: Don't bet on it.

18 (Laughter)

19 MR. STIEGLITZ: The question being, if we request the
20 contractor to give us the camera-ready copy, does that cost us one
21 dollar or more? I mean, somebody has to answer that, and I assume
22 it's someone in -- in the bowels of the Justice Department. All
23 I'm suggesting is, that -- that we reach agreement that, if we can
24 obtain a camera-ready copy at no additional cost, we do so. If
25 this person, when they give us the answer, says it's going to cost
26 you more folks to take it camera-ready, then we say stop, cease,

1 desist, no more work. Can we agree with that?

2 MR. BARTON: Well, if you clarify what no more cost is.
3 You're talking about no more costs than -- than has already been
4 incurred versus no more cost beyond the two hundred and eighty-four
5 thousand.

6 MR. STIEGLITZ: I'm talking about no more cost over and
7 above what's already been obligated to then.

8 MR. COLE: Incurred by the Council. Obligated is --
9 could be the whole two eighty-four.

10 MR. RICE: Well I -- you know, what Justice is
11 (inaudible)?

12 MR. BARTON: Mr. Sandor.

13 MR. SANDOR: I am now even more greatly concerned, if
14 in fact, we're to say that -- that we've obligated two hundred and
15 eighty-four thousand just at this stage of the thing. It was my
16 understanding our commitment was for the entire EIS concept. Are
17 we now -- saying the completion may be more than that? I -- I
18 suspect this person or persons unknown within the bowels of
19 whatever, (laughter) must surely be -- sought out -- the contractor
20 -- must be scrutinized, and all the more reason to approve the
21 motion on the floor to cease action on this -- and, I'd be greatly
22 disturbed if that two hundred and eighty-four thousand has been
23 squandered. That look's like a -- a cost plus contract on the EIS.
24 I thought that two eighty-four was for the whole EIS. Am I wrong
25 in that -- recollection?

26 MR. BARTON: Mr. Pennoyer.

1 MR. PENNOYER: Sir, the question of whether we can get it
2 for the two eighty-four or not, doesn't even -- I mean, we should
3 get it. I presume we have the two hundred eighty-four -- we should
4 have a camera-ready copy. The only other question is, if we're
5 somewhere below that, at two hundred or something, then maybe we
6 cut our losses and just accept the fact we don't need to spend an
7 extra eighty-four to get a camera-ready copy. But, if we've
8 expended the two eighty-four, I don't feel like going to them and
9 saying, well, okay guys just quit. Or, ask them how much more is
10 it going to cost of the two hundred eighty-four for you to give us
11 a camera-ready copy, and then they ought to give it to us. We
12 agreed -- paid for -- a product, I think, and we should get it.
13 Now, if it costs additional to what has been spent, in other words
14 if we haven't spent the two eighty-four, we don't want to spend a
15 lot more money just to get this final product. But, if we have
16 spent the two eighty-four, which is your indication, then we ought
17 to have the final product in front of us. We shouldn't be saying
18 well, how much more are you going to charge us to give us that
19 final product. They ought to clean it up, make it so we can use
20 whatever pieces we want to use of it later on, in this final
21 restoration plan. So that's the key element. Mr. Brighton can go
22 talk to the bowels of the department and find out if there's any --
23 if we spent the two eighty-four. If we have, we want a final copy,
24 if we haven't, stop the work.

25 MR. BRIGHTON: Mr. Rice has better connection with the
26 bowels than I do.

1 MR. BARTON: I think we ought to let -- Mr. Brighton
2 (inaudible -- simultaneous talking). I think we've put Mr.
3 Brighton in a difficult position.

4 (Inaudible - out of range of microphone)

5 MR. PENNOYER: Having expended the two eighty-four, we
6 expect the final product. If it hasn't been, we don't expect to
7 spend more money to get a final document.

8 (Inaudible - simultaneous talking)

9 MR. COLE: I just can't get there with Mr. Pennoyer's
10 thought. If they haven't completed the work, we don't owe them two
11 eighty-four. If they haven't completed the work, we don't owe them
12 two eighty-four. If we tell them, don't do any more work on this
13 EIS, then we can talk to them about how much we owe them for what
14 they have done, and -- then see where we are. Maybe they will say
15 they've only done -- they can cut their -- off their work, because
16 it's two forty for what they've done. That's it. Obviously, if
17 they haven't completed the work, we don't owe them two eighty-four
18 and, so, we can say, well, how much do you want for what you've
19 done, rather than going forward and getting it up to two eighty-
20 four.

21 MR. PENNOYER: I can buy that negotiation ...

22 MR. COLE: It's real simple.

23 MR. PENNOYER: (inaudible - simultaneous talking) we
24 wanted to negotiate with them, but the product's only two hundred
25 thousand dollars, that's great.

26 MR. COLE: They haven't given us the completed work

1 product, so they haven't earned the two eighty-four, that's seems
2 very simple. Where's the problem.

3 MR. SANDOR: Call for the question.

4 MR. BARTON: Would the maker restate the motion?

5 MR. COLE: The question is -- the motion is to
6 instruct the contractor to do no more work on the EIS, period,
7 until further notice.

8 MR. BARTON: The question's been called. Any objection
9 to the motion?

10 MR. STIEGLITZ: Objection.

11 MR. BARTON: Motion fails. Mr. Pennoyer.

12 MR. PENNOYER: (Inaudible) substitute motion that feels
13 in the concept of getting whatever we paid for, since we've already
14 paid for it.

15 MR. STIEGLITZ: Yeah, I'm wondering, when's the Council
16 scheduled to meet again?

17 MR. BARTON: I hope not until (inaudible - out of range
18 of microphone).

19 DR. GIBBONS: Right - right now the schedule is mid-
20 August.

21 MR. STIEGLITZ: What I was -- obviously, we had all the
22 answers to the questions we're asking here, I think the decision
23 would be pretty easy, but we're mixing some rather key answers and
24 I don't....

25 MR. COLE: Don't do anymore work, and then we can
26 talk to them -- you know, about where we are and what the situation

1 is, and if nothing else to commit the further judgment what to do
2 to the executive director, once he gets that he can send us a
3 memorandum -- where we are.

4 MR. STIEGLITZ: That's what I was getting around to
5 Charlie, is if we can sort of put that decision on -- I mean, it's
6 fine for now say no more work, but I hate to leave that hanging for
7 a long period of time. I'd like to get some answers to the
8 questions about what are the added costs, have they already spent
9 the entire amount, etc., etc., and then we make the final cut about
10 whether we want to ask -- or -- or entitled to a camera-ready
11 product at not added cost.

12 MR. COLE: The Forest Service is the contracting
13 party with the Justice Department. I would supplement the motion
14 by saying we will commit that what further action to be done
15 between the contractor and Justice Department and Trustee Council
16 to the Department of Agriculture Forest Service representative.

17 MR. BARTON: Is that a motion?

18 MR. COLE: That's a motion. That means you.

19 MR. BARTON: I understand who it means, I just want to
20 be sure you do. (Laughter)

21 MR. STIEGLITZ: Does that mean you're going to empower
22 them to do all the checking out that we've been talking about here?
23 Okay.

24 MR. COLE: (Inaudible - out of range of microphone)
25 ... you know, finish it off, or stop and talk about the price or
26 whatever.

1 MR. BARTON: It's been moved that the Department of
2 Agriculture, sort this out, and make a decision on where we go from
3 here with the full backing of the Trustee Council as maybe required
4 sometime in the future, ultimately. Anymore discussion on the
5 motion? Any objection to the motion? We'll do it. Now, are we
6 done with the EIS? Mr. Pennoyer.

7 MR. PENNOYER: Only takes about three hours to do the
8 restoration plan. I think -- I wanted to go back a minute to where
9 we are, and what this document in front of us is....

10 MR. BARTON: Which document?

11 MR. PENNOYER: The restoration plan -- document --
12 overview, alternatives, whatever we're calling it. I'd made the
13 statement that it was all in here, and therefore, we were still in
14 the midst of a process whereby we would later finalize this, as it
15 says in the brochure, and come up with a more specific restoration
16 plan out of all of this. Mr. Cole, basically -- took me somewhat
17 to task, because he doesn't feel it's in there, in an explicit
18 fashion. I think that's true -- I think, when I said it was all
19 there, I said the pieces are there that allow us to build this
20 restoration plan. We've asked -- the backup of this in the final
21 pages, both in the pass-out and this, some policy questions of the
22 public. Those are not terribly specific, but they are a starting
23 point that allows us, I think, to make this policy calls, based on
24 that input, and, from there go into the process of saying more
25 specifically, which resources we think -- we agree -- are injured,
26 at what level, and what we want to do about it. So, we have a

1 question as to how much or all -- all of this to send out now, in
2 addition to the brochure we sent out, and their both on the same
3 time track, August 6th deadline to respond. The next question we
4 have is where we proceed from there. We get the responses back
5 from this request, some of it's information -- more information --
6 some of it's just regurgitation of what was in the brochure in
7 terms of the questions that are asked. We get that back August
8 6th, then what do we do? And, how long is it going to take to do
9 it, whatever it is? And, I -- I still think we ought to be able to
10 fashion this restoration plan in a way that allows us to do an EIS
11 from it, and still have the restoration draft plan before '94 final
12 actions are taken on the '94 work plan. Now, that's a draft, and
13 I realize the draft would still have go out -- maybe for some type
14 of subsequent review, including an EIS, and maybe that won't be
15 finalized until late spring of '94, or something like that, but we
16 still would proceed with the '94 work plan, we'd still have the
17 draft restoration plan in front of us. I -- I don't think there's
18 a reason to start a new process. I think all we have to do is be
19 more explicit in where we want this process to go. So, I think the
20 first question is, do we want to send all this out as a backup to
21 that newspaper brochure -- synopsis -- we sent out originally. Is
22 there something to be gained from doing that? Is the additional
23 information -- the public request and that is included in this,
24 reason to send it out? Should it be somehow reformulated to make
25 it simpler? But, then not assume that we're trying to tell the
26 public at this stage, exactly we're going to resource by resource.

1 We're going out seeking some more information. As the brochure
2 said, we going to write a final restoration plan, with preferred
3 alternatives, and some more detail on the injured resources and
4 what we intend to do about them, before we finalize this. That's
5 where I think we are, and otherwise, I think we've sort of thrown
6 the baby out with the bath water. And I think we can proceed in
7 this process, and still get this thing done. It's going to take us
8 a little longer to do than I think we had assumed, because I think
9 some people's view of where we're going to end up here is a little
10 bit more simplistic than it and is really going to do us a good
11 service and having an EIS and having restoration plan wrapped up.
12 So, I still think we can do this. The question is do we want to
13 mail all this out? Does the newspaper brochure do the trick? Do
14 we just want to send out an informational packet, in addition to
15 the newspaper brochure, instead of all the other background and
16 preamble and so forth? But, I still think we ought to proceed.

17 MR. BARTON: (Inaudible) another alternative too, that
18 we might modify this in some fashion, which is -- I guess is....

19 MR. PENNOYER: I think we ought to proceed with our
20 August 6th thing, just assume -- maybe a little more work is
21 required after August 6th than perhaps some folks felt would be to
22 come up with this sort of umbrella programmatic restoration plan.

23 MR BARTON: Mr. Sandor.

24 MR. SANDOR: I agree and I think our task is actually
25 simplified with our decision on the EIS, and certainly there won't
26 be the complication of having both the EIS package and the plan.

1 I'd like to see the bridge between -- you know this publication and
2 this package that we have, and essentially work towards this final
3 plan, which we committed ourselves to develop after August 6. And
4 -- I think the staff did a good job, but just perhaps a little bit
5 too voluminous -- could be trimmed. Is it possible for the
6 Restoration Team to -- based on what you've heard this morning and
7 our decision on the EIS to perhaps modify the -- the second draft
8 of these -- these alternatives in a way in which it would bridge to
9 the final restoration plan that's to be prepared after August 6th?
10 I think our task is simpler now as a result of the EIS action.

11 MR. BARTON: Mr. Gibbons.

12 DR. GIBBONS: I think what you're asking us is to
13 increase the level of detail in the restoration plan, is that
14 correct?

15 MR. BARTON: No.

16 MR. PENNOYER: No, the reverse. (Inaudible aside comments
17 out of range of microphone). That level of detail would be --
18 there would be more specificity in the restoration plan that we
19 finally develop with a preferred alternative, after the August 6th
20 response.

21 MR. BRODERSEN: Mr. Chairman (inaudible - out of range of
22 microphone) I will ask the question. I don't understand where he's
23 going. I really have been listening here and he's confused me.
24 I'm kind of reluctant to respond to any of the questions that Mr.
25 Sandor and all are asking because I don't understand what you've
26 been saying for the last few minutes, in terms of where you're

1 going. I had the same confusion that Dr. Gibbons did. I thought
2 you were asking for more specificity on the restoration plan, and
3 I'm totally confused.

4 MR. PENNOYER: The final restoration, that's correct. In
5 the draft that goes out now, no.

6 MS. RUTHERFORD: (Inaudible aside comments out of
7 range of microphone) The next one that would come out would be a
8 draft final, it would still be (inaudible -- out of range of
9 microphone).

10 MR. PENNOYER: Well, I guess -- let's go back a step
11 because I think we're missing a beat here. In looking at what
12 we've got here, the question of the utility of this plan, to make
13 that bridge to annual work plans. In other words, we want a plan
14 that will allow us to then deal with annual work plans, some of
15 them may get -- may have multi-year considerations, but annual work
16 plans. That we would have a plan in place that would help guide us
17 to deal with those annual work plans. This current plan, for
18 example, specifies some injuries to pink salmon -- talks about what
19 they might be. It doesn't really tell anybody what we want to do
20 about that. So, after August 6th the presumption is we come back
21 in and write a restoration plan that did tell people what we wanted
22 to do about pink salmon.

23 DR. GIBBONS: So what you're saying -- Mr. Chair, that
24 you're going to pick a preferred alternative and that will guide us
25 -- path of what we're going to do for the resources and services
26 that were injured, after....

1 MR. BARTON: That final plan (inaudible - simultaneous
2 talking).

3 DR. GIBBONS: The final plan, yeah.

4 MR. PENNOYER: EIS around that. In other words, the
5 policy questions you ask in here about restore to pre-spill
6 conditions or beyond -- all those questions, don't they --
7 specifically what you want to do about pink salmon. And so, the
8 assumption is that we come back and make some statements in the
9 final plan, where we could, resource by resource, of what our
10 intent was. Not the specific project we're undertake, but our
11 intent. Yes, it was injured, our intent is to restore it to pre-
12 spill condition or beyond, our intent is to use certain strategies
13 at this stage that we see you starting on. This gives you a
14 proviso to start your '94 work plan and then those beyond. It's
15 going to change; we know that, but this is the starting point.
16 This -- all of our discussion here has been, in the last bit, that
17 what we have here so far doesn't allow you to write an EIS -- that
18 really takes care of the programmatic EIS concept, and gives you an
19 ability to deal with cumulative effects in a way that's going to
20 help us with the annual work plans, because it's not specific
21 enough. But, the pieces in here -- it's all here. It's just we
22 haven't made the choices. It's not here. We have not underlined
23 the choice of what we want to go with.

24 MR. BARTON: I don't agree with the whole there, a lot
25 of it. Mr. Cole.

1 MR. PENNOYER: ... a choice. But most of the information
2 is there to base those decisions on.

3 MR. BARTON: We've not spelled out what our objectives
4 are, have we?

5 MR. PENNOYER: That's correct.

6 MR. BARTON: Mr. Cole.

7 MR. COLE: Well, I think that -- first, I think that
8 if the -- we leave the Restoration Team with the present state of
9 direction that they will be utterly confused, and I would be amazed
10 if you could come back with something that would satisfy what we
11 think we want at this time, because I think our instructions --
12 what we're telling the Restoration Team now is totally confused.
13 I think that we should build on this newspaper brochure, what we
14 send out, then we said -- you know, we're going to send you a
15 little more information later on, and I think we can do that -- you
16 know, with this other document. But, I think it should be cut down
17 to maybe fifty pages, or less. For example, if you'll turn to D7,
18 and this is just my ideas, but -- you know -- where D7, D9 and
19 those things -- you see -- if we send this out to the public with
20 this much detail, I think there is no way that we can expect to
21 receive something meaningful on all of these subjects. It's --
22 it's too much detail. It asks too much of the public. I think
23 what we're asking the public for is to furnish us with the type of
24 information that we can use to develop the restoration plan. And
25 I think asking for this amount of information, it's not helpful in
26 -- in -- in enabling us to develop a restoration plan. We need to

1 tell the public in this initial letter exactly what we want them to
2 -- to do and why. And -- and stop it there. That's what I think,
3 and that's why I say we should -- we should give the injury
4 information. Mr. Barton had a good thought with your list. Why
5 don't you go over those again and then see if we can get some place
6 with that.

7 MR. BARTON: A succinct statement of the background,
8 statement of the injuries; both known and those that we're still
9 determining; our objectives about what we want to do about those
10 injuries, the alternatives for getting there; the constraints in
11 law and in the court documents on how the monies may be used; and
12 the end point, how do we know when we're done.

13 MR. COLE: Can't we just sort of -- cut this down?
14 And I -- frankly just to be a little more detailed or hopefully to
15 give a little more guidance to the Restoration Team, I would
16 eliminate -- the -- a good part of the Appendix B, with all of
17 thoughts of restoration options, because that's what -- I think the
18 type of information we need for the annual work plan -- maybe I'm
19 a dissenter, a lone voice there.

20 MR. PENNOYER: Mr. Chairman.

21 MR. BARTON: Mr. Stieglitz.

22 MR. STIEGLITZ: If I might comment, I don't disagree with
23 what Mr. Cole's saying here, but the key to this thing is what
24 we're asking -- the public to respond to. I think -- if -- if you
25 look at -- at the last section in there which says tell us what you
26 think, it really is asking the public to address the big picture,

1 the policy issues. It does ask a question specific to endowment,
2 should we have endowments or not. But, it doesn't ask them to
3 respond to project by project, and I think that's what you're
4 getting at, Charlie, that we don't want to set up another situation
5 of -- where we got an overly complicated response request and we
6 ask them to evaluate one project against another and all that sort
7 of thing. It just occurs to me we're probably asking the right
8 questions of the public, and maybe there isn't a need to include
9 all the detail of that individual projects as part of the plan. I
10 realize they're included as appendices and, you know, and it's not
11 necessarily part of the formal plan, but people are going to regard
12 it as that, and if they're in there, they're going to want to react
13 on it, I suspect, or at least some people will. So, I just might
14 suggest you look at the questions and see if those are the kinds of
15 things that we want response from the public from and then sort of
16 tailor the plan around that.

17 MR. BARTON: Mr. Pennoyer.

18 MR. PENNOYER: I -- I understand that some of these
19 questions back here dealing with general policy, could go out
20 without all the rest of this information included. This type of
21 information is what we're going to require to draft this final
22 plan. I mean, we need to know what you can do for different
23 resources, what some of the options are in dealing with it. When
24 we decide that our objective is do something for a specific
25 species, we'll need the type of background that's in here. Whether
26 we use that to draft the final restoration plan, then send that

1 background out to the public, I'm not sure. I guess I'm not -- I'm
2 still not sure we're hurt by the public understanding some of the
3 things we're going deal with after August 6th in terms of making
4 these decisions. Even though we've only asked initially for some
5 policy questions, I'm not sure when they choose between
6 alternatives, if they need to know what some of the practical
7 things are that you may give up. I mean, you're going to give up
8 doing sea otter hatcheries if you go for alternative two, for
9 example. And, maybe they need to -- don't smile, Pam, we're not
10 going to give you a sea otter hatchery -- maybe they need to know
11 that. So, I'm not -- I guess the Restoration Team went out and
12 talked to the public based on the newspaper brochure. Based on
13 some of that discussion, they felt some of that information was
14 helpful to the public in dealing with -- advising us on how to
15 proceed on a restoration plan. Maybe we should hear from them on
16 specifically why some of this would be included. We will need
17 nearly all of this. I mean, it's going to be something that we're
18 going to need to formulate objectives and specifics and options by
19 resource. Whether the public needs it now or not, I don't know.

20 MR. BARTON: Mr. Cole.

21 MR. COLE: Again, a little more specific, I think
22 that certainly section B has a lot of good information in and
23 should be retained, maybe trimmed up a bit. I don't know. I -- but
24 I thought that was a good summary of injuries.

25 MR. BARTON: Appendix B?

26 MR. COLE: Yes, Appendix B. And, it describes the

1 injury, describes recovery and -- I thought that was -- you know,
2 good, except for killer whales program from NOAA. Outside of that
3 -- (laughter) -- or the Justice Department -- B is good. I think
4 C is good, might trim that down. That deals with habitat
5 protection, and there's a lot of interest out there -- in the
6 public, about habitat protection and where we're going. And then,
7 I would eliminate, I think, essentially the fifty-one pages of D,
8 because I think that gets much more specific, and that's the type
9 of information we would send out with an annual work plan. And
10 then -- I think Chapter Three is good, a little more detail, but I
11 would eliminate pages 35 through 39, in the draft, and I would look
12 at the table on A3 a little bit -- read this. Do we need the
13 summary of the '93 work plan in there on pages A8 and 9?

14 (Inaudible - out of range of microphone).

15 MR. COLE: (Inaudible). Anyway, that's would be my
16 thoughts on what we ought to do with it. Then, I think we could
17 cut it -- that -- thereby at least in half.

18 MR. BARTON: Mr. Sandor.

19 MR. SANDOR: The commitment that we've made is to
20 prepare a -- a final restoration plan after the input of August
21 6th, and our principle objective, I believe, is to answer -- get
22 answers to these questions, tell us what you think. Our only
23 commitment -- what I think in defense of the team that put this
24 together, they probably took literally the full text, because we
25 will send out the full text in June of 1993, and I don't think we
26 need to do that. But, I think it has to be something, obviously,

1 between this and this, but has to answer all of these questions.
2 There has -- provide adequate information to answer these
3 questions. You know, I would -- move that -- that we give the
4 Restoration Team and the staff the direction to modify this
5 document, condense it down to the -- to the material they believe
6 is necessary to answer these questions, and keep our commitment
7 about soliciting comments by August 6th -- in preparation of the
8 final restoration plan.

9 MR. BARTON: Is there a second? Discussion?

10 MR. PENNOYER: Second.

11 MR. BARTON: Second the motion. Second -- it needs to
12 go a little further, I think. Mr. Sandor.

13 MR. SANDOR: More than discussion -- rationale for that
14 is we can go through and pick out specific pages here that we --
15 you know we think may not be necessary, but there must be, what,
16 two hundred pages here of material, and you're going to -- the team
17 is going to have to have some discretion in developing the product.
18 Are we still shooting, I trust, for a June 18 or 19 date, in order
19 to keep on track. In that motion, given this discretion of
20 trimming this down, as you discussed, can you do that? Can you
21 achieve that objective?

22 DR. GIBBONS: Yeah.

23 MR. BARTON: Mr. Gibbons.

24 DR. GIBBONS: Yeah, I understand this motion here is to
25 trim it down, but yesterday there was direction also to beef up the
26 introduction to make it clear -- the links and all that. And,

1 that's going to take a little more time. To cut it down, it's
2 fairly easy. To add that other material in there, it's going to
3 take a little time to develop it. So -- you know, we have our --
4 you know, we can do it. I think that the schedule was -- June
5 14th, as I recall, to get that other wording to you, and I'd have
6 to check with the staff to see if we could jerk other parts of this
7 out and include that as a package to you by June 14th with the
8 wording in there.

9 MR. SANDOR: The point is to clarify and condense, but
10 to use the discretion to -- to essentially build what's necessary
11 and request what's necessary to answer these questions -- they've
12 been the discussion here. If we go through page by page -- you
13 know, it's going to be difficult.

14 MR. BARTON: Mr. Pennoyer.

15 MR. PENNOYER: Mr. Chairman, I think that's probably
16 okay, except for kind of one piece of it, and that is, what Mr.
17 Cole is doing here, basically, was taking all specific restoration
18 options out, by species, and not relating those to any work plans.
19 I don't feel -- I don't think that's going to work entirely. I
20 think the actual projects and how you do them will be annual work
21 plans, but the concepts of how you're going to deal with different
22 species, which I think these projects are -- I think they're going
23 to have to be in a restoration plan. You're going to have to have
24 the background of what you can do for pink salmon, even though you
25 change it. I think you're going to have to say something about how
26 you deal with pink salmon. I'm not saying we have to leave D in

1 this iteration, but I think when we do the final restoration plan
2 after August 6th, we're going to have to come back to D, so in our
3 own minds we understand what the options are for dealing with the
4 different species, and how we might approach that. And then, the
5 restoration plan at that point would have to have an EIS done,
6 there would be a draft restoration plan, and it'd have to come out
7 as a final in the spring. But, I think we're going to have to come
8 back to what's in D, maybe not exactly this -- these pieces -- but
9 I think we as Trustees -- Trustee representatives, you're going to
10 have to understand what our options are for these various species
11 and how we -- and the choices we need to make in dealing with them.
12 That will change. This restoration plan is not cut in stone. As
13 we do annual work plans, we're going to also modify the basis.
14 We're going to get new information, decide that something doesn't
15 work, some avenue goes up a blind alley, or we discovery something
16 new we didn't know before, but we have to come back to that. I
17 don't know if we need to include that in this initial draft going
18 out to the public to answer the questions we've asked. We probably
19 don't need that much detail, but I don't think we can just drop
20 that out of the restoration plan.

21 MR. BARTON: Are you referring to specifically Appendix
22 D?

23 MR. PENNOYER: The stuff that's in Appendix D, whether
24 it's written this way exactly, or not, I don't know. These
25 concepts are -- I think are something we're going to have to deal
26 with when we do that final restoration plan after August 6th. And,

1 we're going to have know this. Right now, we think we can do
2 certain things for certain species, and we think you can't for
3 others. And that may change, but I think we're going to have to
4 have some discussion about -- before we draft the final restoration
5 plan.

6 MR. BARTON: Mr. Cole.

7 MR. COLE: Well, with respect, the reason I think D
8 should be out is I don't think we can get -- a meaningful response
9 from the public from the information contained in D. I think it's
10 much too detailed, I think we have to rely on greater scientific
11 background and expertise and experience, as we adopt the various
12 specific approaches to restoration. I think we lose things that we
13 want from the public by asking them to be essentially scientists or
14 -- or agency personnel who work with these things. That's what I
15 think -- the reason I think we should eliminate D. I agree that we
16 have to address some of those things in the restoration plan, but
17 we're not looking, in my view, from that level of detail from the
18 public.

19 MR. BARTON: Mr. Rosier.

20 MR. ROSIER: Well, I'll pass at this point. I wanted
21 to follow up on a comment that Mr. Pennoyer has made on a couple of
22 occasions in regards to multiple changes to the plan and so forth,
23 and I would like to talk about that a little bit after we get this
24 -- get past this discussion -- we're in here right now. If we --
25 if we're looking at, and making changes in the plan, I hope that
26 we've got a procedure that's a great deal faster, and a great deal

1 simpler than the process that we're going through in giving birth
2 to this document at the present time. I'm not sure exactly what
3 that process is, but

4 MR. BARTON: Mr. Sandor.

5 MR. SANDOR: I think in this cover letter -- you say
6 you're going to rewrite and clarify, it already makes references to
7 -- you know sections of the documents that being transmitted that
8 relates to the -- I think it would be good to follow that with
9 these questions so, and -- so that the people can look at that and
10 to see what it is they're being asked to respond to -- and it may
11 be helpful and to have done this -- reference to the sections of --
12 of the so-called plan to -- where appropriate in the discussion of
13 alternatives for example, to relate there to parenthetically to
14 appendix whatever. But, I think right up front, the public -- we
15 might be aided by knowing what it is we're soliciting. I guess,
16 Mr. Chairman -- you know, reflecting on what's happened the last
17 two days, what guidance does the Restoration Team -- do you have
18 enough to go on? My motion assumed that, based on our discussion,
19 you could take, you know, reflect on input from this, the
20 discussion here and rewrite a -- a more condensed version of this,
21 and is that unreasonable? Is that discretion, or do you need more
22 guidance or help? Would you want us to go through section by
23 section? What do you want?

24 MR. BARTON: Mr. Brodersen has been trying to say
25 something for some time.

26 MR. BRODERSEN: Thank you, Mr. Chairman. I would like to

1 offer an alternative suggestion which is mine, so it doesn't count
2 for much because it doesn't have the rest of the RT or anything,
3 but I'd like to suggest we focus on what it is we want folks to
4 help us with, and that's the -- five policy questions that we ask
5 in here, and then also a mix-and-match to create an alternative.
6 We have the brochure out already that basically does that for us in
7 a very simple form. It's been fairly well received, although as
8 with anything like this there is some confusion over it, so that
9 perhaps what we want to do instead of sending out this document is
10 we want to do a two to four page discussion of what we discussed
11 here to our mailing list and to whomever else we can get it to
12 that's interested in it, say that the brochure is out there, we
13 want these questions answered, we emphasize what the questions are
14 in that, and then we also tell people that as a result of public
15 meetings, we heard that people wanted more information, we have
16 these appendices available, which we have been discussing here
17 today, and list what they are, give a one or two sentence what they
18 are, anybody who wants them, please request them. Please help us
19 with these questions. And so, we don't do this document. All we
20 have available here are the appendices. As far Appendix D here on
21 general restoration, I think it's much more than an informational
22 item to folks to let them know the kinds of things that you're
23 thinking about. I don't think it's intended at this point to
24 solicit comment back on that. It's a way for you to transfer
25 information to the public. My -- I went to thirteen of the public
26 meetings. I was very impressed with the sophistication of the

1 public that's following this. They really do have a pretty good
2 handle on the kinds of things that you all are trying to do and the
3 kinds of things that need to be done. I think we need to be
4 careful not to sell the public short on these kinds of things.
5 Appendix D to me is just an information transfer from you to them,
6 at this point. And, I don't think we should try for anything more
7 out of it, at this point. I would hope that you would give serious
8 consideration to the possibility of not doing a draft at this point
9 and, instead, condensing it way down to a short discussion of what
10 you all have done yesterday and today, and then -- then offer the
11 appendix -- appendices -- to those who want them for more
12 information to be able to comment to us meaningfully by August 6th
13 on the brochure.

14 MR. BARTON: Mr. Pennoyer.

15 MR. PENNOYER: Mr. Chairman, I was just going to suggest
16 something very similar to that, rather than eliminated appendices
17 at this point. I was going to suggest that we basically do the up-
18 front part in some fashion. Cut it off there, and have available
19 or even as a separate chapter or separate envelope, or something of
20 all the appendices, so that if we did have the questions -- we
21 discussed yesterday moving the questions up front anyway. Begin
22 reading those and some of the preliminary lead in that -- rearrange
23 a little bit what's in the brochure there, but -- and have all the
24 rest of it. And I think most of the rest of it is just
25 informational from the injury assessment to Appendix D, all that
26 are basically -- the -- spill expenditures and so forth, of work

1 plan expenditures, all those are informational and are not
2 essential except to the background to those who are interested. I
3 was going to suggest we make it part of package, but clearly
4 identify it. You could do it separately, and only send it out to
5 communities or libraries, make it available, or upon request.

6 MR. BARTON: Mr. Sandor.

7 MR. SANDOR: Dr. Gibbons and other members of the team,
8 do you -- if you share the views of Brodersen and Pennoyer, can we
9 get this out in a time-frame that we had planned, I guess -- what
10 the 18th or 19th?

11 DR. GIBBONS: Well, I would say -- it's my estimate says
12 yes, we could.

13 MR. SANDOR: Will you endorse that proposal on the
14 floor.

15 DR. GIBBONS: I guess -- yeah, I would -- some people
16 definitely want the appendices that are in here. I went to some of
17 the public meetings too, and they asked some specific questions
18 about these. And so, we need to make those available, at least to
19 the public so they can comment more on the brochure. Some of the
20 thoughts on the brochure was that we don't have enough detail to
21 respond to some of the questions that you're asking, and so we have
22 to make that available to the public, I think, and that would be my
23

24 MR. SANDOR: Mr. Chairman, I would -- you know, modify
25 my motion which was to give the Restoration Team the discretion of
26 putting out a new package or something between this and this in

1 line with the discussion that we've had and we can either let them
2 run with it, get it out on the 18th or have another look at it. I
3 would be comfortable with getting it out without having to
4 reconvene another meeting yet. So my motion....

5 MR. BARTON: Mr. Pennoyer.

6 MR. PENNOYER: The introductory letter is the lead-in and
7 some of the response we've had before is even more pertinent now,
8 and the relationship of this exercise, what do we do after August
9 6th to the EIS and the '94 work plan, still needs to be spelled out
10 and I'd kind of like to see that, so my assumption is that would
11 still be mailed to us -- see a lead-in -- the rest of it I agree
12 with you.

13 MR. BARTON: Mr. Sandor, I didn't mean to cut you off.

14 MR. SANDOR: And then, we ought to also, in this letter
15 explain our adjusted plan for doing the EIS, that is later. If the
16 second would agree to the amended motion, then that's what's on the
17 table.

18 MR. BARTON: Would you restate the amended (inaudible -
19 simultaneous talking).

20 MR. SANDOR: The motion is, Mr. Chairman to give the
21 Restoration Team the discretion of finalizing the package to go out
22 on or about the 18th of this month, and it would be a condensed
23 version of this with a rewritten cover letter and the questions and
24 information that is necessary to respond to the questions.

25 MR. PENNOYER: Appendices provided separately or upon
26 request, or -- in places we already know or desire that

1 information?

2 MR. BARTON: Any further discussion on the motion? Any
3 objection to the motion?

4 MR. COLE: I object.

5 MR. BARTON: Is there a substitute motion? Further
6 discussion? Mr. Sandor. This is like an auction block.

7 MR. PENNOYER: I don't know -- the coffee's ready.

8 MR. BARTON: Let's reconvene in fifteen minutes.

9 (Off Record at 9:57 a.m.)

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

11 MR. BARTON: Get on with this discussion. The council,
12 any council member have a motion to offer? Any further discussion
13 on the Restoration Plan? Do you want to move on to the '94 work
14 program?

15 MR. SANDOR: I would just to say, Mr. Chairman, can we
16 move on to the '94 work plan unless we finish this first?

17 MR. BARTON: I was being factitious and trying to move
18 us. (Laughter) Everybody was so enthusiastic.

19 MR. PENNOYER: Mr. Chairman, maybe the discussion could
20 center around what the problem is with the previous motion and I,
21 I think there's a lot of support for the general way of proceeding
22 that was in the previous motion, with the abbreviated front lead-in
23 referencing the tie-in with the brochure we already sent out; tie-
24 in with the restoration planning process and the EIS later would
25 tie in the '94 work plan, providing the appendices in some fashion
26 as an informational item, either upon request or to those who

1 already have requested it, and I think the general procedure was
2 okay. It's sort of a question as, the more specific content of
3 particularly the appendices, and if we could deal with that,
4 perhaps we could, we could get on with it. There's some things in
5 particular, item D was outlined before in our discussion a couple
6 of different times as having things in it that may be problematical
7 and some seeming things supported by the Trustee Council that we
8 know have not been in the past in annual work plans or in general
9 discussion and having a lot more detail to perhaps public needs to
10 answer the questions, the policy questions we posed to them. So
11 perhaps if we could somehow deal with modifying your original
12 motion, which I think from a procedural standpoint I hear general
13 concurrence, but - specificity of what is going to be incurred and
14 how we do it, may be the problem. Is there a way to do that?

15 MR. BARTON: Mr. Sandor?

16 MR. SANDOR: Well, in the spirit of the original motion
17 was to give discretion to the Restoration Team to what was to be
18 included, including the appendices, and the rationale for that was
19 that they, of course, had been working on the process and had feed-
20 back from public meetings here and what the people might want. I
21 thought moving the questions up front, people who had received the
22 package, some would want appendix D and would read it and some
23 would not, and, and my thought was that we could err on the side of
24 providing too much information, if in fact the Restoration Team
25 felt it was desirable to do so. I -- I don't know, Dr. Gibbons, do
26 you have some suggestion of what you actually believe ought to go

1 out to bridge this gap from this to where we want to be on this?
2 What would, what motion would you want to have, what charge would
3 you want to have?

4 DR. GIBBONS: Well, I kept thinking about the motion that
5 was on there to go out with the plan, then suggest that if people
6 wanted appendices, to have them request it, and when I started
7 looking at it, the first forty pages are basically the brochure,
8 and so an option might be is to go out with a letter to all the
9 people in the area with an explanation of a link between the draft
10 restoration -- that the brochure -- this information that we're
11 developing now, a draft restoration plan, the EIS, the work plans,
12 and then ask them if they would like to have the appendices for
13 further comment on the brochure to please let us know and we can
14 send those out. But to send out just the restoration plan is
15 basically been done with the brochure already.

16 MR. SANDOR: This goes about June 18 or whatever, by mid
17 or late June and an August 6th return time. Request for appendices
18 could be sent out in, I guess they could be given a telephone
19 number to request, and it should be able to go out in a week.

20 UNIDENTIFIED: That sounds fair.

21 DR. GIBBONS: Either that or we could do what you
22 suggested, just to have them printed and send them out with the
23 cover letter and therefore the time frame could be met, but have an
24 explanation cover letter for the information on the links and then
25 the appendices for informational purposes.

26 MR. COLE: Since I singularly objected to the last

1 motion, I would like to say one of the reasons for objecting to it
2 was to committing to the discretion of the Restoration Team what
3 goes out -- is not giving them sufficient guidance. What we have
4 here is exercise of discretion by the Restoration Team, and we're
5 somewhat troubled by it. I think it's incumbent upon us to give
6 the Restoration Team more guidance in what we want put out. That's
7 the basic reason I objected. Secondly, I think we should not
8 duplicate in this document what is in the newspaper brochure. I
9 mean, if somebody wants that information, we should simply send
10 them another copy of the newspaper brochure. I think that what we
11 send out now should be in the nature of a supplement to the
12 newspaper brochure. People will not understand why they are
13 getting this repetitive series of printed materials, really
14 basically reiterating what they already have received and, in fact,
15 what many of them have already commented upon. We send out the
16 same thing, we get requests for responses to two sets of documents,
17 many of which overlap in much, and put the same response date. So
18 I think that we should therefore eliminate from this document
19 what's already contained and well done in the newspaper brochure,
20 and then add whatever further information we think is necessary or
21 might be helpful. And lastly, I would eliminate those specific
22 options because I think they pose trouble for us. And I guarantee
23 they will pose trouble for us.

24 MR. BARTON: Alright the option is then Appendix D.

25 MR. COLE: Every time we have the sense of that it almost
26 inevitably comes to pass.

1 MR. BARTON: There's a possible solution to that is just
2 to use examples. I think the purpose is to help the public
3 understand what we mean when we say general restoration. There is
4 a lead-in to that, and if we just used a couple of examples,
5 perhaps that would get around the problem Mr. Cole identified.
6 Mr. Pennoyer?

7 MR. PENNOYER: Well, Mr. Chairman, I think the motion
8 from Commissioner Sandor included the first couple of concepts that
9 Mr. Cole enunciated that we wouldn't duplicate. We provided
10 additional elaboration or information in appendices only to those
11 who are interested in getting them and the lead-in, and the
12 questions would vary, would not duplicate, but would reinforce what
13 was in the original brochure. I think that is incorporated in the
14 motion as I understand it. The Appendix D question, I'll give you
15 an example, near and dear to me are killer whales. That is the
16 problem. It proposes one way of dealing with the killer whale
17 black cod fishery problem is to make the fisherman switch to pots.
18 Well, this is a long, heart-felt, hard-fought battle in the Gulf of
19 Alaska, and this is the subject of a major amendment, a federal
20 plan amendment, to exclude the use of pots in the Gulf of Alaska
21 and its huge -- precipitated a huge court battle and allocation
22 between trollers and long-liners on black cod and it got, really,
23 it was quite a hard fought thing. So all the statement that's in
24 there, that in fact if small boats mostly catch black cod, this
25 thing may not be feasible, yet this is the option that is offered
26 up. It's certainly that's one worth discussion and has been

1 discussed at great length in the federal council process under the
2 Magnusson Act. It's purportedly to be supported by the Trustee
3 Council. I couldn't support that at this time. So it is a
4 possible -- something to think about, and maybe in specific areas,
5 but it is going to require a lot of discussion, and I think I would
6 certainly rule out an area where we identified, but this happens,
7 the problem shifts from area to area, depending on how the fishery
8 is conducted them. It could be problematic, it's something we want
9 to think about, I think, before we hold it out as a potential
10 option. There are others of that nature, some including examples
11 that we rejected two to three times in the past in discussion of
12 annual work plans, and so, Appendix D, there requires editing, or
13 it requires, I think, what you proposed which is to give examples
14 and the types of things that are included in general restorations
15 to the public and evaluate not the specific projects, we can
16 evaluate the alternatives and what you gain or lose if you chose
17 one alternative over another. So if we can find a way to craft to
18 give enough information so people understand what we mean by
19 general restoration and give some examples and that's the way
20 around this process, then I think the rest of the process sounds
21 good.

22 MR. BARTON: Dr. Gibbons?

23 DR. GIBBONS: Yes. I'm sure the Restoration Team could
24 pull some examples that, you know, that are pretty, pretty straight
25 forward, you know, so there wouldn't be too much controversy, that
26 have been funded in the past. So we could do the examples.

1 MR. BARTON: Mr. Brodersen?

2 MR. BRODERSEN: If we go with what I think Mr. Pennoyer
3 is talking about here, it seems like we should be able to have a
4 cover letter or introductory letter, whatever one wants to call it,
5 to send to the public by itself by the middle part of next week
6 that could then say that these appendices are available and that
7 people could send back in or call back in to get them fairly
8 rapidly, and that would keep us from having to send out a large
9 number of trees to our public by waiting until the latter part of
10 June when the appendices are actually ready. That perhaps we want
11 to send to the mailing list and whoever else we can figure out to,
12 a three to five page, notice, cover letter, whatever it is we're
13 talking about here and get the process rolling here fairly quickly,
14 and then have them request the appendices they want, rather than
15 doing a huge mailing of all the appendices to folks who don't
16 really want them.

17 MR. BARTON: Well I think, the content of these
18 appendices are still a question. I thought the deal was, content,
19 but. Mr. Cole?

20 MR. COLE: On page D-21, it says under the title general
21 restoration options, descriptions, subparagraph A descriptions by
22 option number. Then it contains this sentence. "This sentence
23 provides the general description of each of the different general
24 restoration options." I don't think that's an accurate statement.
25 A description of each of the different general restoration options.
26 Then if you look at D-46, under B, additional options which have

1 not been evaluated, there's this sentence. "Other options have
2 been suggested during the process that have not yet undergone a
3 technical review." Now if you put those two sentences together,
4 the implication is that all of the specific numbered options have
5 undergone a technical review, and I don't understand that to be the
6 case. Certainly, some form of technical review, but I don't think
7 they've had the thorough technical review that I would have in mind
8 and, therefore, the implication that each of those options are
9 acceptable in some fashion, at least technically. That, that's the
10 sort of thing I think we're getting on trouble on when we get to
11 these numbered options.

12 MR. BARTON: Do you find the use of examples to be a
13 satisfactory solution to that?

14 MR. COLE: Yes. For example, let me -- since I see some
15 furrowed brows -- let me give more specific illustration which I
16 find troubling. Number three, option three, "This option would
17 examine the feasibility, examine the feasibility of subsidizing of
18 voluntary change of gear types in the Prince William ..."

19 UNIDENTIFIED: What page are you on?

20 MR. COLE: D-22. " ... of subsidizing of voluntary
21 change of gear in the Prince William Sound black cod fishery."
22 That's number three and, and there's another one also that gives me
23 a lot of trouble, "Minimize incidental captures of marbled
24 murrelets by fishing nets by changes in gear or timing of fishing."
25 I mean those two projects, frankly, give me a lot of trouble, and
26 I wouldn't want any implication to go out that those are acceptable

1 options, and I think that's what we do when we send this out. Say,
2 here's an option, so like this. Then we select these options and
3 find out we're paying for changes in fishing gear to fishermen.
4 I'm not sure that that would get through the Trustee Council. So,
5 that's some of my problems.

6 MR. BARTON: Further a comments or questions.

7 MR. MORRIS: Mr. Chairman?

8 MR. BARTON: Mr. Morris.

9 MR. MORRIS: The technical review that referred to was
10 the workshop with principal investigator, peer reviewers, RT and
11 Restoration Planning Work Group in identifying which options were
12 considered feasible versus which were considered unfeasible. This
13 occurred probably a year and a half or so ago.

14 MR. BARTON: Do we have a motion on the floor, this
15 morning? Ms. Bergman.

16 MS. BERGMAN: I just wanted to point out to the Trustee
17 Council that the options that are listed in this appendices are
18 already included in the brochure. So some of those that you were
19 referring to specifically have already gone out to the public, the
20 one on killer whales, the one on marbled murrelets. Those were
21 information that had already been presented to you all for
22 inclusion in the brochure, so Appendix D is simply providing some
23 additional text supporting information.

24 MR. PENNOYER: -- whatever it is, fifty pages of Appendix
25 D and two pages of newsprint. I mean, I don't have it in front of
26 me, but what --?

1 MS. BERGMAN: Gentlemen, what I am referring to is like
2 on killer whales, it says one of the options that would be included
3 in alternatives four and five would be to determine techniques for
4 changing black cod fishery gear to avoid conflicts with fishermen
5 and implement actions to remove adverse effects. So that option,
6 which would be possible for consideration under alternative four
7 and five, is included in the brochure for the public's
8 consideration. What Appendix D is provide some textual
9 descriptions that expounds on that a bit.

10 MR. PENNOYER: But Appendix, Mr. Chairman?, Appendix D
11 gets into subsidizing, alternative -- specific alternative gear
12 types -- a lot of more -- What I, -- the brochure simply says
13 determine techniques to avoid conflicts, right, so I mean --?

14 MS. BERGMAN: There's more detail there. But the concept
15 of -- the overall concept of doing that is already in the
16 brochure. That would the point I'm making.

17 MR. PENNOYER: I'm not, I guess I don't have a problem
18 with the overall concept of looking at it, but when you get into
19 specifically talking about the types of gear, and how you're going
20 to do it, the subsidizing question and so forth, you're -- these
21 examples here are not, I think, are some of the examples you might
22 pull up and use, but Appendix D goes into a lot more detail and
23 lends a lot more credence to a specific piece of an option, being
24 what you're going to do. We are, I think, after August 6th, going
25 to have to deal with that. It's just the question is whether we do
26 it here, and whether we do it by sending something out to the

1 public that sort of infers we've made some of those choices
2 potentially already, or whether we're doing that based on the
3 answering of some of the overall policy questions to start with and
4 then getting into this type of detail in resource by resource,
5 making those determinations. We've not done that.

6 MS. BERGMAN: Mr. Chairman?

7 MR. STIEGLITZ: Mr. Chairman, I think we've had
8 thoroughly beat Appendix D up and down, backwards and forwards.
9 I'd like to get away from that a little bit for minute. I would
10 move that we direct the Restoration Planning Group to revise the
11 draft restoration plan before us with these things in mind. That
12 first of all, we -- we make the clarifying changes that we
13 discussed yesterday in the introductory portion. None of the
14 appendices would be attached to the plan. I would suggest that we
15 add a bit of text concerning general restoration on page 34 of the
16 draft, or what's now page 34 of the draft plan, and just use a
17 couple of the examples that the Trustee Council can all approve of,
18 and I would like to provide a time frame for doing this. We talked
19 yesterday about giving the team approximately two weeks to do it.
20 Let's start with that. Let's say by June 15th. Part of the motion
21 is that members of the Trustee Council would personally consult
22 with and direct their staff members on the Restoration Planning
23 Group as to their feelings about changes, necessary modifications,
24 clarification in the plan.

25 MR. BARTON: The Restoration Planning Group or the
26 Restoration Team?

1 MR. STIEGLITZ: Whoever is writing this plan. End of
2 motion.

3 MR. BARTON: Second?

4 MR. SANDOR: I'll second the motion.

5 MR. BARTON: Any further discussion?

6 MR. COLE: Restate the motion, please.

7 MR. BARTON: I will, I wrote it down. As I understand
8 Mr. Stieglitz's motion, as seconded by Mr. Sandor, we ask that the
9 Restoration Team direct the Restoration Planning Work Group to
10 revise the document that we have in front of us, including the
11 discussions that we had yesterday, but specifically related to
12 clarifications in the introduction, that no appendices will be
13 attached to the general distribution, add text on general
14 restoration measures specifically referring to page 34 of the
15 existing draft, and use a couple examples of general restoration
16 that are agreeable to all Trustee members, that the Trustee Council
17 members will personally consult with their Restoration Planning
18 Work Group members and any others they might deem appropriate, I
19 assume, and this all be done by June 15th. Is that your motion,
20 Mr. Stieglitz? Any further discussion on the motion? Mr. Sandor?

21 MR. SANDOR: Is this -- and is this understood by the
22 Restoration Team, Dr. Gibbons?

23 DR. GIBBONS: The only question of clarification, then
24 you would, you're sending out pages 1 through 43 with changes?

25 UNIDENTIFIED: 1 through 43? Which leads to how the
26 plans fit together and . . .

1 MR. BARTON: -- Well, yeah, with changes, I guess, that's
2 what we're doing.

3 MR. MORRIS: Plus comment sheets.

4 MR. BARTON: Plus the comment sheets, that's a good
5 addition.

6 MR. PENNOYER: Mr. Chairman, 1 through 43 I thinks
7 duplicate a lot of this stuff. Do we really want all of 1 through
8 43, or?

9 MR. BARTON: Well that, and that was Mr. Gibbons
10 question?

11 MR. PENNOYER: I didn't get the impression we were asking
12 for that.

13 MR. COLE: I move that we . . .

14 MR. BARTON: Whoa, we got a motion on the floor. Do you
15 want to amend the motion?

16 MR. COLE: Yeah, I'll move to amend the motion to make it
17 clear that nothing goes out of the revised documents which we have
18 before us that -- containing material which is in the newspaper
19 brochure, and that there's an explanation of the two documents, how
20 they're used.

21 MR. BARTON: Second to one or the other amendment. Is
22 there a second to the amendment?

23 MR. PENNOYER: Mr. Chairman, for discussion purposes, I
24 second it. We might have to modify a little bit of it. Just
25 mentioning the word restoration plan is duplicative. I think you
26 mean, substantially duplicate. So you don't just blindly send out

1 1 through 43, you do the letter, you explain the process and so
2 forth, you know the appendices that are going to be provided have
3 some duplication because the injuries referring to in here are just
4 more elaborate. So it's no significant duplication in general
5 mail-out, if you don't just reiterate the oil spill, the dates, how
6 many gallons and the miles of oil spread and on and on and on, you
7 don't need to do all that.

8 DR. GIBBONS: Mr. Chairman, so, what my understanding of
9 that would be is we would revise the cover letter, probably
10 perhaps, maybe put the questions on there again, I'm not sure what
11 the Trustee Council would like or not, and then make the links
12 between all the various parts of DEIS and Restoration Plan and
13 then, not include pages, most of pages 1 through 43 because that is
14 really, you know, . . .

15 MR. BARTON: Well that's the nature of the amendment, it
16 was not adopted . . . Mr. Stieglitz?

17 MR. STIEGLITZ: Well, it's -- I can't vote for the
18 amendment simply from the standpoint that if you don't include some
19 of the material in the plan that's in the -- in this, you're not
20 going to have much of a plan because some of the real basics that
21 are in the restoration plan are also in here. For instance, the
22 table showing the extent of injuries. I don't know how you can
23 have a restoration plan without depicting that. If we could agree,
24 we could use some discretion about how much repetition occurs
25 between the two documents, I mean, I can buy that, but I don't know
26 how you can have a draft restoration plan without including some of

1 the materials from the newspaper.

2 MR. BARTON: What did the maker of the motion envision
3 happening on June 16th on this?

4 MR. STIEGLITZ: Happening on June?

5 MR. BARTON: Where do we go after the Restoration Team
6 completes its task, or are they going to send this then back to the
7 Council members and then we would review that?

8 MR. STIEGLITZ: It wasn't part of the motion. I think it
9 would be advisable for the Council to review the revised draft
10 before release it. Yes, with a short time frame to do that, just
11 so we're all comfortable with the examples and the introductory
12 language that we talked about.

13 MR. BARTON: Yesterday we talked about a one-week turn
14 around.

15 MR. STIEGLITZ: Right. Right.

16 MR. BARTON: Dr. Pennoyer?

17 DR. PENNOYER: Sir, I think we've got some confusion on
18 the basic approach here, on what we're doing. My view was we
19 weren't sending out a restoration plan on June 16th. This was the
20 restoration plan with an update of how this ties to a final -- I
21 mean a draft, excuse me. This was -- this was with an explanation
22 of how this draft policy, whatever it is, ties in with the actual
23 restoration plan of development, which will occur after August 6th.
24 And we were simply making those times clear in the letter, making
25 the discussion of the EIS, which they're not going to have, which
26 we promised, where it went to and where's it's going to come back,

1 clear in a letter, and then providing supplemental information
2 we've heard from the public a leg in terms of appendices that will
3 be available to them. I didn't have the view, we were trying to
4 send out a new restoration plan draft on June 16th. Now if that's
5 our general view, we probably have to go back and discuss the
6 basics again, because if we're doing that, we need to do a lot more
7 work, and we should hold the whole thing up and not send anything
8 out until after August something or another and violate the public
9 comment guidelines, and so forth. I don't think we can prepare a
10 Restoration Plan between now and June 16th, other than what we
11 already have with additional supplemental information for the
12 public to look at. They're going to comment back on that, which
13 will help us reach some policy decisions, which will enable us to
14 prepare a draft, a final draft restoration plan, and an EIS to go
15 with it. So I hadn't viewed that we're trying to send out a
16 restoration plan on June 16th. If that's the view of the original
17 motion, we probably ought to go back and revisit it. I don't think
18 we make it good enough for June 16th, calling it a restoration
19 plan, other than what we already have.

20 MR. BARTON: What is your intent, Mr. Stieglitz?

21 MR. STIEGLITZ: (inaudible --out of microphone range)

22 MR. BARTON: Your intent was to send out a restoration
23 draft -- draft restoration plan?

24 MR. COLE: Mr. Chairman?

25 MR. BARTON: Mr. Cole?

26 MR. COLE: Getting to the bowels of something, I'm not

1 sure what but, Mr. Stieglitz, are you talking about the statement
2 of principles that, the real restoration plan by the 16th?

3 MR. STIEGLITZ: Well I'm not sure what statements of
4 principles?

5 MR. COLE: Well, I'm talking about, do you envision that
6 it'll be a draft of the proposed restoration plan will be sent out
7 on the 16th of June?

8 MR. STIEGLITZ: Something called a draft restoration
9 plan, yes, would go out sometime in June.

10 MR. COLE: Because my understanding up to this very
11 moment was that we were going to send out what really amounts to a
12 supplement to the newspaper brochure.

13 MR. STIEGLITZ: Supplemental ...

14 MR. COLE: Yeah. Now, and, and not put anything in the
15 supplement that was in the newspaper brochure, but to tell the
16 public, well, here's some supplemental material and -- to go along
17 with the newspaper brochure, etc., etc. That was my idea of what
18 we were going to do.

19 MR. STIEGLITZ: I think perhaps it might be useful, if we
20 go that route, to explain the sequence. We have been around,
21 around, around with this thing. I mean, it's getting a little
22 confusing to everybody. If, if we follow this course, whosever
23 idea that was, that what, what, what are the other events to lead
24 up to a final restoration plan?

25 MR. PENNOYER: Well that's sort of what we asked as an
26 explanation in the letter that goes out to tie it together with, --

1 the way -- way it looks now to me is we're going to go out and the
2 questions we've asked are going to give some general policy
3 guideline. A couple specific like endowment or no endowment -- I'm
4 not sure how those relate to the other questions, but we've sent a
5 series of questions. We're going to reiterate them in the letter
6 again, because some people got missed the first time. The public,
7 in looking at this draft synopsis, have asked us some further
8 questions. So we've got appendices, which we talk about modifying
9 also, that are being prepared and are available to the public.
10 When we get these answers back by August 6th, and perhaps some of
11 the ground work before that, we're going to have to prepare the
12 draft restoration plan that is going to deal more specifically with
13 our objectives, list of items that Mr. Barton enunciated earlier --
14 our objectives, our statements of injuries by resource, some of the
15 options available of dealing with those injuries by resource, sort
16 of a D-1 approach -- that will then lead us into an annual work --
17 that will get us a draft restoration plan hopefully that, we'll
18 probably have to seek more public comment on and write an EIS
19 around. We'll get all that stuff back sometime in the spring of
20 '94 in final form.

21 MR. STIEGLITZ: Let me pursue that.

22 MR. PENNOYER: I guess.

23 MR. STIEGLITZ: ... in the process of being a little
24 clearer, you say that we, sometime after August, we'll prepare a
25 draft restoration. We'll prepare a restoration plan which may have
26 to go out for more public comment. Is it -- would it be your

1 vision that, in fact, it's a true draft plan. It does go out for
2 an extended public comment period, and then some months in the
3 future, we finally have a final restoration plan?

4 MR. PENNOYER: I think it probably would because I think
5 to get an EIS that goes with it, you're going to be subject to all
6 the NEPA public hearing requirements anyhow. We have put off doing
7 the EIS until we have this more, better, statement of principles
8 and objectives and injuries in front of us so we can do an EIS from
9 it. So I think those two are going to go lock-step together, but
10 having a draft in front of us, I think enables us to proceed with
11 the '94 work plan.

12 MR. BARTON: Would that be a draft or a proposed final?

13 MR. PENNOYER: Sorry, proposed final draft. I don't know
14 what the words are. Until you call it final, it's always draft,
15 isn't it.

16 MR. BARTON: (Indiscernible)

17 MR. PENNOYER: Alright, so then I suppose it's a draft.
18 A final draft. After August 6th.

19 MR. STIEGLITZ: Mr. Chairman?

20 MR. BARTON: Yes?

21 MR. STIEGLITZ: I think it might also be very useful if
22 you could describe precisely what goes out after July. Are we
23 talking about three pages, or are we talking about a summary of --
24 another summary of the comments that we've gotten? What are --
25 what are we talking, you know, we've spending lots of time over the
26 last hour talking about our instructions to the Restoration Work

1 Group about what's supposed to go into a plan. Why have we been
2 talking about a plan if we're not contemplating doing one until
3 sometime later in the summer?

4 MR. BARTON: Mr. Cole?

5 MR. COLE: I'll explain that. We want to prepare the
6 plan after we get the full public comment on the alternatives and
7 there is meaningful public participation. When we collect all the
8 data, then we will set about preparing a plan. That's the idea.

9 MR. STIEGLITZ: So we're contemplating sort of a long-
10 range instructions to the group. When they finally get around to
11 writing a plan.

12 MR. COLE: Well, no, not when they finally get around to
13 it. When this material comes in on August 6th, it's to be
14 collected summarized, reported to the Trustee Council, and then we
15 will start drafting a restoration plan, then and there.

16 MR. BARTON: Seems to me that we have several tasks laid
17 out, one of which is to send out some information in short term,
18 whatever form that takes. Second would be to get the public
19 comments back on that information plus the newspaper. Put together
20 a proposed final plan which then would be injected into the NEPA
21 process for which then a draft environmental impact statement would
22 be developed for the proposed plan. That would go out for public
23 comment again. We would get those comments back on that and
24 develop a final environmental impact statement and issue a record
25 of decision sometime a year from now or better.

26 MR. COLE: Mr. Chairman, could we have a question on my

1 motion to amend?

2 MR. BARTON: Yes.

3 MR. COLE: That we not duplicate anything, that would
4 maybe help us along.

5 MR. BARTON: The amendment to the main motion, which Mr.
6 Cole made and Mr. Pennoyer seconded, I believe, was to amend Mr.
7 Stieglitz's motion, which I will go through again if we need to,
8 but that none of the material that goes out in the short term be a
9 duplication of what was sent out in the newspaper -- substantive
10 duplication -- duplication of what has been gone out in the
11 newspaper. Question has been called. Is there an objection to the
12 amendment? Hearing none, the amendment stands. The motion is so
13 amended.

14 MR. PENNOYER: What's the motion?

15 MR. BARTON: The motion at this point is to issue
16 something in the short term that is not substantively --
17 substantive duplication of what is in the newspaper, includes a
18 clarification of the introduction, that there will be no appendices
19 attached, that the text on general restoration will be used on the
20 present page 34 -- that upon page 34 of the existing draft -- and
21 will use a couple of examples of general restoration options that
22 are mutually agreeable to Trustee Council members, that the Trustee
23 Council members, will personally consult and direct their
24 restoration planning Work Group members and this will all be done
25 by June 15th at which time then, as I understood you to say, that
26 this will then be returned to the Council members for their review

1 and further action. Mr. Cole? I don't know if I can remember it
2 again.

3 MR. COLE: Well, this is simple. I'll motion to amend
4 that revision to be done by the 21st of June rather than by the
5 what, the 16th?

6 MR. BARTON: 15th?

7 MR. COLE: 15th.

8 MR. BARTON: Is there a second to the motion, or the
9 amendment?

10 UNIDENTIFIED: Seconded.

11 MR. BARTON: Moved and seconded. Is there an objection
12 to the motion?

13 MR. PENNOYER: Mr. Chairman?

14 MR. BARTON: Mr. Pennoyer?

15 MR. PENNOYER: August 6th is the public comment deadline?
16 Is this still going to get out in time to allow for meaningful
17 understanding of what we've done?

18 MR. COLE: If we send it back - August 6th back to the
19 15th. I mean that's not carved in stone and let's let the process
20 work a little more effectively, rather than these artificial dates.
21 Is there any...

22 MR. BARTON: Mr. Rice?

23 MR. RICE: I, my vision of what we're sending out is an
24 extremely small document, so I think our printing time is
25 drastically reduced on that, so we may be off on a couple of days
26 of getting it out to the public, but not by that much.

1 MR. BARTON: Well, if we're not going to get this done
2 'til June 21st for Council members to review, (simultaneous aside
3 comments) -- if we got any reaction from the Council by July 1st,
4 it would be remarkable -- and -- so that, I assume the way, of at
5 least a couple, that would lead into the period by a couple of
6 weeks.

7 MS. RUTHERFORD: Mr. Chair?

8 MR. BARTON: Yes.

9 MS. RUTHERFORD: I'm confused about something. I ask for
10 clarification. I understand that the amendment proposes making
11 some changes, especially to appendix D...

12 MR. BARTON: The motion does, which we haven't voted on
13 yet. We're dealing with the amendment to change the date that you
14 all get this done by June 21st. . .

15 MS. RUTHERFORD: I understand, but it's important to the
16 date. I think.

17 MR. BARTON: Okay.

18 MS. RUTHERFORD: What I think we understand is that we
19 do this three or four page letter, we get your review, we send it
20 out in a timely fashion. In the meantime, we're working on these
21 amendments, changes to the appendices. And we all agree on what
22 finally goes out. Is it your intentions that the -- only the three
23 or four page document go out first, and then the appendices are
24 available for people who are interested in having them?

25 MR. BARTON: The main motion says no appendices will go
26 out.

1 MS. RUTHERFORD: Ever? But that they are offered in this
2 cover letter?

3 MR. BARTON: They're not offered.

4 MS. RUTHERFORD: They're not offered?

5 MR. BARTON: The examples of the general restoration
6 options are included. As I understand the motion though, no
7 appendices will go out.

8 MS. RUTHERFORD: Including the expanded injury
9 information or the settlement expenditure information?

10 MR. BARTON: That's the motion.

11 MS. RUTHERFORD: Thank you.

12 MR. BARTON: Mr. Pennoyer?

13 MS. RUTHERFORD: Then we can meet your deadline.

14 MR. PENNOYER: I -- I guess I don't understand that. I
15 thought we were going to make we were going to modify Appendix D to
16 use examples and introduction but we were going to make available
17 to the public if they wanted it the expanded injury information
18 they requested in public hearings and the other information. Now
19 we're not going to mail it out, but we're going to say in the cover
20 letter, this information is available upon request, maybe send it
21 to the library. You're just going to say we're not going to do any
22 of that?

23 MR. BARTON: Well, I'm interpreting what the maker
24 intends, which is dangerous I guess. What is the intent of the
25 maker?

26 MR. STIEGLITZ: It is in this case, because the motion is

1 that the appendices are not attached to the document we send out,
2 the plan or whatever name we want -- if they're sent out under
3 separate cover letter for some other reason, that was intended to
4 be precluded.

5 MR. BARTON: Okay. I'm glad you clarified your motion.
6 But that doesn't address the difficulties some of us with the
7 content of the appendices -- if there's still available, they still
8 exist in their form. Now either we need to take them out of
9 existence or we need to modify them, if we chose, to meet the
10 difficulties that some have with them. Mr. Pennoyer?

11 MR. PENNOYER: Include -- redefine general restoration
12 with the examples, I thought that was for the appendix, because
13 general restoration is already defined in the brochure, rightly or
14 wrongly with some examples already, and if we only send a cover
15 letter out without doing 1 through 43 again, then I'm not sure why
16 we deal with general restoration in the cover letter. I thought
17 that was going to be the modification of that appendix, so that we
18 could in fact, provide it upon request.

19 MR. BARTON: I wonder if this would benefit from a little
20 recess?

21 MR. COLE: If we go to the '94 work plan, my suggestion
22 is that we take this up after lunch when our minds are cleared.

23 MR. BARTON: We can do whatever we choose to do, I guess,
24 in regard to the agenda. Some were concerned that we couldn't
25 deal with the '94 work plan until we had resolved this, so -- Mr.
26 Stieglitz?

1 MR. STIEGLITZ: Yeah. While this is fresh on my mind, I
2 guess I really don't want to lose it and I think it's important, I
3 think to the intent of the main motion and how the amendment
4 affects that -- and again, maybe I'm the only one that's confused
5 at this point and time, but in the newspaper brochure, it lists the
6 five alternatives that are also included in what is now the draft
7 restoration plan and it also asks questions about the same major
8 policy issues that are contained in the draft restoration plan.
9 Now based on the amendment, those questions would not be asked in
10 whatever we're going to send out in June. And does everyone
11 understand that to be the case, and is that the intent of the
12 amendment?

13 MR. COLE: No.

14 MR. STIEGLITZ: Well, that's my problem. I mean, to my
15 way of thinking, those things are critical to this whole
16 restoration planning process, and I don't know how we can send
17 anything out in June that doesn't include those and ask that
18 question, even though it has already been asked in another form.
19 I mean, I think that has to be part of what we send out in June.

20 MR. COLE: What things are you referring ...

21 MR. STIEGLITZ: Pardon me?

22 MR. COLE: What things are you referring to?

23 MR. STIEGLITZ: Specifically about the description
24 alternatives and the questions about the major -- the five major
25 policy issues.

26 MR. COLE: Oh, yeah.

1 MR. STIEGLITZ: They are in here. The amendment to the
2 motion precludes them being included in the June document, and I
3 think that's a mistake.

4 MR. BARTON: Mr. Cole?

5 MR. COLE: If that's -- in my understanding, that's not
6 the case. We said no substantive changes . . .

7 UNIDENTIFIED: Substantive duplication.

8 MR. COLE: Yes. No substantive duplication. That would
9 not be a substantive duplication -- substantive duplication. This
10 document which I think, my idea, we intend to send out will be, you
11 know, contain a nice transitional letter and try to focus on what
12 we want the public to do. We'd say, here's some more information
13 that the public has asked for, giving more details of the injuries,
14 maybe some more information about the expenditures, and, and that's
15 all. Try to just focus this just a little more with a little more
16 information, but not to have essentially the same document go out.
17 I appreciate this clarification. It is my understanding with
18 respect to what you gentlemen perceive?

19 MR. BARTON: Mr. Sandor?

20 MR. SANDOR: Well, I think, just getting back to this
21 document which we discussed before, we made a commitment that
22 people can respond -- could have responded to this package at the
23 public meetings or earlier or wait until this more complete package
24 went out in June. This more complete package needn't be more
25 complete -- needn't be redundant. However, it must include the --
26 the tell-us-what-you-think section and essentially that's verbatim

1 -- I guess with some addition, but essentially verbatim. So --
2 this -- at least one page has to, has to be duplicated in its
3 entirety. The spirit though that is certainly represented in this
4 document is that if people want more information, they can get it,
5 and they may want it. So I'm troubled by any suggestion that we
6 not give the appendices or the information that we have if people
7 want it. It ought to be modified or somewhat, I guess, but I guess
8 the bottom line on this is that this -- this page, essentially had
9 to be reduplicated, and then I guess the way your motion reads, the
10 appendix doesn't have to -- will not go out and will not even be
11 referenced.

12 MR. BARTON: Well, it's not, as I understand what the
13 maker of the motion intends.

14 MR. SANDOR: I seconded the motion at the time thinking
15 that the appendices would be available upon request.

16 MR. COLE: I think we all agreed that the appendices
17 would be available on request, are we not?

18 MR. SANDOR: Well, you know, then when we're back, I
19 think, that's something we could live with except for this
20 exception that must be duplicated on what do you think?

21 MR. BARTON: Dr. Gibbons?

22 DR. GIBBONS: Yeah. If I can give you my thoughts on
23 what we could get you as a package for your review would be the
24 cover letter which we talked about, linkage statements to the plan,
25 future actions of the Trustee Council, what's the next steps, what
26 we, you know, draft restoration plan -- final draft restoration

1 plan, include the policy questions, right up front, right after the
2 cover letter, asking them again to reiterate the questions we're
3 asking them, and then we can get you the appendices, and what --
4 what I heard said here today was that there was no comment about
5 Appendix A, and that was a request from the public, we got a lot of
6 that request and we need to check those numbers. You know, we've
7 checked them and checked them, but check them again. But what I
8 heard was Appendix B and C were good, but needed to be trimmed
9 somewhat. There was some information we could reduce out of those.
10 Appendix D needs to be revamped, this to include several examples
11 at the approval of the Trustee Council and let it go at that. We
12 can those appendices for you as part of that package in June so you
13 can look at them to make sure that we followed your thoughts on
14 those.

15 MR. COLE: So moved.

16 MR. PENNOYER: Seconded.

17 MR. BARTON: Okay, that's the second amendment that's
18 pending. We had the June 21st amendment first. Let's act on that.

19 MR. COLE: Where are we on the June 21st. Do you need
20 that much time to do it well?

21 MR. BRODERSEN: Mr. Chairman?

22 MR. BARTON: Yes, Mr. Brodersen?

23 MR. BRODERSEN: If we could just send out cover letters
24 stating that we talked about, we could have that to you in two
25 days, and then the appendices don't need to be ready until a couple

1 weeks after that because people will have to call back in or write
2 back in to request that. So I -- to make the August 6th date which
3 I think we're trying to try for. Let's -- let us try to get you a
4 cover letter as quickly as we can, which will be sometime next
5 week, and we'll get you the appendices as soon as we can after that
6 trying to maintain the late June publication date of the
7 appendices.

8 MR. BARTON: Well, then -- is there any objection to
9 the motion of June 21st? I object. Now.

10 MR. COLE: -- That's taken care of that. [Laughter]

11 MR. BARTON: You were about to make another amendment,
12 Mr. Cole?

13 MR. COLE: No, I'm wiped out. [Laughter]

14 MR. BARTON: Mr. Stieglitz?

15 MR. STIEGLITZ: I want clarification, the cover letter
16 that -- that Mark is talking about, is this cover letter that would
17 accompany -- or tell people the appendices are available if they
18 want them, that -- that's the only function of that cover letter,
19 right?

20 MR. BRODERSEN: Stand-alone cover letter.

21 MR. STIEGLITZ: Okay.

22 MR. PENNOYER: No, no. The cover letter also includes
23 what the process is, the relationship for the EIS we didn't send
24 out, the restoration plan we're going to send out, and the linkage
25 to the '94 work plan. It explains all that.

26 MR. STIEGLITZ: Is it going to include the questions?

1 MR. PENNOYER: Yes.

2 MR. STIEGLITZ: So it is, the plan in quotes, or whatever
3 it is?

4 MR. BRODERSEN: It's not a plan.

5 MS. RUTHERFORD: It refers back to the brochure.

6 MR. STIEGLITZ: It's an explanation of what this
7 amendment, what we're going through here.

8 MR. BRODERSEN: I -- it seems a little longer than three
9 to five pages, when you get down to the whole package.

10 MR. BARTON: We'll not count pages today. We'll count
11 pages later. Alright, are we ready for the question on the main
12 motion now? Any objection to the main motion? Hearing none, the
13 main motion passes. Is there any more business to be done on the
14 restoration plan? Are we ready to move along. We spent eleven
15 hours, and we're at item four on the agenda. The '94 program of
16 work. I like -- [Laughter]. We'll start moving here shortly. Dr.
17 Gibbons, the '94 work plan. Dr. Gibbons, the '94 work plan.

18 DR. GIBBONS: Yes, we passed out this morning some new.
19 -- our notes from the assumptions that you developed yesterday. I
20 think there's comments, I mean, there's copies in the foyer for the
21 public, but I guess that's where we need to start with the
22 assumptions.

23 MR. BARTON: Any comments or questions on the draft of
24 the assumptions that we intended to capture yesterday's discussion.
25 Mr. Sandor?

26 MR. SANDOR: Since it's on the table, I move that -- that

1 the summary be approved.

2 UNIDENTIFIED VOICE: Seconded.

3 MR. BARTON: Moved and seconded. Any further discussion?

4 DR. MONTAGUE: Mr. Chairman?

5 MR. BARTON: Mr. Montague?

6 DR. MONTAGUE: As the point of clarification, the meeting
7 yesterday, item six, the word "restoration" was, as I understood
8 it, to be defined as in the memorandum of agreement. I wondered if
9 it would be -- if that's the case, perhaps I should read what that
10 definition is because it is --

11 MR. BARTON: Does any member of the council need that
12 read? The definition of restoration as defined in the MOA? As
13 contained in MOA?

14 MR. PENNOYER: What purposes, something different than is
15 in there now?

16 MR. BARTON: Just to clarify. I think was Mr.
17 Montague's comment. Mr. Sandor?

18 MR. SANDOR: If you're making a point with its
19 recitation, go ahead and point out the problem or issue.

20 DR. MONTAGUE: Well, Mr. Chairman, the original wording
21 in here for implementation projects, certainly "the word
22 implementation was decided not to be the appropriate one, but if we
23 use restoration as defined in the settlement, this number six would
24 hardly make any sense because the word restoration in the
25 settlement allows for everything that we can possible do, thus how
26 can it be emphasized.

1 MR. BARTON: Mr. Cole?

2 MR. COLE: Can we start down them and address six when we
3 get there, that would be my thought. I would like to suggest that
4 one and two and three be combined so as to read as follows: "The
5 restoration plan will not be completed by the time the 1994 work
6 plan needs to be improved." By that change, may to will. That's
7 clear isn't it? Then put a comma after "improved" and say "but it
8 should be in place by the time." Just strike a "restoration plan"
9 and two, "shall agree" comma "but it should be in place by the time
10 the '94 work plan is implemented." Then the next sentence would
11 read "The Trustee Council can" comma "however" comma, and the
12 sentence continues to read as it is. Number three.

13 MR. BARTON: Any objections to that modification?

14 MR. PENNOYER: Mr. Chairman?

15 MR. BARTON: Mr. Pennoyer?

16 MR. PENNOYER: I have a question. I think the will is
17 true. I'm not sure the final restoration plan and EIS are going to
18 be in place, and we may have proceed with the '94 work plan based
19 on the draft restoration plan that's in front of us. So I -- I
20 guess I say, "but a draft restoration plan should be completed by
21 the time the '94 work plan is implemented."

22 MR. COLE: If that's the will of the Council.

23 MR. PENNOYER: Well, I was just trying to -- I want to do
24 something in '94 and I'm not convinced those dates are going --
25 that we won't be like May before we have the restoration plan
26 finalized. We may have to implement some activities in March.

1 MR. COLE: Well I don't want to look forward to not
2 having a restoration plan done before, until next April.

3 MR. PENNOYER: Mr. Cole, I don't disagree with you. I'm
4 just trying to solicit a statement of principles, and if the
5 principle we adopt is that no restoration will be -- proceed --
6 until we have a final restoration plan -- we get hung up on the EIS
7 part of it -- I'd hate to be backed into that type of corner. So
8 it would read "but a draft restoration plan should be completed..."
9 or we could even put "will be completed" instead of "should be"
10 completed -- "by the time the '94 work plan is implemented." Then
11 under the last part of it, "other approved restoration projects to
12 be implemented must be consistent with the draft restoration plan."

13 MR. COLE: Where are you now?

14 MR. PENNOYER: Under three, where you recombined them?

15 MR. COLE: Yes.

16 MR. PENNOYER: "Other approved restoration projects to be
17 implemented must be consistent with the draft restoration plan."
18 If the final doesn't happen to be in place at that particular
19 moment and time.

20 MR. COLE: What about the first sentence in three?

21 MR. PENNOYER: No. I think that's -- I think it's okay,
22 isn't it?

23 MR. COLE: Alright. Then what about (indiscernible)?

24 MR. PENNOYER: Just change adopted to draft restoration
25 plan, just in case, come March 15th, when we got to do a herring
26 spawn survey, or something, we haven't completed the EIS.

1 MR. COLE: What about four?

2 MR. BARTON: Is there any objection to the
3 modifications? Hearing none, so be it. Four?

4 MR. COLE: I don't understand four. What does it mean?
5 I move to strike it out?

6 MR. BARTON: Is there any objection to striking four?
7 Hearing none. Five? Any comments on five? Six?

8 MR. SANDOR: Just a point that Jerome was making -- and
9 it used to say, "fishing activities will be emphasized."

10 MR. PENNOYER: We could just say we're going to do
11 meaningful work.

12 MR. COLE: I object. [Laughter]

13 MR. BARTON: Mr. Cole? Order.

14 MR. COLE: In order to change that, could we simply say:
15 add at the beginning of the sentence "direct" so it says "direct
16 restoration?"

17 MR. BARTON: Any comments on that modification?

18 DR. MONTAGUE: Mr. Chairman, I think that would help it
19 a lot.

20 MR. BARTON: Direct. Any objections to that change?
21 Hearing none. Seven?

22 MR. COLE: I would move to change "needs to" -- to
23 "should."

24 MR. BARTON: Any objection to that change. Any other
25 changes in seven? Any objections to -- seven is modified. Hearing
26 none, eight?

1 MR. PENNOYER: Mr. Chairman, I'm not sure what the word
2 activities means. Activities is a very broad word, and if it's --
3 let's say it's research on sea otters, and Interior normally does
4 that, so that means you wouldn't fund any research on sea otters.
5 I'm not clear what the word 'activities' means.

6 DR. GIBBONS: Mr. Chair?

7 MR. BARTON: Dr. Gibbons?

8 DR. GIBBONS: Yeah. You change it to functions when we
9 were looking at that -- that -- we had -- maybe we were reading too
10 much in it -- into it -- but that does the same thing that, you
11 know, anything that -- Fish & Wildlife Service does work on otters,
12 that means you can't do any work on otters. And that's what our
13 concern was with that word "functions" because what the real gist
14 is here, what we're trying to get at, if we were doing activities
15 before the oil spill, we don't want to be funding them with oil
16 spill funds. That's the idea. The normal activities that would be
17 conducted before the oil spill you know, should not be funded by
18 oil spill funds. Only increased activities as a result of the oil
19 spill, and that's what we're trying to get out, with those
20 comments, and it is difficult to...

21 MR. PENNOYER: (Indiscernible).

22 DR. GIBBONS: ... we were searching for a word.

23 MR. BARTON: I understand what Dr. Gibbons is saying.
24 You know, the reason we are on here is because we have functions
25 that were affected by the oil spill, with some possible functions.

1 MR. COLE: My standpoint is clear. The functions of
2 agencies which are in their usual statutory obligations and duties
3 will not be funded.

4 MR. BARTON: What we are trying to avoid, or what we are
5 trying to do is fund that increment that was caused by the oil
6 spill. Isn't that what we're trying to do?

7 MR. SANDOR: Well then, why not say normal agency
8 management functions not directly related to the oil spill will not
9 be funded? If that's what you're worried about -- functions
10 somehow be indirect.

11 MR. BARTON: Ms. Bergmann?

12 MS. BERGMANN: I can't find my copy from yesterday, but
13 the language that the federal Trustee Council members had proposed
14 that we discussed yesterday had some alternative language that I
15 think may take care of what we are discussing here. But I can't
16 find my copy.

17 DR. MONTAGUE: Mr. Chairman, item eight is the federal
18 version and I would concur with that.

19 MR. BARTON: Why don't you read that to us, Dr. Montague?

20 MR. PENNOYER: "Agencies will not be funded for projects
21 unrelated to the Exxon Valdez oil spill or for costs that agencies
22 would normally fund if the Exxon Valdez Oil Spill had not
23 occurred."

24 MR. BARTON: Shall we substitute that language for item
25 eight, any objection?

26 MR. PENNOYER: Good.

1 MR. BARTON: Okay, nine.

2 MR. PENNOYER: That's an example where more words are
3 better than fewer, maybe.

4 MR. BARTON: Mr. Cole reserves the right to change his
5 mind on item eight. Alright, item nine. It is typed up somewhere.
6 Where was it typed up?

7 MS. BERGMANN: It was on the back of the spreadsheet.

8 MR. BARTON: Quick, quick. Let him read it. We're still
9 on eight?

10 MR. COLE: What troubles me about this one, when I read
11 it yesterday was whether we were satisfied with the reference to
12 population level or sublethal injuries.

13 MR. BARTON: We're on eight.

14 MR. COLE: Thank you. Thank you, that's all right.

15 MR. BARTON: Item eight. Any further reservations about
16 eight? Hearing none, we'll substitute the language from the second
17 alterative for the language that we're looking at now. Item nine
18 Any concerns with item nine?

19 MS. BERGMANN: Mr. Chairman?

20 MR. BARTON: Ms. Bergmann?

21 MS. BERGMANN: We might suggest that we use the language
22 that's in the draft restoration plan that was provided to the
23 Trustee Council. On the first page of Appendix B, page B-1, I
24 would suggest switching that because the definition that is
25 included under this current item nine was taken from the
26 Restoration Framework, and it would seem to me that the information

1 that we have in the draft restoration plan document in front of us
2 is more current and is more succinctly written.

3 MR. SANDOR: B-1?

4 MS. BERGMANN: Yes, appendix B-1.

5 MR. BARTON: Mr. Pennoyer?

6 MR. PENNOYER: How about services, Ms. Bergmann, that's
7 referred to in our definition under item nine on the table, this
8 just refers to injuries to natural resources?

9 MS. BERGMANN: Page B-1 does just define natural resource
10 injury, but page B-2 does define injury to services. It's
11 basically the same idea, it's just more succinctly presented. It
12 includes the idea for natural resources of direct mortality,
13 sublethal and chronic effects and degradation of habitat, which is
14 captured in item nine that we're looking at here on the
15 assumptions. And injury to services talks about -- whether or not
16 there's been significant reduction in the physical or biological
17 functions performed by natural resources or a significant
18 reductions of aesthetic or intrinsic rather indirect uses provided
19 by natural resources.

20 MR. BARTON: Mr. Pennoyer?

21 MR. PENNOYER: Where's this consequential injuries stuff
22 come from? What's consequential injuries. Why -- why is there a
23 difference in these two?

24 MR. BARTON: Dr. Gibbons?

25 DR. GIBBONS: The language in the assumptions came from
26 the Framework document that was released in April of '80 -- April

1 of '92 -- as a. -- as a framework for the draft restoration plan.

2 MR. SANDOR: Item B -- ?

3 DR. GIBBONS: No, it is not.

4 MR. SANDOR: Should it be included in nine, or does it
5 have to be?

6 MR. BARTON: It should not be? I guess, and why not?
7 Well I'm not advocating it, I'm just curious.

8 DR. MONTAGUE: Mr. Chairman, I think I could offer
9 something on that. When the Restoration Framework was prepared
10 last April, but April a year ago, that was just the first
11 definition we had used. What is in B-1 and B-2 evolved from that
12 and probably is a more accurate --.

13 MR. PENNOYER: Move to substitute B-1, B-2 for item nine.

14 MR. STIEGLITZ: Seconded.

15 MR. BARTON: Moved and seconded. Is there objection?
16 (Indiscernible, aside comments) Okay. Would we also include that
17 language on B-2 is other injury to other natural resources, so that
18 we're going to end up with quite a lengthy item nine.

19 MR. COLE: Could we defer this to after lunch -- final
20 action on this one?

21 MR. BARTON: Motion to table this until after lunch, is
22 there a second? Moved and seconded, is there objection to tabling?
23 Hearing none, nine is tabled until after lunch. Item ten? Any
24 discussion on item ten? Hearing none, we adopt that. So we've
25 adopted nine of the ten. There is no further action we can take at
26 this time on this, I guess, is there Dr. Gibbons? Do you want to

1 move on to the second item that we have to consider which was give
2 specific guidance on the mix of restoration resource and service
3 activity emphasized on the draft '94 work plan. Who is going to
4 help us with this? What is it specifically that you are asking us
5 for. Can someone verify that request for us?

6 DR. MONTAGUE: Mr. Chairman?

7 MR. BARTON: Mr. Montague:

8 DR. MONTAGUE: This is always a been a thorny issue in
9 the past, and that's why we left it for other vague and nebulous
10 because we don't know how comfortable you'd be with how much
11 specificity you could put there, but some examples would be the
12 percentages as outlined in one of the alternatives. That would be
13 guidance that we currently don't have, you know. What percentage
14 for habitat protection, what percentage for monitoring, and so on,
15 and so forth. More specific than that would be, for instance, to
16 look in the table that you have here that lists all the resources.
17 Are there any of those resources that you want emphasized or that
18 you don't want in the plan at all?

19 MR. BARTON: Table you are referring to is the one with
20 the tasks of the May 28th memo?

21 DR. MONTAGUE: Correct. Those are the kind of things we
22 would hope to get from you all for this second decision item.

23 MR. PENNOYER: Mr. Chairman?

24 MR. BARTON: Mr. Pennoyer?

25 MR. PENNOYER: Could we have some clarification first on
26 a couple of the basics for the '94 work plan. One, how much money

1 is available? Just overall, what are we considered in scope of
2 projects we can do, -- ?

3 DR. MONTAGUE: Mark Brodersen, could you -- I think you
4 could probably cover that one better than any of us.

5 DR. GIBBONS: We have a payment coming up in September,
6 of a hundred million dollars from Exxon. Right now, in the
7 account, we have approximately fifty two point five million
8 dollars, roughly somewhere in that range. There's twelve point
9 five million of that is in the habitat protection fund that the
10 Trustee Council approved. They approved twenty million and then
11 authorized seven point five million for Kachemak Bay. The
12 remaining still sits in the account. Leaving somewhere about forty
13 million dollars pending seal bay agreement or whatever, so that's
14 what we have now.

15 MR. BARTON: Well, we've obligated essentially forty
16 million to Seal Bay.

17 DR. GIBBONS: Yeah. If that's the case, then we have
18 about one hundred million dollars coming in September.

19 MR. BARTON: Unless there's some other arrangements on
20 a payment schedule of some sort with Seal Bay. So we got 100
21 million plus a little.

22 MR. BRODERSEN: One hundred ten million.

23 DR. MORRIS: Mr. Chairman?

24 MR. BARTON: Mr. Montague?

25 DR. MORRIS: This is Mr. Morris. There may be some
26 reimbursements also taken out of that one hundred million.

1 MR. BARTON: Do we know what the ballpark is on those
2 reimbursements?

3 DR. MORRIS: Nobody's told me.

4 MR. PENNOYER: -- agreement?

5 MR. BARTON: Are we talking about? I'm sorry Dr.
6 Gibbons, go ahead.

7 DR. GIBBONS: I think there's around thirty five million
8 dollars left in the agreement of the sixty seven and seventy five
9 million.

10 MR. BARTON: Okay. It's the reimbursement from the
11 damages

12 MR. PENNOYER: Mr. Chairman, mutual agreement, there's
13 thirty five million left.

14 UNIDENTIFIED VOICE: (indiscernible)

15 DR. GIBBONS: Yeah. But there's a period from the
16 settlement of March '91, I think it is the 13th of March to the
17 period of February 29 of, 92, that there is -- the decision hasn't
18 been made on the reimbursement amounts from there that I'm aware
19 of.

20 MR. BARTON: What are these other reimbursements? Is it
21 from that time frame that you're talking about? So there's thirty
22 five million outstanding in reimbursements plus that.

23 DR. GIBBONS: That's correct.

24 MR. BARTON: So we've got one hundred ten million minus
25 some now.

26 MR. BRODERSEN: However much you wish to take.

1 MR. BARTON: For the reimbursement. Dr. Pennoyer?

2 MR. PENNOYER: Mr. Chairman, -- questions might help set
3 the stage for this. We did send this list out for public review.
4 We said, these are all the things you've told us about, do you have
5 any preferences at this stage, but we, but we out to do in '94
6 versus what we ought defer, what we should fund. It was as
7 confusing to the public as I think that list of projects has been
8 to us. We have managed to attract one hundred eleven new projects,
9 whether we asked for them or not, and we got some responses from
10 people in terms of their priorities. Some things were very low
11 priority, others were fewer, sort of overwhelming, but most of them
12 were sort of fifty-fifty. And obviously the number responses we
13 get doesn't enable us to say a whole heck of a lot about what
14 people really want to see done, particularly when you consider that
15 I think the quickest way to do them and -- responses is having them
16 site-specific and therefore, people that aren't going to say
17 things, decide they don't want to do it. So I don't know what we
18 do with that. I guess when we sent this thing out, we had certain
19 classes of studies that might have added up to certain numbers of
20 dollars. Have you tried in any way look at the response we got,
21 even the response we got and characterize the projects by category,
22 monitoring projects, by resource or by archeology? I noticed one
23 thing we got said archeology got a rather consistently low support
24 from most of the places you went and talked to. Public
25 impressions, data transfer -- low support; visitor centers -- low
26 support; recreational development -- low support; this fish passage

1 was low support; accelerated intertidal restoration low support;
2 maricultural and fish hatcheries -- low support. I -- I'm not
3 clear with the amount of money we've got, if we have anything back
4 from that process that gives us any type of guidance in terms of
5 what public priorities are. The second question is that, of
6 course, we're going to have develop this some type of -- with the
7 restoration plan. So anything we do here now to give you any type
8 of guidance of -- will be a little bit problematical in terms of
9 where we go with things like better resource management, how that
10 fits into restoration. But do you have any guidance for us at all
11 from what you went out and heard in terms of this several hundred-
12 million-dollars worth of list that we have in front of us now? 94,
13 did you get any feeling at all back from that process?

14 MR. BARTON: Ms. Rutherford?

15 MS. RUTHERFORD: I think that for the most part, the
16 public -- when we went out for the public meetings, they had just
17 received that document. Actually a lot of them received it the day
18 we were there. So they had more questions about it, but very
19 little input to us on -- on -- particularly on that document,
20 although in those notes we gave you we did, there were specific
21 projects mentioned, but most of those are captured on that
22 document.

23 MR. BARTON: Mr. Sandor?

24 MR. SANDOR: Well, with respect to guidance on the mix of
25 restoration services and service activities to emphasize in draft
26 work 1994 work plan, I would look in part to this Prince William

1 Sound Communities Organized To Restore the Sound because what they
2 are doing is looking at the full range of projects with respect to
3 the Sound and then prioritizing from the standpoint of what is
4 important to those communities. I don't have that -- the listing
5 that was referred to yesterday.

6 MS. RUTHERFORD: Mr. Chair?

7 MR. SANDOR: Yes?

8 MS. RUTHERFORD: I have it here and I'll hand it out.

9 MR. SANDOR: But it seems to me that what we want to do
10 is encourage these different sections or regions impacted by the
11 spill to do this very thing because what I understand happened in
12 this process is that they looked at the full range and then did
13 some prioritization from the standpoint of the community in the
14 Sound. So, with respect to the Sound, I think we ought to, for the
15 guidance that I would suggest, is that we give emphasis to what the
16 communities in the Sound believe are important.

17 MS. RUTHERFORD: Mr. Chair?

18 MR. BARTON: Yes?

19 MS. RUTHERFORD: I would just like to point out this is
20 provided to me by Tom Van Brocklin, but just as a point of
21 clarification, the first page is their listing of projects that
22 they have prioritized. The second page however, is just for your
23 information. It was a complete list of projects by community --
24 that was considered by the communities and will be potentially
25 discussed in the future. But the first page is their current
26 prioritization and requests.

1 MR. BARTON: Mr. Sandor?

2 MR. SANDOR: Well, I guess this is the point. See,
3 they've identified all these projects and then did this discussion,
4 and I'm sure this is probably their first cut at this, but I guess
5 the fundamental point though is that the Trustees ought to take
6 advantage of this screening process, this analysis and give special
7 consideration to it. This is in quite a contrast to one other
8 region of the area which we had, I think, three hundred million
9 dollar projects identified, and specifically in response to a
10 question I asked, well, what are the priorities. The response was
11 they all the same priority, and that was not very helpful. This is
12 helpful.

13 MR. BARTON: Mr. Stieglitz?

14 MR. STIEGLITZ: -- general comments about mix here now at
15 this point. I guess it probably no big secret, but I'm a big
16 proponent of habitat protection as a restoration device, and I
17 would like to see the Council provide some guidance to the folks
18 putting together the '94 work plan that would put very heavy
19 emphasis on habitat protection, and I would be so bold, if I could
20 engender some support from the Council, to suggest to them that a
21 -- and this is not to preclude what may come out of the final
22 restoration plan at all. My idea is this would be a one-shot deal
23 and it would come out of the plan as a preferred alternative comes
24 out, but I would like to see us provide some direction to the --
25 the -- group to develop a, '94 work plan that would provide plus or
26 minus ninety percent of the available funds for a habitat

1 protection.

2 MR. PENNOYER: Plus or minus?

3 [Laughter]

4 MR. STIEGLITZ: Approximately ninety percent. Realizing
5 you know, we have, we have some unknowns with -- in a fixed cost
6 more or less, if you will, to support OSPIC, administrative costs
7 for agencies. No doubt there's going to be support for the Public
8 Advisory Group, support for the Executive Director's office. There
9 isn't any doubt that we have bona fide monitoring work that needs
10 to continue and other restoration projects, but when you look at
11 the amount of funding available to us in '94, a figure of ninety
12 percent perhaps for habitat protection I don't believe is too far
13 out of line.

14 MR. BARTON: I -- I wonder what we would do with some
15 of the fisheries work that there has been an interest expressed in.
16 I personally feel that ninety percent is to high. I don't know, am
17 I on? I'm on. I think we just need to consider the full range
18 before we commit to a specific percentage like that myself. Mr.
19 Sandor?

20 MR. SANDOR: Well, we're on item two of this item?

21 MR. BARTON: Yes, which is to give specific guidance on
22 the mix of restoration resource and service activities to emphasize
23 in the draft and as Mr. Stieglitz just offered this as a -- as his
24 specific guidance. That's in somewhat contradiction to what I just
25 previously mentioned with regard to the Sound. We're talking about
26 a total of -- how much is available?

1 MR. BARTON: Possibly a hundred million.

2 MR. SANDOR: So that ninety percent would be, would leave
3 ten million for these other projects. Well, I think each Trustee
4 member could identify whatever, but there's a motion on the floor,
5 I could address it more specifically, but I don't suspect you're
6 wanting motions on, at this point and time, or do you?

7 MR. BARTON: I'm game for anything you all want.
8 Discussions, or motions or -- Dr. Gibbons?

9 DR. GIBBONS: Yeah. Back in February, when we approached
10 you with a draft, you know, our framework for the 94 plan, we had
11 a plan prepared based on all previous comments and stuff that we
12 had received to that date. I've got copies of that here. It might
13 be helpful in somewhat to help you frame some of this. The values
14 in this, which were passed out, include about fifteen million for
15 habitat work, I mean, excuse, fifteen million for restoration-type
16 work, including monitoring and administration, all the rest of it,
17 and twenty-five million at this time for habitat protection, and
18 that's what we put together on our thoughts here early in the '93,
19 and if you would like, I could pass these out, if not, I'd just
20 hold them to, but it was a mix and it was a mix, of projects and
21 there's some new thinking now that needs to be injected into this,
22 but that was our thinking back.

23 MR. BARTON: Mr. Cole?

24 MR. COLE: I have always thought, tentatively, that to
25 specify percentages of available funds to go to any single
26 restoration category might be a violation of our duties as

1 Trustees. I think that we are required to look at all of the
2 injuries to natural resources collectively, to make decisions as to
3 what actions would best lead to the restoration of those injured
4 resources and services and make decisions accordingly. For
5 example, if we were to say that ninety-five percent of the monies
6 to be used -- would be used for the acquisition for habitat, and
7 yet we saw a glaring need for restoration of other species, which
8 would take more than five percent, would we be doing the right
9 thing as fiduciaries to say, well, we can't look at the restoration
10 of those injuries because we've committed a fixed percentage to the
11 acquisition of habitat? I have trouble with that.

12 MR. STIEGLITZ: Mr. Chairman?

13 MR. BARTON: Mr. Stieglitz?

14 MR. STIEGLITZ: Yeah, I need to react that. I basically
15 agree with Charlie's comments about what our responsibilities are,
16 and I don't think it's a good idea to set a hard and fast
17 percentage that can't be violated in any way. I think we have to
18 be very flexible in how we approach funding these things. However,
19 my sense is that the Restoration Group is looking for some guidance
20 and some general feel from the Council about how important various
21 things are. Obviously, why -- they were thinking in terms of
22 twenty-five million for habitat protection. I'm suggesting why not
23 ninety million. So there's quite a broad range. I would think
24 that the group would like some sense of how important the Council
25 thinks habitat protection is in 1994. They don't have it now. I
26 don't care if you go with a fixed percentage or what, but somehow

1 you have to convey how important we think that it is.

2 MR. BARTON: Well, that is as well as other things.

3 MR. STIEGLITZ: Right. That's with everything. That's
4 what they're asking for. They're asking for a mix.

5 MR. BARTON: Mr. Rosier?

6 MR. ROSIER: For this prospective question on the -- Mr.
7 Stieglitz's comments in regards to ninety percent going for habitat
8 acquisition, I personally couldn't support that with the
9 information I've got at hand at the present time. But kind of a,
10 to further develop the idea here on this though, how much in terms
11 of our land acquisition or habitat acquisition program is out there
12 at the present in terms of the imminently threatened versus the --
13 you know, the longer term look that -- where are we with that
14 particular process?

15 MS. RUTHERFORD: Mr. Chair?

16 MR. BARTON: Ms. Rutherford?

17 MS. RUTHERFORD: There are currently four parcels being
18 negotiated at -- our understanding is that once those parcels are
19 completed one way or the other, that will be the end of the
20 imminent-threat process. We are moving into the analysis of all
21 the private lands within in the oil spill area, where there is
22 willing -- a landowner willing to participate in the process, and
23 we hope to have that first level of analysis complete by late fall.
24 And with, at that point and time, we'll be bringing that
25 information to the Trustee Council to do with it as they choose.

26 MR. BARTON: Mr. Rosier?

1 MR. ROSIER: Yes. What -- please -- what's the value of
2 the imminent -- the threatened parcels that we're talking about
3 here at the present time? Any gross figure there?

4 MS. RUTHERFORD: I do not.

5 MR. BARTON: Mr. Sandor?

6 MR. SANDOR: With the understanding that the work plan
7 will ultimately fit under the umbrella of the restoration plan, and
8 given the fact that we are soliciting comments on alternatives that
9 give habitat protection in the range of thirty-five percent to
10 ninety-one percent and of course solicit other mixes, I would go on
11 record as not prejudging that at this point, unless you do an
12 analysis of comments perceived to date, give consideration to what
13 the Prince William Sound Communities Organized To Restore the
14 Sound, for example, and others, that I would not want to prejudge
15 that this process would come out to any one of these alternatives.
16 The closest one that comes to me is alternative two, which is
17 ninety-one percent habitat protection, but my guidance, as one
18 Trustee, is to not prejudge that, and if you want to get some
19 guidance of what the public is saying, I guess you got some
20 comments already coming in, but I'd steer away from that
21 prejudgment.

22 MR. BARTON: Mr. Cole?

23 MR. COLE: My view is that this is the type of
24 information which should be coming to the Trustee Council from the
25 scientific community as to what the injuries are, what
26 recommendations they have for restoration of the injury to natural

1 resources and services, and how urgent restoration activities are.
2 And when we get that information funneled to us, then we can make
3 the decision. I think that in the absence of that information,
4 what's out there from the scientists and the results of the '91 and
5 '92 studies, we're not in a position to make meaningful decisions
6 on what restoration activities should be done.

7 MR. BARTON: Mr. Stieglitz?

8 MR. STIEGLITZ: The only problem is that we're going to
9 have to, it seems to me for '94, -- you know we have a lot concern
10 about public, public reaction and public views, and so forth. I
11 don't want to beat habitat protection to death, but I would submit,
12 based on my understanding of the public reaction to date, very
13 strong support for habitat protection compared to some of the other
14 options available to us, and I think we need to take that into
15 consideration.

16 MR. BARTON: Dr. Gibbons?

17 DR. GIBBONS: Yeah. Just one part, I thought I mentioned
18 yesterday. I didn't go to all the public meetings, but we heard a
19 lot of concern for doing activity other than buying land in some of
20 the other smaller communities. We heard, you know, do something
21 for subsistence resources, that type of thing -- that's read. So,
22 there is support for habitat protection, but it varies from where
23 you are. How you're looking at it, I guess. That's the only point
24 I'm trying to make. Who's -- .

25 MR. BARTON: Dr. Montague?

26 DR. MONTAGUE: The '94 work plan frame work that Dr.

1 Gibbons is talking about, having a stack there more or less
2 represented the -- what should be done based upon the injuries
3 reported during the February symposium. So in many ways, while not
4 entirely complete, that does indeed represent what should, you
5 know, what we felt and the peer reviewers, the Chief Scientist
6 felt, would be a good stab at what should be done based upon the
7 injuries and the need to do something. Admittedly is not entirely
8 complete. But also, suggest, perhaps, we not entirely forget about
9 this input that has come in on this list, and there are sixty-eight
10 projects that, you know, had more support, or that had more
11 positive than negative support, and while I think it would be a
12 mistake to just say those -- those are the ones we'll look at, I
13 think that does focus things in a bit and if -- if you'll look
14 through this, you know, you can see that under habitat protection,
15 there is a strong emphasis, but it also shows the emphasis and a
16 number of other areas, and just looking at the shaded boxes, you
17 can get a pretty good feel. It's not -- it has some accuracy in
18 terms of what the public is wanting. And then in addition to that,
19 you have the petitions that aren't really represented here, I mean,
20 that aren't in the table, but they're, you know, here, separately
21 and specifically. Between the petitions, the shaded boxes and the
22 February framework that we passed around, those kind of cover the
23 main basis of what the people want and what the scientific
24 community recommended.

25 MR. BARTON: Would the Council find it instructive to
26 review the documents that the Restoration Team has prepared during

1 lunch and resume then at, say, one o'clock? Mr. Cole?

2 MR. COLE: Do we have the February document here before
3 us?

4 MR. BARTON: That is what Dr. Gibbons has not -- well,
5 yeah -- that's what Dr. Gibbons has.

6 MR. COLE: We don't have it individually before us.

7 MR. BARTON: That was my question, would you find that
8 helpful?

9 MR. COLE: My answer is yes.

10 MR. BARTON: Yes, I gathered that.

11 DR. GIBBONS: There's just one point, I thought was
12 missing, which is a budget summary sheet, and I'll get those
13 xeroxed right now and get it to you.

14 MR. BARTON: Mr. Cole?

15 MR. COLE: Dilly - dallying here. We received the
16 individual comments from people for the '93 -- the '92 work plan.
17 Maybe it was the 93 work plan, I get mixed up. But at any rate,
18 was it the intent of Restoration Team to give us the originals of
19 these responses, like we received last year? I found them very
20 helpful.

21 MR. BARTON: Dr. Gibbons?

22 DR. GIBBONS: Yes. That was discussed at the Restoration
23 Team, and the decision was for the Restoration Team members to
24 contact the individual Trustee Council members and ask if they
25 would want those because its a voluminous document, I mean, it's
26 probably a stack about six inches high,

1 DR. MONTAGUE: Three thousand pages.

2 DR. GIBBONS: Three thousand pages of material we got in.
3 So, if -- if that's the wishes, -- you known, that was the request
4 that was made of the Restoration Team members, and the Department
5 of Interior's got our loaner set right now, but they can be made
6 available.

7 MR. BARTON: Mr. Pennoyer?

8 MR. PENNOYER: Mr. Chairman, just a brief summary which
9 I prepared for me, which may or may not aid in the process of the
10 projects. I came up -- we came up with sixty favorable, sixty --
11 sixty-eight, the break down was about seventy million dollars total
12 for the ones that brought favorable responses. Monitoring projects
13 were about six million bucks. Habitat protection was about fifty-
14 six million, -- by management about six million, so that kind of
15 gives you blend of the types of things that people seem to be
16 giving general support to, although so -- basically habitat
17 protection seem to be getting about fifty-six million -- seventy
18 million dollars. Again, I think the way the response came in and
19 the way the people characterized things, we might have one great
20 idea that only two people support because it happened to be in
21 their back yard. So I don't think you can do that in total, but
22 those are kind of the breakdowns. I was going to ask one other
23 question to, before we quit and go through this document here over
24 the lunch. We have a contract out to design a monitoring program.
25 I notice the public response had a very large amount money they
26 wanted to put in monitoring. Any way we can relate to what is

1 being requested here to what this monitoring plan will or won't
2 show. By -- when we spend a substantial amount of funds to come up
3 with a monitoring plan, contract for a monitoring plan, do you have
4 any dealings with when that's going to happen and how that relates
5 to this process?

6 MR. BARTON: Dr. Montague?

7 DR. MONTAGUE: I'll let Byron talk a little bit about the
8 timing, but, you know, we have kicked around about, you know, two
9 and a half to five million, you know, allocated to monitoring, and
10 you know, kind of an umbrella project that ties them all together,
11 and Byron will talk about the time and the scheduling and when that
12 --.

13 MR. BARTON: Mr. Morris?

14 DR. MORRIS: We have in review right now the draft final
15 report that kind of sets up the parameters of what our monitoring
16 plan would look like. That was called phase one, phase two is to
17 go out and design them technically -- the technical monitoring plan
18 -- what it would contain, how you would do it. And that is the
19 contract that's ready to go as soon as the phase one report is
20 found acceptable -- next week or two weeks. That could conceivably
21 design a monitoring program that would be in place by -- by the end
22 of this year or very early next year for implementation in 1994.
23 Certainly -- would -- I'm not quite sure what the schedule is now
24 with the restoration plan, but it would be -- it was always
25 intended that a monitoring program would be part of the overall
26 restoration plan itself, monitoring the research plan, and that

1 would certainly be in place by the time of the implementation of
2 the restoration plan occurred. I point out that from the public
3 response that Steve mentioned, there was twenty-five individual
4 projects that seem to address monitoring. We can piecemeal them,
5 in my opinion, individually in 1994 or we can try to coordinate
6 them under a monitoring program, which is the direction I would
7 recommend that the council go.

8 MR. BARTON: Mr. Pennoyer:

9 MR. PENNOYER: I'm confused though, if the monitoring
10 plan we're going to get in this contract, which we haven't
11 approved, isn't available until spring of '94, how do we design a
12 '94 work plan that includes monitoring?

13 DR. MORRIS: Spring is late. I said by the end of the
14 year, early next year, like January or so, is a do-able thing.
15 What it involves is conducting a series of workshops over the
16 course of the fall, with peer reviewers and scientists to determine
17 what the monitoring needs properly should be and identify how to
18 answer them or address them.

19 MR. PENNOYER: Your recommendation would be to --

20 MR. CHAIRMAN: Sorry, would be to take all the monitoring
21 out of this, for example, and out of this public response, and just
22 hold it, until we have a place holder for monitoring two to five
23 million dollars until we get -- until we get the plan done?

24 DR. MONTAGUE: Mr. Chairman. I got this - is a bit of
25 quandary in that you know basically in the two weeks from now,
26 we're intending to start writing the project descriptions. I guess

1 the option that you are suggesting perhaps would be that we have a
2 project description that's very generic and just have, you know,
3 this ball-park figure on it. If that's acceptable, that certainly
4 a do-able option.

5 MR. PENNOYER: Mr. Chairman, I move we break until 1:00
6 for lunch to review the document that's been given us.

7 UNIDENTIFIED: Second.

8 MR. BARTON: Any objections? We'll recess until one
9 o'clock.

10 [Off Record at 11:55 a.m.]

11 [On Record at 1:00 p.m.]

12 MR. BARTON: When we left before lunch, we had before
13 us the request for specific guidance from the Trustee Council to
14 the Restoration Team on what the '94 work plan was to look like.
15 We had also tabled the assumptions, pending final review of
16 assumption number nine, I think it was. Are we ready to deal with
17 the assumptions?

18 MR. COLE: Yes.

19 MR. BARTON: Is there a motion?

20 MR. COLE: On number nine, when we decided to use the
21 language in B-1 and B-2, I'm not comfortable with the language on
22 B-2 that talks of -- that's entitled "injury to services." It
23 reads "human use service has experienced injury if the oil spill or
24 clean up has" etcetera, etcetera. That being somewhat technical,
25 there is no injury to human use or service. All of the injury is
26 to natural resources. So I -- I think that we should not have a

1 category entitled injury to services, and I would propose that we
2 take the two subsections one and two on page B-2 and add them to
3 subsections one, two and three on B-1.

4 [Inaudible aside comments.]

5 MR. COLE: Take that out.

6 MR. PENNOYER: -- significantly reduce the physical
7 biological functions.

8 MR. COLE: Leave is, that's already on B-1, natural
9 resource has experience injury. See it fits.

10 MR. BARTON: You would take numbers one and two on page
11 B-2, and add them to one, two, and three on page B-1, and then
12 substitute those for item nine, in the assumption?

13 MR. COLE: Yes. They would be therefore, numbered four
14 and five.

15 MR. BARTON: Any discussion of that? Mr. Pennoyer?

16 MR. PENNOYER: Mr. Chairman - how is that going to read,
17 it's going to say, natural resources experience injury, if
18 sustained a loss, loss of -- has significantly reduced the physical
19 or biological functions performed by the natural resources?
20 relates to services I'm not clear where the word "services" comes
21 in or if I've missed it.

22 MR. COLE: We don't have any word "service" there. I can
23 do it a little better.

24 MR. BARTON: Just start it with the physical biological
25 functions.

26 MR. COLE: Yes. Have been reduced. The physical or

1 biological functions performed by natural resources have been
2 reduced

3 MR. BARTON: The lead-in is "loss includes," and then you
4 could just say "the physical biological functions performed by ...

5 MR. COLE: Yes.

6 MR. BARTON: Other questions or comments on that
7 suggestion?

8 MR. PENNOYER: Mr. Chairman, so now it reads, "loss
9 includes the physical or biological functions performed by the
10 natural resources." What does that mean?

11 MR. COLE: That's why I said -- have been reduced -- or
12 a reduction of.

13 MR. BARTON: I think if we can reach an agreement on the
14 concept, we could get a wordsmith.

15 MR. COLE: Well, let me do it, if we -- just get it done.
16 Number three, that loss includes, colon, then I would purport to
17 add paren, arabic four, close paren -- reduction of the physical
18 or biological functions performed by the natural resource. And
19 then I would do the same, substituting five, and say, quote the
20 aesthetic or intrinsic or other indirect uses provided by natural
21 resources have been significantly reduced.

22 MR. BARTON: Further comments or questions? Was that a
23 motion that I heard?

24 MR. COLE: Yes.

25 MR. BARTON: Was there a second to that motion? Mr.
26 Stieglitz seconds the motion. Any more discussion? Any objection

1 to the motion? Hearing none, that correction or substitution will
2 be made. Is there a motion now to adopt this whole set, as we have
3 modified them?

4 MR. SANDOR: I so moved.

5 MR. BARTON: It's been moved by Mr. Sandor. Is there a
6 second?

7 MR. PENNOYER: Seconded.

8 MR. BARTON: Seconded by Mr. Pennoyer, any discussion?

9 MR. COLE: Could we have just a moment to --

10 MR. BARTON: Certainly.

11 MR. COLE: Mr. Chairman, what did we do with number five,
12 leave it in?

13 MR. BARTON: As I understand it, we did leave it in.

14 MR. COLE: And may I ask why we left it in? I mean what
15 does that have to do with the '94 work plan assumptions?

16 DR. MONTAGUE: Mr. Chairman?

17 MR. BARTON: Mr. Montague:

18 DR. MONTAGUE: The reason why that is in there, and we
19 think important, is that with the federal fiscal year ending at the
20 end of September, there will be basically, well, very few '93
21 projects that aren't going to require some money in 1994 to finish
22 them. So September isn't when people have their final reports done
23 in most cases.

24 MR. COLE: If that's the case, Mr. Chairman, that is not
25 what it says. I mean, it makes no reference to the expenditures of
26 money to require to complete the '93 projects. If that's what we

1 are aiming at there, then we should make reference to the fact that
2 we will need money. See, I didn't read it that way. Maybe I just
3 read it carelessly.

4 MR. BARTON: Is there alterative wording that it would
5 more clearly state our intent?

6 MR. COLE: Mr. Chairman, are we saying there in five that
7 -- if we closed out in '94, I just thought well, that would be
8 something that the peer reviewers or the scientific staff will be
9 finishing up in 1994. Are we, therefore, saying the 1994 work plan
10 will be required to include closing out or continuance of projects
11 initiated in 1993 or contained in the 1993 work plan?

12 MR. BARTON: I think that's what we're trying to say.

13 MR. COLE: I will move that it be amended to spread that
14 concept in substance.

15 MR. BARTON: Is there a second?

16 MR. SANDOR: Second.

17 MR. BARTON: Mr. Sandor. Seconded by Sandor and Rosier.
18 Any further discussion?

19 MR. COLE: Yes, I have another point.

20 MR. BARTON: Wait, but on five. Is there any further
21 discussion on five? Any objection to the motion? Hearing none,
22 we'll make that change. We'll ask Dr. Gibbons to -- ?

23 DR. GIBBONS: Mr. Chair, can you repeat that motion
24 please?

25 MR. COLE: Let's see if I can state as accurate -- the
26 1994 work plan will be required to include projects contained in

1 the 1993 work plan -- which -- have not been completed. I think
2 that includes both concepts of closing out or continued, but if you
3 can do a little better with it, I have -- the concept is that the
4 1994 work plan will have to include some 1993 projects which
5 haven't been finished.

6 MR. ROSIER: Do we have projects that date back prior to
7 '93 that would be carried forward?

8 MR. BARTON: They have all been re-approved in '93 --
9 Moving along. You had another item, Mr. Cole?

10 MR. COLE: As I understand it then, we're saying that for
11 the 1992 -- projects contained in the 1994 work plan can only be
12 improved for implementation unless they are time-critical or
13 represent a lost opportunity, if we have not adopted restoration
14 plan.

15 MR. BARTON: A draft restoration plan.

16 MR. PENNOYER: Probably better use the word draft in the
17 first sentence as we did in the last sentence.

18 MR. BARTON: First sentence of what?

19 MR. PENNOYER: Mr. Chairman, should we substitute draft
20 for the word approve?

21 MR. BARTON: Back in the old item three?

22 MR. COLE: Yes.

23 MR. BARTON: Okay in the second line.

24 MR. PENNOYER: Good point.

25 MR. COLE: That's all I have Mr. Chairman.

26 MR. BARTON: There's a motion on the floor to adopt this

1 set of assumptions as we have modified them. It's been seconded by
2 Mr. Rosier and Mr. Sandor. Any further discussion?

3 MS. BERGMANN: Mr. Chair?

4 MR. BARTON: Ms. Bergmann.

5 MS. BERGMANN: I'm sorry, but I believe yesterday, there
6 was some discussion about having the statement in here about NEPA
7 compliance must be completed on all projects prior to approval or
8 conditional approval by the Trustee Council. I don't know if that
9 was an oversight when this was first compiled or if the Trustee
10 Council does not want to have that included.

11 MR. BARTON: Which item was it?

12 MS. BERGMANN: It was item number three from the second
13 set of assumptions yesterday.

14 MR. BARTON: And into which item in the first set of
15 assumptions, was it intended to go? Further discussion on that?

16 MS. RUTHERFORD: Mr. Chairman, could we ask for a
17 clarification on something?

18 MR. BARTON: Related to this item or another item?

19 MS. RUTHERFORD: The previous one. We got into the NEPA.

20 MR. BARTON: Go ahead Ms. Rutherford.

21 MS. RUTHERFORD: The text that Charlie just suggested,
22 projects contained within 94 work plan can only be improved for
23 implementation. What does that replace? Or what, where does that
24 go?

25 MR. COLE: -- no changes to define, I was just -- an
26 understanding of what I thought it to be, and then Mr. Pennoyer

1 suggested that we put "draft" in lieu of the word "approved" in
2 line two of the original paragraph three.

3 (Indecipherable aside comments)

4 MR. BARTON: We could essentially drop the last sentence.
5 Is there a motion to drop the last sentence?

6 MR. COLE: Actually, I think what you do is drop the
7 first sentence.

8 MR. BARTON: Well and drop other. Just say approve
9 restoration projects to be implemented not -- with the draft
10 restoration plan.

11 MR. COLE: Or must be time critical?

12 MR. BARTON: Did you capture all of that? I think the
13 proposal that we are look -- talking -- about and we left the NEPA
14 question for the moment is that in old item number three -- oh,
15 wait a minute,

16 MR. COLE: I think its fine the way it is.

17 (Inaudible aside discussion)

18 MR. BARTON: That's a discussion that never took place.
19 Now, do you know what we did, leave old item three as it was,
20 except change that "approved" to "draft" in the second line.

21 MS. RUTHERFORD: Earlier you have indicated to us, we
22 thought you had indicated you wanted three rolled up into one.

23 MR. BARTON: Yeah.

24 MS. RUTHERFORD: You still want that?

25 MR. BARTON: Yeah. Still want all of that. Now, the
26 NEPA question. Ms. Bergmann has pointed out that, I guess it is

1 item three in the second alternative set of assumptions, you
2 thought we had intended for that to be brought forward. Does
3 anybody else think the same thing, or do we want to do that?

4 MR. COLE: We realize we have not. It's sort of a . . .

5 MR. BARTON: Is it our intent to bring that forward?

6 MR. PENNOYER: It's our policy.

7 MR. COLE: Can we have just a minute to gather our wits.

8 MR. BARTON: Certainly.

9 MR. COLE: Well let's do it this way if you don't mind.
10 I'll move that paragraph three of the second set of 94 work plan
11 assumptions be added to our work plan assumptions handed to us this
12 morning as item eleven.

13 MR. BARTON: Is there a second?

14 MR. PENNOYER: Seconded.

15 MR. BARTON: It has been moved and seconded. Do we want
16 to say prior to approval or conditional approval or do we want to
17 say prior to implementation?

18 MR. PENNOYER: -- didn't actually approve it for funding,
19 until NEPA compliance is completed.

20 MR. BARTON: Yeah, that's what we did last year, earlier
21 years though we . . .

22 MR. COLE: NEPA compliance, if required, must be
23 completed on all projects prior to approval or conditional approval
24 by the Trustee Council because NEPA compliance is not required on
25 all projects. We wouldn't want to be trying to comply with NEPA if
26 we're not required to.

1 MR. BARTON: I agree with that. I think "if required,"
2 leaves us the flexibility. Though, I think it is the requirement
3 on the bulk of the projects. Some of them not. Maria do you want
4 to say something? You're fidgeting? This is counsel for
5 Agriculture.

6 MS. LISOWSKI: I can see "if required" language is
7 probably okay because you may have a project for example that would
8 only fund a contract --.

9 MR. BARTON: Technical services.

10 MS. LISOWSKI: Technical services or something, so it is
11 required, probably okay, although everything that would be in
12 essence an implementation out in the field would be require NEPA
13 compliance.

14 MR. BARTON: Okay, thank you. Did we take action on
15 that? No we didn't. Any objection to that motion? Hearing none,
16 we'll do it. So then that becomes -- we'll move item three from
17 the old set or from the second alternative set of assumptions and
18 incorporate into this assumptions.

19 MR. ROSIER: Mr. Chairman?

20 MR. BARTON: Mr. Rosier?

21 MR. ROSIER: Yes. Did we delete "or conditional
22 approval?" I thought we were talking about approval.

23 MR. BARTON: We did not delete it. Do you want to move
24 that we do?

25 MR. ROSIER: I would so move.

26 MR. BARTON: Is there a second? Seconded by Mr. Sandor.

1 Is that a carry-over from when we thought we would have -- when we
2 were on the old timetable for the Restoration plan, is that what
3 that is?

4 MR. PENNOYER: Mr. Chair, that is what that is. That
5 refers to part two of number two on the federal ...

6 MR. BARTON: Yeah. Okay. Any objection to the removal
7 of conditional approval?

8 DR. GIBBONS: Mr. Chairman, there's no approval of
9 finally to part two of the old federal group or is it -- concept as
10 we go through work plans of conditionally approving something to
11 sort of to send out the message we approved it before we had NEPA
12 compliance. I'm not sure we're conditional.

13 MR. BARTON: We did use it from that standpoint on a
14 couple of projects as I recall.

15 MR. PENNOYER: We were asked -- excuse me -- on one
16 particular vote, I remember, we were asked at least to go on record
17 as to whether we thought it was a good idea prior to NEPA
18 compliance and that was -- created some problem because saying it
19 was a good idea without knowing whether to comply with NEPA -- was
20 put us in a very difficult situation, so I think both the
21 conditional approval had to do with the concept are we going to
22 take votes to say we think something's a good idea before we do
23 NEPA. I thought the federal position was we couldn't do that.
24 That's why the word conditional approval was -- I don't think it
25 makes any difference. Approval is approval, so -- cross that
26 bridge when we come to it, but I think that's why conditional was

1 in there, to make it clear that the federal side could not vote on
2 a project, just sort of fun, prior to the time of having NEPA
3 compliance to look at it.

4 MR. BARTON: Well, I think there was a divergence of
5 views on that. I know of one federal agency that thought the
6 requirement had to be met prior to implementation, and if it was
7 found to not be proper through the NEPA compliance, then you pulled
8 it.

9 MR. PENNOYER: ... minority view.

10 MR. BARTON: We've been through that.

11 MR. COLE: Mr. Chairman.

12 MR. BARTON: Mr. Cole?

13 MR. COLE: Maybe I have something constructive to add,
14 I'm not sure, but if the law in this circuit is that NEPA
15 compliance is not required until you have a final go, no go, or an
16 irrevocable commitment as an agency's resources, then I think we
17 can go along and adopt these with these projects and not require
18 NEPA compliance until we make that final decision. I'm satisfied
19 to think that is what the law is, so I don't think we need
20 conditional approval. We can just sort of go along and not -- and
21 pursue these projects until we get to the go, no go, stage without
22 NEPA's compliance.

23 MR. BARTON: Mr. Pennoyer?

24 MR. PENNOYER: Mr. Chairman, I'm not sure what the point
25 is though because I thought originally the federal side has
26 indicated they couldn't vote on these projects, yes or no, until

1 the NEPA compliance was finished, so, that's why I say, I don't
2 care if the word conditional is in there or not, if you can't vote
3 on it for approval, whatever point you asked to approve it, then
4 you don't do it.

5 MR. COLE: You can vote on it, as long as the vote is not
6 the final vote. It's the final commitment of the resources, that's
7 what I'm saying. I mean we can continue to write down with these
8 projects until we make the final vote and we can say, alright send
9 it out for public review. We don't have to have NEPA compliance
10 there.

11 MR. PENNOYER: That's approval for public review not
12 approval of the project. I don't think it makes a lot of
13 difference. Say approval and we'll cross that bridge when we get
14 to it.

15 MR. BARTON: Is there objection to the motion, the motion
16 being to delete the words for conditional approval? Is there
17 objection? Alright, we'll strike the word conditional approval.
18 Anything else on these assumptions? Is there a motion to adopt
19 them, as we have modified them?

20 MR. PENNOYER: Move to adopt.

21 MR. BARTON: Is there a second?

22 MR. SANDOR: Second.

23 MR. BARTON: Mr. Sandor seconds. Mr. Pennoyer moved.
24 Any objection? We got assumptions for the '94 work plan. Now back
25 to ...

26 MR. PENNOYER: Fortunately.

1 MR. BARTON: Now back to specific guidance on the mix of
2 restoration resource and service activities to be emphasized in the
3 draft '94 work plan. I understand what we're about here is to give
4 guidance to the Restoration Team to craft something that will
5 ultimately go out for public review and then come back to the
6 Council with the benefit of those review comments for final
7 approval, is that correct? Is there any further clarification,
8 that any member of the Restoration Team might give as to the shape
9 of the specific guidance that is being sought?

10 DR. MONTAGUE: Mr. Chairman?

11 MR. BARTON: Mr. Montague?

12 DR. MONTAGUE: Yes. You know, currently we basically
13 have four-hundred-eight projects of which, you know, the
14 Restoration Team in the next week is going to reduce to about fifty
15 because fifty is about as many project descriptions with which we
16 have the resources to write. And, without any guidance from the
17 Trustee Council, we would take the public comment and our '94
18 framework document and these petitions and make the best show we
19 can of incorporating of what we know from the scientific angle
20 should be done and what the public wants done. But we feel with
21 the list that comes back to you would more likely meet your
22 approval if we had some direction from you now, serious dislikes,
23 in terms of things, the general areas that you absolutely wouldn't
24 want to see in this list of fifty or fifty-five projects to come
25 back with.

26 MR. BARTON: Mr. Pennoyer?

1 MR. PENNOYER: Well, we are really faced with a catch-22,
2 we want to have '94 be the first year of implementation, in quote,
3 as our assumption state. We don't have a restoration plan done
4 yet, so we haven't answered the policy questions. We haven't done
5 a research -- resource by resource injury assessment agreement
6 amongst us, and we haven't, of course, dealt resource by resource
7 on the options, although they are contained in now -- Appendix D of
8 how we might approach it. So it's difficult to call, and, I guess,
9 looking down your list for example, I can see a number of resources
10 here that suffered population level injury. I'm not sure whether
11 that's a criteria you want to go with as the first cut at this. I
12 can see a number of resources there's still questions about.
13 Sockeye salmon, for example. We haven't really totally made up our
14 minds as to what caused the injury and we don't have the final
15 definitive return for the adults to define what that injury is. I
16 see other resources here like pink salmon that raise another whole
17 set of issues about sublethal injury versus population level, what
18 is appropriate to do for restoration, whether we restore it to pre-
19 spill levels, whatever that means, given the fluctuation of pink
20 salmon runs or we enhance or we just derive better management,
21 where we cut it off, a lot of questions that are yet still to be
22 answered. So I don't know, on something like pinks, I suppose we
23 could tell the Team to go out and give us their view of what a
24 restoration program would be for pinks over the next four or five
25 years and how '94 fits into it, but I don't know what that is right
26 now. I assume public interest certainly is that we do some pink

1 salmon projects, but I'm not clear of the list you gave us, which
2 of those fit in to what I think are needed for pink salmon --
3 coded-wire tagging of pink salmon fry, improved escapement surveys,
4 which is sort of something you would have to decide whether the
5 agency does that or not, and kind of that whole list. So, I'm a
6 little bit -- I want to do this, before '94, but I don't know
7 exactly how to go down this list and give you guidance. Maybe it's
8 coming up with some general priority statements on our part. Do
9 you want to generalized things, like we have monitoring plan that's
10 out there now and would be approved this fall? Do we put a place
11 holder in for monitoring, assuming we're going to do it, pick the
12 number out of the public document here that five million bucks or
13 whatever, and say the actual detail to those projects will have to
14 wait completion of that plan, we could do one that like that.
15 That's not picking projects out, it is just stalling, but, I mean,
16 it is waiting for better information. Are we going to do imminent-
17 threat lands, and any other land acquisition is going to have to be
18 just a place holder to deal with when we get the restoration plan
19 done. We're going to close out, needed close out studies so those
20 will automatically get included for discussion. I don't know.

21 MR. COLE: Mr. Chairman?

22 MR. BARTON: Mr. Cole?

23 MR. COLE: Obviously, we're not going to be able, here
24 this afternoon to come up with a meaningful set of principles to
25 guide the Restoration Team in the formulation of the '94 work plan,
26 in my view at least, number one. Number two, I would therefore

1 move that we request the Restoration Team to prepare
2 recommendations for us for the '94 work plan, utilizing the
3 criteria that Dr. Montague related a moment ago, but to which I
4 would add consistent with the past decisions of the Trustee
5 Council. And let me say, parenthesis, if we have already rejected
6 some of these projects, I would suggest that we not have them
7 presented to us again unless there is a strong need to do that,
8 close paren.

9 MR. BARTON: Is there a second to Mr. Cole's motion?
10 Seconded by Mr. Sandor. Discussion?

11 MR. STIEGLITZ: Mr. Chairman?

12 MR. BARTON: Mr. Stieglitz?

13 MR. STIEGLITZ: I think I agree it is going to be very,
14 very difficult to give the Restoration Team the kind of guidance
15 they really would like and they really need. It's been difficult
16 ever since we got into this process back in '89 trying to give the
17 staff the kind of guidance that they really want and really need.
18 But I guess I have some concerns about just turning it over at this
19 point and time and say, here you go, gang, here you are gang, go
20 out and do the best you can with this -- we are not prepared to
21 help you. I would rather, at least attempt, if we can in a
22 relatively short period of time, agree to some parameters at least
23 that we could lay on this process. So it might -- it would
24 certainly help the team, I think, to put together the project. It
25 will facilitate, I think, one final cut on the project because at
26 least we will have agreed to some constraints on it. I'm talking

1 about such things as, for instance, we could assume what I will
2 call a conservative approach, and hopefully this is the last work
3 plan that will have to be put together without benefit of a final
4 restoration plan in place -- in place, constrain the kinds of
5 projects that we might approve along the lines, for instance, like
6 placing heavy emphasis on restoration resources activities and
7 little or no emphasis on service activities, approving projects
8 only for species with demonstrated injury and population decline,
9 where we have agreed on that particular species or that group of
10 species, and heavy emphasis on habitat protection. Those are kind
11 of a general -- but at least it lays somewhat of a framework for
12 the team to work under, possibly then avoid seeing come back with
13 fifty projects or fifty million dollars worth of project, or
14 whatever, because that -- that becomes kind of arbitrary, and then
15 I just don't think it's very helpful to the team to give them that
16 kind of guidance ...

17 MR. BARTON: Mr. Cole.

18 MR. SANDOR: ... I don't know, it's a tough one, but I
19 think I'd rather attempt to give them a little guidance versus
20 (indecipherable) decision as best you can.

21 MR. COLE: The problem with that is, is we'll be in
22 essence adopting a restoration plan, because that's exactly what we
23 intend to do in the restoration plan. So, to do what you suggested
24 just now we do, would require us to hear this afternoon established
25 principles for the restoration plan, which I thought clearly we
26 were going to do after we received all this public input.

1 MR. BARTON: Mr. Chairman, we spent a lot of time at
2 this meeting discussing sort of the change in view on EISS and
3 where we're going with the restoration plan, and it strikes me that
4 the '94 work plan has to sort of follow along with that sequence
5 that we're trying to set out. If we're going to get back our
6 public responses by August 6th on the restoration plan, and then
7 we're going to embark on a restoration planning process in some
8 more detail to prepare the final restoration plan and EIS, it seems
9 to me that type of thoughtful process is the type of thing that
10 you're going to have to do for some of the elements in this '94
11 work plan, like pink salmon, perhaps some of them with population
12 level injury, or closeout studies or monitoring studies, as we get
13 the plan back, are a little more obvious. When we get down to
14 resources with sublethal injuries and more complex-type of
15 approaches, we'll probably have to do that anyway. So, is there a
16 way to meld this '94 work plan process -- part of -- maybe
17 placeholder parts of it or something -- more into the restoration
18 planning process than -- since it's going to have to comply with
19 that anyway. Get the public comments back August 6th -- what have
20 we lost if we've done half of the restoration plan that's obvious,
21 if there is an obvious part in there, and so forth, and the other
22 half is sort of place-holdered that we really finalize after that
23 August 6th. Is that possible a time-frame? Can we do something
24 like that? I have real trouble in dealing with giving this type of
25 guidance, absent what Mr. Cole referred to as the restoration
26 planning process on some of these species. But I still want to do

1 it in '94, so I don't want to just use that as a reason not to do
2 something 'til '95. Is there a way we can build that type of
3 timing in? The answer is no.

4 MR. COLE: Well, here's what I see. We've been doing
5 it for the last two years and getting along quite comfortably. I
6 think the Restoration Team sort of intuitively knows where we've
7 been going the last two years. I don't foresee the Trustee Council
8 making a marked divergence from what we've been doing the last two
9 years, so why are we getting sort of hung up now in the restoration
10 plan?

11 MR. BARTON: Mr. Pennoyer.

12 MR. PENNOYER: It seems the last two years we've gone
13 around in circles on restoration items by putting them on hold
14 unless they're time critical or lost opportunity, and I thought
15 that the concept at this stage was we'd expand beyond that, and,
16 for example -- same old example -- pink salmon -- I'm kind of not
17 pleased about hearing continuously from people in certain areas
18 that we're ignoring their desires for restoration, and the reason
19 we're ignoring them is because we haven't come to grips ourselves
20 with what we need to do with restoration and have been unwilling to
21 commit major expenditures in some of those areas. So, let me
22 rephrase my original question on timing. I'm not necessarily
23 suggesting starting on August 6th to do this, but what I'm
24 suggesting is is there a way that we can sit here and with certain
25 principles of the nature Mr. Stieglitz proposed, outline in essence
26 what might be half of the '94 restoration -- er -- work plan. The

1 balance is a placeholder at this moment because we can't tell you
2 what to do, but between now and August we're working on that. I
3 mean, you don't have to wait to August 20th to start. We can start
4 looking at some of those questions we know we're going to have to
5 answer for the restoration plan anyhow, modify them by public
6 comment as we get, but start working on some of that. I -- I need
7 to sit down with somebody or somebody sit down with me, for pink
8 salmon again, and say here they are, here's the injury, here's the
9 type of things we have done since we started damage assessment,
10 here's some of things we know we can do, here's some of the things
11 we could do over a number of years, here's the relationship to what
12 the agency does now. And I don't have all that in my head. Maybe
13 I should have because we've talked about it. But I don't have all
14 that in my head. I don't know out of this two and a half million
15 dollars worth of pink salmon projects that's in here, I don't know
16 what makes sense.

17 MR. COLE: Mr. Chairman, I withdraw my motion. You
18 guys figure it out. (Laughter) I mean you're not going to get it
19 done this afternoon, but I'm withdrawing my motion, and we'll go
20 from there.

21 MR. BARTON: Mr. Brodersen.

22 MR. BRODERSEN: What we're trying to get to now is -- is
23 the list that gets sent out for public review. I expect -- I would
24 like you all to get to. It's not the list the Trustee Council is
25 recommending, it's not the list that the RT is recommending, it's
26 the list that we want people to look at and comment on, so that

1 come twelve-sixteen, when we have this all put together, the
2 Trustee Council can then decide what it wants to do in the way of
3 a '94 work program, given the draft schedule which has never been
4 approved -- we still keep -- seem to be referring back to it
5 regularly. That's what -- so the guidance we need now is not as
6 specific as what you all will need to come to on twelve-sixteen.
7 It's much more making sure, I think, that we cover the suite of
8 topics, of likely topics or likely projects, that you will need to
9 be able to formulate your '94 work plan in middle of December, and
10 perhaps that makes it a little bit easier in terms of what we are
11 trying to get to now. I would hope that you're not looking for a
12 list from us now in terms of what we would recommend. We would
13 much prefer to put together a set of projects that the public is
14 supposed to comment on, and neither the RT nor the Trustee Council
15 at this point should be recommending that as the work plan.

16 MR. BARTON: Mr. Rosier. I suppose the guidance could
17 be as broad as, Restoration Team put together the fifty highest
18 priority projects in your opinion. That would be one extreme. The
19 other extreme would be to go through this list. Mr. Pennoyer.

20 MR. PENNOYER: I happen to agree with Mr. Cole, we're not
21 going to do it done this afternoon. I was trying to find the
22 middle ground of some specific things we could tell people they
23 could work on and others we'd find a way to get at as time goes on
24 here. Apparently, these projects here are the fifty highest
25 priority the Restoration Team was able to come up with -- this list
26 you gave us a couple of months ago.

1 MR. COLE: It does have the new data. That's my
2 point. My idea was to take what they had, what they synthesized
3 some data, and used their best judgment -- I don't know if it's the
4 fifty highest, but whatever. That was my concept -- based upon
5 what we've done in the past. I don't think we can ignore the past
6 that we've generally embarked upon the last couple of years.
7 Intuitively we're doing the same thing I think.

8 MR. BARTON: Mr. Rosier.

9 MR. ROSIER: Well, yeah, I kind of liked Charlie's idea
10 there on this. I'm not sure whether we're going to be able to
11 accomplish anything more specific than that here this afternoon.
12 But a couple of things that I think we've heard from the public
13 that perhaps -- that perhaps don't fall into the classification of
14 having been, you know, a project that we've previously been
15 involved with or work that we've previously been involved with.
16 One of the issues that's -- we've received a fair amount of
17 correspondence on as well as public testimony on has been the issue
18 in the outer coast area between Prince William Sound and Cook
19 Inlet, and whatever program goes forward here -- I realize there's
20 not too much in the way of projects actually listed here in terms
21 of the summary of public response, but there was one and that was
22 item thirty-four, we're talking about Paint River fish ladder
23 salmon-stocking program, and again, that's only a suggestion. I'm
24 not saying I endorse that -- that particular project -- but that's
25 an area that we have not -- have not accomplished a lot of research
26 work in and it's an area that we've had a fair amount of public

1 input on, asking for projects in that area for either direct
2 restoration or replacement of services. I assume that this -- the
3 Paint River situation is a replacement service type of thing, but
4 I would urge, you know, that something involving a project in that
5 particular area would be something that would worth -- worth going
6 forward with here during the next -- during the '94 work plan.

7 MR. BARTON: Further discussion?

8 MR. PENNOYER: Mr. Chairman.

9 MR. BARTON: Mr. Pennoyer.

10 MR. PENNOYER: If we adopt Mr. Cole's suggestion that he
11 withdrew, do we -- are we going to look at this again. I notice
12 this list, for example, has Seward Sea Life Center, Fishery
13 Industry Technology Center, Oil Spill Recovery Institute,
14 subsistence travel and harvest replacement -- a number of things
15 that Mr. Cole has said in the past we've sort of passed over or
16 were not done, and I don't know if that direction is consistent
17 with this list I currently have in front of me, even as modified by
18 the public comments, the rather minor number of comments we got
19 back compared to the mail-out. So, I -- and then if we do -- if
20 this is the direction we give Restoration Team, are they going to
21 report back to us at sometime and we'll take a look at another
22 list, or is this what goes out to public review or ...?

23 DR. GIBBONS: Mr. Chair.

24 MR. BARTON: Mr. Gibbons.

25 DR. GIBBONS: Under your schedule, it would come back to
26 you with a list of the projects that we would see going, you know,

1 for development in the '94 before we start the ...

2 DR. MONTAGUE: Mr. Chairman.

3 MR. BARTON: Mr. Montague.

4 DR. MONTAGUE: I think it's important to point out
5 there's at least one assumption, you know, if we followed that
6 assumption would have a '94 work plan that's considerably different
7 than '92 and '93, and that is that direct restoration would be
8 emphasized, and some of the projects that Mr. Pennoyer mentioned
9 would be those kinds that would fit under that assumption that
10 we've just passed, that we haven't approved in previous work plans.
11 So, I guess there'd be somewhat of a contradiction to have that
12 assumption and then pass guidance to do something like you've done
13 in the past.

14 MR. BARTON: I move that we instruct the Restoration
15 Team to prepare a proposed '94 work program that consists of the
16 fifty highest priority projects, bearing in mind the assumptions
17 which we developed, discussions that we've had here, and the public
18 comments that we have to date, and that be brought back then -- the
19 project descriptions to be brought back then to the Trustee Council
20 for further action. Is there a second?

21 MR. COLE: I'll second that for the purposes of
22 discussion.

23 MR. BARTON: Is there further discussion? Ms.
24 Bergmann.

25 MS. BERGMANN: Just a couple of points. I think that in
26 looking at the public comments that we have received back on the

1 chart that was sent out, I'm not sure that the public necessarily
2 really supported a lot of direct restoration. They really
3 generally seemed to support monitoring, restoration monitoring,
4 habitat protection, more limited kinds of things, but when you
5 looked at museums, visitors centers, recreation projects, on the
6 ground type of things, fish ladders, the kinds of things we're
7 calling direct restoration, they really didn't receive a lot of
8 support. So, I think that might be something that's worth
9 discussing a little bit, just so we don't have problems in the
10 Restoration Team trying to decide which way we're going to go on
11 that particular topic. The second thing I'd like to point out is
12 the 1994 Restoration Framework that was presented to the Trustee
13 Council was not a document that the Restoration Team put forward to
14 you all saying we support all of these projects as part -- as
15 projects that should be included in the 1994 draft -- draft work
16 plan. We considered them as examples of the kinds of projects that
17 could go forward. So it's not a list that was supported by the
18 Restoration Team, but merely examples of the kinds of things that
19 could be done.

20 MR. BARTON: If that's true and if we adopt that
21 motion, it needs to be understood, of course, that projects need to
22 be consistent with the guidelines governing the expenditure of the
23 funds. Mr. Rosier.

24 MR. ROSIER: Mr. Chairman, your motion includes such
25 items as the documents and the public input, such as the document
26 we received from Prince William Sound Communities Organized

1 Response, or are we dealing with the priorities only as they are
2 presented on the summary of the public response here on this. I --
3 this public input issue is one that continues to bother me a little
4 bit in that we had less than a one percent response in terms of
5 this particular list. There were two thousand applications that
6 went out and less than one percent response. That was, what, less
7 than -- less than a hundred -- less than two hundred people. Now
8 on that, I'm fairly confident that the people that put together the
9 list from Prince William Sound Communities involved a great deal
10 more than two hundred people, and the mix of, you know, the mix of
11 projects and so forth that they've put forth. These are priority
12 projects that they've certainly identified, impacted them, and
13 their region on this. And it just seems to me that it's a tough
14 decision here on this in terms of picking something out of the
15 middle that fits all of these, but we're hearing from a lot of
16 different sources here, quite different groups that we're hearing
17 from, and it just seems to me that unless we go forward with a
18 program here that kind of encompasses the efforts of people like
19 the Prince William Sound Communities operation here on this, we're
20 not really, we're not truly getting to the projects that people
21 want in their respective region.

22 MR. BARTON: It was the intent of the maker that all
23 the public information and public input that we've had be
24 considered by the Restoration Team as they develop the fifty
25 highest priority projects. Mr. Sandor.

26 MR. SANDOR: Is it the intent of the motion that the

1 team gets to come forward with the top fifty priority? The
2 presentation would also show how they got to the top fifty and
3 which perhaps was the next fifty. Some characterization of --
4 because I would be troubled if all we had was the top fifty.

5 MR. BARTON: I think implicit is the rationale for the
6 selection of the top fifty, but as I understand it we're taxing the
7 capabilities of the team in putting together more than fifty of
8 these write-ups. Is that true?

9 DR. MONTAGUE: Mr. Chairman.

10 MR. BARTON: Mr. Montague.

11 DR. MONTAGUE: That's true in terms of actually writing
12 up the descriptions, but in terms of the list that we would give
13 you in a week or ten days, it doesn't have to be limited to fifty.

14 MR. BARTON: Oh. Mr. Sandor.

15 MR. SANDOR: Well, Mr. Chairman, it seems to me that
16 then we have an intermediary step -- an intermediate step -- of
17 where we have the screening and the rationale so that we can
18 actually test that. I would want to be assured, as I think Carl
19 and others mentioned, that the public responses which come from
20 various sources and the scientific advice of the science -- Chief
21 Scientist -- all those things I would to know, not just what the
22 top fifty were, but the others that were runner-ups.

23 MR. BARTON: Well, we could ask them to force rank
24 them. Mr. Cole.

25 MR. COLE: Would Commissioner Sandor be satisfied
26 with the top fifty alternatives, the second tier of -- of proposed

1 projects, and that could be no more than five sentence apiece.

2 MR. SANDOR: Yes, that I think would be -- and the
3 forced ranking would be -- is that in fact the process the team
4 would go through -- forced ranking? What would you do?

5 DR. GIBBONS: Mr. Chair, the process I envision the team
6 would probably go through is, first, we have to set some criteria
7 that we screen all those projects to so they're treated equally,
8 and then with that, we'd get to the ranking. That's the only way
9 I know how to get there -- is to use some criteria to screen them
10 on. And one of the criteria might be, you know, how much public
11 support -- I mean, we'd have to come up with those.

12 MR. BARTON: Mr. Sandor.

13 MR. SANDOR: This is a "for instance" and I have
14 already mentioned it, but it seems to me now that there's this
15 Prince William Sound Communities Organized to Restore the Sound, is
16 that not going to be in place, whatever they come with up or what
17 they've already come up with. It seems to me that, you know, it
18 needs special consideration, what the Chief Scientist comes up
19 with, but anyway, the process. I guess the point's been made and
20 I'm assured that we're going to see more than the fifty and we're
21 going to see the process -- it will be a forced ranking process, a
22 rationale, and we'll have an intermediate opportunity to look at
23 this and provide some feedback. I don't want point check that just
24 limits to fifty.

25 MR. BARTON: Dr. Gibbons.

26 DR. GIBBONS: Instead of forced ranking four hundred and

1 eleven of these things, I mean, there's no way we can get that
2 done, and so I'm kind of struggling with the same thing you are,
3 how do we sort these projects to get to a reasonable for you to
4 look at, be it the top fifty with an additional hundred or, you
5 know, something on that order, but I'm not sure -- I'm sure we
6 can't force rank four hundred and eleven of them and get them to
7 you.

8 MR. COLE: Top fifty and then the next fifty.

9 MR. SANDOR: Yes, I think the second tier would do it.

10 MR. BARTON: Mr. Rosier.

11 MR. ROSIER: Yes. It would be helpful -- I don't know
12 whether we could do this or not, but would it be helpful if we
13 would in fact provide some dollar figure here as far as the habitat
14 protection issue is concerned, a placeholder such as we did last
15 year, for the current year in which we set aside twenty million
16 dollars, if that's what -- you know, that's the beginning point
17 anyway.

18 DR. GIBBONS: Mr. Chair.

19 MR. BARTON: Mr. Gibbons.

20 DR. GIBBONS: I think -- I think the process right now
21 would be to be sorting the projects, and then when we come to the
22 Trustee Council, the Trustee Council can decide, yes, we need a
23 habitat protection fund of X or Y or --.

24 MR. BARTON: Mr. Stieglitz and then Mr. Cole.

25 MR. STIEGLITZ: Yeah, I don't mean to hurt anybody's
26 feelings or be critical of anybody, but I am assuming when the --

1 when the team puts together projects, that's on the basis of the
2 merits of the projects completely and it's based on injured
3 resources, and such things as to who we keep happy and who we don't
4 keep happy, are we treating everybody -- are we giving a good
5 geographical split of projects and so forth, I assume those are not
6 factors. We're looking at the merits of the projects and how that
7 relates to damaged resources. Is that correct?

8 MR. BARTON: Dr. Gibbons.

9 MR. STIEGLITZ: Or can we be assured of that? I guess
10 that's what I'm saying.

11 DR. GIBBONS: That's why we need to set a standard set
12 of criteria to screen everything through, rather than being --
13 having some bias there. I'm just thinking briefly through the
14 process now. We got a hundred and eleven new ones. All we got is
15 the titles. I don't know these projects any more than anybody
16 else. You know, that's going to create some problems because the
17 public wrote in just the title, whatever it is. To be able to
18 screen some of these things, you know, the ones in the past we got
19 -- last year we requested project ideas, and we have one sheet and
20 we have some idea of what the project was. This one, we've got a
21 title. I'm not sure how to handle those.

22 MR. BARTON: These were suggestions back from the
23 public when they went out with this package?

24 DR. GIBBONS: That is correct.

25 MR. BARTON: Is there perhaps an intermediate step in
26 terms of having the Restoration Team develop the criteria, bring

1 those back to the Council, and then go into this forced ranking of
2 the top hundred or whatever. Is that a more logical approach?

3 MR. COLE: But I'd like to, Mr. Chairman ...

4 MR. BARTON: Yes.

5 MR. BARTON: I'd like to address Mr. Stieglitz request
6 for assurance. It seems to me it's very hard to do these projects
7 in total isolation of what restoration activities we've done, for
8 example, the fishermen in Cordova or the fishermen in Kodiak, say,
9 well, like the Department of the Interior would say, well, we want
10 to buy -- ninety percent of the money should go to Kodiak Island
11 habitat acquisition. Well, you just know that the people over in
12 Cordova are going to scream, the people who were the fishermen
13 there say, well, what are you doing for us, all you're doing is
14 spending all this money to buy land down in Kodiak-Afognak, and I
15 don't think we can make those decisions like that in total
16 isolation to the needs for restoration in some other geographic
17 area without some consideration of that. I mean, that's just my
18 view, not the way the world works, but ...

19 MR. BARTON: Mr. Stieglitz.

20 MR. COLE: Yeah, I think you misunderstood there,
21 Charlie, but I think we all appreciate the fact there's some very
22 significant, political, sociological, economic factors involved
23 here. The way I manage, I ask my staff to do the basic work based
24 on the facts. Leave decisions like are we getting between
25 communities up to the Trustee Council. I don't think that's the
26 job of staff. I think those kinds of considerations come into

1 play, it's for the Council to deal with not the staff.

2 MR. BARTON: Any further discussion? Mr. Cole.

3 MR. COLE: I again would like re-emphasize, projects
4 which have been rejected by the Council, unless there's a
5 substantial reason to renew them, I would prefer to see not in the
6 top fifty. I think Mr. Barton made reference to that earlier this
7 morning.

8 MR. BARTON: Mr. Pennoyer.

9 MR. PENNOYER: Perhaps this doesn't have to be stated,
10 but obviously this is the top fifty to do in '94. So, I would
11 assume that the things that are time critical or lost
12 opportunities, we can assume some priority for getting them done.
13 There's a finite amount of money available in '94, and so I think
14 it includes those two concepts as well.

15 MR. BARTON: Any more discussion? Mr. Rosier.

16 MR. ROSIER: I'd like to ask Mr. Cole if that includes
17 such priorities as were put forth by the Prince William Sound
18 Communities here on this in regards to herring, that's been
19 rejected for the '92, '93 programs?

20 MR. COLE: No, because I put the qualification in
21 there, unless there's good reason --.

22 MR. BARTON: Mr. Sandor.

23 MR. SANDOR: Could you restate the motion?

24 MR. BARTON: I was afraid you'd ask that.

25 MR. SANDOR: Call for the question.

26 MR. BARTON: That we direct the Restoration Team to put

1 together, essentially force rank the top one hundred projects, in
2 their assessment, and their assessment needs to be based on all the
3 public information that we've gathered in the form of the
4 information requested as well as that volunteered, that the
5 assessment consider the assumptions that we adopted earlier today,
6 that the guidelines governing the use of the monies be considered,
7 and that items or projects that have been previously rejected by
8 this Council not be included unless there is good reason. I
9 believe that was what I moved.

10 MR. PENNOYER: Mr. Chairman.

11 MR. BARTON: Mr. Pennoyer.

12 MR. PENNOYER: Would you accept a friendly amendment that
13 -- the two concepts that this is for '94, in other words for '94,
14 and that time critical and lost opportunity projects should assume
15 some priority in ...

16 MR. BARTON: That's been our assumption.

17 MR. PENNOYER: Okay.

18 MR. BARTON: And furthermore, I understand that what
19 we're doing is developing a list of project to send out for public
20 review which then will be compiled by the Restoration Team and
21 analyzed and will come back to the Council one more time at least
22 for final approval for the '94 program of work. What's -- you want
23 to say something else?

24 MR. PENNOYER: No, I'm -- I don't know what that's going
25 to do for this -- I'm going to vote for it, but I don't think -- I
26 have some severe doubts it's going to work.

1 MR. BARTON: The proof will be in the eating.

2 MR. PENNOYER: Somehow I just think that some things like
3 the Trustee Council really wants to do with herring or pink salmon
4 are going to still be issues that the Restoration Team's going to
5 have a hard time dealing with, but if they want to take a shot at
6 the top fifty and -- also -- my understanding is we get this list
7 back before it ever goes to public review, right? Then you're
8 going to develop the detailed work statements, and then we're going
9 to get a look at that before it goes to public review. Is that
10 correct?

11 DR. GIBBONS: Yes. Mr. Chair, what I envision the steps
12 are, we'll give you the package that go along with our assumptions
13 used to develop that package for your review. You can commit on
14 that, give us some feedback if you need it, and then we'll start
15 development of the three-page detailed study.

16 MR. BARTON: You talk about the rationale ...

17 DR. GIBBONS: The rationale we used to get there.

18 MR. BARTON: Yeah, that's what I meant.

19 MR. SANDOR: Call for the question.

20 MR. BARTON: Any objection to the motion? Hearing
21 none, that's what we'll do. We have now completed item four on an
22 eleven item agenda.

23 DR. MORRIS: Mr. Chairman.

24 MR. BARTON: Mr. Morris.

25 DR. MORRIS: Can I enter a request for further guidance
26 on the '94 work plan in regards to the monitoring component of the

1 plan? I know our work would be a lot easier. It's conceivable
2 that twenty of these fifty projects could be monitoring projects
3 or, if you choose to let us work further on the monitoring program,
4 it could be one project. I wondered if I could get any guidance
5 from the Council on how to deal with recovery monitoring projects.

6 MR. BARTON: Is there guidance from the Council on
7 that? And let me just add that my motion that we just adopted also
8 included Dr. Spies' opinions of these projects as well. Now, is
9 there any further guidance that we want to provide Mr. Morris in
10 relation to the monitoring project, is that your question?

11 DR. MORRIS: Yes, the monitoring projects. Further
12 information on that. The course of action we've tried to take is
13 to establish the monitoring program through a coordinated,
14 deliberate effort, and not piecemeal, and the goal in phase two of
15 the monitoring program was to determine the priorities for recovery
16 monitoring. That's where we're headed at the present, not to
17 short-circuit it by doing it maybe right now, with the '94 work
18 plan.

19 MR. BARTON: And the timing on phase two again, was
20 when?

21 DR. MORRIS: This fall.

22 MR. BARTON: Can you be any more specific?

23 DR. MORRIS: Well, let me liken it to habitat
24 acquisition. We don't quite know the selection of parcels we want
25 to spend money on; we don't quite know what components of
26 monitoring we want to do right now, but we know we want to do both

1 and we're in the planning process for doing both. The other way
2 around would simply short circuit the monitoring planning process
3 by the RT setting the priorities for the coming year for monitoring
4 and putting off the coordinated monitoring program 'til 1995.

5 MR. BARTON: When will we have the phase two product in
6 hand?

7 DR. MORRIS: We would have a description of a
8 monitoring program extends all the elements included the cost by
9 January, February at the latest, of 1994. In plenty of time for
10 approval and implementation.

11 MR. BARTON: Is there guidance the Council wishes to
12 provide? Mr. Cole.

13 MR. COLE: I'm not sure what Mr. Morris is saying.
14 Could you elaborate on it a little more?

15 MR. BARTON: Mr. Morris.

16 DR. MORRIS: If you refer back to the spreadsheet that
17 we sent out to the public, almost every resource that's listed has
18 some aspect of recovery monitoring showing for it. Many of them
19 were supported, but what we're trying to do through the monitoring
20 plan technical development and planning process this fall is to
21 establish where those priorities lie, what -- what is the proper
22 mix and approach to monitoring, the detailed technical aspects that
23 we should be proposing to do. So, we would do that through
24 technical workshops this fall to develop the long-term, long-range,
25 technical monitoring plan for implementation in the next
26 opportunity, the next field season.

1 MR. BARTON: Mr. Brodersen.

2 MR. BRODERSEN: I'm unfortunately not anywhere near as
3 sanguine as Dr. Morris about when we could have the phase two
4 finished there. It seems likely to slip from the ideal schedule
5 that he's giving there, and I would be concerned about not pursuing
6 individual monitoring pieces for '94, waiting for that, for fear
7 that that would preclude us from doing work in '94. It seems like
8 we should be moving ahead with individual projects in the '94 plan
9 so that we can get public comment on it for one thing, and so also
10 in case that schedule that he has given you does slip, we have
11 something that we can actually implement in '94. If we do end up
12 with the schedule in '94 as early as he's saying, then we have the
13 option of just taking whatever that gives, and we haven't really
14 lost all that much because I suspect the pieces will be pretty
15 similar, but I am fearful of being totally dependent upon it for
16 fear that we would not get something in the field in '94.

17 MR. BARTON: Would an approach be to go ahead and do as
18 we just decided to do, and if we do have a phase two project
19 completed in time, then we could modify the '94 work plan.

20 MR. BRODERSEN: Yes. I would feel much more comfortable
21 if you would come down with something like that.

22 MR. BARTON: Does the Council wish to provide that
23 guidance?

24 MR. PENNOYER: I move.

25 MR. BARTON: Seconded?

26 MR. ROSIER: Second.

1 MR. BARTON: Seconded by Mr. Rosier, moved by Mr.
2 Pennoyer, any objection to that?

3 (Inaudible aside comments -- out of microphone range)

4 MR. STIEGLITZ: Sounds like a fast shuffle to me.

5 MR. PENNOYER: (Inaudible -- out of microphone range) ...
6 that we have a restoration monitoring contract out that's supposed
7 to tell us, hopefully, at some point yet to be determined, exactly
8 what we ought to do on restoration monitoring. The concept was,
9 rather than look at individual projects now, we wait until that
10 plan is complete, and then have our projects for the '94 work plan
11 if it gets done in time to do that. I think Mr. Brodersen was
12 suggesting that we go ahead and take a shot at it and then modify
13 whatever we proposed -- we approve -- based on what comes out in
14 the monitoring plan contract, if it gets done in time. So, we
15 don't stop; we go ahead and take our best shot at monitoring we
16 think needs to be done in '94 now, and then select a restoration
17 plan. If we get this contract done in time, we modify whatever we
18 were intending to do, based on what comes out of the contract.

19 MR. COLE: Frankly, I didn't understand a word of it.
20 (Simultaneous laughter) I mean, who is this contract with? And
21 what are they supposed to be doing.

22 MR. PENNOYER: (Inaudible -- out of microphone range)

23 DR. MORRIS: There is no contractor. The RFP hasn't
24 been issued yet. We're waiting for the final approval of the phase
25 one first, so we don't have a contractor.

26 MR. PENNOYER: There was a contract for phase one.

1 DR. MORRIS: Yes, and that would not -- but that
2 doesn't -- isn't the same -- contractor hasn't been -- phase two
3 would be competitively bid.

4 MR. PENNOYER: I should have used the prospective term,
5 there will be a contract, maybe, issued, if we decide to proceed
6 bid, based on phase one, if the Trustee Council decides to proceed
7 with a phase two contract. Is that true?

8 DR. MORRIS: You've already approved the phase two
9 funding.

10 MR. PENNOYER: Well, then, whether a contract's been
11 issued or is going to be issued is still -- is a little bit moot.
12 A contract will be issued, has been issued, is thinking of being
13 issued, might be issued to deal with phase two restoration
14 monitoring. That is supposed to come back and tell us what we
15 really need to do in terms of monitoring over the next ten years
16 over the resources in Prince William Sound, the oil spill-affected
17 area, and based on that -- the proposal originally was to wait
18 until we get the results of that back before we actually go out and
19 design a monitoring program for '94. The problem is that contract
20 may not be issued, completed, approved, agreed with or whatever, in
21 time to do the '94 work plan. So, Mr. Brodersen's suggestion is
22 taking our best shot at monitoring projects for '94, and then if
23 this contract does get completed, we can always go back and modify
24 what we've done based on the contract results.

25 MR. COLE: (Inaudible -- out of microphone range)
26 Where is the results of phase one contract study, and what did they

1 conclude in that?

2 DR. MORRIS: The report is available -- the
3 (indecipherable) produced it for us. It's undergoing review and
4 comments are supposed to be sent back to the contractor for
5 completion within -- by June 15th. I'm hard pressed to describe in
6 a few sentences what's contained in phase one, the conceptual
7 design. It follows natural -- National Research Council
8 recommendations on monitoring and it shows what elements should go
9 into a monitoring plan, how they should be designed, and how they
10 should be managed. It doesn't say this is what you're going to
11 monitor. It's the parameters by which the technical details would
12 be developed. So, I'll leave it at that. The RFP for phase two is
13 in our hands too, and it's waiting the acceptance of this final
14 report before it's issued.

15 (Mr. Barton leaves the room, Mr. Rosier takes over as
16 Chairman.)

17 MR. ROSIER: Mr. Pennoyer.

18 MR. PENNOYER: Yes, Mr. Chairman. It makes no
19 difference. If we go ahead and take our best shot at restoration.
20 If this comes through and shows us a better way of doing the work,
21 then we can keep the parts that fit and drop those that don't. I
22 mean, we've got to accept this report. We've got to agree with it,
23 and we may not agree with all parts of it. So, if we still go
24 ahead with the concept that we're looking at five or six million
25 dollars worth of monitoring -- that's what came back from the
26 public comments -- we'll take our best shot at that amount, and

1 then we'll come back and change it if we have to.

2 DR. MORRIS: The issue I was raising earlier is that it
3 would make it a lot easier for us not to make twenty of the fifty
4 top priorities monitoring projects if it would ban the effort for
5 everything else.

6 MR. PENNOYER: Only give us the top thirty then,
7 realizing there would be twenty monitoring projects?

8 DR. MORRIS: We could give you one monitoring and fifty
9 other -- forty-nine other.

10 MR. PENNOYER: Mr. Chairman, why don't we proceed as
11 suggested?

12 MR. ROSIER: We have a motion before us here at the
13 present time, but we're missing one -- Trustee Council member here
14 at the present time.

15 MR. PENNOYER: I think he's alternate in the room.

16 MR. ROSIER: Shall we -- it's now about 2:25 here.
17 Let's take a short break at this point.

18 (Off Record at 2:20 p.m.)

19 (On Record at 2:31 p.m.)

20 (Mr. Barton resumes Chairman)

21 MR. BARTON: We were ready to vote on a motion, is that
22 what's happened? And would somebody restate the motion, please?

23 (Inaudible aside comments)

24 MR. PENNOYER: I'm not even sure it requires a motion.
25 The original discussion that Dr. Morris brought up was should we
26 have a motion to delay consideration of monitoring projects until

1 after the monitoring plan is done. That didn't receive any
2 support, so I presume we just continue with asking the Restoration
3 Team to come up with their top fifty, including monitoring, and
4 then later we modify the monitoring part of it if the study does
5 get completed, and if we agree with it, and if the contract shows
6 us we should do something different.

7 MR. BARTON: Then we can move onto the next agenda
8 item, I assume. Is that correct?

9 MR. PENNOYER: Okay by me.

10 MR. BARTON: Agenda item number five, Dr. Gibbons.

11 DR. GIBBONS: Looking at the clock and what we have to
12 do, I've got a suggestion is that we may prioritize some of the
13 remaining items.

14 MR. BARTON: Excellent suggestion.

15 DR. GIBBONS: We need to -- we need to wrap up '93. I'd
16 like to try to deal with item number seven, if we could do that.
17 And item number ten is critical. There's a write-up in there I've
18 got some further stuff on, the building here and what's happening
19 there, and then item number six is also important -- the third
20 item, the coordinating and approval process of the habitat
21 protection. Those would be the three top in my estimation -- of
22 what's left.

23 MR. BARTON: All right. Shall we just take those in
24 sequence then?

25 (Inaudible aside comments)

26 MR. PENNOYER: We do it every meeting anyway, so.

1 MR. BARTON: Alright. Item number seven, the '93 work
2 plan. Who's going to lead us on that? Dr. Gibbons?

3 DR. GIBBONS: Yes. I can walk you through that. In the
4 package, there's a -- there's a brief project description for
5 Pacific herring, a brief project description for coded-wire tag
6 recoveries of chinook, sockeye, chum and coho. There's a
7 resolution that passed by the City of Cordova. I've got it here -
8 - 93-25, that was handed out last time, and there's also a new
9 spreadsheet -- that's what I'm looking for in my package -- of the
10 actions so far on the '93 -- here it is. It looks like this.

11 MR. BARTON: What document do we need to dig out? The
12 '93 work plan matrix?

13 DR. GIBBONS: That's correct.

14 MR. BARTON: (Inaudible -- simultaneous talking)

15 DR. GIBBONS: The brief project description -- Pacific
16 herring above this -- brief project description, coded-wire tag
17 recovery of the chinook, sockeye, chum and coho, and then I've got
18 a copy of -- if you need it here -- of the resolution by the City
19 of Cordova that supports those -- the three resolutions.

20 MR. COLE: I move we adopt those projects.

21 UNIDENTIFIED VOICE: Second.

22 MR. BARTON: Discussion?

23 MR. PENNOYER: Mr. Chairman, if we're going to consider
24 all three of them together, then I guess I'll object. Without
25 hearing a description of why we're doing herring again, why we're
26 doing the pink salmon again, and why we're doing the -- what was

1 the other one? Herring, pink salmon and --?

2 DR. GIBBONS: Last meeting you -- you approved for a
3 hundred and fifty thousand the pink salmon coded-wire tag recovery.

4 MR. PENNOYER: We've got two status -- oh, we've got --
5 these are separate, okay.

6 MR. COLE: I wanted to raise that to (inaudible --
7 out of microphone range). I overlooked that at the last meeting.
8 When I made the motion, I erroneously said one fifty instead of
9 (inaudible -- out of microphone range).

10 MR. BARTON: This was 93063?

11 MR. PENNOYER: Mr. Chairman, could we take all three of
12 these separately -- one at a time?

13 MR. COLE: Yes. I have no objection.

14 MR. PENNOYER: The first proposal is a proposal to amend
15 the one-fifty we approved for pink salmon coded-wire tag recovery
16 at the last meeting to the original two-twenty? Two-twenty, was
17 it?

18 UNIDENTIFIED VOICE: Two-twenty, I believe.

19 MR. BARTON: My recollection it was two-twenty.

20 MR. PENNOYER: Second.

21 MR. BARTON: Any discussion?

22 MR. PENNOYER: Mr. Chairman, I think at the last meeting
23 we had a long discussion about why we were doing this project in
24 the first place, and whether it was time-critical and so on under
25 our guidelines relative to undertaking another pink salmon project
26 before we have a restoration plan in place, and I think we were

1 persuaded at that time that, in fact, we had basically funded the
2 tagging of these animals, it was a considerable investment in that.
3 There was a corollary investment from the department and the
4 industry to do the tag recovery, and that we would lose
5 considerable information relative to planning future restoration
6 options on pinks if that's the route we decide to go if we did not
7 do this project. I think it was basically sort of a slip that we
8 approved it at an amount less than had been requested, and I guess
9 my feeling was if we're going to prove it, we ought to -- once we
10 had a valid reason to do it, we should have approved it for the
11 full price or not done it. So, I would agree with the amount.

12 MR. BARTON: For the record, what project are we
13 talking about? Is that 93063?

14 DR. GIBBONS: 93067.

15 MR. BARTON: '067.

16 DR. GIBBONS: On page 11 of the matrix.

17 MR. BARTON: Any further discussion? Any objection to
18 the motion? (No response) Okay, done. Next? What are we
19 discussing?

20 MR. PENNOYER: Coded-wire tag recoveries for chinook,
21 sockeye, chum and coho salmon for a total of a hundred and twenty-
22 six thousand four hundred dollars. It's one we had requested be
23 deferred to this meeting. It came up at the last meeting. I don't
24 remember what the deferral was for -- maybe further explanation.

25 MR. BARTON: Is there a project number associated with
26 that?

1 DR. GIBBONS: No, there's not at this time.

2 MR. PENNOYER: It used to be a project though. Uh-huh.

3 DR. GIBBONS: It was -- it was part of the Cordova City

4 Council recommendation. I'm not sure, I'd have to go back and look

5 if there was ever a project number assigned to this.

6 MR. BARTON: To keep the record straight.

7 MR. PENNOYER: I think it was a PAG recommendation. It

8 appeared before us and --. Mr. Chairman, this was a nine-to-two

9 positive vote from the Public Advisory Group for a higher price

10 tag. It was two hundred and forty -- two hundred and fifty

11 thousand dollars, about twice as much money -- that it had surfaced

12 in January to us, and at that time we agreed not to take action in

13 '93 on it, and I don't remember -- did we defer that or did we just

14 say no action?

15 DR. GIBBONS: It was not approved.

16 MR. PENNOYER: Not approved. Okay. Did not approve the

17 project.

18 MR. COLE: Mr. Chairman.

19 MR. BARTON: Yes, Mr. Cole.

20 MR. COLE: Well, I think Commissioner Rosier is in a

21 position to comment specifically on the motion -- Let me say,

22 Commissioner Rosier is in the position to comment positively on the

23 motion. When we were at Cordova, we spoke with fishermen, and in

24 my view they gave us some sound reasons on these studies. It is

25 their view that valuable data is being lost, data which could be

26 used for management activities.

1 MR. BARTON: Is this -- we're not tagging any more?
2 This is reading -- recovery and reading of the tags that we
3 previously invested in?

4 MR. ROSIER: Mr. Chairman.

5 MR. BARTON: Mr. Rosier.

6 MR. BARTON: That would be -- that would be tagging in
7 years '89, '90, and '91, I believe, and this is on the longer-life
8 species, the sockeyes, cohos, chums and chinooks. These -- there
9 is no recovery program on these particular species. This will
10 prevent -- will permit us to proceed with a recovery program. As
11 Charlie has indicated, I think that it goes beyond just the
12 management implications of this year. It also goes to some of the
13 work that will be necessary associated with some of the red salmon
14 work that we've previously approved. Coghill Lake needs some
15 evaluation of the total contribution of the fishery as well as to
16 the escapement which we are currently monitoring on Coghill. So --
17 strong support, of course, during the public session in Cordova
18 backing up the petition from the City of Cordova.

19 MR. PENNOYER: Mr. Chairman.

20 MR. BARTON: Mr. Pennoyer.

21 MR. PENNOYER: Just got a few questions. These are all
22 hatchery-tagged fish?

23 MR. ROSIER: No. Mr. Chairman, no. This is not all
24 hatchery-tagged fish. There were wild stocks that were also tagged
25 in this --.

26 MR. PENNOYER: A further question, are all of these

1 stocks ones identified as damaged or injured by the oil spill?
2 Chum and -- some chum -- I'm not sure I've chum -- but sockeye,
3 Coghill Lake, coho, and chinook -- what -- what's the tie there in
4 terms of alternative resources or whatever -- what is?

5 MR. ROSIER: The tie, I guess, as far as chinooks and
6 cohos has not been -- has not been demonstrated. These are
7 species, of course, that we had smolts going out the year of the
8 spill, and -- and I guess that was the basic reason that we in fact
9 wanted to look at this originally, to take a look see if the fish
10 that were in fact going out would be at sea for a longer period of
11 time than the two year it takes. At this point, this would be the
12 first look that we would probably get at the returns of those
13 particular species.

14 MR. PENNOYER: Mr. Chairman -- but I'm curious -- this
15 won't show us whether they were injured or not. This is simply a
16 distributional asset. It's got nothing to do with monitoring for
17 injury.

18 MR. ROSIER: Correct.

19 MR. COLE: Mr. Chairman.

20 MR. BARTON: Mr. Cole.

21 MR. COLE: Well, maybe they were injured as a result
22 of the spill. I think that's one thing we don't know. I'm not a
23 scientist in this area, but that's one of the reasons I would think
24 we would like to look them -- to find the distribution and to see
25 if there were any injuries resulting from the spill to these
26 species.

1 MR. ROSIER: Certainly, they were the basis, Mr.
2 Chairman, for putting them on -- putting those tags on out there.
3 It was certainly an evaluation that -- I would assume -- of the
4 impacts of the spill on those particular species. Lacking, you
5 know, lacking a recovery effort here at this point, I mean, you
6 still make no -- no tie -- with actual damage. So, it seemed to me
7 that at least we would be able to evaluate the impacts, you know,
8 to some degree on these various species. So, (indecipherable)
9 initially, back up the tag -- the tag-recovery effort in place,
10 this would give us the ability to in fact monitor this -- this
11 fishery, obviously, and have some evaluation of the contribution of
12 these various stocks in the fishery, but we'll also be monitoring,
13 obviously, some of the -- the recoveries at some of the hatcheries
14 as well as streams that these fish will in fact be returning to.
15 So, it will give us a look-see at the mix of what the -- at least
16 what the -- the survival conditions may have been off of the year
17 classes that we're talking about here.

18 MR. BARTON: Mr. -- Mr. Sandor.

19 MR. SANDOR: A hundred and twenty-six thousand?

20 MR. ROSIER: This is -- Mr. Chairman, this is a
21 stripped down version, as Mr. Pennoyer has indicated, two hundred
22 fifty thousand -- or two hundred and forty thousand, I guess,
23 originally, to a hundred and twenty-six point four, which would
24 basically dovetail with some of the ongoing sampling programs in
25 the -- in the area.

26 MR. SANDOR: (Inaudible) coded tags that have

1 previously been place.

2 MR. ROSIER: That's correct.

3 MR. BARTON: Mr. Pennoyer.

4 MR. PENNOYER: I think such information is valuable for
5 management, and I guess if -- if the recovery in the brood stock is
6 going to give us some indication of survivability of those
7 particular broods that went out at the time the oil was spilled,
8 maybe it has some bearing on injury, although I don't know how
9 you'd ever make the direct tie to the oil spill. I think the
10 reason we put the tags on in '89 and '90 was at that time we had
11 not decided which resources had been injured, and we just sort of
12 tried to cover the broad spectrum. But since that time, we haven't
13 seen anything -- anything that would indicate to me that we have to
14 make a decision on chinook and coho. We have done chinook and coho
15 stocking that -- that is a supplement for subsistence resources, so
16 we dealt, I think, with chinook and coho stocking in that regard,
17 but I don't -- I don't know that we've actually in any place
18 determined that those two species were injured by the spill. The
19 area that bothers me a little bit about this is that, again, this
20 project is sort of outside of our -- our process. We have not --
21 I know you've had input in the meetings you held; I think people
22 are interested in it, but we've had to my knowledge no RT or Chief
23 Scientist recommendation for them. So, maybe I'm mistaken, and
24 maybe that occurred after the PAG, but I'd ask Dr. Spies if he's
25 looked at this -- I don't think we married to the '93 annual work
26 plan that if better information comes up that we ought to do

1 something, but it seems to me that it's a little bit outside our
2 process, at least in -- for two of the species -- which may not be
3 a big point to us, I don't know. They're not ones we have
4 previously identified as being injured by the spill.

5 MR. BARTON: Mr. Stieglitz.

6 MR. STIEGLITZ: Couple of questions, one, is this a one-
7 year project, Carl, or this a multi-year project?

8 MR. ROSIER: Well, I would -- looking at the individual
9 species that would be involved here, it would seem to me that we
10 would be looking at at least two years on this, so, it would be
11 this year plus next year.

12 MR. BARTON: And the hundred and twenty-six is for this
13 year only?

14 MR. ROSIER: That's correct.

15 MR. BARTON: Mr. Stieglitz.

16 MR. STIEGLITZ: The next question is can we hear from the
17 Restoration Team, and I'd be interested in hearing from the Chief
18 Scientist too, if he has a view on this particular project.

19 MR. COLE: Dr. Montague ...

20 MR. BARTON: Dr. Gibbons.

21 DR. GIBBONS: Yeah, well, the Public Advisory Group
22 submitted this to the -- to the Trustee Council. The Restoration
23 Team subsequently reviewed the proposal and did not recommend this
24 for inclusion in the '93, but deferred it to the possible inclusion
25 in the '94 work plan.

26 MR. BARTON: Mr. Stieglitz.

1 MR. STIEGLITZ: What was the rationale of the RT?

2 DR. GIBBONS: I can get that for you. We've got the
3 write-up on that. It's upstairs. Right now, I don't know about
4 it, but a lot of it was tagged -- and the hatcheries -- we thought
5 some of it was normal agency responsibility, I think was part of
6 it.

7 MR. BARTON: Dr. Spies, can you enlighten us as to your
8 views on ...?

9 DR. ROBERT SPIES: I'd have to agree with the comments
10 of the Trustee Council so far this project may be warranted as a
11 management action, but I know of no information to date that
12 indicate that these two species, chinook and coho, have been
13 injured by the spill. We could send it out as a -- it could be
14 done as an enhancement action, of course, and we could send it out
15 for technical review. I just recently received myself -- and we
16 could get our peer reviewers to comment on the technical merits of
17 the proposal as it is, but as far as the injury to those two
18 species, I'm not aware of any information we have that would let us
19 know one way or the other if those species have been injured.

20 MR. PENNOYER: Mr. Chairman.

21 MR. BARTON: Dr. Pennoyer.

22 MR. PENNOYER: In sockeye and chum, there is some
23 sublethal injury?

24 DR. SPIES: Because the spawning habits of the chum
25 being so close to those spawning intertidally in some cases with
26 the pink, and the information on injury to pink salmon, there's a

1 little more solid basis for proposing that there was injury to chum
2 salmon. Of course, we have the situation at Kenai River and other
3 places -- Kodiak Island -- as far as the red salmon injury is
4 concerned.

5 MR. PENNOYER: Mr. Chairman, we just did the Coghill Lake
6 fertilization program, so I hope we have something more to indicate
7 sockeye in Prince William Sound too. It's my remembrance of the
8 discussion was, there was an indication that we had a problem with
9 the Coghill Lake sockeye run. (Inaudible) ... okay.

10 DR. SPIES: I can't recall the specifics of the
11 discussion right now.

12 MR. STIEGLITZ: Mr. Chairman.

13 MR. BARTON: Mr. Stieglitz.

14 MR. STIEGLITZ: Dr. Spies, do you feel like the results of
15 the recoveries from the wire tags will shed any additional light as
16 to whether or not populations of these four species were impacted
17 by the spill.

18 DR. SPIES: It will be difficult to separate the
19 effects of natural viability, I think, from an injury from oil. It
20 will certainly give you a recovery rate, and that data could
21 reflect some sort of injury, but it will be difficult to be very
22 conclusive of that.

23 MR. SANDOR: Mr. Chairman.

24 MR. BARTON: Mr. Sandor.

25 MR. SANDOR: You've answered one of my questions. The
26 second question that I had was if this isn't included in '93, are

1 opportunities lost for this two-year project then, as I understand
2 it then? It could be done in '94? What would be -- would the
3 opportunity lost, or would we be partially able to recover....?

4 DR. SPIES: I -- I assume that there fish that are
5 returning in '94 as well as '93, and that's the -- why it has to be
6 two-year.

7 MR. SANDOR: Yeah, so -- would you have enough
8 information from doing it just one year as opposed to two years, or
9 ...

10 DR. SPIES: I can't answer that question right now
11 because I don't know what proportion we might expect to -- of the
12 coded-wire tagged fish to return in '93 and '94.

13 MR. SANDOR: I guess, Mr. Chairman, I'm concerned about
14 the opportunity lost in the recovery of information, and I guess I
15 get no assurance that the opportunity isn't indeed lost if we don't
16 ahead and (inaudible) in '94. Thank you.

17 MR. BARTON: Mr. Pennoyer.

18 MR. PENNOYER: A couple of questions, first, what is the
19 timing for this project? Do you -- you talked about getting a look
20 at it, and obviously you haven't seen it, so we're

21 DR. SPIES: I got it a few days ago, but I've been
22 caught up in a lot of other issues, so I haven't had a chance to
23 get peer review.

24 MR. PENNOYER: When does this have to be implemented by?
25 (Inaudible) already underway, I suppose.

26 DR. MONTAGUE: Mr. Chairman, June or July. Sorry, the

1 month of June and early July is when it needs to be conducted. So,
2 beginning immediately. And the Council's other salient points
3 relative to this, although there's four species in the tidal, the
4 sockeyes and chums make up, I believe, greater than ninety percent
5 of the expected recovery. The cohos and chinooks, while we're
6 going to recover some, is a really small aspect of the -- the
7 project, and in future years, you know, it's really the longer --
8 the cohos and chinooks -- that you'd be expecting to get, and as
9 such probably next year is less important than this year as for
10 conducting this project. And, Carl mentioned that some, but one
11 thing that this project will provide that is very beneficial to the
12 Coghill restoration project is although we have a weir in the
13 Coghill restoration project to measure the number of Coghill fish
14 that actually make it back to the lake, without the coded-wire
15 tagging project we would not be able to know how many Coghill fish
16 there were out there that were eventually caught, and so -- the
17 combination of the two provides the total return. So, as far as
18 having a basis by which you're going to measure whether Coghill is
19 recovering, it's very beneficial to have an estimate of the total
20 return in the year that the restoration project is initiated. So,
21 I would say that that's a key point on why this project is
22 important. And a second one is -- is that commercial fishery
23 services were injured, and certainly these species are extremely
24 valuable species and contribute more to the value of the fishery
25 than their sheer numbers imply, and not only that, changes in
26 harvest of these species are made up by -- I mean, a change in the

1 harvest of sockeyes results in a change in the harvest chums and
2 pinks which were injured as a result of the spilling.

3 MR. PENNOYER: Mr. Chairman, I guess you're making an
4 equivalent resources argument then in terms of those other species.
5 I want to -- one other question in terms of this project's
6 relationship to another one, we just approved seventy thousand
7 extra dollars for pink salmon coded-wire tag recovery, are not
8 these intermixed in the fisheries and the hatcheries, the pink and
9 chum particularly?

10 DR. MONTAGUE: Mr. Chairman, that's part of the reason
11 why we were able to cut the cost from two hundred and forty-five
12 thousand to a hundred and twenty-six, but in addition there's the
13 pink is primarily a July-August operation, and this is primarily
14 June and July. And, in the actual processing operation, the pink
15 tags are recovered in, I guess there's a different part of the
16 line, so to speak, than are sockeyes, chinooks and cohos. So even
17 in the same plant, you might need two people at two different
18 spots.

19 MR. BARTON: Other questions or discussion?

20 MR. PENNOYER: Mr. Chairman, I sure would like to find a
21 way to not continue redoing the annual work plans on an ad hoc
22 basis as we go along, and we did look at this package before, and
23 I'm not -- I don't know why we didn't think it was lost opportunity
24 previously or didn't consider it to be of particular significance
25 as a lost opportunity. We had that chance to do it. It's been in
26 front of us since January. How a separate subject is the concept

1 of not losing the data on the sockeye and the chums, since we put
2 the tags on, and the fact that over the next year or so we're going
3 to be planning out in some detail the type of restoration actions
4 we want to take on some of these species, even if we don't have a
5 coho and chinook (indecipherable), if they are a small part of this
6 and sort of a target of opportunity. I would like to see us get
7 the information. I'm troubled by here we are in May and every
8 meeting we've re-upped the '93 work plan and added something,
9 subtracted it, or modified it, and I'd sure like to find a way --
10 maybe when we get the restoration plan done we'll be smarter about
11 this.

12 MR. BARTON: Mr. Cole.

13 MR. COLE: First, if we've erred in the past, we
14 shouldn't let that preclude us from making the right decision if we
15 have found that we have made a mistake in the past, number one.
16 And number two is Commissioner Rosier and I, having had the benefit
17 of going to Cordova and listening to the fishermen there whose
18 livelihoods probably were injured more than anyone else's there as
19 a result of the spill, they strongly support these projects, and I
20 think that we should certainly give some consideration to their
21 views. And lastly, I mean, we spent thirty-eight million dollars
22 buying some habitat last meeting, and now we're struggling with a
23 hundred ten thousand to get some really hard data on an injured
24 resource which has some very direct economic benefit to the state.
25 I don't see what the hang-up is myself. I think we ought to just
26 get it done and get these people some help -- get this data and not

1 lose it.

2 MR. BARTON: Mr. Stieglitz.

3 MR. STIEGLITZ: The hang-up I have is basically this one.
4 Everything I know about this and the testimony we've heard in the
5 last few minutes tells me that there's no definitive proof that
6 there has been any population decline to any of these four species
7 of salmon as a result of the oil spill. And I heard our Chief
8 Scientist say that in his opinion the additional data that we
9 collect from the tag returns will not really shed any light as to
10 whether there are any impacts from the oil spill on these four
11 species of salmon. So, you know, the struggle I'm having is, is it
12 really a good investment. Whether it's a hundred thousand or a
13 hundred million, I have a little trouble saying, you know, big
14 projects are under a different criteria than smaller projects. You
15 know, the bottom line is, are we getting ready to approve a project
16 for species for which there really is not a clear picture of damage
17 resulting from the spill -- injury, not damage. That's the picture
18 that's coming across to me. Now, the problem I have in not
19 approving the project is the lost data issue. I remember the
20 struggles we went through when we were approving these projects as
21 damage assessment studies in the first place. We had lots of heavy
22 duty questions back then, and they were very, very expensive, as I
23 recall, to put the tags on these fish in the first place. So, the
24 amount we're investing in recovery is minuscule compared to the
25 investment we made in putting the tags on in the first place. I
26 just say it's -- it's a tough one. I don't like to see a precedent

1 set where we're funding any kind of project, I don't care how much
2 it costs, where there's not clear injury involved.

3 MR. BARTON: Mr. Pennoyer.

4 MR. PENNOYER: Certainly, I think the lost information
5 (indecipherable) will probably persuade me to vote for this, but in
6 terms of the relevant dollar amounts, Mr. Cole, I remember you and
7 I discussing eleven thousand dollar project about three meetings
8 ago, and I said something to the effect that we're taking a lot of
9 time with this, but it was the fact that it was a principle of
10 money that we were approving that in your view, and mine ultimately
11 too I think, should have been done by the agency, and for that
12 reason we did not approve it. So, I don't disagree with you at all
13 that people want us to do some of this type of thing, and we're
14 going to have to come to grips with which parts are appropriate for
15 this money and which aren't, and in this case I think I've pretty
16 well concluded in my mind that we're going to need this information
17 to plan at least for the coho and the sockeye -- I mean, the chum
18 and the sockeye -- I don't know how to separate the others out --
19 and we shouldn't lose the information of what we've put on, but it
20 is my view a one-year call, depending on what we get out of the
21 restoration plan and -- it's -- I wouldn't mind spending five
22 million dollars on better pink salmon management if we can go
23 through and figure out what we need to do and why it's appropriate,
24 and -- better than go for fifty thousand dollars on something else
25 that's not appropriate. Anyway ...

26 MR. BARTON: Mr. Rosier.

1 MR. ROSIER: Thank you, Mr. Chairman. I think in
2 regard to Walt's comments, I'd like to say that we didn't study all
3 of the resources, and we didn't study all of the areas that were in
4 fact impacted by the oil spill. We're now hearing from some of the
5 people in some of the areas in which we did not study the impact,
6 we did not study, and I would hope that we are not excluding those
7 people in terms of projects, at least with the transfer of the
8 knowledge that we gain from the areas where we did study those
9 resources, to permit those projects to take place in those
10 particular areas, and so I would hope -- hope that we would keep an
11 open mind as far as that particular issue is concerned.

12 MR. BARTON: Dr. Montague.

13 DR. MONTAGUE: A further specific example relative to
14 whether there's an injury or not is that when these fish were
15 tagged, tagging was part of the three-prong effort to determine
16 injury. Two other associated projects were the escapement projects
17 and changes in growth projects. Basically, the other two, the
18 escapement and growth projects, were dropped, which actually
19 prevented us from ever really answering the question whether there
20 was chinook and coho damage -- sockeye damage. So, this was one of
21 three prongs of the damage assessment effort that is obviously
22 having a harder time showing injury on its own compared to what it
23 could have shown if all three had gone ahead.

24 MR. PENNOYER: So it's a damage assessment close-out
25 project?

26 DR. MONTAGUE: Well, it certainly started as a damage

1 assessment project.

2 MR. PENNOYER: That's a good rationale, thank you.

3 MR. BARTON: Any further comments or questions? Mr.
4 Cole.

5 MR. COLE: In response to Mr. Stieglitz, I think what
6 we're trying to do here as part of this project is to find out if
7 these species were in fact injured. I'm not sure we know that.
8 That's what I thought I heard the Chief Scientist say, and I think
9 this would be valuable information to find out if they really were
10 injured.

11 MR. BARTON: Mr. Stieglitz.

12 MR. STIEGLITZ: The Chief Scientist also said very clearly
13 that he doesn't think the results will shed any light on that
14 because there are too many other factors playing on those
15 populations.

16 MR. COLE: You could say that about everything. I
17 mean, you can say that about every one of these studies we have
18 because we have the natural variations. If you want to make that
19 argument, we have the decline -- the pre-spill decline -- in
20 probably half or three quarters of these studies, so if we want to
21 make that argument, we would say, well, it was declining before
22 anyway, so, c'est la vie.

23 MR. STIEGLITZ: That's not really true of all the studies.

24 MR. COLE: Not of all of them -- I said only two-
25 thirds.

26 MR. STIEGLITZ: We have lots of dead bodies out there,

1 Charlie. There's been -- there aren't any dead bodies there.

2 MR. COLE: Well, that's another thing. If you read
3 these reports, and sometime you see thirteen carcasses, that's not
4 very persuasive to me, but that's another subject.

5 MR. STIEGLITZ: That isn't zero though.

6 MR. PENNOYER: Question, Mr. Chairman.

7 MR. COLE: I'm not sure ...

8 MR. BARTON: I'm -- I'm persuaded to vote for this
9 project because of the aspects, two aspects, that of closing out,
10 actually closing out the damage assessment study that we started
11 sometime ago, and related to that the prior investment that we have
12 in these tags. It seems like a minimal amount of money that can
13 add to the body of knowledge. But I'm still puzzled, I mean, it's
14 a question I raised I think at our last meeting, regarding public
15 losses versus private losses, and loss of services to commercial
16 fishermen -- I wish somebody could explain to me why that's a
17 public loss.

18 MR. COLE: Do you want an explanation this afternoon?

19 MR. BARTON: No, not this afternoon, but I'd appreciate
20 one over a beer sometime. That's -- but it seems to me that is a
21 grey area. At least in my mind, it's in a grey area. Are there
22 any further discussion or comments?

23 MR. SANDOR: Call for the question.

24 MR. BARTON: The question's been called. Any objection
25 to the motion? Hearing none, the motion passes. Where are we, Dr.
26 Gibbons?

1 DR. GIBBONS: The herring project.

2 MR. BARTON: The Pacific herring project. Is there a
3 motion on the Pacific herring project?

4 MR. COLE: I guess I would reiterate my opening
5 salvo.

6 MR. BARTON: I know, but there was objection to your
7 opening salvo.

8 MR. COLE: He wanted to treat the -- each one at a
9 time.

10 MR. BARTON: And this is the time for Pacific herring.

11 MR. PENNOYER: Is there a motion on the floor?

12 MR. BARTON: Not yet.

13 MR. ROSIER: I so move.

14 MR. BARTON: So move what? Adoption?

15 MR. ROSIER: Adoption.

16 MR. BARTON: Okay. Is there a second? Seconded by Mr.
17 Sandor. Any discussion?

18 MR. PENNOYER: Mr. Chairman, perhaps we could get an
19 explanation of how this project contributes to our understanding of
20 injury on herring, or is it an appropriate way to do that type of
21 assessment?

22 MR. ROSIER: Mr. Chairman.

23 MR. BARTON: Mr. Rosier.

24 MR. ROSIER: Thank you. This particular project that
25 is a little troubling to me from the standpoint of the focus of
26 this particular proposal. There is a need, I think we've outlined

1 it previously here, to continue to take a look-see at herring in
2 Prince William Sound. We've seen the -- basically a collapse of
3 the fishery there this year, we've seen the year class that was the
4 result of the spill year appear to be one of the weakest year
5 classes in recent history of the Prince William Sound herring
6 stock, we've seen that stock subjected to a substantial impact
7 associated with what appears to be a -- a viral infection, and
8 we've seen the need, I guess, on the part of the people of Prince
9 William Sound to in fact get back in to some monitoring of the
10 herring populations there in the Sound. This particular project
11 that's put forth here would not be my first priority. We had
12 submitted previously a project which called for the hundred and
13 eighty thousand dollars to look at the spawn deposition in the
14 Sound, and this would be my priority as far as the herring work
15 that's necessary in Prince William Sound at this time. This --
16 this project description that we have here is -- gets at something
17 that I think that has bothered you, Mr. Pennoyer, and I think it's
18 bothered Mr. Stieglitz, this is a long-term project. We're going
19 to get into herring acoustical work. You're talking about a long-
20 term project here. This is not something that you're going to get
21 an answer, not something that you're going to get done in a very
22 short period of time. It's going to require gearing up. So, for
23 that reason I would -- I would -- I would ask that we give
24 consideration to the original proposal that I believe came through
25 the process on the spawn deposition work for the hundred and eighty
26 thousand dollars, rather than this assessment through the

1 acoustical sounding that's put forth here.

2 MR. COLE: I'll consent to Mr. Sandor, first.

3 MR. PENNOYER: Mr. Chairman.

4 MR. BARTON: Mr. Pennoyer.

5 MR. PENNOYER: Still do spawn deposition this year? Or
6 are you proposing for next year?

7 MR. ROSIER: We cannot do it this year. This -- I
8 guess, looking at the scheduling on this, there has to be some
9 indication that -- where we're going to be before the first of the
10 year though in order to set the project in place for the spring of
11 '94, April -- March and April of '94 would be actually when the
12 work would in fact be done. So, it's something that would have to
13 be looked at in that time frame.

14 MR. PENNOYER: Mr. Chairman, would it be sufficient to
15 instruct the Restoration Team at this time to ensure that spawn
16 deposition, harvest monitoring projects on herring, are included in
17 the draft that they're going to present us. I'm a little -- you
18 know, frankly, at this stage of the game, I think I would probably
19 support a spawn deposition project, at least eventually, but I
20 think it still needs to be in the context of the developed '94 work
21 plan and the restoration plan. You know, I agree with Mr. Rosier,
22 I was troubled on this project by the fact that I think we're
23 taking off on a sort of a new technology and (indecipherable).
24 It's not new elsewhere in (indecipherable) part of the world, but
25 it's new in Prince William Sound, and Prince William Sound has been
26 beset by past problems with knowing what you were looking at in the

1 fall and whether it's related to what you're looking at in the
2 spring spawning run, stocks separations and so forth, you're
3 getting off into a rather elaborate area of trying to do stock
4 separation and acoustic monitoring and trying to bring it back to
5 real-time data, I think. That's my past recollection of when we
6 tried some of these approaches in the past or discussed them. So,
7 I would have trouble, sort of out of sequence, without review
8 approving this project now. I don't I have any problem with a
9 spawn deposition project for next year, but at this point I would
10 instruct the Restoration Team to make sure that's included in their
11 list of the fishery priorities, and we'll have it back in front of
12 us.

13 MR. BARTON: Are you amending Mr. Cole's motion?

14 MR. PENNOYER: I move that amendment.

15 MR. BARTON: Is there a second?

16 UNIDENTIFIED VOICE: Second.

17 MR. BARTON: Any further discussion on the amendment?

18 UNIDENTIFIED VOICE: Question.

19 MR. BARTON: Any objection to the amendment? Hearing
20 none, the amendment's adopted. Any further discussion on the main
21 motion? (Inaudible aside comments) Any objection to the main
22 motion? Hearing none, the motion is adopted. Does that take care
23 of the '93 work plan?

24 DR. GIBBONS: No, two more.

25 MR. BARTON: Two more pieces, let's go.

26 DR. GIBBONS: Dr. Montague, do you want to talk about

1 project 93030, the Red Lake, the status of that?

2 DR. MONTAGUE: Yes. These are projects -- both of these
3 were projects that were funded for environmental compliance
4 projects. They were '93 projects, but we thought it was relevant
5 to let you know what was happening on them. The Red Lake
6 restoration project, we're still trying to revise the environment
7 assessment based upon the Fish & Wildlife Service's concerns, and
8 we do intend to -- kind of a drop dead time to conduct this project
9 is August 1st. If we can, you know, iron out the differences and
10 develop an acceptably environmental assessment before August 1st,
11 we would propose going to the Council with it to get approval to
12 conduct it this year. And if the EA completion extends beyond
13 August 1st, we would certainly propose that this be in the '94 list
14 of projects with its environmental compliance completed. Relative
15 to the Chenega proposal ...

16 MR. BARTON: What number is the Chenega proposal?

17 MR. PENNOYER: Mr. Chairman, can we finish one at a time,
18 and conclude that. I lost track of why NEPA isn't done. I mean,
19 we did approve this project at one time. Is it too late to do it
20 this year anyway? You said by August. Why would NEPA not be done
21 by August? What's the hang-up?

22 DR. MONTAGUE: Well, because the -- the concerns that the
23 Fish & Wildlife Service raised are complex, and to actually rewrite
24 the EA and get it approved in time could be problematic. It's
25 taken longer than we had anticipated.

26 MR. BARTON: What action does the Council need to take

1 on this today?

2 DR. MONTAGUE: Nothing.

3 MR. BARTON: Mr. Stieglitz.

4 MR. STIEGLITZ: It's more than a NEPA issue; it's a real
5 refuge compatibility issue with Red Lake study. The project has to
6 be compatible with refuge purposes, otherwise you can't go. That's
7 by law. And the NEPA document is related, of course. Just so
8 everybody understands, it's more than NEPA compliance.

9 MR. BARTON: Mr. Sandor.

10 MR. SANDOR: I suggest we move on.

11 MR. BARTON: Thank you for the status report on 93030.
12 Now, what is the project number for the next one?

13 DR. GIBBONS: I believe -- I believe -- you know --
14 93016.

15 DR. MONTAGUE: Correct. And this project was also
16 another one that was funded for NEPA compliance, and when this was
17 originally proposed back in the winter it was possible to conduct
18 it, but the fish that might have been used for doing the stocking
19 effort have since been committed elsewhere, so we would propose to
20 finish the NEPA compliance on this project, but it cannot be
21 conducted until the '94 work plan.

22 MR. BARTON: Why don't we include it in the '94
23 consideration then.

24 MR. PENNOYER: So moved.

25 MR. BARTON: Second?

26 UNIDENTIFIED VOICE: Second.

1 MR. BARTON: Any objection? Okay. Dr. Gibbons.

2 DR. GIBBONS: There is one more. It's not on your
3 agenda. It just occurred to me when I was looking at the court
4 petition. There's been bits of concern expressed concerning the
5 Kodiak archaeological museum.

6 MR. COLE: (Inaudible -- out of microphone range) ...
7 we now call that Kodiak Archaeological Artifacts Repository. Thank
8 you.

9 DR. GIBBONS: Anywhere, there's -- we've developed a new
10 petition excluding that at this time, and we need to circulate that
11 to the Trustee Council.

12 MR. BARTON: Why don't you circulate that for signature
13 while we proceed through the agenda.

14 DR. GIBBONS: We will include the projects you approved
15 today in the petition.

16 MR. BARTON: What's next?

17 MR. COLE: Before we pass on ...

18 MR. BARTON: Yes, sir.

19 MR. COLE: ... the artifacts repository, it is clear,
20 is it not, that we're still supporting that project, the
21 archaeological repository, and the fact that it's not in this
22 document we're signing today is of technical consequence only?

23 MR. BARTON: Mr. Pennoyer.

24 MR. PENNOYER: Mr. Chairman -- too many meetings, I
25 guess, but going back in history it seems to me that we approved
26 that, but we were expecting some subsequent information that we

1 thought was required before funds were disbursed or something, and
2 that included a more formal relationship on how this was going to
3 be managed, for a time frame, the obligations that were going to be
4 undertaken for the provision of the funds, better estimates of
5 construction planning. There were a number things there, so I
6 think the answer was yes, essentially we had, but the number of
7 hoops this thing still had to jump through before -- before funds
8 for that should be disbursed. DEC was, I think, taking the lead on
9 it, and -- but the Council was going to see some of these
10 agreements back before funding was disbursed. So with that
11 proviso, I think your statement is correct.

12 MR. BARTON: Any further discussion?

13 MR. COLE: Who is taking the laboring oar in
14 acquiring that information? I would not like to see this project
15 sort of fade away.

16 MR. BARTON: I believe DEC was the lead agency on that
17 project.

18 MR. COLE: Okay. Because Mr. Knecht was injured in
19 that helicopter accident, I think it's slowed down us a bit,
20 perhaps.

21 MR. BARTON: Mr. Brodersen.

22 MR. BRODERSEN: Yes. Mr. Knecht has supplied us with the
23 NEPA documents. It's with NOAA now. They're looking at it. He's
24 also supplied us with the information to take to the legislature
25 and was working on the detailed project description when he had his
26 unfortunate accident. I would assume that he will have it to that

1 -- have that to us -- soon as he is able to.

2 MR. BARTON: Any further comments or questions? What's
3 next, Dr. Gibbons?

4 DR. GIBBONS: Item number six, habitat protection. The
5 key item here is the third one, coordinating an approval process.
6 We can give a status on the other ones.

7 MR. BARTON: I believe Ms. Anderson's been waiting very
8 patiently for a day and three quarters. Why don't we take up ...

9 MS. ANDERSON (from audience): For three years.

10 MR. BARTON: ... Pardon me?

11 MS. ANDERSON: For three years.

12 MR. BARTON: I didn't say patiently for three years.
13 (Simultaneous laughter). Let's take up the status of Eyak property
14 negotiations first. Mr. Rice.

15 MR. RICE: Mr. Chairman, as Kathy Anderson indicated
16 yesterday, we've had some meetings with her and the negotiator, and
17 I passed out late yesterday evening to some of you at least a copy
18 of a letter that she and the Forest Service have signed, basically
19 outlining what they've arrived at to date. Very briefly, the
20 Habitat Protection Work Group, subgroup that worked on evaluating
21 the land, had done a preliminary evaluation of the Power Creek and
22 Eyak Lake area. The preliminary look is of a fairly high -- is of
23 a high rank, but they are waiting for some additional information
24 in order to finalize that and waiting for some land status
25 information before looking at the Eyak River portion that is also
26 part of the Eyak proposal. We have not analyzed the area in Orca

1 Inlet. This was done as part of the imminent threat process. Eyak
2 is proposing to add that area into our -- into our -- the total
3 negotiations, but we have not at this time done any evaluation of
4 that area. That -- we have not had any Trustee Council approval to
5 move outside of the general area around the Eyak Lake and Power
6 Creek area. The basic tenets of the cooperative agreement with
7 Eyak have been met, at least in terms of a preliminary analysis,
8 and they're moving forward with trying to get some concrete
9 proposals to start some discussion on protection mechanisms.
10 There's strong indication that -- Eyak is saying that they are not
11 interested in fee simple, so it would be somewhat less than fee
12 simple protection mechanisms that we're working towards. Are there
13 any questions?

14 MR. BARTON: Questions or comments?

15 MR. SANDOR: Mr. Chairman.

16 MR. BARTON: Mr. Sandor.

17 MR. SANDOR: The last paragraph of the letter says I
18 will request through the restoration trustee that the Trustee
19 Council take whatever action is necessary at its June 2nd meeting
20 to enable review of forthcoming protection recommendations. What
21 is the specific action we could be taking, if any?

22 MR. RICE: At this time I'm not sure there's any
23 specific action that the Trustee Council needs to take. We are
24 proceeding with a further review of the Eyak River, Eyak Lake, and
25 Power Creek area, and once we have that finalized and have some
26 further discussions with Eyak Corporation, we will be able to make

1 a more formal presentation to the Trustee Council. Kathy doesn't
2 agree with me on that.

3 MS. ANDERSON: Well, somewhat I agree with you, Ken, but
4 the letter (inaudible -- out of microphone) so little to us that
5 it would be done either by teleconference, special meeting,
6 something. We've got logging activity going on now, and may not
7 meet -- you know, past that deadline. We need to extend it by
8 three weeks.

9 MR. RICE: So, they have extended their memorandum of
10 agreement by three weeks to June 21. We do not have a Trustee
11 Council meeting scheduled at that time. Our next Trustee Council
12 meeting is in August.

13 MR. BARTON: What action is it you anticipate the
14 Council needs to take?

15 MS. ANDERSON: Either agreeing to meet again, according
16 to Bruce, or teleconference, or some type of that needs to be
17 (inaudible -- out of microphone range) -- otherwise, when would we
18 negotiate? You know, going for two months -- it's only been in the
19 last few weeks now that we've been waiting -- start moving on it
20 (inaudible -- out of microphone range).

21 MR. BARTON: You need to come to the microphone, Ms.
22 Anderson. Again, it's not clear to me what action the Council
23 needs to take today or whenever it meets.

24 MS. ANDERSON: I'm not following you. That letter is to
25 me from Bruce.

26 MR. BARTON: I understand.

1 MS. ANDERSON: He's saying that the Council -- seeing as
2 we couldn't come to an agreement, he was busy in meetings, on
3 vacation to Hawaii, and a sundry of things happened that caused
4 this to be delayed. Our loggers are on the east side now, and by
5 the end of the month they were planning to move across to Orca. If
6 this doesn't take place before then, I would be afraid that they'd
7 begin moving into the Power Creek or the Eyak Lake area. That's my
8 fear.

9 MR. BARTON: We appreciate that. Mr. Rice, can you
10 enlighten us as to what action is being referred to here?

11 MR. RICE: Mr. Chairman, it appears that the request
12 is that the Trustee Council be available to take some further
13 action on the Eyak proposal on or by the June 21st, so that we may
14 need a continuation meeting or a teleconference to deal with the
15 further information that we will be able to provide by then.

16 MR. BARTON: Mr. Sandor.

17 MR. BARTON: Mr. Chairman, I move that, in the event
18 that some action is -- is necessary that needs to come before the
19 Council, that we make provision in terminating this provision to
20 have a teleconference in follow-up, if necessary.

21 MR. BARTON: I'll second that motion. Is there any
22 discussion? Ms. Rutherford.

23 MS. RUTHERFORD: Mr. Chairman, I recognize that the
24 Trustee Council indicated at a previous meeting that it might be
25 necessary if negotiations proceed to come together with a
26 teleconference. If the Forest Service and Eyak Corporation,

1 however, want to come to the Trustee Council with a proposal, we
2 would attempt to do the same presentation of the analysis that we
3 did on Seal Bay, and that would be a little tough to do via
4 teleconference. I just bring that to your attention.

5 MR. BARTON: No tougher than getting all six of us
6 together in one place. At any rate, is there any objection to the
7 motion? Hearing none, the motion passed.

8 MS. ANDERSON: Just a clarification again, would you
9 restate what your motion was?

10 MR. BARTON: That provision be made to conduct the
11 meeting through -- by a teleconference -- when the need arises.

12 MR. COLE: Mr. Chairman.

13 MR. BARTON: Mr. Cole.

14 MR. COLE: So one could be thinking about this
15 transaction, what are the broad parameters of the proposed
16 acquisition at this time?

17 MR. BARTON: Mr. Rice.

18 MR. RICE: Mr. Chairman, my understanding of the way
19 it's been explained to me is that the area around Power Creek and
20 Eyak Lake and along the Eyak River would -- is available for some
21 fairly long-term, i.e., at least one rotation, protection
22 mechanisms, with opportunities for public access to the area. The
23 discussions -- my understanding -- have not gone much farther than
24 that with that area. There has also been some discussion, I think,
25 on providing extended buffers around the Orca Inlet area around
26 lake streams and saltwater. Beyond that, we haven't taken it very

1 far.

2 MR. BARTON: Anything further? Okay, shall we move
3 along? Do you want to add anything, Kathy?

4 MS. ANDERSON: Not at this time.

5 MR. BARTON: Thank you. Where do you want us to go
6 next, Dr. Gibbons?

7 DR. GIBBONS: The status of the Seal Bay. Marty.

8 MS. RUTHERFORD: Mr. Chair, on May 19th a memo was
9 faxed to each of the Trustee Council by Dave Gibbons advising you
10 that DNR, Department of Law, had found it necessary to request a
11 thirty-day extension from Seal Bay Corporation and asked if you
12 guys concurred to that extension. We heard nothing back, so we
13 proceeded with that. We developed -- DNR developed -- a request
14 for proposal that was sent out to four appraisal firms. They were
15 International Forestry Consultants, Inc., Cronk & Holmes, Atterbury
16 Consultants, Inc., and Mason, Bruce & Girard. Out of those four
17 firms, one responded. That was International Forestry Consultants.
18 They provided a good proposal. We developed a contract around that
19 proposal that was sent out today or back to them for execution
20 today. The proposal was for a total of thirty-two thousand
21 dollars; twenty-six thousand dollars for Seal Bay parcel, and six
22 thousand for Tonki Cape. We are proceeding with both parcels in
23 the appraisals. The completion date for the appraisal is now
24 August 6th, with allowing time for a review of that appraisal to be
25 done between that and the mid-August Trustee Council meeting. I
26 might just note here, I'd like to say thanks to the Forest Service

1 review appraiser, Rich Goosen (ph), who participated with DNR
2 people to develop this RP in really a tight time frame and to
3 review the proposals as they came in. I think that's where we are
4 on in terms of the appraisal. Everything seems to be going well.
5 We're real pleased with the proposal that came in and the price.
6 We have copies of that, if you would like a copy. Then, DNR has
7 also just completed or is completing now the preliminary title
8 search. That will be used by both the appraisal firm and the
9 sellers and negotiators. We will also be handling internally the
10 full title search, and we are just starting on the preliminary --
11 I mean on the haz-mat survey activities. I have a couple other
12 things I want to hand out. We have completed a NEPA on the Sea Bay
13 -- on the Seal Bay -- parcel, and we -- DNR just received a
14 response from Forest Service accepting our analysis on the NEPA
15 requirements for categorical exclusion, and I'm handing a copy of
16 that document from the Forest Service to DNR. And finally, I'm
17 also going to hand out three letters that the Trustees received
18 from Koniag, who is owner of subsurface rights for Seal Bay and
19 Tonki Cape parcels. There are two May 13 documents, and then
20 there's a May 27th proposal, and I -- if you would take a look at
21 all those and see whether there's anything you wanted to pursue
22 regarding that.

23 MR. BARTON: Mr. Pennoyer.

24 MR. PENNOYER: Mr. Chairman, I think this has been really
25 a good effort from the negotiations Mr. Cole carried out on down
26 through the work with Seal Bay itself and what the habitat group

1 has done since then. I -- I think we have one piece we haven't
2 quite tied up yet, but I think we've -- maybe we need formal action
3 to do so -- but in terms of any of these land acquisitions, the
4 decision was made to have the negotiators be the most probable
5 management agency that's going to deal with the land ultimately.
6 It also is to probably formally take action to confer that title of
7 land manager on whoever is going to do it and have some agreement
8 as to the disposition of that land, any covenants or caveats or
9 whatever that might be put on it, and I don't know that we've
10 actually formally done that for Seal Bay. Kachemak Bay was, of
11 course, part of the state park, and that was fairly clear. My
12 understanding is this would be a state park as well, and I don't
13 know that we've formally received documentation of that or taken
14 action or any other provisos that might go with it.

15 MR. COLE: Mr. Chairman.

16 MR. BARTON: Mr. Cole.

17 MR. COLE: We will have formal document at the next
18 meeting, if not before, to formalize that.

19 MR. BARTON: Any other comments or questions? Dr.
20 Gibbons.

21 DR. GIBBONS: Move onto to the final action -- or final
22 item -- coordinating an approval process guidelines that was in
23 your package on May 10th and is in your package again.

24 MR. BARTON: Anybody find it?

25 DR. GIBBONS: It's a cover letter dated May 4th.

26 MS. RUTHERFORD: The title is "habitat identification

1 and land acquisition, and coordinating an approval process." I
2 walked through it at your May 12th meeting. I'm prepared to do
3 that again, if you'd like.

4 MR. BARTON: Everybody find it? Two-pager. Three
5 pages (indecipherable).

6 MR. COLE: Could we defer this to the next meeting?

7 MR. BARTON: Ms. Rutherford.

8 MS. RUTHERFORD: We've basically been operating
9 without today. We can certainly do that.

10 MR. BARTON: Is there some reason why we don't want to
11 act on them? Mr. Stieglitz -- Mr. Stieglitz.

12 MR. STIEGLITZ: Yeah, I realize that it's late in the day,
13 but I think everybody's aware I have an alternate proposal to throw
14 into the hopper here, which I think, at least in my view, is a
15 little more streamlined and might make the whole process a little
16 less complicated. And I'm not putting down the work that the
17 Habitat Protection Work Group has done putting together their
18 draft. It might be advisable to delay it if this creates some
19 problems, so the Council could take a look at both proposals, with
20 time to think about it, and then decide which they prefer or maybe
21 some marriage of the two.

22 MS. RUTHERFORD: I certainly have no problem with
23 that. The only thing I would suggest is I have a copy again of a
24 sheet of eight negotiating guidelines -- negotiating acquisition
25 guidelines -- that was discussed at your March 10th meeting, going
26 back awhile, as well as the marked up copy that finally came out of

1 that meeting, and I talked about it last meeting. And I think
2 Commissioner Sandor made almost all the changes -- Commissioner
3 Sand and Attorney General Cole. Attorney General Cole deleted four
4 of those eight, and Commissioner Sandor added four additional ones.
5 So, I think I would hand these out. These were the basis of the
6 development of the HPWG version, and I think it's just important as
7 you review the Department of Interior's proposal to see whether or
8 not you're satisfied whether or not you want to cover these items
9 or not. Is that okay with you, Mr. Chair? Shall I hand these out?

10 MR. BARTON: Sure. You bet. Mr. Sandor.

11 MR. SANDOR: Mr. Chairman, that was reviewed and
12 approved. This is just in a different form then?

13 MS. RUTHERFORD: Right. We took those and we
14 developed what we thought was a little more concise reflection of
15 them as to who was responsible for each of the items, and that's
16 how this four-page document was developed.

17 MR. BARTON: That's right.

18 MR. SANDOR: And as I understand it, the -- this
19 approved document essentially is now displayed in that?

20 MS. RUTHERFORD: That is correct.

21 MR. BARTON: The document you provided just kind of
22 talks about who does what.

23 MS. RUTHERFORD: That is correct.

24 MR. BARTON: With regard to these.

25 MS. RUTHERFORD: That is correct.

26 MS. RUTHERFORD: There were -- I just do want to point

1 out though -- there were a couple of items that I mentioned at your
2 last meeting in this four-page document that really are not
3 reflected anywhere on -- on the March 10th approved document -- the
4 marked-up version -- and that was -- once you go into the chart,
5 item number one under the negotiator responsibilities, the last
6 sentence in that block it says "obtain written statement of
7 preliminary willingness to sell at fair market value." That is
8 something new. And then on the third page of this four-page
9 document, item number eight under the Habitat Protection Work Group
10 responsibilities, the very last portion of that sentence it says
11 "and alternative parcels being able to meet same objective," and
12 basically that requirement will be more applicable once we're into
13 the comprehensive process and all of the private landowner land has
14 been analyzed so we will be able to compare the values of one
15 versus another. This could not be done until we have all the
16 analysis completed.

17 MR. SANDOR: That's understandable -- for future
18 guidelines.

19 MS. RUTHERFORD: Thank you.

20 MR. COLE: Mr. Chairman.

21 MR. BARTON: Mr. Cole.

22 MR. COLE: Looking at this March 2nd, '93, document
23 entitled "Negotiation Acquisition Guidelines," did we agree that
24 the state would follow 49 C.F.R. ...?

25 MS. RUTHERFORD: No. You need to go to the marked-up
26 version I just handed out, Attorney General Cole. You took out

1 items numbered five, seven, eight, and ten. You added one, two,
2 three, and thirteen.

3 MR. COLE: Okay. That's somewhat my recollection.

4 MS. RUTHERFORD: That is correct. And -- and what we
5 did is we took that and we reformatted it, as I said, into this new
6 version.

7 MR. BARTON: What's the relationship between the right
8 hand and the left hand?

9 MS. RUTHERFORD: Just so that you see what -- what was
10 originally sent out and what you did with it.

11 MR. BARTON: So this doesn't exist?

12 MS. RUTHERFORD: It no longer exists. (Crumpling
13 paper and laughter) Do me a favor -- sorry.

14 MR. COLE: Can we get this typed up?

15 MS. RUTHERFORD: You bet. Actually, yes, we can.
16 Would it be helpful if I tried to show on this four-page where each
17 of these items are within this document?

18 MR. COLE: Well, was that a good idea? I thought we
19 might defer this to the next meeting.

20 MR. BARTON: I'm beginning to see the wisdom of your
21 suggestion. It probably would be most helpful to just use the same
22 numbers on this as on this.

23 MS. RUTHERFORD: I will try. There are a couple of
24 situations where one of those appears in more than one place, but
25 we -- I might be able to do that.

26 MR. BARTON: But, what you want us to do today is to

1 approve ...

2 MS. RUTHERFORD: What I should have done was walked
3 you through it just like I did last time ...

4 MR. BARTON: Well ...

5 MS. RUTHERFORD: ... but if you are not prepared to
6 act on it now, we could type this up and make it very clear what
7 each of these numbers are related to in this document and have this
8 ready to mail out to you.

9 MR. BARTON: I think the sense of the Council is that
10 that will probably be the most productive way to get this done.
11 Thank you.

12 MS. RUTHERFORD: Okay, thank you.

13 MR. BARTON: Dr. Gibbons.

14 DR. GIBBONS: One other item -- there's many other items
15 on the agenda. I'm not sure how long you want to go, but item
16 number ten, I've got a letter here from me to the Trustee Council
17 that it has -- make it very clear, it has not been reviewed by the
18 Restoration Team; it was just put together recently but it might
19 shed some light. I'm going to read it and I'll pass it on to you.
20 I'll start into it. We've been in -- we inherited this building
21 from the Department of Justice, the deep bowels of the Department
22 of Justice somewhere I understand, and after the restoration --
23 after the settlement, the Justice Department basically moved out of
24 the building and we inherited the first -- basically the first and
25 fourth floor. I've been dealing with some problems in here, and
26 one is that the building does not comply with the American

1 Disabilities Act (sic) -- I think everybody realizes that -- and it
2 has some provisions on the fire code that it does not meet the city
3 code. And so, we've been trying to negotiate a new contract with
4 various folks. The landlord is reluctant to enter into a new
5 agreement of any kind, without a three year lease, that brings the
6 building up to compliance with the disabilities act -- and it's a
7 financial situation with the landowner. And so currently, we're on
8 a month-to-month lease with the building. I've recently been
9 informed that the landowner may advertise the first floor here for
10 lease. They're not happy with the month-to-month lease, and so
11 with that I had a space study by the Department of Environmental
12 Conservation, which is included in your package, and I might walk
13 through some of the assumptions that I had when I did the space
14 study analysis and how it was prepared. I will say at the outside,
15 the space analysis came up with very similar space that we have
16 now. It came up to about twelve thousand square feet, and what we
17 have now is very close to that. It will take three to five months
18 to advertise for new space and remodel it to meet the
19 specifications that we have and move. We think there are
20 efficiencies that we can gain in moving to a new building, and some
21 of those considerations that I -- we -- thought were, one, we
22 combined the Trustee Council and the Restoration Team meeting
23 spaces. We don't need separate meeting spaces, and this will
24 reduce space need. It might cause some occasional hard --
25 hardships in space, but we can definitely live with that. The Oil
26 Spill Public Information Center continues to be very active, so

1 we'd like to keep that for at least one more year. The Restoration
2 Planning Work Group was originally to be disbanded by 1994, but
3 that assumption kind of went out the window today. It's going to
4 be extended some time frame, so they will be needing some -- some
5 kind of space in the future to prepare the final draft restoration
6 plan. The Habitat Protection Work Group has been working
7 feverishly. Part of the problem there is the subgroup will get
8 information that's confidential so they can't leave it laying
9 around, and so we don't have a space for them that we can dedicate
10 so they can kind of lock that up and then continue in the morning,
11 pick up where they were. So, there's some kind of a centralized
12 space for the habitat group. The '94-'95 work groups need some
13 kind of a centralized space also. They're developing some work.
14 The Executive Director, whoever that is, will need some centralized
15 space, as well as the support staff for the foreseeable future,
16 depending on the Trustee Council actions in the future.
17 Accordingly, the space study has offices for the Executive
18 Director, existing support staff as outlined in the '93 budget,
19 five agency offices which can function as technical support staff
20 offices, depending on the outcome of the reorganization, and four
21 transient offices for visitors, agency people, peer reviewers. The
22 cost of the lease includes moving expenses and the build out of the
23 floor plan. The state usually leases the space for a minimum of
24 three years, but my suggest -- suggestion -- would be bidding the
25 space with a yearly option with a modification of the space.
26 There's no way at this time that we can commit to three years. I'm

1 not comfortable with the space at all. And that's basically the
2 proposal. It's space analysis, like it says, included in your
3 package here, dated May 6, 1993.

4 MR. BARTON: Yes, Mr. Sandor.

5 MR. SANDOR: What, if any, action do you wish us to
6 take today?

7 DR. GIBBONS: I -- I -- the action I would wish is to
8 authorize me to go out for competitive bidding on some space.

9 MR. SANDOR: I so move.

10 MR. BARTON: Is there a second?

11 UNIDENTIFIED VOICE: Second.

12 MR. BARTON: Any discussion.

13 MR. COLE: Mr. Chairman.

14 MR. BARTON: Mr. Cole.

15 MR. COLE: How much space do we have now?

16 DR. GIBBONS: There's about -- there's about eleven
17 thousand -- a little over eleven thousand square feet in the first
18 and fourth floors.

19 MR. COLE: And what's the reason we don't just stay
20 in this space?

21 DR. GIBBONS: One reason is that the -- the lessor would
22 like a three-year contract -- I tried to negotiate something less -
23 - and anything less, then the disabilities act and the fire code --
24 the improvements will not occur.

25 MR. COLE: What's the non-compliance with the
26 disabilities act?

1 DR. GIBBONS: Well, there's many. The bathrooms, the
2 elevators, the door handles are some of the problems. Some of the
3 windows for exit -- we had an engineering survey, two engineering
4 surveys done of the building and one ADA survey done of the
5 building. We have that.

6 MR. COLE: How much will it cost to move?

7 DR. GIBBONS: To physically move, we're estimating about
8 fifty thousand dollars, so that would go into the factor of looking
9 at the bid. If we can use that money to help offset, some way
10 improve the building, or if we can get the landowner to do it in
11 stages to show good faith to meet the ADA and perhaps do the ones
12 the most critical first. The actual move is -- is around fifty
13 thousand dollars. We've got people who have space available who
14 are willing to talk to us.

15 MR. BARTON: Further comments? Mr. Stieglitz.

16 MR. STIEGLITZ: I think I heard Mr. Gibbons say we have
17 eleven thousand square feet now. Without going back to the
18 proposal, how much would you solicit for

19 DR. GIBBONS: It's slightly over twelve.

20 MR. STIEGLITZ: And I assume that commensurate with
21 staffing that's projected. I -- I heard it talked about maybe less
22 staff at some point and so forth. Is all that factored in?

23 DR. GIBBONS: That's -- that's factored into the -- as
24 best we can right now.

25 MR. BARTON: The proposal is -- to do yearly
26 modification was partly addressing that -- and all the

1 uncertainties associated with the needed staffing, is that correct?

2 DR. GIBBONS: That's correct. I'm not willing to get
3 into a three-year lease with all the uncertainties of the
4 organization, the staffing, all the other questions that are
5 unresolved at this time. The longest I would recommend would be
6 one year at the longest. That's why we're on a month-to-month now.
7 We tried to negotiate here, without too much progress.

8 MR. BARTON: Mr. Cole.

9 MR. COLE: Is there any sense that this organization
10 will not be doing much of what it is currently doing for the next
11 two years?

12 DR. GIBBONS: The changes I envision -- I've got to talk
13 to the staff on some of them. I don't want to spring some of my
14 ideas I have on -- on them right now, but I think there will be a
15 change within two years of the structure that you see here.

16 MR. BARTON: Some of the work groups, I assume, will
17 accomplish their objectives.

18 DR. GIBBONS: Yeah, the work groups -- I'd say right now
19 we have -- we have an annual work group, and that will remain. The
20 Habitat Protection Work Group will remain, but the Restoration
21 Planning Work Group and the Environmental Compliance Work Group
22 when the plan and the DEIS are done, they're gone. They're no
23 longer within the organization, and then we need to look at the
24 structure.

25 MR. COLE: Mr. Chairman.

26 MR. BARTON: Mr. Cole.

1 MR. COLE: We may have, however, an increase in the
2 staff of the Executive Director, you know, as we get that shift
3 made, and when one considers the cost of moving and things of that
4 nature, maybe we could go to the landlord or the owner and say, how
5 about a two-year lease and make this deal with you. I don't see
6 where we're going -- we'll be this way a year from now, I imagine,
7 who knows, the next six or eight months, and, you know, this space
8 has worked pretty well, it seems to me. When we go someone else --
9 some place else -- are we going to be able to get ground floor
10 space, etc., etc.? I would favor some heavy negotiation with the
11 landlord.

12 MR. BARTON: Dr. Gibbons.

13 DR. GIBBONS: I would be real willing to do that. I
14 didn't have a whole lot of latitude in my discussions with them
15 last time on longevity. It was approved budgets that I was dealing
16 with -- that the Trustee Council approved -- and the last
17 negotiations were a budget from March 1st to September 30th.
18 That's what I had to negotiate with, but they maybe more than
19 willing, if we mention two years, to meet the -- a lot of the ADA
20 requirements and the fire code requirements.

21 MR. BARTON: Mr. Sandor.

22 MR. SANDOR: I will amend the original motion to
23 provide that negotiation process. In other words, direct the
24 Administrative Director is authorized to include that in the
25 negotiation process.

26 MR. BARTON: Second agree? Any further discussion?

1 Any objection to the motion? Hearing none, the motion passes.

2 What other items do we need to take up?

3 DR. GIBBONS: The symposium was mentioned -- the
4 symposium was originally to be an action item. We're not quite
5 ready with that yet. There's a letter that you've gotten. It's an
6 informational item. Actually, we made the Trustee Council money.

7 MR. BARTON: Terrific.

8 DR. GIBBONS: You gave us twenty-five thousand. We
9 parlayed that to thirty-two thousand.

10 MR. BARTON: Then why are you back here? (Simultaneous
11 laughter) You want to earn more? (Simultaneous laughter) Any
12 time you can earn more, you don't need to come back. What about
13 the 1992 final reports schedule. I'm curious about that. Oh, I'm
14 sorry.

15 MR. COLE: Is there something we can do now to get
16 the symposium out of the way?

17 DR. GIBBONS: Mr. Morris is handling that, but I think
18 it's really -- we need to give you some more information before you
19 can get it out of the way. It's the -- the idea is how do we get
20 the proceedings published? That's the key.

21 DR. MORRIS: Just a few comments on that. We have
22 proceeded with -- we are going ahead with the proceedings. I want
23 an understanding from the Council at this time that they do support
24 us going ahead with them. We hope to come back to the Council next
25 month with an estimated cost of the publication cost for the
26 proceedings and present that to you for funding. We have quite

1 good commitments from authors for the proceedings, close to seventy
2 papers. We anticipate a book of three thousand copies of anywhere
3 from six hundred to nine hundred pages. We are planning on doing
4 the same as we did at the proceedings -- at the symposium -- we
5 will request a loan of the amount of publishing the proceedings and
6 the cost will be recovered from the sale of the book. We're
7 intending to buy on contract for publication. But I would like to
8 know at this meeting whether the Council intends to support -- or
9 feels we should proceed or go ahead with the effort.

10 MR. COLE: So moved.

11 MR. BARTON: Second. Any discussion? Mr. Stieglitz.

12 MR. STIEGLITZ: It's my understanding there is some
13 question about Council -- additional Council investment and actual
14 publication. This comes out of there -- the reaction of the
15 American Fisheries Society -- has that been resolved, or is that
16 the additional information we're waiting for?

17 DR. MORRIS: We are waiting for additional information
18 -- we were going in one direction with the Fisheries Society. We
19 have chosen to step back a bit and go out for bid, including other
20 parties as well.

21 MR. STIEGLITZ: Okay. I'm trying to clarify what -- what
22 we're actually voting on here. There's a motion

23 MR. COLE: Moving forward.

24 MR. STIEGLITZ: Okay, but the motion doesn't commit us to
25 paying settlement funds to publish?

26 MR. COLE: No money.

1 DR. MORRIS: No. I -- I will come back in July, I
2 hope, and give you what we estimate the cost of publishing the
3 proceedings are and requesting funding for the issue of the
4 contract in that amount.

5 MR. BARTON: (Indecipherable -- simultaneous talking)
6 if we have to front-end this thing, and the cost will be recovered
7 through the sale of the book, is that what I understand?

8 DR. MORRIS: Yes.

9 MR. BARTON: So we will be asked to put up the front
10 end at some future date. Anything further on that?

11 How about the 1992 final reports schedule?

12 DR. GIBBONS: In the package of the May 10th Trustee
13 Council meeting, there was this package on the '92 final reports.
14 After the meeting, I did some further checking with some of the
15 agencies, and I revised the cover letter. There are now two
16 projects that will not meet the June 15th date, rather than five in
17 the last letter, and that's out of ninety plus studies we have.
18 So, I know we were -- the Restoration Team members whose agencies,
19 you know, whose two projects will not meet that are prepared to
20 discuss why they will not meet the June 15th date. The first ...

21 MR. COLE: Who are they?

22 DR. GIBBONS: The first project is archaeological
23 project R104A, the Department of the Interior, and the second
24 project is restoration project R60C, National Marine Fisheries
25 Service.

26 MR. BARTON: Mr. Sandor.

1 MR. SANDOR: Can we have a succinct summary of -- of
2 that -- to get this out of the way?

3 MS. BERGMANN: Mr. Chairman.

4 MR. BARTON: Ms. Bergmann.

5 MS. BERGMANN: All I'm here to report on the project
6 R104A, site stewardship, that's a cooperative effort between the
7 Fish & Wildlife Service, the Alaska Department of Natural
8 Resources, and the U.S. Forest Service. To date, the Fish &
9 Wildlife Service has researched existing site stewardship programs
10 and has actually developed the materials to be used in training
11 programs all in tiers. A steward handbook has been developed and
12 has been reviewed by the cooperating agencies as part of the
13 project, as well as friendly peer reviewers. In addition, a
14 progress report was submitted to the Chief Scientist in March 1993.
15 The final portion of this project involves meeting and discussing
16 the site stewardship program and its training materials with
17 representatives from Kodiak, Homer, and a village in Prince William
18 Sound, either Chenega or Tatitlek. These meetings had been
19 scheduled for March '93, however they were delayed due to agency
20 and local community representative's scheduling conflicts.
21 Following these meetings, the resulting information will be
22 incorporated into the draft final report, which will be submitted
23 to the Chief Scientist by August 1993. And I might just add that
24 the additional actual text that will result from this will only be
25 a couple of -- two or three pages -- it will be a short amount of
26 information.

1 MR. BARTON: And what -- Mr. Cole.

2 MR. COLE: I'm concerned about friendly peer
3 reviewers. I mean, is there some reason that we have only friendly
4 peer reviewers?

5 MS. BERGMANN: The term, Mr. Chairman, the term friendly
6 peer reviewers refers to peer review done by our folks either
7 within the agency or other peer reviewers that the agencies select
8 themselves, in contrast to peer review done by the Chief Scientist,
9 who selects peer reviewers, which is ...

10 MR. PENNOYER: Unfriendly. (Laughter)

11 MS. BERGMANN: ... unfriendly, yes -- which could be
12 unfriendly (laughter) -- no -- which are sent out to peer reviewers
13 that the Chief Scientist selects. Typically, all of the agency --
14 we -- they haven't really used that term very often, but typically
15 all the agencies are going through internal peer review and
16 external peer review.

17 MR. BARTON: Any other comments on that? Mr. Sandor.
18 And the second study?

19 DR. GIBBONS: No, I just (indecipherable) three -- just
20 informed -- usually another one. The second one would be
21 restoration project R60C for the National Marine Fisheries Service.

22 DR. MORRIS: I think there's some sort of
23 misunderstanding with that project. It was one that was approved -
24 - it was an add-on to a Fish & Game project that was approved last
25 September to be continued for two years, and in this year, which is
26 93003, with a status report due in August. It had only started

1 last September. There is no final report due.

2 DR. GIBBONS: Mr. Chair, in checking with Bruce Wright,
3 he left it on the list, so I'm just going by what I'm being told.

4 DR. MORRIS: I'd like to correct.

5 MR. PENNOYER: Is this the quote (inaudible) project?

6 DR. MORRIS: Yes, yes.

7 MR. PENNOYER: Well, we just started this, so I'm not
8 sure how you'd have a final report.

9 (Simultaneous talking)

10 MR. BARTON: What about the other second project?

11 DR. GIBBONS: Last one is Department of Environmental
12 Conservation.

13 MR. BRODERSEN: I was just informed a couple days ago by
14 the folks at the National Marine Fisheries Service who are
15 reviewing the hydrocarbon chemistry of this that because of the
16 flack that NOAA got into with Exxon over the hydrocarbon data base
17 that they spent their time correcting that little misunderstanding
18 and we're unable to get to this. They expect to get to it in the
19 next few days, so the report will be three or four days late in
20 getting to -- in meeting the June 15th deadline.

21 MR. BARTON: Any further comments or questions? I
22 think this is a useful summary, and I would encourage you to
23 provide this to the Council -- this updates us with everything.
24 Can we move on to the next agenda item? What's the wishes of the
25 Council? We're zipping right along. I hate to lose the momentum.
26 Go for it. Dr. Gibbons, what's your next choice?

1 DR. GIBBONS: Can we deal with Mr. -- can we deal with
2 the Prince William Sound Oil Spill Recovery Institute?

3 MR. BARTON: I don't know, but we can try.

4 DR. GIBBONS: We only have two items left.

5 MR. COLE: What do we have to deal?

6 MR. BARTON: Go for it.

7 DR. GIBBONS: The Trustee Council directed me several
8 meetings back to develop a memorandum of agreement with the Prince
9 William Sound Oil Spill Recovery Institute. I worked with Gary
10 Thomas. He's submitted one I used in draft. Another version,
11 which I submitted to Gary, and he's drafted a third one. What's --
12 what the status is now, in the package there's two version.
13 Version A is the version that Gary Thomas drafted, and I'll walk
14 you through these two versions to tell you difference, and the
15 second version is the one that I drafted. It -- if you go to
16 version A, the difference is on page two between the two versions.
17 The difference is under the "OSRI shall" column, numbers five and
18 six, and under the "Trustee Council shall" items four and five.
19 And that's where the two memorandum of agreement differ. In --
20 under the agreement that Gary drafted, he included those two, and
21 the one I drafted did not have those two in it.

22 MR. BARTON: Mr. Sandor.

23 MR. SANDOR: What action would you propose -- the
24 approval of one of those three alternatives?

25 DR. GIBBONS: Or some mix.

26 MR. SANDOR: Or some mix.

1 MR. PENNOYER: Do we have a third one somewhere?

2 DR. GIBBONS: No. There's the first one that Gary
3 Thomas gave, you know -- there's only two alternatives now, and
4 they're presented in the package.

5 MR. COLE: Mr. Chairman.

6 MR. BARTON: Mr. Cole.

7 MR. COLE: What are we seeking to do with this
8 entity?

9 MR. BARTON: Dr. Gibbons.

10 DR. GIBBONS: My envision -- the MOU that I drafted is
11 that we recognize the Oil Spill Recovery Institute, and that under
12 item number four that, that as determined by the Trustee Council,
13 as specific agreement, work with them as the two -- at times the
14 goals of the Trustee Council and the Oil Spill Recovery Institute
15 overlap, and so we can work together on projects. So that's --
16 that's the intent, but as determined by the Trustee Council. My
17 version concern about the version that Gary had is well established
18 agreements. My version said well, as determined by specific
19 agreement -- so as determined -- as you determine then we will
20 enter into agreements.

21 MR. BARTON: Is an option not to sign any agreements?

22 DR. GIBBONS: That's -- that's correct. The Trustee
23 Council has directed me to develop them, but they didn't direct me
24 -- didn't say that -- to sign them.

25 MR. BARTON: Mr. Sandor.

26 MR. SANDOR: Was this MOU generated at the request of

1 OSRI?

2 DR. GIBBONS: Generated at the request of the Trustee
3 Council.

4 MR. SANDOR: Without injection by OSRI or anyone?

5 DR. GIBBONS: Well, Gary Thomas attended the meeting,
6 made a presentation, and the Trustee Council said please prepare a
7 memorandum of agreement working with Gary.

8 MR. SANDOR: So they had not asked for a ...?

9 DR. GIBBONS: They had asked for them, but the action
10 was taken by the Trustee Council at a Trustee Council meeting.

11 MR. BARTON: Mr. Rosier.

12 MR. ROSIER: Thank you, Mr. Chairman, yes. I haven't
13 reviewed both versions myself, and I guess my question is is there
14 a reason for us to treat the Oil Spill Institute any different than
15 any other entity in terms of contracting? I guess that kind of
16 comes back to what Attorney General Cole was asking as well.

17 DR. GIBBONS: I can see, I can envision then going on
18 with RCAC MOUs and, you know, other ones, and I really think -- I
19 think we can live without one.

20 MR. BARTON: Mr. Pennoyer.

21 MR. PENNOYER: The Oil Spill Recovery Institute does have
22 some of the same mandates about legislation that we've got in terms
23 of understanding, I guess, spill effects, recovery monitoring, that
24 type of thing. I don't answer Commissioner Rosier's question, I
25 don't think there's any special reason they would automatically be
26 granted sole source waiver on contracts or anything like that, and

1 I think that's sort of the difference between these two versions.
2 The first version, I think, is a very mandated relationship,
3 special relationship, that mandates actually a membership of the
4 OSRI people on the Trustee Council body, not on our body here but
5 in our Restoration Team, our work groups, and that type of thing.
6 They had also sort of provided the priority to funding for
7 restoration monitoring to go to them, priority consideration. The
8 second one, I think, which may not require an MOU, I don't know, it
9 simply recognizes the -- some of the joint, similar purposes
10 between the two bodies, and the fact that we are going coordinate
11 and cooperate. We all -- most of us have members on their board
12 that are your deputies on the board of the Oil Spill Recovery
13 Institute, and we have relationships established with them already.
14 They're going to seek funds to do some things we're going to be
15 interested in, so in some fashion, I presume, we want to coordinate
16 with them because as our restoration planning process gets done,
17 we're not going to want to be doing things they're doing already,
18 or vice-versa. So, I can't tell you for sure an MOU is required,
19 but it was our original response to kind of formalize the fact that
20 we recognize their existence and we will coordinate with them. And
21 I think that's all B does, unless I'm mistaken.

22 MR. BARTON: Mr. Sandor.

23 MR. SANDOR: There's no demonstrated need then for any
24 immediate action at this time?

25 MR. PENNOYER: Well, they'd like to have, Mr. Chairman --
26 they'd to have some indication that we really seriously want to

1 coordinate with them. They're off doing their own restoration
2 planning thing, I guess, and they want to know if we're doing ours
3 under contract, somehow they'd like an expression from this body,
4 this way or some other way, that we are serious about coordinating
5 restoration monitoring in fact with this body. This is sort of
6 evidence of it, I suppose, it might work just as well if we
7 instructed the administrative director to continue to coordinate
8 our planning process with the process by OSRI, and maybe that would
9 suffice, I don't know.

10 MR. BARTON: Mr. Rosier.

11 MR. ROSIER: Thank you, Mr. Chairman. I guess I'm
12 somewhat persuaded to support at least the second version put forth
13 by Dave. I think there is probably some need for some coordination
14 there. One of the things that we've looked at in the past has been
15 the ability of contractors to provide matching funds and this type
16 of thing, and I know that this particular group is going to be
17 looking for funding from any number of different sources. There
18 may be some mutual benefits that would come there from being able
19 to match specific projects here if we were coordinating very
20 closely on some of the projects in this group.

21 MR. BARTON: Further discussion? Is there a motion?

22 MR. ROSIER: Mr. Chairman, I would the adoption of the
23 second version of the memorandum of understanding.

24 MR. BARTON: Is there a second?

25 MR. PENNOYER: Second.

26 MR. BARTON: Seconded by Mr. Pennoyer. Any further

1 discussion? Is there -- Mr. Sandor...

2 MR. SANDOR: By the second version, is that the
3 original Dave Gibbons' proposal?

4 MR. ROSIER: Yes, Mr. Chairman, that's correct.

5 MR. BARTON: Mr. Stieglitz.

6 MR. STIEGLITZ: One -- one comment. If I support either
7 of these, I'd certainly support -- I guess we could call it the
8 Gibbons version -- although, let me question one point here. I'm
9 concerned about a document here that commits in any way to enter
10 into any special kinds of agreements, contractual, give them
11 preference for studies, whatever, because I know that lots of other
12 organizations and entities out there that would like the same
13 thing, and I have a little problem with setting a precedent here.
14 I haven't read it word for word, but one point that causes me a bit
15 of a problem even on page two of the Gibbons' version, it says,
16 under Trustee Council responsibilities, it says, the Trustee
17 Council shall enter into agreements -- to agreements there -- or
18 contracts to accomplish agreed upon projects which may be
19 supplemental to this MOU. I guess that's a little strong for my
20 viewpoint. If it says the Trustee Council may, I'd feel a little
21 more comfortable with that version.

22 MR. PENNOYER: (Inaudible -- out of microphone range) ...
23 contracts to accomplish agreed upon projects which may be
24 supplemental to this MOU. Does that say with OSRI or does that say
25 we're going to do whatever we feel like doing elsewhere from OSRI?

26 DR. GIBBONS: I think the intent is with OSRI.

1 MR. BARTON: But the key phrase there is "agreed upon"
2 I would think. Mr. Sandor.

3 MR. SANDOR: Considering the hour and time, I guess I
4 would move that this be tabled for further study.

5 MR. BARTON: Motion deferring it.

6 MR. PENNOYER: One more amendment that in fact there are
7 some typos and things in here. Perhaps the administrative director
8 could clean this up and send this out to us in the mail for our
9 consideration before we ...

10 MR. BARTON: I'm sure he could. He has several volumes
11 already.

12 DR. GIBBONS: I apologize for the version you have. I
13 have already corrected many of the typos in mine version, but your
14 version didn't get it. I only have one other thing. I have
15 requested legal review on this. It's gone out to the legal people,
16 and I have not heard any feedback. So any agreement would be based
17 on legal review of this document.

18 MR. BARTON: That's all the more reason, I think, to
19 table. The motion to table is privileged. Is there objection to
20 the motion? Hearing none, it's tabled 'til we take it up again.
21 Mr. -- Dr. Gibbons, where do you want to go next?

22 (Inaudible aside comments and laughter)

23 MR. STIEGLITZ: I assume as part of that, Mr. Chairman,
24 will will talk about the selection process for the Executive
25 Director. I would very much like to hear a status report on that.

26 DR. GIBBONS: Yeah. There's -- there's two items left.

1 Item number five and item number twelve.

2 MR. BARTON: Let's take twelve first.

3 DR. GIBBONS: Item number twelve?

4 MR. BARTON: Yes. Do you want a report on the status
5 of the Executive Director? Was that the intent of this?

6 DR. GIBBONS: Yes. It's been on the agenda -- it's on
7 the agenda as a regular item.

8 (Simultaneous laughter)

9 MR. BARTON: Like an MOU -- yes, I think so.

10 MR. BARTON: Carl and I have been herding this thing
11 around. As I understand it, the evaluations panels are now set to
12 meet next week ...

13 UNIDENTIFIED VOICE: The 8th and 9th.

14 MR. BARTON: ... the 8th and 9th to go through the
15 applications and develop the three certificates of candidates,
16 which will then be presented to the Council for final action, and
17 that action in the case of the two federal certificates will have
18 to be preferably within sixty days, at most ninety days.

19 MR. STIEGLITZ: If that needs to be done, we wouldn't take
20 any action until August.

21 MR. BARTON: That's the latest they could take, not the
22 earliest -- the latest. It has -- the two certificates -- the two
23 federal certificates will expire in sixty days. They may be
24 extended for thirty more but can't be extended beyond that.

25 MR. STIEGLITZ: (Inaudible) ... expedite this.

26 MR. BARTON: I think the Council's very interested in

1 that, I don't know. Carl, do you want to talk about the state
2 process?

3 MR. ROSIER: Well, the state process is pretty
4 straightforward. It's -- we can move the selection as soon as
5 we've got a list that's been worked and the Trustee Council has in
6 fact conducted the interviews. So the state system will be a lot
7 quicker, a lot faster than the ...

8 MR. BARTON: But there's no time deadline ...

9 MR. ROSIER: No time deadline.

10 MR. BARTON: ... on the state process. Because the
11 deadlines I mentioned were drop-dead dates not start dates. So the
12 evaluation panels are looking at both the state list of
13 applications and the federal, both federal lists of applicants at
14 the same time.

15 MR. ROSIER: As you know, that's no small -- no small
16 project.

17 MR. BARTON: Further questions or comments? Dr.
18 Gibbons.

19 DR. GIBBONS: Last item, item number five, improving
20 public communications. Several meetings ago, the Trustee Council
21 directed me to put together some possible actions for the --
22 improving public involvement or communications by the Trustee
23 Council, and I drafted a memo dated May 3rd. It's in your package.
24 And it's got the first page -- I'll walk you down through this --
25 wait 'til you find it first. (Aside comments) This has also gone
26 through Restoration Team review, so it's not just mine. The first

1 page is just a status of what some of the accomplishments of public
2 involvement we've done so far in some of the -- our observations
3 concerning some of the public involvement. We've identified public
4 meetings, we've had three series of public meetings in the
5 communities, February '92, April '92, and April '93. The first two
6 sets were not well attended due to the -- some of the lead time
7 allowed for advertising and laying the ground work. However, the
8 latest set of meetings went very well with excellent attendance.
9 The Trustee Council meeting topics -- the topics are often
10 complicated and difficult to follow. We've had the input back from
11 the public -- lots of paperwork and lots of handouts. The public
12 feels that they cannot participate in the meetings, except in a
13 very defined and formal format of the public comment period by the
14 Trustee Council. We've tried various things here. I know at the
15 request earlier by the Trustee Council, we had public comment
16 before the meeting started and then also after, and we tried
17 avenue, but that's just an observation by several of us. The
18 symposium was well attended and informative and was praised an
19 excellent event by the Trustee Council. The public has expressed
20 that there was so information presented in such a short time-frame,
21 it was hard to gather it all in, but they thought, perhaps,
22 inadequate discussion opportunity for the public. Public
23 documents, we lease many public documents and most recently the
24 brochure. We've had some comments by the public that they're very
25 complicated, dry, and sometimes full of jargon and difficult to
26 understand, and not very visually appealing. So, that's just some

1 feedback we've gotten from the public. And the presentations we
2 done, the Restoration Team and the Trustee Council and other people
3 have done some presentations that have gone very well. So some of
4 the strategies we've put together -- like I say, these are
5 strategies, these are not cast in concrete, but, you know, we've
6 thought about some of these things and suggest perhaps that we plan
7 in the formal time before or after the meetings where the public
8 has access to the Trustee Council and other staff to ask questions
9 and perhaps share their views, more informal-type setting. The
10 second one, encourage the Trustee Council members and staff to take
11 time to talk to the members of the public, representatives of
12 interest groups, and the Public Advisory Group. A little more
13 interchange there, perhaps, between those groups. Make public
14 concerns a regular agenda item on the Trustee Council meetings.
15 Address the public concerns at the Trustee Council meetings. If
16 the public has expressed some kind of concern to us, perhaps put it
17 on the agenda, either in the public comment, specifically there, or
18 perhaps on the agenda itself. The next one was to answers the
19 questions that the public has as fully as possible, and if we do
20 not know the answer, make sure that the public gets the answer. I
21 think -- I think we're pretty good on that one. I think we've done
22 that pretty well in most cases, but there were some people who
23 thought that we could do a little better there. Another item was
24 to produce and distribute a newsletter or fact sheet. Currently,
25 there's been press releases that no restoration has been done.
26 I've heard those kind of comments and quotes from the press, and

1 we'll let you know that we are drafting a fact sheet right now of
2 the restoration activities that the Trustee Council has conducted.
3 So, we're going to go out with that as a fact sheet to the press,
4 if anybody wants to listen to what -- what we actually have done on
5 restoration. If a quarterly newsletter is required -- is suggested
6 -- that we would need some more materials and support to do that.
7 We're pretty well stretched right now. And the last item, I'm glad
8 to hear that Carl and Charlie did this, but to schedule, maybe not
9 a full Trustee Council tour, but members of the Trustee Council out
10 to the spill-affected communities, hold short meetings, those types
11 of things. I think it helps with the communication very well, and
12 I heard good comments by Charlie and Carl about their meetings.
13 So, these are some of the suggestions we came up with in regards,
14 perhaps, in improving the communications with the public.

15 MR. BARTON: Mr. Sandor.

16 MR. SANDOR: Mr. Chairman, I'd add to the strategies an
17 encouragement of this Prince William Sound organization of
18 communities, and I think, Dr. Gibbons, you might formally
19 acknowledge (inaudible) communications, and I think express our
20 appreciation, unless there's some objection, of their taking the
21 initiative to prioritize the projects in the Prince William Sound
22 area, and that, to me, to be encouraged.

23 MR. COLE: Mr. Chairman.

24 MR. BARTON: Mr. Cole.

25 MR. COLE: I received yesterday from Juneau via fax
26 a letter from Mr. Gary Lewis, City Manager of Cordova, in which he

1 comments somewhat on the views of people in Cordova about the
2 Restoration Team has gone on and the Trustee Council. He also
3 accompanied that letter with a May 20 memorandum containing a
4 listing of the selected projects which the City of Cordova would
5 like to see incorporated or considered in the 1994 work plan, and
6 what I would like to do and now do is hand this letter and the
7 accompanying list of proposed projects to Mr. Gibbons and ask that
8 he distribute it members of the Restoration Team and to members of
9 the Trustee Council.

10 MR. BARTON: Further discussion and comments? Mr.
11 Brodersen.

12 MR. BRODERSEN: Mr. Chairman -- excuse me -- I just
13 started passing around the court request petition. We need to get
14 as many of you as possible to sign yet this evening. I'll also
15 need to have you make a motion rescinding your previous one --
16 what date -- May 29th -- if you would be so kind.

17 MR. BARTON: Is there such a motion?

18 MR. PENNOYER: So moved.

19 MR. BARTON: So moved, is there a second? (Inaudible
20 aside comments) It's been moved and seconded that we substitute
21 the resolution apparently being circulated for signature for the
22 March 23 resolution, was it? Any objection to the motion? Hearing
23 none, done. The Chair would really like to hear a motion for
24 adjournment.

25 UNIDENTIFIED VOICE: So moved.

26 MR. BARTON: Dr. Gibbons.

1 DR. GIBBONS: Yeah, I thought it was a continuation
2 meeting because there's a teleconference possibility with Eyak.
3 Was I --?

4 MR. BARTON: Can I have a motion to recess?

5 MR. PENNOYER: One question before we do that, when's the
6 next meeting.

7 MR. BARTON: By the way, we haven't acted on that
8 motion. Nobody seconded it, so I assume it fails.

9 MR. PENNOYER: Mr. Chairman, what are the plans for
10 further meetings then? (Inaudible -- out of microphone range)

11 DR. GIBBONS: The next scheduled meeting that we had was
12 for August 23rd. It seems -- yeah -- it seems there perhaps might
13 be a meeting that's needed before that to deal with -- with perhaps
14 Eyak or the restoration organization or whatever there is.

15 MR. BARTON: Well, (inaudible) ourselves be ready to
16 meet, at least by teleconference, on the Eyak situation. I would
17 assume there may be further developments that we might want to
18 schedule a meeting before August 23rd, but at this point that is
19 the next scheduled meeting. Does anybody wish to meet sooner than
20 that?

21 MR. PENNOYER: Mr. Chairman.

22 MR. BARTON: Yeah. You sure can.

23 MR. PENNOYER: Move to recess.

24 MR. BARTON: Is there a second? Any objection to
25 recessing? I object. (Laughter) Mr. Pennoyer? We're not --
26 we're recessing.

1 DR. GIBBONS: Tentatively put the 15th of September down
2 on your calendars. That's when we pick the preferred alternatives
3 for the draft restoration plan. September 15th.

4 MR. BRODERSEN: August 23rd and September 15th.

5 MR. BARTON: We stand recessed until some other urgent
6 matter.

7 (Off Record at 4:31 p.m.)

8 E N D O F P R O C E E D I N G S

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CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

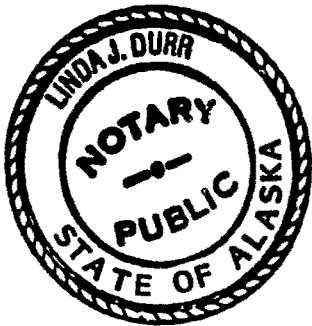
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 393 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council continuation meeting taken electronically by me on June 1 and 2, 1993, commencing at the hour of 10:00 a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me, Sandy Yates, and Jolene Thornton to the best of our knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 10th day of June, 1993.



Linda J. Durr

Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/93