

TRUSTEE COUNCIL
MEETING
23 AUG. 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

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EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

August 23, 1993
8:30 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. GEORGE FRAMPTON, JR. Assistant Secretary
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 HOLBROOK Substituting for Ken Rice, Deputy Natural
Resource Manager, United States Department of
Agriculture - Forest Service

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

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

BRAD PHILLIPS Chairman

DONNA FISCHER Vice Chairman

PAMELA BRODIE

KIM BENTON (alternate JOHN STURGEON)

CHARLES TOTEMOFF

OTHERS IN ATTENDANCE who testified

BRAD PHILLIPS, Public Advisory Group
DONNA NADELL, President, Eyak Corporation
JAMIE LINXWILER, attorney for Eyak Corporation
ALEX SWIDERSKI, Alaska Department of Law
TOM BOUTIN, Alaska Department of Natural Resources
ED HOLSTEN
KARL BECKER
ROXIE ESTES
TOM VAN BROCKLIN
JOHN JOHNSON
CHARLES TOTEMOFF
DUANE LANKARD, Eyak Traditional Elders Council
JIM GRAY
ERIC MYERS, Alaska Center for the Environment
PAMELA BRODIE, Sierra Club
JEROME SELBY, Mayor, Kodiak Island Borough
JEFF PARKER, Trout Unlimited; Sport Fishing Association
MIKE COUMBE
GERALD McCUNE, Cordova District Fishermen United
BILL HALL
DAN HULL, Prince William Sound Aquaculture Corporation
TOM LAKOSH
JOHN McMULLEN, Prince William Sound Aquaculture Corporation
LISA ROTTERMAN

JOE WILSON, JR.
CHARLES McKEE
PAM MILLER, Wilderness Society
KEN ADAMS
JERRY McCUTCHEON

VIA TELECONFERENCE

SAM SAMUELSON, Cordova
CHRISTINE STEELE, Cordova
CHIP THOMA, Juneau
JAMES CRAWFORD, Kodiak
SUZIE KENDRICK, Soldotna
TERRIE NASH, Seward
WILLIAM DUNHAM, Seward
GARY KOMPKOFF, Tatitlek
NANCY LESGOW, Valdez
JEFF GUARD, Cordova
DORN HAWXHURST, Cordova
RIKKI OTT, Cordova
MILA ADKINS
DUANE ANDERSON

P R O C E E D I N G S

(On Record 8:40 a.m.)

MR. ROSIER: Alright. Good morning ladies -- good morning ladies and gentlemen. We might get started here. We're running a few minutes behind and -- I'd like to make up those few minutes here if we possibly can. The Trustee Council is present in its entirety here this morning. On the far right we have Steve Pennoyer, Regional Director of the National Marine Fisheries Service; next to him we have Charlie Cole, the Alaska Attorney General; and we have a special guest here this morning, representing the Secretary of the Interior, Mr. George Frampton....

MR. COLE: Know my friend, George D. Frampton, Jr.

(Laughter)

MR ROSIER: On the left down there we have Commissioner John Sandor, Commissioner of the Department of Environmental Conservation; next to him we have Mr. Michael Barton, the Regional Director of the Alaska Region of the U.S. Forest Service; and I'm Carl Rosier, the Commissioner of the Alaska Department of Fish and Game. We've already had a departure from norm around here this morning. Charlie Cole was the last state Trustee here, but he quickly passed the gavel to me, he said he wanted to be unfettered here today, not that he isn't normally, but -- nevertheless -- I want to say welcome to everyone. We've got quite a -- quite a crew here this morning. I guess in terms of the agenda, there's been some requests for kind of a readjustment of the agenda a little bit, but before we get into that, are there any

1 additions from any of the Trustee Council? Mr. Pennoyer.

2 MR. PENNOYER: Mr. Chairman, under the Public Advisory
3 Group report perhaps, or somewhere on this agenda, it seems to me
4 we have not actually approved the PAG alternates. Is that correct?
5 I think we -- we've said we're going to and had a list the last
6 meeting. It seems to me before the PAG meets again, we ought to
7 try to approve those alternates and perhaps we might do that, maybe
8 this afternoon, after the executive -- director has a chance to
9 give us the (indiscernible) background information we can review at
10 lunch. I think that's a housekeeping, or process we need to go
11 through.

12 MR. ROSIER: Alright. Any comments from the other
13 Trustees here this morning on that subject? Alright.

14 MR. COLE: Mr. Chairman.

15 MR. ROSIER: Yes.

16 MR. COLE: As a matter of personal privilege, I would
17 like the opportunity at sometime this morning to comment on this
18 scandalous report from the GAO. You'll notice from the report that
19 by some clever manipulation, we were not able to make our comments
20 on -- in writing on the proposed report, and I think that I and
21 perhaps other Trustees would like to make some comments of record
22 on that process and on the baseless conclusions of these
23 representatives from the GAO. So, if you would be good enough to
24 find a place for that on the agenda this morning, I would
25 appreciate it.

26 MR. ROSIER: Alright. Other comments, suggestions from

1 the Trustee Council on the agenda?

2 MR. BARTON: Mr. Chairman.

3 MR. ROSIER: Yes, Mr. Barton.

4 MR. BARTON: Yes, Mr. Chairman, I'd like an opportunity
5 to update the Council on the status of the negotiations with Eyak
6 Corporation and that -- that could be included as -- as a part of
7 the habitat -- of item no. 6, or it could be a stand-alone,
8 whichever would be appropriate.

9 MR. ROSIER: Okay, I think in that -- in that regard,
10 I would suggest we move the habitat protection approach by Mr. Cole
11 and the Eyak report then up immediately following the presentation
12 by the Secretary, who, I believe, is scheduled to be with us here
13 about 9:00 o'clock. No objection to that, we'll proceed in that
14 manner.

15 MR. FRAMPTON: Mr. Chairman.

16 MR. ROSIER: Yes, Mr. Frampton.

17 MR. FRAMPTON: I'd like to request a very short status
18 report on the progress that's been made to interview candidates for
19 the executive director position -- some point during the morning if
20 that's convenient.

21 MR. ROSIER: Alright. By all means, and we'll add that
22 then immediately following the -- the Eyak habitat protection
23 presentation. That will be the next item following that. Any
24 other agenda changes -- comments? Yes, Mr. Gibbons.

25 DR. GIBBONS: Mr. Chair, I've noticed some people have
26 cellular phones in the -- the audience. We're recording this --

1 this meeting verbatim, so if you're going to use the phone, please
2 step outside. It's just, it interferes with the recording.

3 MR. ROSIER: For those of you standing up -- for those
4 of you standing up in the back, we do have some additional chairs
5 up front here. Come on in. Alright. Is Brad -- is Brad Phillips
6 here? Yes, good morning, Brad. I think you're -- you're first
7 here on this, and so we would appreciate hearing from the Public
8 Advisory Group, at this point in time. (Pause) Yes, go ahead,
9 Brad.

10 MR. PHILLIPS: I was a little reluctant coming over here
11 this morning without a flak vest after I read the morning paper.
12 But then again, I feel that way frequently after reading the
13 morning paper, so I decided to come anyway.

14 MR. COLE: Do you want mine?

15 MR. PHILLIPS: What?

16 MR. COLE: I said do you want mine?

17 MR. PHILLIPS: Oh, you don't need one (indiscernible)

18 MR. ROSIER: Brad, would you get that microphone up
19 there a little closer. I'm not sure everybody can hear.

20 MR. PHILLIPS: I'm not sure your mike system works this
21 morning.

22 MR. ROSIER: That could well be.

23 MR. PHILLIPS: (One, two three). Can you hear it now?

24 MR. ROSIER: Yeah, not any different. That's better.

25 MR. PHILLIPS: I assume that all of you have been
26 presented with this report, and I'll get through it in a hurry so

1 that you can catch up on your time. Our last meeting, of course,
2 was July 15th and 16th, and we anticipate our next meeting being in
3 mid-September, actually we've set it for the 14th of September.
4 And, I have one request here, we made it during the meeting, but I
5 -- I think it would be very helpful to us if we could have the
6 Chief Scientist's comments on the 1994 program prior to the
7 meeting, so that we'll have a chance to read it and -- get
8 something out of it before we -- it's put on our desk. I think
9 that all of the members of the PAG would like to see that as soon
10 as possible. The budget item number two is -- as far as we are
11 concerned was a thirty thousand dollar request to allow the PAG
12 members to work much closer with the -- with the study groups, your
13 people, to try to -- to conserve on time, and then there are a few
14 public meetings that some of the members of the PAG would like to -
15 - to attend during the interim periods here. Things happen we
16 don't know about in advance, and we'd like to be able to send some
17 of our -- our members to those public meetings if possible, but --
18 but the main thing is to be able to -- to work with your -- with
19 your individual groups on different subjects. The -- I don't
20 really have any comments on the budget other than that. There's
21 some other changes in there that we had nothing to do with. I
22 think probably the one that took up most of our time was the
23 discussion -- or a great deal of our time -- was the discussion in
24 regard to the concept of having the endowment -- an endowment put
25 in place to study, as time goes on, the different problems that are
26 developing and may develop as a result of this spill. We were

1 given a presentation by the University of Alaska, which we
2 appreciated, but the -- the general feeling of the PAG group was
3 that the concept probably has merit. Example -- if we can deal in
4 terms of knowledge on some of the things, we can avoid
5 confrontations like we witnessed over the weekend, as an example,
6 because some of these things are done without knowledge. We don't
7 know whether the oil spill had anything to do at all with the fish
8 situation this year, but study in those areas of all of the animals
9 and the fish over a long period of time will give us information
10 that we just don't have right now. So, we're talking about the
11 possibility of establishing an endowment concept. We know that,
12 number one, we need an opinion from your legal people, number one,
13 on whether or not an endowment is -- can be done under the terms of
14 the settlement arrangement. We'd like to have a legal opinion if
15 we could, because if we can't do that, if we can't establish an
16 endowment, then the discussion is academic from there on. If it is
17 possible, then we would like to then pursue the -- some
18 recommendations to you on some specifics on -- 'cos we see that an
19 endowment can go almost anywhere without direction, and this
20 direction has to be really defined, what they're going to do and --
21 and who's going to do it, and time frames, and that sort of thing.
22 There's a strong feeling in the group that it could be a continuing
23 thing with -- if an appropriate amount of money were, say, put in
24 a status similar to the Permanent Fund and the earnings off that
25 fund could be used on the endowment system. It could go on then
26 for years and -- in aiding the restoration or anything else that

1 has to be done in Prince William Sound as a result of the spill.
2 So, we ask, number one, can you provide us with a legal opinion on
3 whether this subject should be pursued or not. We have a
4 subcommittee right now that is putting together some meat on a
5 framework that we will discuss in our next meeting on what the
6 endowment should be, if it's going to happen, that we will pass on
7 to you after we get the legal opinion. Number five, I see has
8 already been -- I'm advised, has already been accomplished, and
9 that is the matter of putting the Kodiak Fishery Industrial
10 Technology Center project up for public discussion again, and we
11 appreciate that. I guess the alternates are the other thing that's
12 already been brought up this morning. If there are any questions,
13 I'd be glad to try to answer them, but -- we're looking forward to
14 doing some detailed work on the '94 restoration program at our next
15 meeting.

16 MR. ROSIER: Thank you, Brad. In regard to your
17 request for the report from the Chief Scientist on the '94 work
18 program, I think that certainly that we should be able to
19 accommodate that with no problem here on this, and I think we'll
20 see to it that -- that gets to the PAG as soon as -- as soon as
21 possible. Yes, Mark.

22 MR. BRODERSEN: Mr. Chairman, I think there might be a
23 little bit of confusion over what the Council is going to be
24 requested to do at its September meeting on the '94 work plan.
25 You're not being asked to approve any of the projects at that
26 point, it's strictly that the document is in good enough shape to

1 be released to the public, and that the PAG will have until January
2 to actually go through that with a fine tooth comb to make comments
3 back to the Council that -- it's my understanding is the Chief
4 Scientist's comments probably will not be ready by that time since
5 he also will be working on it in September, October, November,
6 preparing his comments for the Council for their January meeting.
7 Maybe that will help clarify that a little bit.

8 MR. ROSIER: Okay. Other comments? Questions? Mr.
9 Sanderson (sic).

10 MR. SANDOR: Mr. Phillips, it's been noted in the
11 resolution with respect to the endowment, you say a super majority
12 of the Public Advisory Group voted to support establishment of an
13 endowment. Like what?

14 MR. PHILLIPS: I think there was one objection, if I am -
15 - if my recollection is clear. Doug, do you remember the exact
16 vote on it?

17 MR. MUTTER: What was the question, I couldn't hear it?

18 MR. PHILLIPS: The question was, what was the vote on the
19 idea of the concept of the endowment -- I -- as I remember there
20 was one negative vote.

21 MR. MUTTER: There were one or two negative votes.

22 MR. SANDOR: Let's see -- I'm just wondering, why the
23 Advisory Group came across so strongly -- you say just one or two
24 out of what say sixteen?

25 MR. PHILLIPS: I have fifteen.

26 MR. SANDOR: Fifteen. Second question, when is the

1 next Advisory Group meeting?

2 MR. PHILLIPS: The 14th of September.

3 MR. SANDOR: And, I guess, Mr. Phillips, after being in
4 this -- on this group and working as hard as the Advisory Group has
5 been working, are we referring enough issues to you for -- for your
6 consideration, or do you feel left out, or do you actively -- as an
7 active participant in the process? Do you feel the Public Advisory
8 Group Charter, as outlined and as you studied it to begin with, is
9 really working?

10 MR. PHILLIPS: Well, I can't speak for everybody in that
11 manner, but I think generally we have had excellent feedback when
12 we've asked for something. Almost universally everything we've
13 asked for, you've done and given it to us. Some of the issues, of
14 course, are very complex, and we always think we should have
15 probably a month or two earlier than we do get them, but that's
16 part of the nature of the process. We don't have as much public
17 feed-in as I had anticipated when I got involved with this thing,
18 and I don't know why that is, maybe it's because our meetings may
19 not get to everybody or maybe there aren't any burning issues that
20 we're taking up every time. They kind of develop as we get
21 together. I don't have any complaints about the -- about our
22 communication because -- I just never had any problem getting
23 information out of the group that we've asked for -- needed. In
24 the beginning it was a little lumpy getting started, but I think
25 it's moving on pretty well.

26 MR. SANDOR: Mr. Chairman, I raise the question simply

1 because I believe that the Advisory Group is an excellent cross-
2 section of the -- of the entities that are involved and impacted,
3 and we ought to make a point of trying to utilize the skills of
4 that group, insofar as possible. Thank you, Mr. Chairman.

5 MR. ROSIER: Thank you, Mr. Sandor.

6 MR. PENNOYER: Mr. Chairman.

7 MR. ROSIER: Yes, Mr. Pennoyer.

8 MR. PENNOYER: Brad, I know you haven't had time to flush
9 out the endowment concept and you've appointed a committee to look
10 at, and there are legal questions that have to be resolved before
11 you do that, but in that overwhelming vote, did you take into
12 account the very large amount of money that would have to be put
13 into an endowment to create a substantial fund? Was there any
14 discussion of the amount? Are you interested in an endowment of
15 funds -- proposals we've seen, seven or eight million dollars of
16 ongoing research which would take two hundred or so million dollars
17 to do?

18 MR. PHILLIPS: Yes, there were -- that was practically
19 the bulk of our conversation and our discussions at that time. The
20 University had requested -- they would like to have the whole nine
21 hundred million, of course, and that's -- that's where they started
22 and we got them pared down quite a bit. I -- I don't accept those
23 figures at all. The endowment concept is -- is where we are, and
24 the amount, and whether it -- whether the concept of putting money
25 away and having it be the seed for bringing money for research is -
26 - I think has to be studied a little more. The key to the

1 endowment program, in my judgment, is that it has to be well
2 defined. Otherwise, I know what happens when things get lost in
3 academia. I spent a lot of years of my life in that atmosphere,
4 and it -- it can just lose its direction if you're not careful. So
5 we -- that's why we have a subcommittee right now studying it to
6 try to be more specific, and I'm discouraged by the fact that the -
7 - on one hand that interest rates are so low and -- and the returns
8 on pots of money are so low that it may not do very well, and I'm
9 not one that's going to say you ought to take a great big chunk of
10 the -- of the money and put it there for the endowment purposes.
11 Maybe there is another method, another way of getting private
12 donations or industry donations to help with the concept of an
13 endowment. It is -- just hasn't been flushed out at all, but we
14 are very concerned about how much of the oil spill money is used
15 for that exclusively. I -- I think there are many other things to
16 do with it besides that.

17 MR. ROSIER: Other questions? Comments? Yes, Mr.
18 Sandor:

19 MR. SANDOR: Question -- I hope we can provide the
20 Public Advisory Group with the legal advice by their September 14th
21 meeting. Is there any problem with that?

22 MR. ROSIER: Perhaps -- Mr. Cole, could you speak to
23 that?

24 MR. COLE: I -- basically I think that decision need
25 be made by the United States Department of Justice. I'm not
26 prepared to speak for them on that subject at this time. We have

1 discussed it with them. They have said that they have grave
2 reservations about the legality of an endowment, that we do not
3 have from them, as yet, a written opinion on the subject.

4 MR. ROSIER: Would this then, necessarily mean a change
5 in the enabling laws that we're dealing with. Is that a
6 possibility, or not?

7 MR. COLE: The Justice Department has indicated,
8 informally, that an endowment, in their opinion, would require
9 congressional legislation.

10 MR. ROSIER: Yes, Mr. Barton.

11 MR. BARTON: Is an endowment possible under state law?

12 MR. COLE: I don't know, but I haven't seen anything
13 which affirmatively would preclude it. I think the problem is, is
14 under the rudimentary congressional Clean Water Act legislation,
15 upon which this settlement is based, I think that's where the
16 problem arises. And, therefore, I think that the Department of
17 Justice should be the lead agency in interpreting congressional
18 legislation.

19 MR. ROSIER: Yes, Mr. Frampton.

20 MR. FRAMPTON: I think that Mr. Phillips, in fairness to
21 the Public Advisory Group and its strong interest in -- in the
22 endowment concept, before a great deal of additional work gets done
23 that, you know, we, as the Trustees, owe you some sort of feedback
24 in direct response to -- to your request, and I will certainly
25 undertake to see that -- the -- that we try to be responsive and
26 get at least a preliminary opinion or some views on the subject

1 from both the Justice Department and from the Interior department's
2 lawyers by your next meeting. But, I just want to echo Charlie's
3 statement that -- it's my understanding is that both at Justice and
4 Interior -- the lawyers have said that they -- I suspect that the
5 preliminary opinion is going to be that there is not the authority
6 to create an endowment under the existing -- certainly the
7 settlement agreement and the MOU, and perhaps under -- under the
8 Clean Water Act. So I want to -- I don't want to be encouraging
9 about what that preliminary opinion is going to be.

10 MR. PHILLIPS: Looks like the whole meaning is the -- --
11 is the opinion and then we won't waste a lot of time on something
12 that's -- you know, in never-never land.

13 MR. ROSIER: Or at least look at a strategy perhaps in
14 terms of setting up that type of mechanism. Okay, other comments?
15 Questions from the Trustees?

16 MR. COLE: Mr. Chairman.

17 MR. ROSIER: Yes, Mr. Cole.

18 MR. COLE: I would say along that line, given the
19 current interest rate and the hundred million dollars, for example,
20 in such a fund, you could look to receiving between two and three
21 million dollars a year, not much. And, it would be perhaps easier
22 for the remaining eight years of the Trustee Department, to commit
23 that amount of money each year and simply achieve a roughly similar
24 end in that fashion. We could certainly give some thought to that.
25 And, that would be another eight years. I'm -- I'm not certain
26 that this endowment approach and the studies required --

1 contemplated by it need go on in perpetuity.

2 MR. ROSIER: I agree with you. I would -- I guess, in
3 furthering that a little bit, I think that obviously by the end of
4 the -- the time that funding will be provided under the settlement,
5 it seems to me though, there's going to be other work products that
6 come out of the Trustee Council that's in fact going to have some
7 overhead costs associated with it. I mean, some of the habitat
8 programs, and so forth, that we're involved in. These things
9 aren't just going to manage themselves, and I think the end of the
10 income period here on this -- are the state and the federal
11 agencies aren't going to be in a position to just pick up those
12 costs and go along with some of the other types of programs that
13 we've got. So, to my way of thinking, there's a certain amount of
14 appeal to what you're talking about, but there are certainly some
15 realistic things out there, as far as the -- the income levels that
16 we might expect at the present time off that -- would have to be
17 considered too. Anything more at this point?

18 MR. PHILLIPS: I just -- appreciate the feedback as soon
19 as it's convenient for you, and thank you very much for your --
20 your cooperation in the past, and we'll see you next time.

21 (Secretary Bruce Babbitt arrived at 9:00 a.m. and is seated.)

22 MR. ROSIER: Thank you very much, Brad. We appreciate
23 the report from the PAG there on this. At this -- at this time,
24 for those of you that may not know the gentleman, although
25 certainly he's -- he's taken the newspapers by storm here in recent
26 days, within the State of Alaska, I have the honor of welcoming

1 Secretary of Interior, Bruce Babbitt, here. It's a real pleasure
2 to have you with us here today, Mr. Secretary. And, I -- I think
3 that the floor is -- is your's here, you're the next item on the
4 agenda, here, so.

5 MR. BABBITT: Thank you. Good morning. Talking about
6 taking newspapers by storm, I picked up the newspaper this morning
7 and thought maybe they're taking us by storm. But, let me just
8 say, at the outset, just a word about the news this morning. I
9 read it, and I think we can all reflect on it in due course, but my
10 view of it is that rather than sort of having an endless discussion
11 about what did or did not happen, what might have been or might not
12 have been, but the important thing is that we move onto the future,
13 and that we focus relentlessly on the extraordinary opportunity
14 that we have to make a difference for the citizens for Alaska with
15 this fund. So, I'm ready and willing to, on behalf of the federal
16 government, share whatever blame anybody wants to assess for the
17 past. I would concede that the federal presence has, from time to
18 time, been a little bit disorganized on the -- Alaska may be
19 forgiven for thinking that sometimes the federal representatives
20 acted as if they belonged to three separate governments, rather
21 than one government. And, I think I can tell you that as we move
22 to the future, that that will not be the case. This issue is -- is
23 of real interest to the Clinton administration, and the President's
24 environmental advisor, Katie McKindee (ph), will be directly
25 involved in the discussion on the federal side, and I think I can
26 tell you with some confidence that the federal Trustees will have

1 instructions, something to this general effect. First of all, this
2 is a cooperative venture. It's not an adversary enterprise, the
3 federal Trustees have fifty percent of the vote, and that means we
4 ought to sit down intensively and work with our Alaska counterparts
5 and see if we can get into the business of generating consensus.
6 And, on the federal side, we will be prepared to sing from the same
7 song book, to listen carefully, to extend the hand of cooperation
8 and to see if we can realize the full maximum potential benefit for
9 Alaska. Now, I'm not an expert on the Alaska side of this Trustees
10 Council, but I got to tell you, before I came up here, I heard
11 stories about your Attorney General. And, what they said to me is
12 beneath that sort of good ole' boy, oh shucks kind of exterior is
13 a canny guy -- you ought to be careful. Well, I took him out to
14 dinner the other night and we -- we had a tremendous discussion,
15 and I got to tell you he even offered to pick up the check at the
16 end of the dinner. So, I thought there

17 MR. COLE: And did.

18 (Laughter)

19 MR. BABBITT: I thought this -- does this make me a good
20 omen for the future. Now, the Attorney General discussed with me
21 a lot of concepts and gave me a lot of history and emphasized, from
22 his perspective, the importance of developing a long consensus
23 about habitat protection, about a strong research program. He got
24 -- he got to me. He started talking about the national biological
25 survey, and I thought, oh man, we're going to get along just fine.
26 He said there are analogous possibilities in Prince William Sound

1 and elsewhere in Alaska to do really strong ecosystem based
2 research -- I talked about a fishery enhancement. I went away from
3 that meeting absolutely confident that, in concept, we can make a
4 lot of progress together, and that it ought to be, if not always
5 easy and automatic, it ought to nonetheless be very possible to put
6 together a program that takes account of all your needs, that takes
7 account of Alaska's agenda, the federal agenda, and I'm just -- I
8 guess, really optimistic that we can make an awful lot of progress.
9 So, I come here today in a very positive, optimistic experience.
10 Like, I know Alaskans like to quarrel and are a little contentious,
11 and there's a trace of anarchy in the air whenever anything's
12 discussed in Alaska. I'm familiar with that. It's true where I
13 come from, and I think out of that we can find a lot of good ideas
14 in a really fresh consensus. So, with that, I commend your work,
15 I look forward to working with all of you, and thank you for the
16 time.

17 (Applause) (Mr Babbitt left meeting.)

18 MR. ROSIER: On the -- the next agenda item here, Mike,
19 do you want to cover the -- the report on the Eyak negotiations at
20 this time, and then we'll go directly into the discussion of the
21 habitat protection approach?

22 MR. BARTON: Yes, Mr. Chairman, I'd be delighted to do
23 that. I would like to just to review the events since August the
24 6th as a part of this discussion. I normally say that there have
25 been a number of people working very hard, very long hours, since
26 that time, and -- on both -- both sides to resolve our differences

1 and come up with an acceptable solution to the situation. But let
2 me do -- let me relate a little history. On the 9th, as you will
3 recall, the Trustee Council made an offer to Eyak Corporation, and
4 the principal points of that offer were fee simple title to lands
5 at Power Creek, Eyak Lake and Eyak River -- lower Eyak River.
6 Second, was a conservation easement at Orca Narrows, Nelson Bay,
7 prohibiting commercial timber harvesting and other development
8 activities that weren't consistent with our restoration objectives.
9 And, the third was an option to review other Eyak lands for
10 possible acquisition proposals, and the offer was subject to a
11 shareholder vote, Trustee Council review of appropriate Eyak
12 documents, and no further logging or road building at Orca Narrows.
13 And the acquisition was valued at the lesser of forty-one million
14 dollars or appraised fair market value, and reasonable option
15 consideration was to be paid, subject to completing our review of
16 Eyak documents and contracts. On August the 18th, late in the day,
17 Eyak offered a counter-proposal, and in that letter Eyak and
18 Sherstone clearly indicated that they were eager to complete this
19 transaction, but several obstacles were identified before accepting
20 that offer -- the August 9 offer. One was the request for fee --
21 title and the shareholders vote, which would delay the closing for
22 approximately six months; the second was the requirement to stop
23 logging immediately; and, third was the requirement for Eyak and
24 Sherstone to return earnest money if the transaction failed to
25 close. The letter went on to state that these issues made the
26 transaction impossible for Eyak to accept. Since the August 18th

1 response from Eyak, members of the negotiating teams have been
2 attempting to reconcile the differences between the two offers,
3 with an understanding that the Trustee Council has not taken an
4 official action on the Eyak counter proposal. And, based upon
5 those discussions, it appeared evident that economic considerations
6 of the corporation require a continuance of limited timber
7 activities in Orca Narrows. But, given the above, the negotiating
8 team would -- we would like to continue discussions with Eyak, with
9 the objective of developing a proposal that would include the
10 following key points: Timber harvest at Orca Narrows would be
11 subject to an agreed upon timber plan -- harvest plan -- with the
12 intent of minimizing the adverse impacts on the scenic values of
13 that tract; an option to purchase an agreed upon interest of Power
14 Creek and Eyak Lake, subject to shareholder approval; and, three,
15 in the event that Power Creek-Eyak Lake option is exercised,
16 another option to purchase limited conservation easement rights on
17 lands north and west of Shepherd Point, subject to shareholder
18 approval -- the purchase subject to shareholder approval. If the
19 Council would direct the continuation of these discussions, through
20 the Forest Service, Eyak and the negotiating team feel confident
21 that a proposal could be completed for review by our September 16
22 meeting. And, as I understand it, in the meantime Eyak has agreed
23 to consult with the Forest Service and the Division of Forestry on
24 interim timber harvest activities so as not to jeopardize the
25 integrity of the September 16 proposal, and in an effort to
26 minimize the -- any adverse impacts on the scenic values of the

1 Orca Narrows tract. I'd be pleased to answer any questions that
2 the Council might have, or hear any comments.

3 MR. ROSIER: Yes, Mr. Pennoyer.

4 MR. PENNOYER: Thank you, Mr. Chairman. Mr. Barton, the
5 -- you mentioned the core parcels of Eyak, Power Creek and Eyak
6 Lake, you didn't mention Eyak River.

7 MR. BARTON: I think that Eyak River -- the Eyak River
8 parcel is -- can be discussed as part of the ongoing negotiations.
9 This is, of course, not a proposal, per se, it's sort of a thrust
10 of what's being discussed at the moment.

11 MR. ROSIER: Yes, Mr. Sandor.

12 MR. SANDOR: Thank you, Mr. Chairman. I believe the
13 comments that Mr. Barton has made have been very positive and --
14 found the August 18 counter proposal not acceptable in a number of
15 respects, and it seems to me that the changes have -- made deal
16 with many of those -- many of those difficulties. I would move,
17 Mr. Chairman, that the Trustees authorize and encourage continued
18 discussions for a formal presentation on our September 16 meeting.

19 MR. PENNOYER: Second.

20 MR. ROSIER: Motion made and seconded to encourage the
21 Forest Service to proceed with discussions with Eyak over the --
22 the land issues. Discussion? Yes, Mr. Cole.

23 MR. COLE: I'm unsettled about the status of the
24 proposal as it relates to continued logging operations in Orca
25 Narrows. Of all the lands owned by Eyak, other than the core
26 tracts, I think that the Orca Narrows slopes are probably most

1 deserving of protection, of a view standpoint, because in the
2 future tourist vessels and others would see that almost initially
3 as they enter the harbor. So, I'm concerned about the nature and
4 extent of continued logging operations in Orca Narrows and also the
5 possibility that we might not be able to reach any agreement with
6 them about continued logging operations, and are they going to
7 continue to log Orca Narrows until our next meeting? That's what
8 I would like further explanation concerning.

9 MR. ROSIER: Mr. Barton.

10 MR. BARTON: Mr. Chairman, yes. I cannot speak for
11 Eyak, obviously, so I do not know what their plans are. I do know
12 that there are some economic realities out there that need to be
13 addressed if we're going to reach agreement on any kind of a deal.
14 Eyak has apparently indicated a willingness to modify their
15 harvesting plans to minimize the adverse impacts and to work with
16 a team of people that would be put together that are familiar with
17 those kinds of activities in an effort to do that minimization. I
18 don't know if that's a sufficient answer to your question or not,
19 but ...

20 MR. ROSIER: Well, at this -- at this point, as I
21 understand it, we're -- I think that Mr. Cole's concerns have been
22 noted, but at this point I believe the motion was to proceed with --
23 -- with discussions at this point. And, yes, Mr. Pennoyer.

24 MR. PENNOYER: That -- that's true, but the motion was
25 certainly available for amendment, and I discussed -- and I assume
26 we had that type of discussion. I don't -- I assume we want this

1 to move forward. I mean, the first question was do we want
2 (indiscernible), and I think the answer is definitely, yes.
3 Positive steps have been made, a lot of people have spent a lot of
4 time -- here it is critical, and I'm sure we want to proceed with
5 it. I had some of the same questions as how that would occur.
6 Maybe I just don't understand practice as often to know how you do
7 that. But, I'm sure everybody is talking about in good faith
8 trying to preserve the inherent quality of the Orca Narrows
9 package. Can you give us some feeling of what might occur between
10 now and the 16th, in terms of what's behind us between now and the
11 16th, what would have already occurred in the way of harvesting?

12 MR. BARTON: Mr. Chairman.

13 MR. ROSIER: Yes, Mr. Barton.

14 MR. BARTON: I would presume that somehow Eyak needs to
15 deal with its cash flow problem, and we have representatives from
16 Eyak here today who can perhaps address that, if -- if the Council
17 wishes.

18 MR. ROSIER: We have several of the board members?

19 MR. BARTON: I believe the president.

20 MR. ROSIER: The president is here, and certainly Mr.
21 Linxwiler is in the audience. Would -- would the Trustees like to
22 have some comments from these folks? Good. Yes, you want to come
23 on up -- come on up to the microphone here please.

24 MS. DONNA NADELL: My name is Donna Nadell, and I'm the
25 President of the Eyak Corporation, and the reality is that we are
26 running a business. We have eighty employees, we have a contract

1 with our loggers. If we were to shut down tomorrow, those eighty
2 employees would be out of work, and without -- without up front
3 funding, there is no way that we can stop our logging operations
4 tomorrow. We would like to, but it's not feasible.

5 MR. COLE: Mr. Chairman.

6 MR. ROSIER: Yes, Mr. Cole.

7 MR. COLE: I wasn't necessarily suggesting that Eyak
8 cease logging operations. I thought that was outside the scope of
9 my remarks. I just wanted to focus on what are the plans in Orca
10 Narrows during the next three weeks, and whether it would be
11 possible to continue logging operations elsewhere on your lands,
12 rather than on what I think some of us think is -- is crucial area.

13 MS. NADELL: Well, to answer that question, that is the
14 only permitted area. As you're well aware, we have to get permits
15 to log, and we -- when we went into Orca Narrows, we did make a
16 logging plan that we had spoke to the Forest Service about, hoping
17 that we could continue logging so we could have a cash flow, and we
18 had made -- set our own guidelines, instead of following the
19 state's guidelines, we said okay, we will stay, for now, three
20 hundred feet away from the lake, two hundred feet away from the
21 rivers, and a hundred feet away from the waterways. And, to do
22 small clear cutting passes -- irregular passes, and that what our
23 plans are. And, to answer your question again, that area is the
24 only area permitted to log.

25 MR. COLE: Mr. Chairman.

26 MR. ROSIER: Yes, Mr. Cole.

1 MR. COLE: So, as I understand your comments, you
2 will -- in the next three weeks, continue essentially unabated your
3 logging operations in Orca Narrows. Am I accurately assessing your
4 views?

5 MR. ROSIER: It seems to me that there was at least two
6 qualifiers put on there. I heard more strict standards and I heard
7 -- I understood Mr. -- Mr. Barton's comments, here we were talking
8 about the involvement of perhaps some landscape architects helping
9 design the logging shows there, as I understood it anyway, but Mr.
10 Linxwiler.

11 MR. LINXWILER: Commissioner Rosier, that -- that is
12 correct. To -- to directly address Mr. Cole's question be -- the
13 logging layout in Orca Narrows already involves certain a road
14 layout that is intended to avoid visual impact. The set-backs from
15 lakes are three hundred feet, from streams are two hundred feet,
16 twice the mandated amount, and from the ocean, a hundred feet which
17 is not required in the statute at all. So, we're very -- we're
18 working very hard to -- to create a logging plan that will work and
19 that's consisted with the Exxon Valdez Trustees Council's charge to
20 protect the habitat. And, we're going to initiate meetings
21 immediately with the Forest Service to work through further
22 qualifications or restrictions or requirements on our cutting plan
23 in the meantime. We've struggled very hard with this. We're
24 trying to meet the economic (indiscernible - coughing) and the
25 economic pressure and negotiate in good faith with the Council at
26 once. And, we're quite concerned that we do that and that we are

1 very eager to make this transaction work.

2 MR. ROSIER: Commissioner Sandor.

3 MR. SANDOR: Mr. Chairman, I, too, share the concern
4 that has been raised about what happens that might destroy or
5 significantly alter the particularly visual qualities that Orca
6 Narrows area itself, and I was aware that BLM accelerated the
7 transfer of lands, which I understand most appalling -- I guess is
8 done, perhaps other work can be -- can be accomplished. But, it
9 seems to me the bottom line is, is that if, in fact, the actions
10 that take place between now and September 16 were such as to
11 essentially duplicate the extent of clear-cutting that have taken
12 place without attention to habitat and adequate attention to
13 habitat protection and visual quality, that essentially we would
14 have lost the opportunity protection of that tract. Yet, I sense
15 on the part of representatives of Eyak, a willingness to work with
16 the Forest Service, and perhaps the Department of Natural Resources
17 Division of Forestry to -- to do that, and then finally, there is -
18 - later on in our agenda, under bark beetle infestation, the part
19 I think will show extensive infestation at, behind in Valdez, and
20 a proposal by DNR to -- to harvest beetle-killed timber in -- in
21 that area under an emergency procedures, which may or may not be
22 reachable during this short period of time. In any case, I would
23 move to amend my motion to direct the continuance of this
24 discussion, with this amendment, that these discussions take place
25 with the understanding that any type of timber harvest in Orca
26 Narrows be -- be limited to -- to the minimum extent possible, and

1 with full protection of the visual quality and habitat.

2 MR. ROSIER: Yes, Mr. Frampton.

3 MR. FRAMPTON: Mr. Chairman, I think I want to speak in
4 favor of the amendment because I'm not sure we can, in this group,
5 go much further than that in urging some further discussions about
6 what happens in the next month. I -- I very much appreciate that --
7 -- you know, your willingness to respond in the context of
8 negotiations, but in a public forum, I think -- believe you were
9 here when the Secretary Babbitt spoke, and I think he's made it
10 clear both publicly and this morning that his highest priority, and
11 I believe that of all of the federal Trustees, is to look to
12 imminent opportunities for habitat acquisition, as well as to think
13 about a very coordinated, integrated, scientific effort here with
14 these funds. And, it seems to me we have -- we're getting close to
15 the possibility here of a -- of an agreement that would be very
16 much in the best interests of the public and in the best interests
17 of Eyak, and I think it would be unfortunate to have something that
18 happens in the next three to six weeks -- you know, torpedo this
19 opportunity, and I think that's of concern to all of us. At the
20 same time, and there is that possibility, because there are other
21 opportunities, and some that we want to seek authorization for
22 today, to begin looking at alternative uses of these funds for
23 acquisition elsewhere. But, I think that there -- there really
24 needs to be -- you know, we're at the point we are now because of
25 Mike Barton's hard work and Charlie Cole's leadership, and your
26 willingness to work with the Trustees and representatives, and

1 we're so close, to have something that happens in the next three or
2 four weeks, see this thing go down the drain would be, I think,
3 terrible for everyone. At the same time, the Trustees are very,
4 very sensitive about the issue of the jobs and of you need to
5 continue to run this business. Someway, there has got to be the
6 details here, a way not to let this thing slip away from us, and I
7 hope that you will work very hard with Mike and Charlie and the
8 negotiating team not to let this happen.

9 MR. ROSIER: Yes, Donna.

10 MS. NADELL: I -- I would like to answer that. We
11 don't want it to slip away. We're probably one of the largest
12 proponents for tourism in the area, and we realize that clear-
13 cutting will damage the viewshed. But, also we have the hard of
14 reality that we have built to meet, so we were kind of stuck
15 between a rock and a hard spot. We have to log in order to meet
16 the bills, and even though we don't -- we would like to discontinue
17 logging tomorrow, but in reality, we can't. And, we -- we would
18 like to move more toward tourism and get away from logging, but, as
19 I said, we have to face the facts too.

20 MR. ROSIER: Other comments?

21 MR. PENNOYER: I'm not sure if Mr. Sandor's amendment got
22 a -- a second, although (indiscernible -- simultaneous talking)

23 MR. ROSIER: We have no second at the present time.

24 MR. PENNOYER: I second it.

25 MR. ROSIER: Okay, the motion has been made and
26 seconded to amend the original motion and on this -- further

1 discussion on the amendment?

2 MR. COLE: Mr. Chairman.

3 MR. ROSIER: Yes, Mr. Cole.

4 MR. COLE: I am not urging Eyak to cease logging,
5 because the Governor has recognized that there are some seventy or
6 eighty jobs at stake in a town which is hemorrhaging I learned that
7 word from (simultaneous laughter).... Economically, and Mr.
8 Frampton has said that certainly must be a consideration by the
9 Trustees. So, we would urge you, I would, at least to see if you
10 can conduct your operations to the extent possible elsewhere, other
11 than in this crucial tract. But, I want to say that if, during
12 this ensuing period that the operations in Orca Narrows go beyond
13 what I view as one of my responsibilities as a Trustee, I will
14 vote, when it comes time to vote, against the entire package, and
15 I will do so unflinchingly and unemotionally. So, if that is
16 meaningful, so be it. Thank you.

17 MR. ROSIER: Further discussions.

18 MR. SANDOR: Call for the question.

19 MR. ROSIER: The questions been called for on the
20 amendment. Those in favor of the -- the motion as amended indicate
21 by saying aye.

22 ALL TRUSTEES (in unison): Aye.

23 MR. ROSIER: Opposed? (No response) Amendment has
24 passed. On the main motion, at the present time, those -- those in
25 favor of further discussion? Those in favor, signify by saying
26 aye.

1 ALL TRUSTEES (in unison): Aye.

2 MR. ROSIER: Opposed? (No response) Motion passes.
3 Thank you very much, we appreciate your participation in this
4 session here this morning. The second part of this agenda item
5 here, the habitat protection approach, I believe is a carry-over
6 from the -- from the August 6 meeting. And, Mr. Cole, I believe
7 this was your agenda item. Would you like to speak to the -- to
8 the item here, please.

9 MR. COLE: Mr. Chairman, I would like Ms. Rutherford
10 to summarize the actions which the acquisition group has been
11 pursuing.

12 MR. ROSIER: Alright. Marty.

13 MS. RUTHERFORD: Mr. Chair. The status report of
14 where the habitat protection group is at the moment on the
15 comprehensive analysis of all the private parcels within the spill
16 area. Currently, we have had a field survey up north of Afognak
17 Island, of the shoreline of the center Kenai Peninsula, that
18 included all in-holdings within the Kenai Fjords Park. We're just
19 -- our staff is just back from eleven days in the field and they
20 surveyed all the lands within the Prince William Sound, including
21 most of the Eyak land and the Chenega lands. However, they have to
22 go back on the 25th, in a couple of days, to finish up with some
23 very small parcels, there's some Chugach -- Chugach lands on Knight
24 Island and Chenega lands on Knight Island and there's a few
25 remaining small parcels of Eyak lands on Hinchinbrook and Hawkins
26 Islands. The only Tatitlek lands that we will be looking at are

1 Bligh Island, it currently -- Tatitlek Corporation has indicated to
2 us that that's the only thing they would like to participate with
3 us regarding. We have yet to do the south portion of Kodiak and
4 we'll be trying to accommodate that here in the very near term.
5 That will be the completion of all of our field surveys. That will
6 lead us into finalizing a revised comprehensive process
7 presentation to you folks at your September 16th meeting.
8 Basically, that will be a -- we will bring to you any suggested
9 changes to our analysis process and we will be -- we have looked at
10 what we did in the interim on the imminent threat lands. A process
11 will be identifying some problems within that. We will have worked
12 with a peer reviewers in a workshop and will be making some
13 suggestions, minor suggestions, on how we do the analysis. The --
14 the whole package of analysis will be completed and to you by
15 Thanksgiving, and at that point in time that'll include all the
16 major parcels for -- throughout the spill area of the private
17 ownership. There will be some small parcels that we will not have
18 gotten to yet, but those can be picked up once you identify any
19 particular areas you want us to begin focusing on.

20 MR. ROSIER: Okay. Yes, Mr. Cole.

21 MR. COLE: I was going to ask, what is the general
22 content of the information which will be included in the report
23 with respect to each parcel?

24 MS. RUTHERFORD: In -- in the terms of data, it's the
25 same type of data that was in the imminent threat analysis.
26 However, we're focusing a little different on the species. Given

1 input we've received as part of the imminent threat process, but
2 it's the same level of information. Although we have augmented
3 that with field surveys that we did not have on the imminent threat
4 parcels. So, it will be as much as we -- we can, it will provide
5 first-hand knowledge.

6 MR. ROSIER: Further comments? Questions?

7 MR. COLE: Well, I would say, Mr. Chairman, that I
8 think we should affirm the report given us by Ms. Rutherford and
9 request that they continue on their present course.

10 MR. ROSIER: Yes, Mr. Barton.

11 MR. SANDOR: Second.

12 MR. ROSIER: Motion, okay. Motion made and seconded
13 that we affirm the report by Ms. Rutherford and that they continue
14 within the lands group on the course that they've -- they're
15 currently following. Mr. Barton.

16 MR. BARTON: Yes, Mr. Chairman. I think that we need
17 to recognize the hard work that this group has put forward in
18 trying to accomplish this review and analysis in a timely manner,
19 and I think they work very hard. I think that we're all interested
20 in getting this analysis completed so we have a better perspective
21 on the opportunities in terms of habitat acquisition. So, I
22 personally thank the group and urge them to move forward even more
23 rapidly, if it's possible.

24 MR. RUTHERFORD: Thank you, we will try.

25 MR. ROSIER: Further comments? Those in favor of the
26 motion to -- to continue on the course that the group has been

1 pursuing here, signify by saying Aye.

2 ALL TRUSTEES: Aye.

3 MR. ROSIER: Opposed? (No response) Motion passes.

4 MR. COLE: Mr. Chairman, take up the Seal Bay
5 acquisition. I'd like Ms. Rutherford to on its -- I think in -- an
6 appropriate point in the agenda to dispose of that or to address
7 that idea, if no one objects?

8 MR. ROSIER: Any objection from the other Trustee
9 Council members? Alright, Marty.

10 MS. RUTHERFORD: Yes, Mr. Chair. I'm about to hand
11 out to you the Seal Bay resolution. This resolution simply
12 reiterates the Trustee Council's acceptance of the seller's
13 proposal to sell the Seal Bay parcel. It has been amended as
14 directed by the various agencies when you reviewed the draft. We
15 are requesting that if you are comfortable with it that you execute
16 it, perhaps by the end of the day, and I will pass it around at
17 this point in time. The state is also currently reviewing the
18 land, timber and subsurface appraisals of the Seal Bay and Tonki
19 Cape parcels, that is not yet completed. We hope to have it
20 completed in the very short term. We are also close to completed
21 a purchase and sales agreement which -- which once done we will
22 circulate to you folks for review and, hopefully, acceptance. The
23 haz-mat survey is almost completed also. So, we are very close to
24 closing out -- to presenting the final package to you folks, and
25 perhaps we can do so by September 16th.

26 MR. ROSIER: Further comments from the Trustee Council?

1 Yes, Mr. Pennoyer:

2 MR. PENNOYER: Marty, did you comment -- I missed on the
3 subsurface right question and how that's proceeding?

4 MS. RUTHERFORD: The subsurface appraisal is part of
5 the -- the whole appraisal package. We -- after -- we had -- had
6 this timber and land appraisal contract in place when you folks
7 decided to add subsurface, so we amend -- we were able to amend
8 that contract, so the appraisal deals with (indiscernible -
9 coughing).

10 MR. ROSIER: Yes, Mr. Barton.

11 MR. BARTON: Does the deal consider subsurface?

12 MS. RUTHERFORD: At this point in time, no.

13 MR. PENNOYER: Mr. Chairman.

14 MR. ROSIER: Yes.

15 MR. PENNOYER: (Indiscernible) Is that discussion
16 proceeding?

17 MS. RUTHERFORD: I believe that the negotiators have
18 been discussing subsurface and, I might refer that to Attorney
19 General Cole or Alex Swiderski. I'm not -- I'm not aware of where
20 we are in those discussions.

21 MR. COLE: Mr. Swiderski.

22 MR. ALEX SWIDERSKI: We have been discussing -- we have
23 had discussions of the subsurface acquisition. At the moment we
24 are awaiting the results. (Rearrangement of microphone.) To
25 repeat -- Alex Swiderski speaking. We have been engaged with the
26 subsurface holders in discussion. We are currently awaiting the

1 outcome of this subsurface appraisal. And, my understanding is
2 that we would have that within the coming thirty days
3 (indiscernible). Questions?

4 MR. ROSIER: Yes, Mr. Cole.

5 MR. COLE: Would you comment on the status of the
6 acquisition of the Kachemak Bay parcel?

7 MR. SWIDERSKI: We are very close to closing that that
8 acquisition. We are awaiting a board of directors meeting of the
9 Seldovia Native Association, which occurred Thursday and Friday of
10 last week. I believe that should have addressed the last
11 unresolved issue there, and optimistically, I would think that we
12 may close this -- this week.

13 MR. COLE: Thank you.

14 MR. SWIDERSKI: Your welcome.

15 MR. ROSIER: Yes, further comments? Questions? Okay.

16 MR. PENNOYER: Sir, are we going to receive copies of the
17 resolution and are you trying to achieve signature by the end of
18 the day?

19 MS. RUTHERFORD: I just gave an original to Attorney
20 General Cole. Perhaps, if you folks could -- it -- I will get you
21 another copy.

22 MR. ROSIER: Could we get copies for every -- for each
23 of here, please. (Pause) Alright, we have a motion before us.
24 The motion was -- the motion is, as I have it on this was to for
25 the lands group to in fact continue with their -- with their
26 program. Wait a minute, excuse me.

1 MR. PENNOYER: Mr. Chairman, I think....

2 MR. ROSIER: I'm sorry, we've moved ahead to Seal Bay,
3 we have no motion before us at this time. I apologize.

4 MR. PENNOYER: Mr. Chairman.

5 MR. ROSIER: Yes.

6 MR. PENNOYER: I assume that we'll look at this by the
7 end of the day and no motion would be required at this time.

8 MR. ROSIER: That's correct. Thank you, Mr. Pennoyer.
9 At this time, then -- yes, Mr. Barton.

10 MR. BARTON: As I understand it, what we're -- what
11 we're doing with the Seal Bay situation right now, is just reaching
12 an agreement on the specifics of the language, and that there's
13 really no action necessary, is there?

14 MS. RUTHERFORD: Right, you folks moved on

15 MR. BARTON: ... we've taken action.

16 MS. RUTHERFORD: on the resolution without having
17 a hard copy -- I don't know, two months ago. So, this is just
18 finalizing the language of that resolution and actually getting an
19 execution.

20 MR. ROSIER: We'll all agree we had read
21 (indiscernible) to the table for action other than

22 UNKNOWN: (Indiscernible - out of range of microphone).

23 MS. RUTHERFORD: Well, I think you -- there was a
24 resolution at that meeting when the discussions occurred between
25 Attorney General Cole and yourselves and the sellers of Seal Bay,
26 and I think you passed the motion. This was just finalizing the

1 text of that resolution, and now it requires an execution.

2 MR. BARTON: It's the language implementing what we did
3 before.

4 MS. RUTHERFORD: That's correct.

5 MR. COLE: It's a more formal legal document putting
6 our resolution into a more formal stage.

7 MR. ROSIER: Alright. Yes, Mr. Frampton.

8 MR. FRAMPTON: Under the general heading of habitat
9 acquisition, I'd like to raise for discussion the question that
10 arises partly as the result of the discussion we had earlier about
11 the Eyak negotiations and what should happen if, for one reason or
12 another, we're not able to reach an agreement there. Some folks
13 here may have read in the newspaper last week about the Secretary -
14 - Secretary Babbitt's interest in pursuing possible opportunities
15 on Kodiak Island for habitat -- high quality habitat acquisition.
16 I think it's also important, however to -- and that -- that is an
17 interest and a priority for the Department of Interior, and I think
18 that I speak for the other federal Trustees as well. However, I
19 think it's also important to note that the Secretary made some
20 statements yesterday down in -- in Valdez to the news media, to the
21 effect that he recognizes Prince William Sound was the most
22 impacted area and that any program of habitat acquisition, ought to
23 look with a very high priority at areas in eastern and western
24 Prince William Sound, and islands in Prince William Sound. And,
25 that there ought to be resources to look at the possibility of some
26 habitat acquisition in Kodiak, and perhaps Afognak, but at the same

1 time that should not foreclose opportunities for potential habitat
2 acquisition in and around Prince William Sound, and he feels very
3 strongly about that, and I think that's shared by -- and certainly
4 in Washington by the other -- other secretaries. And, in light of
5 that interest on the part of -- of all of us on the federal side,
6 in looking at other opportunities, and the state of somewhat --
7 unsettled state of Eyak discussions, perhaps, at least informally,
8 we ought to think about giving some guidance or directions to the
9 staff to -- while the evaluation is taking place, and with the
10 information that's coming in from that, at least to be -- beginning
11 to look at other opportunities here, principally in Prince William
12 Sound, perhaps Chenega lands, but also on Kodiak Island. So rather
13 than making any formal motion, I want to raise that for discussion.
14 Obviously, a major concern here in looking at any kind of a
15 preliminary '94 work plan is how can we approve a budget of any
16 kind, even an interim budget, without some sense of direction about
17 where we're going. And, I think the Secretary has said quite
18 clearly what our priorities are -- habitat acquisition, research
19 and looking at opportunities for fisheries restoration.

20 MR. COLE: Mr. Chairman.

21 MR. ROSIER: Yes, were you finished Mr. Frampton?

22 MR. FRAMPTON: Yes.

23 MR. ROSIER: Okay, Mr. Cole.

24 MR. COLE: My understanding is that's essentially
25 what we are now doing. Does anybody else have a different view or
26 am I mistaken?

1 MR. ROSIER: Marty, would you like to speak to -- to
2 the extent of what we're looking at at the present time.

3 MS. RUTHERFORD: Yes. Attorney General Cole is
4 correct. What we're doing, Mr. Frampton, will certainly facilitate
5 to the Trustee Council being able to give direction to the staff
6 and particular agencies on beginning negotiations on all the
7 parcels we're analyzing, and, of course, that includes all the
8 areas within the Prince William Sound, and, as I said earlier,
9 Kodiak and Kenai -- out of Kenai Peninsula, also.

10 MR. ROSIER: Yes, Mr. Sandor.

11 MR. SANDOR: Yes, Mr. Chairman, I was going to remind
12 myself and then ask for sort of an update of habitat protection
13 acquisition analyses, but this February 16 summary report is really
14 an excellent outline of what was done at that point time, February
15 16. And, I know a lot of work has been done to update the -- the
16 analyses, and I think what we're heading for is prioritization of -
17 - of the parcels with the criteria we've already laid out, so that
18 process is in place. I guess I'd ask how far are we -- are we
19 along in that prioritization process and when might we, you know,
20 what benchmarks or mileposts can we expect to reach in the next
21 three to six months?

22 MR. ROSIER: Marty.

23 MS. RUTHERFORD: Yes, Mr. Chair, again, we're -- what
24 we'll be providing you in November is more -- a more full-bodied
25 comprehensive analysis than even was in that one, and it will
26 provide, probably, high-medium-low prioritization of all the

1 private land where there was a willing participant, landowner.
2 And, again we hope to have that -- that document, or series of
3 documents to you by Thanksgiving. So, at that point in time you
4 will be able to provide guidance to particular agencies or the
5 staff as to beginning any discussions with the landowners, in terms
6 of protection.

7 MR. ROSIER: Yes, Mr. Frampton.

8 MR. FRAMPTON: Mr. Chairman, I'm quite satisfied if
9 there's a general understanding that we are going forward on all
10 fronts here. I think that I want to say that I certainly recognize
11 and the Secretary recognizes that, in all fairness, that the --
12 it's really perhaps as much or more the state and particularly the
13 Attorney General who has provided the leadership over the last six
14 months to get some of these major initiatives and negotiations
15 started. And, we on the federal side -- you know, we got on your
16 caboose and we're very happy, and now we want to move forward on
17 the train and get in the engine and help go forward together with
18 this. So, as long as we understand that we're all looking at the
19 highest priority parcels, I think that makes us quite happy. The
20 second issue that I wanted to raise under the heading of habitat
21 acquisition is the mechanism for actually implementing some
22 additional negotiations, and I want to put on the table again, and
23 I think that's been discussed here before, but I'm not sure, in
24 some of your meetings, whether what we need here is really a
25 unified, single, negotiating team. Clearly there is a strong need
26 to get an executive director hired and on board. And, I want to

1 raise the question, second, whether we also don't need to think
2 very seriously now about a -- rather than having four, five or six
3 different agencies negotiate individual acquisitions, what the view
4 of the Trustees is about having a -- an integrated, single
5 negotiating team or crew that does all the habitat acquisitions, so
6 that those with whom we deal know that they're getting a
7 standardized approach, and so there's a centralized mechanism here
8 within the Council for doing this.

9 MR. ROSIER: Yes. Comments from the Trustees on that
10 issue of a single negotiating team on the (indiscernible). Yes,
11 Mr. Sandor.

12 MR. SANDOR: I guess, Mr. Chairman, I would address --
13 I guess the process by which we're going to be looking at habitat
14 and in prioritizing it, and I believe it's very important that we
15 protect the process that's in place, namely the very extensive
16 public involvement that has taken place -- closing comments, of
17 which were just due, I think August 6, to really find out what the
18 people in the communities, those who are most impacted by the
19 spill, really want to see happen. Because, I believe, it's those
20 that were impacted, especially the communities within the spill
21 impacted area that need to guide us, need to guide the Trustees.
22 Similarly, I think the Public Advisory Group needs to play a key
23 role. So I'd be concerned Mr. Frampton if -- if this group of
24 negotiators would go beyond or get too far ahead of that process.
25 So, I think it's very essential that we evaluate those comments,
26 and I presume we'll have that report, at our next September 16

1 meeting -- analysis of public comments, and then, I think too,
2 we'll have some council from the Public Advisory Group. The --
3 this really was an excellent job, and yet, there's some serious
4 questions that would have to be raised, I think, about what are
5 imminent threat activities. One place, I was just looking at over
6 the weekend, the imminent threat is recreational development,
7 lodges, cabins, fisheries development, and I don't -- I -- I'm a
8 little bit worried about that, and I think we really need more
9 public scrutiny of this. So, I think one is a process in place,
10 and I would be concerned about having a negotiating team that would
11 run ahead of what the communities and the public process would
12 dictate.

13 MR. FRAMPTON: I wasn't suggesting any centralized
14 negotiating team to make any decisions about specific potential
15 acquisitions, but rather once the Trustees have made a decision
16 that they want to pursue a particular negotiation, who does the
17 negotiation. It's really an implementation question. That's --
18 that's really the issue I'm raising.

19 MR. ROSIER: Mr. Cole.

20 MR. COLE: I agree with the remarks of Commissioner
21 Sandor and that's what I understood Mr. Frampton to be saying.
22 With respect to the second issue which you raised, that is the
23 composition of a negotiating team, or separate negotiating teams,
24 I think that the Forest Service has done an outstanding job here
25 under very difficult negotiating parameters. But, when this issue
26 was raised initially before the Council, I was of the view that we

1 should have a single negotiating team. I think I was the only one,
2 however of that view, which is often the case (laughter) on the
3 Council, but I continue to believe that a joint federal-state
4 negotiating team with a unified negotiating approach would be most
5 beneficial, so that we do not have disparate negotiating approaches
6 with landowners. And, I continue to remain unsettled over where we
7 are on that subject.

8 MR. ROSIER: Mr. Pennoyer.

9 MR. PENNOYER: Speaking to the 5-1 vote, Mr. Cole, had
10 something to do at the time, I think, with the fact that we wanted
11 to get on track quickly on two or three parcels, and we had some
12 information presented to us on both the time and cost, perhaps, in
13 setting up a single negotiating entity, and I felt the decision was
14 to go there with a coordinator in person -- these parcels, then sit
15 back and look at it and see if we should change the process. So,
16 I don't think any of us have wedded ourselves to an all-time
17 commitment to one way or the other. We weren't voting against a
18 single negotiating team, but I think I was voting for getting on
19 with those few that would be handled by individual agencies at that
20 time. And, I don't -- I guess, I don't completely understand
21 what's required to do to what Mr. Frampton has proposed, and there
22 were some procedural barriers we talked about the first time
23 around, and we're not land acquisition agency, so I defer to the
24 Forest Service, Interior on that, but we had some questions -- how
25 to set it up, who would do it, how it would work, the different
26 laws and different approaches when you're buying lands that are

1 either state of federal law. And, if we've in fact, from our
2 experience, we've engaged in these three things we've participated
3 in, Seal Bay, Kachemak and Eyak, now, agree that this is a better
4 way to go and the people doing the negotiations can see how that
5 would work better. You know, that's fine.

6 MR. ROSIER: Yes, Mr. Frampton.

7 MR. FRAMPTON: Mr. Chairman. You know, I think we
8 wouldn't be where we were with the possibility of the deal with
9 Eyak if the Forest Service hadn't very ability thrown themselves
10 into that effort. If -- I'm interested -- you know, maybe the way
11 to do this -- I'm new to this, but is it appropriate to ask the
12 staff to come up with two or three alternatives, or best
13 alternative ...

14 MR. ROSIER: By all means.

15 MR. FRAMPTON: ... by the next meeting for discussion on
16 how -- how you would put a single effort together and -- or
17 alternative ways for doing it, in the simplest, most efficient
18 manner possible. (Indiscernible - simultaneous talking)

19 MR. ROSIER: Dave.

20 DR. GIBBONS: Excuse me, Mr. Chair, we can do that.
21 We've got the start of it already on options, and so I think we can
22 do that quite -- quite quickly.

23 MR. ROSIER: Very good.

24 MR. FRAMPTON: That doesn't mean in the meantime that if
25 there's an opportunity that presents itself, we wouldn't do the
26 same thing again, which is to say, whoever is the most appropriate

1 and available agency go for it. But, at least we could look at
2 this in a rational way and look at the pros and cons of it.

3 MR. ROSIER: I would just like to say, you know, I
4 certainly (inaudible -- electronic interference).

5 MR. COLE: (Inaudible -- simultaneous laughter)

6 MR. ROSIER: On the September 16th agenda, yes. Yes.
7 We're going to have the pleasure of Mr. Frampton's presence on the
8 16th.

9 MR. FRAMPTON: If I get sent up here.

10 MR. ROSIER: I would suggest that we take a five minute
11 break at the present time, and we'll make it five minutes. We've
12 got a full agenda here.

13 (Off Record: 10:12 a.m.)

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

15 MR. ROSIER: We'll get started here again, please.
16 (Pause) Yeah, something like that. The scandal with GAP report?

17 MR. COLE: Are we going to bring that up now?

18 (Laughter)

19 MR. COLE: Well, I'm in a good mood (indiscernible),
20 and now why not?

21 MR. ROSIER: Where is Mr. Frampton? Oh, here he is.
22 Okay. Okay. The next item on the agenda was a short report, I
23 think, from -- we asked Mr. Barton here to talk about the executive
24 director status. Would you like to cover that, Mr. Barton?

25 MR. BARTON: No. (Laughter) Yes, Mr. Chairman. The
26 Trustee Council met in executive session on -- I can't remember the

1 precise date, but about a week ago, to interview the five finalists
2 for the executive director position, and those interviews were
3 conducted in person with the exception of one individual who had a
4 family emergency and couldn't attend, but we interviewed that
5 individual by phone. The next step in that process, of course, is
6 for the Council to meet again, and after having an -- had the
7 opportunity to digest those interviews, those interviews, and
8 consider what we heard there, the Council may need to meet again in
9 the near future to make a decision on that position. There is not
10 a meeting scheduled at this time, but we need to do that, and it
11 might possibly be done in conjunction with our September 16 meeting
12 if -- or sooner if it would be possible to arrange those sessions
13 with those our calendars the way they are. But that's the status
14 of it. We're anxious to move ahead, but that's where we are.

15 MR. ROSIER: Thank you very much. Any comments from
16 the Trustee Council? Yes, Mr. Frampton?

17 MR. FRAMPTON: I just want to reiterate that the request
18 that Doug Hall from NOAA and Jim Lyons from Agriculture and I made
19 that we have an opportunity to interview probably the top two
20 people, then if necessary they'd come to Washington at the end of
21 this process and also, obviously, we'd try to push it forward as
22 fast as possible.

23 MR. COLE: Whoa . . .

24 MR. ROSIER: Mr. Cole?

25 MR. COLE: Well, I think that any of these
26 negotiations of that type should be conducted jointly with a state

1 representative there. We would not, of course, have any objection
2 to your or the Secretary or Mr. Hall, conferring personally with
3 the nominees considered most attractive, but I think that we should
4 continue on a joint approach.

5 MR. FRAMPTON: Absolutely, that's understood. I think
6 that it's very important that the person who is chosen have the
7 confidence of all six Trustees, and also perceive that it is his or
8 her job to be working to further a joint program here and that, to
9 the extent possible, all the interviewing ought to be done by as
10 many Trustee representatives as possible can be in the same room.

11 MR. ROSIER: Would it be possible -- the suggestion has
12 been made that perhaps we could move ahead at the September
13 meeting, would it be possible perhaps to have those gentlemen
14 present at the meeting here in Alaska on the -- on September 16th?

15 MR. PENNOYER: Mr. Chairman, would we convene our
16 executive session?

17 MR. ROSIER: Yes.

18 MR. PENNOYER: (Indiscernible)

19 MR. ROSIER: Yes.

20 MR. PENNOYER: (Indiscernible) I suppose.

21 MR. FRAMPTON: I'm not sure how it would work out, the
22 logistics here, but . . .

23 MR. ROSIER: Well, I would certainly concur with the
24 statement by Mr. Cole that we want to move ahead on this and, you
25 know, I would hope that we could -- we get something moving here in
26 the near future. I think the process has been drawn out, and the

1 -- but the process has worked extremely well. We've got five very
2 strong candidates, in my view, and certainly I would like to see
3 us, you know, move ahead as soon as possible on that. Yes,
4 Mr. Sandor?

5 MR. SANDOR: Yes, Mr. Chairman. I think the Trustees
6 were reassured, those interviewed candidates, that the process was
7 really quite good. There was, what, eighty some candidates, and
8 the five that were interviewed, it's very difficult to narrow down
9 to one or two. I think that what you might want to do, and I can
10 understand the interest in interviewing them, I want to interview
11 them all. Actually, it may be that one may drop out, but it struck
12 me that it's going to be extremely difficult to even narrow that
13 down and it may be helpful to have you interview, you know, all
14 four or five. But at any rate, I concur that it ought to be a
15 joint process. Excellent candidates, excellent.

16 MR. ROSIER: Further comments? Mr. Pennoyer?

17 MR. PENNOYER: No, I think we can't work out the
18 logistics here until later in the week. Perhaps we can put this on
19 the grid and get back by conference call as an executive group to
20 decide on a schedule before the 16th and work that out between now
21 and -- well, probably by the end of the week, I would guess.

22 MR. ROSIER: Okay. All right. Mr. Cole, you had asked
23 for time on the agenda this morning to talk about the GAO report.
24 Would you like to make some comments on the GAO report?

25 MR. COLE: Yes, Mr. Chairman. As I've said, this GAO
26 report, in my view, is unadulterated nonsense on stilts. I want to

1 say first, some of the strange circumstances which we encountered
2 as trustees when we were provided an opportunity by the GAO
3 auditors to comment on their proposed report to Congressman Miller.
4 We met with the two GAO auditors in Juneau at 1:30 on a Thursday
5 afternoon. We went into a conference room, and after the usual
6 preliminaries one of the auditors pulled out of a locked briefcase
7 this 33-page proposed report. Each copy of the proposed report was
8 marked with a number, which I thought was rather unusual, but in
9 any event it was handed to us, and say, here, we would like your
10 comments on this report. Read it and tell us what you think of it.
11 Oh, we glanced through it, some thirty-three pages. We said, well,
12 we don't have three days in which to furnish you with our
13 criticisms of this report. So we undertook to read it and make
14 some comments. Then, when we left, they carefully collected all of
15 the copies, so we weren't allowed to take with us from the room any
16 copy of this proposed report. And I noticed when we left the room
17 that there was a gentleman standing there beside the door. I
18 didn't recognize him, but I recall his appearance. He had an
19 overcoat on, his collar was turned up (laughter), he had those gum
20 soles on his shoes, and for a moment I thought we were going to be
21 subject to a strip search. As we were leaving, one of the GAO
22 auditors walked out and there seemed to be a meeting of the eyes,
23 and so we were allowed to proceed without delay. As we looked
24 through the report, we said, we'd like to comment in writing on
25 this report, but we were told, as you will see on page 7 of this
26 report, that at Congressman Miller's request, they declined to

1 accept from us written comments, which, of course, we felt was
2 unusual. Then we said to them, well, you're auditors, you're
3 constantly talking about an audit trail, as indeed they do here in
4 this document, and I said, why would not you want an audit trail
5 with respect to our comments on this report? To which, as you
6 might imagine, they absolutely had no response. They said, well,
7 we don't want anything in writing, we don't want anything taken out
8 of this room, you know. It was sort of like we were meeting over
9 in the CIA headquarters there outside the Beltway for some strange
10 reason. But, nevertheless, since those were the ground rules in
11 which we were afforded the opportunity to give a cursory
12 examination to this report, we proceeded. Then we talked about the
13 absence of a restoration plan. As you will see, it's in here in a
14 number of places that we didn't have a restoration plan. So, we
15 said to them, well, what difference does that make? I mean, why do
16 we have to have an over-arching restoration plan to be able to make
17 prudent decisions now with respect to the expenditures of these
18 funds? And as you might imagine, they had no response. Their face
19 got red, they clutched their writing instruments tightly, and I'm
20 frankly surprised that we were able to continue the meeting in the
21 fashion that we able to when we started asking these questions.
22 Well, why is the restoration plan so important? And we never
23 received an answer, yet as though you look at this report, you
24 would think that we were absolute sinners for not having a
25 restoration plan when we decided to purchase lands at Kachemak Bay,
26 or Seal Bay, or to undertake habitat acquisition studies that

1 Commissioner Sandor has mentioned here this morning. And yet, you
2 see, we're essentially vilified in this report and in the press for
3 having this -- not having this meaningless restoration plan. Now,
4 you will see that that comment on page 24 and on page 28, and then
5 you will notice on page 30, they said, meaningful public
6 participation and independent scientific viewpoints not always
7 sought. And let me tell you, we told them, we're choking,
8 absolutely choking on public participation. But did we tell them
9 about public participation? We've said, we sent teams to every
10 community, every village in Prince William Sound and down in the
11 Lower Kenai Peninsula and out in Kodiak. We told them that we'd
12 sent out each year proposed restoration plans, and I know in the
13 first year's restoration plan we told them, and we showed them our
14 work, that we had received in excess of two hundred and fifty
15 comments, probably containing about two thousand pages, of public
16 comment on the '93 work plan. I know because I read it myself,
17 each page. We told them that we'd sent out this brochure dealing
18 with the proposed restoration plan, and we have received how many
19 comments, over a thousand or over seventeen hundred responses to
20 the proposed restoration plan. We told them that at the conclusion
21 of each meeting, and during each meeting, we have opportunities for
22 public comment over the teleconferencing system. And I said, you
23 know, if anything, we're having -- we have the public advisory
24 group, we pointed out. And I said, if anything, we have so much
25 public participation that I think the public is getting confused of
26 what we're sending out. But you can see how much attention that

1 they paid to our comments in that regard. Then you will see here
2 -- I don't want to take time to comment upon all of these things.
3 They said, high travel costs incurred between Juneau and Anchorage.
4 And we said, what do you want us to do, hold these little secret
5 tête-a-têtes of the Council down in Juneau where nobody can look us
6 in the eye and see what we're doing, who can come and appear before
7 us and present their views? I said, it's in the memorandum of
8 agreement, in the consent decree, that we have meaningful public
9 participation, and yet she -- because we come here before you so
10 people from the spill areas, from Cordova, from Valdez, from
11 Chenega, from Homer, from Kodiak, can come here today, they
12 criticize us in this report for these high travel costs. And I
13 told them, furthermore, the Department of Law has not taken one
14 penny of these so-called high travel costs, or for telephone bills,
15 or for the tens and tens of thousands of dollars of salaries that
16 the Department of Law has contributed to this Trustee Council, but
17 you see, this is what we get for -- criticized, you know. And then
18 this paper (pointing to Anchorage Daily News) rebuked for decisions
19 of that nature. Now, there's another comment in there which I want
20 to address. This has to do with the monies which the state is
21 being reimbursed for litigation expenses, and you will recall that,
22 following the spill, and not long after the spill, the state filed
23 a civil suit against Exxon for damages and began vigorously to
24 prosecute that lawsuit, and we hired the finest experts in the
25 world, we initiated a contingent evaluation study which probably
26 today is the best contingent evaluation study ever prepared, and we

1 were prosecuting that case vigorously. And the United States had
2 not yet, even as of the day of the final negotiations, filed a
3 civil complaint against Exxon. And so, we said that we wanted to
4 be reimbursed for the damage assessment and litigation costs. And
5 during those negotiations in Washington, D.C., I had a very vivid
6 recollection about them, and it is this: I said, you know, I've
7 dealt with some businesses over the course of the years of my
8 practice of law in Fairbanks, and I've seen this type of approach
9 taken, you know. When people want something from you, you know,
10 some sort of transaction, they send the All-American Boy in, you
11 know, the greatest fellow you ever met, he or she, you know, and so
12 you say, all right, we'll reach this agreement and then about two
13 years later, in come the boys with the sharp pencils and the green
14 eye shades and they say, well, you know, I beg to differ with you,
15 that wasn't the deal. Oh, we said, that was very clear, I
16 understand the deal, and that will be confirmed by, you know, your
17 employee or agent who came and we made the deal with. I said, why
18 don't we just get a hold of him? Oh, he's over in Indonesia right
19 now, or Saudi Arabia, he's just not available to talk about this,
20 and so you have a major dispute over what the deal was. And so, I
21 said, we don't want this happening in this case. We're going to
22 proceed jointly and together in this great saga. And, I said,
23 those numbers, the \$75,000,000 and \$67,000,000, those are the
24 numbers. We will not have that go back three years later and have
25 the GAO, if you will, come in and want to audit the numbers and
26 say, well, you paid your lawyers too much, or the expert witness

1 was paid too much. And, I said, those numbers are the numbers, and
2 I know because I kept the copies of these drafts as we went through
3 them. And then, I said, we will put it in because those are the
4 numbers. Well, then, the federal representative said, well, we
5 can't quite do it that way, we have to have this sort of subject to
6 some form of audit. So, I said, well, you just put it in that you
7 can audit your numbers but not audit the state numbers because
8 these are the numbers which we are to be reimbursed. Well, then,
9 they said, gee, it looks unbalanced, you know, with the federal
10 doing this and the state doing this, so being an easy mark, I
11 agreed that we could modify that language a little bit so that it
12 appears in the fashion that it now appears. But, you see, my
13 judgment was flawed because now, two years later, the GAO is in
14 here saying we've got to audit those numbers. And that's what we
15 told them in this meeting but, you see, they paid no attention to
16 what we said, time and time again. So, the whole report is flawed
17 in my view. They refused to consider the problems which we have
18 faced of trying to get this organization underway which has no
19 comparable entity in state or federal law. We told them that we
20 were using our very best judgment. We said, we're being very
21 careful to tie these damage assessments and expenditures and
22 restoration to the requirements of the consent decree. But the
23 only thing they really could come up with was my friend
24 Mr. Pennoyer's study for these killer whales, which I think you're
25 firmly convinced is supportable.

26 MR. PENNOYER: I am.

1 MR. COLE: Well, anyway, that's what I want to say.
2 I don't want to take a lot longer, but I think what -- now that we
3 have this written report, we will respond in writing to this, like
4 I say, scandalous document.

5 MR. ROSIER: Yes. Thank you, Mr. Cole. Mr. Frampton?

6 MR. FRAMPTON: Well, Charlie, I find it both ironic and
7 praiseworthy that you would be the one to rise to defend us since,
8 perhaps more than anyone else here, you are the one who has worked
9 hard and exercised leadership and moved us forward, so I appreciate
10 your defense. But I think that you all have to recognize that at
11 least we have an appearance problem. It's not only some segment of
12 the public of Alaska, but as reflected in the report of this U.S.
13 News article that I haven't read but you just gave me, and A.P.
14 stories that I saw in Montana and Salt Lake City papers on the way
15 up here on Friday, that there is a substantial segment of the
16 public that is concerned about the progress of these efforts. And
17 I guess I just want to echo the Secretary's thought that the most
18 effective response, in addition to a written response to the
19 report, here really is just to look to the future. And the Clinton
20 administration is absolutely committed to making this effort go
21 forward and, I think, recognizes that the only way to do that is in
22 partnership with the state, and you not only have to have it
23 coordinated federal position, that position has to be coordinated
24 by the state position. That's the only way the bankers move, to
25 make good investments, to do things expeditiously, and we are
26 absolutely committed to make that happen. And I think in the last

1 month or so, we've gone through the process of doing that, and that
2 would be ultimately the answer to this report, to demonstrate to
3 GAO and the public that we can make this thing happen, and you are
4 the one who's really been the leader of that and we're going to
5 join with you.

6 MR. COLE: Well, I'd like to add a postscript --

7 MR. ROSIER: Yes.

8 MR. COLE: Personally, I disavow that I have been the
9 leader. I have regarded it as a pleasure to work with Commissioner
10 Rosier, Commissioner Sandor, Mr. Barton, Mr. Pennoyer, and
11 representatives of the Department of the Interior. But let me say,
12 I'm not certain that it's not coincidental that this barrage of
13 criticism seems to suddenly descend upon us. As a matter of fact,
14 today, out comes this article in U.S. News & World Report which I
15 was just have handed, haven't had an opportunity to read, out comes
16 the GAO report today, out comes this headline article in the Daily
17 News today. I mean, why, one asks oneself, does all this explosive
18 tension come today?

19 MR. FRAMPTON: It's late summer. There's no other news.

20 MR. COLE: That's about as good a reason I can think
21 of. But, you know, there may be those with their own agenda who
22 think that somehow if they reap upon us all of the criticism which
23 their assembled groups can generate, that we will knuckle under to
24 their agenda, and that we will say, my goodness, you know, we can't
25 take this criticism, we have to take a mid-course correction, get
26 on track, if you will. And, you know, I want to tell any of those

1 who may have that agenda that I suspect that it will unavailing,
2 that we will continue to discharge our responsibilities prudently
3 and judiciously, and use this money wisely, not fritter it away,
4 not cause this Council's money to hemorrhage, and that we will act
5 totally and uncommittedly -- committedly in the public interest.
6 Thank you.

7 MR. ROSIER: Thank you, Mr. Cole. Yes, Mr. Sandor?

8 MR. SANDOR: Mr. Chairman, I certainly say amen to the
9 Attorney General's comments, but I must add a couple of
10 observations as a trustee. I received my copy of the report
11 actually just this morning, figuratively in the plain brown paper
12 wrapper that it deserved, and I quickly turned to page 7, and the
13 reason I was looking at the letter was because we had specifically
14 made a point to -- and I was very vociferous, having worked with
15 the federal government for thirty-seven years and very
16 knowledgeable about ordinary established procedures for general
17 accounting office reports, and at the meeting I had specifically
18 asked why we are prohibited from giving written comments. And in
19 this thirty pages of material that we've had, I had noticed that
20 there had been reference to a meeting with the congressman's staff,
21 and they had to have this report by August 20. Now, it doesn't say
22 that here, but in the draft it indicated that it had to be received
23 by the 20th. It was distributed to the media; in fact, I had a
24 call and that was the first I knew that it was released. But the
25 record reflects that this General Office Accounting report is an
26 acknowledged irregular report, and it is not -- agency comments

1 were not received because of the request from the congressman's
2 office, the staff, I presume. That's very significant because, as
3 the Attorney General pointed out, you have to ask why, you know,
4 why, and I guess my sense at the time was, you know, why. Now, I
5 have to express a real sense of disappointment at an opportunity
6 missed. This would have been a wonderful opportunity if the
7 regular process had been followed, in which the GAO team would have
8 looked at the strengths and the weaknesses, and God knows there's
9 weaknesses and strengths, and constructively built upon a
10 foundation of truth and fact, recognizing indeed the really very
11 fine work that is represented in the February 16 "Opportunities for
12 Habitat Protection and Acquisition." True, you know, many things
13 to be corrected, but the process is underway. With regard to the
14 restoration plan not having been finalized yet, I had urged, even
15 in the comments of the period that we have, that they would
16 acknowledge that a restoration planning process was, in fact,
17 underway with substantial opportunities for public involvement.
18 The draft restoration plan indeed published and widely distributed
19 for public comment so that while there wasn't a final restoration
20 plan, a restoration planning process that sought information and
21 advice from the people who were impacted by the spill and the
22 communities impacted by the spill. And I guess, Mr. Chairman, that
23 this is what is really distressing because there was the
24 opportunity to critique the process, to build upon strengths and to
25 diminish weaknesses, to obtain agency comments and to rewrite the
26 report after these constructive comments were received, and it

1 would be easy to say, well, let bygones be bygones, and we just
2 need to look forward, but this opportunity is still salvageable,
3 and I am certainly going to suggest to our congressional delegation
4 that this irregular procedure that was followed be corrected.
5 There is no reason now why that can't be regarded for what it was,
6 a draft report without agency comments. And I'm confident that,
7 indeed, there's many weaknesses, but most of those criticisms --
8 and if really anyone is interested in the facts, it can be
9 adequately addressed and we can move on with a critique and rewrite
10 the report after proper review of our comments. Anything short of
11 that, anything short of the State of Alaska and federal agencies
12 being able to correct the record will really be a missed
13 opportunity. Mr. Chairman, I want to go on record in strong
14 opposition to -- one, the process, the irregular process by which
15 this report was prepared and issued, and urge the General
16 Accounting Office to reconsider this opportunity missed and to go
17 back to the drawing board with this rough draft and obtain the
18 agency comments and rewrite the report in the professional manner
19 in which I'm sure they have the ability to perform. Thank you.

20 MR. COLE: Mr. Chairman, I so move.

21 MR. SANDOR: I second it.

22 MR. ROSIER: Motion made and seconded to proceed with
23 requesting the -- if I understand the motion, to request the GAO to
24 review the draft and to take into consideration the comments that
25 may be produced by the Trustee Council, and to look at the positive
26 side as well as the negative side of the entire issue. Is that the

1 essence of your motion then, Mr. Sandor?

2 MR. COLE: To receive written agency reports and
3 comments and to follow their usual procedures.

4 MR. SANDOR: That's all we ask, really is to -- that
5 the agency reports be solicited in writing, it be evaluated and
6 considered in the final report, and indeed, the agencies' comments
7 published, which is often the case. All that we're asking for is
8 that the regular procedure be followed and to try to move on
9 constructively with what could have been a good process.

10 MR. ROSIER: Yes, Mr. Pennoyer?

11 MR. PENNOYER: Mr. Chairman, is the notion the motion
12 that they would publish a supplemental or something? This is
13 already a final report, is it not? I mean, this has been
14 distributed, it's -- do you want just an addendum of agency
15 comments published, or what is the nature of the motion? I don't
16 know that I know how to write this report.

17 MR. COLE: Yes, that this report be withdrawn and
18 regarded as preliminary only, and that the final report be issued
19 after the standard regular processes of the GAO be followed. Now,
20 how could anyone object to that?

21 (Laughter)

22 MR. FRAMPTON: Is that an amendment to the motion?

23 MR. COLE: Yes.

24 MR. FRAMPTON: We'll put it in then.

25 MR. ROSIER: We'll put it in there.

26 MR. COLE: Well, I wouldn't mind sending somebody

1 this visitors guide.

2 MR. PENNOYER: How about the killer whales? There's some
3 public desire to find out what happened to the killer whales in the
4 Sound, where somebody says they can categorically prove they were
5 damaged by the spill or not, and that at some point in the future,
6 if in fact the pods do not recover, somebody's going to say why
7 then. The agency responsible for the marine mammals, I don't think
8 can stand up and say because we decided not to look at it, we can't
9 tell you. So, you know, I've got -- I'm sure our agency will
10 provide some comments on a particular aspect of it. I'm not clear
11 that a final report that's already been submitted to Congress can
12 be at this point -- would be withdrawn, but perhaps publication of
13 our comments would be appropriate.

14 MR. ROSIER: Well, --

15 MR. PENNOYER: I don't know what the procedure is, is
16 what I'm saying.

17 MR. COLE: Well, we can --

18 MR. ROSIER: I suppose, you know, assuming that the
19 Trustees in fact pass the motion that's been put forth at this
20 point, we would in fact address any correspondence to Mr. Miller
21 and GAO or whatever in regards to this process, and --

22 MR. COLE: The President.

23 MR. ROSIER: The President, certainly. I think that
24 basically the GAO is responsible to the Congress, if I'm not
25 mistaken, but --

26 MR. SANDOR: I would hope so.

1 MR. ROSIER: I would hope so also, but . . .

2 MR. FRAMPTON: Mr. Chairman?

3 MR. ROSIER: Yes, Mr. Frampton?

4 MR. FRAMPTON: Well, I'm happy to vote for a motion that

5 we ask GAO to receive agency comments and to take those into

6 account in a supplemental report. I think I'd probably have to

7 abstain on a motion to ask another government to withdraw a report

8 I haven't read. I don't know whether that would be received as a

9 matter of comedy within the federal government. I'd like to read

10 the report first before I'd vote for that kind of a motion.

11 MR. COLE: We wouldn't object if you read it.

12 (Laughter)

13 MR. ROSIER: Mr. Barton?

14 MR. BARTON: Yes, Mr. Chairman. You know, it seems to

15 me, it seems to me -- it sounds to me like we're dealing with a

16 situation where we're discussing unringing the bell, and we're not

17 going to unring the bell. We might ring a different bell, but I

18 don't think we'll unring the one that's been rung. I too have some

19 frustration with the report and the lack of opportunity to provide

20 written comment, but I would hope that we could, you know, that we

21 don't wallow in the past and let's just get on with the future

22 here, and I'm not suggesting that the record not be corrected, but

23 I hope that we focus on where we're going instead of where we've

24 been.

25 MR. COLE: Mr. Chairman?

26 MR. ROSIER: Yes, Mr. Cole.

1 MR. COLE: You know, I, like, I think, my certainly
2 fellow state trustees, do not like to view these headlines that
3 we've been rebuked by a couple of GAO auditors who, frankly, just
4 don't get it, you know. And I don't think that we ought to allow
5 that, really, essentially allegations of a breach of our fiduciary
6 obligations, to be ignored. So, you know, I think it's incumbent
7 upon us, if not obligatory, to respond to this -- I'm going to
8 leave the adjective out -- report.

9 MR. ROSIER: Thank you. Yes, Mr. Sandor?

10 MR. SANDOR: Yes. This isn't a matter of burying a
11 dead cat or something that isn't supposed to be used, isn't alive.
12 Actually, these GAO reports and other audits are bases from which
13 you move and are something we must work with in the future. So,
14 you know, this isn't a matter of just saying, oh, well, that was
15 some lark or thing that was put out for whatever purpose. It's a
16 document that we actually must, and are obligated to deal with, and
17 so the intent of the motion, again, which is really quite simple,
18 is simply that the Trustees request that our agency comments be
19 received, and that the report, which was irregularly issued, be
20 issued in proper form with the response to the comments that we
21 make. Otherwise, what you have is this report, which has a lot of
22 disinformation and, mostly by omission, doesn't present a proper
23 picture at all of what has taken place, and then the auditors can,
24 in fact, either dismiss, affirm, or modify, you know, their
25 comments based on the facts in the case. But to ignore it would be
26 to -- and to bury it would be improper. So, again, for the record,

1 the motion is to have the Trustee agencies which wish to do so to
2 submit comments and to request that the General Accounting Office
3 accord those comments the due respect that the regular GAO
4 procedure accounts for and to issue a follow-up report on those
5 comments. Thank you, Mr. Chairman.

6 MR. ROSIER: Thank you. The question has been called
7 for.

8 MR. PENNOYER: Mr. Chairman?

9 MR. ROSIER: Yes, Mr. Pennoyer.

10 MR. PENNOYER: I still heard two different things. Now,
11 if the motion we're voting on is one where the GAO would accept
12 agency comments and respond to them, not that they would --

13 MR. COLE: No, no, no. Let's not let them off so
14 lightly.

15 MR. PENNOYER: Well, in --

16 MR. COLE: If this document stands, then we -- you
17 know, we can't allow them to have this document out there in its
18 current status, unchallenged, when they don't follow the standard
19 procedures.

20 MR. ROSIER: I would agree with Mr. Pennoyer though.
21 There's at least two thoughts on the table here at the present
22 time, and we need to clarify which direction we're in fact going
23 here at the present time.

24 MR. PENNOYER: Let's have one motion and one thought.

25 MR. ROSIER: Yes, yes.

26 MR. PENNOYER: But I think Mr. Sandor's may have --

1 embody with what Mr. Cole is saying, I think he's just saying
2 perhaps they hinge on two different things. What you're moving is
3 that the GAO would follow their normal procedures, would respond to
4 agency comments in a final report. Now, we're not saying they're
5 necessarily going to change their view, not necessarily going to
6 change their report if that's their view after they review and
7 comment on what we've said, but we would have the opportunity to
8 say yes, we're not doing duplicate work on killer whales, for
9 example, and they would then have to say in the report, well, we
10 looked into that and they are, or whatever they thought about it,
11 but they would have to respond to that comment. They do verbally
12 respond here to some of our verbal comments, but not in any detail.
13 So, I'm not sure that you guys really are totally different, but I
14 just want to make sure. We're not telling them you've got to
15 change your mind or emoting what the final process or report may
16 look like. We're just saying, you've got to respond to agency
17 comments in a normal process, or you should.

18 MR. SANDOR: Well, this is a -- Mr. Chairman, this is
19 an irregular report, admittedly so, improperly issued, improperly
20 prepared, without the opportunities for the agency's written
21 comments and response to them. Indeed, it ought to be withdrawn.
22 If these people were -- you know, reflected on what they've done,
23 and I'm confident that, given these written comments, they will
24 recognize the errors of their way and issue another report. What's
25 wrong with saying, hey, we screwed up, this is what it is, you
26 know, and do the job properly. Why they had to have a report out

1 -- they're somewhat embarrassed. They were embarrassed at the
2 time. They're even embarrassed in this report by saying, at your
3 office's request we did not obtain written agency comments in the
4 draft of this report. That gives them the cover they deserve. For
5 God's sakes, we can let them comply with the regular process.

6 MR. ROSIER: Mr. Pennoyer.

7 MR. PENNOYER: Mr. Chairman, I -- one question in terms
8 of impact. That's fine, we can do that, and maybe we'll vote to do
9 it, but that doesn't necessarily tell the story of what the Trustee
10 Council feels are critical areas we haven't moved on and are moving
11 on. It doesn't necessarily -- it ends up being individual agency
12 comments. Is there a need for the Trustee Council to say something
13 for the record of where we think we're going and why we think it
14 addresses some of the concerns then, which isn't necessarily
15 handled by your motion. And your motion is that we'll all send
16 individual comments and somebody may respond to them and report in
17 a normal process, but . . .

18 MR. SANDOR: Mr. Chairman?

19 MR. ROSIER: Yes.

20 MR. SANDOR: I concur with Mr. Pennoyer, and the thrust
21 of the motion is to have this as a Trustee Council response
22 collectively, but I do believe a lot of the points can be supported
23 with the individual agency comments as well. The point is, is that
24 this cannot go unanswered, and if we're indeed sincere about
25 wanting to move forward in a constructive way and to build
26 consensus, we must, you know, effectively deal with this

1 unfortunate report. So, I don't hear a thing that you're saying.
2 You, Mr. Pennoyer --

3 MR. PENNOYER: The second part is to -- you'd have the
4 agency response and then maybe the Trustee Council should do
5 something to say how, see, we're going to proceed in the future, or
6 are proceeding to answer concerns?

7 MR. SANDOR: I think our transmittal can do that. The
8 report itself, we're particularly, I think, with respect to the
9 comments on it and the points that are not factual or missing, but
10 I think beyond that we can use this as an opportunity to really
11 say, you know, what we are heading for, and where we are going, so
12 -- but, you know, what's so sad about this is on that meeting date
13 they could have simply passed out these things marked draft instead
14 of numbering them and restricting them. Mr. Rosier had one hour to
15 look at this 33-page document and discuss it. One hour. We had,
16 what, three, I guess. And then they would have taken -- we would
17 have had it, written our comments collectively and individually,
18 and then they would have properly written the report in the process
19 prescribed, but oh, no. For some reason they had to have this out
20 by August 20th. What a coincidence. The Trustee Council meeting
21 was on the 23rd. What a coincidence that (inaudible -- electronic
22 interference) widespread distribution. I don't know what the
23 definition of orchestration is, but it comes fairly close to
24 (inaudible -- electronic interference) the bottom line is that this
25 (inaudible -- electronic interference).

26 MR. ROSIER: Does that clarify the motion for you,

1 Mr. Pennoyer?

2 MR. PENNOYER: It clarifies the motion. I'm not sure
3 who's going to do this letter, this transmittal, and what it's
4 going to contain, but the motion is clarified, yes.

5 MR. FRAMPTON: Mr. Chairman?

6 MR. ROSIER: Yes. Mr. Frampton was next, yes.

7 MR. COLE: Well, what I want to say is that we should
8 request that this document, call it -- label it what you will,
9 should be withdrawn (inaudible -- electronic interference) because
10 we can't allow this, to accept this report not prepared pursuant to
11 the usual GAO procedures, and to have this suddenly come out, you
12 know, today, was obviously the reason behind, in part, this refusal
13 to accept written reports or comments from the Council and the
14 various agencies. And I think that it should be withdrawn until
15 the usual practices are followed. After all, that's the (inaudible
16 -- electronic interference).

17 MR. ROSIER: Yes, Mr. Frampton.

18 MR. FRAMPTON: Mr. Chairman, at the risk of postponing
19 our ability to get on to other business, I think I should -- as a
20 point of clarification on the form that -- the GAO's position, is
21 this is not a GAO report to Congress, and it is not subject to the
22 usual procedures that apply to that. It is a briefing report to
23 the chairman of the committee, and with respect to such a report,
24 apparently there are no usual procedures. Now, whether that makes
25 any difference to anybody is up to you all. I don't see any reason
26 not to vote to ask them to accept written responses. Agencies want

1 to make written responses, you certainly want to make a response,
2 Mr. Attorney General, but their position is that this is -- this is
3 a differnt animal than a report to Congress. It's not an audit
4 report, and there are no usual procedures.

5 MR. ROSIER: Mr. Cole.

6 MR. FRAMPTON: For what that's worth.

7 MR. COLE: An astounding revelation that now comes
8 out that this document is not the standard GAO report, but it's
9 just some sort of briefing report to Congressman Miller.

10 MR. FRAMPTON: It just has a cover that looks like.

11 MR. COLE: It just has a cover that -- all the
12 essential paraphenalia that make it would appear it's a standard
13 GAO study, but now we find out, thanks to Mr. Frampton, that it is
14 not such an animal, and that's coming -- that revelation, it
15 indeed, by all means, should be withdrawn. (Laughter) So I call
16 for the question now.

17 MR. ROSIER: Question has been called for.

18 MR. PENNOYER: Mr. Chairman.

19 MR. ROSIER: Yes, Mr. Pennoyer.

20 MR. PENNOYER: I'm not nervous about commenting on the
21 things I see that are problems in this report or in requesting that
22 we somehow put it in perspective towards what we want to do so we
23 are, as Mr. Frampton has said, having a forward look as well as a,
24 quote, backward look at what's been done. And I think it is
25 forward looking because a lot of things that aren't in here are
26 things we are endeavoring to do, but I don't know, do you withdraw

1 a briefing report or do we request that they actually prepare a
2 report for Congress, a follow-up, formal report that follows their
3 procedure and accepts the comments. I'm not sure what -- I don't
4 know anything about their procedure. I don't mind writing them and
5 telling them what I think the problems are with particularly killer
6 whales and other things, but -- but I don't know what we're exactly
7 asking -- whether the process you've envisioned is the appropriate
8 one to handle a GAO report. This is not a -- I mean, to withdraw
9 a briefing report that apparently is not even a, quote, formal GAO
10 report to Congress, or do we ask them to actually prepare a report
11 for Congress that follows normal procedures and follows up on this?
12 I don't know.

13 MR. ROSIER: Not normally -- not knowing necessarily
14 what the normal procedures are here for a briefing report, is this
15 the normal procedure as far as the GAO is concerned, produce
16 briefing reports? I mean ...

17 MR. PENNOYER: Is there a normal procedure?

18 MR. ROSIER: Yeah, is there a normal procedure
19 associated with briefing reports on this?

20 MR. COLE: It's labeled here a GAO study.

21 MR. ROSIER: Oh, I know what the newspaper says, but if
22 you believed everything that's in the newspaper, we'd all be in
23 deep trouble.

24 MR. PENNOYER: Mr. Barton, you've been around the system
25 a lot of years

26 MR. PENNOYER: Pardon me?

1 MR. PENNOYER: You've been around the system a lot of
2 years, how do you handle GAO reports -- what is the normal process
3 for a GAO report? Mr. Chairman -- sorry.

4 MR. ROSIER: Mr. Barton.

5 MR. BARTON: Well, in my experience, the agencies being
6 reviewed have an opportunity to provide written comments to a GAO
7 report, but this is not a GAO report so ...

8 MR. ROSIER: That's how it's being quoted in the print,
9 anyway.

10 MR. ROSIER: Questions?

11 MR. PENNOYER: Mr. Chairman, I'm all for trying to find
12 a way to make comment and have that comment taken into account and
13 have that comment published. I would like to have a way for us to
14 review that comment, individual agencies can say what they want,
15 but if there's a letter of transmittal, I'd like an overall review
16 so we can see what we're signing on to.

17 MR. ROSIER: That's the first part of the motion. The
18 second part of the motion is, of course, is to -- part of the
19 problem is it includes the withdrawal of the document.

20 (Inaudible -- electronic interference)

21 (Vote on motion is not audible: Recorder's notes indicate
22 motion passed with no Trustee objecting)

23 MR. ROSIER: Anything further on that subject,
24 Mr. Cole, on this item?

25 MR. COLE: (Inaudible -- electronic interference) I
26 was wondering whether we should not address the 1994 federal fiscal

1 year proposed interim project budget at this --

2 MR. ROSIER: I agree. Yes. Can we do that in the time
3 available here?

4 (Inaudible -- electronic interference)

5 MR. GIBBONS: I can accomplish this within a half hour.

6 MR. ROSIER: Okay, fine. Do you want to proceed with
7 that presentation?

8 MR. GIBBONS: What I propose to do is give you the
9 historical background and where we are to date (inaudible --
10 electronic interference) of the interim budget and to make a
11 recommendation (inaudible -- electronic interference) 297 potential
12 projects, which we did. We accomplished this task in April
13 (inaudible -- electronic interference) forwarded to the Trustee
14 Council in late June, a listing of ____ different projects was
15 developed (inaudible -- electronic interference) distributed and
16 redistributed (inaudible -- electronic interference) towards the
17 end of this year or early next year, carry on the process of
18 habitat protection and the various activities that are (inaudible
19 -- electronic interference). The interim budget includes major
20 areas of (inaudible -- electronic interference) peer review,
21 contract (inaudible -- electronic interference) those are the two
22 contract items that we are suggesting that you cover in the interim
23 period. The second area included in the interim budget is the
24 report preparation cost from the 1993 field work. As directed by
25 the Trustee Council, we have a budget in the 1993 work year which
26 was March 1st of 1993 to September 30th of 1993, to include only

1 costs during that time. And now, we have costs associated with the
2 preparing of reports, of the people who will be in the field 'til
3 September, and (inaudible -- electronic interference) fiscal year.
4 So those costs were not included in the 1993 work plan, but we're
5 asking for costs to complete that. A note here, reading the
6 articles that you're reading, the 1992 damage and restoration
7 reports, there are 92 which are being -- which were developed, and
8 those are either in the final stage right now or out for peer
9 review, so that process is proceeding, and I have copies of
10 abstracts which I'll have available for you on September 16 of
11 those reports. So, (inaudible -- electronic interference) there's
12 a minimum of 26 projects from 1993 that will appear in a
13 comprehensive report, and the date of receipt by the Trustee
14 Council is April 15, 1994, we'll make that date. There's
15 administrative costs in the interim budget which includes the
16 executive director's position, the restoration team. Several of
17 the work groups, the habitat protection work group, the 1994 work
18 plan, and the restoration planning group that concerns the
19 restoration plan. In addition to that, there's the cost of the
20 finance committee and the public advisory groups. There are some
21 -- some agencies feel that there are some projects that need to
22 begin before January 31st if there's going to be a successful
23 completion in the federal fiscal year '94, and there's eight of
24 those right now. We'll bring those up to the agencies and we'll be
25 able to respond individually to that, to why the interim funding is
26 needed, and those projects. At the June, I believe the June

1 Trustee Council meeting, a financial report was given to you by the
2 financial committee. It was dated -- excuse me, it was dated
3 July 19th, which covered the period, the first period of funding,
4 which was March 1, 1992 to February 28, 1993, and it gives you a
5 financial audit of what funds were expended, what funds are
6 remaining, and I will say that there is six and a half million
7 dollars of unexpended funds here of the nineteen million dollar
8 fund, and that splits -- about a million and a half dollars in
9 administrative costs were not spent and will be returned to the
10 fund, and about five million dollars in project costs were not
11 spent and will be returned to the fund. So, the idea of not
12 managing the fund is -- I think is proven to be wrong here. We're
13 managing the dollars and we're trying to save dollars wherever
14 possible. So, that report was done by the independent finance
15 committee. The recommendation I have to the Trustee Council here
16 today is to not fund the four-month interim budget, but is to fund
17 a one-month interim budget, using funds previously approved to
18 proceed from this report, the six and a half million dollars.
19 You'll find that one month, that will give you enough time to
20 review (inaudible -- electronic interference) 1994 projects and
21 also the predefined project descriptions, which are complete for
22 your September 16 meeting, which will give you adequate information
23 to make a good judgment on projects that are being conducted or a
24 judicious budget to be conducted in 1994. So, that's my
25 recommendation (inaudible -- electronic interference).

26 MR. ROSIER: Any discussion from the Trustees?

1 Mr. Pennoyer?

2 MR. PENNOYER: We're talking about two different things
3 though. This (inaudible -- electronic interference)

4 MR. GIBBONS: That's correct.

5 MR. PENNOYER: (Inaudible -- electronic interference)

6 MR. SANDOR: (Inaudible -- electronic interference)

7 MR. GIBBONS: (Inaudible -- electronic interference)

8 MR. COLE: Mr. Chairman, I would like to propose here
9 today that we include in the '94 work plan project five million
10 dollars to initiate a study of the entire biological composition of
11 Prince William Sound and the other spill affected areas. You will
12 recall that I proposed this, somewhat out of the blue, two or three
13 months ago, and I think I've since reflected on it more, and I am
14 convinced that, as Secretary Babbitt said today, of the wisdom of
15 that type of study. And I say that for two reasons. One is, we've
16 had difficulty establishing, as the report that the symposium
17 noted, the damages caused by the spill because of the absence of
18 baseline data preceding the Exxon Valdez spill in 1989. And I
19 think it would -- it's a wise use of these resources which we now
20 have available to take an inventory of the natural resources in
21 this area. Secondly, I think that a comprehensive study of the
22 resources there will enable us to better formulate the '94 work
23 plan projects as well as those in the future, '95, '96, '97. And
24 I have in mind that we should commit plus or minus five million
25 dollars to that study in '94 and a like amount in '95, essentially,
26 whatever it takes to complete this study. So, I would ask that the

1 Council give directions, if that is appropriate at this time, to
2 the Restoration Team to begin preparations for that project.

3 MR. ROSIER: Mr. Cole, a point of clarification. I
4 quite concur, I think, with the need for a further research program
5 in Prince William Sound. Certainly what we've seen this year,
6 again, is the Sound is sick at the present time. We've got major
7 resource problems in Prince William Sound at the present time.
8 What the cause is is not determined at the present time, but I
9 don't think anything can be ruled out in terms of what the problem
10 is in Prince William Sound. But I know this, that the people that
11 are living in Prince William Sound are certainly suffering as a
12 result of major resource problems there, salmon-wise, shellfish-
13 wise, other finfish-wise. There's major problems in that Sound at
14 the present time, and certainly within the -- my review of the '94
15 work plan, there are a number of studies that have been there, that
16 we've been funding previously, that would, in fact, be part of
17 this, or are you talking about five million on top of the programs
18 that are already in the '94 preliminary '94 work plan at the
19 present time?

20 MR. COLE: Yes, I'm talking about five million
21 dollars for an overall, over-arching study to catalog the resources
22 in Prince William Sound and the other spill-affected areas. So,
23 heaven forbid, if we have another spill, we will at least know
24 what's out there, have baseline data, and also data, as I say, to
25 enable us to coordinate all these plans. You will recall that some
26 of the scientists at the University of Alaska said that they

1 thought that we really needed a sort of a coordinated overall
2 approach to our various projects, and I thought that was a good
3 suggestion, and in part it lies at the heart of my current
4 proposal.

5 MR. ROSIER: Yes, Mr. Frampton.

6 MR. FRAMPTON: Mr. Chairman, we're very supportive of
7 this concept of, at least an initial investment of five million,
8 and then contemplated a second five million in '95, and Secretary
9 Babbitt's highest priority within the Department of the Interior is
10 to establish a national biological survey which would not only
11 consolidate research within the Interior Department but begin the
12 process at a national level of having a -- basically a survey of
13 biological resources and the status of trend monitoring, and this
14 is -- the Attorney General's concept here in some sense is an
15 ecosystem-based version of the same, as we understand it, and has
16 a number of benefits. One is that the Public Advisory Group's
17 desire to see an endowment created for somewhat similar functions
18 may run into some serious legal problems, and this is perhaps a
19 more -- even a more efficient and certainly a viable way, a clearly
20 viable to get a firm objective. Second, it offers the possibility,
21 particularly if we investigate the alternative of putting together
22 an independent entity, which is something that perhaps we ought to
23 think about with state and federal and private trustees, or at
24 least an advisory committee and independent scientists, of having
25 a way to actually evaluate and coordinate some of those other
26 studies. So, it seems to us that this concept might be on top of

1 projects that would otherwise be done, but it might be an
2 alternative also to evaluate how these other projects fit together.
3 In other words, a mechanism for looking at all of the studies that
4 are proposed to focus on Prince William Sound in an integrated
5 fashion rather than simply take a list of a hundred in fragmented
6 fashion and narrow them to 50 and 25 and pick the top ten, you have
7 a way here to actually look at everything that is proposed to be
8 done for Prince William Sound, see how it fits together, see how it
9 furthers the baseline study and the status and trends objectives,
10 and make an integrated evaluation. So that by committing the money
11 to an entity or a process here, we may actually end up saving money
12 in terms of vis-à-vis trying to look at this in a fragmented
13 fashion. So, this seems to us a very good -- very good concept and
14 one that could end up really making the whole scientific study
15 effort under the Trustee's rubric much more efficient and save a
16 lot of money here, as well as make it more effective.

17 MR. ROSIER: I think this is excellent. Mr. Barton?

18 MR. BARTON: Yes, Mr. Chairman. I think that the
19 project as described by Mr. Cole has merit. I'm not clear as to --
20 I assume what you're suggesting is that we direct the Trustee --
21 the Restoration Team to put together a project of this type, which
22 then would go out for public review as part of the '94 work plan
23 package?

24 MR. FRAMPTON: Yes, sir.

25 MR. BARTON: I so move.

26 MR. ROSIER: We have a motion. Do I hear a second to

1 the motion?

2 MR. FRAMPTON: I second the motion.

3 MR. ROSIER: The motion has been made and seconded.
4 And, Mr. Sandor is next.

5 MR. SANDOR: Council should make as a part of the
6 motion, I believe that, I think as you were alluding, Mr. Chairman,
7 the highest priority is Prince William Sound, and I'm unclear if
8 the sense of the basic motion is to initially focus attention
9 there, for the very reasons that it's been discussed here and is
10 apparent in the last several months, particularly with the decline
11 of the fisheries, that we need answers, you know. So, if it isn't
12 the sense of the -- the basic motion isn't the sense to give
13 priority to Prince William Sound, I would move that as an
14 amendment. But I'd ask clarification, I guess.

15 MR. ROSIER: Mr. Cole?

16 MR. COLE: It is the sense of the motion to focus
17 initially on Prince William Sound, but I want to say that I've sat
18 on this Council long enough to know that when we begin to focusing
19 on Prince William Sound, we immediately receive an outcry from the
20 other spill-affected areas, and I would not want to eliminate those
21 areas from this project. And secondly, I would like to say
22 briefly, I think that this motion is consistent with what the
23 Governor committed to the people of Cordova last Friday and which
24 the Governor and Secretary Babbitt committed to the fishing group
25 in Valdez yesterday.

26 MR. ROSIER: I would like to say that, in that regard,

1 you know, I think that the focus -- in this particular situation I
2 think the focus really should be the Prince William Sound area
3 because, at least in my view, if you look at the number of the
4 resources that were in fact damaged, resources that are key to the
5 economic well-being of that part of the state, that's where the
6 problem is, that's where the resources are, in fact, sick. The
7 pink salmon situation there this year, a total disaster. No one
8 knows why, but it's a total disaster, and those pink salmon
9 resources on all sides of them are not in bad shape. Kodiak has
10 got strong runs, returns this year. Southeastern has got strong
11 returns. But the Sound is, you can't find enough pink salmon there
12 to much more than meet the egg requirements of the facilities there
13 in Prince William Sound. It's a very bleak part of the oil spill
14 area at the present time, resource-wise. I think -- Mr. Pennoyer?

15 MR. PENNOYER: Mr. Chairman, I clearly like the direction
16 being proposed. We have a need to try to explain how these
17 resources we've been studying individually interact and how they
18 may be affected as a carry-over from the spill. I'm not clear that
19 I know what we're going on in this proposal, however. Here's an
20 obvious need, as Mr. Frampton pointed out, to sit down and design
21 something that ties us all together, if we're going to put money
22 into it. As Mr. Cole also pointed out, this probably needs to go
23 out and do additional resource inventory we're not doing as part of
24 our projects to fill in some of the gaps. But I'm not clear what
25 we're asking folks to go out and design, to design an ecosystem
26 study which would include everything from planktonic research on up

1 the line, climate, environment, I mean everything. Your design is
2 going to take you awhile and it's going to cost some money, and
3 it's not going to be done by the Restoration Team. If we're
4 putting a placeholder out there and asking to get a design and
5 we're going to instruct people as to who we want to come together
6 to design that study, then that's good too. We can do that. We
7 talked about doing ecosystem monitoring and we've had placeholder
8 project concepts out there, but we've never come to grips with it.
9 But I don't think, based on what we've said, someone's going to run
10 out and draft this up for us by September 16. So, I'm not clear
11 how we wish to proceed on this. I like the idea of doing it. I
12 like the idea of putting money into it. We are going to have to
13 address both the resources you've talked about and some of the
14 underlying reasons that may be happening, but I'm not clear exactly
15 what we're designing here yet.

16 DR. MONTAGUE: Mr. Chairman?

17 MR. ROSIER: Yes, Jerome?

18 DR. MONTAGUE: Can I offer some technical thoughts on
19 this that may help paint the picture?

20 MR. ROSIER: Go ahead.

21 DR. MONTAGUE: Certainly, our vision of a comprehensive
22 ecosystem project would be one that, you know, using Prince William
23 Sound as an example, would say, these are all the interacting
24 factors in the ecosystem ... (inaudible -- electronic interference)
25 ... some theories are plans. There may be some key elements
26 of this thing. The one thing that a five hundred dollar study can

1 tell you in the first place was -- it sure would be nice to have
2 this but you're never going to get it under the current technology
3 because there's one or two key elements (inaudible -- electronic
4 interference). I'm wondering if the Council will want to go over
5 the five hundred thousand dollar project (inaudible -- electronic
6 interference) -- do the same thing for the northern gulf coast of
7 Alaska and Kodiak ... (electronic interference).

8 MR. PENNOYER: Looking at habitat acquisition, we didn't
9 know how much we were going to spend. We put a placeholder in for
10 twenty million bucks, and I think the work plan could deal with
11 that. As it turned out, we spent more than that or we will have
12 spent more than that (inaudible -- electronic interference) work
13 done. But, are you suggesting, Dr. Montague, that we perhaps
14 affirm our desires to look at ecosystems -- that means -- gives
15 different people different names -- some explanation of resource
16 variations in Prince William Sound -- ecosystem studies -- we will
17 -- up to five million a year, and then what you would do is come
18 back and (inaudible -- electronic interference) as a start to that
19 a five hundred thousand contract with the university or whoever and
20 get together and write a plan for it -- that type of approach
21 (inaudible -- electronic interference)? Commit here up to five
22 million a year for that type of study ... (inaudible -- electronic
23 interference) ...

24 MR. FRAMPTON: far beyond that in detail. It may be that
25 ... (inaudible -- electronic interference) ... priority ...
26 planning studies ... model down. It's a little scary to me for

1 starters. It may be that you don't a half a million dollar study
2 to design how we model ... (inaudible -- electronic interference)
3 ... to do that. But I think that those really -- that's the best
4 level of planning here, what each agency proposes to make
5 (inaudible -- electronic interference) ... dollars in the next few
6 years to get the basic information collected, and how far we go
7 beyond that is not clear, and start a process then looking at how
8 we organize this, as well as what the detailed budgets should be.

9 MR. ROSIER: Mr. Cole.

10 MR. COLE: Committing five million dollars to this
11 type of study or project doesn't bother me. We spent forty-two
12 million dollars on Seal Bay, we're talking about committing forty
13 million dollars plus to the habitat acquisition in the Eyak area,
14 the people of Cordova and the people of Valdez told us this past
15 weekend we're the ones who've been hit the hardest economy, what
16 have you done for us recently, and I think, really, five million
17 dollars for a study like this is a relatively small amount of money
18 to commit to this type of project. And I also think that we have -
19 - you -- get along with each project and not think too small about
20 five hundred thousand dollars, and, you know, then it'll be little
21 the next year, and we just have to make wholesale commitments and
22 get on with it.

23 MR. ROSIER: It seems to me, certainly time-wise, on
24 this modeling maybe a -- a good end point at some point down the
25 road. We're talking about now. If we wait for five years to
26 decide where we're going and don't have the understanding five

1 years from now, I think we've missed the opportunity and we've
2 missed the boat, quite frankly, to catch this in the net. I think
3 basically people are looking for, you know, some answers at the
4 present time, and we don't have those answers. I'm not sure we've
5 got the programs in place to do it, and I think we need to be
6 moving ahead now with an active program here assessing the
7 resources and finding out where we are as far as those resources
8 are at the present time. Mr. Pennoyer.

9 MR. PENNOYER: Thank you. Mr. Cole, I was not balking at
10 five million dollars at all. It may not be enough, and it may not
11 be a long enough period of time. I just don't know exactly what
12 we're going to tell people to do out of the chute and put in the
13 package. And if you want a placeholder for the concept in
14 principle, I think that's fine. I didn't know how we'd design
15 that, and I think that's -- from a starting point, that's good by
16 me.

17 MR. ROSIER: Is that -- Mr. Sandor, you have something?

18 MR. SANDOR: I call for the question.

19 MR. ROSIER: Question has been called for. Are you
20 satisfied with five million dollars for biological study with the
21 focus on Prince William Sound to be included as a placeholder in
22 the 1994-95 annual work plan? Any -- those in favor, signify by
23 saying aye.

24 ALL TRUSTEES (in unison): Aye.

25 MR. ROSIER: Those opposed? (Pause -- no response)
26 Motion is passed.

1 MR. PENNOYER: Dr. Gibbons made a proposal on the
2 administrative and other costs for an interim period of time, and
3 I guess I kind of balk at the idea of looking at all of these
4 projects here, without seeing any of the backup and kind of
5 description. We have had some criticism that may or may not be
6 warranted. I think that is the type of thing that we would
7 normally not want to do, and I think what I'd like to do is to go
8 on with Dr. Gibbons' motion which would allow interim funding for
9 one month so that everything doesn't come to a grinding halt in the
10 interim period of time, out of the carryover funding, assuming
11 that's all technically checked so we can do that, and start up no
12 significant new activities during that period of time, and come
13 back on September 16th when we're provided this backup and pass off
14 on the rest of this interim funding for the balance of the three or
15 four month period of time.

16 MR. SANDOR: I second that motion.

17 MR. ROSIER: To fund?

18 MR. BARTON: How would you be (inaudible) to do
19 contracts Dr. Gibbons identified in the ...?

20 MR. PENNOYER: Dr. Gibbons, you'll have to advise me on
21 that. I would have treated them -- carried them on for a month,
22 but if that's not adequate to the people we're negotiating with,
23 we'll have to come back and reconsider it. I was not provided that
24 information.

25 MR. ROSIER: Dr. Gibbons.

26 DR. GIBBONS: Well, previous direction of the Trustee

1 Council was to (inaudible -- electronic interference) this building
2 and negotiate a longer term lease, so the price came down. I've
3 been doing that, and it would be difficult to go back to them now
4 and say, yeah, we're going to fund you for one month when the
5 (inaudible) now are for a year lease ... (inaudible -- electronic
6 interference) ...

7 MR. PENNOYER: (Inaudible -- electronic interference)

8 DR. GIBBONS: (Inaudible -- electronic interference)

9 MR. BRODERSEN: (Inaudible -- electronic interference)

10 MR. FRAMPTON: (Inaudible -- electronic interference) ...

11 budget material, but I think clearly we need something in a format
12 and an itemization that is more than this seven page list line
13 items that we recognize. On the other hand, I'm not sure that what
14 you have in your left hand there, which looks to me to be
15 (inaudible -- electronic interference) materials. Maybe we can
16 take a break and talk about it.

17 DR. GIBBONS: They're in there.

18 MR. FRAMPTON: What it goes to is (inaudible --
19 electronic interference) ...

20 MR. ROSIER: Dr. Gibbons.

21 DR. GIBBONS: Yeah, we created the amount of detail you
22 see in front of you for the interim budgets also. We're shooting
23 to get this package to you for -- by -- September 6th for your 16th
24 meeting, and it just takes a long time to print one of these out.
25 We skipped the interim budget, which all the Restoration Team
26 members have, by the way -- they have a copy of all the details

1 (inaudible -- electronic interference). We were going to give you
2 a package that laid out the interim, and there's a full copy of it
3 here ... (inaudible -- electronic interference) and this has
4 probably more detail than you want, but it's the detail we like to
5 lay out -- travel costs, personnel, and all that.

6 MR. ROSIER: Okay, at this point, we'll recess for
7 lunch and be back here at 1:15? 1:30? 1:30 then. Thank you.

8 (Off Record at 12:03 p.m.)

9 (On Record at 1:30 p.m.)

10 (Mr. Paul Gates is seated as the alternate Department of
11 Interior representative pending the arrival of Mr. Frampton after
12 the noon recess.)

13 MR. ROSIER: Let's -- let's get going here. It's 1:30.
14 (Aside comments) If there's no objection from the other Trustee
15 Council members here, I think we can proceed probably on the status
16 report on the bark beetle infestation here, and I think Mr.
17 Frampton will be back with us here shortly -- so we can continue
18 our discussion on the funding. So, at this point, I think we'll
19 move ahead and cover the status of the bark beetle infestation.
20 Dave, are you going to lead us on this.

21 DR. GIBBONS: Yes. I'm just going to introduce a couple
22 of speakers. We have two people that are going to present this,
23 Tom Boutin, who is the State Forester, Department of Natural
24 Resources, and Ed Holsten, from the Forest Service, I think the
25 forestry research arm, and they're going to present the status of
26 the bark beetle infestations within the oil spill-affected area.

1 MR. TOM BOUTIN: As Dave said, I'm Tom Boutin from the
2 Alaska Department of Natural Resources. On the table behind you,
3 there's some maps and also some booklets that I don't need you to
4 have but when Ed talking with you, you'll need to have. I don't
5 know if somebody could perhaps hand those out. The booklets have
6 a blue cover, and then there are three separate maps, and I think
7 we have fifteen copies of those. I guess in order to speed along,
8 I'll just begin while ...

9 MR. ROSIER: Please do.

10 MR. BOUTIN: ... those are being handed out. You bet.
11 The -- we have been asked to describe a forest habitat health
12 situation which has existed in many parts of Alaska for quite
13 sometime. The earliest recorded spruce bark beetle epidemic in
14 Alaska was noted by the Forest Service in the Copper River area in
15 1920. More recently, Kenai Peninsula activity began being
16 discussed as a forest health issue in the late 1970s. In the late
17 1980s, the Forest Service made one of the first efforts to
18 selectively log some of the beetle-infested stands but needed
19 environmental impact statement was challenged. In the early 1990s,
20 a cooperative effort between the Forest Service, the Kenai
21 Peninsula Borough, and the State Forestry Division used a state
22 appropriation to salvage some beetle-killed timber and build a fire
23 break at the community of Cooper Landing. The three-way
24 cooperation has continued while further results have been quite
25 meager. Last week, all three agencies participated in a review of
26 the infestation and its implications by people from outside. The

1 Borough would likely participate in responding to anything the
2 Trustee Council required regarding the bark beetle on the
3 Peninsula. One million one hundred fifty thousand acres of recent
4 spruce bark beetle-infested land was mapped during 1991, '92, and
5 '93, of which five hundred and eight-five thousand acres is on the
6 Kenai Peninsula. This year was the warmest in the seventy years,
7 during the weeks that are important to beetle activity, so we'll
8 probably see an increase in 1994 in infestation of a whole another
9 magnitude. So, the description of the size of the infestation goes
10 like this. On the Kenai at least, there are five hundred and
11 eighty-five thousand acres of infestation mapped during the three
12 year period ending this year. The Kenai Peninsula is about five
13 point two million acres in size, of which one point nine million
14 acres is forested. So, considering infestations prior to 1991,
15 it's likely that half of the forests on the Kenai Peninsula have
16 been impacted, and also the coastal forests are showing great
17 amounts of infestation for the first time. The situation has been
18 surveyed and studied regularly and quite extensively. Opinion
19 polls of residents and visitors have been done. I'm not aware of
20 any investigation which predicts the long-term effects on habitat
21 and other resource values. The consensus among forest managers is
22 that this is a forest health emergency. A normal bark beetle
23 outbreak is three to five years in a localized area. The outbreak
24 on the Kenai is generally in its sixth or seventh year in most
25 areas and still seems to be on the increase. A recent study
26 reported forest health in South Central and Interior Alaska said

1 that spruce beetles have and always will be a feature of these
2 ecosystems. However, the notion that this infestation is or should
3 be managed as a totally natural event is erroneous. While several
4 environmental factors, such as annual weather conditions, host
5 susceptibility, and changes in predator and parasite populations
6 continue to influence beetle population changes, past and future
7 human intervention, such as fire suppression, clearing activities,
8 and related human habitation have removed this situation from the
9 natural setting. Consideration of human needs and influences to
10 establish an appropriate desired future condition for these
11 impacted forest types is ecologically appropriate. Without some
12 sort of artificial intervention to mitigate this non-natural
13 wholesale change in the ecosystem, significant habitat loss will
14 result. There is a paucity of regeneration, the seed source is
15 being destroyed, and the site disturbance required for regeneration
16 isn't present to where there is a remaining seed source. One
17 possible effort of reducing hazard and habitat loss at the
18 landscape level is to maintain a mosaic of cover types in age
19 classes. Active ecosystem management, using proven simple cultural
20 techniques is certainly one alternative. Maintaining bio-diversity
21 on the Kenai will certainly include tree planting. Tree planting
22 is usually impractical without logging. Although forest harvests
23 can affect the bio-diversity within the forest landscape, negative
24 impacts can be avoided and positive impacts savored. The
25 previously mentioned studies said that lack of action and continued
26 forest health decline will result in increasing loss of wildlife

1 habitat for mature forests species, continued riparian degradation
2 substantial long-term conversion from forest to grass or hardwoods
3 from lack of spruce regeneration, increased community fire hazard
4 and associated increased fire suppression costs, degradation of
5 aesthetic quality of forested landscapes, degradation of developed
6 recreation areas and increased maintenance costs for removal of
7 hazard and down trees. For your information, the first beetle
8 epidemic was studied last week by three prominent forestry
9 officials: Jane Difley, President of the Society of American
10 Foresters; Les Reed, retired chief of the Canadian Forest Service
11 and professor emeritus at UBC; and Dave Adams, forest health
12 professor at the University of Idaho. Ms. Difley said that there
13 are timber, wildlife, and water resources at risk. She said that
14 this is an opportunity to prove silvicultural techniques can
15 restore habitat. The society has published more than thirty
16 articles on forest health and science in the '90s, and now , is now
17 distributing an eighty-three page task force report on the subject.
18 Dr. Adams said that the Kenai epidemic is not a natural one. He
19 said that parallels with forest health is long-term sustainability
20 of the ecosystem. He said the Kenai forest has no resiliency. He
21 said a stressor-like climatic fluctuation would not produce this
22 sort of broad-scale habitat conversion and loss in a healthy
23 ecosystem. Dr. Reed said that from what he saw on the Kenai, we
24 can't wait for perfect information. He thought that the lack of a
25 forest products industry on the Kenai, notwithstanding the
26 reopening of one small sawmill at Seward, and the sole emphasis on

1 recreational values on forestry decisions may have allowed this
2 problem to be discussed for years without any action being taken.
3 Long-term changes in the forest cover types and forested wildlife
4 habitat as a result of this forest health problem has not been
5 studied or raised as an issue on the Kenai Peninsula. The limited
6 and naturally fragmented landscape patterns found in Alaska, and
7 especially on the Kenai where the maritime coastal forest meets the
8 northern boreal forests so abruptly make this loss of habitat a
9 critical issue. Getting back to what Dr. Reed said about the lack
10 of a forest products industry possibly being part of the problem,
11 I think I see the industry we now have as a potential source of
12 subsidy for the solution. Any payment for remaining value in some
13 of the timber, and especially any site preparation and access
14 construction which can be absorbed by logging contracts is a
15 subsidy to resolving this forest ecosystem problem. In closing my
16 description of the spruce bark beetle epidemic, I am suggesting you
17 direct that one of six agencies represented by the Trustee Council
18 determine and report the possible and likely long-term habitat
19 effects of this infestation. The three-way partnership of the
20 Forest Service, Kenai Peninsula Borough and Alaska Forestry
21 Division could no doubt handle the project if asked. The dollar
22 amount most often suggested to me by foresters is \$75,000.

23 MR. ED HOLSTEN: Before I start off here, there are a
24 series of maps here that you might want to consider. There should
25 be fifteen copies of three maps. What they are is just a scaled
26 down version of the three maps ... (inaudible -- electronic

1 interference) ... U.S. Forest Service for sixteen years.
2 Probably sixty, seventy percent of my time over the last fifteen to
3 sixteen years has been spent with the spruce bark beetle, either
4 under research aspects or documenting impacts. What I'm going to
5 do here briefly is just reiterate a few things Tom brought up, as
6 well as provide you with a little background information. A couple
7 of things, number one, the bark beetle is a natural component of
8 the spruce ecosystem. It is ... (inaudible -- electronic
9 interference) ... and it is found wherever spruce is found in the
10 state, in Southeast Alaska up to tree line in the Brooks Range.
11 It's always been around as long as spruce has been around. We
12 have, historically, we've had some quite large outbreaks since
13 1920. From 1920 to 1989, more than two million acres were impacted
14 by the beetle. But if we had a map of all the infestations since
15 1920, most of them are going to fall right around in South Central
16 Alaska, specifically on the Kenai Peninsula, and I'm going to talk
17 about this a little bit later. So, you have to keep in mind it's
18 very easy to mix apples and oranges. For example, we have four
19 types of spruce, and this is an important point. We have Sitka
20 spruce in Southeast, in Prince William Sound, Kachemak Bay area, a
21 maritime spruce species. On the Kenai Peninsula proper, we have a
22 hybrid spruce called Lutz spruce. In Interior Alaska, we have
23 white spruce, and, of course, we have the ubiquitous black spruce.
24 Now, all these species of spruce aren't equally susceptible to
25 spruce beetle, nor have we gotten any outbreaks of equal intensity
26 throughout Alaska. In previous history, most of the outbreaks have

1 occurred in South Central -- if you look at the state map there,
2 what is displayed there as a red area is what we did map from '91
3 to '93. Three years ... (inaudible -- electronic interference)
4 several hundred thousand acres. But the preponderance of that is
5 on Kenai -- that hybrid spruce area. It's not the same -- we
6 haven't had outbreaks in the Interior. We had some along the Yukon
7 River (inaudible -- electronic interference) and historically we've
8 had some in Southeast Alaska ... (inaudible -- electronic
9 interference) ... Afognak. Right now, we're having ongoing
10 outbreaks in Sitka spruce in Kachemak Bay, which has intensified
11 over the last year, especially this year, a little over ten
12 thousand acres, and there are some indications there of increasing
13 ... (inaudible -- electronic interference) Yes, there are
14 infestations ... (inaudible -- electronic interference) Some
15 of these non-human resource -- impacts are ... (inaudible --
16 electronic interference) ... Most of them are ... (inaudible --
17 electronic interference) ... wildlife habitat, fire hazards,
18 logging, they are impacts but they have yet to be documented, and
19 the real ... (inaudible -- electronic interference) ... is down the
20 road.

21 MR. ROSIER: Thank you. Yes, Mr. Cole.

22 MR. COLE: Why has this been brought before the
23 Trustee Council today.

24 MR. ROSIER: Yes, Mr. Sandor.

25 (Mr. Frampton arrived at 1:50 p.m. and was seated)

26 MR. SANDOR: Thank you, Mr. Chairman. Attorney General

1 Cole, we -- a year ago -- addressed this issue and conferred
2 specifically about the potential on the Kenai Peninsula, Kachemak
3 Bay, specifically, and at that time it was uncertain that --
4 whether or not this infestation would continue ... (inaudible --
5 electronic interference) ... objective of protecting the habitat
6 for nesting harlequins and marbled murrelets and so forth are the
7 reason why we are acquiring areas. The question raised -- raises -
8 - is raised is this -- among the questions raised are these, I
9 should say multiple questions, one, should we be looking at areas
10 that we're acquiring for acquisition, those that are scheduled for
11 timber harvesting, when those areas themselves might be vulnerable
12 to insect infestation that in effect is going to destroy the
13 habitat that we're protecting, and perhaps then we ought to look at
14 other strategies or a combination of strategies that achieve our
15 objective of habitat protection of that as an illustration on the
16 Kenai. As an illustration on the -- in the Valdez-Cordova area,
17 why I was particularly anxious to have this topic discussed today,
18 was that there are areas, significant areas, behind -- behind
19 Valdez that are infested, and it occurred to me there was
20 opportunity for harvesting of those areas, perhaps by the Eyak
21 loggers and operators to be able to deal with that problem and the
22 removal of the bug-killed timber and take the pressure off of the
23 Eyak Corporation's contract loggers to log in areas that we're
24 trying to protect and give some protection to in Prince William
25 Sound. So, that's why this is on the agenda.

26 MR. ROSIER: Yes, Mr. Cole.

1 MR. COLE: What can the Trustee Council do with
2 respect to this spruce bark beetle kill? I don't see what we can
3 do as a Trustee Council.

4 MR. ROSIER: Mr. Sandor?

5 MR. SANDOR: I think the Trustee Council can do several
6 things. With regard to the Valdez situation -- even though that
7 area is outside the spill area where the harvesting is to take
8 place, I believe the Trustees can give encouragement to the Eyak
9 Corporation contractor loggers to look to that area as a source of
10 timber harvest. With respect to the Kenai Peninsula, where the
11 infestation is a major significance and, as referred to, perhaps
12 even accelerate next year, at the very least I think the Trustee
13 Council should direct that this information and the advice from Ed
14 Holsten and the other professionals in this area be referred to the
15 Habitat Protection and Acquisition Group for factoring into the
16 assessment of the protection of that ecosystem, and insofar as
17 looking into the future, if in fact the infestation on the Kenai
18 Peninsula is severe enough or is as severe as it is supposed to be,
19 and in fact even kills the area that we have acquired, then I
20 believe we have an obligation to look to the opportunities for
21 restoration of the habitat that is there, and I don't know what the
22 scenario there might be, but I suspect Tom Boutin, the state
23 forester, and Ed Holsten can come -- will have opportunity
24 suggestions there. But anyway, at this point, it seems to me very
25 relevant to our ecosystem of approach to management in these
26 different areas of the ...

1 MR. COLE: Thank you.

2 MR. ROSIER: Further discussion.

3 MR. SANDOR: I have a question.

4 MR. ROSIER: Yes, Mr. Sandor.

5 MR. SANDOR: Mike --

6 MR. BARTON: Yes, just let me say that we would be
7 pleased, in the course of the discussions with Eyak, to raise this
8 opportunity with them, and maybe we'd need the assistance of the --
9 is this state's managed plans, or a mix or --?

10 MR. BOUTIN: Well, my review of it -- it looks to me
11 that the beetle-infested land that's most easily accessible is
12 predominantly BLM land that's been state selected and I did --.

13 MR. BARTON: Never-never land.

14 MR. BOUTIN: Well, I talked a little bit with the BLM
15 a day or two -- a day that I had -- last week, and it sounds like
16 there could be opportunities to get it up for sale, and it remains
17 to be seen whether that could be done under the sale methodology
18 that would present itself as a conclusion to your situation. Also,
19 your situation ... (inaudible -- electronic interference) ... on
20 that site. He said he was going to (inaudible -- electronic
21 interference) his right-of-way cutters tomorrow morning, and we
22 will have ... (inaudible -- electronic interference) ... no later
23 than Friday. (Inaudible -- electronic interference) quite a bit
24 more ... (inaudible -- electronic interference) ... and also ...
25 (inaudible -- electronic interference) . So, that's the situation,
26 but it does sound like your problem is hours away.

1 MR. ROSIER: Yes. Nonetheless, we'd be pleased to
2 identify (inaudible -- electronic interference) to Eyak (inaudible
3 -- electronic interference) and work with the landowners involved,
4 the State or the BLM or whomever to see what the opportunities
5 might be associated with this for Eyak.

6 MR. ROSIER: Yes. Mr. Sandor.

7 MR. SANDOR: With respect to Cordova and Valdez
8 situation, I am confident that ...(inaudible -- electronic
9 interference) I don't know whether there's an opportunity for
10 advance (inaudible -- electronic interference) of beetle-infested
11 areas (inaudible -- electronic interference) can be separate from
12 the actual harvest, but you are working with BLM and Fish and Game
13 under an emergency sale activity, I believe both the state and
14 federal ...(inaudible -- electronic interference) ... accelerated
15 way in which this could be dealt with, either thirty or sixty days.
16 Is that true?

17 MR. BOUTIN: It's true in the case of the state. In
18 the case of BLM, I'm afraid I'm not exactly sure.

19 MR. SANDOR: But moving on to the Kenai, unless there's
20 any more on the -- that Eyak, Cordova, Valdez -- on the Kenai, the
21 somewhat embarrassing ... (inaudible -- electronic interference)
22 How can we protect the habitat ... (inaudible -- electronic
23 interference) Power Creek What I hear you saying is
24 that if nature takes its course, spruce forest will not regenerate
25 because of a lack of disturbance, how can our Habitat Protection
26 and Acquisition Group deal with this threat to the destruction of

1 critical habitat, in your professional opinion?

2 MR. HOLSTEN: Well, a couple of things address that.
3 Number one, unfortunately in the Kachemak buy-back area, those
4 stands have not been ... (inaudible -- electronic interference).
5 Those areas have been severely impacted. (inaudible -- electronic
6 interference)... So, I think that in order to (inaudible --
7 electronic interference) there is lighter beetle activity, but it
8 is not as severe as elsewhere in Kachemak Bay. I think what needs
9 to be done from the habitat standpoint is we need to quantify and
10 qualify the impact area going on there ... (inaudible -- electronic
11 interference) . It's pretty hard. We know there are impacts
12 (inaudible -- electronic interference) There are some
13 techniques that can be done to minimize damage, depending on the
14 timeliness of intervention in some stands (inaudible), but we don't
15 know if we want to maintain old growth timber. From a test
16 management standpoint, that's a real hard charge for us to do.
17 It's kind of like keeping a person who is a hundred and twenty
18 years old alive another ten years. A very hard task. In many
19 cases we have to face reality that these are (inaudible) forest.
20 And there are some techniques we can do to -- prescribe burns or
21 other site disturbances to bring back regeneration because spruce
22 does best when you have a site disturbance. You can go down to
23 Kenai and look -- we see a lot of new, advance regeneration, and it
24 will be alongside of roads -- where you've had a site disturbance.
25 So there's lots of techniques that we can use to restore some of
26 these impacted habitats and there are techniques to minimize some

1 of the damage.

2 MR. ROSIER: Yes, Mr. Cole.

3 MR. COLE: Lest we have an impression created in the
4 record with which I do not agree, resulting from Commissioner
5 Sandor's remark that we are in or maybe in the embarrassing
6 position of having acquired timber infested by the beetles, I want
7 to say that we knew of this possibility at the time we expended the
8 funds to contribute to the acquisition of Kachemak State Park.
9 It's not something that we were unaware of, but we knew that the
10 beetle infestation in Kachemak Bay State Park was not heavy at this
11 time. We knew that there's some scattered infestation there. I
12 personally flew over the area and was satisfied that it was not
13 widespread, although there were some trees that were the subject of
14 beetle impact, but nonetheless we made, I think, a fully informed
15 decision at the time we decided to acquire the interest in the
16 Kachemak Bay State Park lands.

17 MR. ROSIER: Yes, Mr. Sandor.

18 MR. SANDOR: Yes, and so the public record is straight,
19 there is, in fact, a formal report that was prepared at the request
20 of the Trustee Council that addresses specifically this situation,
21 dated August 1992, and the only difficulty is is that the problem
22 is continuing to get worse, and we are hoping that, you know, it
23 might turn around and get better. Mr. Chairman, what I propose to
24 do, and I would move that we accept this Forest Health Initiative
25 Spruce Beetle Survey report with thanks, formally refer it to the
26 Habitat Protection Acquisition Group and -- for evaluation of

1 habitat protection -- and that that group seek whatever additional
2 information or advice from Mr. Holsten or Mr. Boutin in their
3 evaluation process.

4 MR. PENNOYER: Second.

5 MR. ROSIER: Motion made and seconded. Further
6 discussion -- that the motion requests there? Marty?

7 MS. RUTHERFORD: Mr. Chairman, I guess I'd just like
8 to add one thing here for your information. We have been
9 attempting to include in our analysis the spruce bark beetle data,
10 and we will continue to work with the forestry division of DNR to
11 acquire that data as new information becomes available. But just
12 for your information, at this point in time we're including it only
13 as an information point. We're really not analyzing or allocating
14 to it any value, whether it be negative or positive. We're simply
15 including it as an informational data layer, and so that's how it
16 will be presented to you folks in the report in the fall.

17 MR. ROSIER: Yes, Mr. Sandor.

18 MR. SANDOR: Well, I think the earlier motion we passed
19 this morning about analysis of not only Prince William Sound but
20 the other oil spill-affected areas to analyze the ecosystems within
21 those areas will allow the Trustees and the Restoration Group and
22 the Habitat Protection and Acquisition Group specifically to -- to
23 put this in that context. What we are after is the protection of
24 the habitat, and this is an element that's important to that
25 process, and, as we've heard, this is not a natural event but
26 actually an emergency event that needs to be dealt with.

1 MR. ROSIER: Okay. Any further discussion?

2 MR. SANDOR: Call for the question.

3 MR. ROSIER: Hearing none, the question's been called

4 for. Those in favor of the motion, signify by saying aye.

5 ALL TRUSTEES (in unison): Aye.

6 MR. ROSIER: Those opposed? (Pause -- no response)

7 Motion is passed.

8 MR. COLE: Mr. Chairman.

9 MR. ROSIER: Yes, Mr. Cole.

10 MR. COLE: I wonder if again we could not request

11 that information such as this be given to us prior to the meeting.

12 It would be nice if we could read this information preparatory to

13 coming to the meeting.

14 MR. ROSIER: Well, I think that's been a constant

15 source of -- of information-seeking on the part of the Trustee

16 Council, and I guess for all the participants here, you've

17 certainly heard the request from Mr. Cole. I think, certainly from

18 my perspective, I would certainly support that. It's a little

19 embarrassing to get an inch of material when you sit down at the

20 table and expect to make a reasonable decision based on the

21 material. Anyway, I think that the record should show that we've

22 made that kind of a request, that any time there is material to be

23 presented, it should be presented to the Trustee Council in advance

24 -- as far in advance as you possibly can get it. At this time

25 then, I guess, we are back to the pre-lunch discussion of the

26 interim funding.

1 MR. PENNOYER: Mr. Chairman, we had a motion on the floor
2 we were discussing.

3 MR. ROSIER: Yes.

4 MR. PENNOYER: Dr. Gibbons has suggested that we approve,
5 pending receipt of a more detailed project budgets which we can
6 evaluate, that we approve a one month extended funding for these
7 base activities, not to include new starts or new activities until
8 we have a chance to look at this material at our September 16th
9 meeting -- look at it after that -- pass it out on September 6th
10 and prior to the 16th meeting -- and the two questions that were
11 brought up, Dr. Gibbons felt that what had to be more fully funded
12 were contractual obligations to the facility here, the personnel,
13 which we've discussed previously, and to the Chief Scientist and
14 peer review process, which we've not yet discussed in terms of
15 applicability of year number two -- or four, I guess -- two, four.
16 And Dr. Gibbons, I believe, has been to elaborate a little bit on
17 the requirements for those two contracts to be funded in full now
18 instead of on the one-month basis.

19 DR. GIBBONS: I think -- Mr. Chair?

20 MR. ROSIER: Yes, go ahead.

21 DR. GIBBONS: I've got the detail here in front of me,
22 and I've circled -- why, why we're hesitant to give it to you.
23 There's an error in it, but I've circled that for you so you can
24 find it. This is the detail concerning the -- this package here,
25 which hasn't been reviewed by the Restoration Team. That's why
26 it's, you know, not given to you. There's some detail in here

1 concerning the CACI contract for the staff of the building and also
2 for the space. I will say on the space, it's by far the cheapest
3 we can find in the city of Anchorage. It's a dollar five a square
4 foot, which is extremely reasonable, but then -- and then also,
5 there's detail, some detail on the Chief Scientist and peer review
6 in here.

7 MR. PENNOYER: Mr. Chairman?

8 DR. GIBBONS: I might let Marty Rutherford to the
9 contract on the Chief Scientist. Over lunch I've been
10 contemplating both ways: do we really need the year or do we need
11 one month, and eleven years, and I might let Marty talk to that --
12 or some thoughts on that anyway.

13 MR. ROSIER: Go ahead, Marty.

14 MS. RUTHERFORD: Mr. Chair, the only thing -- there's
15 just a process problem associated with the peer review and Chief
16 Scientist contracts. They, both contracts run out September 30th,
17 and it's a -- it's a sole source, because they're both sole source
18 contracts because they work through Bob Spies and Bob Spies' firms
19 shop. So we are in -- it would make it very awkward for us to be
20 able to just do a contract extension for one month for each of
21 those projects, and to be real frank, I'm not positive we can pull
22 it off at all. And so, that is the reason we requested the full
23 twelve month funding so that we could go ahead and get the
24 authority to continue those projects under a sole source contract
25 and proceed with them. If the Trustees tell us they only want to
26 do one month out, I'll do my best to extend the contracts, but I'm

1 not positive I'll be able to get the Department of Administration
2 within the state to agree.

3 MR. ROSIER: Yes, Mr. Pennoyer?

4 MR. PENNOYER: So, Marty, review again for me the
5 provisions of that contract and its termination potential. Not
6 that I'm suggesting we do that, but if the Trustee Council comes
7 back and reviews this whole package after a month ...

8 MS. RUTHERFORD: Yes, both contracts can be ...

9 MR. PENNOYER: ... and decide they want to do business
10 differently, how ...

11 MS. RUTHERFORD: Yes, both contracts can be shut down
12 with, I think, a two-week notice, so -- two weeks or thirty days,
13 I can't remember which, but they can be terminated in very short
14 order.

15 MR. PENNOYER: Mr. Chairman.

16 MR. ROSIER: Yes, Dr. Gibbons -- oh, sorry, yes.

17 MR. PENNOYER: So, we've got two contracts then. Would
18 you give me the CACI amount, and the building and the staff.

19 DR. GIBBONS: Yeah, that would be not to exceed eight
20 hundred and sixty thousand for CACI. The building is sixteen
21 hundred dollars a month -- sixteen thousand a month, a hundred and
22 ninety -- a hundred and ninety-two ...

23 MR. PENNOYER: I thought you'd got a real bargain there
24 for a minute. So that's the building, Mr. Chairman, the building
25 and CACI come to around a million dollars ...

26 DR. GIBBONS: That's correct.

1 MR. PENNOYER: ... for twelve months, you're asking for
2 approval of now. And the Chief Scientist and peer review?

3 DR. GIBBONS: The Chief Scientist-peer review would be
4 six hundred thousand, which is down from the last year I will point
5 out, but it's estimated three hundred thousand for the Chief
6 Scientist and three hundred thousand for the peer review associated
7 with that.

8 MR. PENNOYER: And the peer review is used as needed so
9 it's not automatic?

10 DR. GIBBONS: That's -- both of them are used as needed.

11 MR. PENNOYER: Mr. Chairman?

12 MR. ROSIER: Yes.

13 MR. PENNOYER: Following up on the other expenses in
14 terms of a one-month extension, what type of things, what amount
15 would be required for that?

16 DR. GIBBONS: Well, I would expect that the one-month
17 extension would only include report preparation costs so that
18 continues on, and administrative costs for the Restoration Team,
19 Habitat Protection Work Group, and that no new projects would
20 start.

21 MR. PENNOYER: But of the administrative costs then would
22 be basically one twelve?

23 DR. GIBBONS: One twelve. One quarter of the interim.

24 MR. PENNOYER: Mr. Chairman, could you give me an idea of
25 what the total amount is then for the non-CACI or peer review costs
26 for one month?

1 DR. GIBBONS: Er -- yeah. (Pause)

2 MR. PENNOYER: While he's digging for that, we've heard
3 that the -- and have discussed in some detail in the past that the
4 building costs are the best we're going to find around here,
5 including our meeting space here. We have discussed at some length
6 in the past the contract for personnel and the fact that we don't
7 have a super abundance of people to put out all the material that
8 we're getting out of here, and I guess I don't have a lot of
9 trouble with those two. The Chief Scientist and peer review
10 process, as we go on through here, we need to evaluate how good a
11 job we're doing at that and whether we want to do something
12 additional or something different, but that contract is changeable
13 if we really came up with a better way of doing business. I don't
14 know if we want to renegotiate a sole source contract twice. I'm
15 not sure what's involved with that. I think this is a reasonable
16 alternative to stabbing this whole bunch of stuff in front of us
17 and trying to look at this whole thing here at this meeting. I
18 would like to know how much it is.

19 MR. FRAMPTON: What is the reasonable ...

20 MR. PENNOYER: To go ahead with these contracts and one-
21 twelfth of these other costs.

22 MR. COLE: What contracts?

23 MR. PENNOYER: CACI and building.

24 MR. COLE: He doesn't know what CACI is.

25 MR. PENNOYER: Oh, I'm sorry, that's the building here
26 and the supportive staff that occupies it. We've got a contract

1 for that. And, Dave, I suppose can lead us through the pieces of
2 it.

3 DR. GIBBONS: Yes, looking at the summary, it's an
4 estimate, but it's approximately eight hundred thousand for report
5 preparation.

6 MR. PENNOYER: Eight hundred thousand? And that's one-
7 twelfth of that then that's required, or all of that?

8 DR. GIBBONS: Well, the estimate for report preparation
9 is around thirty -- three point three million dollars, and estimate
10 of -- that's for final reports in April 15th, that involve final
11 report preparation. So it's hard to estimate for one month. It
12 would be less than that, but it's hard to estimate that amount
13 right now. I could probably get you that amount.

14 MR. ROSIER: Yes, Mr. Barton.

15 MR. BARTON: I was just trying to clarify whether the
16 eight hundred thousand was a three month number or a one month
17 number.

18 DR. GIBBONS: The reports as specified by the Trustee
19 Council are due April 15, 1994, and we budgeted for them to
20 complete those reports by that time, and that's what the number is
21 in here for the report preparation costs.

22 MR. BARTON: Which is three point three?

23 DR. GIBBONS: Which is three point three.

24 MR. BARTON: So what are the one month costs? What's
25 a one-month share of that three point three?

26 DR. GIBBONS: That's ...

1 MR. BRODERSEN: Mr. Chairman.

2 MR. ROSIER: Yes, Mr. Brodersen.

3 MR. BRODERSEN: If I can try and jump in here. Some
4 people are going to need up to seven months, which is basically
5 April 15th, to get their reports done. Some people are going to
6 need one month to get their reports done. We do not have it in a
7 basis that we can say one month will cost X number of dollars. It
8 is not broken out that way. It will be less than eight hundred
9 thousand for that month. And we should also point out this three
10 point three figure includes data analysis and a few other things.
11 The field work is done, but there is still data analysis to do, the
12 samples to do, etc., to get to these reports, and so it's not like
13 a person is just going to sit in a room for two weeks to write
14 these. There are other costs associated with it that is included,
15 captured in this three point three million dollar number.

16 MR. ROSIER: Yes, Mr. Sandor.

17 MR. SANDOR: Mr. Chairman, it is my hope that we were
18 going to discuss the budget in great detail at the September 16
19 meeting. What we're going to do here is cover essentially the
20 interim minimum expenses necessary to keep the shop open and the
21 process underway. Am I hearing that that's not possible for two
22 items, or very not likely? You're saying, Marty, that the
23 Department of Administration may not be able to, may not be able to
24 extend that for one month, is that what I'm hearing?

25 MS. RUTHERFORD: It's going to be difficult on the
26 peer review and Chief Scientist's contracts to get a contract

1 extension because of the fact that these are sole source contracts
2 and the way in -- we're having to deal with the Department of
3 Administration on extending another year of sole source contracts.
4 They're not going to look very kindly upon us asking for a one-
5 month extension, and then go out for another sole source. It's not
6 impossible. If you folks don't feel comfortable with saying let's
7 go -- give the whole authority so we can begin renegotiations for
8 the full term of the contract, which, again, can be terminated at
9 any time, then we'll try, but I'm not positive I'll be able to
10 successfully complete it.

11 MR. ROSIER: Mr. Sandor, follow-up?

12 MR. SANDOR: Let me just follow up, yeah. The thing
13 that we don't want to do, in my opinion, is to get ourselves in the
14 trap of having expenditures of -- that extend beyond the period of
15 time in which we might make significant changes. We are shifting
16 to executive director versus administrative director structure, we
17 are going to examine the Restoration Team and the whole
18 organization structure itself, so we don't want to obligate
19 ourselves to something that, you know, may not be necessary or may
20 not be, you know, that would prevent a change. So, I guess, what's
21 the minimum expenditure necessary to keep this ship running until
22 September 16? I guess that's what I'm not clear on yet.

23 MR. ROSIER: Dave, do you have a response to that or do
24 you need a minute?

25 DR. GIBBONS: I will say that we're asking for, as
26 you're talking about the Restoration Team organization and

1 executive director, that would be a one-month expenditure. We're
2 not talking anything more than one month.

3 MR. SANDOR: Okay.

4 DR. GIBBONS: So that decision is not predetermined.

5 MR. SANDOR: Okay.

6 DR. GIBBONS: We're asking for one month for that part.

7 MR. SANDOR: Okay. Thank you.

8 MR. ROSIER: Yes, Mr. Barton.

9 MR. BARTON: And on the Chief Scientist and peer review
10 contract, that's a pay-as-used type contract, and really this is an
11 authorization that you're asking for rather than a check writing.

12 MS. RUTHERFORD: That's correct. We need the
13 authority for you folks, because the Department of Administration
14 requires that you have the full authority before you begin and you
15 commit to a contract. However, it is a pay-as-you-use, and it can
16 be determined in very short order should you decide it's not
17 something you want to continue.

18 MR. ROSIER: Yes, Mr. Frampton I believe had a question
19 here.

20 MR. FRAMPTON: Well, I have a couple of questions about
21 the kinds of information that traditionally the Trustees have
22 received and what, you know, what kind of information is necessary
23 here to make decisions today or in the future. The detailed backup
24 that you just handed out, some looks like the kind of budget
25 information that I'm familiar with that one, you know, is
26 accustomed to get to make budget decisions like this. In other

1 cases, it's a little hard to tell, you know, you've got a
2 contractual line for six hundred or nine hundred thousand dollars
3 where there's nothing behind that, but -- I would have, you know,
4 hoped that if you were -- confident to make a presentation for a
5 year's worth of money for a subject, that we could get a one or two
6 page thing showing the salaries, the out-of-pocket costs that were
7 budgeted, and a short narrative description of what it is. Now,
8 the CACI contract, you're not asking for a year's ...?

9 DR. GIBBONS: Yes.

10 MR. FRAMPTON: You are. All right. Well, I'll just, for
11 example, looking at the list here that you just handed out, for
12 that contract, that's about eight hundred and twenty-seven thousand
13 dollars, and it indicates we're employing two public research
14 coordinators at ninety-nine thousand dollars each, a library
15 associate at seventy-one thousand, a management assistant at sixty-
16 five thousand dollars, a special assistant at sixty-two thousand
17 dollars, another specialist at fifty thousand dollars -- you know,
18 don't we have to sort of view this in some integrated fashion in
19 terms of what the whole operation looks like and what these people
20 are going to be doing for a year?. Do we have to do this for a
21 year?

22 MR. ROSIER: Dr. Gibbons.

23 DR. GIBBONS: This -- you know, like I said, that's a
24 maximum. I'm in the process of negotiating those contracts, and
25 I've got the same questions you do. Those people -- that's a cost
26 that we're paying CACI, and some of those numbers don't track with

1 me either, so in the process of negotiation those numbers will be
2 refined, but those people, like I say, are a contract service to
3 the Trustee Council for the support of the building, the Oil Spill
4 Public Information Center across the hall here, and then the fourth
5 floor people.

6 MR. ROSIER: Yes, Mr. Cole.

7 MR. COLE: Well, I would like to say, Mr. Frampton,
8 within the past year or when we renewed these -- this contract
9 last, we very carefully looked at each of these elements and made,
10 I think, hard decisions as to who was required to operate the
11 library, who was required to respond to these public information
12 requests, and, you know, it isn't as though we haven't fully looked
13 at this overall contract in depth within the past year, and I would
14 agree with you that if we were looking at this for the first time,
15 we would want to certainly take a much more in-depth analysis of it
16 than we are being asked to do today, but we have taken the
17 proverbial, quote, hard look, close quote, at these expenditures,
18 not long ago. I mean, if that's not correct -- that's my
19 recollection.

20 MR. ROSIER: Yes, Mr. Pennoyer.

21 MR. PENNOYER: A quick question, if I may. I haven't
22 (indiscernible), and I assume, as you do, Charlie, that, is there
23 anything new in here?

24 DR. GIBBONS: No. There is nothing new from existing
25 staff.

26 MR. FRAMPTON: My question is, I guess, is we're going to

1 have a new executive director, hopefully in the near future, is
2 that person going to have the opportunity to decide that this
3 complement of people should be increased, decreased, changed --
4 and, if so, why is it -- is the only contract we can negotiate a
5 twelve month contract with CACI? Is that the only alternative?

6 DR. GIBBONS: I would think that the new executive
7 director would make a recommendation to the Trustee Council on what
8 kind of support staff for the building would be -- if the
9 contractor is really looking -- you know, if you're contracting for
10 several months, it really, it doesn't lend to a good contract. I
11 mean you don't -- it's like the building here. We negotiated with
12 Jack White to improve to ADA requirements and fire and safety at no
13 additional cost because we could negotiate up to a two year
14 contract, and that's the same thing when you get into small-term
15 contracts, the price goes up on you, and so, and with talking with
16 CACI we're looking at the yearly contract, with of course clauses
17 to get out of it, you know, and so -- to try to reduce the cost, if
18 we can.

19 MR. PENNOYER: Mr. Chairman.

20 MR. ROSIER: Yes, Mr. Pennoyer?

21 MR. PENNOYER: I think what Mr. Frampton is asking
22 though, once you do this, will the new executive director have a
23 chance to go and say, well, gee, I need one extra library associate
24 or I need one less. Is it modifiable within that year?

25 DR. GIBBONS: My understanding, it is.

26 MR. FRAMPTON: By mutual agreement? I think that's the

1 standard clause.

2 MR. COLE: Well ...

3 DR. GIBBONS: Well, I'd have to go -- I'd have to look
4 at the contract. It's a standard federal contract.

5 MR. FRAMPTON: Well, my question is, are we committing
6 ourselves to spend eight hundred and twenty-seven thousand dollars
7 for these people for the period October 1, '93, to October 1, '94,
8 unless the contract is modified?

9 MS. RUTHERFORD: Mr. Chair?

10 MR. ROSIER: Yes.

11 MS. RUTHERFORD: I think the real, one of the real
12 issues here is when the contract runs out, and I think it runs out
13 the end of September, and so I think, you know, somewhat that it's
14 awkward timing.

15 MR. COLE: Mr. Chairman.

16 MR. ROSIER: Yes, Mr. Cole.

17 MR. COLE: Do you really wish me to comment on,
18 quote, awkward timing?

19 MS. RUTHERFORD: No.

20 (Laughter)

21 MR. COLE: I would think not.

22 MS. RUTHERFORD: Well, I think the point is that the
23 Trustee Council decision on the executive director doesn't
24 necessarily jive with when this contract has to be either extended
25 or renegotiated, and that's -- that's what makes this difficult.

26 MR. FRAMPTON: Well, let me ask another question. Is it

1 possible to approach the contractor and see whether this contract,
2 the existing contract can be extended for a month or three months?
3 After all, it's presumably in their interest to keep the contract.
4 Is that a possibility here?

5 DR. GIBBONS: Mr. Chair, there's two options I can do.
6 I can approach CACI on that as a one month, or I can approach the
7 Department of Justice to see if they would like to carry the
8 contract for one additional month, you know, that's who's carrying
9 it now, carry one additional, and then you can make that decision
10 on the 15th -- or the 16th -- of September. That's the two
11 options.

12 MR. FRAMPTON: I don't mean -- I don't mean to quibble
13 about either the need for these people or the process that's gone
14 on before. What I'm concerned about is when we get an executive
15 director, we also need, it seems to me, a process in which the
16 Trustees get usual, adequate information about budgets which is
17 consistent with some overall set of priorities which we can review
18 before meetings and make a judgment about. We didn't have that
19 information in your seven-page line item. A lot of that
20 information is in the backup that you're preparing for the next
21 meeting, but when I look at that backup I'm not sure how any of us
22 is really going to be able to go through there and make a very
23 informed judgment, even with staff. So my concern is really with
24 the process here, and that the -- setting a precedent of committing
25 to even a small number of personnel -- eight hundred thousand
26 dollars, you know, is not peanuts, and committing ourselves a year

1 ahead before we really know whether we're going to be needing this
2 complement of people at these prices. It's really a process issue
3 more than quibbling about ...

4 MR. ROSIER: Dr. Gibbons.

5 MR. FRAMPTON: ... whether people are doing a good job or
6 whether it makes sense to have these people as this contract.

7 DR. GIBBONS: Mr. Chair, the Restoration Team reviewed
8 this interim budget. We had a stack half this big, and we went
9 through it, and it was pared to seven pages. And what with the
10 directions -- the direction was to have the Restoration Team member
11 brief the Trustee Council member on what's in this interim package
12 and go through it with them. That's the easiest way, rather than
13 have the Trustee Council member going through four hundred pages of
14 stuff, have the Restoration Team member for that agency brief the
15 person on what's in there, any, you know, ideas, and so, that, that
16 was the thought. We could have given you a lot of detail on some
17 of the seven-pagers.

18 MR. FRAMPTON: Let me ask one more question before I give
19 up the floor ...

20 MR. COLE: You're doing fine.

21 MR. FRAMPTON: ... the piece of paper that you have in
22 front of you that outlines the interim budget, or proposed budget
23 for a year, is that correct?

24 DR. GIBBONS: That's correct.

25 MR. FRAMPTON: What are the three or four highest
26 priorities reflected in that budget? What are the high priority

1 activities that are going to be done in 1994 that are reflected in
2 that budget. How do we go through that budget then and look and
3 make sure that those priorities are the priorities on the items.

4 DR. GIBBONS: The priorities, the way I see it for the
5 next year, is to finish the restoration plan, get the habitation
6 protection comprehensive process up into a state where, where you
7 can make decisions, also do the necessary, restoration work, that's
8 required for the years. There's a lot of priorities in here, and
9 it's hard, you know, to say, yeah, this one is a higher priority
10 than that one because we're moving forward at a quick rate. But
11 right off the top though, we've got a restoration plan to get done,
12 we need to get on, and that's by Thanksgiving, and we need a
13 habitat comprehensive process by Thanksgiving too, and so those are
14 the

15 MR. FRAMPTON: I can see with that pile we're going to be
16 moving forward at a fast rate, but I'm concerned about what
17 direction we're moving forward if we don't, if we don't have a
18 pretty good idea of our priorities and can make a judgment whether
19 the budget reflects those priorities, because basically the
20 decision we make about that budget is three quarters of the
21 decisions we make in the next year, because the budget decision is
22 your policy decision and your priority decision. How can we tell
23 whether that reflects the priorities that the Trustees want --
24 adopt for the next year.

25 DR. GIBBONS: Before you have to approve this '94 work
26 plan in final, you'll have a copy of the draft restoration plan,

1 and that's going to help tailor your -- your goals and objectives
2 to this budget to see if they match up, and that's the process.
3 You know, we're going to have a draft restoration plan, you're
4 going to have a draft '94 work plan and mesh those things together
5 this fall. I mean, that's going to tell you if we're on track with
6 the '94 or where we're going with it.

7 MR. FRAMPTON: The specific request that's got to be made
8 at the September meeting is to put a proposed FY 94 budget out for
9 public review.

10 DR. GIBBONS: That is correct.

11 MR. FRAMPTON: Is that right?

12 DR. GIBBONS: That at the three to five page detailed
13 descriptions of all the projects in here also.

14 MR. PENNOYER: Mr. Chairman.

15 MR. ROSIER: Yes.

16 MR. PENNOYER: Except for this stuff here. The stuff
17 that keeps the work group going, that keeps the habitat work group
18 going in classifying lands by Thanksgiving, it keeps preparing the
19 restoration plan by Thanksgiving, it mails out the public notices
20 necessary to be associated with that, prepares them, all that will
21 have to be finalized. Some of it should be now, and the rest of it
22 will have to be finalized by September. The '94 work plan for
23 projects that go in the field, starting in March, and so forth, is
24 what's going out to public review, and then coming back to us, but
25 we'll have to do some interim funding to at least January to have
26 this process that we've started there. The restoration plan, the

1 habitat work group process, those things have to be kept going, and
2 the question in front of us here, I think, today is, do we need to
3 do anything now, or can we wait until September to look at that
4 part of it?

5 MR. FRAMPTON: Well, the seven-page line item list, which
6 totals about eight million dollars for four months, are all the
7 things that are listed as being funded here, ongoing now, every one
8 of them?

9 DR. GIBBONS: Well, they're broken into categories that
10 I explained previously -- that we've got a category for NEPA costs
11 there, that's project NEPA costs on the seven pager, we've got a
12 column for reports, preparation of the 1993 reports -- the
13 researchers, the principal investigators are coming out of the
14 field in September, it's for data analysis and report preparation.
15 There's a column there, that's for interim projects that need to be
16 started before February 1st if you're going to do them at all in
17 '94 --

18 MR. FRAMPTON: I'm sorry, I don't see any of those
19 columns. I see things like executive director's office, nine
20 hundred and thirty-two thousand dollars.

21 UNIDENTIFIED VOICE: He's reading this part ...

22 MR. FRAMPTON: All right. (Mr. Gates shows Mr. Frampton
23 the subject columns)

24 MR. COLE: Mr. Chairman.

25 MR. ROSIER: Yes, Mr. Cole.

26 MR. COLE: As Mr. Frampton looks at that, would it be

1 impertinent for me to ask why today we have to make this decision,
2 and why we were not given these materials two or three months ago
3 so that we do not have to make this decision today on what I regard
4 as relatively short notice with relatively little supporting
5 documentation.

6 UNIDENTIFIED VOICE: Dave, maybe I missed something last
7 ...

8 MR. PENNOYER: Mr. Chairman, the motion on the floor was
9 to try and avoid that. The problem is there seems to be some
10 things that the RT and Dr. Gibbons think need to be done that add
11 up to larger ticket items, but the idea was to only fund one more
12 month until we could get time to look at the backup to this.

13 MR. ROSIER: But I think Mr. Cole's question is still
14 there.

15 MR. COLE: My -- I don't know what we're supposed to
16 do here, but I thought I heard within the last fifteen minutes that
17 we should approve this contract for eight hundred thousand dollars,
18 for the next month, eight to nine months, whenever, and we should
19 do this today because we can't renegotiate these contracts and
20 things of that nature, and it has to be done today, and my question
21 is, if we knew this date was coming months ago, and getting back to
22 my repetitious comments, broken record comments, we had this
23 presented to us at the June meeting or even on August 6th, then we
24 could work around it and ask questions and ask for more data and
25 address these things, I think, with a little higher comfort level.

26 MR. ROSIER: Mr. Gibbons.

1 DR. GIBBONS: Yeah, briefly why we don't have that. In
2 March -- I'll briefly go through this -- briefly go through --
3 March 23rd you directed us to go out with project list titles for
4 public comment. We got that together in April, thirty day comment
5 period left us to May. June 2nd you told us to develop the top
6 fifty project listing and the second fifty. We did that in the
7 month of June, got it back to you, got your projects that you
8 wanted to see in this draft '94 work plan. We've been preparing
9 since July -- basically in July we got this to get it to you today.
10 All this material on detailed budgets and the three-page write-ups,
11 and so that's -- it's just a timing factor.

12 MR. ROSIER: Follow up there

13 MR. COLE: The CACI contract we knew about long ago,
14 and that's the contract we say we must act on today, as I
15 understand it, and that's what's troubling me.

16 MR. ROSIER: Yes.

17 MR. COLE: I mean, maybe it's unfair. Maybe it's our
18 fault, but nonetheless I still have trouble understanding that.

19 MR. ROSIER: Mr. Barton.

20 MR. BARTON: Perhaps my recollection is faulty here,
21 but I thought we had discussed this at an earlier meeting and
22 directed that the administrative director renegotiate this contract
23 and that we had made that decision earlier, at an earlier meeting,
24 and I don't recall which meeting it was. If somebody could help
25 me, I'd be pleased. But it isn't, it's not my understanding --
26 well, it's my understanding that we made that decision earlier, and

1 at this point we're being presented with the results of the
2 renegotiation. Am I wrong? Is that what happened?

3 MR. ROSIER: Yes, Dave.

4 DR. GIBBONS: I believe it was the June 2nd meeting that
5 the authority for the CACI and the building was given -- to
6 renegotiate.

7 MR. PENNOYER: Mr. Chairman.

8 MR. ROSIER: Yes.

9 MR. PENNOYER: I don't think there's anything new in
10 this. We did do it. We went through it in great detail. Now,
11 granted, over time things may change, and we may find or should
12 find that we want to change or do differently, but we're not -- you
13 know, I don't think we'll have an executive director on by the
14 September 16th meeting, actually sitting here, having time to think
15 it over and make recommendations. You're talking about somebody
16 who could make recommendations after -- unless it's somebody who is
17 intimately familiar with the process, which of course is a
18 possibility, that your talking about sometime later in the fall.
19 And so -- your CACI contract that's got to go forward need to, I
20 guess, get done. I don't know how we get out of that catch-22.
21 And, you're right, Attorney General Cole, we should have had this
22 presented to us separately, and said, oh, you already asked for
23 this, here's the backup, then it would have been clear to us what
24 we were talking about, and right now it's mixed in with the stack
25 and it's hard for us to pick out what we know about and what we
26 don't know about. But, I guess, even if we bite off this one month

1 thing, I'm a little concerned that the total amount that you want
2 us to approve now is about two and a half million dollars -- I
3 think. The total is eight, so that's about a quarter of it we're
4 approving at this stage.

5 MR. COLE: One month.

6 MR. PENNOYER: One month is eight hundred thousand
7 dollars worth.

8 DR. GIBBONS: Well, that's -- I mean, it's going to be
9 less than that.

10 MR. PENNOYER: Is it -- Mr. Chairman, is that most of the
11 report writing is the salaries involved of the people? How much is
12 the big contracts and things like that?

13 MR. PENNOYER: It's not big contracts. It's data
14 analysis and the people to write those reports up because, like I
15 said, they're coming out of the field next month, and -- with raw
16 data in hand from the work that's (inaudible -- extraneous noise).

17 MR. BARTON: There's also some sample analysis still to
18 be completed as well. Is that not true?

19 MR. FRAMPTON: Is there a way -- Mr. Chairman?

20 MR. ROSIER: Yes, Mr. Frampton.

21 MR. FRAMPTON: Is there a way to quantify -- what is the
22 running rate for this operation? Leave out the projects that are
23 listed on this seven-page -- specific projects, recreation plan
24 implementation and so forth, and just take the line items that are
25 the big ones, like Restoration Team support, executive director's
26 office, ... (inaudible -- electronic interference) .

1 MR. GIBBONS: (inaudible - electronic interference)
2 MR. BRODERSEN: (inaudible - electronic interference)
3 MR. COLE: (inaudible - electronic interference)
4 MR. ROSIER: Yes, Mr. Frampton.
5 MR. FRAMPTON: Since you have all examined this, I'm
6 certainly prepared to go ahead and vote to approve the budget for
7 the CACI contract, but I would -- with the caveat that I would urge
8 that you try to negotiate a contract that -- you know, allows a
9 sixty day clause for changing it. There's no reason why, looking
10 at these fees -- I mean, I can't see that you have to pay ninety
11 thousand dollars to the librarian, to a temporary employee company,
12 and you have to do it because its (indiscernible) twelve months in
13 advance. I mean it's -- if the economy is that good here -- you
14 know, unemployment on the negative five percent. I mean, certainly
15 that -- that -- maybe I'm wrong, maybe you need to commit yourself
16 twelve months in advance. It seems to me that you're trying to
17 figure out to develop your priorities (inaudible - electronic
18 interference). Pretty hard to set a precedent -- try to commit
19 ourselves to what (indiscernible).
20 MR. PENNOYER: (inaudible - electronic interference)
21 MR. SANDOR: (inaudible -- electronic interference)
22 MR. PENNOYER: (inaudible -- electronic interference)
23 MR. ROSIER: (inaudible -- electronic interference)
24 DR. GIBBONS: (inaudible -- electronic interference)
25 MR. SANDOR: (inaudible -- electronic interference)
26 MR. ROSIER: Mr. Brodersen.

1 MR. BRODERSEN: Mr. Chairman, in the past, as much as I
2 hate to do it again, we have actually funded this process out of
3 our agency rather than the court monies, where the Council has
4 approved authorization to go ahead. We've never spent money
5 without your authorization. We have spent agency funds, not
6 necessarily from the court and then -- reimburse is not the right
7 term, but we have then backfilled those accounts with monies once
8 we've gotten it out of the court and if it be the wish of the
9 Council, I suppose we could do that again this coming year, but you
10 all need to realize that you've made a conscious decision to do
11 that, if you don't fund today.

12 MR. BARTON: Mr. Chairman.

13 MR. ROSIER: Yes.

14 MR. BARTON: I object to that procedure.

15 MR. ROSIER: Yes, Mr. Gibbons.

16 DR. GIBBONS: Yes, I'll respond to Mr. Pennoyer. We
17 could do that. We have six and a half million in carry-over funds
18 that is immediately available to the Trustee Council, no
19 authorization from the court is needed, or no authorization from
20 either the (indiscernible) account or the state assistance -- given
21 to the agencies -- you know, there -- and so, you could use that
22 money on a decision on September 16 so -- what ever you wanted to
23 fund at that point, you could do that.

24 MR. ROSIER: Yes.

25 MR. BARTON: My preference would be to deal with the
26 problem right up front, and as I understand it, we made -- somebody

1 just identified or we made a decision of which project funding to
2 fiscal year funding, and that's why we're in the dilemma. I don't
3 understand now -- it seems to me if we follow the procedure that
4 was just laid out, then we just reversed that decision and
5 essentially gone back to project funding. It seems like we ought
6 to make up our minds.

7 MR. ROSIER: Yes, Mr. Frampton.

8 MR. FRAMPTON: One more question. You said that the core
9 running rate is about five hundred thousand dollars a month. Does
10 that include report writing?

11 MR. BRODERSEN: No.

12 MR. FRAMPTON: Is report writing part of this?

13 MR. BRODERSEN: That's associated with project costs, four
14 hundred seventy thousand proposed is for the administrative
15 director's office, or the executive director's office, now that
16 it's been renamed, for the Habitat Protection Work Group, the
17 Finance Committee, for the Restoration Team, the PAG, and so, the
18 projects are written -- excuse me, the reports are written out of
19 project budgets which are separate from those and they -- does not
20 include the four hundred and seventy -- they're not included in the
21 four hundred seventy thousand.

22 MR. FRAMPTON: Who -- who writes the report?

23 MR. BRODERSEN: The principal investigator for each
24 project.

25 MR. FRAMPTON: I mean, is there anyway to look at a
26 budget and tell how many people are involved here? How many FTE's

1 are involved in the core number that....roughly.

2 MR. BRODERSEN: Yes, all that -- for the core number?
3 Yeah, we can go in and pick that out.

4 MR. FRAMPTON: But, I mean roughly, what is it?

5 MR. BRODERSEN: I don't know. We have not had time to
6 review this budget. It was finished this morning and given to
7 people for our review. We have meetings set up tomorrow and the
8 next day between us and the finance committee. We're going to go
9 over this page by page and have a better look at it. The budget
10 that's come in from the agencies, we have not had the opportunity
11 to review it yet.

12 MR. FRAMPTON: So, this is just a collection of what
13 agencies have requested.

14 MR. BRODERSEN: The interim budget, we have reviewed that.
15 For the total budget, we have not reviewed that. So, I cannot tell
16 you for the total budget what the FTE's are for the coming twelve
17 month period. We have not had that review yet.

18 MR. FRAMPTON: Well, maybe I'm being dense here, but how
19 can you ask us to approve even a one month interim budget for core
20 operating costs when nobody knows, even in the ballpark, of how
21 many full time people we're going to be carrying.

22 MR. BRODERSEN: We -- we have that information in the
23 interim budget that has been reviewed by staff extensively by both
24 us and by the finance committee. I do not have it here at the tip
25 of my tongue today to be able to give that to you.

26 MR. MONTAGUE: Mr. Chairman.

1 MR. ROSIER: Yes, Monty.

2 MR. MONTAGUE: Twenty to twenty-five.

3 MR. ROSIER: Twenty to twenty-five people?

4 MR. MONTAGUE: (inaudible -- electronic interference)

5 MR. FRAMPTON: Wait a minute. I'm not sure (inaudible --
6 electronic interference)

7 MR. BRODERSEN: (inaudible -- electronic interference).
8 You know there hasn't been a process to lay out (inaudible --
9 electronic interference).

10 (Audio is not discernible for the next several minutes because
11 of electronic interference of the tape recording.)

12 MR. PENNOYER: (inaudible - electronic interference)
13 short term operational nature. You separate that out and give us
14 a detailed review of that, so we can make a decision separately.
15 We don't have to make those (indiscernible). Grant you, if we do
16 this it's going to go on (inaudible -- electronic interference)
17 reach that four month period of time and (inaudible - electronic
18 interference) September 1st or 2nd or something -- I don't know
19 when Labor Day is, the 1st or 2nd or 3rd or 4th, or something,
20 approve this part of this and then come back on the 16th and vote
21 for the '94 work plan. Can we do something like this in a special
22 meeting, for half a day or something?

23 MR. COLE: I'd like to say on thing. I am not
24 directly my criticism at the -- Mr. Gibbons, nor the Restoration
25 Team, nor any subgroup. As much as anything, I -- perhaps am
26 directly my criticism towards ourselves because we do not

1 (indiscernible) problem, and we -- it's incumbent upon us to manage
2 these monies -- manage them efficiently and well, and we have six
3 years (inaudible - electronic interference). So, I say that
4 (inaudible - electronic interference).

5 MR. GIBBONS: (inaudible - electronic interference)

6 DR. ROSIER: Don't want to trip over that one
7 (inaudible - electronic interference)

8 MR. BARTON: (inaudible - electronic interference)

9 MR. FRAMPTON: I agree with that (inaudible - electronic
10 inference)

11 DR. GIBBONS: (inaudible - electronic interference)

12 MR. FRAMPTON: (inaudible - electronic interference)

13 (Off Record 3:13 p.m.)

14 (On Record 3:31 p.m.)

15 (Mr. Frampton left the meeting during the recess and Mr. Paul
16 Gates is his alternate for the remainder of the meeting)

17 MR. ROSIER: The Thanksgiving through the draft
18 restoration plan.

19 MR. PENNOYER: Mr. Chairman, I understand that, but do
20 you want comments on whether these objectives are the appropriate
21 type of thing we want to see, or the form, or....

22 DR. GIBBONS: That's correct. if you can perhaps give
23 me any feedback say within a week because we're developing that
24 draft restoration plan objective now and -- This is our thoughts
25 anyway, which may be included -- you know (indiscernible -
26 coughing).

1 MR. PENNOYER: Mr. Chairman.

2 MR. ROSIER: Yes, Mr. Pennoyer.

3 MR. PENNOYER: Not in any great detail, but I notice you
4 have goals and objectives here, and maybe that's the title of the
5 process should be goals and objectives, because I think they're
6 somewhat different. Objectives are measurable things and goals are
7 general things that we want to accomplish. Maybe the goals go
8 first and the objectives second just in normal planning parlance or
9 something.

10 DR. GIBBONS: We had this discussion when we looked over
11 this letter. What we thought were the -- the goals -- that's the
12 thing we're trying to -- is a major recovery. Are we there? You
13 know, for example, restore production of system fry and smolt to
14 pre-spill averages. You know -- recovery, then -- that would be an
15 objective. Recovery would be -- recovery of the curve of the Kenai
16 sockeye population is productive and existence to pre-spill
17 abundances. So, the results of the objectives -- if you do the
18 objectives, you're going to work your way towards that goal. It
19 can be either way -- you know, it's a -- we just want -- you know,
20 want you -- to give you some (indiscernible - coughing) of
21 objectives, that's the key that we want to zero in on.

22 MR. ROSIER: Fine, are you looking for -- are you
23 looking for some action from us on this?

24 DR. GIBBONS: I'd like to get some comment back by --
25 within a week if we can, if you've got any....

26 MR. ROSIER: Further discussion from the Trustee

1 Council? Okay. Let's see, I guess last -- next item is the Exxon
2 Valdez oil spill symposium proceedings. Dave.

3 MR. GIBBONS: In February we had a very successful
4 restoration symposium, very good attendance. The Trustee Council
5 up-fronted twenty-five thousand dollars to hold this symposium.
6 When it was all over with, we ended up with thirty-three thousand
7 in the bank, so we actually made a profit -- on the symposium.
8 What we'd like to do is publish the proceedings of the symposium.
9 We published a copy of the abstracts, which are now sold out, but
10 we'd like to prepare the proceeding. We've look into this
11 publication of the proceedings quite thoroughly. Right now, we're
12 looking at the publication proceedings by the American Fishing
13 Society and the Wildlife Society, and they've given us some
14 estimated costs of ninety-seven thousand dollars to publish three
15 thousand copies of a cloth bound proceeding. We checked into the
16 cost of a cloth bound copy versus a paper bound copy, and that --
17 that analysis is hashed in the last page of this memo dated August
18 16th. We're requesting -- I'll walk through the status of the
19 proceedings. We currently have thirty-three thousand dollars
20 deposited in an EVOS symposium account. We're requesting
21 additional money to -- to pay for the difference between the
22 ninety-seven thousand and the thirty-three, which would be sixty-
23 four thousand dollars to print thirty-three thousand copies of the
24 document. There's a total of seventy-three papers in -- in the
25 proceeding, and right now the time line for the publication, if you
26 agree to up-front the sixty-four thousand dollars, today, revisions

1 of the manuscripts after peer review would be ready in November '93
2 and the book completion date would be July. We have three options
3 for the -- for your decision today. On page three, the first
4 option would be individual book charge of thirty-three dollars to
5 cover the cost of the publication. This would be the lowest cost
6 of the proceedings for the public. However, the Trustee Council
7 would not receive any income back from the up-fronted sixty-four
8 thousand dollars. Options two would be a book charge of fifty-four
9 dollars. This would return twenty-one dollars per book sold by --
10 sold to the Trustee Council, and the sale of all three thousand
11 copies would return the sixty-four thousand dollars up-fronted by
12 the -- by the Trustee Council, so there would be no cost to the
13 restoration process. And, option three would be a book charge of
14 sixty-five dollars ... (inaudible - electronic interference).

15 (The audio of the next part of the proceedings is
16 indiscernible because of electronic interference on the tape
17 recording. The Council took a recess from 3:48 p.m. to 4:05 p.m.
18 and reconvened with the public comment which began with a review of
19 the Trustees actions by Dr. Gibbons.)

20 MR. SAM SAMUELSON: (inaudible -- electronic
21 interference)

22 MS. CHRISTINE STEELE: (inaudible -- electronic
23 interference)

24 MR. CHIP THOMA: (Opening portion of testimony is
25 inaudible - electronic interference) I say this because its
26 (inaudible - electronic interference) So in summary, I propose the

1 Trustee inform the Council (inaudible - electronic interference)
2 With unanimous vote required (indiscernible) direction to the
3 staff, timber interests have successfully held up and squandered
4 the impetus and prerogatives of the majority of the Council.
5 They've studied the spill and re-studied it and acquired very
6 little for posterity. I'm not certain how to cure this, but I
7 believe that have a majority voting and recorded those votes, that
8 the public then can better isolate use of squander to a legal -- I
9 mean, to subscribers to bad economics and habitat destruction.
10 Majority voting will also encourage those Trustees whose opinions
11 and votes have been discounted to act a little more forcefully to
12 ensure habitat protection and acquisition. I do not believe that
13 any more studies or administration. I think we should spend ninety
14 percent of the remaining seven hundred million dollars on habitat
15 acquisition. Seven million over the next seven years is plenty for
16 Trustee staff, travel and whatever few studies might possibly be
17 required. It's time to stop squandering the very little settlement
18 money we got for the damage that was done, and which is ongoing.
19 I do believe that one project outside the actual spill area merits
20 special consideration, and that is (indiscernible) sixty or so
21 small islands and ... (remainder inaudible - electronic
22 interference).

23 MR. JAMES CRAWFORD: (inaudible -- electronic
24 interference)

25 MS. SUZIE KENDRICK: I did hear of what you spoke of
26 earlier, but I really can't (indiscernible) talk about the five

1 million dollars. I didn't hear you say one thing about this going
2 directly towards the Sound, the water, resources, fisheries and
3 fishermen (inaudible - electronic interference) I'm sorry, didn't
4 make that really clear to me.

5 MR. ROSIER: (inaudible - electronic interference)

6 MS. KENDRICK: Well, thank you very much, and I will try
7 to be involved. I would really like to urge you folks try to be
8 specific, try to talk to specific issues, and above all you've got
9 to come to the rescue of the Prince William Sound Aquaculture
10 Association. That's where -- we're in dire trouble. We need -- we
11 need help and we need it now.

12 MR. ROSIER: Thank you Ms. Kendrick. Are there others
13 to testify there in Soldotna?

14 MS. KENDRICK: No, just me. I'd probably like to do it
15 again, but just me.

16 (Laughter)

17 MR. ROSIER: Alright. Thank you very much. Seward, is
18 there anyone to testify in Seward, please?

19 MS. TERRIE NASH: Yes, there's two of us.

20 MR. ROSIER: Yes, go ahead, Seward.

21 MS. TERRIE NASH: Good afternoon. My name is Terrie
22 Nash, T-E-R-R-I-E N-A-S-H. I'm speaking today as co-chair for
23 Reclaimers of Alaska, a group supporting responsible resource use.
24 This Trustees Council was established to decide the fate of the
25 EVOS restoration funds. Based on current facts, a decision should
26 be an easy one. The Restoration Team has put great emphasis on the

1 acquisition of Eyak Lake and Power Creek critical to habitat,
2 evaluation that Reclaimers' fully support. However, the Orca
3 Narrows and Nelson Bay areas have been supported low to moderate
4 which does not justify a moratorium or tree (indiscernible). This
5 past weekend, Alaskans witnessed the frustration and stress-level
6 felt by some of the fishermen working in the Sound. In complete
7 exasperation with yet another failed season, they prevented tanker
8 traffic from entering the Valdez Narrows. To some degree the
9 fishermen are right. They want to know what is happening to their
10 fisheries, when will the problems be corrected and how. At this
11 point, no one knows how much of an affect the spill had on the
12 Sound, and we will never know without the appropriate research and
13 development. Orca Narrows and Nelson Bay are not critical, our
14 fisheries are. Please don't continue this negotiations for this
15 acquisition. The Trustee Council here sets different -- different
16 use when they speak with the fishermen in Cordova as opposed to
17 testimonials they hear in Anchorage, because the few individuals
18 that want this acquisition are not the true fishermen that live and
19 work in Cordova. Real fishermen aren't funded to attend hearings
20 in Anchorage. They're in the Sound doing what they do best,
21 fishing. Please fund the fisheries and return to development
22 projects. We ask you to do this right away. Let the fishermen do
23 what they do best, continue to fish. Thank you.

24 MR. ROSIER: Thank you Ms. Nash. Any comments from the
25 Trustees? Questions? You say there's a second person there in
26 Seward to testify.

1 MR. WILLARD DUNHAM: Yes, Commissioner. This is Willard
2 Dunham. D-U-N-H-A-M. Seward. I'm with the Seward Association for
3 the Advancement of Marine Science. I just briefly would like to
4 testify on -- comments to -- in hopes that I would straighten out
5 the perception that the Seward Sealife Center is a public and
6 tourist attraction. The thrust of the center is based solely, as
7 you're -- you are well aware, on marine science, marine mammals,
8 directed towards marine mammals and rehabilitation and education.
9 The -- it will be working directly and concurrently with the
10 Institute of Marine Science -- marine station that is here. And
11 for those who are talking about the Sound, I might point out that
12 they were the only ones, at the time of the oil spill, that were
13 able to have current information on -- on the tidal end of the
14 flow, the current and what was going to happen with the spill and
15 afterwards. The University, it is one of the finest stations in
16 the world, with world acclaim, with the study they've done in the
17 Arctic and along the total coastline affected by the spill. The
18 only portion of the tourism that comes into play with the Center is
19 the (inaudible - electronic interference).

20 MR. GARY KOMPKOFF: (inaudible -- electronic
21 interference)

22 MR. KARL BECKER: (inaudible -- electronic
23 interference)

24 MS. ROXIE ESTES: (inaudible -- electronic
25 interference)

1 MS. NANCY LESGOW: (Inaudible -- electronic
2 interference) but also all the wildlife and the visual quality of
3 that area. It is the visual quality that our businesses have lost.
4 Habitat acquisition is one of the few ways of restoring that visual
5 quality or keeping us from losing more visual quality. We've got
6 to keep what we have and not lose anymore. I would like to -- and
7 that's all.

8 MR. ROSIER: Thank you very much. Any questions or
9 comments by the Trustee Council?

10 MR. COLE: Mr. Chairman?

11 MR. ROSIER: Yes, Mr. Cole.

12 MR. COLE: I think that the contemplation of that
13 ecosystem study was not only five million dollars for 1994, but we
14 contemplated five million dollars as well for 1995. So, I think in
15 the interest of having the record straight that we really were
16 looking ... (inaudible -- electronic interference) (Tape 10)

17 (Audio of next portion, approximately 30 minutes, of
18 proceedings is inaudible due to -- electronic interference)

19 MR. TOM VAN BROCKLIN: (inaudible -- electronic
20 interference)

21 MR. JOHN JOHNSON: (inaudible -- electronic
22 interference)

23 MR. CHARLES TOTEMOFF: (inaudible -- electronic
24 interference)

25 MS. DORN HAWXHURST: (inaudible -- electronic
26 interference)

1 MS. RIKKI OTT: (inaudible -- electronic interference)
2 MR. DUANE LANKARD: (inaudible -- electronic
3 interference)
4 MS. MILA ADKINS: (inaudible -- electronic
5 interference)
6 MR. DUANE ANDERSON: (inaudible -- electronic
7 interference)
8 MR. JIM GRAY: (inaudible -- electronic interference)
9 MR. ERIC MYERS: (inaudible -- electronic
10 interference)
11 MS. PAMELA BRODIE: Another possible idea, construction
12 people from Cordova testified about severance pay going to loggers
13 to compensate for their loss of jobs. I'd rather see this money
14 going to employing loggers to do restoration work, if possible, in
15 the area rather than (inaudible -- electronic and radio
16 interference). We are hopeful at this point that (inaudible --
17 electronic and radio interference). The third thing I'll say is
18 about the endowment. As you know, I serve on the Public Advisory
19 Committee, and when we were considering the endowment
20 possibilities, the PAG was, a number of fishermen were testifying
21 about the importance of doing studies for longer than the eight
22 year period during which the Trustee Council would be receiving
23 payments from Exxon. There was a lot testimony at the PAG that
24 eight years of study is not enough. But I didn't hear anything
25 that I considered persuasive about why you would spend this money
26 on studies in perpetuity for the oil spill, and I wanted to make it

1 clear that when I was -- instructed at that time, that it might be
2 appropriate for the Trustees to be planning to have some money left
3 over after the last payment from Exxon to continue these studies,
4 but that putting the money into endowment, an inflation-proof
5 endowment, I think, it's a very poor investment. As has been
6 pointed out, it would take a hundred million dollar endowment to
7 produce only about three million dollars per year (inaudible --
8 electronic and radio interference). Finally, I'd like to say
9 something about the GAO report and the budget. We did support the
10 idea of the GAO doing the audit. I have not read the report. I
11 received it only this morning. I have not seen any earlier draft.
12 So, I can't comment specifically on that report, and I do not know
13 GAO's normal procedure, so I can't comment on that either. I can
14 only comment on what the Trustee members said about the substance,
15 and I agree with some but not, I think, everything that was said.
16 We certainly agree that the Trustees have been very good about
17 listening to the public and encouraging public participation, and
18 that's been something we've been very satisfied about, with one
19 exception, and that has been regarding the reimbursement. I think
20 that there -- we would like to have more information about what
21 government costs are being reimbursed, and why these need to be
22 reimbursed from the Exxon money rather than using regular agency
23 funds. We also, obviously, agree that restoration and habitat
24 acquisition should be going on before the restoration plan is
25 complete. We also agree, we're very grateful that the Trustee
26 Council meets in Anchorage, which is more accessible to more

1 people, including people in the spill area, than Juneau, which is -
2 -. I do think there are three major areas where the Trustee
3 Council should look, at least three, should look to saving money in
4 the future, and one of these is the cost of administration. The
5 second would be the cost of the project, and the third, that I
6 mentioned already, is the reimbursements. In particular, I'd focus
7 at this point on the cost of administration. I hope that you will
8 be taking a hard look at that and questioning, for example,
9 whether we continue to need a full Restoration Team, and why each
10 agency needs to have at least one staff person on the Restoration
11 Team and on each of the working groups. For example, there are
12 some agencies which do not manage land, and yet they have staff
13 people on the Habitat Protection Working Group. I don't mean to
14 pick on those staff people, I have nothing against the staff people
15 in particular, but I think it may not be the best use of funds for
16 the Trustee Council. Also, some of the staff people who work, I
17 think, full time on this issue, live in Juneau and, while I
18 certainly don't object to Trustee Council members' travel, I do
19 question staff people who work on this issue full time flying up
20 from Juneau every week or two weeks for meetings, including the
21 cost of the plane travel and the per diem. I think, perhaps,
22 people should be transferred to Anchorage who might be working full
23 time.

24 MR. ROSIER: Thank you, Pamela. Questions, comments?

25 MR. COLE: Would you support the acquisition of
26 conservation easements in lieu of fee title to the three core

1 tracks?

2 MS. BRODIE: We would prefer fee title, but we would
3 support conservation easements as an alternative, especially
4 perpetual.

5 MR. ROSIER: Thank you. Yes. Pamela, how would you
6 suggest that those conservation easements be paid for over time?

7 MS. BRODIE: I'm not sure I understand the question.

8 MR. ROSIER: If we take conservation easements, how
9 would the administration propose implementation of those easements,
10 the oversight of those, how would that be paid for? Just in
11 general fund dollars coming to the -- whoever the government
12 agencies were that were responsible for those easements or -- I'm
13 asking, it's something that -- you know, looking beyond the end of
14 the income here on this, what happens to those easements and who
15 takes them on, and is it another something else that just goes on
16 the general tax roles of people, the man on the street, or who pays
17 for that?

18 MS. BRODIE: Well, I guess I would prefer it coming out
19 of the regular agency budgets. Their --

20 MR. COLE: How about the Sierra Club?

21 (Laughter)

22 MR. ROSIER: Thank you, Charlie, for clarifying the
23 question.

24 MS. BRODIE: I think that in Cordova, this land is so
25 close to the town of Cordova, that the people who live in Cordova
26 are going to be watching over this land, and I don't think it

1 should be something that's very expensive in terms of having to
2 send people to this area to see whether anything illegal is going
3 on because if things are going on that's illegal, I think you'll be
4 getting the message.

5 MR. ROSIER: Okay, thank you. Let's see, Jerome Selby.

6 MR. SELBY: Thank you, Mr. Chairman, and members of
7 the Council. I appreciate the opportunity to testify. I'm Jerome
8 Selby, mayor of the Kodiak Island Borough. I want to just limit
9 myself to four specific comments this evening for you. First of
10 all, I'd like to thank you personally for your quick action,
11 effective action on the Seal Bay acquisition. We appreciate your
12 quick review of that and the good work, again, that Mr. Cole did
13 that as far as getting that through to completion. I guess I have
14 one question with regard to the document that was signed today, is
15 that now a completed acquisition, or are we waiting for someone
16 like the Department of Justice or someone else to decide whether or
17 not this was a restoration project?

18 MR. COLE: Well, Mayor Selby, I think we're just coming in
19 the usual course of negotiations, getting the closing documents
20 prepared and taking a look at the appraisal and the methodology
21 employed in arriving at the fair market value, but overall we're
22 just coming along.

23 MR. SELBY: Okay, I appreciate that. I obviously --
24 part of the reason I ask that question is that I can't express here
25 in polite company the level of frustration we have with the
26 artifact repository that's being held up by the Department of

1 Justice after you folks had approved it. I'm not saying that in
2 any way derogatory towards the Council. We appreciate the approval
3 by you folks, and I'm sure you share in our frustration over what's
4 transpired since that time. I guess our major disappointment was
5 the fact that I guess the first time it possibly could come back to
6 you is at the September meeting. We're now in a horse race to see
7 if we can get a building up and closed before the winter weather
8 sets in and lose yet another summer where the artifacts continue to
9 disappear off the beaches. So, just a comment in passing, and I
10 hope that that will be resolved in the September meeting and we can
11 get going with the construction project. I also would like to add
12 my appreciation to the fact that you've designated the five million
13 dollars for the fishery studies. We fully support the efforts to
14 determine what really is going on in the fisheries in Prince
15 William Sound as well as in the Kodiak waters and the waters in
16 between. (Remainder of Mr. Selby's comments inaudible due to
17 electronic interference.)

18 MR. PARKER: (Beginning inaudible due to electronic
19 interference) It also -- the absence of any cost effectiveness
20 criteria to help guide your decision-making, leads to this
21 basically political arena in which we hear a lot of basically
22 squeaky wheels, crying for one type of project versus another or
23 one type of habitat acquisition versus another candidate for
24 habitat acquisition. And I say that in the context for those who
25 are new here, that I think Trout Unlimited and the Sport Fishing
26 Association have been the strong -- among the strongest proponents

1 of acquiring habitat as the key focus of expenditures. We've
2 supported up to ninety percent, and I think that's about the
3 highest among all the conservation interests. But it's the
4 criterion here of cost effectiveness that is required by the
5 regulations that's missing from all of the Trustee Council criteria
6 presently, missing from the GAO report, and I wanted to draw your
7 attention to it. I think the absence of such criteria makes it
8 difficult to choose between or compare things like Seal Bay,
9 Kachemak Bay, and Eyak. Obviously, we've bought -- or you folks
10 have bought, Seal Bay and Kachemak at about a thousand dollars per
11 acre, and that makes it very difficult, when we look at other
12 candidates like Eyak that are about three thousand dollars per
13 acre, to ask, it makes it difficult to answer the question of is
14 that a cost-effective acquisition when compared to other candidate
15 acquisitions. I'd say you would do well in devising those criteria
16 so that you can assess both in-spill acquisitions and in-spill area
17 restoration projects versus out-of-spill area acquisitions. Many
18 candidates outside the spill area, I think will eventually, or you
19 folks I hope will eventually conclude, are cost-effective
20 candidates to restore certain types of services but not resources -
21 - certain types of services that were injured in the spill,
22 particularly passive use. The reason I focus, and I'm concluding
23 now, the reason I focused on cost-effectiveness and the need for
24 developing some criteria to help assess that is that I, in my view,
25 is one of three lynch pins that we frequently miss in the
26 complexities of this discussion. Cost-effectiveness is one lynch

1 pin by which you measure your choice among alternatives. Another
2 is -- we frequently miss it -- the natural resource damages are the
3 residual injury after clean-up. That's also the definition in the
4 regulations. So to justify a restoration project based on injuries
5 that occurred during clean-up but didn't exist after clean-up is a
6 false justification, and so I want to focus, suggest another lynch
7 pin, and that is the concept of residual injury as defined in the
8 regulations, that is, post-cleanup injury that you talk about and
9 restore. I think the public would benefit greatly from you
10 bringing that more to the fore, as similarly bringing cost-
11 effectiveness to the fore. My third point or lynch pin that needs
12 to be stressed more and is frequently missed is passive use, and I
13 have discussed this before so I'll just summarize. But passive use
14 is why we got this money. Two point eight billion dollars was the
15 damage assessment for lost passive use value, and yet if you look
16 in the restoration plan we have no mechanism for determining or
17 criteria for determining whether a particular restoration process
18 or a land acquisition (inaudible -- electronic interference)
19 restores a particular amount of passive use. I think you'd do very
20 well to spend some money to ... (The remainder of Mr. Parker
21 comment is inaudible due to electronic interference on the tape
22 recording).

23 MR. COLE: (inaudible -- electronic interference)

24 MR. SANDOR: (inaudible -- electronic interference)

25 MR. MIKE COUMBE: (Mr. Coumbe's comment is inaudible due
26 to electronic interference on the tape recording)

1 MR. COLE: (inaudible -- electronic interference)

2 MR. GERALD McCUNE: (Mr. McCune's comments are inaudible
3 due to electronic interference on the tape recording) I'll just
4 conclude it right there.

5 MR. ROSIER: Thank you, Gerry. Comments? Questions?

6 MR. McCUNE: Can I make one last comment?

7 MR. ROSIER: Go right ahead.

8 MR. McCUNE: This may not be politically correct,
9 Charlie, but I do not think it's good money to spend on Sea World.
10 I don't care what the administration's priorities are. As far as
11 I'm concerned, they can take the last of the species that we have
12 in Prince William Sound and put them over and maybe we can look at
13 them. That's not a politically thing over other things that are
14 priority, and I've been outspoken about that from the very
15 beginning. And that's not a correct thing to do, and some of the
16 buildings aren't a correct thing to do also. I mean, first of all,
17 we need to look at the resources that were damaged in the first,
18 the human factors, and the other things, then we can look at the
19 other, the buildings and everything else everybody else wants to
20 have, beyond that, and that's -- that's my priority. Thank you.

21 MR. ROSIER: Thank you. Bill Hall?

22 MR. BILL HALL: It's been a long day. You gentlemen
23 are to be congratulated for your stamina. Just briefly, I'd like
24 to identify myself as Bill Hall. I'm a commercial fisherman in
25 Prince William Sound and a member of the committee that was created
26 over a year ago by the Prince William Sound Aquaculture Association

1 to pursue the subject of a marine research endowment, and in that
2 regard we researched and learned quite a bit about the Council
3 process and we learned a couple of things, and I wanted to sort of
4 offer some of our experience and respond a little bit to Mr. Cole's
5 remarks earlier about -- about how Prince William Sound needs to
6 get itself organized and needs to present a plan. Initially, our
7 attitude towards proposing an endowment was almost a defense
8 mechanism. We saw the money being spent on other projects, major
9 land buy-backs; we saw the Restoration Team, in which we have
10 questionable faith, spending money on projects that we didn't know
11 if they were apropos to our needs, and we didn't see anybody
12 really representing the interests of the resource that the
13 fishermen depend upon. So, we saw an endowment as a way in which
14 we might be able to do that. The attributes of the endowment were
15 that the money would be dedicated to or reserved for a specific
16 purpose and available over time beyond the -- beyond the remaining
17 eight years. The lady from the Sierra Club made some comments
18 about it, and I do tend to agree with her. We don't need it in
19 perpetuity, but we do need some funds that are going to be
20 available over time. So I'm not sure that that we have to have an
21 endowment, but we certainly need to have dedication of some funds
22 made available, in our view, towards fisheries resources. And it
23 seems like the Council, the Trustee Council here, is looking at
24 that with a little more interest than they did in the past. One --
25 the one remaining thing I'd like to comment on is that as a part of
26 our efforts in organizing ourselves to promote the endowment, we

1 came up with the proposal that we sent to you gentlemen, which
2 included the need for a comprehensive plan for research that
3 extended over time. Within that, we came up with a concept of
4 local fisheries research boards. I think that this is somewhat
5 apropos to Mr. Cole's concern, and that is that we have already, in
6 Cordova, we have already had meetings among the related groups to
7 sit down and discuss what our needs are. We're closest to the
8 resource. Fish & Game, the Cordova, Prince William Sound Science
9 Center, the aquaculture program, we're closest to the resource, and
10 people actively involved in that know best what the immediate
11 problems are for that resource. So we've started a process
12 informally already of organizing and developing a comprehensive
13 plan for Prince William Sound, which I think is somewhat Mr. Cole's
14 is interested in getting. I think it would be wonderful if the
15 Trustee Council, as it determines best how to spend some of this
16 money that everybody's talking about, if they could look at these
17 as a possibility, these local fisheries research boards, local
18 people involved in identifying problems in an active way, in a
19 proactive, involved way. I guess I'd like to conclude by saying
20 that I was born and raised in Alaska, and I remember, I still
21 remember that one of the major issues of pursuing statehood was the
22 issue of federal mismanagement of our fisheries. There was a
23 distrust of government. In more recent times, in the 1970s in
24 Prince William Sound, the fishermen faced declining Prince William
25 Sound pink salmon runs, partly as a result of the 1964 earthquake,
26 but also partly because of bad winters. Government was non-

1 responsive to our needs, so we initiated -- conceived, initiated
2 and lobbied through legislation that created the aquaculture
3 program. We found very often that government was in opposition to
4 us in our efforts to get the program completed. In more recent
5 times, we've seen the Alaska Department of Fish & Game reorganize
6 to the point where they eliminated the FRED division, which is the
7 agency supposed to be dealing with the restoration enhancement
8 activities. My point is is that, is that my experience as an
9 Alaskan, is that I've learned to distrust government's ability to
10 deliver and ability to understand my needs. I know I have to be
11 reliant on government, and I know I have to work with government,
12 but I need to have the opportunity to be a proactive, involved part
13 of that process, and I think the aquaculture program in Prince
14 William Sound shows that we have been able to do that. The
15 fishermen have put the money up and invested their time and
16 efforts, and I think they see -- our future efforts on that
17 experience, if we could utilize that expertise, develop some local
18 fisheries research boards to help identify the projects, I would
19 feel much more comfortable than depending on a restoration team
20 composed of agency representatives whom I don't know and who I
21 don't know if they know Prince William Sound as the needs there.
22 Thank you.

23 MR. ROSIER: Thank you, Mr. Hall. Questions?
24 Comments? Thank you, Bill. Dan Hull?

25 MR. DAN HULL: Thank you, Mr. Chairman, members of
26 the Trustee Council. My name is Dan Hull. H-U-L-L. I'm a Prince

1 William Sound drift gillnetter and chairman of the board of Prince
2 William Sound Aquaculture Corporation. I would like to start by
3 thanking Attorney General Cole and Commissioner Rosier for coming
4 to Cordova and listening to the concerns of the fishermen in the
5 community this past week, and I understand the federal Trustee
6 members will be visiting Cordova tomorrow and look forward to
7 meeting with them there as well. I would also like to thank the
8 Council for making the appropriation earlier today for marine
9 research. I think that's a very good, positive step forward. Some
10 of the things I'm going to say are a little bit redundant, what
11 other testimony has been today, but I'll proceed. The Prince
12 William Sound Aquaculture Corporation is, as you know, a private,
13 non-profit, regional association, operating under the statutes,
14 regulations and policies of the State of Alaska and its agencies.
15 PWSAC, as Bill Hall said, was started by the fishermen and the
16 processors and the communities of Prince William Sound in the early
17 1970s when salmon stock were declining, and this same group
18 provided much of the original impetus for the development of the
19 statewide, private, non-profit salmon enhancement system. The
20 corporation is directed by a board comprised of the people who live
21 and work in Prince William Sound, who understand its fisheries
22 resources and who know the needs of the communities. As chairman
23 of PWSAC, therefore, I think I represent not simply the
24 corporation, but also to some extent the user groups, which
25 includes sport and subsistence as well as commercial, and the
26 businesses and communities which depend on the salmon resources of

1 Prince William Sound. The failure of the herring and pink salmon
2 fisheries this year and the events and meetings of the past week in
3 Valdez and Cordova clearly point to the need for the EVOS Trustee
4 Council to refocus its attention to the area where oil from the
5 Exxon Valdez was spilled and for the common property fisheries
6 resources and services which were impacted. That has consistently
7 been a message which fishermen and processors and others have
8 delivered to Governor Hickel, and Secretary Babbitt, Attorney
9 General Cole, Commissioner Rosier, and other state and federal
10 officials. There is a need for a comprehensive restoration and
11 research plan to better understand the effects of natural changes
12 and human activities on the fisheries resources of the Prince
13 William Sound-North Gulf Coast of Alaska marine ecosystem. The
14 fisheries resource assessment methods currently used by state and
15 federal agencies have proven to be inadequate to make accurate
16 predictions of fisheries resource abundance, due primarily to the
17 gaps in our knowledge of the marine ecosystem. Moreover, the
18 litigative science undertaken and the damage assessment process and
19 the single species approach of many of the EVOS projects hasn't
20 provided the information we need to understand what has happened in
21 Prince William Sound. There are two consequences of this lack of
22 knowledge. First, we are unable to determine whether changes in
23 abundance are due to changes in the marine environment or human
24 activities, such as the oil spill. Secondly, it affects the
25 ability of fishermen, the aquaculture association, processors, and
26 the communities to make good economic decisions, and until we have

1 a better understanding of the marine environment, extreme changes
2 in fish abundance will continue to be mirrored by extreme changes
3 in the social and economic environment. Today, the people in
4 Prince William Sound are prepared to work together, just as they
5 did to start Prince William Sound Aquaculture Corporation in 1974,
6 to develop a comprehensive research and restoration program for the
7 fisheries resources, and to help to try to answer the broad
8 ecological questions that the collapse of herring and salmon
9 fisheries pose. We're not asking the Trustee Council and the
10 Restoration Team whether we can accomplish this. We are asking you
11 how we can accomplish this in terms of both funding and structure.
12 For over a year, as Bill said, the PWSAC board of directors has
13 been exploring various approaches to do this, and more recently
14 these efforts have been joined by the Cordova District Fishermen
15 United, the Cordova Aquatic Marketing Association, local ADF&G
16 biologists and researchers, and the Prince William Sound Science
17 Center, and I hope that tomorrow when the federal Trustees come
18 that we might be able to have a preliminary outline for you as to
19 what such a plan might look like, and what specific projects can be
20 done to get this started for the next fiscal year. So we look
21 forward to working with you in this endeavor and to hearing your
22 suggestions on how we can get going. Thank you.

23 MR. ROSIER: Thank you, Mr. Hall. Any questions? Yes,
24 Mr. Pennoyer.

25 MR. PENNOYER: We look forward to it. We have, not
26 totally recognized but we have spent a lot of money on fisheries

1 studies. On pink salmon, for example, tag recovery studies and so
2 forth, and yet some of the linkages remain elusive, and certainly
3 the five million dollars today we proposed is to try to build those
4 linkages, and if you have some ideas on how to do that, we
5 certainly welcome them.

6 MR. HULL: We'll try to get those to you tomorrow.
7 I hope to do that.

8 MR. ROSIER: Thank you, Dan.

9 MR. COLE: Mr. Chairman, some of us have some
10 commitments, so if we could go a bit more

11 MR. ROSIER: All right. Yes. I would urge the public
12 to keep your comments brief and to the point, and -- it's going on
13 seven o'clock at the present time.

14 UNIDENTIFIED VOICE: Can we reconvene so everybody can be
15 heard? I don't know how many people you have on the list.

16 MR. ROSIER: We've got about eight or ten left here.
17 So, I think we'll move along here and see how it goes.

18 MR. COLE: Another hour.

19 MR. ROSIER: So, we're going to try to limit testimony
20 to three minutes. We announced that at the beginning of the
21 testimony of the public comment period. So, we'll try to stick
22 pretty close to the three minutes here, anyway. Tom Lakoosh (ph).

23 MR. TOM LAKOSH. Good evening. My name is Tom Lakosh.
24 That is spelled L-A-K-O-S-H. My address is P.O. Box 100648,
25 Anchorage, Alaska 99510. Phone 338-1606. I've come to here to
26 question the procedural defects in how this entire process has been

1 arranged and also to make some specific recommendations as to
2 efficacious use of funds. Part of my concern is that the state and
3 federal governments, in assuming liability for clean up and
4 restoration, have in part admitted liability to a process which is
5 created -- a process that's -- this entire process which created
6 the largest environmental catastrophe made by man in this
7 hemisphere, as far I can -- as far as I understand. And it all has
8 to do with not just Exxon and Alyeska having liability, but because
9 of the operation of vessel trans -- the vessel traffic system and
10 radar coverage by the federal DOT and the state DOT, failing to
11 have their pilot on board to the specified distance through the
12 entrance and because of DEC's inability to regulate the cleanup and
13 the Coast Guard's inability to get equipment and because Fish and
14 Game allowed too much fish to escape, etc., etc. We have
15 culpability on behalf of all of these agencies and governments
16 represented here, and that culpability and liability isn't
17 reflected in the funds that are being distributed for the
18 restoration of these areas. In other words, we have a situation
19 where people who are also liable for some of the damages are
20 agencies of -- call them people loosely -- are administering the
21 fund paid for other culpable defendants, and they're not including
22 any of their own money, and then on top of that taking money out to
23 pay for legal fees and administration, and I think the numbers that
24 you have said do not reflect the culpability of those agencies and
25 what they should contribute to this process. Here we have
26 recommendations for clean-up and restoration of clam beds here.

1 Now four years after the spill when this should have been done
2 immediately upon those areas becoming contaminated -- our hazard
3 waste laws and our oil disposal laws all prohibit the storage of
4 those oils and hazardous wastes on those lands, and they're still
5 there. You can see it outside. Mr. Brodersen and I have been
6 trying to negotiate for disposal of some waste I collected, and
7 it's now sitting in Whittier. Thirteen hundred pounds of it that
8 hasn't been collected and disposed of. We have clean-up going on,
9 we have, you know, a half a million dollars dedicated to more
10 clean-up, and it's being taken out of a fund that was supposed to
11 be used for restoration, when it's clear that the parties sitting
12 at these tables are also indeed liable individually for some of
13 that damage and have not contributed to that fund which is supposed
14 to restore that in the name of the people. The people are the
15 victims, not the agencies, not -- not any state -- corporate state
16 government, officers of which may have conflicts of interest with
17 the interests of the people.

18 MR. ROSIER: Mr. Lakoosh. Mr. Lakoosh (ph)

19 MR. LAKOSH: Lakosh.

20 MR. ROSIER: Lakosh -- I'm sorry. You're now three and
21 a half minutes. Would you please wrap up here now.

22 MR. LAKOSH: The single-most efficacious use of the
23 energy of this committee would be to push for the conservation
24 funds as proposed by the Eyak traditional council and to expand --
25 well, that's three minutes now -- and it's a question not only to
26 Eyak lands but all of Knight Island, well, half of Knight Island's

1 Native land, Montague Island is being logged, Hinchinbrook Island
2 is being logged. The entire -- virtually the entire west of Prince
3 William Sound has been a proposed wilderness area for twelve years,
4 and it's imperative that the Department of Agriculture come out
5 with some immediate recommendation to Congress to make that a
6 permanent wilderness area, and that conserve the rest of those
7 wilderness areas that are not in public trust, that are not
8 designated proposed wilderness with non-conservation easements
9 equivalent to a wilderness status which will allow this area to
10 heal. Jim Gray came up with good points about stream and lake
11 restoration and enhancement, and it's the protection of our natural
12 resources or -- as much as I like to eat hatchery fish, they are
13 not our natural resources. We have wild stock that has been
14 devastated by the oil and by other fisheries practices that need to
15 be restored as a right -- a constitutional right of the residents
16 of Alaska. Thank you for your time.

17 MR. ROSIER: Thank you very much. Comments?
18 Questions? All right, thank you, sir. Let's see, John McMullen.

19 MR. JOHN McMULLEN: Thank you, Mr. Chairman. My name is
20 John McMullen. I'm president of Prince William Sound Aquaculture
21 Corporation, called PWSAC, a fishermen's organization. We operate
22 five hatcheries in the Sound on the Copper River. Two of those
23 were being by PWSAC, and three are owned by the state and PWSAC has
24 accepted responsibility to fund and operate those facilities to
25 prevent their closure. PWSAC gains its revenue through fish sales
26 at its hatcheries. The cost recovery policy that says that we can

1 take thirty percent of the fish that return to hatchery for brood
2 stock and revenue and seventy percent go to the common property
3 fishery. We've experienced serious shortfalls in the 1991, 1992,
4 and 1993 seasons. They are unexplainable in my mind. It could be
5 a variety of problems there, but I do know we expected to take,
6 even using conservative appraised estimates, we expected to sell
7 about four and a half million dollars worth of pink salmon, and in
8 fact have sold less than two hundred thousand dollars worth, which
9 represents a budget shortfall in this particular year. Now, the
10 fishermen have been saying, you know, what's wrong with the Sound?
11 And I think we're all here today and many of us are here to support
12 fisheries, fisheries restoration and the fishermen. I think they
13 did a wonderful job over in Valdez Arm dealing with the companies
14 and the situation over there in furthering our efforts here to do
15 something worthwhile for the Sound in the line of restoration. In
16 support of the fishermen, the City of Cordova, the city council
17 recently reversed a past resolution that named habitat protection
18 as the priority for restoration and gave fisheries restoration a
19 very high priority in their minds, and they'll pass that on, I'm
20 sure, to the Trustee Council. There is a need for research and
21 restoration in the Sound, and today that you advanced that concept
22 with your motion to make five million dollars available for that
23 work. That's new work. It didn't help us at the present time with
24 our financial situation, but perhaps there is a way that we can
25 share in bringing these studies to focus on the real issues of the
26 Sound. In that respect, I'd like to talk about research,

1 restoration, gridlock and funding. I've had several people
2 approach me and stop me in the last year and months and say, gosh,
3 there seems to be a lot of research recommended for the Sound in
4 fisheries, but there doesn't seem to be many restoration projects,
5 why is that so? Well, for one thing, I believe that the Department
6 of Fish and Game manages resources which are in existence. They
7 don't have the funds to look at re-introduction of species and
8 stocks for restoration of some stocks that may have disappeared
9 over time, such as the case in Prince William Sound with the early
10 pink salmon runs that once existed there. The fishery existed in
11 July and closed down many times in early August. Now we don't
12 start the fishery until August and close it down in September. So
13 when you're talking about opportunities for restoration and
14 improving fisheries, I think we should go back and be looking at
15 opportunities to re-establish early stocks in the Sound. In
16 addition, I think that we must at this time not drop back but go
17 ahead and refine the system that we've built into the Sound through
18 a system of remote releases. We worked for years upgrading a
19 comprehensive salmon plan in the Sound. PWSAC is a cooperator in
20 that plan with Department of Fish and Game, but where we aren't a
21 cooperator is when it comes to the funding that comes out of the
22 Trustee Council in the past for projects in the Sound. The primary
23 sockeye stock in the Sound is the Coghill sockeye. That stock has
24 been depleted, not by oil spill, but through other means. We are
25 in the process of rebuilding that stock, and the only funding
26 coming from the Trustee Council for that stock is for evaluation on

1 the part of the Department of Fish and Game, and that's the way
2 it's worked. This gets us into the role -- into the realm of
3 gridlock. We took over the state's Main Bay sockeye hatchery two
4 years ago, and our intent -- intention is to use that hatchery to
5 restore Coghill stocks and Eschamy stocks and to spread the gillnet
6 fishery and re-establish it in Port Wells. Soon after we took over
7 the hatchery, the Fish & Game's policies were reviewed in their
8 genetics, primarily in their stocking policies, and there came into
9 being a policy that says you must evaluate stock interactions prior
10 to the time when you take any action on restoration or enhancement.
11 In this particular case, we were told by the Department of Fish &
12 Game that that program of evaluation would be a five year program,
13 after which we would sit down and determine what we could do with
14 these sockeyes, something that we thought was agreed upon at the
15 time we took over the hatcheries, and it's because -- then if the
16 Department of Fish & Game can't fund these studies and the user
17 can't fund them, which we are expected to do in many cases, then
18 nothing is done and the program remains fallow, and I think that's
19 the gridlock we've gotten ourselves into. It's the inability to
20 move ahead with these projects, the inability to assess
21 interactions between stocks and between hatchery and wild stocks,
22 and therefore the fishery is not moving ahead, and I would hope
23 that with the funding that the Trustee Council has provided that
24 PWSAC would be included as a cooperator, and there are funds that
25 could be used for applied purposes for restore and enhance the
26 fisheries in the Sound. Thank you.

1 MR. ROSIER: Thank you, John. Questions? Comments?
2 Thank you very much. Lisa Rotterman?

3 MS. LISA ROTTERMAN: Hi, my name is Lisa Rotterman.
4 I have a master's degree and a Ph.D. in ecology with a specialty in
5 genetics. I am here today both as a citizen of coastal Alaska and
6 also as a scientist who has been studying marine mammals in Prince
7 William Sound since 1984. I'll keep my remarks as brief as
8 possible. I'm here for two reasons, one is to support habitat
9 protection, and the second is to comment on the process by which
10 you make decisions about which projects go forward. First, with
11 respect to habitat acquisition, both as a scientist and as a
12 citizen of coastal Alaska, I do support wholeheartedly habitat
13 acquisition or habitat protection in any form in Prince William
14 Sound specifically, and I would urge the Trustee Council to make
15 that their highest priority. I believe the highest priority for
16 the use of restoration funds is the protection of habitat in the
17 spill zone, and particularly in both eastern and western Prince
18 William Sound. This is really one of the only things that can be
19 done that is feasible to protect -- to avoid further damage to most
20 of the species in the Sound and other spill-affected areas, and I
21 would urge you to put your emphasis there. I would also point out
22 though that in many decisions about which habitat parcels that you
23 also continue, as I believe you have done so -- somewhat in the
24 past, on the value of those habitats to wildlife and not just
25 habitat parcels that have a strong constituency in terms of people,
26 and in particular with respect to the Eyak parcel, I would like to

1 urge you to ensure that you protect both Sheep and Simpson bays,
2 which from a wildlife point of view are extremely important
3 habitats. I've lived, probably the only person alive actually who
4 has actually lived in Sheep Bay for five years, and I can't even
5 begin to tell you how valuable that bay is, and particularly the
6 head of that bay, for a whole host of fish, birds, and other and
7 different mammal species. Secondly, just with respect to the
8 process in general, I've presented to the Trustee Council before
9 concerns about conflict of interest and other problems with the
10 process, and I reiterate those today. I see no progress,
11 unfortunately, in addressing issues -- in addressing problems that
12 are throughout the process with regard to conflict of interest in
13 terms of who is making the decisions, and who is benefitting by
14 those decisions. I think the Trustees are not at fault here, I
15 think that what is happening is you are not getting the information
16 that you need, but I do think that if the issue has been raised
17 before you enough that you need to investigate these issues of
18 conflict of interest, you need to change the process drastically so
19 that you have an independent body of people who are recommending to
20 you which studies and which projects go forward, that those people
21 do not represent agencies, do not work for agencies, and that the
22 process is entirely open, anyone can competitively bid on projects
23 and make proposals to that body, who then makes recommendations to
24 you. What this process and the flaws -- there is another flaw in
25 the process which is scientific misconduct by agency people,
26 including plagiarism of proposals and plagiarism of findings, and

1 this is also compromising the integrity of the studies. It's
2 compromising the credibility of the process in general. And I'll
3 just finish up with a very brief example to you in terms of how
4 your money is being wasted currently because the process is flawed,
5 because the people in the agencies that are benefitting are saying
6 to you, we're doing what the peer reviewers say. They're not in
7 some cases. There are peer reviewers making recommendations, many
8 of them have walked away from the process out of disgust, refusing
9 to participate any more, and in some cases their names though are
10 still being used. In this particular example, you are currently
11 funding a project having to do with modeling of sea otter
12 populations and recovery of sea otters, and the -- what I have
13 before me, and I'll make a copy to anyone who is interested, is a
14 letter to the sea otter project leader for U.S. Fish & Wildlife
15 Service from a man, named Dr. Lee Eberhart (ph), who is considered
16 the world's authority on modeling marine mammal populations. He
17 has been listed as a consultant by U.S. Fish & Wildlife Service.
18 He does not believe that the process that they are undertaking is
19 valid and believes that other data should be being used in the
20 modeling process. His name, however, continues to be used, and his
21 recommendations are -- they're being totally ignored. You're still
22 spending the money to do a modeling process that's not a valid
23 modeling process. And I'll just read several sentences and then
24 end my comments. He just says -- he's writing in reply to a letter
25 from her, and she had indicated what data they intend to use in
26 this modeling process. The key paragraph is "in my opinion, this

1 data will be inadequate for any useful modeling effort and, as
2 noted in the proposal, much of the modeling that might be done with
3 such data has been reported in the 1988 study by Eberhart (ph) and
4 Sinnet (ph)." In other words, the modeling that they are going to
5 do is not valid and most of it has already been done. It's just a
6 repeat. However, he says "the data needed for a worthwhile
7 modeling effort have in fact been collected by Chuck Monette (ph)
8 under funding by the Fish & Wildlife Service. I believe it is
9 absolutely essential to use that data set as a basis for any future
10 work on Prince William Sound sea otters. He goes on to say, and
11 I'm skipping down then on a few sentences here, he says that the
12 efforts, the previous efforts that he has made with the Trustees --
13 with the U.S. Fish & Wildlife Service -- "have made it evident that
14 an analysis of population data is essential if any useful research
15 and management work is to be accomplished for Prince William Sound
16 sea otters. Further, the considerable time hiatus puts a high
17 premium on getting this done soon. This letter was dated May 31,
18 1993. It was never even responded to by U.S. Fish & Wildlife
19 Service, who is continuing merrily on their way with their own
20 modeling despite peer comments that it's not valid.

21 MR. ROSIER: Thank you, Lisa. Just a minute, any
22 questions from the Trustees? Comments?

23 MR. GATES: Can I have a copy of that?

24 MS. ROTTERMAN: Sure.

25 MR. ROSIER: Thank you. John Johnson?

26 AUDIENCE: I think he stepped out.

1 MR. ROSIER: Okay. Barbara Page? Joe Wilson, Jr.?

2 MR. JOE WILSON, JR.: My name's Joe Wilson. I don't
3 think the last name is too hard to imagine. You're getting a
4 bargain in three minutes here because I'm coming at you from three
5 different perspectives at once. I've been a fisherman for twenty-
6 three years in Prince William Sound, and the fisherman in me agrees
7 very radically with every other fisherman that's gotten up and
8 pleaded for some sort of financial help or infusion for not only
9 the fleet itself, but for the PWSAC program and the hatchery
10 system. I would like to underscore everything that Jim Gray had to
11 say with that. I'll be very brief by ending that part of it there.
12 I've also been a teacher for eighteen years, and the teacher in me
13 focuses on misconceptions, and to battle a few misconceptions, one
14 of the misconceptions is that runs rampant in our public, and I'm
15 sure it doesn't -- it isn't harbored here -- but the rampant
16 misconception is that Sound is clean and all right, and we've
17 brought, my crew and I have brought in several buckets of oiled
18 rocks out there to underscore that point. It's not clean and all
19 right, and those things are toxic, contrary to -- that oil that
20 remains is toxic, contrary to statements that I've heard from Exxon
21 chemists that say that it is not. I've also had a good deal of
22 science training in that I'm AP biology and ecology teacher at a
23 local high school here, and I've been employed by Fish & Game as a
24 biologist some years ago, and that part of me says take a real hard
25 look at the ecological aspect of the Sound. It seems to be the
26 largest gap and the understanding of it. I don't think anybody

1 knows what the answers, and that's where we ought to apply some of
2 the money. With that, I'll be basically signing off unless you
3 have some questions.

4 MR. ROSIER: Thank you, Mr. Wilson. Questions?
5 Comments? Thank you, again. Charles McKee?

6 MR. CHARLES MCKEE: I have some iron right here. We
7 haven't really gone much farther than that, although we've
8 developed it into fine steel, and that's how we transport oil
9 through Valdez. My name's Charles McKee. M-C-K-E-E. And that's
10 how we ship it out is in steel tankers, if we can keep it off the
11 rocks, and primarily we've digressed to the point where we have the
12 technology to do things such as that, but we don't adequate funding
13 -- there's no parity in funding. We have the Federal Reserve
14 Board, we don't have United States currency in circulation. It was
15 never intended to have no parity so far as currency in circulation
16 when they passed the Federal Reserve Act. Money to rise to the
17 level of science, and so, I might go to the extent of reading to
18 you the findings of the House of Representatives Committee on
19 Merchant Marine and Fishery, August 3, 1989, talking about the
20 Merchant Fishermen's Compensation Act in 1976, and this is simply
21 a background memorandum, and I might point out that the Native
22 community in Barrow asked for rights of sovereignty on
23 September 18, 1989, the oil spill occurred in March 1989, and it
24 just kind of adds a lot of oil, shall I say, to the discussion of
25 August 3rd, 1989, as far as what difficulties we have to surmount
26 with the two hundred mile limit and asiatic interceptions and all

1 that other information that went into these documents.

2 MR. ROSIER: Mr. McKee, you're now at three minutes.
3 I'll give you thirty seconds to wrap up, please.

4 MR. McKEE: In conclusion, every effort has been made
5 by the Federal Reserve system to conceal its powers, but the truth
6 is the Fed has usurped the government, it controls everything here,
7 in Congress, and it controls all our foreign relations, it makes
8 and breaks governments at will, and this is -- this is Honorable
9 Lewis T. McFadden (ph) -- they brought about the 1929 crash, and
10 we're going through a crash right now because of Prince William
11 Sound, and it's underfunded, and I would like to show you a
12 redemption coupon. I have the right to reproduce the original
13 Treasury seal, with the math over above that. But I wrote one out
14 for two billion dollars, which the Postal Service of the United
15 States redeemed for legal tender issue so they wouldn't have a
16 budget crunch. Now, I'm willing to make out another one ...
17 (simultaneous laughter) ... and submit it.

18 MR. ROSIER: Thank you, Mr. McKey.

19 MR. McKEE: And I'll show it to Paul Gates.

20 MR. ROSIER: Thank you very much. Questions?
21 (Electronic interference)

22 MS. PAM MILLER: (Inaudible -- electronic
23 interference) ... one is mountains of paperwork, the other is seas
24 of meaning. I think we're at a turning point. I feel -- I have
25 not been to meetings for a number of them here. I think the real
26 turning point was when the Kachemak Bay went -- deal went through,

1 and Seal Bay. I think we're coming together here, and I'm
2 encouraged by the process, and I just wanted to say that. This is
3 a human endeavor and it's different than what we've done before,
4 and it's a challenge, but -- I'll close with that. Thanks.

5 MR. ROSIER: Thank you very much, Pam.

6 MR. COLE: I have a question.

7 MS. MILLER: Certainly.

8 MR. COLE: The Wilderness Society, of which I presume
9 you speak ...

10 MS. MILLER: Yes.

11 MR. COLE: ... use to have at any rate -- with
12 respect to the acquisition of fee title or a conservation easement
13 in those core tracts, Power Creek and the Eyak Lake and the Eyak
14 River, I think we're all seeking guidance on that issue. What is
15 your opinion?

16 MS. MILLER: Well, in general, we prefer fee title, but
17 we understand the constraints that the Trustees are under, and I
18 personally am not ... (inaudible -- electronic interference) ... on
19 the Eyak portion of it to know all of the other parts of it. We
20 would like to see a comprehensive approach go through with the
21 critical lands which one of the previous speakers spoke of, in
22 addition to the core areas and Orca Narrows. I think there are
23 areas where fee title is very important to us. I think in this
24 case it really is up to the best deal that the Trustees can craft
25 in cooperation with the landowners.

26 MR. ROSIER: Thank you, Pam. Ken Adams? (Pause) One

1 more.

2 MR. KEN ADAMS: If I were lying on my back, I would
3 be having bed sores waiting for the opportunity to come before you.
4 Thank you very much. Ken Adams is my name. I am a commercial
5 fisherman from Prince William Sound and a board member of Prince
6 William Sound Aquaculture Corporation and Cordova District
7 Fishermen United. One of the previous speakers commented on the
8 perception, and, Mr. Cole, I think, it may have been directed --
9 well, it was not only directed to you, but all the folks here. I'd
10 like to comment on communication, and I'd like to direct this to
11 you. You requested input from the fishing community. I recall
12 sitting in this very seat and having had the opportunity over the
13 course of a year -- a year and a half -- to have communication with
14 the Trustee Council. With respect to fisheries projects, we have
15 had input; with respect to coded-wire tagging for Prince William
16 Sound pink salmon, with respect to the funding for the herring
17 projects -- this is just a little bit of history -- we have had
18 input.

19 MR. COLE: I remember you having appeared here.

20 MR. ADAMS: Yes.

21 MR. COLE: I'm not saying that we haven't heard you
22 before.

23 MR. ADAMS: Sir, I'm just -- I just couldn't resist
24 the swipe. (Laughter) It was just a -- it's been a long day, but
25 --.

26 MR. COLE: Well, let me say this as long as we're

1 addressing it, it's not only coming here, you know, and talking to
2 us, and making your presentation, it's being, you know, at the
3 Restoration Team meetings, it's furnishing us with papers that we
4 can read, you know, and really substantively helping us formulate
5 the right decisions to achieve the end. I mean, I've heard you
6 heard you here, and others have heard you here, but it's more than
7 that, and I want to say, we're prepared to go to Cordova on the
8 weekends, on Sundays, take our own time off, and listen to you,
9 but, I mean, you know, it's more than just coming here and sort of
10 speaking in swipes and making a swipe at us and then going back to
11 Cordova, Valdez, and saying I'm busy, I've got to go out in the
12 boat and I've got to earn a living. So, just as long as we keep
13 this in a little bit of a balance.

14 MR. ADAMS: Well, of course, I'm coming at you with
15 respect to projects that were on the draft plan, on the draft plan
16 for '92 and '93. These were in black and white. We didn't have to
17 concoct anything.

18 MR. COLE: Well, we don't always get them through.
19 That's true. You know, we heard you, but you've got to keep coming
20 at us, you know. Well, on those projects -- enough. I don't want
21 to comment anymore on it.

22 MR. ADAMS: Well, in any case, I thank you very much
23 for your earmarking of the five million dollars for a much-needed
24 marine ecosystem analysis, particularly in Prince William Sound,
25 and your raising the point of perhaps continued project funding in
26 the years succeeding, for another five million dollars. I think

1 what's before us really is a long-term -- the need for a long-term
2 commitment on behalf of the Trustee Council, and not just a one
3 year or two year project, which gets me to the point of the need or
4 rather a comment I'd like to make with respect to the restoration
5 plan brochure. The restoration plan brochure that's been put
6 together by the Restoration Team, as one previous speaker
7 mentioned, caused some defenses -- hackles -- to be raised with
8 members of the fishing community because of the emphasis put on
9 habitat acquisition. I, personally, am much in favor of
10 conservation easements. I think the Trustee Council can get the
11 biggest bang for the buck. That was also raised earlier by a
12 resource economist or whatever the gentleman was -- which I think
13 you have to be concerned with, what gives you the greatest yield
14 for the effort. Nevertheless, within the fishing community, Prince
15 William Sound, PWSAC, and CDFU, we endorse the concept of an
16 endowment. Now, an endowment is just a vehicle. You know, of
17 course, that the whole issue of legality is pivotal to the success
18 of the endowment, but it's -- it's only a vehicle. What we see an
19 endowment offering -- or consider a sinking fund -- we could
20 consider that a vehicle for long-term funding of much needed
21 projects, much more than just one year or two years. Now, with --
22 one final comment -- with respect to that restoration brochure,
23 there was a cut-off date of August the 6th, a termination date for
24 the public to comment with respect to the restoration brochure.
25 I'd just like to raise the point here that the behavior of the
26 fishing fleet blockading the Narrows says indeed a very strong

1 message of where the fishing community is coming from, and I urge
2 you, please, to consider that as the response of the fishing
3 community to this brochure as well as the brochures which have been
4 submitted directly to you. That message went out loud and clear.
5 We need something to be done, we need it urgently, and thank you
6 for taking the first steps in that direction.

7 MR. ROSIER: Yes, Mr. Pennoyer.

8 MR. PENNOYER: Just an observation. The -- you're
9 looking at the brochures as the first step?

10 MR. ADAMS: Yes.

11 MR. PENNOYER: You'll get another shot at. We'll send
12 something out before the '94 process gets in place, as a draft.
13 You'll get another shot at a draft restoration plan. It will come
14 out this fall.

15 MR. ADAMS: Yes.

16 MR. PENNOYER: It will guide our actions in '94, which
17 means you get another shot at it. I want to say that I think we
18 have heard you. I look back over four years of us sitting here,
19 and we have funded an awful lot of fisheries projects, but they
20 were individual projects. We even funded, after your testimony, I
21 believe, the coded-wire tagging on pinks and on sockeye, coho, and
22 chinook. Coded-wire tag recovery of herring, we did not. I
23 understand there's a difference here, but of all the projects we've
24 looked at, we've funded an awful lot of fisheries projects that
25 have come in here. Part of the problem is they've been individual
26 projects. What we have to do is to find a way to tie this together

1 so we can give some direction to it, and I think that's -- Attorney
2 General Cole has asked you to help us with that, we've had
3 testimony here that people are ready to do that and we're ready to
4 hear it. But we've funded a lot of fisheries projects, thirty,
5 forty million dollars. I don't know what it's been over the years.

6 MR. ADAMS: Sir, in the '92 and '93 work plans, the
7 restoration expenditures totalled fifty-four million dollars. Of
8 that, fisheries received approximately ten percent.

9 MR. PENNOYER: But I will say an awful lot of that was
10 money required for a couple of big habitat acquisitions. You
11 understand that? Those were things that were put out there in
12 opportunities, supposedly imminently threatened opportunities that
13 looked like they had some value for restoration.

14 MR. ADAMS: I understand. I understand, and I don't
15 want to paint the picture that the folks in the fishing community
16 are opposed to habitat acquisition. We're just seeking a balance.
17 It's very definite that the habitat acquisition, be it through
18 conservation easements, has very definite merit, undisputable, but
19 we just don't want the fisheries issues to be -- to be obscured,
20 and I think the point was well made today. Thank you.

21 MR. ROSIER: Thank you, Ken. Mr. Sandor.

22 MR. SANDOR: Yes, one question. One question -- you
23 use the phrase conservation easements will get the bigger bang for
24 the buck. You're thinking of partial easements or easements that
25 would be less than what it would cost to purchase in fee.

26 MR. ADAMS: Yes. That was my understanding that the

1 purchase of conservation easements would be less -- would be less
2 of an expenditure than fee -- fee simple title.

3 MR. SANDOR: Thank you.

4 MR. ROSIER: Yes, Mr. Pennoyer.

5 MR. PENNOYER: One more. I would say then that you don't
6 agree with some previous testimony that eighty or ninety percent of
7 the money ought to go for habitat acquisition? When you said a
8 balance, you had a percentage in mind?

9 MR. ADAMS: Sir, when we came up with our response to
10 the restoration brochure, we looked to achieve a balance between
11 habitat acquisition and an endowment for marine resources. We
12 wanted the marine environment addressed in the restoration, to do
13 more than just the research and monitoring, but actually to do the
14 restoration, to do the diagnosis and the treatment wherever it was
15 possible to achieve it.

16 MR. ROSIER: Thank you very much. Last person on the
17 list, Tom Copeland?

18 AUDIENCE: There's another list outside.

19 (Inaudible -- aside comments)

20 MR. McCUNE: If there's no other speakers, I'd like to
21 thank you, Mr. Chair ...

22 MR. McCUTCHEON: There is.

23 MR. McCUNE: ... for taking a long, long day to allow
24 us -- oh, there is another speaker?

25 (Aside comments)

26 MR. McCUTCHEON: I don't know why you put another list

1 out, if you don't take the trouble to honor it. For the record, my
2 name is Jerry McCutcheon. My name is spelled M-C- -- capital -- C-
3 U-T-C-H-E-O-N. I would like to have spoken to -- while Mr.
4 Frampton was here, but he left. Anyway, I was glad to see him
5 here. If that's a good indication of what going to come out of the
6 Clinton administration, I'd say we ought to do pretty well. It's
7 too bad that we don't have the same caliber in the Trustees from
8 the federal government. Maybe that can get solved because I think
9 he's got infestation of spruce beetle, so to speak, and I think he
10 needs to clear-cut. The five million dollar model, after talking
11 to Mr. Pennoyer at lunchtime about that or at one of the periods of
12 breaks, I've come to the conclusion they're going to have five
13 million dollars worth of crap, and that's about all it's ever going
14 to amount to, and I was awfully delighted to see that letter to --
15 the young lady spoke of. I don't think you have any idea of where
16 you're going, what you're going there for, or how you're going to
17 get there. I don't think you even know how to start. I don't
18 think you're even going to be able to hire somebody to get you
19 there. Mr. Cole, I missed this morning, so I'll have to go on what
20 was in the newspaper. I'm certainly -- understand you, as a good
21 lawyer, defending the Trustees in the newspaper. You certainly
22 overlooked something of vital importance in any defense and that is
23 the relationship between the counsel and the accused.
24 Unfortunately, you have been counseling the other members of the
25 Trustees, and it's all on tape, and -- and unfortunately, all the
26 G-A-L I have to do is track you right down the line and I've got it

1 all. Now, it seems to me that you were the fellow, about a year
2 ago, who raised the question, hey, we've only got about six hundred
3 million dollars left and we haven't got much to show for it. And
4 that's about right, isn't it? And it seems to me that you're the
5 fellow that was raising the questions about, hey, how come we keep
6 getting incomplete reports, and I then I saw another one of those
7 things again today -- how come we can't get this any time before
8 the meeting or some reasonable opportunity to study it first. Now,
9 how many times have you been through -- I don't think I've ever
10 been to a meeting when you've been here where you haven't done --
11 gone through that thing, and somebody doesn't seem to get the
12 picture. What was it else that you raised? It seems to me that it
13 was just three months or the last week in May, or something like
14 that, and you were out here, and you say how come we've got this
15 uncomplete report, and you held it up and said there's pieces of
16 this thing are incoherent, and then you read the section of it,
17 isn't that about right? So, I --

18 MR. COLE: I'll have to check the record.

19 MR. McCUTCHEON: (Laughter) Well, anyway, I think
20 probably the GAO's remarks maybe -- if they'd just stuck to what
21 you'd said, they're correct, and if they've elaborated on it, why
22 is that? Now, it seems also -- I'd like to go to the spruce bark
23 beetles. It says to me -- something you said -- you flew over it
24 ...

25 MR. ROSIER: Mr. McCutcheon?

26 MR. McCUTCHEON: ... Kachemak Bay ...

1 MR. ROSIER: Mr. McCutcheon?

2 MR. McCUTCHEON: Yeah.

3 MR. ROSIER: Your three minutes is about up.

4 MR. McCUTCHEON: I think you gave a lot of other
5 people a lot more time, so I'll let you just be rude enough to cut
6 me off.

7 MR. ROSIER: Well, I think ...

8 MR. McCUTCHEON: So, when you went there, you can't
9 see it from the air because then by the time you see it from the
10 air, it's damaged, and I think I told you once it's up the line.
11 You can see it chugging back and forth towards the bay up there.
12 Now, somebody's got to make a decision. I asked your expert that
13 testify here, you've got to make a decision next year that you're
14 either going to get in there and take care of it or you're going to
15 wait ten years and log it. If you wanted to log, why the hell did
16 you buy it? If you don't want to go in and take care of it, and
17 you don't want to put up the money, but you're going to have to go
18 and helicopter log, and you're going to have to wait until you've
19 got dead and dying trees -- just put somebody on the ground and do
20 it. You're going to have to open up the canopy, and you're going
21 to have to replant it and put in new trees. Now, the point being
22 is that is that this is indicative -- your Kachemak Bay buy-out is
23 indicative of what you've been doing all along. You knew it. I
24 raised the question as often as I could. You knew what was going
25 to happen, you knew where it was going, and you bought it anyway,
26 and now you're faced with putting up the money to take care of it

1 or it's going to get logged, and yet what you bought it for in the
2 first place was to keep it from getting logged. I mean, isn't that
3 why you bought? So, now you've got to put up the money to take
4 care of it. And how are you going to fund that in perpetuity.
5 You've got ten years, and then you're going to have to log it if
6 you don't take care of it now. Thank you.

7 MR. ROSIER: Thank you.

8 MR. BARTON: Mr. Chairman, I move we adjourn.

9 MR. ROSIER: The motion has been made to adjourn.
10 Thank you one and all. We've got a note here from Gerry McCune.
11 "Mr. Chairman, Trustees, thank you for your patience and
12 interaction and a long day. Five million dollars is a good start
13 towards -- in the right direction -- Gerry McCune, CDFU."

14 (Off Record 7:20 p.m.)

15 END OF PROCEEDINGS

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CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

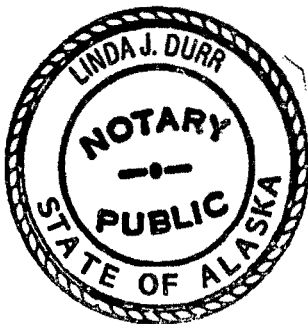
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 04 through 180 contain as accurate a transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting as can be obtained from the recording taken electronically by me on the 23rd day of August, 1993, commencing at the hour of 8:40 a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is as true, correct and as accurate a transcript as can be obtained and that was requested to be transcribed and thereafter transcribed by me, Sandy Yates, and Angela Hecker to the best of our knowledge and ability from that electronic recording; that there are portions of the electronic recording that are inaudible because of electronic and radio interference.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 26th day of August, 1993.



Linda J. Durr
Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/93

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