

TRUSTEE COUNCIL
MEETING
16-17 SEPT. 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

RECEIVED
SEP 28 1993

September 16 and 17, 1993

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

VOLUME I

September 16, 1993
9:30 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. JAMES WOLFE (Alternate for Mike Barton Regional Forester) |
| United States Department of Commerce - NOAA | MR. STEVE PENNOYER Director, Alaska Region |

RESTORATION TEAM in attendance

| | |
|-----------------|--|
| DAVE GIBBONS | Interim Administrative Director, Trustees Council |
| PAMELA BERGMANN | Regional Environmental Assistant, United States Department of the Interior |
| MARK BRODERSEN | Restoration Chief, Alaska Department of Environmental Conservation |
| JEROME MONTAGUE | Director, Oil Spill Impact Assessment & Restoration Division, Alaska Department of Fish and Game |

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

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

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

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

OTHERS IN ATTENDANCE who testified

BRUCE VAN ZEE, Forest Supervisor, Chugach National Forest

DONNA NADEL, President of Eyak Corporation

JAMIE LINXWILER, Counsel for Eyak Corporation

BOB LOEFFLER

VERONICA GILBERT

DR. JOE SULLIVAN

KARL BECKER, Prince William Sound Conservation Alliance

THEO MATTHEWS, United Cook Inlet Drift Association

JIM GRAY

CHARLES MCKEE

ROXIE ESTES

CHUCK TOTEMOFF

ERIC MYERS, Alaska Center for the Environment

JOHN McMULLEN, Prince William Sound Aquaculture Corporation

PAMELA BRODIE, Sierra Club

DUNE LANKARD, Eyak Elders

DAN HULL

DR. BOB SPIES, Chief Scientist

DR. RICE

VIA TELECONFERENCE

LARRY EVANOFF, Chenega

MARC STEELE, Cordova

TERRY HERMACH, Cordova

CHIP THOMA, Juneau

HELMER OLSON, Valdez, Valdez Native Association

CHARLES PARKER, Valdez

PATRICK SHERMAN, Cordova

KEN ADAMS, Cordova

MARY MCBURNEY, Cordova, Cordova District Fishermen United

P R O C E E D I N G S

(On Record 9:36 a.m. September 16, 1993)

MR. PENNOYER: Let's get started Trustee Council. It's now 9:36 and we've got a long agenda, and I'd like to get started if we could. I seem to have been sort of selected chairman by unanimous consent here. So, I think we'll go ahead. Good morning, ladies and gentlemen, and welcome to me, the Trustee Council. All the Trustee Council members are present. On my far left I have John Sandor, Commissioner of the Alaska Department of Environmental Conservation. Next to him sitting in for Mike Barton is Jim Wolfe of the U.S. Department of Agriculture. Mike is called out sick -- he had an attack of appendicitis, he's going to be okay, but he's still recovering. So, we wish him well, but welcome you Jim to the meeting. Next to him is Commissioner Carl Rosier of the Alaska Department of Fish and Game, State of Alaska; next to him is George Frampton, Assistant Secretary for Fish & Wildlife and Parks for the Department of the Interior, with us here today from Washington, D.C. and welcome, George. Next then is Charlie Cole, Attorney General for the State of Alaska, and I'm Steve Pennoyer with the National Oceanic and Atmospheric Administration. I'd like to go ahead and start this meeting. We are teleconference on a listen-only basis, the session today until the public hearing, which will occur at 4:00 o'clock this afternoon, at which time it'll be open up for interactive discussion. I point to the Trustee Council at some point we need to discuss the policy versus costs and what is to be gained by that type of teleconferencing, and maybe sometime

1 later today or maybe in the interim we will want to discuss that.
2 The schedule is to go all day today and tomorrow has been set aside
3 as available for any activities we don't finish on this day. I
4 would point out that I've had several members say that they have
5 things they need to do by tomorrow afternoon, if we could get our
6 job accomplished, but obviously we have to see how today goes.
7 You've been provided an agenda by the Executive Director, Dr.
8 Gibbons, and I'd like at this time to ask if anybody has any
9 changes or additions to that agenda, either in order or -- Dr.
10 Gibbons.

11 DR. GIBBONS: Mr. Chair, I'd like to request that we
12 perhaps do the Eyak negotiations first on the agenda, move it up
13 from the third item to the first item, and deal with that first.

14 MR. PENNOYER: Is there any problem -- objection to that
15 suggestion?

16 MR. COLE: What's the reason for it? What is the
17 reason?

18 DR. GIBBONS: The -- the participants are here and in --
19 speed up there participation up. Items one and two are probably
20 pretty lengthy and we might -- we might be all -- we'll probably be
21 all morning on those items and so, just a convenience to them to
22 get them on the agenda first.

23 MR. PENNOYER: Mr. Frampton.

24 MR. FRAMPTON: I have no objection to that. I want to
25 suggest that I -- I understand a motion may be appropriate that we
26 -- perhaps that should be done later that at the end of morning we

1 go into executive session for the purpose of discussing the current
2 search for an executive director, full-time executive director, and
3 also for the purpose of discussing after we have the public reports
4 and questions on the Eyak negotiations, that we are in a position
5 to continue an executive session at lunch time, a discussion of the
6 Trustee strategy with respect to those negotiations, and are in a
7 position to continue in the public session to discuss that this
8 afternoon.

9 MR. PENNOYER: I think a motion to set up an executive
10 session is appropriate. Is there a second?

11 MR. COLE: Second.

12 MR. PENNOYER: Is there any discussion?

13 MR. COLE: Mr. Chairman.

14 MR. PENNOYER: Mr. Cole.

15 MR. COLE: Are you proposing we do this during the
16 noon recess period?

17 MR. FRAMPTON: Yes.

18 MR. PENNOYER: We would have to schedule a time for this,
19 so I presume people want to eat as well, and we'll need a time to
20 set aside and a time so the public knows when we're coming back.

21 MR. FRAMPTON: So, supposing we eat and talk.

22 MR. PENNOYER: Okay.

23 MR. COLE: Then are we going to have this executive
24 session between 12:00 and 1:30, so that people on the
25 teleconference can plan accordingly.

26 MR. PENNOYER: That's something we should decide.

1 MR. FRAMPTON: Okay, I amend my motion to propose that
2 time.

3 MR. PENNOYER: Any further discussion? Any objection?
4 Okay, we'll have an executive session then from 12:00 to 1:30 to
5 discuss the question of selecting an executive director and some
6 aspects of Eyak -- Eyak negotiations. Are there any other
7 additions to the agenda? I have two I'd like to sandwich in if we
8 have time then, and one is I requested based on a lot of discussion
9 we've all heard of run failures in various parts of the state and
10 particularly in Prince William Sound, I thought it would be helpful
11 if Fish & Game gave us a brief overview of fisheries catches
12 through the state so we can see consistencies or lack -- just for
13 a matter of understanding because we're all seeing the press
14 conferences, and we can do that at any time during the day. And
15 then under the '94 work plan and budget, I think we need to put in
16 the approach to ecosystem monitoring. It was discussed at the last
17 meeting. I think it'll fall under the '94 work plan. I just
18 wanted notice that that is an item I think we need to talk about.
19 Any other discussion on the agenda? Any other discussion on the
20 schedule? Mr. Frampton.

21 MR. FRAMPTON: Part of the ecosystem monitoring
22 discussion, there have been some proposals or requests on behalf of
23 -- of fishermen's coalition task force and scientific task force in
24 Prince William Sound to the task to develop a scientific research
25 plan. There have been some other suggestions from private non-
26 profit groups that they might be of assistance in helping with the

1 design or scoping of a design of a survey and you -- you have had
2 a proposal on the table in the past about a workshop in November in
3 Prince William Sound to try to figure out where we are, what we've
4 learned, and what we need to be doing as a way to begin have a more
5 comprehensive scientific study agenda. And, I'd like to be able to
6 address those issues together when we talk about ecosystem
7 monitoring, and I agree with you that that's probably best taken up
8 in the discussion of the 1994 work plan and budget.

9 MR. PENNOYER: Fine, okay. Any further agenda changes or
10 scheduling changes? Okay, we'll then we might as well go right
11 into it. The first item we've moved to the first item on the
12 agenda is Eyak negotiations and Eyak Corporation and Forest Service
13 and who's going to make that presentation of the status of those
14 talks now? Jim.

15 MR. WOLFE: Mr. Chairman. I'd like to have Bruce Van
16 Zee our forest supervisor for the Chugach National Forest make that
17 presentation and -- and, if we need, general counsel is here also,
18 this morning, and she's been working with Bruce on that, but I'll
19 let Bruce lead it off anyway.

20 MR. PENNOYER: Bruce are you going to refer to a
21 particular handout or something, so we can all have it in front of
22 us.

23 MR. VAN ZEE: Yes, I am, Mr. Chairman. Mr. Chairman and
24 members of the Trustee Council, you have available -- I call it the
25 report entitled "Report on Eyak Negotiations U.S. Forest Service,
26 September 15." Copies of that report are also available for the

1 public at the desk out front. At the last Trustee Council meeting
2 on August the 23rd, you directed the Forest Service to continue
3 negotiations with Eyak. The principle objectives were to -- that
4 you gave us were to provide a high level protection for Power
5 Creek, Eyak Lake and the lower Eyak River, which we will refer to
6 as the core lands or core area, a limited protection for Eyak
7 lands, which would be north and west of Shepherd Point in Orca
8 Narrows, which are referred to as the other lands, and an
9 acceptable timber harvest plan, if possible, for Orca Narrows. In
10 that package, in Exhibit A, you have a map which shows the general
11 location of the core lands and the other lands. The -- the package
12 that is given to the Council has the core lands in a buff color and
13 the other lands in a green color. They're also delineated by
14 margins in the cross hatching. The -- as presented previously, the
15 core lands do provide high recreation and subsistence values and
16 those opportunities would be very diminished by any proposed
17 logging, and these have received an evaluation by the Habitat
18 Protection Working Group. The other lands haven't been fully
19 evaluated, however, initial evaluation give us a high level
20 confidence that they do contain important habitat which would
21 include recreation and high wilderness and viewshed values. Based
22 on our discussions to date, the Forest Service and Eyak have an
23 understanding that the Eyak is willing to make an offer to the
24 Trustee Council that's substantially the same as described in
25 Attachment A of your package. That is Eyak's offer, and they can
26 discuss that later. But, generally the offer is for a purchase

1 agreement between the Forest Service and Eyak on the core lands.
2 There is a correction, it's approximately thirteen thousand six
3 hundred acres is described in Exhibit B1 in your package, and a no-
4 cost, six months option for the other lands. And those other lands
5 would be thirty-nine thousand and sixty-one thousand acres, based
6 on Eyak's forthcoming selection rights. Additionally, the
7 agreement would allow continued logging at Orca Narrows to avoid
8 the current need for earnest money, but would be done in a manner
9 to -- which would minimize visual impacts, or hopefully we could --
10 we can do that. But for the core lands, in the minimum Eyak would
11 provide for a very restrictive conservation easement which would
12 approximate the same values to the public, it would be -- as fee
13 title, but they would retain title. They could provide a fee title
14 to these lands which is required -- that would be requiring a
15 shareholder vote for the Eyak Corporation. The other lands
16 conservation easement would include provisions for cooperative
17 planning between Eyak and the Forest Service for any activities,
18 but at a minimum would restrict all commercial timber harvesting.
19 The -- Attachment B does describe the intentions and restrictions
20 and reservations which would be associated with each type of
21 conservation easement. The asking price for the Eyak property
22 interest would be based upon an estimated value based on commercial
23 timber interest. The core lands and other lands purchase prices
24 would be based on fair market value or a cap which would be
25 provided by the commercial timber interest. The core lands, the
26 cap for fee title, would be twenty-one point four million dollars,

1 for the conservation easement it would be slightly over sixteen
2 million dollars, which would be seventy-five percent fair market
3 value for fee title. For the other lands, the cap would be fifty
4 million dollars for the total, minus the core land's fee purchase
5 price, and that's if it was fee title. It would be forty-four --
6 a little over forty-four and a half million dollars, minus the core
7 lands, if it was a conservation easement. In other words, that cap
8 would be -- be reduced by the difference between fee title and
9 conservation easements. If the cap is below fair market value,
10 appraised fair market value, the difference could be considered a
11 charitable conservation to the Forest Service by the Eyak
12 Corporation. If -- if the proposed timber harvesting that Eyak is
13 planning to conduct in the Orca Narrows area, which is depicted in
14 the package, is inconsistent with the values of -- set by the
15 Trustee Council, Eyak is offering to considering a timber harvest
16 moratorium, and for the moratorium to occur, they're requesting two
17 million dollars in non-refundable earnest money. That would be
18 secured by the timber harvest rights in the Power Creek area.
19 Also, to date, we -- we have not included the subsurface values
20 which are retained by the Chugach Alaska Corporation in this
21 appraisal, but we have begun meetings with the Chugach Alaska
22 Corporation, the regional corporation, and they've indicated that
23 they would be willing to negotiate with us for the subsurface
24 rights. We don't see a major problem there. And, if you have any
25 questions, I'm prepared to answer at this time.

26 MR. PENNOYER: Questions? Mr. Cole.

1 MR. COLE: Let's us look, if you don't mind, at
2 Attachment B, which refers to the scope of the conservation
3 easement and you'll see the paragraph at the bottom entitled "Other
4 Lands Perpetual Easement." At the last two lines of that first
5 paragraph, it refers to this easement providing rights if agreed
6 upon public access for non-commercial recreational purposes . . ."
7 then they highlight this language, "to the extent it does not
8 interfere with reasonable uses of these lands by Eyak." What does
9 that mean? What in your view would be the scope of, quote,
10 reasonable uses of these lands by Eyak.

11 MR. VAN ZEE: Our intent on that, Mr. Cole, is to
12 provide for an access for the purposes of things like hunting,
13 fishing, camping, hiking, and other public uses as might be enjoyed
14 on public lands, but would not allow for maybe things like
15 commercial guide outfitting by the Forest Service, those rights
16 would be reserved by Eyak. The specifics of that, have what -- are
17 -- we fully appreciate and will take quite a bit of crafting as an
18 easement.

19 MR. COLE: Well, could they -- for example, set up a
20 -- lodges there and -- and/or sort of a recreational fishing lodge,
21 can invite guests, and things like that?

22 MR. VAN ZEE: That is our belief that they can do that.
23 However, we will have to work very closely with the habitat
24 protection values because there may be areas for -- such a facility
25 would be inconsistent with the protection of fish, wildlife, sea
26 mammals or whatever. But, it is not our intent to put Eyak out of

1 business on the other lands, and discussions with them indicate
2 they are interested in pursuing some type of recreational
3 opportunities.

4 MR. COLE: Then in the next paragraph, the third
5 sentence reads, "Timber harvest as part of ordinary land clearing
6 activities or as part of land use conversion is allowed." What
7 does that mean?

8 MR. VAN ZEE: What that means is -- is we recognize the
9 need, say if you're going to develop a fishing lodge, you'd need to
10 clear for that lodge, but we need to craft in our easement language
11 that would prohibit a number of say shareholder allotments stacked
12 together and then the shareholders get together and decide to clear
13 cut those lands for the timber, or whatever. We need to put
14 something in there. For example, maybe a lodge decides they might
15 need an airstrip to service the lodge. Well, we would need to work
16 very closely to make sure that the airstrip is not of some unusual
17 nature in a good timber -- good patch of timber.

18 MR. COLE: In that regard, there's another comment in
19 here I hadn't seen this term mentioned before, but it refers to the
20 Eyak Shareholder Land Use Program. Could you tell us what that is,
21 please?

22 MR. VAN ZEE: Well, my understanding of the Shareholder
23 Land Use Program is that the -- the Eyak Corporation allows
24 shareholder allotments of an and acre a half piece. Each
25 shareholder is allowed to select one of those allotments for a home
26 or a recreation cabin or fish camp or whatever that purpose might

1 be. And, the intent is not to interfere substantially with that
2 program.

3 MR. COLE: And, how many shareholders are there in
4 Eyak?

5 MR. VAN ZEE: I don't have the exact number, but my
6 believe is it's between three hundred and three hundred and fifty.

7 MR. COLE: And, so, they -- the shareholders would
8 have the right under this proposal to select one acre apiece. Is
9 it just one acre?

10 MR. VAN ZEE: One acre and a half.

11 MR. COLE: An acre and a half. And -- and have you
12 seen that documentation of the land use program? Is that -- is it
13 a written program?

14 MR. VAN ZEE: I have not. You'd best ask that question
15 of Eyak Corporation. I have not seen how that document is crafted.

16 MR. COLE: It is -- you don't know whether it is in
17 writing, this program?

18 MR. VAN ZEE: My belief it's in writing, but again I --
19 I haven't seen documents or how that is in their Articles of
20 Incorporation.

21 MR. ROSIER: On that particular point, is that program
22 in place at the present time, has there been withdrawals under that
23 program?

24 MR. VAN ZEE: Yes, there have been withdrawals. The
25 extent of withdrawals, the number of allotments that have been
26 selected, I don't have that figure.

1 MR. COLE: Where are those -- general, in Eyak Lake
2 or Power Creek or in the other lands?

3 MR. VAN ZEE: I -- I know that there's some in the other
4 lands, I am uncertain if there are any in the Power Creek, Eyak
5 Lake area at the time.

6 MR. PENNOYER: Bruce, would you go back through the
7 logging moratorium option under the Orca Narrows section, one time,
8 just briefly for me?

9 MR. VAN ZEE: The logging moratorium option, if the
10 Council so desires a logging moratorium option, Eyak has indicated
11 they will enter into such an agreement for the price of two million
12 dollars. That's what they would require to stop logging. That
13 agreement -- or that two million dollars would be secured by timber
14 values in the Power Creek area. In other words, for the two
15 million dollars, for the option, that would be secured by interest
16 in the Power Creek area for that two million -- to cover the two
17 million dollars of front money.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: Mr. Chairman. What would prevent under
20 this shareholder land use program -- shareholders of Eyak taking
21 all the lands to the -- rather, let's say the Cordova side -- the
22 town side of Eyak Lake and running right along there and taking all
23 those acreages right there, and then -- and then sort of
24 landclearing as part of this one and a half acres, and -- you know,
25 I mean, dealing us a mortal blow.

26 MR. VAN ZEE: Right. On the core lands, the -- there

1 would be no further shareholder allotments. It would only be the
2 core lands, the agreement would be that the core lands will only
3 recognize valid existing rights in that area, as of today. There
4 would be no further selections in that area. And, in that
5 agreement -- under a conservation easement, the only rights that
6 the Eyak shareholders would have would be same as the rest of the
7 general public at large.

8 MR. COLE: Which would be?

9 MR. VAN ZEE: Hunting, fishing, subsistence uses, berry
10 picking, hiking.

11 MR. PENNOYER: Further questions (indiscernible)?

12 MR. FRAMPTON: Mr. Chairman.

13 MR. PENNOYER: Mr. Frampton.

14 MR. FRAMPTON: Is Eyak going to make a presentation?

15 MR. PENNOYER: That's -- will come next I believe.

16 MR. FRAMPTON: Okay.

17 MR. PENNOYER: So, you don't go too far. Okay, whose
18 next? Eyak Corporation going to make a presentation.

19 MR. WOLFE: Mr. Chairman.

20 MR. PENNOYER: Mr. Wolfe.

21 MR. WOLFE: I'd like to give Eyak the opportunity to -
22 - and Donna and Jamie to -- to at least acknowledge their
23 involvement in the agreement and maybe answer questions if you have
24 additional questions, particularly as it relates to the
25 conservation easement and/or the Eyak Shareholder Land Use Program,
26 Mr. Cole.

1 MR. COLE: Thank you.

2 MR. PENNOYER: Please.

3 MS. DONNA NADEL: Mr. Chairman and members of the
4 Council. My name is Donna Nadel and I am the President of Eyak
5 Corporation. I am pleased to be here this morning to make this
6 presentation on -- to you on behalf of the Eyak Corporation. The
7 Eyak Corporation owns a hundred and forty-eight thousand acres in
8 Prince William Sound. We have three hundred and twenty-six
9 shareholders in our corporation who are predominately Aleut and
10 Eyak Natives. As good stewards of our land, we believe in
11 utilizing our lands, but it must be done in an environmentally
12 sound fashion. Our people are proud and do not want to accept
13 charity. The Alaska Native Land Claims Act promised us a land base
14 from which we could develop economic and employment opportunities
15 for our people. Earning one's own living is a key ingredient to
16 self-respect and dignity for all people. There are those who want
17 to simply shut down all economic development in Prince William
18 Sound. To do so, however, would be to exchange our independence
19 for a sound that cannot be developed. We are more than willing to
20 work with the state and federal government to protect and enhance
21 critical habitat. However, we want to ensure that we will be able
22 to utilize the rest of our lands. For generations, our people have
23 been dependent on the fisheries that Prince William Sound has
24 provided for their livelihood. The devastation that occurred from
25 the 1989 Exxon Valdez oil spill has destroyed our people's way of
26 life, both economically and socially. We must now create a new

1 legacy for future generations through development of our lands.
2 This is the fourth time a representative of Eyak has appeared
3 before you on this matter. We have worked very hard to accommodate
4 concerns of the Council, and we think we have been flexible and
5 cooperative in our approach. In our original July 19th proposal,
6 we presented the Council the opportunity to purchase a conservation
7 easement on Eyak Lake and Power Creek land. The Council expressed
8 concerns that this approach did not sufficiently protect habitat
9 interests and also it wished more Eyak lands involved across the
10 Prince William Sound. We responded in a cooperative fashion, and
11 so we presented a proposal to satisfy these concerns on August 6th,
12 which included a stricter easement and the options of obtaining
13 more land. This proposal was not acted on and so we travelled to
14 Juneau and sought to resolve the Council's concerns on August 9th.
15 That led to the identification by Eyak in the Council of other --
16 of other concerns, and we thereafter met with the Council again on
17 August 23rd and made another proposal and went through the same
18 process to bring us to today's meeting and today's proposal that I
19 am presenting on behalf of Eyak. Before I present this proposal,
20 it is important that the Council understand that Eyak has waited a
21 long time to obtain the Council's approval for this proposal, and
22 that this long delay has cost Eyak a significant amount of money.
23 So far, Eyak is the only party that has incurred costs in this
24 transaction. At the Council's urging, we have delayed cutting Orca
25 Narrows for over a month after we were out of timber for our
26 loggers at other sites and we have sold off inventory and we have

1 received many large bills in the mail, and we have waited. The
2 result is that Eyak and Sherstone are now at the end of their
3 financial ability to delay cutting at Orca Narrows any longer.
4 This delay has also robbed Eyak of a large part of this financial
5 flexibility to accommodate changes in its proposal. I am not
6 complaining about this because Eyak is very interested in making
7 this transaction occur, but it is also important for the Council to
8 understand that the time to make this transaction final on the
9 other land is today. My board of directors had decided that Eyak
10 will not delay cutting any longer at Orca Narrows if this
11 transaction is not finally accepted today by the Council. I know
12 that you will not misunderstand me when I say this because Eyak has
13 long since demonstrated its good faith and patience in this
14 process, but the time has come -- now come to either accept or
15 reject Eyak's proposal. Our proposal basically has two parts. You
16 know -- excuse me. First the core lands transaction. This part of
17 the transaction can be accepted on a stand-alone basis or along
18 with the second part of our proposal. This is a simple and
19 uncomplicated proposal. Eyak will make available to the Council
20 about thirteen -- thirteen thousand six hundred acres of land
21 surrounding Power Creek and Eyak Lake and the lower Eyak River.
22 These lands have been a part of our proposal since our original
23 July 19th submission. Eyak is offering either a fee simple title
24 purchase of these lands or a highly restrictive easement on these
25 lands. The choice will be made by the shareholders of Eyak in a
26 vote to be held within forty-five days after the result of a fair

1 market value appraisal are known. If the shareholder select a fee
2 transaction, the price will be twenty-one point four million or
3 fair market value, whichever is less. If an easement is selected,
4 the price will be sixteen point "0" five million dollars, or fair
5 market value. If an easement is granted, the lands will be subject
6 to a broad right of public access. An important element of this
7 transaction is that it must be -- it must close by April 17, 1994,
8 six months from today. This is necessary because of the timber
9 moratorium proposal that we are also proposing. The core lands
10 transaction must close by this date to provide funds to the Eyak --
11 to Eyak to close out its timber operation. The second element of
12 the Eyak proposal is the other lands easement purchase agreement
13 option. This part of the transaction can only be accepted if the
14 first part is accepted. The Eyak Corporation proposes to grant an
15 option to purchase a limited conservation easement on all Eyak
16 lands and Eyak selections north and west of Shepherd Point,
17 comprising from thirty-nine thousand to sixty-one thousand acres of
18 land and up to two hundred million board feet of timber. This
19 option must be exercised by the Council on or before March 17,
20 1994. The grant of the option is also subject to shareholder vote.
21 The easement is essential -- essentially a grant of Eyak's right to
22 commercially harvest timber on these lands with appropriate
23 limitation on Eyak's rights to clear these lands to prevent
24 circumventing the intent of the easement. The public would be
25 granted agreed upon rights of access for non-commercial
26 recreational purposes, which could not conflict with Eyak's uses of

1 the land. The purchase price of these -- this easement is fifty
2 million, minus the purchase price of the fee title in the core
3 lands. If an easement is selected at the core, the purchase price
4 for the other lands easement will be forty-four point sixty-five
5 million, minus the core lands purchase price. The adjustment to
6 purchase price maintains of five point three five million price
7 difference for the entire transaction between a fee simple purchase
8 of the core tracts and the purchase of an easement in the core
9 tracts. Eyak will continue to conduct timber harvesting operations
10 at Orca Narrows during the option period until about March 17,
11 1994, pursuant to the timber harvest plan it has filed on these
12 lands. A visual depiction of this plan is in the Council's packet.
13 This plan was created in order to minimize visual impact from
14 logging in this area, and we think that this plan already
15 constitutes an unprecedented effort by Eyak to avoid such impact.
16 However, Eyak will commit to work in good faith with the U.S.
17 Forest Service and the State Division of Forestry to further
18 minimize visual impact resulting from its timber harvest
19 operations. Also, in your packet is a highly idealized depiction
20 of a timber harvest plan with almost no visual impact. This plan
21 was created by a landscape architect using a computer. He has
22 direct -- he was directed to create a cutting plan which minimizes
23 visual impacts and he did a good job, but this plan was not laid
24 out by a forester on the ground. Eyak's forester has just advised
25 us that this plan is not economically feasible, and so Eyak cannot
26 agree to operate under it, but this depiction does suggest the sort

1 of positive impact that changes in the cutting in various areas can
2 have on viewshed. We are committing to work with the Forest
3 Service on this issue. If the core lands agree closes -- agreement
4 closes and the other lands option is exercised, then Eyak will
5 cease all its commercial timber falling and associated road
6 construction upon payment of the purchase price soon after March
7 17, 1994. Both transactions are subject to valid existing rights
8 and to a series of technical conditions set forth in the Eyak
9 proposal. If the transactions are both accepted, then we are
10 willing to negotiate in good faith with the Council to seek an
11 earlier end to our timber harvest activities on mutual agreement
12 terms, such as two million earnest money agreement and economic
13 opportunity for Cordova residents such as road construction at
14 Shepherd Point, timber harvest on two sections of land at the
15 Cordova Airport this winter, and cooperative restoration of logged
16 land at Mile 16. The precise terms of any such agreement would
17 have to be worked out in detail. I hope we -- you will accept this
18 proposal in the helpful and hopeful spirit in which it is offered.
19 I would be happy to answer any questions you might have at this
20 time.

21 MR. PENNOYER: Mr. Frampton.

22 MR. FRAMPTON: Well, I'd just like to make an observation
23 that perhaps you could respond to, if you wish, about your request
24 that we approve this proposal today, absent the visual
25 restrictions, which I guess you're saying you can't commit to. I -
26 - I very much appreciate your continuing to work on this deal with

1 the Trustee negotiating team and your forbearance over the last
2 month on the timber cutting issue. Obviously, I have real concerns
3 about what happens if we go into an agreement along these lines
4 between now and next April. But, before we even get to that issue,
5 I am troubled about what it is that you are offering and we would
6 be acquiring on the other lands portion of this. I understand why
7 the corporation may have a desire to give a restrictive easement on
8 the core lands rather than give up title, and I think we have
9 worked with you to try to accommodate that, depending on the views
10 of the shareholders. And, I can understand why with respect to the
11 other lands portion you would feel, perhaps, more strongly that you
12 did not want to sell that land in fee, although that would be
13 preferable for at least some of us. And, indeed why you would want
14 to continue to have the opportunity for some recreational
15 development on those lands, and again, I think that the Trustee
16 negotiating team would probably want to be very understanding about
17 that and see if there were opportunities for limited recreational
18 development that was ecologically consistent with habitat
19 protection. But, the whole purpose of trying to acquire an
20 interest in the other lands is to protect habitat, and my
21 understanding of your offer is that we would be paying twenty-nine
22 million dollars, a fairly handsome sum, not really for a
23 conservation easement, but just for the timber rights, and that
24 what we would be paying for would allow you to continue to build
25 three hundred and fifty homes, roads, large-scale commercial
26 recreational development, air strips, parking lots, shopping malls,

1 waste dumps, heavy development on shorelines, heavy development on
2 streams. All of that, as I understand it, is within the -- within
3 the framework of -- of your proposal, and I am troubled about
4 whether, number one, that would be a good deal to pay twenty-nine
5 million dollars and -- and still have the possibility of all that
6 happening in the future on these lands, but indeed whether, if
7 buying it for habitat protection purposes, that would be a prudent
8 decision on our part. So, before we even get to the question of
9 the six month interim period, I am somewhat troubled by why it is
10 we would be paying twenty-nine million dollars to acquire habitat
11 and not have the kind of protections that would ensure that the
12 habitat is in fact protected over a long period of time.

13 MS. NADEL: Well -- can I answer that? To answer just
14 a few of those concerns, I realize that you're looking at worst
15 case scenarios and -- and that's your job, you have to look at
16 worst case scenarios, but we have been in a process of trying to
17 come up with long-term plans for our lands, and we -- you know, as
18 I stated before, we do want to be good stewards of our land, and we
19 don't want to put shopping malls where they -- we feel that they
20 would hurt the environment. So, I don't feel that, and I'm stating
21 this for the board, instead -- or I should say, the board does not
22 feel that we should have to come up with the area that you feel are
23 critical in this area. I mean, if there is an eagle's nest that
24 needs to be protected, then -- you know, I would like those
25 concerns brought out and -- and we agree, we're willing to sit down
26 and work with that. But, you know, as I stated before, we cannot

1 give up the right to utilize our land. I mean, we have a right,
2 Mr. Cole has asked before about our Shareholders Land Use Program.
3 We have shareholders who desperately need land to live on and that
4 should be their right. This is their land. And, to utilize that
5 land and derive -- an income from it, but we also, on the other
6 side, realize that we don't want the impact to hurt what our future
7 is going towards and that is tourism. So, you know, it would --
8 you know, I don't know if I'm rambling on, but I just want you to
9 understand that that's a concern of ours too, and we have dealt
10 with that in the board room.

11 MR. FRAMPTON: I do understand that, and I guess what I'm
12 saying is that that's a decision that obviously you have to make,
13 but what you're offering us then is not a conservation easement.
14 It's not an easement that would protect habitat, and, indeed, it's
15 not even the commercial timber rights, and you could go out and
16 clear an awful lot of commercial timber, which theoretically the
17 state or the Forest Service would own, in furtherance of economic
18 development. And, so you are really offering us something less
19 than the minimum of what we may be trying to acquire the property
20 for, and I think that should be clear if that's -- if that's the
21 position of the corporation, if that's really what you're offering
22 us. It's not a conservation easement, not something that gives the
23 public parties an opportunity to protect the habitat.

24 MS. NADEL: My guess -- your view of what a
25 conservation easement is and -- and ours are indefinitely not going
26 down the same tract.

1 MR. FRAMPTON: Well, my understanding of a conservation
2 easement is that the ability to limit land use in order to maintain
3 and protect certain values.

4 MS. NADEL: And that's indeed what we are talking
5 about doing with this area.

6 MR. FRAMPTON: I'm not saying it may not be possible to
7 negotiate with you something that does adequately protect those
8 values, but I am concerned about whether what's in this piece of
9 paper and what you explained is effective to protect any of those
10 values in the long run.

11 MR. PENNOYER: Clearly we are some distance from an
12 agreement that clearly spells out to both sides what is really
13 being offered and what might be accepted. I mean, you've made
14 statements about the philosophy of the corporation in terms of land
15 use, and those are -- well, those are certainly the type of thing
16 we're interested in. This agreement, as written, that you want
17 somebody to accept today, doesn't clearly outline what those are
18 and put limitations on that future use. So, when you say something
19 has to be done today, I don't see that we've got the pieces here,
20 as Mr. Frampton pointed out, to clearly say that what is being
21 offered does preclude uses you say you don't want to allow either.
22 It is -- it is very general, very general, and if the requirement
23 is that something be signed today or signed off on today, as
24 opposed to a requirement that we agree to further discuss this and
25 try to work it, I'm not sure where that leaves us.

26 (Pause)

1 MS. NADEL: Excuse me. (Pause - aside conference with
2 counsel)

3 MR. PENNOYER: It's okay.

4 MS. NADEL: We -- we don't want to tie up all forty-
5 eight thousand acres of our land, and basically what we had asked
6 was for the Forest Service to tell us the most critical areas on
7 there, or to -- you know, explain, what are the -- if you -- I'm
8 going to let Jamie answer this.

9 MR. JAMIE LINXWILER: The board has been fairly clear,
10 the Board of Directors of the Eyak Corporation, in offering the
11 core lands. It's a limited area, it's a specific area, and it's
12 one that they were willing as early as their July 19th proposal to
13 put on the block. It was never Eyak's intention to put all of its
14 lands on the block. There is a desire on the part of some of the
15 Trustees to control as much of these lands as they can, and, of
16 course, that desire is understandable inappropriate, given the job
17 that you have. The Board of Directors of the Eyak Corporation's
18 response to that is they're -- they're putting on the -- on the
19 block for sale, the commercial timber rights to these lands because
20 that constitutes the single real threat to habitat in this area, in
21 any significant dimension that's been identified to date. While
22 it's possible that there could be commercial and real estate
23 developments in the last hundred years, none of that has occurred
24 in the Sound, to date. There have been attempts at it, but none of
25 it has worked. What the Eyak Corporation, therefore, is offering
26 is the commercial timber rights on the land. As I think Mr. Van

1 Zee said earlier, there has not been a complete appraisal of
2 specific sites that might be of extremely high habitat value to the
3 Eyak Corporation, and the Eyak Corporation isn't foreclosing at
4 some future date consideration of those sites in some sort of
5 appropriate transaction that could occur in the future. The
6 problem, I think that we all have is that your role is to obtain
7 control of as much acreage as you can, and the Eyak Corporation
8 similarly statutorily created role is to protect their shareholders
9 and keep their lands available to themselves. Their approach has
10 been, as I've said, to offer the timber, and -- and I can
11 understand and we fully recognize the Commission's desire -- the
12 Council's desire to go farther, but at this point there's no
13 specific lands identified for a higher level of control and so
14 we've offered, I think what we can.

15 MR. PENNOYER: Mr. Cole.

16 MR. COLE: I would like to say I do not view our role
17 as, quote, controlling as much land as we can, close quote. I view
18 our role, as set out in the order and consent decree, is to use our
19 best judgment to restore, replace and enhance the injured
20 resources, a rebuilding from the spill. That's what we're
21 endeavoring to do here, and I, for one, and I'm sure my co-Trustees
22 recognize our role as do I.

23 MR. PENNOYER: Are you saying then, really what we have
24 here is lot of acreage out there that may have different values
25 relative to what we're trying to accomplish?

26 MS. NADEL: Yes.

1 MR. PENNOYER: And in the option process we've set up,
2 there's no time to sub-select that or deal with more restrictive
3 easements in some cases and less in others and that sort of thing.
4 If you're saying that, then I still don't understand exactly how
5 this is a complete package that can be, in essence, signed off on
6 today. The core lands have never -- we've always discussed that.
7 That's always been there, and we've had some differences on fee
8 simple and, including Eyak River and the lot. There have been
9 differences but they haven't been argued that much. We know we
10 want strong conservation easements, we know the habitat values, and
11 those may not be the same through all the rest of the land that you
12 outlined as an option but that we can exercise. So, it seems to me
13 that we're in a position that makes it very difficult for us to mix
14 and match, or pick a piece, or go for something like the core lands
15 for certain stream value areas versus -- we're not to that stage,
16 and I'm not sure how we -- how we get there.

17 MS. NADEL: I -- I guess we come back down to what was
18 said at the last Trustee's meeting then and how we came about this
19 was, we realized that we had a short time and -- and we put a lot
20 of time into the short amount of time we had since the last
21 Trustees meeting to come up with something. And, since we couldn't
22 identify the different areas in such a timely manner, that it was
23 going to take time, we realize that, and, so -- but we also --
24 hearing from what the Trustees said that, if you look at this map
25 here, that if we make it so it's visually -- it's -- the visual
26 quality was a big part of it. We -- realizing that, we went back

1 and tried to look at the plan that the Forest Service came up with,
2 Plan B, and we realized that Eyak Corporation, and I've stated it
3 before, we cannot go backwards on this. We cannot go in the hole,
4 we can't afford to. There will be no Eyak Corporation or
5 Sherestone if we go backwards, and we, realizing that, we had to
6 come up with something in order to bring here today, because we do
7 not have the financial ability to sit around for six months and --
8 and deal with this. You know, I -- I'm not trying to be -- you
9 know, I'm not trying to back anybody in a corner. I feel like
10 we're being backed in a corner, and it -- and I -- you know, I
11 don't want to come across that way, but I just realize that the
12 financial stability of where we are right now.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: Let me see if I can put my finger on one
15 the problems which (indiscernible - out of range of microphone)
16 with the Trustee Council today, as I understand the remarks which
17 you've been making this morning. In the first place, we're talking
18 about very large sums of money, plus or minus fifty million
19 dollars, in this whole transaction, to do, in some ways an awesome
20 sum of money, as you look at this commercial transactions. Few
21 transactions in the State of Alaska, other than those involving oil
22 lands, involve fifty million dollars. Also, we're Trustees with an
23 obligation to the public, which exceeds that of the commercial
24 businessman making an agreement for his own purse, as it were.
25 And, we are asked by you to commit to a concept which is far from
26 concrete, I think, as Mr. Frampton sees it and as Mr. Pennoyer sees

1 it. What we need as part of this transaction, to get a level of
2 assurance, is a draft of a definitive easement that we're dealing
3 with so that we can look at the two or three or four page
4 documents, which in detail expresses the rights and privileges
5 retained by Eyak so we know, and you'll remember I made that same
6 comment at the last Trustee Council meeting that -- you know, we
7 need something finer, more concrete, more definitive, in order to
8 provide us the level of assurance that we need. For example, here
9 today for the first time we learned of this Eyak Shareholder Land
10 Use Program, and we don't have a copy of that agreement, as I
11 understand it, no one representing the Trustee Council's interest
12 has seen it, and -- it's things like that that we need a higher
13 comfort level upon before we can even make a tentative commitment
14 to expend these funds, and that's my view of where we are. I would
15 like to say as a -- an aside that if you really believe that the
16 future of your organization lies in tourism, to lay in waste at
17 Orca Narrows slope, which every tourist who would come into Cordova
18 and certainly disembark at Shepherd Point would see, is certainly
19 not, in my view at least, further the tourist business. And,
20 that's one of the things I've personally have been concerned about,
21 and it's one on the reasons that I have the particular concern for
22 the Orca Narrows area, is because I have a strong sense that if
23 that area is logged and before it starts to even get green again,
24 in ten or twenty or thirty years, it's something that I would think
25 the Eyak group to Cordova would be very concerned about. But,
26 that's an aside and not certainly fundamental to the expression of

1 my views here this morning.

2 MS. NADEL: You know -- and that is also our board's
3 concern, but all of you here, sitting here, realize the economic
4 situation of Prince William Sound. It's devastated right now. The
5 majority of our shareholders are commercial fisherman. Basically,
6 their economics -- the bottom has been dropped out for them.
7 They're looking for another way to survive. The logging, right
8 now, creates approximately a hundred jobs. Part of those are
9 shareholder jobs, not all of them, just a very minor part of them,
10 and so, when we're talking about business, it's not business as a
11 whole, we're talking about a Native corporation, where not only do
12 these people depend on -- did depend on the fisheries for economic
13 value, but also for survival. They live off the sea. I mean they
14 -- they live off not only the sea, the deer, the moose, the
15 wildlife, that's predominantly what our Native people live off of,
16 and so, if we're talking about critical habitat, I too want to save
17 it and so does our board.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: Let me simply say that we're not
20 criticizing you for your views or your position. We understand
21 them. As Mr. Frampton has said, we understand them well and fully,
22 I assure you. It's simply that -- you know, we're charged with
23 certain responsibilities in the execution of our trust, and we're
24 trying to discharge them effectively and meaningfully. So,
25 sometimes one just can't reach agreement, you know. But, I'm not
26 yet satisfied that we can't in this instance.

1 MR. PENNOYER: Mr. Frampton.

2 MR. FRAMPTON: Well, I just want to reiterate that I
3 think we do respect, understand and respect, the position of the
4 board in wanting to provide for opportunities for recreation and
5 appropriate recreational development and other uses for the members
6 of the corporation of their lands in the future. And, I, for one,
7 wouldn't -- don't want to give up in trying to craft a set of
8 protections, whether they sweep across all the lands or whether
9 they zone some -- for some purposes or other purposes that meet
10 those needs, but also meet the goals of the Trustees in protecting
11 and restoring resources to protect habitat. I would suspect that
12 if we work hard on that, it can be done, we can accommodate the
13 interests of each group, the purpose of the Trustee Council and
14 your goals and interests here on these other lands. But, as Mr.
15 Cole says, it may not be able to be done in the next twelve hours,
16 and indeed it may take some -- another look at the issue of
17 different easements for different areas of these other hands. So
18 I think the hard question is can you figure out a way, in our
19 discussions to get the time necessary to do that, without
20 prejudicing the whole -- throwing over the whole agreement, so
21 we're back then to the question of whether there is a way to look
22 at a payment or a buy-out or a timber plan that allows us to get
23 the time to see if we can't work out the issues that we've been
24 discussing here. I don't want to give up on that, but I don't
25 think it's going to be very easy for us to sign any documents
26 before five o'clock this afternoon either.

1 MR. PENNOYER: Mr. Cole.

2 MR. COLE: I wanted to say one thing, preempting
3 Commissioner Sandor slightly. But, I express the view that from my
4 personnel standpoint, as a Trustee, I would consider an economic
5 transaction with Eyak and/or the logger which would recognize the
6 existing logging rights, which are there. I remain concerned about
7 these people who make their living there, at this present time, in
8 Cordova in this logging operation. It would trouble me to
9 summarily throw them out of work. I know they have to make their
10 house payments, feed their children too, and to abruptly put them
11 on the dole, so to speak, by putting them out of their jobs and
12 their reasonable current expectation is troubling. We made a
13 similar type of agreement with a party holding timber rights and in
14 Kachemak Bay, so from my standpoint, I would be prepared to
15 consider a transaction containing those elements.

16 MR. PENNOYER: Mr. Sandor.

17 MR. SANDOR: Thank you Mr. Chairman. I share those
18 concerns with Mr. Frampton and Attorney General Cole has outlined.
19 As I'm particularly disturbed about the revelation of these valid
20 existing rights through the Shareholder Use Program that may have
21 some unknown number of land development opportunities along the
22 shores of Eyak Lake. We heard testimony in the discussion of the
23 habitat values that are involved here that the lake is relatively
24 small, very shallow. I think it's not unreasonable to expect that
25 even with up to ten parcels of development along the shores of Eyak
26 Lake could well trigger putrefication of the lake and destruct the

1 very values that we're trying to protect, so -- I'd previously
2 stated that under a conservation easement I could -- you know,
3 support a compensation that might go even as high as seventy-five
4 percent of -- of the in fee value, if we really had total
5 protection and control, but this revelation -- you know, unknown
6 number of parcels could be developed. There is -- it raises such
7 serious questions that it's imperative that the Trustees be
8 provided with not only the number, but the specific locations of
9 those parcels, and I suspect there may be some ways of developing
10 those parcels that that wouldn't -- you know, provide certainty
11 that no adverse effects from septic or other sewage treatment
12 facilities, even the use of fertilizers, you know, on the grounds.
13 I take that is -- this is, as I understand it, a very sensitive
14 lake, and the purtrification is one of the principal threats, but
15 that's one issue. The other remaining concern that I have, that I
16 really do want to get on the record and have the public understand
17 that at our August 9 meeting, I believe it was, the Trustees said
18 that it was concerned about the contractual documents that Eyak,
19 Sherestone and other subsidiaries might have and the Trustees
20 requested those documents. Those documents have not been provided
21 without some rather strange conditions which may have improperly
22 been communicated to those whom these -- these restrictions might
23 apply, but I want the record to reflect that I -- when I requested
24 the opportunity to review those documents, any of them, any single
25 one of them, with my contract specialist and appraisal specialist,
26 I was told that those documents were available to my eyes only. I

1 do not have that adequate competence to evaluate contractual
2 arrangements between units and I simply must, in my effort to
3 redeem my responsibilities as a Trustee, consult with specialists
4 in -- in my department that can advise me, indeed, if the interests
5 of the state are to be adequately protected. So, I guess I would
6 ask that my interest in those documents is really very simple. I
7 want to know who owns the lands and what -- what contractual
8 commitment, particularly in the rights of the timber harvest
9 operators, the sales and so forth, exist, because I'm advised by my
10 advisors within the department that that one must simply look at
11 that. Now, I guess I'd ask for the record these documents that are
12 to be made available or whenever they're made available, is it
13 clearly understood that not only can I view them, but I can have my
14 contract and appraisal and other specialists within the department
15 similarly review them?

16 MR. LINXWILER: Commissioner Sandor, I think you were
17 right in your guess that perhaps there was some miscommunication
18 about these documents. It was never Eyak's intention to prevent
19 the staff from looking at these documents along with the Council
20 members and we're certainly work with you make these available. To
21 answer the direct question, the lands are owned by the Eyak
22 Corporation. Some of the lands, primarily the core tract lands,
23 the timber is owned by Sherestone, its wholly owned subsidiary, and
24 no one else holds an interest in the lands and the timber, except
25 insofar as there are valid existing rights. The inclusion of the
26 Shareholder Land Use Program and the valid existing rights was kind

1 of an accident of drafting. I probably should have just removed it
2 because it's raised a question that perhaps doesn't need to trouble
3 you to the extent that it does. The document should simply say,
4 it's subject to valid existing rights. What it said was valid
5 existing rights limited to the Shareholder Land Use Program, and
6 that wasn't right. It's all valid existing rights, including road
7 right-of-ways and whatever else is out there, but it's caused us to
8 focus on the Shareholder Land Use Program question. So, let me --
9 if I could take one minute to describe it. There are in the core
10 tract lands, thirteen thousand six hundred acres according to the
11 Forest Service, and of that there are six one point five acre
12 parcels, some are on the lake and some are on the road. That is in
13 -- basically in kind of a continuation of the settlement of the
14 City of Cordova. All of the land is programmed tract, nobody ever
15 asked about it before and that's why we've never discussed it
16 before. The Land Use Program is a -- it's a creature of ANSCA,
17 section 21(h), a program that allows a one and a half acre parcel
18 to be given to a shareholder, and you don't pay income tax on it.
19 So, it's limited to single family dwellings, non-industrial, non-
20 commercial uses, and that's what the program provides for. It's
21 simply a homesite. There are, as I've said, six -- nine acres out
22 of thirteen thousand acres in that area subject to these homesites.
23 In the other lands, there are eight more. That's twelve more
24 acres. Apart from those two, there's about ten more on other
25 lands. So, I -- I hesitate to leave you the mistaken impression
26 that there's a lot of these things or that they have some --

1 (cough) pardon me -- that they have some kind of additional
2 commercial rights or things like that are not identified or
3 defined. I hope that responds to the questions you had about that,
4 and we'll happily -- pardon me -- happily provide to you and
5 members of your staff all of the information that you're
6 requesting. It's simply not a problem, and I apologize for....

7 MR. SANDOR: Well, just one more follow up question.
8 Even these six -- six as I understand -- six, one point five acre
9 lots on the -- on the lake or in the watershed that impacted by the
10 lake and the associated creek. Either -- I think there is an
11 opportunity to work together over the next X number of weeks in
12 trying to develop a program that would protect those core lands to
13 the maximum extent. As Attorney General Cole says, the Orca
14 Narrows, it's to your own interest, probably to a greater extent
15 than the -- you know, the individual interests of -- of others who
16 -- you know, cannot live in -- in Cordova, to make certain that the
17 tourist value of protects -- scenic value has been protected. It's
18 even a greater interest to -- to -- to you, to the corporation that
19 Eyak Lake itself be protected. There's some questions raised
20 about, you know, the shareholders who might not have had an
21 opportunity to select lands and their rights being foregone, and I
22 don't know how you're going to deal with that, but -- and this
23 again now illustrates the essential nature that the shareholders
24 have an opportunity to vote on the proposals, so these cannot be
25 challenged, you know, at a later date. I guess in summary, Mr.
26 Chairman, this revelation of these valid existing rights that, even

1 this nine acres, the six parcels that could be developed on Eyak
2 Lake, is significant, substantially reduces the -- the, quote,
3 easement values that we had originally anticipated, certainly
4 brings down to some level from the seventy-five percent to
5 something less, I don't know what. But, I'd like to see the
6 process continue of this negotiation, but I don't -- I cannot --
7 and now with the opportunity to look at the documents with staff,
8 we -- I think we can deeply do that and redeem our responsibility
9 that try to consciously work with the corporation in the next
10 three, four, five, six weeks and -- and see what we can do to
11 mutually reach some alternative proposals. But, the package that's
12 on the table now, I do not see can be approved today as, you know,
13 you said has to be done today. But, I'd like to see something done
14 in the next few weeks. Thank you, Mr. Chairman.

15 MR. PENNOYER: Commissioner Rosier, you had a question,
16 then perhaps we can wrap this up for the moment and come back to it
17 this afternoon.

18 MR. ROSIER: Mr. Chairman, I -- I -- Commissioner
19 Sandor touched on a number of the points that I was interested in
20 as well. I, too, was surprised at this Shareholder Use Program
21 surfacing at this -- at this point in time. That -- that was quite
22 a surprise. But, then I guess the thing that concerned me was in
23 your presentation, and I recognize the sensitivity of this issue as
24 related to fee simple versus easement, and I know what's been said
25 in the past and -- and -- but it was my impression from the last
26 meeting that the Trustees very strongly supported the fee simple as

1 far as the core lands were concerned, recognizing that this was an
2 issue that had to go to the -- to the -- to the membership of your
3 -- your corporation, but I sense that within the board in your
4 presentation this morning, that there -- there's a leaning much
5 more toward the easement than there is toward fee simple. Now,
6 that's the impression that I got here this morning, and I, you
7 know, without saying its specific proposal as far as the -- the
8 easements are concerned -- you know, I haven't changed my mind in
9 terms of the fee simple as far as the core lands are concerned here
10 at the present time. You know, I'm -- I was concerned about that
11 though in your presentation here this morning.

12 MS. NADEL: And -- and I'm -- I'm sorry if I misled
13 you to read it that way. No, these are two separate issues. The
14 core lands and Orca Narrows are two separate transactions
15 basically. And, that's basically what I was trying to address what
16 -- was the areas around east and west of Orca Narrows. And

17 DR. GIBBONS: Just a -- just a point of clarification
18 perhaps. I -- I think I heard Bruce Van Zee say that there would
19 be no further shareholder selections in the core area. Is that the
20 case?

21 MS. NADEL: That's correct.

22 DR. GIBBONS: Okay, that's just a point that -- that I
23 think has been confused a little bit. You you're talking about
24 shareholder in -- in other areas other than the core area.

25 MS. NADEL: Yes, that's correct.

26 MR. WOLFE: Mr. Chairman, I guess I'm a little

1 surprised that the cabin site issue has -- has -- is a revelation
2 to everyone because there was considerable discussion about this
3 issue at our last two meetings regarding how those could be
4 developed, yet still could minimize the impact on water quality in
5 the lake, and I thought we had resolved and put that issue behind
6 us. I -- I did not know how many sites were involved, so I am --
7 do appreciate that, but -- but we have discussed this issue before.
8 I guess, one thing that we haven't talked about here and -- and now
9 that we know that it's by statute that this entitlement is -- is in
10 place, are there opportunities to -- to include stipulations within
11 those entitlements to minimize the impact on the habitat that Mr.
12 Frampton has -- has indicated this morning?

13 MS. NADEL: Yes, that's very workable.

14 MR. WOLFE: And then I guess the other question I have
15 is, are there limitations on where these shareholders are -- maybe
16 I should rephrase that, are all of you lands open to the -- aside
17 from what you would put on the core lands, are all the lands open
18 to shareholder use selections?

19 MS. NADEL: No, they're not.

20 MR. WOLFE: So, there could be ...

21 MS. NADEL: We have put our -- our own regulations on
22 certain areas that we did not want shareholders to build homes on
23 certain -- certain sites we have retained.

24 MR. WOLFE: So -- so I guess what you're telling us is
25 that you are already exercising some control over the --
26 discretionary control over the sites that are selected and that if

1 we work with you to minimize the impact on the critical habitat
2 that there's still an opportunity that we could -- could define
3 that even further and maybe build a more extensive easement or a
4 more restrictive easement, if you'd have it for the balance of the
5 lands in the other areas also, is that not right?

6 MS. NADEL: I agree with part of that, but I -- I
7 guess I don't like the terminology restrictive easement on -- on
8 the...

9 MR. WOLFE: Okay.

10 MS. NADEL: ...we're not -- now we're talking about
11 two separate issues now...

12 MR. WOLFE: Okay.

13 MS. NADEL: ...other than the core lands.

14 MR. WOLFE: Okay.

15 MR. PENNOYER: Jim.

16 MR. WOLFE: Now I -- if we're basically through with
17 this issue at this point, I would like to -- to make one statement
18 is that at the last meeting, Mr. Cole very succinctly, put the
19 concern for harvest in the Orca Narrows, potentially jeopardizing
20 our opportunities to -- to continue negotiations and so I -- I
21 think we need to -- I extend my appreciate to -- to the Eyak Board
22 and the shareholders for not harvesting timber in the critical
23 areas during this last three weeks or so of the negotiations to
24 keep this on the table, and so I think we just need to recognize
25 that they have made a significant good faith effort over the last
26 few weeks and months to -- to keep these negotiations alive. So,

1 I hope we can continue.

2 MR. PENNOYER: Thank you, Mr. Cole.

3 MR. COLE: I would like to say, I don't think we're
4 talking necessarily or needfully -- needfully talking about weeks
5 in order to either reach an agreement or abandon negotiations. I
6 think that people should be able to get in a room Saturday or
7 Monday morning and stay there until they reach an agreement on the
8 terms of these restrictive easements or whatever you want to label
9 them, or not reach agreement, and stay there until it's done. I
10 mean, there's no reason that this process has to last for weeks.
11 Just go and get in a room, work for eight, ten hours a day, and
12 either get it done or don't get it done. (Indiscernible -
13 coughing) I would say to the Trustee Council in a special meeting
14 in a matter of a few days, and see this economic hemorrhaging could
15 come to a quick halt.

16 (Laughter)

17 MS. NADEL: I --

18 MR. COLE: So, you know, I don't need a response, but
19 that's my view.

20 MS. NADEL: No, I'm not going to respond to that. I
21 just -- I don't want to be redundant in saying this, but that's
22 what this -- this proposal that you -- you all got this morning --
23 it...

24 MR. COLE: We told you all about that proposal....

25 (Laughter)

26 MS. NADEL: But, anyway, it -- some of the terminology

1 was left open for that sitting down and negotiating, and after all
2 of the hours of putting into it, we did realize that there were a
3 lot of fine details that needed to be worked out, but again, I want
4 to say that -- you know, I -- I need -- I need to know that the
5 Trustee Council is willing to act upon this so we can work together
6 with our logger. We have -- we have a cutting plan. Matter of
7 fact, we brought -- I brought an enlarged map of our original
8 cutting plan which, I don't know if any of you Trustees has -- has
9 seen that. We had it in here one day, and it was a cutting plan
10 that we had gone over to try to lessen the visual impact, lessen
11 the habitat, you know, harm. It's just, a lot of things were taken
12 into consideration. But, in order for us to come to an agreement
13 on, you know, what's going to be visual and what is going to be
14 less harmful, we need to enact something where -- where we can sit
15 down and work together on this a little more and -- and -- so we
16 can sit down and say well this is not feasible. You know, our
17 logger needs to cut here, otherwise we're going to really money and
18 for the Forest Service or whomever to come back and say -- you
19 know, maybe we can go up this way for our foresters to work
20 together. But without -- without the Trustees enacting this
21 proposal that we have put forward, I -- I -- it's -- you know, I
22 can't see us going on with it. I mean, I'm not -- do you
23 understand what I'm trying to say.

24 MR. COLE: No. Frankly, no.

25 MS. NADEL: I -- you know I'm not -- I just -- I want
26 some sort of commitment.

1 MR. PENNOYER: Commissioner Sandor.

2 MR. SANDOR: I think the commitment that the Trustee
3 Council has demonstrated both at Kachemak and in Afognak and
4 through all of its negotiations is one willingness to work with
5 landowners in the protection of habitat that have been injured by
6 this -- the spill, and that commitment is, you know, on the record
7 and -- so we want to work toward that objective. The point I want
8 to make, Mr. Chairman, is and the question I guess I wanted to ask,
9 six, one and a half acre parcels may seem insignificant out of
10 thirteen thousand acres, and I don't want to prolong this
11 discussion here, but the most crucial thing is what, if any,
12 development rights can be -- can be worked out with those
13 landowners? If they have complete freedom to do whatever they
14 wish, I think that's going to be very troubling for -- for the
15 protection of that -- of that lake and the waters, and so, what I
16 was going to ask, Mr. Chairman, is that we direct our Habitat
17 Protection and Assessment Group to -- to look very specifically at
18 -- at that and issue. And, it may well be that what we have to
19 work out in the next several days is these very tight restrictive
20 controls on -- on what can be used on those six parcels, or else
21 include in the settlement provision buying out those rights,
22 because for that kind of -- that small of a lake, I believe, just
23 from the basis of the knowledge I have, that six unrestricted
24 developments on those nine acres could really ruin what we really
25 are trying to protect. So, anyway, that I ask very specifically
26 that -- that our habitat protection and assessment group examine

1 that.

2 MR. PENNOYER: Gentlemen, the clock on the wall doesn't
3 have a battery in it. It's now eleven o'clock, I thought we need
4 a five or ten minute break and then we're going to break at noon
5 anyhow, so if we could kind of ask questions. Mr. Frampton.

6 MR. FRAMPTON: I'd like to make a motion that we postpone
7 further discussion to executive session. I really don't think that
8 it's useful to continue to discuss these details after an hour and
9 a half. I think we need to...

10 MR. SANDOR: I second that.

11 MR. PENNOYER: It's moved and seconded to delay further
12 discussion and I imagine we would come back to this again this
13 afternoon. If that's acceptable to everybody, we'll go ahead and
14 take a ten minute break and then come back and work until the
15 appropriate moment, then an hour and a half break for the executive
16 session.

17 (Off Record 11:01 a.m.)

18 (On Record 11:20 a.m.)

19 MR. PENNOYER: We ought to try and go ahead and get
20 started, if people could take their seats please, and anybody seen
21 Commissioner Sandor? Mark, Mark Fergerson, have you seen
22 Commissioner Sandor? Get started -- informational items are the
23 next two items on the agenda and for one thing I think it might be
24 a good time for Commissioner Rosier, if he would, to present his
25 fisheries report -- put these -- some of the fisheries information
26 we've been hearing in a little bit of perspective, and that will

1 probably only take a couple of minutes, so, Carl would you mind
2 doing that?

3 MR. ROSIER: Not at all, Mr. Chairman. Mr. Chairman,
4 as we all know Prince William Sound has had a number of resource
5 problems, severe resource problems that have really resulted in
6 tremendous problems for the people that live in the Sound and the
7 people that have participated in those -- the various fisheries
8 there in the -- in the Prince William Sound area. I think we've
9 tried to point these out in the past, in the work program and
10 what's indicated that there have been problems, and it was really
11 brought -- brought home, I think, starting this last spring, when
12 we began to look at what was supposedly going to be one of the
13 brighter spots in Prince William Sound, the spring herring fishery.
14 It was one of the few fisheries that have been quite healthy, has
15 been growing, and, generally speaking, it was one of the few bright
16 spots in terms of the -- of the various fisheries there in Prince
17 William Sound, since about 1989 or '90. But, anyway in '93, that
18 spring herring return turned out to be not the bright spot, because
19 it turned out that it was only about thirty percent of the
20 preseason forecast return of about a hundred and thirty-four
21 thousand tons. Basically, in the other areas of the state, the
22 herring populations were quite -- quite healthy. They were pretty
23 much as we had expected them and the harvest in those areas was
24 generally above our preseason forecast. To give some comparison
25 here on this, the Sitka Sound area in Southeastern Alaska, we had
26 forecasted a harvest in those areas of about ninety-six or nine-

1 seven hundred tons. The actual harvest and the actual population
2 was larger. The harvest was about ten thousand tons. In the
3 Kamishak District, just right around the corner from -- from Prince
4 William Sound, we had forecasted about twenty-six hundred tons of
5 harvest. We ultimately ended up with about thirty-six hundred tons
6 of harvest and, again, the population appeared to be quite healthy.
7 Kodiak, a little further around on this, again the same scenario.
8 We were looking at about thirty-five hundred tons forecast. In the
9 Kodiak area, the final -- final catch for '93 is going to be about
10 forty-eight hundred tons, and the populations again appear to be
11 quite healthy. Prince William Sound, on the other hand, we had
12 forecasted about fifteen thousand six hundred tons for the harvest.
13 The actual harvest was about a thousand tons. So, not only were
14 the -- the available fish quite -- quite reduced in terms of
15 abundance, but the fish were smaller, and those fish, they were
16 smaller by about fifteen grams, than they should have been on this.
17 Again, basically we were looking at the size of the herring in
18 these other areas as being fairly normal. And, we also observed
19 that the herring populations there in the Sound had external
20 lesions. These lesions were observed, probably a contributing
21 factor, although we don't know for sure, to the dramatic decline in
22 herring abundance. The second issue that really brought this issue
23 forward in terms of the Sound and the condition of the resources in
24 the Sound was the -- basically the -- the total failure of the pink
25 salmon returns to Prince William Sound this year. We had what
26 would be considered a very dramatic failure there, and it was

1 really, really had a tremendous effect on the people there in the
2 Sound, as they saw the failure of these run. Not only the wild
3 runs, but also the hatchery stocks as well. And, during the course
4 of the season, we had no wild stock openings at all. We barely
5 reached seventy percent of the desired escapement level, so in
6 terms of the future on wild stocks at the present time we continue
7 (tape malfunction) salmon returns this year in Southeastern Alaska,
8 for instance, we have forecasted for the '93 season a catch of
9 about fifty-three point two million. At this time, we're sitting
10 on about fifty-two million catch for Prince William -- or excuse
11 me, for Southeastern and that the escapement goal certainly having
12 been past. In Cook Inlet, again Lower Cook Inlet, we were
13 forecasting slightly under a million return, we ended up with about
14 one point one million pinks returning to the Lower Cook Inlet.
15 Kodiak, again, we were looking at a forecast of about twenty-one
16 point six million and ultimately the catch for Kodiak, a new record
17 out there of about thirty-two point seven million pinks in '93.
18 Alaska Peninsula, the same story, basically forecast of about six
19 million, the actual catch is going to be closer to ten million in
20 terms of the Alaska Peninsula. Prince William Sound, the forecast
21 for both hatchery fish as well as wild stocks is for a catch of
22 about twenty-five point two million. The actual is going to be
23 about five point five million. So, generally speaking we can see
24 that -- that there's -- there's been some impacts here, an
25 explanation of those -- of those impacts or an understanding of
26 what's caused these impacts is not -- it's not clear, but it is

1 severely affecting the people that live there, fishermen after the
2 third year of these kinds of problems there in the Sound, are --
3 are convinced, as am I, that the -- there's a problem with the
4 Sound at the present time and we've got to get to the basis of that
5 problem. And, I think with that, I'd be glad to try to answer any
6 questions that the Trustees may have.

7 MR. PENNOYER: Thank you, Commissioner. Are there any
8 questions of Commissioner Rosier at this point? Commissioner
9 Sandor.

10 MR. SANDOR: This a -- a problem on -- confirm what I
11 think we've talked about informally that this -- perhaps is the
12 serious fisheries problem in the -- that needs resolution in the
13 entire oil spill affected area.

14 MR. ROSIER: It's my estimation at the present time, I
15 think that this Prince William Sound issue is the most pressing
16 biological issue -- associated with fisheries in the oil spill
17 area, yes.

18 MR. PENNOYER: Actually Carl, statewide, except for chums
19 and AYK, its probably the most pressing salmon run problem you have
20 this summer.

21 MR. ROSIER: Absolutely. We touched only on the salmon
22 issues here on this, and, of course, there are other species that -
23 - that we know are -- have been impacted as well. The shrimp
24 operations, again, the resource is in tough shape, in terms of some
25 of the other shell fish species as well. There -- there just -- is
26 a major problem in terms of basic productivity in the Prince

1 William Sound at the present time in my mind. And, there's just
2 not many bright spots for the fishermen to in fact turn to. It's
3 a situation in which we've got major problems that's going to take,
4 in my estimation, years -- years of time before we see recovery of
5 these to where they're viable populations, to the level that
6 commercial fishermen can, in fact, expect to be making a living off
7 of these resources. And, certainly the hatchery program this year
8 is really about the only bright spot that's there. They're
9 harvesting -- they'll have their brood stock for their -- for the
10 hatchery program this year. But, again, we saw the failure of the
11 hatchery stock this year, so even in that particular arena we're
12 now seeing major problems and -- and that's been a part of the --
13 part of the fishery there in Prince William Sound that is -- that
14 has really helped considerably. It was a -- the private non-profit
15 hatchery program was a program that tied the communities together.
16 It gave them the ability to work cooperatively there, and as we've
17 seen these declines in the -- in the runs and the disasters that
18 are -- that are falling these people, in terms of loss of homes,
19 loss of vessels, loss of permits on this, basically, its -- there's
20 not a lot of light at the end of the tunnel at the present time, in
21 my view.

22 MR. PENNOYER: Thank you. Any further questions? Okay,
23 the next item on the agenda is Restoration Plan Brochure Public
24 Comments. I'm told that's an informational item, we probably
25 should be able to finish by our lunch break. Dr. Gibbons will
26 you...

1 DR. GIBBONS: Yeah, I think we can... Can you guys
2 finish in a half hour on the....

3 MS. GILBERT: Yes.

4 DR. GIBBONS: Okay. I'll introduce Bob Loeffler and
5 Veronica Gilbert who's going to present the public comments
6 concerning the brochure that was released in mid-April closing
7 comment period to August 6th. So, Bob and Veronica.

8 MR. LOEFFLER: Thank you, Mr. Chairman, members of the
9 Trustee Council. We figured that our presentation should take
10 about ten minutes, plus whatever questions you'd like to ask. So,
11 please interrupt if you've got some. What I'd like to do in the
12 way of background, sort of tell you where this fits into the
13 Restoration Plan and give you a little bit guide to what may be
14 overwhelming amount of documents on your desk, and then go through
15 some of the high points, or some of the salient points of the
16 public comment (indiscernible). But as to where this fits in the
17 Restoration Plan, a month ago we came and told you that we would be
18 here now to summarize the public comments on our way toward a --
19 approximately Thanksgiving deadline for the Restoration Plan. We
20 need to use that comment -- or that commenting to be used within
21 approximately a month to figure out policies the Trustee Council is
22 comfortable with to form the background of the Restoration Plan.
23 So, the information that's here today, the work to use it needs to
24 go on in an expedited fashion, and so if that gives a sense of
25 urgency, the information we're about to tell you, I think that's
26 accurate. With respect to the documents, you may have gotten a

1 number of things, so perhaps -- let me show you what should be
2 around your desk. In April, we sent out thirty-three thousand of
3 these newspaper brochures. Most of you have seen these, and they
4 went throughout Alaska and the Lower Forty-Eight. They were
5 followed up by -- in June by a few of these, hundred or two
6 hundred. These were a supplement with more information. The four
7 month comment period ended in August 6th, and the summary of that
8 is this yellow document. We faxed you or gave you an earlier
9 version of this, but this is the current final version is this
10 yellow document. This is the summary of public comment, and there
11 also -- they're should have been some available yellow copies for
12 the members of the public. However, this is just a summary. The
13 full public comment, everything that people wrote and said is in
14 this black volume. You also may have gotten an earlier version,
15 but this black volume is the final version. What we asked the
16 public was five -- we presented them with information on injury and
17 about the restoration process. We asked them about five policy
18 issues, policy questions, and a few detailed questions about
19 categories of restoration, and about endowment or saving account,
20 or way to -- program. Then we combined these into -- combined the
21 issues and policies and the categories into five alternatives as a
22 way to get at a sense, to show the implications of the decisions,
23 and a way to get a sense of the public what they felt was most
24 important, a sense of emphasis. The amount of comment we got was
25 astounding. Approximately two thousand people from Alaska, and
26 throughout the United States commented. They gave us their words

1 and wisdom. Now, it's possible that some of you who've worked in
2 Washington, D.C., have seen this volume of comment before. I can
3 honestly say I've not seen that on an issue in Alaska. I've not
4 seen the amount of Alaskan's comments and I've not seen the amount
5 of people from outside the state. What I would like to do now is,
6 sort of jump to a punchline, that is what people have been asking
7 me. What sense of emphasis people have given us, and then we'd
8 like to go through the issues and policies and go through some --
9 what they said in a little more detail about the restoration
10 categories -- Veronica and I together. Is that what -- what
11 you're expecting, what you'd like to hear, or do people have
12 questions?

13 MR. PENNOYER: Why don't you go ahead.

14 MR. LOEFFLER: Okay. What people -- if you'll remember,
15 the five alternatives gave an allocation of the remaining
16 settlement funds to different categories of restoration: habitat
17 protection, monitoring and research, general restoration,
18 administration, public information. And, what people came up and
19 ask -- keep asking me is, well, what did the public say about that
20 sense of emphasis? What level of importance? And, if you'll turn
21 to page five of the executive summary, there is a table which helps
22 understand that emphasis. Now, we asked people to do a couple of
23 things. They could either circle one of the five alternatives or
24 they could write in allocations of their own. It turns out over
25 fifty percent wrote in allocations of their own. So, while
26 initially you were imagining we could stand up and say -- you know,

1 X percent favor alternative three and -- there was enough people
2 who wrote in their one that we can't do that, and so what we need
3 to do is consider them category by category. Let me begin with
4 habitat protection and acquisition. There was overwhelming
5 response on this issue, and from every where in the spill area we
6 heard that it should be some portion of the plan, with the
7 exception of the Alaska Peninsula. The two public meetings on that
8 -- on the Alaska Peninsula, they kind of went -- were against using
9 habitat protection. But other than that, there was very little
10 disagreement that this should be some part of the plan. The
11 different -- the question was how much. And, the alternatives that
12 we gave people -- gave people from ninety one percent down to
13 essentially zero in the natural recovery, and when you take them
14 all together, the average of all responses was people estimated
15 that they wanted two-third, sixty-six percent of the remaining
16 settlement funds allocated to habitat protection and that's on the
17 first line of the table. Now, I'll remind you that this was a
18 sense of emphasis is how we intended the question originally. What
19 -- the responses we got did differ whether it was in the spill
20 area, outside the spill are, but in Alaska or from the Lower Forty-
21 Eight. Within the spill area it was approximately sixty percent,
22 sort of -- for habitat protection. But, that average hides a wide
23 variety of allocations and as many people picked ninety percent as
24 picked forty-five. So, within the spill area, you can imagine
25 there was -- people responded with a wide variety of how much
26 emphasis they wanted placed on this. Outside Alaska, there was

1 very little variety. Most people wrote in alternative two which is
2 ninety-one percent, or they wrote in they wanted eighty percent
3 toward habitat acquisition. Some said less, some said zero, but
4 those were by far the two most common responses. For monitoring
5 and research, there was a relatively narrow range. Most people
6 answered within nine to twelve percent of the remaining settlement
7 funds should be towards monitoring and research. A few outside
8 that range, less than a fifth said greater than ten in that. For
9 general restoration, that name hides a wide variety of activities,
10 and, in fact, we got a wide variety of responses. We got a
11 significant portion of people that said, don't spend any money on
12 this, between four -- approximately forty percent of all people
13 said that. But, the average was approximately sixteen percent of
14 all responses. For administration, there was pretty standard
15 answer. Pretty much everybody said five percent and ranged very
16 little below or above that. Endowment is an interesting category.
17 It turns out that over two-thirds of the people we asked said that
18 they favored an endowment or savings account of some kind. There
19 was significant discussion of that in the brochures and in most of
20 the public meetings. It was a lively and common topic of
21 conversation. When we asked those who favored an endowment, what
22 proportion of the settlement funds should go to it, they -- the
23 sort of median response is approximately twenty percent. Now
24 that's what people have told me is, a simple summary that hides a
25 wide variety of views among Alaskans and Americans and hides
26 diversity of views from different locations in the spill area.

1 What we'd like to do now is spend five or six minutes and go
2 through the policy issues and policy questions and in the
3 categories in a little more detail.

4 MS. GILBERT: Okay, now that we know how to spend the
5 money, let's talk about the policies that would -- would guide how
6 that's done, and as Bob indicated, in the brochure we asked five
7 policy questions. We received about seven hundred written comments
8 on those, and these were primarily responses in the brochure and
9 primarily from Alaska. There were strong preferences expressed on
10 only three of these five issues. Those three issues were injuries
11 addressed by the spill, over sixty percent of the total respondents
12 favored addressing all injuries. I'd like to go through the
13 reasons for those a little later if we have a moment. The second
14 issue on which there was a strong preference had to do with whether
15 restoration should continue after recovery, this is the enhancement
16 issue, and over sixty percent of those who addressed this issue
17 felt that restoration action should cease upon recovery, that we
18 should not be engaging in enhancement. And, the third issue on
19 which there was a strong preference had to do with location, and on
20 that over eighty percent of those who answered felt that the --
21 restoration action should be limited to the spill area. On the
22 remaining two issues, one dealing with the standard for
23 effectiveness and the other dealing with the extent to which
24 restoration action should create opportunities for human use, the
25 views were mixed. I'd like to just take a moment to list a few of
26 the reasons why people favored targeting all -- restore all

1 injured resources and services. One of the reasons was the lack of
2 data makes it difficult to measure population decline accurately.
3 Also, the ecological relationships connect all species whether or
4 not their population declined. And finally the long-term effects
5 are uncertain. However, on this issues that of the injuries to be
6 addressed, about a third of the people did feel that we should only
7 be addressing injured resources that experienced a measurable
8 population decline. The reasons were because this is the most cost
9 effective approach and also because if you can't measure
10 improvement how can you account for prudent use of funds. In terms
11 of the enhancement issue, again over sixty percent of the people
12 favored no enhancement, favored ceasing restoration actions. And,
13 their reasons were that enhancement may upset the natural balance
14 of the ecosystem, and secondly that this approach makes the most
15 out of limited funds. About a third recommended continuing on with
16 enhancement, and those reasons were that its difficult to tell when
17 certain resources and services have in fact recovered, and
18 secondly, that the increased use of the spill area since the oil
19 spill, does call for enhancement. And the third and final area
20 where there was a strong preference had to do with the location of
21 restoration action. And, two thirds of the people who responded to
22 this question favored limiting it to the spill area, and the
23 reasons were that the link to the injury is the strongest in the
24 spill area and that funds are limited and that there are a
25 substantially demand within the spill area. The primary reason for
26 considering restoration actions outside of the spill area are that

1 restoration actions outside, may in fact be more effective,
2 especially for migrating marine mammals and sea birds. And, again
3 on the final two issues, that of effectiveness and opportunities
4 for human use, the views are mixed, and on these we strongly
5 recommend that you, especially look at the comments that were
6 submitted on those issues. Let's go on to categories.

7 MR. LOEFFLER: I was going similarly go through the four
8 categories, if -- that we asked people about, and give a sense of
9 sort of the information and some of the common reasons that we
10 heard. And, I'll begin, but be brief with habitat protection,
11 because it's been a common topic. The frequent reasons we get --
12 heard, most frequent reasons we heard for those favoring it, was
13 that active intervention is -- otherwise ineffective and that
14 recovery will for the most part occur without intervening action.
15 And, that the most effective way to ensure restoration is to
16 protect it from future stress. We also heard a certain amount of
17 people feeling that agencies would squander the money and something
18 tangible, like habitat protection, should come out of this process.
19 Those that opposed frequently gave one of three reasons. First, is
20 that there is so much government land in the area, that we don't
21 need more. The second is -- and some of -- some Native speakers
22 saying that it took them so long to get their land, that -- that
23 it's an important part of their heritage and you don't want to just
24 give it up. And we got a certain number of people who said that
25 buying land is not a form of restoration. We asked for
26 recommendations of areas that needed protection and we got hundreds

1 of people recommending areas. The largest group of recommendations
2 came in what the recommendations called the citizen's vision, which
3 is seven areas stretching from Kodiak to Point Gravina, that they
4 recommended. In addition, there was -- an addition -- an
5 additional group that recommended in-holding from the Kodiak
6 Wildlife Refuge. Other areas are -- are in your yellow book in
7 Table One. For monitoring and research, there's side points I'd
8 like to make. The first is that it was a very hot topic of
9 discussion. It was discussed in most public meetings, in a lot of
10 letters and brochures. And the sense that we got, is people saying
11 essentially that something is wrong with the ecosystem. That
12 exactly what's wrong, they weren't sure of, and that what is wrong
13 is not captured in the list of injured species that we presented in
14 -- in this paper brochure. They viewed additional monitoring and
15 research activities as a way to figure out what's wrong. When we
16 asked, should we pursue monitoring and research beyond just
17 recovery monitoring and figure out if our -- if a restoration
18 project works, over eighty percent said yes, and that varied little
19 by location. The one sort of exception being that a number of the
20 Native communities, people wrote in and said what we want is
21 archeological monitoring and they wrote in the quote that
22 restoration research is a invitation to over spend, particularly in
23 basic research. The last point, is a lot people who talked about
24 monitoring, monitoring to understand the problems that aren't well
25 captured in the injured species list, they talked about it as
26 greater than ten -- it requiring greater than ten years. Greater

1 than to a period when the Exxon settlement, when the last Exxon
2 deposit is made. And, a number of those link monitoring and
3 research to an endowment. For general restoration, the brochure
4 only asked a sense of emphasis, which is the question I went over
5 before. However, people wrote in a variety of -- of topics that
6 they wanted to see addressed. The foremost comments were to clean
7 -- to further clean oil beaches and mussel beds, and we heard it --
8 a lot of public meetings, the problem were continuing around. The
9 second being a strong support for archeological projects. We heard
10 that from the Native communities and also from other areas, spill
11 area and outside. We heard a lot about the need for further work
12 on subsistence and fisheries. Finally, there was a lesser, but
13 still important comment about facilities linked to the oil spill
14 that were within communities, specifically the Seward Sealife
15 Center, Tatilek Harbor, Kodiak Fisheries Technology Center, and a
16 Valdez Visitor Center which should actual -- focusing mostly on its
17 functioning as an archeological repository. The last -- I'm not
18 going to go over administration, but the last category was one we
19 didn't ask about and that is spill prevention. That was topic that
20 come up in most public meetings and in some letters, people saying
21 that like habitat protection, it's a way to prevent further stress
22 on the environment and that the people -- a lot of people who
23 spoke, said that they felt currently unprepared, some of them for
24 another larger or lesser spill that they expected. Those are the
25 categories that we heard. I would also just touch on endowment.
26 I told you before that two-thirds of those answering said that they

1 favored an endowment, and most frequently they linked it to a long-
2 term monitoring program, that they said would take more than ten
3 years. Some also said the recovery would take more than ten years
4 and about half -- and that habitat protection, general restoration
5 should go on from some sort of endowment savings account. Those
6 opposed, most frequently, were worried about administrative costs,
7 were worried about pressing needs that would be foregone from money
8 to create an endowment, especially habitat protection. Now, those
9 are the categories we heard. I'm not going to go through injury
10 and comments on process, except to say that it was a -- that we got
11 a lot of comment on it and that it was a lively topic at the public
12 meetings and in the letters. I guess that's it.

13 MR. COLE: What was it?

14 MR. LOEFFLER: What was, sir?

15 MR. COLE: ...lot of comment?

16 MR. LOEFFLER: I'm sorry. The substance of it, that it's
17 three points. One being that the injured species list does not
18 adequately capture what happened, and that in fact there was a lot
19 more injury, the species we've listed, than we've accounted for.
20 The second comment being that there are lots of species not on that
21 list that were injured. The most frequently mentioned were fish,
22 mostly herring, pinks and sockeyes in southern Kodiak and the
23 Alaska Peninsula. But, people mentioned over thirty others. But,
24 I can't tell you how many meetings I went to where people talked
25 about being unable to eat clams because there's still oil. And,
26 the last -- I guess I said there were three, the third being that

1 when we talked about services, that services -- the injury to
2 services was vastly under rated and have not received enough
3 attention. So, that's what we've heard mostly (indiscernible).
4 That's the thumbnail view and the longer view is in here.

5 MR. COLE: Mr. Chairman.

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: I have a comment to make for those people
8 who think that we do not pay any attention to the responses to
9 these brochures, to the letters, to the -- the responses to the
10 brochures themselves and the selection of the alternatives. I want
11 to say that I have read, although not the entire summary, but I --
12 over two-thirds of the summary of the entire compilation of
13 comments which consists of five hundred and seven type written,
14 single space pages, and it's been somewhat of a monumental effort
15 and has left me somewhat dazzled by the responses and also somewhat
16 depressed by the responses. The -- the divergence of views held by
17 those responding is remarkable to say the least. If you look at
18 page, starting at least with page one hundred and five, and you
19 look at the people who there for page after page oppose the
20 acquisition of further habitat for all the reasons you've
21 mentioned, it gets somewhat -- perplexing. Then, one turns to page
22 -- in the area of hundred and sixty-four, and you start reading
23 comments from people outside which one after another reads "your
24 oil spill settlement monies offer a rare opportunity to save
25 timber," and you see "a rare opportunity," "a rare opportunity" and
26 a "rare opportunity" in response after response, one gets the sense

1 that some people who were joining together in their views. And,
2 the same is true when you get about two hundred and seventy-nine,
3 when you get repeatedly "all the Trustees are considering mussel
4 bed the contamination, they should," and it goes on for item after
5 item, after item. The reason I mentioned that is that when you
6 just take a numerical classification of these various comments, you
7 get a little be skewed, and I don't just see any way to tabulate
8 the -- the responses which were somewhat -- you might say,
9 orchestrated, not that I don't think we should consider
10 orchestrated response, but responses that were there. Then, as you
11 mentioned the Citizen's Vision Group recommended seven different
12 parcels. Do you know who is the head of the Citizen's Vision
13 Group, or where that organization is headquartered?

14 MR. LOEFFLER: I know that I've seen -- there are
15 probably people here who could answer that better than I, but I
16 know I've seen that recommendation on a variety of -- on a variety
17 of Alaska environmental groups that that recommendation came from.

18 (Indiscernible - background talking)

19 MR. COLE: Who was the -- the head of the Citizen's
20 Group? I say that because it enables us to evaluate those comments
21 more fully.

22 MR. LOEFFLER: I think its -- rather than speculating, it
23 would be better to ask Alan Phipps or Pam Brodie.

24 MR. COLE: Well, we can ask them later. I must say
25 that comments about my views are interesting. I notice that on
26 page thirty-nine, "We got the word that Attorney General Cole wants

1 to buy land and doesn't want to mess with restoration." That is
2 one, then there's my good friend in Whittier who said, "Attorney
3 General Cole, he has a military background, he's no
4 environmentalist." So, you know, take your pick. It's certainly
5 interesting weekend reading. But, we do read them and -- and do
6 our best to evaluate them. Thanks.

7 MR. LOEFFLER: I might add that there are hundred of
8 these that were xeroxed, and if we run out there will be more in a
9 day or so. And, that the full comment will be in the Oil Spill
10 Public Information Office for people who would like to look at
11 those.

12 MR. PENNOYER: Commissioner Rosier.

13 MR. ROSIER: Thank you, Mr. Chairman. Just following
14 up a little bit on Attorney General Cole's statements here. This
15 process has been an evolving process, at least for me it has been.
16 You know, for some time, and I mean, even at this -- this point,
17 now that we've had the benefit of the public comments, to the news
18 -- to the news sheet that we've sent out. Things are changing.
19 We've seen as recently as this summer, the changes in the views
20 that people in Cordova, for instance, as a result of the failure of
21 the pinks. We've got letters as recently as today, or excuse me,
22 the thirteen of September, before us here at the present time,
23 saying -- you know, asking for a totally different split of the
24 money than what has been testified by some of these people in the
25 past. So, it's not an easy job. It's something that is evolving,
26 and I hope the public will in fact bear with us as it evolves

1 there.

2 MR. PENNOYER: Further questions? Mr. Frampton.

3 MR. FRAMPTON: I'd just like to thank those who worked on
4 this. This is a really nice job of putting together the -- the
5 digest and the summary and the executive summary and made for a
6 very clear reading and a sense of not only what the responses were
7 to the -- to the newspaper-style questionnaire, but letters and
8 public comments, nice job of trying to put together what the public
9 has said over the last six or seven months about this. And, I know
10 that the Attorney General has read most of this because he proved
11 it to me yesterday afternoon by pointing out various comments in
12 you overall digest, although, I hadn't realized that he approached
13 this the way some people do with a new history book, that the first
14 thing they do is look to the index to see their name and find out
15 where (laughing)... I wouldn't have thought to approach that way
16 myself. This is a nice job. I think it really is going to be
17 very, very helpful, in spite of the diversity of responses, in
18 guiding us now in arriving with all deliberate speed at a
19 restoration plan, and I think it's timely and nicely done. So
20 those of you who were involved should -- you know, feel good about
21 this effort.

22 MR. PENNOYER: Mr. Sandor.

23 MR. SANDOR: I want to echo the compliments for the
24 excellent -- for the fine job on summarizing comments. With regard
25 to the points that Carl Rosier raises on the changing views and
26 particularly, I guess, the fact that 1993 pink salmon crash really

1 came after most of the comments were in -- does require us to give
2 consideration to that. I guess, I just raised a question for the
3 Trustees, is that the Public Advisory Group will have an
4 opportunity to look at this, and my guess is (indiscernible -
5 coughing) on that particular issue. Thank you for a job well done.

6 MR. PENNOYER: Yes, thank you very much for your report.
7 Anything further to add at this time? Okay, I see it's now two
8 minutes to twelve. Dr. Gibbons, do you have something?

9 DR. GIBBONS: Just briefly. Bob mentioned that the
10 comments would be over in OSPIC, they will also be sent to the
11 affected communities' libraries so people out there can look at the
12 responses also, so they will be distributed.

13 MR. PENNOYER: Thank you very much. I think with that
14 we'll break for lunch and our executive session and reconvene at
15 1:30 or shortly thereafter so we can finish our business.

16 (Of Record 12:00 noon)

17 (Scheduled executive session 12:00 noon - 1:55 p.m.)

18 (On Recored 2:09 p.m.)

19 MR. PENNOYER: I think -- could report we had an
20 executive session and discussed the executive director position,
21 we're continuing to discuss that, so it's still in progress and
22 we'll report back when we finish that process.

23 MR. COLE: Mr. Chairman.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: Do you suppose it's appropriate to say
26 we're still talking to each other.

1 MR. PENNOYER: Appropriate to say we're still talking to
2 each other, everything is working out fine. So -- having come to
3 that conclusion, I think we can go ahead and proceed now, and I
4 think what we'd like to do, if nobody has any objections is return
5 to the Eyak discussions. We have a couple of hours left this
6 afternoon until the advertised public hearing, and I understand
7 that Eyak people are hear and I think we'd like to conclude or at
8 least, as much as possible, conclude those discussion -- the next
9 item on the agenda. Mr. Cole, did you have anything?

10 MR. COLE: No, I was just going to say....

11 MR. PENNOYER: So, I understand there is another
12 presentation from Eyak in the mill, would you care to do that at
13 this time before we continue our discussions on -- further on the
14 topic? If there's something else for us to consider, we probably
15 ought to hear it before we spend any more time talking about
16 something that doesn't exist. Thank you very much.

17 (Aside comments)

18 MS. NADEL: I'd like to get you some copies of this so
19 you can go over it with me while I....

20 MR. PENNOYER: Okay, are these being made right now.

21 MS. NADEL: They are being made.

22 MR. PENNOYER: Do we have some?

23 MS. NADEL: Do you have copies -- Eyak revised offer?

24 MR. PENNOYER: I guess, we have enough that we can share.

25 MS. NADEL: ... and the map that has little birds that
26 look like airplanes, large eagles.

1 (Aside comments)

2 MS. NADEL: Eyak revised offer, core tract one -- core
3 tract area proceed forward as proposed, twenty-one point four
4 million, plus the following added options each separately
5 available. Number two, timber rights easements on the other lands
6 as proposed, fifty million cap. Number three, fee land or highly
7 restricted easement similar to core lands on the following: (a)
8 Windy Bay -- excuse me, (interrrupted by counsel) I'm sorry --
9 number three (laughter). Number three, fee title or highly
10 restricted easement -- easement similar to core lands on the yet to
11 be agreed upon lands in the following areas: (a) Windy Bay, (b)
12 Sheep Bay, upper, (c) Olson Bay, (d) Parchees Bay. Each of the
13 above parcels subject to a shareholder vote separate from the
14 others. The fair market interest for the above parcels would not
15 be subject to the fifty million cap. Four, timber operations at
16 Orca Narrows, cease only if (a) two million secured by Power Creek
17 timber, paid in thirty days from today, (b) three point five
18 million secured same, paid at the completion of agreement or seem
19 to be forty-five days from today, (c) above amounts are offset
20 against purchase price. Fifth, number four item is available upon
21 number two, and three conditions being met. The monthly time
22 payments are critical to the Eyak Corporation.

23 MR. PENNOYER: Care to ask any further explanation, or
24 just respond to questions?

25 MR. LINXWILER: Perhaps, I could lend just a little bit of
26 narrative to that. I believe it was perhaps four days ago or five

1 days ago that these particular areas that are incorporated in here
2 as an additional option, Windy Bay, Sheep Bay, Olson Bay, Parchese
3 Bay, were first identified to us as areas of specific concern by
4 the habitat protection subgroup, and we had not previously
5 incorporated those areas into our proposal simply because they had
6 not yet been identified, and our prior proposal involving a very
7 broad timber rights acquisition over the -- all of the lands
8 category was intended to respond insofar as the board was able to
9 on a very wide range of lands. We aren't diminishing what we
10 believe to be a significant habitat protection importance of taking
11 us out of the timber business on all of these lands because that,
12 we think, is the imminent threat to these lands, from development
13 in the foreseeable future. But, we're also seeking to respond as
14 quickly as we can to the identified sites. Now, the -- the sites
15 are identified on a map, and the sites unfortunately identify
16 perhaps too much acreage to be protected, and so that -- when we
17 say these are lands that are yet to be agreed upon, Eyak and the
18 Council or its staff would need to agree upon where specifically
19 we're talking about because they're very large circles. I have a
20 black and white version;, I see Commissioner Sandor has a colored
21 version of this same map. The lines drawn on the map are very
22 large and very inclusive, and again as I've said earlier, the board
23 of directors of Eyak have made fairly clear that -- you know these
24 lands are the company and the company is not for sale, so we need
25 to reach an accommodation on which lands are truly the most
26 important lands. But, we are trying directly and as speedily as we

1 can to respond in that respect, and then with respect to a timber
2 moratorium at Orca, perhaps I could let Donna describe her thinking
3 on that a little bit further.

4 MS. NADEL: After speaking with our forester and also
5 our logger, it -- the plan that was devised -- the plan B, I don't
6 know if you've all seen that, that -- that's not feasible, and so
7 for us to go out there and try to log and build the road, and log
8 for only forty-five days, it's -- it's just not economically
9 feasible. It would be more feasible for us, I -- to not go out
10 there at all. It would -- to pay our logger not to even go out and
11 start logging. (Aside comments with counsel) So I guess the key
12 to making it work is the two million secured by Power Creek timber,
13 the three point five million secured, the same paid at completion
14 of agreement for same, and the money is a very critical factor to
15 Eyak Corporation. Without taking -- now I hope you take all that
16 into consideration.

17 MR. FRAMPTON: Could I ask you a clarifying question,
18 without...

19 MS. NADEL: Yes.

20 MR. FRAMPTON: When you say two million dollars secured
21 by Power Creek timber, what do you mean by that?

22 MS. NADEL: I'll let Jamie answer that.

23 MR. LINXWILER: We -- we wrote this revised offer in
24 somewhat shorthand format. It's -- it's difficult for me to
25 remember that none of you have been in all of our conversations.
26 The concept is a very familiar to those of us who've been

1 negotiating together for awhile. But, it basically means giving a
2 security interest or title to the timber rights up Power Creek,
3 which as we understand it is one of the highest of the habitat
4 value areas, in that amount it would require some opinion of value
5 or something to substantiate the dollar values of the timber there.
6 And, that upon completion of that sort of security agreement, which
7 we feel we can get together very promptly, then money would be paid
8 within thirty days to Eyak to cover very short term cash flow
9 needs, and then as it's set out here, more money would be paid very
10 soon thereafter, in the next fifteen to thirty days, to help us get
11 closed out in our logging operation.

12 MR. FRAMPTON: I understand that, but -- security
13 interest, a short term security interest?

14 MR. LINXWILER: No, it would be the conveyance
15 (indiscernible - simultaneous talking).

16 MR. PENNOYER: Government or...

17 MR. LINXWILER: It would be a -- it would be a conveyance
18 of timber rights for an extensive period of time, probably in
19 excess of twenty-five years. The details are yet to be worked out.
20 I believe Sherestone has about twenty-five years left in its timber
21 contract. For -- in return for the money. In other words, you
22 would take the timber off the market, end the threat to the timber.
23 This is something that we've talked about with the Nature
24 Conservancy and the Forest Service a number of times, and I don't
25 know who says -- non-refundable is a little bit -- it would be
26 applied to the purchase price to the entire transaction. It would

1 be done, obviously, only if you're planning on going ahead with the
2 entire transaction because it would be a set off against the
3 purchase price and the remaining transaction. And, as we've
4 earlier -- I think we say it at the bottom....

5 MR. FRAMPTON: (Indiscernible - simultaneous talking)
6 security, is that a buy back of timber already sold to the company
7 by Eyak? One doesn't ordinarily secure a cash payment that's non-
8 refundable, a credit.

9 MR. LINXWILER: I understand that our vocabulary is a
10 little bit fractured. What we're talking about doing essentially
11 is marketing the timber rights that Sherestone has onto the
12 government, on to the Council, or the Forest Service, whoever would
13 be the acquiring agent.

14 MR. FRAMPTON: It's our way to get an assurance....

15 MR. LINXWILER: It's your way to get an assurance.

16 MR. FRAMPTON:timber already sold (indiscernible -
17 simultaneous talking).

18 MR. LINXWILER: It's your way to get value for money, your
19 way to get the loan secured, although I think you correctly and
20 quickly came to the point that it's not really security, it's sort
21 of an interest conveyed for a cash payment. We can call it a
22 security agreement, you can call it a sales agreement, however you
23 would like to do it, Mr. Frampton, it's not important -- the
24 labels. But the idea is that the government extracts something of
25 value in return for the release of funds. Now, the funds would be
26 set off against the purchase price, so it would be that aspect of

1 it as well.

2 MR. SANDOR: Mr. Chairman.

3 MR. PENNOYER: Yes. Commissioner Sandor.

4 MR. SANDOR: Mr. Chairman, I move that the Forest
5 Service and the representative of the Department of Law be
6 authorized and directed to negotiate with Eyak Corporation and make
7 a presentation, including a more detailed evaluation of this or
8 alternative proposals for executive meeting Monday.

9 MR. PENNOYER: Is there a second? Further discussion?

10 MR. COLE: I will second it after (indiscernible -
11 coughing) discussion. Either way.

12 MR. PENNOYER: Thank you. The motion's been moved and
13 seconded, would you care to elaborate on your motion, Mr. Sandor.

14 MR. SANDOR: Mr. Chairman, a number of specific issues
15 are not clear as written. I do not believe that we can take the
16 time here to resolve them adequately, particularly some of them, at
17 least two of them deal with the contractual reference as I
18 discussed earlier, and so give me an opportunity and my staff --
19 have an opportunity to evaluate that between now and Monday, and...

20 MR. PENNOYER: Mr. Sandor, is that tomorrow and over the
21 weekend? These negotiations would occur such that we could convene
22 an executive session of this group sometime Monday?

23 MR. SANDOR: Yeah, we're doing that anyway for the
24 executive director. I'd like to uphold, at least -- I'd be
25 prepared at that time to deal with this issue as well.

26 MR. PENNOYER: Further discussion? Mr. Cole.

1 MR. COLE: I don't think that meeting is for Monday.
2 I agree with the first part of the motion, itself, and just add
3 that group who's been nominated to work this problem and when it
4 gets the negotiations to a point they think that the proposals
5 should be presented to us that then be done.

6 MR. SANDOR: I'd like a progress report Monday, I guess
7 that's...

8 MR. PENNOYER: Mr. Frampton.

9 MR. FRAMPTON: I will vote for the motion. I have some
10 questions about this and I have some -- you know, one or two
11 concerns, but I have to say that I think that you're -- my
12 understanding is a basis for the motion, at least it's -- my own
13 feeling is that this represents -- you know, a real basis for
14 reaching a fairly prompt agreement here and that you have -- you
15 know, put something on the table that we can work with and work
16 with quite quickly to reach a final agreement. Whether it can be
17 done in three days or six days or what, I agree with Charlie. We
18 may not be able to have this wrapped up and considered by Monday
19 afternoon, but I think that this is -- this is the direction that
20 I'd hope we could go and go quite quickly to see if we can reach an
21 agreement here that met everybody's needs. So, I'm really
22 heartened by this and I appreciate your -- the work you've done
23 over lunch to try to move this forward. I think we're really
24 getting some place, and I would hope -- you know, within a week or
25 -- we could perhaps wrap this up.

26 MS. NADEL: Can I respond to that?

1 MR. PENNOYER: Sure.

2 MR. FRAMPTON: Your -- you came here today looking for
3 something from us.

4 MS. NADEL: Yes, and I agree.

5 MR. FRAMPTON: ... and I -- I want to be in a -- I would
6 hope that at least through our expressions we could ...

7 MS. NADEL: I agree. We're willing to take the time
8 to work it out, but we're back to number four. I mean, we have to
9 go out there and log. We have a logger that we have a contract
10 with, and so we're back to number four again. And, you know, it's
11 hard for me to walk away with this unresolved, and -- because we
12 will be out there logging tomorrow, and -- you know, I -- I -- you
13 know, it's -- I don't want to -- you know, be so -- I don't want
14 to be hard-lined about this, but -- but we have to go out there and
15 log tomorrow unless we can -- you know, get -- if we can get you to
16 comply with number four.

17 MR. FRAMPTON: Well, personally -- you know, you have put
18 a concept on the table here, which it seems to me that I'm
19 certainly ready to consider, and I think others are too, which is
20 that if we can work out an arrangement where you get a payment up
21 front, with an agreement, which could be credited toward the second
22 part of this, that that is something that we might consider in
23 order to deal with the logging over the next six to eight months.
24 Alternatively, it may be that the negotiations over the next couple
25 of days, there are other ways to do the same thing, including some
26 kind of a payment that goes to a buy out that puts these people --

1 same people to work doing restoration in the area. There may be
2 three or four ways to achieve the same objective. I'm not sure
3 this is the only one, but -- but this is certainly a concept that
4 I'd be prepared to -- to see worked out in the negotiations and
5 there may be others. But, this is not the forum in which we can
6 really resolve that.

7 MR. LINXWILER: The meeting has just gotten started, but
8 I detect the need to take a -- about a two minute sidebar, if we
9 could? If we could do that without disrupting your operations too
10 awful much in this meeting?

11 MR. PENNOYER: If you want to make a two minute sidebar,
12 you right ahead. We'll stand at ease for two to five minutes.

13 (Off Record 2:25 p.m)

14 (On Record 2:35 p.m.)

15 MR. PENNOYER: We -- we stood at ease for five to ten
16 minutes, Eyak went back out to discuss something, wants to make a
17 further presentation to us, I believe, which they're still
18 drafting.

19 MS. NADEL: Well we're willing to have our logger stay
20 off the ground for five days at Eyak's expense if the concept is
21 approved in five days, the concept sale.

22 MR. PENNOYER: Trustee Council questions or comments?

23 MR. COLE: I call for a question on the motion.

24 MR. WOLFE: First, (indiscernible) question if I could
25 first, please.

26 MR. PENNOYER: Yes, go ahead.

1 MR. WOLFE: The involvement of a person from DOL in
2 the -- in the negotiation process at this point in time would be as
3 a technical advisor to the team, as needed, John?

4 MR. SANDOR: A full partner. And all that implies.

5 (Laughter)

6 MR. PENNOYER: All that implies....

7 MR. WOLFE: I'm not sure what all that implies.

8 MR. PENNOYER: I was asking the question and John added
9 that all implies, it doesn't elaborate on that.

10 MR. SANDOR: Well, Mr. Chairman, I think it's essential
11 to have that legal expertise involved and -- and the success that
12 was involved in the Kachemak and the Afognak processes, I simply
13 want to see applied -- and that was applied in the full partnership
14 basis. That's all.

15 MR. PENNOYER: Mr. Frampton.

16 MR. FRAMPTON: John, I agree a hundred percent that we
17 need to put together a team to see if we can get this worked out as
18 quickly as possible, particularly in light of Eyak's coming back
19 with a very promising position here, but I would ask you not to,
20 since the Forest Service has been the lead on the team, not to put
21 form over substance and amend your motion to -- you know, specify
22 the technical advice, and I'm sure these people have worked
23 together as colleagues and will continue to work together as
24 colleagues. That makes it a little more acceptable to everybody.
25 I would ask you to amend your motion accordingly.

26 MR. SANDOR: That's fine.

1 MR. PENNOYER: Second agreed?

2 MR. COLE: Yes.

3 MR. PENNOYER: Any further discussion? Did you have any
4 further observations you wish to make?

5 MS. NADEL: Yes, I have one more, and let me reiterate
6 myself here on number four -- this will have to be looked at
7 within, you know, the five day period, and the money has to be
8 considered.

9 MR. PENNOYER: Question?

10 MR. COLE: I don't understand that the money has to
11 be secured, but what do you mean, if you don't mind telling me?

12 MS. NADEL: Well, I guess it all gets back to -- we
13 have a contract with our logger -- you know, just like I said
14 before and we cannot afford to sustain 'em for -- you know if in --
15 period of time, I mean it just...

16 MR. FRAMPTON: I think ...

17 MR. PENNOYER: George.

18 MR. FRAMPTON: I think I can clarify this. I think when
19 you say the money must be secured, you mean you want the promise to
20 pay, that that has to be part of it.

21 MS. NADEL: Yeah, yeah.

22 MR. FRAMPTON: The security that's involved here is
23 actually against your interest ...

24 MR. LINXWILER: That's right.

25 MR. FRAMPTON: ... for the interest of the Forest Service
26 which cannot advance -- cannot buy an option, as I understand it.

1 And, so we're the ones that have to take the security from you.
2 You would rather not have security, but we have to do it if we're
3 going to do it this way in order to comply with federal acquisition
4 laws and policies.

5 MS. NADEL: Yes.

6 MR. FRAMPTON: But, I think what you're saying is that
7 one way or another you need a conceptual arrangement that gets some
8 money to deal with the logging problem up front, and I think we
9 understand that, and that is the basis on which we want to try to
10 explore quickly, this or other ways to do that.

11 MR. PENNOYER: Is there any further discussion or
12 questions on the motion? As I understand it, we would try to come
13 back in executive session on Monday and review progress. Is there
14 any objection to the motion? (Pause - no audible objection) It's
15 approved then. Do you have anything further you'd like to say or do
16 you have a lot to say over the next few days.

17 MS. NADEL: Thank you for your time listening with
18 this and sitting here with this and that's about all, I hope we can
19 resolve this with you in five days.

20 MR. PENNOYER: Okay, thank you very much.

21 MR. COLE: Does the five days start tomorrow morning?

22 (Laughter)

23 MR. PENNOYER: Okay, so we'll proceed on past Eyak.
24 We've concluded item one on the agenda and an hour and a half left
25 until the public hearing. Would -- Mr. Gibbons what do you suggest
26 we go to next. We've completed items one and two on the agenda,

1 sorry, I didn't mean to diminish our work -- our accomplishments.
2 So, we're going now to item two the '94 work plan and budget.

3 DR. GIBBONS: That's -- Mr. Chair -- that's what I
4 prefer to do.

5 MR. PENNOYER: Well we might go -- whether we finish or
6 not, we might as well dig into it, so let's start there. Dr.
7 Gibbons would you introduce that topic to us and...

8 DR. GIBBONS: Yeah, I'm going to -- this topic here is -
9 - is going to be spread into two presentations. I'm going to
10 present briefly the 1994 work plan, how we got to where we are, and
11 then Mark Brodersen will try -- will explain the budget package in
12 front of you. I apologize right off the bat. We worked 'til late
13 last night to prepare a summary, you have one of those in front of
14 you. It's about a ten page, twelve page document of the budget,
15 and it breaks down the various work groups and those types of
16 things by -- by task and money, but I -- I apologize, we just
17 finished it late last night for your review. A little history of
18 how we got where we are, at the March 23rd Trustee Council meeting,
19 you directed the Restoration Team to do away with the 1994
20 framework that was developed and send out for public review a
21 listing of two hundred and ninety-seven potential project titles
22 for -- for public comments. This was completed on April 19th --
23 thirty day public comment period closing May 20th. All total, we
24 ended up with a total of four hundred and twenty project titles,
25 which we presented to the Trustee Council on June 2nd. The Trustee
26 Council on June 2nd directed us to develop a listing of the top

1 fifty projects and a secondary listing of fifty projects for your
2 review, and the decision on which to develop into three page
3 project write-ups. That was sent to the Trustee Council late in
4 June, changes were made to the -- to the listing of top fifty and
5 the second fifty, leaving us with a total of sixty-one in the top
6 listing, that you agreed we should develop a three page project
7 description and detailed budgets for. This listing has been
8 prepared and given to you, the three pages at the end of the budget
9 instructions are -- the detailed budgets are in front of you. What
10 we're asking today is on, in regards to the 1994 work plan, and not
11 the budget, is to send out the three page -- three to five page
12 project descriptions for public comment. However, before you do
13 that, we need you to deal with Project 94126, which is the habitat
14 protection acquisition project. What's in there now is just
15 funding necessary to collect data and provide the input for habitat
16 protection analyses and does not provide funding for the
17 acquisitions. Last year you put a placeholder number of twenty
18 million in there, in '93 you spent close to thirty-eight million.
19 And that's -- we need a number from you for that project, some kind
20 of a range that we can -- we can get to the public for public
21 comment. After the '94 work plan is sent out for public comment,
22 the Restoration Team will come to you in December with a
23 recommended 1994 work plan. The projects -- I (indiscernible) the
24 projects in here did not all meet Restoration Team concurrence.
25 There's some disagreement on the projects in the package, but the
26 package we're requesting to be sent out for public comment so we

1 can review public comment and we can review peer review of this
2 package, which we will complete also to give you a recommended
3 package in December. If we can, last meeting you directed us to
4 develop a five million dollar ecosystem study. We've got some
5 ideas on that. Mr. Pennoyer identified it as a separate item on
6 the agenda, and if we could deal with it at that time, that would
7 be good, or we can deal with it in the '94 package, but we have
8 some -- some thoughts on that and how we're to approach that.
9 Basically, that's the '94 work plan. How we got to where we are.
10 Again, there's sixty-one projects in the work plan, and I'll now
11 turn it over to Mark Brodersen and -- and have him briefly talk
12 about the budget again.

13 MR. PENNOYER: Mark.

14 MR. BRODERSEN: Mr. Chairman, do you want to go on to the
15 budget now or do you want to deal with the -- the work plan and the
16 brief project descriptions, and then go on to the budget? What's
17 your pleasure?

18 MR. PENNOYER: Well, I'd kind of like to know -- take up
19 the question soon -- I'd kind of like to know what the total amount
20 we have to deal with is and some other aspects as well. So, maybe
21 you should just give us the numbers too, and let's look at the
22 whole package, depending on how long that takes, then we'll have
23 everything in front of us.

24 MR. BRODERSEN: You'll have to excuse me, I put together
25 a presentation here based on you having gone through the work plan,
26 so I -- get myself organized in just a moment.

1 MR. PENNOYER: Well, I guess I don't understand exactly
2 what your question was then. If your question is -- you say go
3 through the work plan, but without understanding any of the
4 numbers. I'm not clear what your question is of how we want to
5 proceed.

6 MR. BRODERSEN: The action item that we're requesting on
7 the work plan is being able to -- getting the go ahead to send it
8 out to the public. Decisions on the work plan, in terms of
9 implementation are not being requested until a January meeting, and
10 as Dr. Gibbons was saying, we'll give you a recommendation as to
11 what you might want to implement at your January meeting, in
12 December. So, that there are decisions -- decision today that the
13 Restoration Team is requesting on the work plan is permission to
14 send it out to the public for public review and comment at this
15 time.

16 MR. PENNOYER: Mark, I think the sense will be that
17 people will want to have some idea of the amounts involved versus
18 the total available before they make that policy decision -- where
19 the things at (indiscernible - simultaneous talking) I don't think
20 you can divorce the two entirely, although I do understand this
21 further review on the budgets going to be...

22 MR. BRODERSEN: Given that, then I will try to make a
23 presentation on the budget and actually cut the presentation in two
24 since there's a couple of separate action items on the budget. The
25 action items on the budget are, the first one we want to send --
26 we're requesting permission to send the budget out for public

1 review along with the work plan, and then the second action item
2 that I'll leave until later, if it's okay with the Council, we're
3 requesting approval of an interim budget. So, with that, I'll go
4 ahead and try to explain the budget very quickly, if that's
5 alright?

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: Could we take those in reverse order. I
8 can see my thoughts, if we took them in reverse order, then we
9 could then deal with the ones that -- we -- we are required to deal
10 with and get those out of the way today, and then, go to the next
11 stage. Because I think what we need to do at some juncture here is
12 see where we are on the restoration plan, and how that ties in to
13 the work plan. Is that generally agreeable with the Trustees or am
14 I out in deep center field?

15 MR. PENNOYER: Mr. Frampton.

16 MR. FRAMPTON: I think that would be useful, but let me
17 ask you to clarify this. My understanding is that what you've
18 given us is a list of projects and studies which with budgets
19 attached for fiscal '94 and there are how many of those in total,
20 sixty some?

21 MR. BRODERSEN: Sixty-one.

22 MR. FRAMPTON: And then, that's one piece of this. Then
23 there are the four line items that together we might call the
24 administrative operations: the executive director's office, the
25 Restoration Team's support, Public Advisory Group and Finance
26 Committee. Those are four that together have an annualized budget

1 of about five point five million dollars, and that's the
2 administrative support piece. And then a third possible piece, I'm
3 not quite sure I can tell from this is the -- the item for the cost
4 of continuing to prepare this winter papers on research projects
5 that have already been completed or ongoing. So that's a third
6 item. Separate and apart from the other two.

7 MR. BRODERSEN: Yes, I'll go ahead jump into the
8 (indiscernible - out of range of microphone).

9 MR. FRAMPTON: Well, I think what Mr. Cole was suggesting
10 is that those are three pieces, all of which relate to budget, that
11 we may have to address on an interim basis at least, and -- that we
12 might focus on -- my understanding is of the sixty-odd projects,
13 not the administrative piece, but -- that are in this thick
14 document here that you propose to send out for public comment, that
15 there are -- you are -- you have selected seven or eight that you
16 feel definitely need to be addressed in the next couple of months
17 because they must be started now. Would it be useful to try to
18 take those up first?

19 MR. BRODERSEN: Mr. Chairman, there are nine projects,
20 some continuing, some new, that the Restoration Team is
21 recommending be funded in the period October to January, so that
22 they can carry on. I have a list of them here, identified --
23 actually, let me back up just a moment. There's nine project in
24 that situation, there are the four pieces that you identified,
25 which I will call staff support for shorthand here, there are also
26 the reports for the '93 field work is another block, and then

1 there's a block of projects that need a NEPA analysis done on them
2 prior to the January meetings that you're in a position to make
3 decision on them come January. So, there's a few other small
4 pieces in there too. And, I can take up any one of those parts
5 that you wish to take up at this point in time.

6 MR. COLE: Mr. Chairman.

7 MR. PENNOYER: Mr. Cole.

8 MR. COLE: I move that we first deal with the staff
9 support financial items so that we have the assurance that as of
10 October 1 we will have adequate funding for the essential staff,
11 followed by, then, the reports on the '93 field projects and
12 lastly, the essential projects that must be dealt with at this
13 time.

14 MR. PENNOYER: Any further discussion of the order we
15 wish to take this in? Any comments for the Restoration Team? I
16 think the words "at this time" need to be explored at some point
17 here. I'm not clear on how this work plan and other things we
18 required fit in, in terms of timing, if we only dealt with these
19 initial three items at this meeting. And, at some point we need to
20 discuss and get some feedback on it, but that doesn't stop us from
21 going ahead and starting with the three that you mentioned.

22 MR. COLE: Mr. Chairman, what I had in mind was that
23 after we deal with these, what I would term essential items of
24 financial matters, then we can address what we want to do about the
25 overall '94 work plan projects, and the restoration plan. It seems
26 to me that we should get the essential items done first. That's

1 all I'm proposing.

2 MR. PENNOYER: Fine. Mark, do you have any problem doing
3 that?

4 MR. BRODERSEN: No, that's fine, I'd be glad to do that.

5 MR. PENNOYER: Any questions from the Trustee Council on
6 this process? Why don't you go ahead and proceed then with the
7 three first items as outlined by Mr. Frampton and Attorney General.

8 MR. BRODERSEN: What I've just handed out to you is a
9 summary sheet -- sheets or summary pages of the very first section
10 of your budget. It what we're calling a one -- form 1B for an
11 interim project budget. I've color coded the various projects to
12 make them a little easier to find and talk about during a
13 discussion here. What Mr. Cole requested are the ones in pink
14 which is to say I'm calling them the interim staff support. This
15 summary that you've been given is by agency and the pink ones are
16 the ones in each place -- for instance in my own agency on the
17 first page, we have a request in both the executive director's
18 office, finance committee, Public Advisory Group and Restoration
19 Team support. The total amount for this for the interim is -- this
20 is on the last page, page 7 of 7, in the right-hand column at the
21 bottom, that's four point three million dollars. At your previous
22 meeting you authorized this one point one million for the Simpson
23 Building staff support and the building itself, so what we're
24 talking about here today is two point one million on interim staff
25 support at this time. Three? Pardon me. No, we're talking about
26 two point one million today, you've already authorized one point

1 one million. Guess, oh, I'm sorry. The four point three million
2 that I gave you included the interim fuel projects also, so that
3 the total in staff support for the interim period is three point
4 two million. You've already authorized one point one million of
5 it, and we need to talk about two point one million of it here
6 today. Do you want to get into line items on this, or what's the
7 group's pleasure in proceeding on this?

8 MR. FRAMPTON: You've done this color chart on the seven
9 page summary that breaks everything down by six agencies, and
10 that's rather difficult to parse(ph). You have another seven page
11 summary that's done not by agency, but by function.

12 MR. BRODERSEN: We have -- we have ...

13 MR. FRAMPTON: And, according to that chart, basically
14 the four administrative or staff support functions that we're
15 talking about here now, you have an annualized budget of five point
16 five three eight million dollars. It doesn't show that way on your
17 chart, but that's what you get when you add the four items
18 together. And, now you're saying that we have already approved
19 some of that five point five three eight million for the year's
20 lease and some other items to go on beyond October 1, is that
21 right?

22 MR. BRODERSEN: Yeah, if I may, Mr. Chairman, break in for
23 just a moment. Several of the contracts that go into staff support
24 require up-front funding for the entire year, such as the one point
25 one million that you approved last time. It will be the contract
26 for the entire twelve month period. Under both the state and

1 federal systems, you have to have dollars in hand to be able to
2 encumber them to go forward with the contracts. So, like for
3 instance on the building lease, we have the entire amount already
4 authorized to us for the year; for the CACI contract for support
5 staff for the building, you authorized that to us for the entire
6 year. The other big item in here that we need authorized for the
7 entire year is the six hundred thousand dollars for the Chief
8 Scientist and peer review contract. And, then after that what's
9 left in the request for the interim period is -- is one-third of
10 the amount -- yeah, one-third of the amount of money we need to go
11 for the rest of the year. So, you're annualizing it out. We may
12 or may not have given you the correct number in terms of the
13 analyzed cost. If we go into -- I have these forms here, I can do
14 -- sorry, I just don't have the annualized costs off of the basis.

15 MR. FRAMPTON: Actually, you know, the minutes will --
16 you know, if I'm wrong, the minutes will obviously correct me, but
17 my recollection of the last meeting was that we did not approve an
18 annual amount for either the CACI contract or the Chief Scientist
19 contract. My recollection, is number one, that -- we gave specific
20 instructions to go back and investigate the CACI contract, we did
21 not want to commit all of that to a year in advance, and number
22 two, that with respect to the Chief Scientist contract, you told us
23 or the staff told us that -- that was something that was done on a
24 time-as-it-goes-along basis. My recollection is we did not
25 authorize for fiscal '94 the full amounts for either of those
26 contracts. I may be wrong, that's my recollection.

1 MR. BRODERSEN: My recollection is you did not for the
2 Chief Scientist contract and we were figuring that one out, but
3 that you did for the Simpson Building contract.

4 MR. FRAMPTON: For the lease.

5 MR. BRODERSEN: For the Simpson Building contract. The
6 whole Simpson Building support, which is ...

7 MR. FRAMPTON: Well, as I say, the minutes will correct
8 me if I'm wrong in my recollection. I -- my understanding at the
9 time was that I certainly did not intend to vote for a contract
10 that I pointed out, for temporary -- you know, contract assistance
11 of employees. There was no reason to commit for a year in advance
12 to that, or budget for it, and they should be approached about
13 whether they would do it on a month-to-month basis, particularly as
14 we expected to be on a completely different operating basis by the
15 end of the calendar year. That's my recollection, that's what I
16 intended to do. If I voted for the lease realizing -- not
17 realizing that I voted for the entire CACI contract, I did. But,
18 in any event, I did have most of yesterday to go through the
19 budget, being captive on an airplane, and I -- I do have concerns
20 about voting for any interim budget of any kind that assumes this
21 annualized rate of five point five million dollars. For example,
22 there's quite a bit of equipment in that budget, seventy thousand
23 dollars for new computers, computer equipment that I don't think it
24 would be particularly wise for us to approve, right now until we
25 see what the new executive director and new core staff will need in
26 the way of additional equipment. And, I was also concerned by the

1 fact that in the budget is about six hundred and fifty thousand
2 dollars for a restoration plan writing, basically, and my strong
3 feeling is that we need a restoration plan in the next thirty days.
4 We need it on the street, and we don't really -- I'm not very
5 comfortable about having a '94 work plan until we have a
6 restoration plan on the street. Now we have the public comment, I
7 think we should be in a position to get that out. And, if we do
8 that, then we don't need the six hundred and fifty thousand dollars
9 to write a restoration plan because we'll have written it. So,
10 looking at authorizing three or four months of running rate at five
11 and a half million a year, troubles me. I don't know how we
12 approach that because we want to make sure that there is adequate
13 funding and support for staff operations for the next, let's say
14 first three months of the fiscal year, and we want to make sure
15 there's adequate money so that people who have done research work
16 get the papers prepared and work on the data preparation, and so
17 forth. But, I -- you know, and I'm certainly prepared to vote for
18 three month budget for these four functions and the paper writing,
19 but not at this level and not for a lot of the capital expenditures
20 and so forth that are in here. One approach might be to simply --
21 for us to authorize an amount of money that is somewhat less than
22 this, but which will enable you to operate over this four month,
23 three month transition period and have you come back to us with a
24 budget that does not buy new equipment unless essential and fits
25 within it if you can. Another possibility might be to go through
26 this line by line, but that could take us quite a while. But, I

1 think that to go forward with the five and half million year
2 budget, even the first three months of it based on my analysis of
3 this, details troubles me a lot.

4 MR. COLE: Mr. Chairman.

5 MR. PENNOYER: Mr. Cole.

6 MR. COLE: You mentioned the restoration plan in the
7 next thirty days, Mr. Frampton. How do you propose to deal with
8 that within the next thirty days?

9 MR. FRAMPTON: Well, now that we have public comments, I
10 am -- I'd be happy to put on the table a proposal that we set a
11 goal to try to produce a restoration plan in draft form for the
12 Trustees to review by the end of October. We have another meeting
13 at the end of October and that we get this out on the street in the
14 first week of November. That that be done through a team that we
15 set up and have state, federal represent -- co-chairs -- that we
16 task them to do it, that we set a limit, sixty - sixty-five pages
17 and that we move forward that way. That's would be my proposal for
18 discussion purposes at least.

19 MR. COLE: Mr. Chairman, could we deal with that
20 now, restoration plan subject. I think that we're in a crucial
21 juncture -- I think we're at a crucial juncture here dealing with
22 the restoration plan and the money for work projects. And, I think
23 that it behooves us to get the restoration plan out as quickly as
24 possible. (Aside) I'm going to read that now, Mr. Rosier. So,
25 that it can tie into the '94 work plan projects, and the least we
26 would avoid the criticism from the editorial board of the New York

1 Times that we ought not to be adopting projects before we get the
2 restoration plan in -- in place, not that I'm concerned about the
3 views of the editorial board of the New York Times, but
4 nonetheless, there's been quite a few Alaskans suggest that that
5 might be a good idea, and therefore, I would want to give
6 consideration to that.

7 MR. PENNOYER: Dr. Gibbons.

8 DR. GIBBONS: Presently the schedule is for the
9 restoration planning group to have the plan -- draft plan done by
10 Thanksgiving. Also, we'll have a comprehensive habitat analysis
11 done by the same time, and a draft '94 work plan, or the work plan
12 would be following that in December. So, the draft work plan could
13 provide the basis for the '94 work plan. So, that's the schedule
14 we're on right now. So, I'm not sure -- you know ...

15 MR. PENNOYER: Part of the -- part of the conflict is
16 sending things out, and we might as well have that out on the table
17 too, the public review that may be different than we really want to
18 do -- I mean, sending out another list of things that may not
19 include projects that are consistent with the draft plan and
20 ultimately -- may not meet other standards is -- is something
21 that's troubled a number of us, and we haven't found a way around
22 that. I guess before we get too much farther down the line, when
23 we had this concept of Thanksgiving, getting a draft plan, we had
24 an outline of what would be included in that plan. I don't know
25 how this proposal fits with what needs to be in a plan, and at that
26 time, it was felt that the team we assembled was necessary to bring

1 all these pieces in. Now, if the view of life is that we can do
2 something quite a bit less than that or different than that,
3 someway, then I think we need not just a proposal to do it by a
4 certain date, but some concept that we can agree on what ought to
5 be in it. So, folks -- either a new team, which I think is what
6 you're suggesting, or somebody, and we do have people here doing
7 it, in some degree get together and follow an outline. What
8 they've prepared for us in the budget and the timetable is
9 consistent with what we agreed to at the last couple of meetings
10 needed to be in a restoration plan, and was consistent. At that
11 time, it was the only way we could see to bring the restoration
12 plan and the work plan together before we had to make a final
13 decision on the work plan. And I think your view is that we do a
14 restoration plan before we send out the draft work plan. To even
15 public comment, and to do that you're obviously going to have move
16 up the restoration plan by quite a bit. We need to have some idea
17 of what we're going to have in it, I think. Mr. Frampton.

18 MR. FRAMPTON: Well, that is my -- that is my concept
19 that we accelerate the process. And, here's why I suggest that we
20 need to consider that. We have a situation where you are asking
21 now for authority to send out a -- a group of projects. Most of
22 the studies for -- for inclusion in the fiscal '94 work plan, which
23 total about forty-nine million dollars of projects, in addition to
24 the five and a half million of administrative expenses, but these
25 are not projects that are selected pursuant to any restoration
26 plan, or any sense of priorities or criteria, except the ad hoc

1 sense that's been developed over the last two years of what's more
2 important and what's less important. And, it seems quite clear to
3 me that in addition to the fact that may be some projects on that
4 list that our lawyers will tell us we can't fund, that even when
5 you take those out, if you take them out in terms of public
6 comment, that three-quarters of these projects, we're not going to
7 do. Now to send all this out -- you know, something this size to
8 the public for public comments, is really very unfair and seems to
9 me just contributes to the sense of public frustration that -- you
10 know, instead of real public input, they're getting bombarded with
11 stuff and much of it is stuff we're not going to do, and when they
12 tell us something in response, they don't feel like their getting
13 anything back. This is not a work plan, this is really a
14 collection things, many of which we're clearly not going to do. My
15 proposal is accelerate the preparation of the restoration plan, and
16 appoint state and federal co-chairs, give them thirty days to get
17 this thing put together, based on public comment and the much --
18 much the work that's been done over the last year and a half, and
19 then have a meeting of the Trustee Council, try to do it in late
20 October, approve the draft restoration plan, make it short enough
21 to be readable and useful to the public, and send out at that time
22 those individual projects that still potentially fit within the
23 restoration plan as an appendix to the restoration plan for their
24 public comment about what should be included in the '94 work plan.
25 That way we can get useful public comment and we'll be sending out
26 a set of projects that have, hopefully, somewhat consistent with a

1 set of criteria that we have decided upon. That seems to me to be
2 the only way we can usefully develop a '94 work plan that is to
3 have it pursuant to a restoration plan. Will that mean postponing,
4 finalizing a '94 work plan until probably early January, yes, it
5 will. But, otherwise we're going through a process here that bears
6 no relationship to where the effort is ultimately going to go in
7 1994. In addition to that you have a situation where clearly the
8 public comment has indicated that the public is interested in -- in
9 habitat acquisition, but we really have no placeholder dollar for
10 habitat acquisition. We know that monitoring and research is very
11 important, but perhaps at a ten percent or fifteen percent level of
12 our expenditures, but we don't have a science plan for structuring
13 that. It seems to me we've -- we've got the cart way out before
14 the horse here in terms of the '94 work plan and we need to get the
15 rest -- the most critical thing here, we have reached a critical
16 point, is to get the restoration -- draft restoration plan on the
17 street and then develop the '94 work plan based on that.

18 MR. COLE: Mr. Chairman.

19 MR. PENNOYER: Mr. Cole, please proceed.

20 MR. COLE: Would you propose sending the restoration
21 plan out for public comment?

22 MR. FRAMPTON: Well, we've been through one iteration
23 here of draft, and we've been through several iterations of public
24 comments.

25 MR. COLE: Is the answer no?

26 MR. FRAMPTON: I think we have two choices and I have not

1 been an intimate part of this process. But, one is to finalize the
2 restoration plan, the other is to put out a draft in early November
3 with a short comment period. I -- you know, I would defer to my
4 colleagues on what the best way to do that is. I think we have an
5 enormous amount of public comment. Maybe the public is now finally
6 looking to us for some real decisions. Well, they deserve that and
7 they deserve it in a hurry and we're going to have to have those
8 decisions made before we have '94 work plan.

9 MR. COLE: Was there not testimony before Congressman
10 Miller that we're not giving adequate public input or involvement
11 in these, and I want to make sure that -- you know, that the
12 Congressman is fully satisfied that we're getting adequate public
13 involvement and comment, and that's the reason I raised this
14 question.

15 MR. PENNOYER: I'm - I'm still not clear on what
16 direction we're going here. I think the desire to get a
17 restoration plan draft of these before we put the '94 work plan out
18 makes a lot of sense. I don't know yet how this all relates to the
19 NEPA process and all the discussions we've had in the past that we
20 had come with a document that could stand NEPA review, which we
21 realize we couldn't get finalized with -- with the required public
22 input until after the '94 work plan already had to be in place.
23 So, our decision was, regardless of how big or how small or how
24 fast, that we do a restoration plan draft, base our decisions on
25 the '94 work plan on that, recognizing that we'd already had some
26 public comment, recognizing we would have to have additional public

1 comment just to bring the federal requirements to a close. Now, if
2 our view of those have changed, there are a number of people on
3 this Council who earlier on would have just as soon not gone
4 through quite as many hoops, but have been advised all through the
5 process that we had to. Additional problem is -- as we say we're
6 going to do a restoration plan quicker, my recollection of the
7 discussions two meetings ago with Justice was that we had some
8 things like objectives for natural resources and some other rather
9 specific things they thought ought to be in a restoration plan.
10 Our discussions on, maybe there are people that can do it faster,
11 I don't know, but our discussions with our group were, that to
12 reiterate those objectives to us, which would be the last element
13 of restoration plan. We probably didn't need to go much farther
14 than that, although we didn't absolutely make that decision, would
15 take them another month plus to get that feedback to us. So, a lot
16 of the elements were out there and I'm not -- you know, I'm not
17 saying it does. I don't know. All I'm saying is that if we decide
18 to do this, and put it into a time table, we need to get rather
19 specific in the way we're going to deal with instructions to
20 people, whoever it is, to do this. And, my assumption all along
21 was one of the reasons we wanted the restoration plan done is
22 because every time we get to the point that we get a road map we
23 sort of change our minds a little bit, and sometimes more than a
24 little bit. And, my assumption was everything was there for the
25 restoration plan. We've got statement of injuries, we've done all
26 this stuff, even if they're appendices, Charlie, they don't have to

1 be the whole document, they can be an appendix, but -- but I think
2 we have to lay out what should be in that and how that fits into
3 the other advice we've had on the process because I'm afraid of
4 going away from here with partial instructions on how to do this in
5 a month and then come back and have somebody tell us, oh by the
6 way, you needed to do NEPA and objectives and a few other things,
7 and we would be back where we started from.

8 MR. COLE: Mr. Chairman.

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: Well, I move that we appoint a restoration
11 plan -- planning team led by one state representative and one
12 federal representative and that they be directed to prepare and
13 present to the Trustee Council a draft restoration plan on or
14 before the next Trustee Council meeting before the end of October
15 and that -- well, I'll stop there, and I'll make another motion
16 later. I would like to speak briefly in support of this motion, to
17 add that that plan not -- not exceed sixty-five pages. It may or
18 may not deal with the appendices. And, that the reason for that
19 is, I think that time is of the essence, I think that we should
20 have a restoration plan before we send out the '94 work plan, and
21 I think we have received enough public comment coming from the
22 brochure we sent out and this five hundred and seven pages, and it
23 is time that we start achieving some finality, not that we haven't,
24 but we have to super process.

25 MR. PENNOYER: Need a second, at least for discussion.

26 MR. FRAMPTON: I second the motion, and I do it, you

1 know, in agreement with your concern, statement that we need to
2 give some direction about what is necessary to be in the plan in
3 terms of overall priorities, in terms of answering the questions
4 that we've asked in the public comment process in terms of
5 addressing injury, relationship issues and whatever else is
6 required to be in there, but I think that we can certainly before
7 tomorrow noon do that before we leave here and give adequate
8 guidance so that we can have a document which we can consider in
9 our next meeting. Now, I gather that it has been -- there has been
10 some back and forth about whether given that this document is
11 overall guidance, there needs to be an EIS done on it or some kind
12 -- or NEPA, and I think we don't have to resolve that today,
13 because if we have to do that process on it, we'll do it, and we
14 can make that decision. We may be able to make it before tomorrow
15 noon, but we can certainly make it over the next month. If we have
16 to do that on this document, we'll do it on this document. But,
17 the important thing, I think, is to get the draft document finished
18 for our consideration. But you're right, we want to make sure that
19 it jumps through the hoops that we have to jump through. But, I
20 can't imagine that we can't make sure we've identified those hoops
21 by tomorrow morning.

22 MR. PENNOYER: Further discussion? Mr. Rosier. Sorry.

23 MR. ROSIER: Thank you, Mr. Chairman. I like the idea
24 of some finality on this particular subject as the restoration plan
25 has been an elusive end point as I think that we've had on the
26 table here before this Trustee Council. But before voting on this,

1 I'd certainly like to -- I'd like to hear from -- from Dave as to
2 what he sees as -- as what is the -- the downside of moving on this
3 kind of a plan at this -- at this point in time. We've had a
4 course of action, as the chairman as indicated, we've deviated from
5 that invariably, and there's been more than a little bit of
6 confusion as to who is to blame when things didn't come out the way
7 they were supposed to, and I would like to say this, that in terms
8 of -- you know, the staff, the work load that we've had on the
9 staff here in recent -- since the last meeting, and this stack that
10 we're looking at before us here is basically a stack of papers
11 that's been generated since that, and I know many of those people
12 on the staff, and have in fact not had many days off since that
13 last meeting. It's been essentially around the clock type of
14 operation. So, before voting on this and saying that this is the
15 direction we'd that we'd like to go, I'd kind of like to hear from
16 some of these people as to what are we giving up in terms of
17 process or in terms of work products here, if we in fact devote
18 staff -- to make the staff commitment to this -- on this approach.

19 MR. PENNOYER: Dr. Gibbons.

20 DR. GIBBONS: Yeah, the process we were following is,
21 you laid out an outline for a draft restoration plan to us, I
22 believe in early August, that included steps through objectives,
23 and we're in the process of develop -- developing those. And, you
24 also wanted a preferred alternative, and so, I stepped -- yeah,
25 that was for the public to comment on things, and the logical step
26 there is -- is either -- you know, we weren't truly -- you're going

1 to -- you know, pick a preferred alternative today. We would come
2 back to you with a product in October that you pick a preferred
3 alternative on and we finalize it and then -- then go. But, the
4 preferred alternatives is the sticker. You know, what you want to
5 see as the preferred alternative in a draft restoration plan.
6 Maybe the Restoration Team -- Restoration Planning Group members
7 can -- can relate to being a little more about their time frame,
8 but we were scheduled to meet the November time frame with a
9 preferred alternative, with an intermediate step of coming to you
10 in October saying what do you want to see in the preferred
11 alternative, then develop that and put it -- in the -- in a plan.

12 MR. PENNOYER: My ... Commissioner Rosier, follow up.

13 MR. ROSIER: Thank you, Mr. Chair. What, I want to be
14 sure I'm understanding exactly where we end up here, because it
15 seems to me that we really talking about which is first, chicken or
16 egg, here on this, and yet in terms of the final decision on the
17 '94 work plan, under both scenarios we would in fact have a draft
18 restoration plan which we would be making decisions. Is that
19 correct?

20 DR. GIBBONS: That's correct.

21 MR. ROSIER: Then is -- I guess then the question to
22 Mr. Frampton is where do we make the gain here in terms of changing
23 the process at this point and moving away from the (indiscernible)
24 deadline?

25 MR. PENNOYER: Mr. Rosier, I think the proposal, what we
26 had before was to put out a draft '94 work plan before we had a

1 draft restoration plan in place. And, the problem people are
2 having trouble addressing is addressing this very large package
3 that contains a number of projects that have not been subjected to
4 federal policy review to -- come out the final approval -- even a
5 draft plan. And, I think the suggestion here, based on what we
6 told people to do and which they worked hard to do, it's not that
7 they came up with the wrong thing, is that we send this out public
8 review before we have a draft restoration plan, and then when it
9 comes back, we use the draft restoration plan to final assess what
10 we really want to have in the '94 work plan. And, some of are
11 having trouble with dealing with this budget package and making
12 decisions on whether we even want to send things out to public
13 review that at least infers that we think those are worthwhile
14 projects relative to our policies and guidelines, which we haven't
15 adopted. So, it is a chicken-and-egg thing, and the only way to
16 probably stay on schedule with the '94 work plan that goes out to
17 some type of public review, is to hurry up the draft restoration
18 plan we're going to base it on, which I think is what Mr. Frampton
19 has proposed. I'm still not comfortable that we know exactly
20 what's going in it, whether we can accomplish the outline we stated
21 there by this process, and I think we have some organization
22 questions to talk about yet, but I think the concept of trying to
23 get a draft restoration plan and make a few of these policy
24 decisions, however we do it, before we go out with a list of items
25 which I don't know if they're three-quarters we wouldn't do, but
26 there are some in there we certainly aren't going to end up wanting

1 to do. And, others we will want to that aren't in there. So, I'm
2 sorry, Mr. Frampton, I'm putting words in your mouth. Go ahead.

3 MR. FRAMPTON: Well I -- I think our goal should be --
4 look we're going through a transition period here. Hopefully, we
5 will be able to select and bring on board in the next month to two
6 months a permanent executive director who will no doubt want to
7 hire, at least a core permanent staff. We need to get by January
8 a '94 work plan that is consistent with a set of long-term
9 restoration objectives. Right now, we don't have that set of
10 objectives. It seems to me that the only way that we can meet any
11 kind of a reasonable schedule here is that rather than wait until
12 December or January for a restoration plan and then shape the work
13 plan to that, that we try to put together a restoration plan by the
14 end of October. We do have an outline. I'm told it can be done.
15 And, that we then immediately, in fact, hopefully at that meeting,
16 at the end of October, the first of November, then be in a position
17 to begin to shape the '94 work plan consistent with the restoration
18 plan objectives, and that we -- you know, its tight, tight time
19 frame, but that way we'd be in a position to get a work plan, at
20 least a pretty good outline of a work plan out before Thanksgiving
21 and get some public comment and in early January be ready to adopt
22 one and be off and running. That would be my hope.

23 MR. PENNOYER: Dr. Montague, did you have a comment.

24 DR. MONTAGUE: Thank you, Mr. Chairman. I just wanted to
25 speak a little bit on the schedule of the '94 work plan, and I
26 think one of the questions Carl was trying to get answered was, if

1 we go this route, what will it do to the schedule of the '94 work
2 plan. And first of all, I think it's important to remember that
3 the '94 work plan hypothetically would have best approved now,
4 because since the year begins in October 1st, and you know, through
5 a long, huge public process, we've gone through to get to this
6 stage, we're going to have a final that ready for approval in
7 January. If we wait until the end of October before we even -- you
8 know answer some of the questions about which projects are in here,
9 and assuming you have to write some new projects that haven't been
10 written, and a three week delay from when this is approved to when
11 it's printed, we would not be able to approve a '94 work plan until
12 March -- and, a lot of ramification to that. First of all, the
13 year is half over before it's approved. If you -- if we wish to go
14 ahead with a lot more competitive bid projects, it's basically
15 impossible when you -- you're not even approved until the year is
16 half over. There's a big downside to it and I think that while
17 there may be projects that aren't in here that could be, I would
18 doubt that there would be more than five or ten percent that would
19 actually be excluded by our policy decisions. You know, the
20 Council spent a half a million dollars getting it to this stage,
21 that the public had to read ten extra projects that might be later
22 discounted as being against our policy, I don't think they'd feel
23 that bad about it.

24 MR. PENNOYER: Mr. Frampton.

25 MR. FRAMPTON: Well, I have to say with all deference to
26 the tremendous amount of work that's gone into this project, and it

1 is very impressive work, and I spent a lot of time yesterday
2 reading a lot of these budgets and three page descriptions, that
3 what we have here is not a work plan. It is a laundry list of
4 projects totaling fifty-five million dollars, most of which we will
5 not do. It is not a work plan because there is not relationship to
6 any planning effort, criteria or priorities, and the fact that we
7 may have spent five hundred thousand dollars to get to this point,
8 seems to me not a very good reason for going forward with an
9 ineffective process. And, I absolutely do not accept the
10 proposition that we cannot have a 1994 work plan until March. That
11 is unacceptable to me. This process cannot work that way, that's
12 business as usual. It's not going to work that way. We're going
13 to get people in here if we have to who are going to make it happen
14 differently. There is no human reason why this group of people
15 cannot have in January of 1994 a coherent outline of the work to be
16 done for the last nine months of the fiscal year pursuant to an
17 intelligent restoration plan that has been out for public review.
18 There is no human reason why that can't be done, and I am
19 determined to exercise my vote and ways that are designed to get
20 there and I'm not satisfied, I don't find it acceptable that we
21 have to grind through the process just because we've spend money on
22 it or that we have to accept those kind of time deadline.

23 DR. MONTAGUE: Mr. Chairman, Mr. Frampton is correct, but
24 to achieve that we would have to not send out the draft plan for
25 public review. If we don't send the draft plan out for public
26 review, then we can reach a January schedule.

1 MR. PENNOYER: Well let's -- I think here we need to is
2 have discreetly laid out why these time lines are appropriate or
3 not. If we had a draft plan done or close to done even if it
4 hasn't been sent out to anybody by the end of October, and at
5 point, based on that, we we have a two day meeting or whatever, and
6 -- and made our final decisions on what the '94 work plan, first
7 shot should look like, now, why then does it take until March to
8 get that approved if it goes out November 1st, I guess I don't --
9 I don't understand that requirement either, I just don't follow
10 that type of time line. There's nothing in the federal statutes,
11 I know, that says we require six months to get the thing done.

12 MR. MONTAGUE: Okay, Mr. Chairman, I'll explain it
13 briefly then. That assuming, say, the last day of October, the
14 policy decisions have been made. As a result of those policy
15 decisions, a third of the projects come out of here, a third more,
16 I mean the equivalent of new ones are added, they would have to be
17 written and budgets would have to be prepared, and at lightening
18 speed that's three weeks. So, you're -- the third week in
19 November, and that's just to get them in. You'll have to revise
20 the documents, get it quality ready to go to the public, that's the
21 first of December. It takes three weeks before the printing is
22 done, that's the third week in December. We send it out for a
23 thirty day review, that's the third week in January. We need
24 twenty days to analyze all that public comment, that's the 10th of
25 February, and the Trustee Council needs this information ten days
26 in advance of the 20th of February. Any delay we're at March 1st.

1 MR. PENNOYER: Mr. Frampton.

2 MR. FRAMPTON: Why does the 1994 work plan have to be
3 more than ten or twelve pages long? Isn't that the appropriate
4 length for public comment? Isn't that what the Trustees and
5 directors and business executives as well as the public usually
6 gets as an informative, useable document to comment on?

7 MR. MONTAGUE: Well, Mr. Chairman, indeed that's a
8 decision of the Trustee Council, but, in fact, the Trustee Council
9 directed us last year to have more information than we had in the
10 '93 work plan. I mean, obviously you can do whatever you want, but
11 a twelve page plan would explain what fifty projects are actually
12 doing? I don't think so. I mean you can have a paragraph on fifty
13 projects. You certainly wouldn't justify why a project with the
14 price it was and everything on a paragraph. It wouldn't be
15 assessed by peer reviewers, but I think we can do that. But, those
16 are the reasons why we're at this stage, and if the Council would
17 decide to go on something much shorter, obviously it could be done
18 within those time frames.

19 MR. PENNOYER: Thank you.

20 MR. WOLFE: Mr. Chair.

21 MR. PENNOYER: Mr. Wolfe.

22 MR. WOLFE: Just so that I understand where we're
23 headed with this motion. If I understand it right, what we're
24 proposing to do is to continue along the lines of the outline that
25 was originally agreed to, at least conceptually. The level of
26 detail may be less in this proposal than what we might have had if

1 we take until Thanksgiving, but for the most part it would be along
2 this format, with the format that we had earlier. We would skip
3 the preferred alternative at this point in time, is that my
4 understanding?

5 MR. PENNOYER: Worry about NEPA later.

6 MR. WOLFE: Okay. And from the staffing standpoint,
7 the proposal, we haven't gotten into that end of it yet. There's
8 some mention of that.

9 MR. PENNOYER: I guess in response to Dr. Montague's
10 concerns, we didn't say that you would do a whole lot of new
11 projects, and your restoration plan is a multi-year approach, and
12 there would be no necessity to completely redraft a whole flock of
13 new projects. Perhaps you go out with a plan that doesn't even
14 spend all the money. It's what you've got, and then you can alter
15 that as you go along. We want to get on a federal fiscal year, but
16 there's nothing to say that in somewhere in the process, you can't
17 try and deal with individual things that come up. You've got to do
18 an ecosystem workshop planning process, local group input type of
19 thing. That's going to result in something new. We know that,
20 that's going to come somewhere down the line in anyway. So, I
21 don't know that you have to add that month and a half of redrafting
22 proposals and rebudgeting proposals and so forth before you send
23 out what you have already got a lot of stuff on that is consistent
24 with the restoration plan. I'm not sure it's a fatal flaw. It may
25 be a problem we have deal with that, but it isn't a fatal flaw.
26 But, the question does come down, can we get this, whatever it is,

1 I'm not sure what it is yet, done by the end of October and how?

2 DR. GIBBONS: Mr. Chairman.

3 MR. PENNOYER: Dr. Gibbons.

4 DR. GIBBONS: Yes, Mr. Chair, I think call Bob Loeffler

5 up. I just briefly talked to him and I think there's a way of

6 doing it. I was glad to hear no preferred alternative, that sure

7 helps the time line out, but Bob you might want to come up and

8 speak to -- Bob's the state lead, co-chair for the Restoration

9 Planning Team.

10 MR. LOEFFLER: Mr. Chairman.

11 MR. PENNOYER: Yes.

12 MR. LOEFFLER: Just so I understand the question

13 correctly I'm going to answer. It is --

14 MR. PENNOYER: (Laughter) Good, I don't understand it

15 either.

16 MR. LOEFFLER: It is to give my impression of the

17 possibilities for accelerating the plan by the end -- the end of

18 October, is that correct? My sense is such a thing is certainly

19 possible, but there are some things that would be needed. And,

20 right now, what we would -- the first thing that we would need is

21 access to the Trustee Council. That is some sense what happens now

22 is the planners attend a Trustee Council meeting to find out what

23 the policies are, and we can't write a plan in that sort of a

24 vacuum, that is things would have to be checked as they go along so

25 that -- second is full participation by the agencies. There are

26 some agencies that have been (indiscernible), but I certainly --

1 and if you set a deadline, we'd do as much as we can, and I
2 certainly don't see any reason why we can't come out with a --
3 something that substantively responds to public comment, that's
4 most of the outline.

5 MR. FRAMPTON: Would it help if we could give by the
6 close of this meeting tomorrow a ten or twelve page statement of
7 principles to guide the writing of the restoration plan?

8 MR. LOEFFLER: Sure. Thank you.

9 MR. PENNOYER: Commissioner Sandor.

10 MR. SANDOR: Well, I certainly believe, Mr. Chairman,
11 that it is not only possible to get out the restoration plan, but,
12 in fact we're almost committed to -- inviting to -- to do several
13 things which -- which if you don't do, we'll have -- reneged our
14 commitment to the public. To remind ourselves again, both in the
15 draft restoration plan put out in April, as well as in the draft
16 restoration plan that was supplemented in June, that we've said in
17 writing that a final restoration plan would be presented to the
18 public this fall, that these final restoration plans may contain
19 parts of several of the alternatives that's presented here, plus
20 new information we provide. And, certainly the summary of public
21 comment actually gives us a substantial amount of direction
22 (indiscernible - coughing) which that responding public intended to
23 -- to convey to us given the information. At that time we can
24 modify that to whatever other degree because of the information on
25 fisheries and so forth. The only problem that I see is to separate
26 out the work project. Now, remind ourselves again that last year,

1 October 1992, in fact, we put out the draft work plan which was
2 really more than what we're now contemplating, including -- you
3 know, all the projects. Now, we didn't finalize that until July,
4 but that was only because, as I recall, or primarily because we
5 went through this laborious process of dealing with these -- with
6 these projects. It's my understanding, if I'm to vote in favor of
7 the motion, that what we're putting out is the final restoration
8 plan, in whatever form we do this fall, to meet that commitment,
9 and then I would hope that what we could do is to put out also the
10 -- the very least a draft work plan, not necessarily the listing of
11 work projects at this time, but at some point in time to also put
12 out the projects themselves, but they can be put out separately
13 they don't have to be a part of this one package which bogs the
14 whole process down. So, in summary, I see the final restoration
15 plan going out by the time we eat our turkey and two, the draft
16 work plan without the listing -- detailed listing of work projects
17 necessarily as a part of that package, but at some time to make
18 sure we do get all the work projects out and in a draft form
19 because there's intense interest, as I will remember, on each and
20 every project and what was overlooked or what was turned down and
21 why. So, that process has to take place, but I think it can be
22 separate. So, to the maker of the motion I -- is that scenario
23 possible under the motion that you've made?

24 MR. COLE: Yes, except that we had in mind that it
25 would thirty days before we ate our turkey.

26 MR. SANDOR: That's even better. I'd say by Halloween.

1 MR. COLE: That's just contemplated ...

2 MR. SANDOR: That's great.

3 MR. COLE: ... by Halloween time, yes.

4 MR. FRAMPTON: I'm not sure whether, as the NEPA guru, I
5 should be addressing this question to you or to lawyers here, but
6 assuming that the motion carries and we aim to put out a final
7 restoration plan here, which we have promised to do after going
8 through this process, and it is a guide to annual work plans and
9 decisions, which obviously will, you know, time will change the
10 emphasis and so forth, will we meet our NEPA obligations? Will we
11 -- will we not run afoul of our NEPA obligations to do that? That
12 has been a issue in the past.

13 MR. PENNOYER: Poor NEPA guru for you, but I think that -
14 - our Interior sort of served in that processed in the past, you
15 might want to give that question to Barry Roth, but I guess my
16 problem with the discussion is that I don't want the motion -- want
17 the process to fail because come October 31, we don't have a,
18 quote, final restoration plan. I'm afraid a final restoration plan
19 -- somebody is going to tell has does have to have a draft that
20 goes out to public review and goes through some other hoops before
21 we can stamp the big final on the cover. And, if we can do that,
22 great, but if we can't, then we can still have a draft that we'd
23 agreed to by the end of October, that we can use to guide our
24 decisions on this package, which then subsequently goes out, I
25 think we've fulfilled what we want to fulfill. It would be nice if
26 this was final, but I don't want the motion to say it has to be

1 final and discover we can't do it and come back and reinvent the
2 wheel. A restoration plan, draft, as complete as possible by the
3 end of October to base our decisions on the '94 work plan, I think
4 is the way we ought to leave the motion.

5 MR. FRAMPTON: Well, would Mr. Cole amend his motion to
6 provide that if we have a concern about serious problem with the
7 NEPA that we then come out with a working plan, rather than a final
8 plan that can be the subject of subsequent NEPA compliance, but
9 that we understand that that is the plan on which we are basing our
10 1994 work plan.

11 MR. COLE: Mr. Chairman.

12 MR. PENNOYER: Yes.

13 MR. COLE: I'll so consent the motion, so construed.
14 I won't bore people by regurgitating my views that I have said so
15 many times in the past, but we simply should get things done, and
16 this is one way about going about it, and if we come up against a
17 brick wall or a witch at Halloween, that requires us to change
18 plans, then we should do it. But, I think we should strive to get
19 that restoration plan done and in final form by that date. And, if
20 along the way there appear to be problems developing, well, we
21 would expect the staff to -- to address them, and to resolve them,
22 most expeditiously. Thank you.

23 MR. PENNOYER: Further discussion on the motion? Is
24 there any objection to the motion? So moved. I presume then that
25 on this basis we will still, between now and noon tomorrow, try to
26 come up with a little better outline and guidance for you, if we

1 can, and maybe some further discussion of organizational addendums
2 that the team may need to get this chore done, in essence half the
3 time that we originally agreed that it should be done in. So, we
4 may have to provide extra resources in some fashion. And, we may
5 want to discuss those and individually talk about them tonight and
6 then come back tomorrow as a group and discuss what we need to do.

7 MR. COLE: More or less resources, it would be my
8 view that this restoration plan be developed by a small group.

9 MR. PENNOYER: Focus resources, then let's say. I don't
10 know what the appropriate word is, but we have -- we have an
11 element out there to draw on to decide (indiscernible).

12 MR. COLE: Let me just say this. I just have the
13 sense that -- that two people from the state group, two people from
14 the federal, get in a room and start writing the plan and don't --
15 look at it eight hours a day until they get a draft, and then maybe
16 one is to disseminate it a little more amongst the Restoration Team
17 Groups or Restoration Plan Group. But, to get three or four or
18 five people just start banging it out on a typewriter and get some
19 draft done, which I suspect could be done in not more than a week.
20 I mean, we write in the Department of Law, let me tell you, sixty
21 and seventy page briefs that are really well done, the product is
22 immense research, since we got sued by the Tanana Chiefs last week.
23 But, I mean we have these deadlines that the court gives us and
24 they say you have ten days to get it done, and you know, we get it
25 done. And, I think this small group, it certainly has the ability,
26 staff to accomplish that and I'm sure that they could do a good job

1 in a short period of time.

2 MR. PENNOYER: Okay, we'll come back tomorrow and discuss
3 that aspect then. Okay, we have fifteen minutes until the
4 conference -- the teleconference and public hearing start. There's
5 one more element in this package which is maybe a little -- well,
6 we have three more we've got to deal with. We've still got to deal
7 with the interim funding for administration, (indiscernible)
8 restoration plan. We have deal with in some way, and we have to
9 deal with the funding for the '93 field reports and then we've got
10 to deal with funding for some projects that apparently have to get
11 started or continue quicker. So, Mr. Frampton.

12 MR. FRAMPTON: Let me make a suggestion about how to
13 handle the third of those three modules, the administrative staff
14 support module, but support -- preparation module then, and then
15 there's the projects. You mentioned nine projects that are
16 important to us to look at today, and I would suggest that maybe we
17 start off tomorrow morning, unless you're prepared to do this
18 afternoon and that we try to take an hour and no more to go through
19 those projects which staff thinks are either so essential that
20 we're going to do them next year no matter what the work plan looks
21 like, or which are time-sensitive, continuing, must be approved now
22 rather than wait until December or early January and have someone
23 give us basically three minutes on each one, what it is and why it
24 has to be addressed, then we'll vote on it. We should be able to
25 go through that in forty-five minutes or fifty minutes. You know,
26 I don't necessarily want to put off until tomorrow what we could do

1 tonight. I'm prepared to keep going tonight in the hopes that we
2 could get finished, but I think realistically we probably are going
3 to have to come back in the morning. But, if we -- we should be
4 able to do that in short order, I think, and maybe it would be
5 helpful if somebody has an evening to prepare their three minute
6 justification for each one.

7 MR. PENNOYER: Dr. Gibbons.

8 DR. GIBBONS: Yeah, during our Restoration Team
9 discussions, that was mentioned to be prepared to discuss why you
10 needed funding in the interim period for those projects. So, the
11 Restoration Team members, representing the various agencies, I
12 believe have that, and would be prepared to do that.

13 MR. FRAMPTON: On the report preparation module, which is
14 the cost of data processing and typing, administrative support, I
15 couldn't tell from the budget what you feel is really needed for
16 October, November, December to get that going. Do you have a
17 number? I mean, could we simply say we will authorize X dollars
18 for this for the first quarter of the fiscal year and let you
19 decide how that's ...

20 DR. GIBBONS: That's very difficult to come up with. We
21 wrestled with that same thing. The reports due date is April 15,
22 1994. Some projects will be done in November, reports will be done
23 in November, some will take the full length of time. We tried to
24 wrestle with that, dividing that up. Do we take, you know two-
25 fifths for the first two months or what do -- what do we do with
26 it. It's a very difficult thing to wrestle with.

1 MR. FRAMPTON: How many reports are we talking about all
2 together?

3 DR. GIBBONS: Approximately thirty.

4 MR. FRAMPTON: Thirty? That's known.

5 (Aside discussion)

6 DR. GIBBONS: I will say it's not just report writing,
7 data analysis, those types of things that go along with that,
8 because their trimming out a few right now as we speak, there just
9 coming out so there -- they've got (indiscernible) notebooks in
10 their hand and ...

11 MR. FRAMPTON: Well, does this include -- include
12 basically support here in this building, or ...

13 DR. GIBBONS: Hydrocarbon analysis and a lot of other
14 project, lab tests and

15 MR. FRAMPTON: Well, I think we can give that description
16 in the morning too, in a little bit more detail.

17 MR. COLE: Well, we're trying to get it done today.

18 MR. PENNOYER: We're trying to get this part of it done -
19 - this module done today.

20 MR. COLE: If it's a reasonable figure and our people
21 have looked at those figures and their satisfied that there
22 reasonable and necessary, it's good enough for me.

23 MR. FRAMPTON: You're talking about over a hundred
24 thousand dollars a study for those thirty studies for data analysis
25 and support. I mean whether it's lab time or computer time or a
26 typist, or number crunching, that ...

1 DR. GIBBONS: You know, if you look at the chart that
2 Mark passed out, the green ones are the report. You'll see they
3 vary from twenty-one thousand on the first page to one hundred
4 ninety-eight thousand on the -- on the first page alone. That's
5 the green highlights are the ones before preparation, so I ...

6 MR. PENNOYER: I guess something as vague, for example,
7 as stock -- generic -- sockeye (indiscernible) two sixty-two,
8 that's over a number of months actually doing all the lab work up
9 on what is left in the field, or how do you get up to two hundred
10 and sixty-two thousand dollars to write a report.

11 DR. GIBBONS: Do you want an answer now?

12 MR. PENNOYER: Well that's what -- seems like that's what
13 we're getting down to, that's why I wasn't sure we were going to
14 get to it tonight or have a three minute explanation in the
15 morning.

16 (Aside discussion)

17 DR. GIBBONS: Connie, it was thirty-five reports.

18 MR. FRAMPTON: (Indiscernible - out of range of
19 microphone).

20 MR. PENNOYER: Two hundred and sixty-two thousand for
21 each genetic stock ID.

22 MR. SULLIVAN: Basically, what that -- on that particular
23 one, what we're talking about is doing the laboratory analysis of
24 the samples that were collected this summer. If you don't do the
25 lab before analyses; it's like you wasted a lot of your time. That
26 particular project request is very expensive chemicals. We went

1 through and tried to calculate, you know, how many people it was
2 going to be taking with. In order to do that particular report,
3 essentially taking people working, you know, flat out for months
4 and months and months. And having -- we would like -- and I do
5 have a handout on that that I could xerox that could stand up
6 (indiscernible) for you, but that is a very expensive project, it
7 takes a lot of people, and if you look at the difference between
8 what you're doing in the field and what you're doing in the
9 laboratory, I mean you'll find out.

10 MR. PENNOYER: Not just two guys sitting in an office
11 typing out words.

12 DR. SULLIVAN: No, that isn't.

13 MR. PENNOYER: I think a few examples would give people
14 a little bit more comfort as to why it costs so much to do reports
15 and I -- seems to pick a couple of high ones and give us an example
16 why the number -- hydrocarbon analysis is five hundred -- five
17 thousand each or whatever it is, but just ...

18 DR. MONTAGUE: I have some details on that. When they --
19 their estimate when they leave the field the end of September,
20 they's have to analysis -- you know, take samples for thirty-eight
21 hundred fish, spawning for thirty-eight hundred fish, spawning
22 fish, twelve hundred fish caught during net trolls, the analysis
23 grade is five hundred to six hundred samples per month for the
24 alazyme electrophonesis (ph) and at that rate it will take seven
25 straight months to analysis the thirty-five hundred to forty-two
26 hundred samples that need to be analyzed as part of the genetics

1 project.

2 MR. PENNOYER: So, when you say writing reports we're not
3 talking about writing a report, we're talking about completing,
4 tying up the actual sample analysis, the tying up the field work,
5 not in the field, but doing the lab work and something that may
6 take a number of months before you actually start writing.

7 DR. MONTAGUE: That's correct.

8 MR. PENNOYER: (Indiscernible) I don't know how we keep
9 an account of them without going through each one, but that -- that
10 is an example of the type of thing that's been costed out here.
11 Does anybody want to ask further question? John.

12 MR. SANDOR: Did I understand there are thirty-five
13 projects at three point what million?

14 DR. GIBBONS: Three point, basically three, just ...

15 MR. SANDOR: Three point two?

16 DR. GIBBONS: Three point three.

17 MR. SANDOR: And, this is as I understand from Mark,
18 going through rigorous Restoration Team review.

19 DR. MONTAGUE: That's correct.

20 MR. SANDOR: I move adoption of approval of those
21 projects.

22 MR. PENNOYER: Do I have a second?

23 MR. ROSIER: Second.

24 MR. PENNOYER: Moved and seconded. Mr. Frampton.

25 MR. FRAMPTON: My understanding is that what your asking
26 us to do before fiscal '94 is to authorize the total amount that

1 would be required for the year, or from here until the April 15th,
2 when they're supposed to be completed, on the theory that this is
3 not something that we break into quarters, but if we're going to
4 authorize it, we go ahead and authorize the money that's budgeted
5 to complete the projects which is basically going to be done in the
6 first six months. Is that right? That's the approach you're
7 taking on this. You want October to whenever they're done.

8 DR. GIBBONS: One October to April 15th.

9 MR. PENNOYER: The question I have that needs to
10 elaborated, I think, this is something we're going to face every
11 year? So, every year we're going to approve projects. Do we know
12 at the time we approve the project there's another three million
13 dollars required to complete that project? Was that -- I know we
14 had discussions on that, but do we clearly know that. Can we
15 clearly know in the future.

16 MR. BRODERSEN: Mr. Chairman.

17 MR. PENNOYER: Mr. Brodersen.

18 MR. BRODERSEN: I spoke a little too hasty when I said
19 yes. We're going on the basis of how you told us to operate last
20 time, which was to do this on a twelve month period. The Council
21 also has the option of funding a project through its completion
22 rather than going on a twelve month basis. In this year's budget,
23 we have requested folks to make a stab at what the report cost is
24 going to be and that is listed in the FY95 column. The budget has
25 gone through one review, it needs to go through another review by
26 the Restoration Team and Finance Committee to nail that down, but

1 in the '94 project, we're attempting to have a '95 cost for report
2 writing shown separately for each project.

3 MR. PENNOYER: I think that would be very helpful. I
4 know we did that. I know, way in the back of our minds we knew
5 these expenses would be there, but it's different than getting them
6 the first shot at the next fiscal year.

7 MR. BRODERSEN: Most of these report costs, as listed
8 here, were shown in the budget that you approved last year. They
9 were not done as well as they should have been. We're trying to
10 improve that in this year's budget that we're going to bring before
11 you. Well, it was planned for January, we'll have to wait and see
12 when it actually occurs.

13 MR. PENNOYER: It's been moved and seconded to approve,
14 I guess what, three -- three point two million, three point two
15 seven three for completion of the projects initiated in '93 and I
16 guess it's kind of not correct to say that it's just report
17 writing, it's completion of the projects. It includes the writing
18 of the report, analysis of the data, it's the tying up the field
19 season. Is there any further discussion on that?

20 MR. COLE: Yes, Mr. Chairman.

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: Well my comfort level in this, approving
23 these items, is not very high. I spent part of the weekend reading
24 the proposed budgets for the '94 projects, and I have this certain
25 level of distress as a result. And if these numbers bear any
26 relationship to some of the numbers I saw in those proposed budgets

1 for the '94 projects, I'm very uneasy about it. I don't know how
2 to get a higher comfort level because what really troubles me, I
3 just don't have a firm sense that -- that the Restoration Team or
4 its representatives are taking a proverbial hard look at these
5 costs. I don't know how to get there, so ...

6 MR. PENNOYER: Is there something like types of
7 questions, like is there major new equipment purchases in any of
8 these. Is someone buying an electron spectra photomitor (ph) or
9 something, or are we -- are there any significant new offices, new
10 staff, how about computers.

11 MR. COLE: I'm serious -- I mean, you know, I'm
12 serious.

13 MR. PENNOYER: ... major computer purchase.

14 MR. COLE: The '94 budget, and I see computer here
15 and computer there, I see thousand dollar thirty-five millimeter
16 cameras, and I must say that those things concern me. And, when I
17 see that there and I then I see three million here, I said is the
18 same process that is developed for these five thousand dollar
19 computers for project number so and so, and I have to doubt it,
20 that same process in here. I wish I had a higher comfort level
21 that -- what ...

22 MR. PENNOYER: Mr. Cole, I guess the only way that I can
23 see to do that is to come back and do that three minute business
24 tomorrow morning on a few of these. Let somebody run through them,
25 as an example.

26 MR. COLE: That isn't enough, that isn't enough. I

1 mean, it would take sort of a rigorous examination of where these
2 monies come from to penetrate to the depth that I would like to
3 think had already been done. I don't have the sense it's been
4 done, but I suppose I have to say, well, I'll vote for this and
5 swallow real hard.

6 MR. PENNOYER: I think the question you raise is a good
7 one, and in terms of the finance committees and how we operate on
8 that basis, but each of us had an RT member, who presumably is
9 trying to do that scrutiny, and I'm not sure -- I don't know how to
10 get you a comfort level. When I said three minutes, all you would
11 do is see if there are any major new equipment purchases or a lot
12 of new computers and some of the things we've highlighted already.
13 Specifics of what an individual grade level should cost, whether
14 that grade is appropriate to the task being accomplished, exactly
15 how many months it takes to do it, I don't know how -- I don't know
16 how to do that. I really don't. Dr. Gibbons.

17 DR. GIBBONS: Mr. Chair. That was one of the things the
18 Finance Committee and the Restoration Team looked and in report
19 preparation costs, were their computers. You know, why? Why do
20 you have the project going in '93 if you need a computer, and we
21 look at those things, and primarily the cost for report preparation
22 are for analytical chemicals and personnel. I think there's very,
23 very little equipment in that report preparation column.

24 MR. PENNOYER: That's what I sort of had in mind we would
25 do, if you wanted to do it, for a few projects. Dr. Montague.

26 DR. MONTAGUE: Yes, Mr. Chairman. A couple of notes that

1 may add something to the comfort level, the -- the three point
2 three million for closing out these projects is the cost of closing
3 out, I believe, about fifteen or sixteen million dollars worth of
4 seven month funding. Last year, you know, it amounts to about
5 eighteen to twenty percent, which -- which I think is quite
6 reasonable, and in many ways, Mr. Chairman, I would agree that the
7 '94 full twelve month budgets, I think, are a little exaggerated,
8 and the budgets haven't had -- been around long enough to make the
9 kind of detail that we would have liked to have done, but just in
10 Fish and Game's projects, there were five that were way high, and
11 we've probably cut a million dollars off -- you know, would have
12 if we would have gone out with this thing, would have reduced this
13 by about million dollars. So, I think the '94 budgets are probably
14 have had less group meeting than the interim budgets.

15 MR. PENNOYER: But these, you think have had the type of
16 scrutiny, because they're left overs some previous examination of
17 those projects.

18 DR. MONTAGUE: Correct.

19 MR. PENNOYER: Is there any further discussion on this
20 item? Is there any objection to approving this money for close out
21 of these projects. I won't call it report writing because I think
22 that's a misnomer.

23 MR. COLE: Well, Mr. Chairman, I would vote for this
24 on the condition that I be afforded an opportunity or any
25 representative of mine so designated to make a searching review or
26 analysis of each one of these items highlighted in, I guess that's

1 green.

2 MR. PENNOYER: Mr. Cole, I guess I don't understand. I
3 think that's available to any of us, but I'm not sure I understand.
4 So, these people are going to start their projects, and we're
5 putting -- we may withdraw the money, is that what your ...

6 MR. COLE: Not all of it, but they may review -- may
7 withdraw some of it, and if we find that, for example, that on --
8 looking at some of these, they seem to have funds outside the
9 envelope. I just don't have a high comfort level, I must say, and
10 it comes from reading the proposed budgets for the '94 work plan.
11 And, then I'll tell you what we're doing, I've asked my people to
12 go back and look at all the capital acquisition costs for the '92
13 and '93 work plans and see what a capital or expendable items which
14 were large such as cameras, computers, and things of that nature,
15 and find out where they are now, and -- and why there -- if they
16 should be back in the pot for use in the '94 projects. We're
17 looking at that very closely. I don't see why we have to buy it,
18 a thousand dollar camera here and there and these other items, and
19 those things trouble me. And they trouble me, particularly in
20 light of public comment we've received that there is out there
21 among the public this firm conviction, among many, that these funds
22 are being used as supplemental budgets to government agencies
23 funding. And, I'm not saying that they are, but I'm saying I think
24 we have a duty to look very carefully to see that they are not
25 being so used. I get the willies when looking at those numbers, as
26 they said ...

1 MR. PENNOYER: Mr. Cole, I guess anybody can, anytime we
2 can go back and reexamine what we're doing and bring it back before
3 us. I'm not sure how consensus works at that point, but I think we
4 can cross that bridge when we come to it.

5 MR. FRAMPTON: Can I ask ...

6 MR. PENNOYER: Mr. Frampton.

7 MR. FRAMPTON: ... a point of clarification. I assume
8 we're not going to be asked tomorrow morning to approve any new
9 projects or continuation of the projects where the report from last
10 year is not yet written. Is that correct?

11 MR. BRODERSEN: What projects of last year (indiscernible
12 - out of range of microphone)?

13 MR. FRAMPTON: Well, whatever it is that we're
14 authorizing here, this three -- three point two million dollars to
15 write up reports. We're not going to be asked to start another
16 phase of those projects, are we, before the reports are written?
17 Well, how do know whether we really need to do next year's
18 projects, if this year's report isn't ready.

19 MR. BRODERSEN: We need to give a three minute synopsis.
20 There's two or three of them that are that way. (Indiscernible -
21 out of range of microphone) any place there's both a green number
22 written and a yellow number covered right next to it. What we did
23 this year -- excuse me Mr. Chairman, may I go ahead?

24 MR. PENNOYER: Go ahead.

25 MR. BRODERSEN: What the Restoration Team did this year,
26 following the concern of the Trustee Council in not having a --

1 good information on projects is that we required every single
2 project for '93 to write us up, which we say, a comprehensive
3 report through the '93 field season, and taking into account prior
4 data that they'd developed, etc., with the understanding that on
5 some of these projects, there's a very few of them here, that need
6 to go on, that there would also be a continuation requested for
7 those projects, but we did want the information out of those along
8 with all the others so that the Council would be in position to
9 make better informed decisions about all of the things they are
10 being requested to decide upon.

11 MR. PENNOYER: Any further discussion on that item? I
12 assume that the administrative parts going to have to wait for
13 tomorrow morning since we're ten minutes overdue on our public
14 comment period anyhow, but if you wish to make any comments on that
15 right now to prepare us for tomorrow.

16 MR. FRAMPTON: Yeah, I don't think we called the question
17 at this time.

18 MR. PENNOYER: Oh, I didn't say was there any -- is there
19 any objection to the motion. Thank you. Okay, so moved. Mr.
20 Frampton.

21 MR. FRAMPTON: A comment on the administration portion.
22 I would be willing to entertain a revised budget proposal that
23 simply identified a -- an amount of money, running rate for
24 October, November and December, which we would simply include, and
25 task you with reformulating the budget within that cap. But, if
26 you are prepared to come back with such a proposal, I would urge

1 you to make it about a forty percent budget cut from the running
2 rate that you presented to us.

3 MR. PENNOYER: And tell us what you would see lost in the
4 process.

5 MR. BRODERSEN: We would definitely do that.

6 MR. COLE: I'm not sure I understand the forty
7 percent cut running rate. Would you explain that?

8 MR. FRAMPTON: Well, some -- some items have been
9 approved for the year, and if you take those out and you distribute
10 the remaining portion of the requested five point five million over
11 the entire year, and you take one-quarter of that for the first
12 quarter, then I would ask you to look at reducing that number by
13 forty percent, as a cap on the first quarter's budget, in addition
14 to things we've already approved that are -- covered a year.

15 MR. COLE: Mr. Chairman.

16 MR. PENNOYER: Mr. Cole.

17 MR. COLE: See if I understand what you're talking
18 about. You're saying that take otherwise unappropriated budget
19 items, divide that by four to get to the first quarter, and then
20 take forty percent of the one-fourth ...

21 MR. FRAMPTON: Sixty percent.

22 MR. COLE: Sixty percent of the one-fourth ...

23 MR. FRAMPTON: And, I'm basing that on the rough numbers
24 that I did yesterday and last night in terms of taking out things
25 that in the way of capital and equipment expenditures which could
26 be postponed, and working group activities such as six hundred and

1 fifty thousand dollars for writing the restoration plan, some
2 substantial portion of which could obviously be taken out of the
3 budget, about forty percent out of the habitat protection team and
4 so forth. Where I come out is the non-essential things, things
5 that could be cut easily to get you to the forty percent budget
6 cutting is that running rate. And, if you think that's
7 unreasonable, I'd like to -- be happy to hear why you think so.

8 MR. PENNOYER: Okay.

9 MR. FRAMPTON: But rather than try to get into your
10 detail, I -- I'm suggesting that we consider at least, you simply -
11 - you know, you're formulating what you need within the budget, to
12 work within a number, and we approve the numbers within three
13 months, as one approach to this.

14 MR. PENNOYER: No, think about it first.

15 MR. BRODERSEN: I've lived with this for two months now
16 and (indiscernible - out of range of microphone).

17 MR. PENNOYER: Well, call us tomorrow then maybe.

18 (Aside discussion)

19 MR. PENNOYER: We had another -- another element here we
20 didn't get to and that was the question of the ecosystem study, but
21 again, that's another project for '94 and I suggest we defer that
22 until tomorrow morning too. Looking at our agenda here, Dr.
23 Gibbons, do you -- what do you feel? We get through this '94 work
24 plan and the possibility of guidance on the restoration plan, which
25 other things here are going to take us considerable time. The oil
26 spill symposium proceedings should carry over, should not take too

1 much time, after that negotiating options, we've talked about that
2 considerably, it seems to me that shouldn't take very long.
3 Comprehensive habitat evaluation process, what's that?

4 DR. GIBBONS: We've talked about that a lot too, that
5 should not take very long.

6 MR. PENNOYER: Draft GAO response.

7 DR. GIBBONS: That's -- that's our draft to the Trustee
8 Council for your additions, deletions ...

9 MR. PENNOYER: Do we have a copy of that?

10 DR. GIBBONS: Yes, you do.

11 MR. PENNOYER: That we can look at tonight.

12 DR. GIBBONS: Yes you do.

13 MR. PENNOYER: Okay. We'll -- we'll find that and look
14 at it tonight and review it here tomorrow. Is it -- would it be
15 reasonable to start at 8:00 o'clock tomorrow, instead of 8:30, and
16 just to give an extra half hour jump on this, if we're going to try
17 to get out of here by noon. Some of have to. Okay, starting at
18 8:00 o'clock tomorrow morning. At this time, we'll recess this
19 session long enough to set up the teleconference public hearing,
20 and what do you need, about fifteen minutes? Then we'll take ten -
21 - ten minute -- I won't do it, start talking -- we'll take a ten
22 minute break and then start ...

23 (Off Record 4:19 p.m.)

24 (On Record 4:31 p.m.)

25 MR. PENNOYER: We have a limited amount of time the
26 teleconference will be on the air and we'd like to wrap this up by

1 6:00 o'clock because of that. So, if we could get the other
2 Trustee Council members back to the table, perhaps we could get
3 started. We are -- we're on the line now, I think, and we're ready
4 to go. Okay, can we get started with the public hearing portion of
5 the Trustee Council meeting. This is a continuation of the Trustee
6 Council meeting that started at 9:30 this morning, and we have our
7 Trustee Council members present. Mr. Sandor is joining us here
8 shortly. I think we'll go ahead and get started with the hearings.
9 I mentioned before, we have until about 6:00 o'clock, the
10 teleconference line will go -- go off the air, so I'd like
11 everybody who does testify to try to limit their testimony to three
12 or four minutes time if possible, excluding questions from the
13 Trustee Council. I have a number of communities on line and a
14 number of people in Anchorage that have signed up to testify.
15 We'll go through the communities and Anchorage taking either one or
16 -- one per site in rotation fashion, try to get everybody in. So,
17 I think I'll start out with Dr. Gibbons is going to give a brief
18 resume of what we've accomplished so far to day to update those of
19 you who weren't on the teleconference link earlier in the day. Dr.
20 Gibbons.

21 DR. GIBBONS: Thank you, Mr. Chair. The first motion
22 that the Trustee Council passed was to hold an executive session
23 from 12:00 to 1:30 p.m. to deal with the selection of an executive
24 director and further Eyak negotiations. The second motion that the
25 Trustee Council passed this morning was to postpone further
26 discussions of Eyak proposal until the executive director -- excuse

1 me, until the executive session. The third motion passed was that
2 the Forest Service and the Department of Law representatives meet
3 with Eyak Corporation to develop a presentation at a Monday,
4 September 20th, Trustee Council executive session -- further
5 display and further outlining of the proposal presented by Eyak
6 Corporation in the afternoon. There was an amendment to that that
7 we have the Department of Law work with the Forest Service on
8 negotiations with Eyak, providing their necessary expertise. The
9 fourth motion passed by the Trustee Council was to appoint
10 Restoration Plan -- Plan Planning Team led by one state and one
11 federal member to develop a draft final restoration plan before
12 November 1st, not to exceed sixty-five pages in length, excluding
13 appendices for Trustee Council review at that time. This would
14 include no preferred alternative. And the final motion passed by
15 the Trustee Council today was to fund 1993 report preparation costs
16 as identified by the Restoration Team and this total is three point
17 two seven three million dollars.

18 MR. PENNOYER: Thank you very much, Dr. Gibbons. I think
19 we'll -- for those of you weren't on, I'll identify us. I'm Steve
20 Pennoyer from National Oceanic and Atmospheric Administration, and
21 John Sandor from the Department of Environmental Conservation, Jim
22 Wolfe from the Department of Agriculture, Carl Rosier from the
23 Alaska Department of Fish and Game, George Frampton from the
24 Department of Interior, and Charlie Cole, Attorney General for the
25 State of Alaska. So, those are the Trustees that are present at
26 this meeting. I think I'll go ahead now and start the -- the

1 teleconference hearing and I'll start with Chenega Bay. Chenega
2 Bay, is there anybody who wishes to testify.

3 MR. LARRY EVANOFF: Yeah, this is Chenega Bay.

4 MR. PENNOYER: Yes, if anybody there wishes to testify,
5 would you go ahead please.

6 MR. EVANOFF: Yes -- yes, there is. Good afternoon,
7 gentlemen. My name is Larry Evanoff, I'm the president of the
8 Chenega Bay, our area village council. I'm going to be speaking in
9 favor of the archeological repository museum project. I strongly
10 support archeological repositories in the community of Chenega Bay,
11 Tatilek, Cordova and Valdez. Local repositories will help to
12 encourage local people here to become involved. It also encourages
13 tourism to help the economy. Cultural restoration is as important
14 as environmental restoration. Where the beaches were oiled, many
15 of our artifacts were removed to the University of Alaska, and they
16 need to be returned. Let this Prince William Sound project move
17 forward as one geographic project. Communities of Chenega Bay,
18 Tatilek, Cordova and Valdez have spent months working together.
19 Other regions should begin their own work, not to be slipped into
20 this region's project and work. The appropriate educational
21 institution to work with in our communities is the Prince William
22 Sound Community College. The college is here as part of the
23 University of Alaska. And, we do not want to have these
24 repositories run out of Kodiak, Fairbanks or Anchorage. We want to
25 have a local -- have a local effort with properly trained local
26 people. Local residents feel a need for a place to house our

1 cultural objects from local sites and as a place to view and share
2 their endangered heritage. And that's the end of my speech. I'd
3 like to thank you very much. Before I close, Mr. Chairman, will
4 there be an opportunity tomorrow also for public comment?

5 MR. PENNOYER: No, this is the public hearing for this
6 meeting. Next meeting, of course, we will have a public comment
7 period as well. There won't be time tomorrow.

8 MR. EVANOFF: Okay, well thank you very much then.

9 MR. PENNOYER: Thank you, Mr. Evanoff. Do any Trustee
10 Council members have any comments or questions? Okay, thank you
11 very much. We'll go now to Cordova. Cordova is there anybody in
12 Cordova that wishes to testify.

13 MR. MARC STEELE: Yes, Mr. Pennoyer, do you hear us.

14 MR. PENNOYER: Loud and clear, go ahead.

15 MR. STEELE: Yes, there are four individuals here, who
16 wish to testify.

17 MR. PENNOYER: Let's take the first one anyway, and we'll
18 do it in rotation around the sites. And ask each person to spell
19 their name before they testify, will you please?

20 MR. STEELE: Yes, this is Marc Steel, M-A-R-C
21 S-T-E-E-L-E. I'm representing myself as a thirty year resident of
22 Cordova, I'm representing my family, I'm representing approximately
23 seventy timber industry workers in Cordova, and I also represent
24 the two hundred and forty people who signed a petition against the
25 purchase of Orca Narrows. I would first like to go to the summary
26 (indiscernible) for September '93, and I would like to go to page

1 two, the bottom paragraph, the last sentence. And, it states that
2 there is a sixty-nine person petition recommending against the
3 purchase of Orca Narrows. Just for the record, I would like to
4 state that my wife, Christine, personally hand delivered two
5 hundred and forty signatures, instead of sixty-nine, and like I
6 said, that's just for the record. I would also like to go to the
7 supplement, the draft, the Exxon Valdez Oil Spill Restoration Plan,
8 page three twenty, paragraph two, which states, the decision that
9 benefit the recovery outweighs the cost to society must be made
10 with public review by the Trustee Council. To the laymen that
11 basically means that you guys would do what studies before
12 implementing any action, and we down here would strongly urge that
13 you -- that you do an economic impact study -- a detailed economic
14 impact study. Before we go on with any further waste of time or
15 money -- you know, we're published in several of your -- your
16 supplements and your summaries, they state, from what I understand,
17 what you published and what is meant are two different things. You
18 know, unless this (indiscernible) area or the -- you know, unless
19 you stretch the truth beyond the reasonable reality. Now, the
20 common person calls this deceitful. The money that was awarded to
21 the state that was meant for restoration, it was not meant to
22 preserve or lock up land, public or private. The decision to do
23 this is causing economical, financial and personal hardships to
24 many of us down here. God is watching what we're all doing here.
25 We could help people. We could help the environment in a wide use
26 manner. I have a real hard time speaking publicly, and my little

1 brain skips around all the time, and I just can't get through my
2 notes, the final rest of my -- my little speech. So, that's all I
3 have, I would just urge you gentlemen to please do an economic
4 impact study before you do the land acquisitions. And, I'd like to
5 refer once again to your own -- your own by-laws, I guess is what
6 they are, where you stated that this is restoration money, not
7 preservation money, and could someone elaborate on that a little
8 bit for me, so I'm just not in this gray area, please.

9 MR. PENNOYER: Mr. Steele, thank you. Trustee Council
10 members, care to comment or ask questions? I guess, Mr. Steele,
11 the restoration aspect of land acquisition has to do with
12 prevention or further diminution of resources injured in the spill
13 and the opportunities for it to recover, and I don't -- anybody
14 else care to elaborate on that?

15 MR. STEELE: Yes, sir, may I go ahead with one more
16 comment and that is this is the gray area that I'm talking about.
17 We cannot go and say that -- you know, talk about the future when
18 we haven't studied it. There's not been a study. We need to have
19 a study before we go on with these things. You know, from the
20 layman's point of view, this is a big land grab, and a whole bunch
21 of excuses are used or illusions are created to support this. The
22 real people aren't buying this. That's all I ask, thank you very
23 much.

24 MR. PENNOYER: Mr. Steel, thank you. I think you've
25 received the information, we have the habitat work group that
26 classifies this lands according to their habitat and resource

1 values. So, it's not just simply looking at pieces of land per se,
2 and I hope that the information has gone out to you that it is made
3 -- that you do avail yourself of it. But, thank you very much for
4 your testimony. We'll go now to Fairbanks. Is there anybody on
5 line that wishes to testify?

6 MR. TERRY HERMACH: Yes, this is Terry Hermach, do you
7 read me okay.

8 MR. PENNOYER: Yes, would you spell your name please, Mr.
9 Hermach.

10 MR. HERMACH: Yes, H-E-R-M-A-C-H. And, I'd like to
11 address the previous caller's comments about land acquisition item
12 -- totally opposite of his views. The oil spill did a terrible
13 blow to the Sound. It's going to take probably fifteen, twenty
14 years for any kind of permanent recovery. Logging on the other
15 hand, has a scar that will last for easily fifty years. The two
16 greatest victims economically of the oil spill were tourism and
17 commercial fishing. I do believe that clear cut logging will do a
18 much greater blow over the long-term than the oil spill ever did.
19 So, it's my opinion that it's very important to stop the logging of
20 Prince William Sound, and I think they should focus much more on
21 Tatilek Native Corporation logging than the Eyak. Eyak is just now
22 starting to log in the Sound, where Tatilek Native Corporation,
23 browning timber has been going on for -- I believe six years. I
24 don't know how many acres are involved, but it's quite
25 substantially -- you can see the clear cuts coming around Bull Head
26 and Glacier Island, thirty miles away, or twenty miles away. It's

1 a devastating blow to tourism, and the long-term effect will be of
2 a hurt to the commercial fishing industry. That's the comment I
3 wanted to make on logging. I'd like to see a much more emphasis on
4 the Tatilek Native Corporation buy back. The next one is the
5 science centers you're discussing. I've heard proposals for a
6 science center in Cordova and a science center in Seward. I do
7 support these, but I think on-site science center would be much
8 more effective. So, I would like to see the Trustee Council buy
9 from PWSAC, the Prince William Sound Aquaculture Association, which
10 is strapped for money right now, the San Juan hatchery. It would
11 be an ideal on-site science center for studying the long-term
12 effects of this oil spill. We are losing a tremendous amount of
13 scientific data that could be gained from what's happened here and
14 it's slipping through our fingers. A science center in Cordova or
15 Seward are still a long distance from the oiled areas, it would be
16 very hard to conduct research to these sites. The San Juan
17 hatchery is in Crab Bay next to Chenega Village. Chenega could
18 plan an active role in helping the scientific community study this
19 spill and its effects. It has, at least in the process of putting
20 in a hard surface runway at Chenega, it's an excellent float plane
21 base, it's halfway between Seward and Cordova, it -- it's close to
22 Anchorage too, I believe it's about a hundred miles from Anchorage.
23 So, it could benefit the scientific community tremendously. It's
24 the oldest hatchery site in the Sound. It's fairly dilapidated, so
25 it's usefulness to the PWSAC Corporation, I think, is fairly small.
26 They would have to put a lot of money into it if they wanted to

1 keep it going. I believe that's the case anyway. But, the point
2 I'm making is that it would help PWSAC to get a cash in-flow
3 because they are hurt -- are hurting financially, and it would help
4 the science community having a site that is in the oiled area.

5 MR. PENNOYER: Mr. Hermach, thank you very much, you'll
6 have to wrap it up now. I'm afraid we have a number of other
7 people who need to testify.

8 MR. HERMACH: That's all.

9 MR. PENNOYER: Thank you very much. Trustee Council
10 members, do you have questions or comments? Mr. Cole.

11 MR. COLE: I have a question about Tatilek, I think
12 someone told me that Tatilek was not interested in selling us any
13 of its timber or lands, is that true?

14 MR. PENNOYER: Mr. Gibbons -- Dr. Gibbons.

15 DR. GIBBONS: Mr. Chair, yes, we sent them a letter, and
16 they responded that they were not interested. We called them
17 approximately a month ago to reaffirm that, and they said the only
18 place they may be interested would be Bligh Island.

19 MR. PENNOYER: Further Trustee Council comment or
20 questions? Okay, thank you very much, Mr. Hermach. We'll move now
21 to Juneau. Juneau is there anybody there who wishes to testify?

22 MR. CHIP THOMA: Mr. Pennoyer, this Thoma, Chip Thoma,
23 T-H-O-M-A.

24 MR. PENNOYER: Chip, you'll have to speak up a little
25 bit, we can't hear you.

26 MR. CHIP THOMA: My last name is Thoma, T-H-O-M-A, how

1 does that come across.

2 MR. PENNOYER: You're doing better, thank you.

3 MR. THOMA: I certainly appreciate teleconferencing
4 the entire meeting, obviously I hear without interruption or -- as
5 far as the negotiations with Eyak are concerned, I'd like to
6 reiterate my comments from the last meeting, that they formally
7 willing sellers from one year ago, such as Eyak Corporation, on
8 House Bill 411, have literally become the captives of the Alaska
9 timber industry. It doesn't surprise me at all. The Eyak board is
10 being totally lobbied and legally threatened by Sherestone Timber
11 to reject any notion to quit cutting this valuable habitat area.
12 This is distinct from the wishes of the general public, both state
13 and the nation, want these fish inlets and lakes and valleys
14 preserved. I think it is blackmail, I believe it's extortion, but
15 I think we should proceed to bring this process to a closure.
16 Secondly, I was very encouraged by some of the considerations that
17 Mr. Rosier made, the case that he made for Prince William Sound.
18 I think it's gone beyond serious. I think we're in a very crisis
19 situation as far as the biological integrity of Prince William
20 Sound. Consequently, I believe that both the federal and state
21 should consider declaring Prince William Sound a biological
22 recovery area. This has been in legislation, it's been introduced
23 before the legislature in the past, two years ago, but I believe it
24 is time now to do this. I was very dismayed with the budget
25 process and the planning process as it has been explained. We did
26 receive the documents down here in Juneau. I spent the noon hour

1 going through the budget and I found it extremely confusing as
2 someone who's -- you know, looked at legislative budgets for years,
3 I think this thing would have been laughed right out of there.
4 And, I do not find it worth the comment being made that we got this
5 altogether the last night, I mean, that's ludicrous to put a budget
6 like this together in final form, the night before (indiscernible).
7 I saw very little semblance of clear objectives and organization is
8 atrocious and I, of course, reject the so-called preferred
9 alternative planning process which -- that a standby or a standard
10 for service planning process, and I hope that you get some new
11 direction with the staff, and I hope that we fund this operation
12 down and get down to the objectives that been (indiscernible) by
13 the public. My last comment I have, to do with the endowment. I
14 personally reject the notion of an endowment. I believe that's
15 what we're dealing with right now. This is an Exxon endowment that
16 we're dealing with. They have the one billion dollars. They give
17 us our ninety or one hundred million dollars a years. Those are
18 the payments for the endowment. To take a portion of that and to
19 put it into a further endowment, I think is crazy. There are
20 incredible amount of universities in the United States that have
21 endowments for scientific work. I think there are endowments with
22 the National Science Administration, and I think, primarily, the
23 agencies, such as NOAA and the ADF&G, I think that this should
24 again become part of their regular budget process. I think it's
25 just come to the end where we have to keep saying that we have to
26 study and monitor, monitor and study and go and on and on,

1 especially with the money inside to do it. My last comment has to
2 do with the public process, the book that we received down here --
3 some of the comments of Attorney General Cole. I, too, was very
4 happy to see that Mr. Cole was taking this public comment thing
5 personally. He mentioned to me -- just a couple of days ago here
6 in Juneau that he saw my comments about linking him with former
7 Attorney General Thornburg and I think I made this comment orally
8 in April. I certainly mean them, I think that the criminal charges
9 should have been pursued by both the U.S. government and, of
10 course, with the acquisition and the help of the state, I think we
11 should have reformed the entire maritime industry. We could put a
12 better level of union staffing and qualifications on board the
13 tankers that travel to Alaska and eliminate the Kagins (ph) and the
14 others who are mascots aboard these ships that they put behind the
15 wheel. So, I think those criminal charges should have been pursued
16 and I think it's a real shame. I think we lost an incredible
17 opportunity to get -- to get these pirates -- these oil pirates off
18 our backs and jeopardizing these ecological areas. My last comment
19 is an aside. I was very disappointed to hear about inclusion of --
20 of the amendment to eliminate Alaska from the PAC Fish federations
21 back in D.C. I understand this has been a great state effort on
22 the state's part to see that elimination does occur. I think it is
23 wrong-headed move, and even though there are some Forest Service
24 biologists who feel that this is a necessity and it's long overdue,
25 I think I certainly see the hand of the timber industry in the
26 Forest Service side in Washington at the helm here, and I don't

1 think it's going to be successful. I think that we will pursue
2 this, that we should have three hundred foot buffer strips on every
3 side of every salmon stream because literally everything from
4 Sacramento all the way through Southeast Alaska has been taken to
5 great task over this long and inane process that has allowed this
6 type of logging of very steep and slide-prone valleys. I will
7 conclude my comments there, and, of course, answer any questions
8 that you might have.

9 MR. PENNOYER: Thank you Mr. Thoma. Any questions or
10 observations by the Trustee Council? Thank you very much. Next,
11 Valdez. I will take somebody from Valdez if there's anybody there
12 that wishes to testify?

13 MR. OLSON: Yes, there's two of us here in Valdez.
14 Can you read me okay? This is Helmer Olson from Valdez Native
15 Association. Are you reading me okay?

16 MR. PENNOYER: We're reading you fine. Does anybody
17 there wish to present testimony?

18 MR. OLSON: Yes, I do. This Helmer Olson. H-E-L-M-E-
19 R O-L-S-O-N. I'm the president of Valdez Native Association.
20 Larry Evanoff from Chenega summed it up for my sentiments exactly
21 for this culture center. I want to come back, if I may, why it's
22 so important to the Valdez Native Association. I want to go back
23 for the people who don't really know what happened in 1970 and '71
24 and prior to that, in '69. I'll read an excerpt that we had put in
25 a journal that was published. (Quoting) When oil was discovered at
26 Prudhoe Bay in 1969, the oil companies decided to move the oil by

1 pipeline from the North Slope to Valdez where the oil could be
2 loaded onto tankers. Because there was to be no settlement of the
3 Native land claims until December 1971, a new pipeline company,
4 Alyeska, one of the four groups of Native people living along the
5 pipeline route, or corridor, Arctic Slope, Doyon, Ahtna and
6 Chugach, to release their claim to the pipeline right-of-way so
7 that the pipeline could be built. Chugach wanted to cooperate with
8 Alyeska in order to improve its chances of getting contracts with
9 the oil companies and jobs for Chugach shareholders. Excited by
10 those possibilities and by the prospect of selecting its ANCSA
11 land, Chugach agreed in 1970 to give up its right to claim Valdez
12 as a Native village for the sum of one dollar. I'd like to -- I
13 have another person here from the Valdez Native Association so he
14 can follow up on what our concerns are. Thank you.

15 MR. PENNOYER: Well, if you've got a follow-up, why don't
16 you go ahead then, please? Next the person from Valdez, and then
17 we'll ask the Trustee Council if they've got questions for both of
18 you.

19 MR. WILSON: Good afternoon, members of the Trustee
20 Council. My name is Charles Parker, P-A-R-K-E-R. I'm Director of
21 Tribe Operations for the Valdez Native Association. I'm here today
22 to express my concern over a project that is important to many
23 people here in Prince William Sound, as you have heard from
24 Mr. Evanoff in Chenega Bay. As you well know, the oil spill, as
25 well as the subsequent clean-up, exposed and damaged a number of
26 sites rich in historically important artifacts. The project has

1 been brought before you regarding community-based archeological
2 repositories here in Prince William Sound. It has come to my
3 attention lately that this project has been changed almost beyond
4 recognition. I would like to point out to you that the communities
5 of Eyak, Chenega Bay, Tatitlik, and Valdez have worked with the
6 University of Alaska, through Prince William Sound Community
7 College, for many months on this project. I would like to ask that
8 you not change this project, as many of us believe it would
9 seriously jeopardize and dilute the effectiveness of this project
10 in trying to save the history of the Native people of Prince
11 William Sound, which could be lost due to the 1989 oil spill.
12 Simply put, I would urge you not to forget us here in Prince
13 William Sound where, I would remind you, the oil spill occurred,
14 and to let us attempt to put some of the things right. Thank you
15 for your time.

16 MR. PENNOYER: Thank you, Mr. Parker. Are there
17 questions from the Trustee Council? Comments? Okay, thank you.
18 We'll now go to Anchorage and Karl Becker is the first person to
19 testify. Karl? Here you are.

20 MR. BECKER: Members of the Trustee Council. For the
21 record, my name is Karl Becker. I'm a real Cordova fisherman. I'm
22 a sixteen-year resident of Cordova, and I'm here today representing
23 the Prince William Sound Conservation Alliance. And I'd like to
24 thank you and Eyak Corporation's representatives for your patience
25 in this lengthy negotiation process. We recognize that there have
26 been significant difficulties within this process. We applaud your

1 measured flexibility in approaching some of the more difficult
2 issues under consideration, specifically the need for some up-front
3 money to resolve the contractual difficulties with the logging
4 contractor, your willingness to consider other than fee simple
5 purchases even within the core area, and your consideration of the
6 short-term transitional needs of the loggers. We appreciate the
7 exercise of your public responsibility and your recognition of
8 long-term tourism, recreational and subsistence values of the Orca
9 Narrows parcel and by requiring specific language for any
10 conservation easements before approval. We propose several
11 specific solutions to help this process carry forward. Several of
12 the loggers have expressed to me an interest in the possibility of
13 work restoring logged-over areas in the Cabin Lake and Sheridan
14 Glacier areas in lieu of cutting Orca Narrows. We urge that you
15 seriously consider this possibility. Eyak's offer of a logging
16 moratorium for two million dollars holds the key to resolving
17 several issues, specifically the need to pay the logging contractor
18 and to give you all time to resolve the few remaining loose ends in
19 the negotiations. The six parcels on Eyak Lake will become private
20 property, and as such will need to meet the stringent regulations
21 of the DEC with respect to septic systems, et cetera. Also, the
22 six additional parcels, the nine acres, represent only a fractional
23 increase in the development around Eyak Lake if they're fully
24 developed. I'd like to address the restoration plan briefly.
25 Prince William Sound Conservation Alliance supports the need for a
26 strategic research plan for ecosystem monitoring, research and

1 restoration, and this type of an approach would recognize the
2 interaction of natural systems, both marine and upland. It would
3 be cost-effective because it would establish a framework for
4 evaluating research projects. And I would like to say something
5 about habitat acquisition and marine research and restoration. I
6 think that pitting one of these against another is creating a false
7 dichotomy because, indeed, habitat acquisition encompasses elements
8 of fisheries restoration by the protection of upland anadromous
9 habitats and critical habitat of other injured resources and
10 species -- and services. Marine research will have a bearing on
11 species using the uplands, such marble murrelets, harlequin ducks,
12 river otters and salmon. And I'd like to urge that you avoid
13 putting specific dollar figures right now on research and
14 restoration, or habitat acquisition, until specific goals,
15 objectives and projects are identified. Also, any research or
16 restoration will be meaningless if we start throwing away other
17 parts of the ecosystem, i.e., our upland habitats. In closing, I
18 would like to emphasize that while our instincts are correct in
19 protecting jobs, we also have to take a long, hard look at what the
20 future holds in store for us if we facilitate what an unsustainable
21 timber industry is doing in Prince William Sound. In less than ten
22 years, we will have liquidated yet another piece of our ecosystem
23 and with it significant long-term economic opportunities in
24 fisheries, tourism, recreation and in subsistence lifestyles. I
25 urge you to help our community and others in Prince William Sound
26 to avoid this outcome. Thank you.

1 MR. PENNOYER: Thank you, Mr. Becker. Comments or
2 questions from the Trustee Council? Commissioner Sandor?

3 MR. SANDOR: I thought Mr. Becker's suggestion on some
4 alternative harvesting activities or timber activities were
5 constructive. I guess I'd ask Mr. Wolfe if he could not only
6 consider that along with others that may be offered during this
7 period of time and this negotiation process.

8 MR. PENNOYER: Mr. Wolfe?

9 MR. WOLFE: All I can say is, we'll try to see what
10 alternatives or options there are.

11 MR. PENNOYER: Thank you. Commissioner Rosier, you had
12 a question?

13 MR. ROSIER: Thank you, Mr. Chairman. Yes, Mr. Becker,
14 you mentioned the need for the ecosystem research there in the
15 Sound. Are you familiar with some of the efforts that are being
16 made by some of the other groups?

17 MR. BECKER: Yes.

18 MR. ROSIER: And have you or your group been
19 participants in that development of some of the alternative
20 proposals that are here at the present time?

21 MR. BECKER: We've been in touch with some of those
22 groups.

23 MR. ROSIER: Do you support the efforts, or the types
24 of programs that are being put forth here at the present time under
25 those alternative proposals?

26 MR. BECKER: Yes, I would say that we support them with

1 some specific qualifications.

2 MR. ROSIER: Thank you.

3 MR. PENNOYER: Mr. Becker, would you mind telling me what
4 those specific qualifications are briefly, or if you have them
5 somewhere?

6 MR. BECKER: Yes. As I mentioned, I think the fixing
7 of a specific dollar figure for research is probably not in the
8 best interest of the restoration process. I think that that, if
9 anything, will inflate the budgets of any restoration research.
10 I'm familiar with how those budgets get inflated, and I would hope
11 that that wouldn't happen, and I think that until there is a
12 framework within which to evaluate projects, it will be very
13 difficult indeed to actually put a specific figure on restoration
14 and research.

15 MR. PENNOYER: Okay, thank you. (Indiscernible) go back
16 out on the teleconference then to Chenega Bay? Is there anybody
17 else in Chenega Bay who wishes to testify? Chenega Bay, is there
18 anybody else --

19 UNIDENTIFIED VOICE: No, there isn't anybody else here at
20 Chenega Bay.

21 MR. PENNOYER: Nobody else? Okay, fine. Thank you.
22 Cordova? Anybody else in Cordova that wishes to testify?

23 UNIDENTIFIED VOICE: Yes, sir, we have several people
24 here who would like to testify.

25 MR. PENNOYER: Can we take the next one then, please?

26 MR. SHERMAN: Yeah, my name is Patrick Sherman,

1 P-A-T-R-I-C-K S-H-E-R-M-A-N. Usually I'm not able to attend these
2 teleconferences, but today I took the time off work so I could.
3 I'm a lifelong resident of Cordova and have worked in the timber
4 industry since 1990. I was a fisherman up until the 1989 oil
5 spill, and my question to you is about the possible Eyak land
6 purchases. If you put conservation easements on Eyak land, you
7 would take seven million dollars out of the economy of Cordova.
8 You also would be eliminating between sixty to eighty direct jobs.
9 My question to you is, are the loggers going to be taken care of in
10 some way, or are we just going to be thrown out into the street?
11 My concern is, I've lived here all my life and I love my home here,
12 but if my job is eliminated, I will not be able to continue to live
13 here. Our economy is in major distress and all of us know it. The
14 timber industry here in Cordova is sitting on pins and needles
15 waiting to see if our livelihoods here in Cordova are finished. I
16 hope you will consider the working men and women here in our timber
17 industry when you shut the doors on us. Thank you.

18 MR. PENNOYER: Thank you, Mr. Sherman. Trustee Council
19 members, any observations or questions? Thank you for taking the
20 time to come to the teleconference. I appreciate your input.

21 MR. SHERMAN: Thank you.

22 MR. PENNOYER: Let's go to Fairbanks now, and anybody
23 additionally in Fairbanks that wants to testify?

24 UNIDENTIFIED VOICE: There's no one else in Fairbanks to
25 testify.

26 MR. PENNOYER: Okay, thank you. Juneau? Anybody else

1 additionally in Juneau that wants to testify?

2 UNIDENTIFIED VOICE: No person in Juneau.

3 MR. PENNOYER: No? Okay, thank you very much. Valdez?
4 Anybody additionally in Valdez that wants to testify?

5 UNIDENTIFIED VOICE: No, no one to testify.

6 MR. PENNOYER: Okay, fine. Has anybody else come on line
7 besides Chenega Bay, Cordova, Fairbanks, Juneau and Valdez?

8 UNIDENTIFIED VOICE: Seward is now on line.

9 MR. PENNOYER: Okay. Seward? Is there anybody in Seward
10 that wishes to testify tonight? (Pause) Seward? Is there anybody
11 in Seward that wishes to testify tonight? Okay, thank you. Let's
12 go back to Anchorage then. Theo Matthews.

13 MR. MATTHEWS: Mr. Chairman, Trustee Council members, my
14 name is Theo Matthews, M-A-T-T-H-E-W-S. I live in Kasilof, Alaska,
15 and I'm here representing United Cook Inlet Drift Association.
16 UCIDA represents the 585 commercial salmon drift permit holders in
17 Upper Cook Inlet. I feel I can also comfortably speak for the
18 Kenai Peninsula Fishermen's Association. They represent
19 approximately 450 east side setnetters. We are all vitally
20 dependent on the Kenai River sockeye salmon resource, and that's
21 what I'd like to address tonight. There are four brief points. If
22 I understand the process that happened today, it's not the time to
23 address the '94 work plan because we don't know what the projects
24 are yet, and so I'd like to thank you for funding the conclusion of
25 the Kenai genetic work that was done in the field season this year.
26 This lab work must be done prior to the next season or it won't be

1 useful. It's finally going to be a viable in-season tool, but the
2 baseline genetic lab work has to be done prior to the season so
3 they can use that result in season, so I thank you very much for
4 funding that. I'd also like to speak in support of, I believe it's
5 interim funding for Project 94258, which you'll be discussing
6 tomorrow, if I understand your budget documents correctly. This is
7 essentially the lake fry study work that has been going on in the
8 Kenai Lake system. It's vital that we have that work done.
9 Unfortunately, it appears from the last season's work that even the
10 runs through 1997 are now at risk. However, they'll need to do
11 more work this summer and this fall to assess that situation. I'd
12 like to support that interim funding, at whatever level is
13 appropriate, Mr. Cole. I'd like, thirdly, to briefly speak to the
14 GAO report that addressed the Kenai River sockeye resource as one
15 of their perceived problems with the Council funding. I have the
16 same sense of outrage that some of the Council members had. I
17 don't know who they talked to. Their statements on Kenai River
18 sockeye are simply incorrect. There never was a perception of an
19 over-escapement problem with Kenai River sockeye salmon until after
20 the 1989 oil spill. In my position, I work closely with area
21 biologists before and after every season and all winter long. In
22 fact, after the '89 spill, I personally bought a more expensive,
23 bigger boat, hoping that, if nothing else, the spill would result
24 in bigger, larger returns. We had no idea that there was going to
25 be this collapse. And trying to tie in what they call the over-
26 escapements in '87 and '88, I mean, that doesn't wash either. We

1 had very large returns, or we had decent returns from those years.
2 The '89 spill, in our opinion, is what broke the system's back, and
3 there was nothing known prior to that. So, I do take extreme
4 exception. I don't know if they talked to our biologists. They
5 certainly talked to none of us. And finally, on your restoration
6 plans, I'd just like to caution you that you -- whether it be
7 habitat, fish and game monitoring, research, or whatever else, I
8 mean, you don't really want to lock in an absolute rigid percentage
9 or something to where you're going to get the point in any given
10 year where, yeah, that's a vital project, but we filled up your
11 category. I think you've seen that maybe with Prince William Sound
12 this year. I mean, we all anticipated problems. We tried to get
13 herring studies. We couldn't get them, but I think the results of
14 this season have shown you, you're going to have to do much more
15 there, and, you know, I wouldn't want those projects not to be
16 done, but I wouldn't want ours not to be done because all the money
17 was allocated somewhere else. So, the restoration plan needs
18 flexibility, whether it's habitat acquisition, fisheries research,
19 or whatever. And thank you, Mr. Chairman.

20 MR. PENNOYER: Thank you, Theo. Anybody have any
21 questions or comments? Attorney General Cole?

22 MR. COLE: Yes. I want to say that I agree with you
23 that that GAO report was a conspiracy of the East Coast elitists
24 trying to tell us how to manage our own resources up here. But I
25 think that's now become abundantly clear, what the motivations were
26 behind that report. Thank you for your comments in that regard.

1 Mr. Loeffler pointed out this morning, that the predominance of
2 support from the public within the restoration brochure has been in
3 favor of habitat acquisition, and speaking as a member of the
4 fishing community, I'd just like to urge that the Trustee Council
5 consider a balanced approach in the expenditures of the remaining
6 settlement money. Mr. Rosier earlier today commented, I think very
7 appropriately, he gave a good characterization to our situation in
8 Prince William Sound in that he called it, or described it, as a
9 changing and evolving picture. And, indeed, another analogy would
10 be a slowly developing Polaroid photograph. Who could have
11 foreseen, early on, that we would be facing not one or two, but
12 three years of fishery failures. This is the drum that's beaten on
13 loudly. Now, with respect to the restoration brochure, I pray that
14 you gentlemen will take into consideration Commissioner Rosier's
15 assessment that we do need to address the demise of the -- the
16 apparent demise of the marine ecosystem in Prince William Sound and
17 other spill-impacted areas. We certainly need to focus attention
18 on the spill-impacted areas in general. I'm close to Prince
19 William Sound, so it's easy to focus attention there, but we
20 certainly have to be broad in our scope. Therefore, the comment,
21 I don't know if you gentlemen caught, made by one of the staff
22 members on the restoration team earlier with respect to the
23 analysis of the public comment to the restoration brochure. The
24 comment made was, now that we know how to spend the money, the rest
25 should be easy. My point is, we really don't know how to spend the
26 rest of the money because there's been such a push from the

1 MR. PENNOYER: Other comments or questions? Thank you
2 very much. I think we've -- we need to go back, I guess, to
3 Chenega Bay. Chenega Bay, anybody else in Chenega Bay, or has
4 everybody there testified who wants to testify?

5 UNIDENTIFIED VOICE: Everybody has testified that wants
6 to testify.

7 MR. PENNOYER: Okay. Cordova, please? The next person
8 in Cordova?

9 UNIDENTIFIED VOICE: Yes, sir. There are two remaining
10 people in Cordova.

11 MR. PENNOYER: Why don't we take them both then?

12 MR. ADAMS: Okay. My name is Ken Adams. I'm a
13 commercial fisherman here in Cordova, and I would like to make a
14 few comments, please.

15 MR. PENNOYER: Certainly.

16 MR. ADAMS: I would like to commend Mr. Frampton, who
17 gave us a breath of fresh air in his requesting a restoration plan
18 be put into effect at the end of October, and I agree with him
19 wholeheartedly that the '94 work plan, as the '92 and '93 work
20 plans, were wish lists and not really plans at all. We do need a
21 guiding document, so he needs a good "atta boy" there. However,
22 the question is raised about the importance of the restoration
23 brochure with respect to putting this restoration plan together.
24 Early on, early this spring, we were informed by the members of the
25 Restoration Team that the restoration brochure would be weighted
26 quite heavily in developing a restoration plan. As Mr. Gibbons and

1 conservation community towards habitat acquisition early on that
2 precluded consideration, a fair consideration for the marine
3 environment. That situation is changed, and it needs to be -- and
4 the weight that the restoration brochure has with respect to the
5 restoration plan, that needs to be weighed very heavily and it
6 needs to be scrutinized. We have a changing and evolving picture,
7 and I completely concur with Mr. Rosier, and I please urge you
8 again to weigh that in your weighting of the importance of this
9 restoration brochure with respect to the restoration plan. Thank
10 you very much.

11 MR. PENNOYER: Thank you, Mr. Adams. Anybody here wish
12 to comment or question? Trustee Council members? Okay, thank you
13 very much. Can we take the other person in Cordova, and I think
14 that will complete the teleconference then.

15 MS. MCBURNEY: Thank you, Mr. Pennoyer, members of the
16 Council. My name is Mary McBurney and I'm executive director for
17 Cordova District Fishermen United. I would also like to express my
18 appreciation for the decision to move the restoration plan deadline
19 up a bit, and especially have one available by the end of next
20 month. I would also encourage the Council to incorporate input and
21 recommendations from the Prince William Sound Fisheries Research
22 and Restoration Task Force. This group has been working to develop
23 a comprehensive research strategy to better understand the marine
24 ecosystem in Prince William Sound, and they've been doing a lot of
25 the homework that should be included in the restoration plan. So,
26 as this plan develops, I certainly hope that an effort will be made

1 to work with the members of this group, which represent the Prince
2 William Sound Science Center, local Fish and Game expertise, PWSAC
3 other local folks with fisheries and marine science background.
4 Thank you.

5 MR. PENNOYER: Thank you, Ms. McBurney. Any Trustee
6 Council members have questions or comments? Thank you very much.
7 We will, by the way, be taking up that ecosystem research plan
8 question tomorrow in our discussion of projects, so thank you very
9 much. Now we'll move back to Anchorage and Jim Gray.

10 MR. GRAY: I'm Jim Gray. I'm a fisherman from Cordova,
11 and first of all I'd like to say, with Mr. Becker's comments
12 earlier, that I don't feel like there's a huge discrepancy at all
13 between Mr. Becker's position and the position of the other people
14 in Cordova, especially in reference to the percentages of the
15 amount of money that I think should be spent, I think the concern
16 that's coming out here is that we're not sure what the percentages
17 are going to be yet, and that remains to be seen, so I'm certainly
18 encouraging that. I'd also like to give a sincere thank you to
19 Mr. Rosier for publicly acknowledging the seriousness of the
20 condition in Prince William Sound. That's music to the fisherman's
21 ears, I think. We've been living with this for a couple of years
22 and a lot of people have been saying things weren't that bad, so
23 thank you for publicly acknowledging that. We're encouraged that
24 -- I'd like to be a little positive here. We're encouraged by the
25 direction of the Council, and I would like to re-emphasize the
26 impact of the oil spill in Prince William Sound and encourage use

1 of the funds and projects in spill areas. I would also like to say
2 here in regards to the fishermen from Kenai here that we certainly
3 don't have any kind of heartburn with research in the Kenai River
4 on the impact of the spill there. I'd also like to restate the
5 fishermen's support for the ongoing biological framework that's
6 been developed among key groups in Prince William Sound, including
7 the Science Center, the ADF&G, the University of Alaska, and the
8 Prince William Sound Aquaculture Corporation, and how they fit into
9 the idea of actually making progress toward research and
10 restoration in Prince William Sound. We're looking forward to the
11 possibility of being incorporated into the research and restoration
12 plan and I think I've talked individually to almost everybody here,
13 we really believe we're on higher ground here and that the people
14 in Prince William Sound have the expertise and the ability to deal
15 with this problem, so we would really encourage you to look
16 seriously at our proposal. I think it's going to come up tomorrow,
17 and if you haven't got one, we've got them, and see what we can do
18 to help solve things here, so -- and thank you very much, and I'd
19 like to applaud your efforts at moving the ball forward here.

20 MR. PENNOYER: Thank you, Mr. Gray. Trustee Council
21 members? Attorney General Cole?

22 MR. COLE: One quick comment. I would like to think
23 that we have passed beyond the established methods, specific
24 percentages, for the various elements of restoration.

25 MR. PENNOYER: Thank you.

26 MR. COLE: I'm not saying that we have, but I would

1 like to think that perhaps we have.

2 (Laughter)

3 MR. GRAY: We would like to think that you have too.

4 MR. COLE: Perhaps tomorrow you'll hear it. Thanks.

5 MR. GRAY: Thanks.

6 MR. PENNOYER: Thank you very much. Next, Mr. McKee,
7 Charles McKee.

8 MR. McKEE: This one's for you. (Handing paper to
9 Mr. Cole)

10 MR. COLE: Is this from the Stanford Research
11 Institution?

12 MR. McKEE: No, no, no, no, but that one is a copy of
13 your -- but the original is in your office and this is a stamped
14 copy of it. My name is Charles McKee, and I did some research at
15 the law library, which is what I've passed out to you people, and
16 I have, by right of copyright, the right to promote the Treasury --
17 Treasury Seal, and seeing as how we had that blockade in the Prince
18 William Sound, I was concerned about the power of holding to the
19 peace and good behavior of our citizenry, and that's the right of
20 the judges and justices of the court and their responsibility, and
21 I take that upon myself as well. The Treasury has jurisdiction
22 over the postal service, over the library system, to the accounts
23 process, and you can find that in Book 1, Page 66, September the
24 2nd, 1789, and what I've handed out to you people was the law
25 pertaining to 1871, the verdict page of Book 17, page 13, 14, and
26 15, and proved April the 27th, or April the 20th, 1871, and

1 retrospect to my copyright, and I'll hand that out to you people.
2 You've seen it before. I've turned it in several times. I hope
3 you've read it because it pertains to my -- my thesis of hard
4 knocks that I've wrote and had approved by copyright pertaining to
5 the Treasury Seal, and I'd like to bring about more money to the
6 spill, and within that law, the three pages of law, I'd like to
7 maintain the public peace and security and not to have my rights
8 usurped by ignoring the law, and what I've turned in to you people
9 is congressional law, the letter of the law, and I turned it in to
10 the municipal assembly last Tuesday. I found it Tuesday at six
11 o'clock in the library and I -- you know, there it is. I don't
12 have to go through a court process, whether it's state level or
13 federal level, to get a verdict rendered because it had already
14 been rendered. They wrote this and approved it eight years after
15 the Civil War, which was one of the bloodiest experiences this
16 country has ever seen, and I'm looking at it from a preventative
17 measure to prevent that from occurring anywhere in this nation.
18 And I sent my copyrighted thesis to the Security Exchange
19 Commission, to the Thrift (ph) Department in San Francisco
20 pertaining to the banking community, and also to another
21 organization as well. So, I'd like for you people to consider the
22 law and how it reflects my copyrighted thesis. And I also turned
23 it in to the Permanent Fund Corporation, they get a percentage of
24 the oil well, and asked them -- for as you can see, I asked them in
25 reference to a proposal that I turned in to you people.

26 MR. PENNOYER: Mr. McKee, I'm going to have to ask you to

1 start to wrap up, if you could.

2 MR. McKEE: Yeah. In summary, I don't want to have to
3 take this any further. You read the law and we'll proceed with the
4 recognition that I've asked for before, that I do have the right to
5 issue legal tender issue money for emergencies such as -- and
6 preventive measures. It could even come out of the private tier
7 fund that I've found that we've had. Of course, we all know
8 private -- you know, pirates and privateers, they all came ashore,
9 so it's an extenuation of that in our society.

10 MR. PENNOYER: Thank you, Mr. McKee, I appreciate that.
11 Thank you very much. Tory Baker, please?

12 MS. BAKER: (Indiscernible)

13 MR. PENNOYER: Thank you. I think I took it out of --

14 MS. BAKER: I'll pass.

15 MR. PENNOYER: Okay. Roxie Estes, please?

16 MS. ESTES: I'm Roxie Estes. I'm a Prince William
17 Sound fisherman, second generation. Thank you for your time and
18 attention. It really gave me hope in some of the statements you've
19 made today. (Readjusting microphone) Okay, I'm sorry. I'll calm
20 down a little bit. Let me see, where was I? I gained some hope
21 from the statements you made today, and the change in your views
22 has been very encouraging. Not to sound facetious, I wouldn't put
23 much weight on the views held by outsiders. They don't ask for our
24 views on their problems and they certainly wouldn't accept any
25 judgments that we've made. The Prince William Sound fishery has
26 ceased to exist. The fishermen in the different industries

1 dependent on their operations are nearly defunct. I've heard
2 repeatedly that Mother Nature will take care of it. I can't say
3 that I've seen any evidence of that. Both our wild stock and the
4 herring stock, or the hatchery stock, have rapidly deteriorated and
5 continue to do so. The spill occurred in Prince William Sound.
6 The oil streaked as far as Egg Island on the Copper River Flats.
7 The Sound configuration is like a bath tub with the plug being
8 Hinchinbrook Entrance. This, I'm sure, has had a protective impact
9 on our fisheries. Now it's keeping the oil from being flushed out
10 the way a more exposed coastline would be. Due to past Fish and
11 Game management, the wild run has been essentially kept under lock
12 and key for the better part of ten years. This has left the fleet
13 dependent totally on the hatcheries which we started to augment our
14 run. These fish all had to go through the most heavily oiled
15 areas, coming and going. This had a cumulative effect. We might
16 need not only to study the research, but we need to protect what
17 little bit is left of the resource itself. PWSAC is capable of
18 doing original egg takes, stream by stream, keeping the gene pools
19 pure, which should satisfy the state's requirements, I hope, and
20 helping what little bit is left to survive so that when we do
21 pinpoint the problem there will be enough fish left to make a
22 solution feasible. The people -- the resource didn't create this
23 problem, Exxon did, but we definitely need to be part of the
24 resolution. Discussion and studies are fine, but actions speak
25 much louder than words. The fishermen, the people that live in an
26 around the Sound, need to be included in any work done for

1 recovery. There is no one that wants or needs more results the way
2 we do.

3 MR. PENNOYER: Thank you very much.

4 MS. ESTES: Thank you.

5 MR. PENNOYER: Are there any questions? Attorney General
6 Cole?

7 MR. COLE: What do you think we should do? I've
8 given this a lot of thought. What do you think we should do?

9 MS. ESTES: The -- we've gotten to the point where the
10 resource itself, the fisheries, the fish, are on the point of
11 extinction. They say that the gene pool is deteriorating. The
12 fish have not only become mouth-wormed and smaller, but they're
13 packing less eggs, and the damage has occurred in the non-oiled
14 streams as well as the oiled streams, the streams that still have
15 oil in the gravel beds. So if we could just give them a little bit
16 of extra protection, which is what my suggestion was, that was our
17 original intention when we started the hatcheries, was to augment
18 our wild stock as well as supplement the wild stock with hatchery
19 fish, and if we give them a little extra protection, maybe they'll
20 survive long enough so we can actually find out what the problem is
21 and work to resolve it. Right now, I don't think anybody is going
22 to survive long enough to see the fishery live that long. Things
23 are going downhill real quick.

24 MR. PENNOYER: Thank you. Further questions or
25 observations? Thank you very much.

26 MS. ESTES: Thank you.

1 MR. PENNOYER: Chuck Totemoff, please? Chuck Totemoff.

2 MR. TOTEMOFF: Thank you, Mr. Chairman, members of the
3 Trustee Council. My name is Chuck Totemoff, T-O-T-E-M-O-F-F. I'll
4 just keep my comments brief tonight. I would just like to say,
5 number one, I do support Project 386 to go forward as a funded
6 project for 1994. The second comment I'd like to make, or actually
7 maybe a question, is that we're rapidly approaching the end of this
8 year where we can do any meaningful clean-up or any further beach
9 demonstration projects in Prince William Sound. I guess I'd just
10 like to know what the status of this part of the restoration is.
11 I do understand there were some 1993 projects that were supposed to
12 address this problem, but I haven't seen very much of that this
13 year. There was supposed to have been another Tesoro Alaska PS51
14 demonstration project this month, but I now understand that that
15 may not happen. Can I get an answer on that?

16 MR. PENNOYER: Dr. Gibbons?

17 DR. GIBBONS: I can probably ask the PSP. There was a
18 study, I think it's -- well, it's shoreline assessment that you're
19 quite aware of. Ernie Piper led that study and he's worked with
20 you personally, I know, and your people, to analyze the oil
21 remaining on the beaches. What we had programmed was to cover a
22 certain amount of beach segments, I forget the exact number. More
23 were added, and so the time is just running out to do any clean-up.
24 We're trying to assess what oil is out there. The PSP, we've been
25 approached by Tesoro to fund that. My understanding is that it
26 hasn't been through the response, necessary steps. Maybe Pamela

1 Bergman might have more on that, but we have a proposal sitting in
2 front of us to test their product that appears on the intertidal
3 area, but that's as far as I know. Ernie Piper, I think, is still
4 working on these estimates, if I'm not incorrect on that.

5 MR. TOTEMOFF: Thank you, Dr. Gibbons. I'll just remind
6 the Council that we have done clean-up work as far as into next
7 month, so I believe there is time to do at least one more
8 demonstration project. We still believe that there's a lot of oil
9 contamination still out there, and a lot of people have told us
10 that's it's nontoxic, but I'd like to see anybody drag a seal
11 across that and eat it, you know, after they've dragged it through
12 that. But it's just still a problem for us out there, you know, we
13 have to work right in the oil spill impact area, and we'd like to
14 see some further clean-up if at all possible this year, or at least
15 develop the technology for next year.

16 MR. PENNOYER: Thank you. Questions from the Trustee
17 Council? Commissioner Sandor?

18 MR. SANDOR: Well, not a question; I guess, a comment.
19 I don't know whether it's possible tomorrow or not, but if not
20 tomorrow, at our next meeting we should have a more definitive
21 summary -- a fairly definitive summary of what happened, you know,
22 what occurred in the process of the clean-up. I think others share
23 some of the same questions that Mr. Totemoff has.

24 MR. PENNOYER: Thank you. Dr. Gibbons, did you make a
25 note of that? Thank you very much. Eric Myers?

26 MR. MYERS: Thank you. For the record, my name is

1 Eric Myers, and I'm speaking on behalf of the Alaska Center for the
2 Environment. Just a couple of quick points, I wanted to share with
3 the Trustee Council some information that I've come across, a very
4 interesting report that was prepared by an outfit, jointly
5 actually, on behalf of the Eco Trust and Conservation
6 International, which puts an interesting perspective on the
7 temperate rain forest resources that Alaskans, I think, have a
8 tendency to take somewhat for granted. Having travelled from
9 Seattle up the coast, as I'm sure many of you have, we tend to
10 assume, I think, that the trees and the forests, and the forest
11 ecosystem that we've all seen and grown to appreciate, is something
12 that we can take for granted. In fact, the coastal temperate rain
13 forests originally covered a mere zero point two percent of the
14 land's -- of the earth's surface. That's zero point two percent.
15 That's roughly, you know, one fifth of one percent of the earth's
16 surface. It's an enormously rare ecosystem. Even though it seems
17 that we have a superabundance of it in Alaska, from a global
18 perspective, it's extraordinarily rare, and in fact also a very
19 threatened one. An estimated fifty-six percent of the original
20 coastal temperate rain forests have been logged or converted to
21 other land uses. It is from that global perspective, I think, that
22 it behooves us to recognize the extraordinary opportunity we have
23 here, through the settlement, to make a difference in the future of
24 that coastal rain forest ecosystem. I also wanted to shed a little
25 light on the question that Attorney General Cole raised earlier
26 about what became perhaps a bit notorious as the "citizen's

1 vision." It was, in fact, a phrase that sort of got taken out of
2 context and then perhaps got a little bit larger than life. What
3 I brought for the benefit of the members of the Trustee Council is
4 a mailing that the Alaska Center for the Environment jointly put
5 together with a number of different organizations, membership
6 organizations, conservation organizations throughout the state at
7 about the same time that the Trustee Council draft restoration plan
8 was in progress, in order to share with the membership of our
9 organization and others information and to draw their attention to
10 the importance of the work that the Trustee Council is involved
11 with. In that process, we've worked with our membership and with
12 the membership of organizations which included the Prince William
13 Sound Conservation Alliance, the Sierra Club, the Wilderness
14 Society, the Audubon Society, as well as the National Outdoor
15 Leadership School and the Kachemak Bay Conservation Society, to try
16 and identify areas of concern and interest, and the result was a
17 map which simply identified many of the places that you all are
18 familiar with around the spill impact area. And in trying to
19 communicate with our members, we alluded to what we described as
20 the citizen's vision of restoration, which could include protection
21 of these areas, and it in fact came back to the Trustee Council in
22 letters and comments. Well, certainly, we're glad to know that
23 people do read our mailings, but it wasn't intended to be any great
24 conspiracy or anything. We were simply trying to communicate with
25 our members and provide them with information about the importance
26 of these areas. Anyway, I brought those mailings. I guess,

1 lastly, in response to one of the comments that was made earlier by
2 one of the persons testifying, I think it's also important to keep
3 in perspective the impact that the Eyak negotiations and the Eyak
4 acquisition might have on the local economy in Cordova. Concerns
5 were expressed on the part of -- a representative of those -- of
6 the individuals who were logging, and I recognize, and I realize
7 that there were some very serious and straight-forward questions
8 about what happened to these people that are currently employed in
9 the logging industry. And I think it's very important to recognize
10 though and to keep in perspective that fact that these jobs are
11 going to come to an end very shortly anyway. And you don't have to
12 take my word for it. I think the most persuasive and compelling
13 statement of how short term these jobs are came from Eyak
14 Corporation itself in a letter than Katherine Anderson wrote to
15 Mike Barton, articulating one of Eyak Corporation's proposals. She
16 pointed out, and I think I can quote the phrase, I think it was the
17 August 19th letter, she said, we realize that these jobs and
18 profits will end in a year or two. So, it's not really a question
19 of whether the logging jobs will end. They will end. It's simply
20 a question of how soon they end and whether there will be an
21 ecosystem intact after those jobs are gone. I guess, finally, I
22 simply wanted to also agree with Attorney General Cole, that I
23 think we -- I hope we are also beyond that point where we need to
24 argue about percentages, and it's not a particularly productive
25 discussion and the Alaska Center for the Environment is supportive
26 of dealing with the kinds of fisheries concerns that have been

1 identified in the discussions today and previously, and we do want
2 to work with the Trustee Council to be supportive of an enhanced
3 effort of investigation into the ecosystem problems of Prince
4 William Sound as well. Thank you very much.

5 MR. PENNOYER: Thank you. Are there comments? Mr. Cole?

6 MR. COLE: Well, when you say that the citizen's
7 vision group supports the acquisition of Knight Island Passage,
8 what did you have in mind within the scope of that acquisition?

9 MR. MYERS: Well, there are lands in the vicinity of
10 Knight Island Passage, primarily holdings by Chenega in that
11 general area, and the difficulty we had in trying to communicate
12 effectively was to distill the complexity of all the different land
13 holdings in that -- throughout the spill-impact area. So, it was
14 a simplification to speak of Knight Island Passage, or any of those
15 areas, were radical simplifications, as you no doubt appreciate.

16 MR. COLE: Well, what I had in mind, were you talking
17 about the areas to the west like Jackpot Bay and the Knight Island
18 Passage classification?

19 MR. MYERS: In that area that includes the Dangerous
20 Passage region and -- yes, those are all of keen interest, yes.

21 MR. PENNOYER: Further questions? Thank you very much.
22 John McMullen is next.

23 MR. McMULLEN: Thank you, Mr. Chairman. My name is John
24 McMullen, I'm with PWSAC of Cordova. Rather than comment on the
25 wide range of issues you're discussing here today, I wish to just
26 confirm some of the needs of the fisheries from a hatchery

1 operator's perspective, and thank you for the time and thought that
2 you have contributed to the EVOS restoration project. I and the
3 public know that you have been bombarded with a wide variety of
4 funding requests and, therefore, we do recognize the complexities
5 of the system with which you must deal in sorting through these
6 proposals. For example, public proposals in support of hatchery
7 funding for restoration of diminished fisheries services in the
8 Sound have touched all aspects of our funding needs, and these
9 proposals include funding PWSAC's current revenue shortfall of four
10 and a half million dollars for fiscal year 1994, providing a
11 guarantee to fund hatchery revenue shortfalls for the next several
12 years, during which time research, restoration, and perhaps the
13 psychic ways of nature provide pathways to the recovery of the
14 fisheries. Three, repayment of hatchery debt to the state, and
15 four, finally, my major subject today, funding for short and long-
16 term marine and fisheries-related research projects. Now,
17 regarding research, we need an understanding of the existing
18 environmental conditions which is the productivity of the Sound.
19 We need to determine what PWSAC can do to improve the survival of
20 our fish and their contribution to the fisheries during these
21 times. This research results that we have envisioned will also
22 improve the Alaska Department of Fish and Game's ability to
23 forecast and manage the returns of wild salmon stocks for sustained
24 yield, which is the highest management objective. And lastly, in
25 this short presentation, I propose that the Trustee Council find
26 some way to give full consideration to the marine environment and

1 the fisheries related research plans being offered by a Cordova-
2 based scientific group in cooperation with the local fishermen's
3 organizations. Thank you.

4 MR. PENNOYER: Thank you, John. Comments or questions?
5 I think that's very much on our minds and we're going to take it up
6 tomorrow. Thank you very much.

7 MR. McMULLEN: Thank you.

8 MR. PENNOYER: I have a request here before we go farther
9 on the teleconferencing of this meeting tomorrow. We started out
10 doing it and it was only set up for today, and I'm not sure it can
11 be done, but it's been requested. We have not made a policy
12 decision or even assessed costs on doing that in the future, but is
13 there interest in making sure -- in having it happen tomorrow if it
14 can happen? (Pause) Commissioner Sandor?

15 MR. SANDOR: Mr. Chairman, I have no objection to it
16 being teleconferenced. I would suggest that it be accessible again
17 if it is available, and that this total meeting be evaluated
18 following the -- for future, you know, potential --

19 MR. PENNOYER: Is there any difference of opinion on
20 that?

21 (Mumbled response)

22 MR. PENNOYER: Okay, fine. It's been moved and seconded,
23 or seconded and moved, whichever way, that if possible we will set
24 up the arrangement to teleconference, on a listening basis, to this
25 meeting tomorrow. So, L. J., if you can deal with that, we'd
26 appreciate it. Thank you.

1 UNIDENTIFIED VOICE: Valdez has one more to testify.

2 MR. PENNOYER: Where? I'm sorry. What location was
3 that?

4 UNIDENTIFIED VOICE: In Valdez.

5 MR. PENNOYER: Okay, I asked -- I mentioned it once, and
6 we must have missed each other, so fine, please go ahead.

7 MS. ROGERSON: Thanks for coming back. My name is Krista
8 Rogerson. I'm in Valdez. I just want to very briefly and broadly
9 give my support for fisheries and marine research with the monies
10 that the Council is setting out to spend, and especially intertidal
11 research to get a better data base so that in the future we can
12 have a better idea of what's going on, as well to figure out what's
13 going on with the fisheries right now, as well as habitat
14 acquisition, I would think that is my main desire, is to see the
15 money spent on those. And as outlined by the Alaska Center for the
16 Environment, those seven areas of concern, I think work really well
17 for a guideline to acquiring lands. And that's about it, just a
18 broad, general support for those items. Thank you.

19 MR. PENNOYER: Thank you very much. Would you please
20 spell your name for our record?

21 MS. ROGERSON: That's K-R-I-S-T-A, Krista Rogerson,
22 R-O-G-E-R-S-O-N.

23 MR. PENNOYER: Thank you very much. Trustee Council, do
24 you have any questions or comments? Thank you. Is there anybody
25 else out on the network that wants to testify that may have come on
26 the line since I went around the last time?

1 MR. PETRICK: One in Juneau.

2 MR. PENNOYER: Is that one in Juneau?

3 MR. PETRICK: Yes. How am I coming across?

4 MR. PENNOYER: Fine, go ahead please.

5 MR. PETRICK: My name is Craig Petrick, and I'll keep my
6 comments to a couple of sentences here. First of all, I want to
7 thank the Council for their diligence in the Eyak negotiations.
8 They're obviously looking out for the public interest in the lands
9 transaction.

10 MR. PENNOYER: Microphone? We can't hear you.

11 MR. PETRICK: How's this?

12 MR. PENNOYER: That's better, thank you.

13 MR. PETRICK: My name is Craig Petrick, and I'll keep my
14 comments really brief. I just want to thank the Trustee Council
15 for their diligence in the Eyak negotiations and for looking out
16 for the public's interest as far as the transactions involving the
17 plans. I'd also want to express a little bit of concern about any
18 potential endowment and who would manage these endowments, whether
19 there are going to be third parties other than the Trustee Council.
20 I'm a little leery of having, say, university staff involved too
21 much in the decision-making process in that we may see a shielding
22 of public comment from the program now. I'd much rather see the
23 Council deal with projects on an individual basis on their merit.
24 I think that that works out a lot better. Okay? Thank you.

25 MR. PENNOYER: Thank you, Mr. Petrick. Anybody on the
26 Council have comments or questions? Thank you very much. Is there

1 anybody else out on the network that wishes to testify? Thank you.
2 We'll come back to Anchorage then. Pamela Brodie, please. Pam?

3 MS. BRODIE: Thank you, Mr. Chair. For the record, I'm
4 Pamela Brodie, representing the Sierra Club. I'd like to say, I'm
5 very pleased with the way today's meeting went. We're very glad
6 that the negotiations with Eyak are moving, and we agree with the
7 Trustee Council members that the wording of the conservation
8 easements is very important and that there needs to be enough
9 restrictions to make sure that the habitat is protected, as
10 Mr. Frampton was saying. Also, I'd like to talk about the public
11 comment. Eric Myers explained to you about the origin of the
12 citizen's vision and I just want to make it clear that the point of
13 these seven areas was to be comprehensive, that we were including
14 all of the major landowners in the area, and that we meant that the
15 Trustees should take a comprehensive look at all of those areas.
16 The point of it was that a number of organizations got together and
17 wanted to show that people in different regions had support for
18 acquisitions in other regions besides their own. In particular,
19 the Knight Island Passage definitely was to include Eshamy (ph) and
20 Jackpot Bays. It was actually listed as Knight Island in that
21 yellow book, but it was Knight Island Passage, meaning to be much
22 longer, a much larger area. We hope that the Trustee Council staff
23 is negotiating with all of these landowners, or at least will get
24 that direction from the Trustee Council soon. Also, Eric Myers
25 mentioned to me, if you wished to know what we're doing, the sort
26 of ways that we communicate with our members, then you're certainly

1 -- we'd be delighted if you'd choose to enter our organization.
2 (Laughter) The -- regarding the restoration plan and the work
3 plans, we're delighted that the restoration plan is being -- and
4 the time line for it are being streamlined. We agree with Mr. --
5 or I agree with Mr. Frampton that the list of projects is not
6 really a work plan. We also very much agree with Mr. Cole about
7 being troubled -- about the cost of the projects and, again, urge
8 you to get some people who are real experts in financial matters
9 and budgets to take a look at these budgets, particularly the use
10 of boats and helicopters for field work. We get from time to time
11 anecdotes of people who are either involved with this field work or
12 have done other field work that these projects are more lavishly
13 funded than they need to be, although people are not willing to go
14 on the record to say these things. And we are hopeful that
15 administrative costs will be coming down too, and that the Trustees
16 will be getting beyond the need for the Restoration Team. Finally,
17 I'd like to address the concerns of the Prince William Sound
18 fishermen. As I have said before, we support the use of some
19 settlement funds to study the problems in Prince William Sound. We
20 are alarmed at the amount of money that is being requested in
21 recent communications to the Trustee Council, and I'd like to say
22 that early in these Trustee Council meetings, the environmentalists
23 were calling for eighty percent of the money to go to habitat
24 acquisition, and Mr. Cole asked me the embarrassing question of how
25 we came to that number, and I was forced to admit that it was
26 arbitrary, and we no longer ask for a certain percentage. We are

1 interested in acquiring critical habitat in the major areas and
2 we're interested in the Trustee Council getting good deals, and
3 what that will mean in terms of actual amount of money, it's too
4 soon to say, and I think the same is true for the research in
5 Prince William Sound, that the important thing is to say what needs
6 to be found out and what's the best way to go about doing that,
7 rather than coming up with an arbitrary amount of money. Thank
8 you.

9 MR. PENNOYER: Thank you. Questions or comments from the
10 Trustee Council? Thank you very much. Dunk Lankard, please?

11 MR. LANKARD: Dune.

12 MR. PENNOYER: Dune, sorry. You've got to open the loop
13 on your "e".

14 MR. LANKARD: (Indiscernible)

15 MR. PENNOYER: Yes.

16 MR. LANKARD: Yeah, that's Dune Lankard, L-A-N-K-A-R-D.
17 I'm a shareholder of the Eyak Corporation and the Chugach Regional
18 Corporation in the Prince William Sound who own a great deal of
19 land that is right now on the table and being negotiated on how
20 we're going to protect it. And there's a couple of things that, as
21 a shareholder, I'm really concerned about, that our interests
22 aren't being protected by the corporation or the Trustee Council.
23 And I think a lot of that is, it could be a lack of mis-
24 communication, it could be a lack of information, like documents,
25 but I think that if everyone understands where the shareholders are
26 coming from, and what their concerns are, and those are

1 incorporated into the long-term plan of how we're going to deal
2 with this restoration issue, then our interests will be protected,
3 and we feel that we have every opportunity right now to do
4 something really positive in Prince William Sound, because, in my
5 opinion, the only way that the healing is really going to begin
6 from the oil spill is if the logging is ceased immediately, because
7 the pain that we feel every time a logging truck goes by, it feels
8 like somebody is shooting an arrow right through your heart,
9 because you know that the land is continually under danger of being
10 hurt even more, because our ocean is already, you know, showing
11 signs of not being very stable, so we're really concerned that the
12 ecosystem has to be addressed as soon as possible. So, I can't be
13 more adamant than that, saying that, you know, I would like to see
14 you pursue this thing in five days. If it's Monday, do it, make it
15 happen. I'd really like to see that because then I think a lot of
16 us can relax and get on with our lives again. The first thing is,
17 I've never been in favor of the way the corporation has handled
18 their negotiations, creating an imminent threat. The shareholders
19 are in no way part of that imminent threat that the corporation has
20 made a part of these transactions, saying that they're going to
21 clear-cut everything if they -- if some deal isn't -- doesn't come
22 down the pipe for them, and what is really frustrating is that
23 we're basically being held hostage on our own land. So, you know,
24 if there is any way to expedite the deal, do it, because the
25 imminent threat is becoming a reality. They just knocked down
26 another four or five hundred acres since the last time we talked,

1 and it's right near the road. I mean, the three humps that they
2 knocked down is now visible for many miles, and before most of the
3 clear cutting was done behind a three tree buffer zone. And so it
4 was, you know, easy to conceal from your mind, and not have to feel
5 that pain as you drove by, but now, since it's on the hills along
6 the Alganik (ph) Slough area, we see it every day now, and it's
7 something that -- we're going to have to live with that for many,
8 many years to come, and the damage that they're doing out in Orca
9 Narrows is also going to be equally as damaging. One thing that
10 I'm concerned about is the time limit that the shareholders are
11 being allowed to decide on accepting this deal, whether it's a
12 conservation easement or a fee simple title transaction. Forty-
13 five days is not adequate. It took us two years to get to this
14 point right now, today, where we are five days away. I don't think
15 in forty-five days that we can teach the shareholders what a
16 conservation easement is, what a restrictive conservation easement
17 is, what perpetual means. You know, there's so many different
18 terminologies in there that, you know, I'm constantly having to
19 look these words up and then try and do what I can do to pound the
20 streets and talk to the shareholders and let them know what is on
21 the table. So, I would like to see a minimum of three months and
22 more like six months time period allowed for the shareholders to
23 not only understand what is going on in the negotiations,
24 understand the terminology and long-term understand the overall
25 consequences of the decisions that they make in a hasty way, how
26 they're going to affect them for many, many generations to come.

1 So, I would like to see more time for the shareholders to be able
2 to discuss these things. The other is that, as far as perpetual
3 restrictive conservation easements go, the traditional lands, in my
4 view, will be rendered valueless if perpetual is not defined into
5 some sort of a time frame period such as eighty years, one-cutting
6 cycle, or a hundred and fifty years using the seventh generation
7 factor, or even using a round ballpark number of a hundred years,
8 so at least we know that in a future time that our shareholders or
9 -- well, the hell with that word -- the people in the future will
10 have an opportunity or a choice to then make the decisions that
11 we're making today. So, if perpetual is not taken out of there, or
12 if it is left in, let's say it is left in, I would like to ask that
13 a government economist help the shareholders put together some sort
14 of a long-term permanent fund that guarantees that in a hundred
15 years, or some "X" amount of time, that the children in the future
16 are left with not only options but some sort of security that their
17 needs will be taken care of, because forty-one million dollars, or
18 fifty million dollars today, if it's embezzled, if it's lost, if
19 it's spent unwisely, if a lot of things are not taken care of, then
20 we lose, and the money does not replace our land. No money in the
21 world can replace our way of life that we will lose if we lose our
22 land, so if there's some way that you can help us direct some of
23 these monies, or designate some of these monies towards some sort
24 of long-term permanent dividend fund for the people, when I'm long
25 gone, I will know that the children are being taken care of,
26 because I don't want to put my trust in the Native corporation.

1 Finally, I would like to stress that I hope that fee simple title
2 is not a deal-breaker in this entire negotiation. Fee simple title
3 is not going to take care of protecting the habitat any more than
4 conservation easements are, and I would like to see that the land
5 is not taken away or purchased away from Native control, because
6 not only does it go against what the intent of ANCSA was, the
7 Alaska Native Claims Settlement Act, and that was to settle our
8 aboriginal claim to land, and it was based on ancestry and heritage
9 and usage of that land. Well, that still continues, and I know
10 that right now that it's looked at as real estate and habitat
11 protection, but to us it's a way of life. So, if you could pursue
12 conservation easements over fee simple title, that would make me
13 very happy as well. So, if there's any questions, I'd be happy to
14 answer them.

15 MR. PENNOYER: Thank you, Mr. Lankard. Are there other
16 questions? Commissioner Sandor?

17 MR. SANDOR: Yes, very compelling statements. With
18 respect to communications with shareholders, just as a matter of
19 interest and background, to what degree was there communication
20 between the shareholders and the development of logging plans in
21 those areas within --

22 MR. LANKARD: There has never been a land use plan ever
23 established by the Eyak Corporation, and one of the things that
24 would really help us immensely would be if there was an annual
25 operating plan that was established by the board of directors so
26 that the shareholders could have some input on how and what lands

1 were to be logged and in what manner. You know, it would also
2 indicate whether there would be a clean-up program and a replanting
3 program to go along with that, but since that is not available,
4 there has been no planning process as far as, you know, I have
5 seen. I sat on the board of directors of the Eyak Corporation from
6 1989 until 1992, and that was one of the things that I had
7 emphasized, was that an annual operating plan should be put in
8 place and a land use plan should be put in place so we could see,
9 you know, what type of long-term logging plans they did actually
10 have. So, basically, the operation has been just a cut and run
11 operation, and it's very frustrating for us because the
12 shareholders have not been able to participate. And since the
13 negotiations have been taking place, not once has the board of
14 directors of Eyak Corporation brought the shareholders together to
15 enlighten us on what is really going on, what's for sale, what's
16 not for sale, the difference between a conservation easement and a
17 fee simple title. There's a lot of things that, I know, I'm
18 fortunate because I read a lot, that I'm able to keep up on, but a
19 lot of the shareholders absolutely just don't know.

20 MR. PENNOYER: Thank you. Commissioner Rosier, do you
21 have a question?

22 MR. ROSIER: Thank you. Yes, Dune, with regard to your
23 comments on the fee simple, does that comment pertain to all lands
24 that we're talking about?

25 MR. LANKARD: On the Eyak Corporation lands?

26 MR. ROSIER: Yes.

1 MR. LANKARD: Yes, yes. We would like to -- see, the
2 three areas, the core tracts that have been outlined in the heavy
3 black print on that map, those three areas are ancestral lands of
4 the Eyak people. And as I indicated last time, there are three
5 different tribes within our region, the Aleut, the Tlingit, and the
6 Eyak. Well, one of the last village sites was right along the Eyak
7 Lake down on the southwest end, and there was a burial site which
8 we recently had a repatriation at. The village site extended from
9 what is now the Powder House, or this bar out at the end of this
10 point, over to, yeah, the mouth there, and that was basically our
11 ancestral land, and we had three village sites along the Eyak
12 River. There was -- along Power Creek, we fished all along there.
13 I have maps and records that go back a hundred and ten years that
14 show the Eyak Indians, where they had their fishing shacks, they
15 had their stakes in the Eyak Lake where they fished along the
16 river. Those areas, we don't want to sell them. The corporation
17 might want to sell them, but, you know, we would rather see some
18 sort of a conservation easement pursued there if possible.

19 MR. PENNOYER: You have a follow-up?

20 MR. ROSIER: Yes, could I follow up? Thank you,
21 Mr. Chairman. That concerns me a little bit, but I understand
22 where you're coming from on this, this particular issue, but it's
23 something that -- it would seem to me that many of the rights that
24 you're talking about with respect to those are just as good under,
25 quote, the stars and stripes of the American flag as they are under
26 the corporate flag, or perhaps even stronger, the protection of the

1 habitat values and the historical values and so forth that are
2 there. Would you agree or not?

3 MR. LANKARD: Well, that's a good -- that's a good one.
4 I would like to agree with that, but you know, the Eyak Indians,
5 our long-term goal is to secede from the Eyak Corporation and take
6 our sixty-nine thousand one hundred and twenty acres from them, so
7 if they want to continue clear-cutting and strip mining and selling
8 land in the future, they're welcome to do that. But, you know, as
9 of 1971, under Section 14C of ANCSA, it said that if you had
10 twenty-five or more people of your tribe alive at that time, that
11 you're entitled to a minimum of sixty-nine thousand one hundred and
12 twenty acres, and we feel that we are entitled to that, and we
13 would like to see that in some sort of a settlement trust for us,
14 and if it -- even if it went under a reservation, we would rather
15 see it under that control than the American red, white and blue
16 government control.

17 MR. PENNOYER: Thank you.

18 MR. FRAMPTON: Listening to your very eloquent comments,
19 it occurred to me that, particularly about the time frame for any
20 education of shareholders of an election, and it occurred to me
21 that if we should enter into an agreement that involves a cash
22 payment up front, or a buy-out, then we really are buying --
23 there's no longer pressure to finalize everything by next March or
24 April, or the next logging season, because there isn't going to be
25 a -- we'll have put up the money in advance to buy out that season
26 and other seasons. So, the time frame that's set forth in this

1 draft agreement that we looked at this morning, which is pushing to
2 get everything wrapped up by March 17, 1994, would come under the
3 kind of formulation we talked about this afternoon, a little less
4 important, and there might be a little bit more in the negotiations
5 that might be taken into consideration, there might be a little bit
6 more time for election, public education, and for the parties to
7 work out a satisfactory arrangement here, rather than saying, all
8 right, it's November, we'll close the deal or something, and we've
9 to get all this done in four months and we have to have an election
10 in thirty days and so forth. But if we do this kind of deal,
11 there's a little more time, and you may not want to stretch it out
12 for years, but the concerns that you had might be alleviated in the
13 discussion.

14 MR. LANKARD: Could I say something? I think six months
15 would be more than adequate, you know, to have a number of
16 newsletters and, what do you call those things, like, opinion
17 letters from the shareholders, I can't think of the name of it
18 offhand, but it would allow the information process to get to the
19 shareholders and also allow us to have time -- meetings in Cordova.
20 Since only one-third of the shareholders live in that region, the
21 other third live in and around the state of Alaska and the other
22 third is in the Lower 48, so there would have three meetings, and
23 you know, every year the only thing we have as far as informational
24 meetings is one a year, and then we have an annual meeting, and
25 that's it, you know. There is not much time for education, and
26 usually when that day does happen, it's one day, it starts at eight

1 in the morning and ends at five in the afternoon with a dinner.
2 Well, that's all wonderful, but a lot of things are not able to be
3 discussed in that one day period. So, any amount of time that you
4 could extend us, it would be greatly appreciated.

5 MR. PENNOYER: Thank you. Commissioner Sandor.

6 MR. SANDOR: You know, I think, Mr. Chairman, that
7 Mr. Frampton's points are well-taken. Additionally, I believe that
8 the suggestion that we ought to really look at an alternative to
9 perpetual easements has merit, and a time frame of eighty, or a
10 hundred, or some period of time, and perhaps this group that's
11 looking at negotiating it, that might look at that alternative as
12 well. I think that's especially important, if there is to be a
13 potential re-arrangement of the ownership such as you described.

14 MR. LANKARD: Right. See, if -- let's say there was a
15 settlement and I was to receive a check of a hundred and twenty-
16 five thousand dollars, if the number is forty-one million, I could
17 live pretty good on that for a couple of years, but what about the
18 children that come after me? You know, that's what I'm concerned
19 about, and I know, or at least I'd like to know that a lot of the
20 shareholders feel the same way, that the only way that the interest
21 of the future landowners and children is going to be protected is
22 if some sort of a plan is designated for them, that -- you know,
23 that guarantees that they're going to have some options in some
24 sort of decision to make in the future. So, you know, if there's
25 a chance of even, you know, a hundred years down the road, it would
26 really be in the best interest and benefit of those children.

1 MR. PENNOYER: Thank you. Any questions? Mr. Cole.

2 MR. COLE: If we were to say fee simple title, under
3 the stars and stripes, under the aegis of the Forest Service, would
4 you be comfortable if those lands would not be logged?

5 MR. LANKARD: Yes, that's a very good point. Above
6 everything, you know, if there's no way that we can intervene or
7 become part of the negotiating, if a deal did come down where the
8 land ownership did change over to the Forest Service, our goal, you
9 know, as the traditional elder's council, is that the land is
10 protected above everything. And, you know, there are certain
11 things that you just have deal with, and losing the land ownership
12 is one that would be very difficult to deal with, but I would
13 rather know that the land is there and protect it above everything.

14 MR. COLE: Let me ask this question. Would you
15 consider, if we were to set aside these traditional areas that you
16 mentioned, outside of Powder Keg and perhaps along the river and so
17 forth, but set those aside, and I don't know just exactly where
18 they are or how much, and then supporting the acquisition by the
19 government of fee simple title in the Powder --

20 MR. LANKARD: From the Powder House, yes.

21 MR. COLE: No, the creek.

22 MR. LANKARD: Power Creek, right.

23 MR. COLE: Power Creek, and up towards around the
24 lake. I'm saying, setting aside certain specific areas that you
25 prize culturally in this transaction, and maybe using that as a
26 method of preserving or allowing the fulfillment of the interests

1 of Mr. Rosier and the acquisition of fee simple title and setting
2 aside the lands that you have a deep cultural attachment to.

3 MR. LANKARD: If I understand that correctly, would that
4 be like a cultural conservation easement with the Eyak people?

5 MR. COLE: Well, even something firmer than that
6 saying, look, I mean, there are certain historical lands of high
7 cultural value that maybe -- that we would say you, you know, keep
8 those or set them aside especially in perpetuity, and then allowing
9 us to address the Power Creek and the other lands and acquire fee
10 simple title there?

11 MR. LANKARD: Yeah, I would support a motion like that,
12 you know, and I know that Marie, our chief, I know that she would
13 be very elated if something like that could be arranged.

14 MR. COLE: Why don't we go to Mr. Frampton now?

15 MR. FRAMPTON: I think that that's really something that
16 ought to be explored. There is pending in the U.S. Congress a
17 legislation that would protect a number of American Indian
18 religious freedom rights, and is going to gain the support of the
19 Interior Department and, I think, the administration, and it's been
20 in the works for several years and among other things, the
21 legislation would create a process whereby federal land management
22 agencies, including the Park Service, the BLM, and the Forest
23 Service, would be required to evaluate and protect sacred sites of
24 different kinds, religious and cultural areas. Now, that would
25 create a planning process, an administrative process, that would be
26 within the control of the federal agency, but what we are talking

1 about here is possibly doing that as part of a contract, a land
2 conveyance contract, doing the same kind of thing, and it may be
3 that there is a model there. I don't know if the details of that
4 could all be worked out in five days, but there is a model there
5 that could perhaps be used in this case, that people could look to,
6 and we could try to get some information about that.

7 MR. PENNOYER: Mr. Cole?

8 MR. COLE: Well, perhaps tomorrow you could speak
9 with the Forest Service representatives about that, tell them where
10 these lands are, about the size, the boundaries, and so forth, and
11 see if we can work along those lines to satisfy the respective
12 interests, because I think we could do that.

13 MR. LANKARD: Okay.

14 MR. PENNOYER: Thank you. Further questions of Dune?

15 MR. WOLFE: No questions. May we -- we'd be happy to
16 talk to Dune tomorrow, and he and I talked before on this issue.
17 One point that I probably would like to make is that we still --
18 the Trustee Council decides what the disposition of those
19 properties are, not necessarily the Forest Service, if it's Forest
20 Service land, just for clarifying that issue.

21 MR. COLE: Just teasing.

22 MR. WOLFE: Okay, and I bit, Charlie, (laughter) but
23 I will admit that the Antiquities Act and other cultural protection
24 acts require that the Forest Service provide a significant degree
25 of protection for areas that have cultural value, and that is very
26 strong protection. And if we -- if it was fee simple, there would

1 be protection for those sites that have that -- that meet that
2 definition.

3 MR. COLE: I haven't really thought it through, but
4 I have this sense that maybe we could do it and --

5 MR. PENNOYER: Thank you very much.

6 MR. LANKARD: All right. Thank you.

7 CONFERENCE OPERATOR: This is the conference
8 operator. This will have to conclude the teleconference portion of
9 your meeting.

10 MR. PENNOYER: Thank you very much. We have one
11 additional person here in Anchorage.

12 STAFF: We're going to go off the teleconference.
13 Thank you.

14 CONFERENCE OPERATOR: Thank you.

15 MR. PENNOYER: Dan Hull? Last but not least.

16 MR. HULL: Thank you, Mr. Chairman, members of the
17 Trustee Council. Thank you for your patience over this long day.
18 I hoped that I'd become proficient enough at this that after a few
19 more meetings that I won't have to join the Toastmasters this
20 following winter. (Laughter) I wanted -- I'll speak very briefly
21 but specifically to the proposal that the group from Cordova has
22 put forth on research and restoration in Prince William Sound, and
23 I'm glad that you will bring that up as an agenda item tomorrow,
24 and want to impress upon you the importance of using the local
25 institutions and agencies and the relationships between all these
26 organizations in order to accomplish this. We have a credible

1 science center that's had international workshops; we have a
2 cooperative fisheries and oceanographic studies program that
3 includes Prince William Sound Aquaculture, the Department of Fish
4 and Game, the University of Alaska Fairbanks; and we also have the
5 comprehensive salmon enhancement plan that's been put together by
6 the regional planning team that operates under state statutes,
7 comprising the Aquaculture Corporation and Fish and Game. These
8 are the people who work very closely with the resource and
9 understand it best, and I hope that when you consider the proposal
10 tomorrow you will rely on these institutions and organizations.
11 And I look forward to the discussions tomorrow.

12 MR. PENNOYER: Mr. Cole?

13 MR. COLE: Just a brief commentary, or I agree with
14 you entirely about that need for communication and cooperation and
15 coordination. I think, however, you've got to extend that beyond
16 that area because I've -- my experience in other areas is that very
17 seldom do we have all the expertise we need to explain something as
18 complex as an ecosystem residing in one spot, and I believe other
19 things have to be brought into it. So, I agree with you in the
20 need to do that kind of coordination and I applaud your efforts.
21 To date, I'm probably going to propose, and I'll make this a
22 coordinated thing, that we serve there and perhaps the rest of the
23 spill area as well.

24 MR. HULL: Yes, thank you. I realize it has to also fit
25 in with the structure of the process and you all have
26 responsibilities that it do so, and I believe that one possibility

1 might be for us, of course, to work with the scientists that have
2 done research since the spill, and I know you're -- that NOAA has
3 quite a bit of open ocean expertise, so I look forward with trying
4 to make what we've done mesh with the rest of the groups.

5 MR. PENNOYER: Any other questions or comments?
6 Mr. Cole, you had one additional comment?

7 MR. COLE: Well, I wanted to ask Mr. McKee if he's a
8 member of the Posse Comitatus under the Act of 1871?

9 (Laughter)

10 MR. PENNOYER: Well, I guess that's the final -- thank
11 you -- question. If there's nothing further, we'll adjourn.

12 DR. GIBBONS: Restoration Team, upstairs, after the
13 meeting, upstairs.

14 MR. PENNOYER: Eight o'clock tomorrow morning.

15 (Off record at 6:26 p.m., September 16, 1993)

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

TRUSTEE COUNCIL
MEETING
16-17 SEPT. 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

RECEIVED
SEP 28 1993

September 16 and 17, 1993 **EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD**

VOLUME II

September 17, 1993

1 the administrative budget?

2 MR. COLE: Mr. Chairman?

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: Before we do that, can I bring up one or
5 two items dealing with --

6 MR. PENNOYER: I should have requested that. Certainly,
7 go ahead.

8 MR. COLE: -- with the restoration plan so that we
9 can leave here at noon with the sense that there are no major
10 outstanding issues revolving around it, but it's my understanding,
11 following the discussion yesterday and the actions which we took,
12 that we would look forward to receiving a draft restoration plan
13 for October's meeting, late in the month, that the restoration plan
14 would be relatively brief in principal part, not to exceed some 65
15 pages, and that it would be prepared by a group headed by one state
16 representative and one federal representative, and that there will
17 be as guides to the group, they use the comments received from the
18 public as contained in the transcript of the comments received at
19 the various public meetings throughout the oil spill area
20 communities, the response to the newspaper brochure, and letters
21 from the public commenting upon the draft work plan. Is that the
22 general understanding of the group or am I off base?

23 MR. PENNOYER: Trustee Council comments? Mr. Wolfe?

24 MR. WOLFE: The only other thing that I would add is
25 that there was a pretty adamant direction from -- or comment from
26 Justice on the injury statements generally, and I think we all

1 agree to the injury statements, very succinct, not lengthy, but
2 succinct injury statements be included for all the injured
3 resources as a part of that.

4 MR. COLE: Mr. Chairman?

5 MR. PENNOYER: Mr. Cole.

6 MR. COLE: In that regard, certainly we should be
7 solicitous of the comments of our good friends at Justice, but I
8 have some reservation about going into too much detail in the draft
9 restoration plan about the injury statement because I'm not certain
10 now where all of the injuries are, and that is the reason we are
11 continuing studies, and if we start in this draft restoration plan
12 and get too far into statements of injuries, we may be getting into
13 a little deeper water out there in the Sound than we ought to be.
14 I'm not sure that the Justice Department has addressed that, but
15 one of the principal focuses of what we intend to do in the '94
16 work plan is to find out what the injuries are. I don't think it
17 -- the cite here, Commissioner Rosier and others say, we know the
18 full nature and extent of those injuries. So, I think that's a
19 little danger point.

20 MR. PENNOYER: Mr. Wolfe.

21 MR. WOLFE: Mr. Cole, I agree with your statement on
22 that end of it. I too believe that, based on what we're finding
23 now, the injuries to the -- at least the fisheries, at least, have
24 not been fully identified at this point in time, and we recognize,
25 I think we need to recognize that this is a dynamic process, as I
26 think Carl stated yesterday, and we do need to define that. It's

1 just that earlier direction to the team had been that we include
2 these injury statements, we include some objectives with an end
3 point that we could all measure, and what we're saying now is that
4 direction needs to be modified somewhat from what we've given them
5 originally.

6 MR. PENNOYER: I'm not clear why an identification of
7 injuries isn't an identification of places you don't know. I mean,
8 as long as the plan includes what we've identified and what we've
9 seen so far and has statements in it that leads you to believe, as
10 I think we all do, that we're not totally sure what all the
11 injuries may have been, then I'm not sure you still have a
12 statement of injuries. The statement of injuries might be an I-
13 don't-know statement, or part of it, and as it's drafted, and
14 certainly as we approve it, we just need to make it clear that that
15 type of approach is included. So, I still think we're pretty much
16 on track in the outline we used before, or we're going to try to
17 abbreviate it as much as possible, but we're going to have
18 statements of injuries and some objectives, if we don't have some
19 objectives, and those objectives might be to find out, not just to
20 restore, but to find out. So, it's pretty much how it's put
21 together, not the fact that you're not going to discuss injuries,
22 but it does have to include your concept and the concept that
23 Commissioner Rosier brought up. Mr. Frampton.

24 MR. FRAMPTON: I would suggest that we leave the details
25 of how much description, and whether to do it in an appendix, to
26 the drafting team. Some of the best comment that I've read on

1 injuries has pointed out not only that we don't know everything
2 about what's happened out there, but the job of restoration may
3 well involve an ecosystem, dealing with pieces of the ecosystem
4 that weren't directly injured, but which now turn out to be
5 necessary to support, to repair something else that was injured,
6 and in light of that, it seems to me that trying to assess all this
7 in a restoration plan rather than in an appendix, you know, might
8 not be the best approach for the public and for our own planning
9 process, and the team may decide to do some kind of an assessment
10 in an appendix or attachment. This is really the job that we
11 should leave to them, and my understanding is, as the Attorney
12 General set forth, that we're going to -- state and federal
13 trustees are each going to pick a co-chair, we're going to leave it
14 to those people to basically assemble the team that they feel is
15 necessary to get this done in thirty days, in thirty or forty days.
16 We should leave that to the team as selected.

17 MR. PENNOYER: It does at some point here, and I was
18 going to get into that when we talked about the administrative
19 budget and depending on how much resources we think we have to
20 provide and fund to assist that team. Without knowing it, it's
21 going to be a little bit difficult to pick and choose that, but I
22 think essentially your -- my recollection is as yours.

23 MR. FRAMPTON: Thank you.

24 MR. PENNOYER: Can we proceed then with the
25 administrative budget question, and I think we're dealing with the
26 pink column on the table that has been passed out to us previously,

1 if I'm correct. And I think the clear need, in the confusion
2 yesterday, was to separate what we had approved, the annual chart,
3 versus the stuff that we're going to annualize on a quarterly
4 basis, and I'm not sure everybody was clear on what those numbers
5 were, so maybe as a starter you can lead us back through that, and
6 then tell us what your discussions were last night.

7 DR. GIBBONS: Mr. Chair, yes, we started with the total
8 administrative budget for the entire year, which is five million
9 five hundred forty-seven thousand, and we followed the directions
10 about dividing that into quarters, and then trying to reduce that
11 by forty percent, but there was two major items that needed to be
12 discussed before we could make that quarterly split, and one is the
13 CACI contract in the building here, and we did look at the
14 transcript, and I can show that to you, George, that, you know, the
15 Trustee Council did approve that. I'd like to -- I'll show it to
16 you here. And the other one is the C --

17 UNIDENTIFIED VOICE: The building -- the space here in
18 the contract, yeah.

19 DR. GIBBONS: And that's for a million seventy-nine
20 thousand.

21 MR. PENNOYER: Excuse me. Could you tell me what the
22 five million figure is on this sheet that we've got here, or is
23 that on the other sheet?

24 DR. GIBBONS: The five million dollars is not on this --
25 the sheet isn't color-coded yet. This was our interim budget of
26 four months that we thought -- run it through January. And the

1 direction we were given yesterday was to do a three-month quarterly
2 budget, not a four-month budget, so it's --

3 MR. PENNOYER: This interim --

4 DR. GIBBONS: It can be found in the big budget book in
5 the 1A form.

6 MR. PENNOYER: But of the five million dollars, four
7 point three was judged to be the necessary for funding?

8 DR. GIBBONS: Well, that interim funding four point
9 three is a total of project and administrative.

10 MR. PENNOYER: But of the five million -- oh, okay, all
11 right.

12 DR. GIBBONS: It's not just administrative. There's
13 some -- the yellows are the projects.

14 MR. PENNOYER: Gotcha.

15 DR. GIBBONS: The other question is the chief scientist
16 and peer review. Right now it is proposed to be six hundred
17 thousand dollars for the year. We understand, and Bob may correct
18 me, that he would be willing to do a quarterly budget, but the
19 administration, the Department of Administration at stateside,
20 would not. So, we're stuck with a yearly type budget there, and
21 someone else can help me out here, but it's a sole source of
22 contract to Bob Spies and the administration.

23 MR. PENNOYER: But if Mr. Spies, Dr. Spies, is going to
24 operate on a quarterly basis that are provisions in the contract
25 for review and cancellations, there's a provision in the way we do
26 business? So, I'm not sure -- anyway, that doesn't necessarily

1 defeat the purpose of approving and then coming back and re-
2 examining. You haven't committed yourself irrevocably to -- not
3 that I wouldn't -- Dr. Spies necessarily, but irrevocably to the
4 year. Mr. Brodersen.

5 MR. BRODERSEN: A little more elaboration on that, the
6 Council can modify or stop that contract with thirty days notice
7 without penalty, so even if you agree for a year's time, it's very
8 easy for you to go back and change it as you feel you need to at a
9 later date.

10 MR. PENNOYER: Mr. Frampton.

11 MR. FRAMPTON: Could I ask a question about the CACI
12 contract? Is that the same?

13 DR. GIBBONS: If it's a standard federal contract. I
14 checked with Ahtna (ph) and they said, yes, there is a clause to
15 terminate.

16 MR. FRAMPTON: So we have not committed to run that
17 contract as is from October 1, '93 to October 1, '94?

18 DR. GIBBONS: That's right.

19 MR. FRAMPTON: They checked with the budget allocation or
20 by signing the contract.

21 DR. GIBBONS: I checked with the contracting officer and
22 he said that it's a standard federal contract, you can get out of
23 the contract.

24 MR. FRAMPTON: But you do have to commit the year's
25 amount at the start?

26 DR. GIBBONS: You do have to have the monies, yeah. The

1 contractor said that they would not be willing to do a three-month
2 contract, and the same thing with the Jack White Company who owns
3 the building here for the first and fourth floor.

4 MR. COLE: Mr. Chairman?

5 MR. PENNOYER: Mr. Cole.

6 MR. COLE: What is the penalty for, quote, getting
7 out of the contract, close quote?

8 DR. GIBBONS: I'm not sure of that.

9 MR. FRAMPTON: You're talking the CACI contract?

10 MR. PENNOYER: Pardon me?

11 MR. FRAMPTON: You're talking the CACI contract, correct?

12 MR. PENNOYER: Yes.

13 DR. GIBBONS: Yeah, I'm not sure. I can -- I'm not a
14 contracting officer. I really don't know. (Indiscernible)
15 contracting officer and the Forest Service.

16 MR. PENNOYER: Well, are the two contracts for the rent
17 and the CACI contract linked, that's a single contract?

18 DR. GIBBONS: No, the rent is being handled by the
19 state, and the CACI contract is being handled by the Department of
20 Agriculture.

21 MR. FRAMPTON: And that's completely separate from the
22 building rent?

23 DR. GIBBONS: No, the building is handled by the state,
24 the first and fourth floors of this building, there will be a state
25 contract. The CACI contract will be a Department of Agriculture
26 contract. So, the staff for the building is Agriculture; the space

1 itself will be handled by the state.

2 MR. FRAMPTON: Dr. Gibbons, of this total on the front
3 page of this, okay --

4 DR. GIBBONS: Um-hmm.

5 MR. PENNOYER: That adds up to a lot more than five nine.
6 Is that --

7 DR. GIBBONS: Well, this number is incorrect. I think
8 we have a new --

9 MR. PENNOYER: Oh.

10 DR. GIBBONS: I caught that yesterday. The Restoration
11 Team number is a little over a million dollars, it's ninety-two
12 point eight.

13 MR. PENNOYER: Okay, that was one of the things that was
14 confusing. So then, the total here for administrative actions --
15 items on this whole first page down to the public advisory group --

16 DR. GIBBONS: Down to the public -- it's five point four
17 seven.

18 MR. PENNOYER: Five point five four seven. That's the
19 annualized budget?

20 DR. GIBBONS: That's the annualized budget.

21 MR. PENNOYER: And the CACI contract for the building is
22 how much? And the CACI contract for the people is how much, and
23 the chief scientist budget and peer review is how much?

24 DR. GIBBONS: Six hundred thousand for the chief
25 scientist.

26 MR. PENNOYER: Six hundred thousand for the chief

1 scientist, annualized. CACI?

2 UNIDENTIFIED VOICE: And peer review.

3 MR. PENNOYER: And peer review, right, and this building?

4 DR. GIBBONS: We'll have a number for you in a second.

5 (Pause)

6 UNIDENTIFIED VOICE: (Inaudible)

7 DR. GIBBONS: Yeah, but they want the space separated
8 from CACI.

9 MR. PENNOYER: Well, I don't know how necessary that is,
10 but there was interest in other --

11 MR. BRODERSEN: (Inaudible) authorized the building for
12 seventy-nine point one, and that's for both the building and CACI.

13 MR. PENNOYER: Okay. So the five five four seven is one
14 point seven, about, in the two contracts?

15 DR. GIBBONS: a million seventy-nine point one, it's for
16 the building and the CACI contract.

17 MR. FRAMPTON: Okay, thank you. A million seventy-nine
18 thousand?

19 DR. GIBBONS: Yeah, and one hundred dollars.

20 MR. ROSIER: That's only the building?

21 DR. GIBBONS: That's building and CACI.

22 MR. PENNOYER: That's the whole thing, and the chief
23 scientist peer review is six hundred thousand. So it's one point
24 seven and the five point five is (indiscernible).

25 DR. GIBBONS: The CACI contract is eight hundred and
26 forty-four point three.

1 UNIDENTIFIED VOICE: (Inaudible).

2 DR. GIBBONS: Plus sixteen eight to support the public
3 advisory group, sixteen, so eight sixty point one.

4 MR. PENNOYER: For the people?

5 DR. GIBBONS: Yes.

6 MR. PENNOYER: Eight sixty point one. And the building
7 is only two hundred thousand?

8 DR. GIBBONS: Right.

9 MR. PENNOYER: About.

10 DR. GIBBONS: Less than that, a hundred fifty thousand.

11 UNIDENTIFIED VOICE: (Inaudible) the building is a
12 hundred ninety-two.

13 DR. GIBBONS: Ninety-two, excuse me.

14 MR. PENNOYER: Okay, somewhere in there. That's
15 specific, isn't that -- somewhere in that range. Okay, and what
16 was your next question in terms of things you had to know?

17 DR. GIBBONS: No, that was the two major contracts, you
18 know, that need to be settled, then we can go into how we can
19 reduce the rest of it by forty percent. I thought that's what we
20 were after.

21 MR. FRAMPTON: So that leaves you with three point eight
22 million after those things are taken out, right?

23 DR. GIBBONS: Right.

24 MR. PENNOYER: What is the new number in the Restoration
25 Team, excuse me?

26 DR. GIBBONS: We haven't gotten that far.

1 UNIDENTIFIED VOICE: (Inaudible)

2 DR. FRAMPTON: We haven't gone to that.

3 MR. PENNOYER: Okay. You know, it's about --

4 DR. GIBBONS: I wrote that number on my copy. I gave it
5 to L. J. Evans to correct it.

6 MR. PENNOYER: That's fine.

7 DR. GIBBONS: So I don't have it in front of me. It's
8 over a million dollars.

9 MR. PENNOYER: Okay. Can you discuss those contracts
10 then first?

11 DR. GIBBONS: One recommendation we had last night, we
12 were kicking around, but we didn't have all agencies represented
13 there last night, we had four agencies represented and not six, but
14 was to possibly reduce the chief staff scientist contract by a
15 third, to four hundred thousand, would be one option that we were
16 kicking around. All of the things, I will say, that we kicked
17 around last night, it was late, we didn't have full representation,
18 and a lot -- some of them may need more thinking through, but we
19 did look at it last night.

20 MR. COLE: Mr. Chairman?

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: Who wasn't there last evening?

23 DR. GIBBONS: The Department of Interior and DNR.

24 MR. PENNOYER: Do we need to discuss these contracts --
25 pieces first, and so we get a playing field to start from for the
26 rest of those? The CACI contract has two different pieces, and I

1 suppose we've got the building and we've got the people, and there
2 are probably different provisions on both of those contracts as to
3 how you manipulate them, but I don't know what those would be and
4 you're not aware of them at this time either.

5 DR. GIBBONS: No.

6 MR. FRAMPTON: Well, could I --

7 MR. PENNOYER: Mr. Frampton.

8 MR. FRAMPTON: I'm not sure why we're discussing any of
9 those, but -- I mean, you know, you have the rent, right? You have
10 to commit to that. You've got the CACI contract. My concern is
11 not that you don't need these people, or that they aren't very,
12 very good people. My concern is simply that it's a contractual
13 arrangement that may be paying a contractor for these people in a
14 way that's a lot of overhead being paid, and a concern about not
15 locking into that for twelve months in advance when a new executive
16 director may want to review this or there may be possibilities to
17 renegotiate this and be able to keep the same, you know, terrific
18 people, but on a different arrangement. And then there's the chief
19 scientist contract, which also presumably with a restructured
20 staff, is going to get some review, but none of these are really
21 budget-cutting items because as long as we're going along at a
22 level that we need, we don't want to simply, you know, try to
23 squeeze those. That's not really the issue. The issue is the
24 rest. It's what happens after you take that out. So the question
25 is, all of the support for agencies, for the Restoration Team, if
26 we're not going to need the Restoration Team after the next forty-

1 five days, or it's going to be restructured for the habitat
2 acquisition evaluation group, if that job is going to be done in a
3 couple of months, the question is, to have all this other
4 administrative support and the equipment purchases and all that, I
5 mean, that's what we want to try to make sure that we don't --

6 MR. PENNOYER: Mr. Frampton --

7 MR. FRAMPTON: -- over allocate.

8 MR. PENNOYER: I completely agree with you, and I just
9 thought -- these were raised though, and I just wanted to reclarify
10 that we were approving these as a starting point before we launch
11 into the discussion, so we didn't leave this meeting also with some
12 discrepancies of what we understood or felt we needed to do on
13 these two contracts. So if we have passed those, that's fine by
14 me. I just wanted to get past the knowledge -- the question of
15 manipulation that simply is the starting point. So if have agreed
16 that for these contracts, anyway, we're going to do those and re-
17 evaluate them as we get into them, then I agree with you that other
18 parts is the place we're going to spend most of our time, but --

19 MR. FRAMPTON: Well, as I said yesterday, I -- if we took
20 a vote on the rent and the CACI contract together, I was not aware
21 of that, and I certainly did not want to be in a position of
22 committing a year, in a sense, to the CACI arrangement and the
23 situation where we found in January, that we couldn't go back and
24 renegotiate the arrangement as we went along. If we'd done that,
25 we've done it.

26 DR. GIBBONS: I think you've put the qualifier on there,

1 and in the testimony here it says, with the caveat that I would
2 urge you to try to negotiate a contract that you know allows for a
3 sixty-day clause for changing it.

4 UNIDENTIFIED VOICE: (Inaudible)

5 MR. FRAMPTON: And what has happened with that?

6 DR. GIBBONS: Well, that's what I asked of the
7 contracting officer, and he said, of course, you can get out of the
8 contract, and I asked him the question you have about penalties,
9 and he said that it's a standard federal contract. And I don't
10 know what that is.

11 MR. FRAMPTON: Well, I don't happen to know what a
12 standard federal contract is. Does it allow no penalties or do you
13 have to pay the whole year?

14 MR. WOLFE: Mr. Chairman?

15 MR. PENNOYER: Mr. Wolfe.

16 MR. FRAMPTON: It's eight hundred thousand dollars,
17 right? I mean, it's -- Mr. Wolfe?

18 MR. WOLFE: All the federal procurement contracts have
19 a standard clause that says that there can be a termination for
20 convenience, and that's what you're referring to here, and you
21 always pay damages and that's negotiable, but depending on what the
22 contractor can justify as the damages. And so we really will not
23 be able to define that until you get down to the actual point of
24 terminating the contract. At least, that's my experience with
25 contracting in the past. So if the building -- I thought the
26 building was a state contract, though.

1 DR. GIBBONS: It is.

2 MR. WOLFE: So I don't know what the language in a
3 state contract, but the language in a federal contract would read
4 in that direction.

5 MR. COLE: Mr. Chairman?

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: Just so we don't get afield, I don't
8 understand the drift of this conversation to be that there's any
9 thought about cancelling the lease. I mean, is there? I mean,
10 that --

11 MR. PENNOYER: I don't --

12 MR. WOLFE: Mr. Chair?

13 MR. PENNOYER: Mr. Wolfe.

14 MR. WOLFE: As a matter of fact, the one reason that
15 we have the lease at the price we have is because we agreed to at
16 least a one-year term, and we had given the -- a two-year term,
17 that's right, and we had given the negotiating person for the DEC
18 the leeway to go for a two-year contract already.

19 MR. COLE: So what I'm saying is, let us not, you
20 know, get sidetracked on this discussion, whatever it is, by
21 bringing in the -- the lease, the lease, as I understand what Mr.
22 Frampton is talking about, he's not concerned about that, are you?

23 MR. FRAMPTON: No. What my understanding is, we made a
24 firm decision last time to do whatever we had to to renew the
25 lease.

26 MR. PENNOYER: But the CACI -- but the CACI contract

1 also, at the current time, is a done thing at the moment, and we'll
2 come back and read this in the future. The other outstanding one
3 discussed last and didn't pass off on is the chief scientist
4 budget, and that is part of the whole other sector of things you
5 talked about, so maybe we should just get the total presentation,
6 then the rest of it.

7 MR. COLE: Well, Mr. Chairman, let's, you know, let's
8 see if we can put the CACI contract, then, behind us.

9 MR. PENNOYER: Okay.

10 MR. COLE: If the CACI contract has been signed under
11 a standard federal contract form for one year, then that's behind
12 us. Is that the case?

13 DR. GIBBONS: It's about to be signed.

14 MR. COLE: Oh, wait a minute. It hasn't been signed
15 yet?

16 DR. GIBBONS: It has not been signed yet.

17 MR. COLE: Then it's not behind us.

18 MR. FRAMPTON: Does anyone know whether we have been able
19 to simply provide that on sixty days notice we can terminate the
20 contract?

21 DR. GIBBONS: I've got a note upstairs, and I couldn't
22 get them last night from the contracting officer, saying, you know,
23 please call, and he's the one that's negotiating the contract. And
24 I didn't get him last night, so . . .

25 MR. COLE: Well, should not we then send him a fax
26 immediately if this is the sense of the group, and I'm not certain

1 that it is, and say, don't sign the contract until further notice?
2 I mean, you know, is that what we want to do, or do we want to sign
3 the contract? I don't know.

4 MR. FRAMPTON: What are the implications of not signing
5 the contract until further notice?

6 DR. GIBBONS: Well, the staff in the building are gone
7 October 1st.

8 MR. FRAMPTON: The staff in the building or --

9 DR. GIBBONS: The staff in this building.

10 MR. COLE: Then we want to sign the contract.

11 MR. PENNOYER: I think we're in the position of having to
12 sign the contract and reviewing it as we go along. It's liable to
13 be a month or two before we get an executive director's position
14 and a recommendation back from the new executive director.

15 MR. COLE: Here is what Mr. Frampton is saying, if I
16 may be good enough to explain my understanding of what he's saying.
17 I think he's saying that we should ask the contracting officer if
18 we can sign this contract only for a three month or four month
19 period rather than the year period, and have a response from him on
20 that issue. And if he says we can't, then, you know, for a good,
21 sound reason, then we should, okay, sign it, and put that behind
22 us. If he can, then we should decide whether we want to do it only
23 for a period of time less than a year. It seems to me where we
24 are. Is that where we are?

25 MR. FRAMPTON: That's it in a nutshell. I thought that's
26 what we had decided a month ago, that rather than commit ourselves

1 to seven or eight hundred thousand dollars, that it was hard for me
2 to believe that the contractor would not sign a contract, even if
3 it had to be for a year, for budget or other reasons, that wouldn't
4 allow us to -- on thirty or sixty days notice, to reconfigure the
5 number of people, up or down, to renegotiate the contract. It's a
6 service provision contract, after all, and apparently it's a pretty
7 good contract for the contractor, as far as I can see. The
8 contract -- it's hard for me to believe a contractor wouldn't be
9 willing to do that, and that that was going to be explored rather
10 than committing for seven or eight hundred thousand dollars in
11 advance when in three months we might well not want to be going at
12 that running rate, or we might want to negotiate the overhead
13 provisions. But I guess the answer is that we don't know.

14 MR. PENNOYER: Well, can we find out this morning? Is
15 the contracting officer available that we could find out and leave
16 that one for the moment and come back to it?

17 MR. FRAMPTON: It is, you know, twenty -- eighteen to
18 twenty percent of the whole administrative budget. I don't think
19 it's peanuts. I wouldn't want to be arguing about a supplies
20 contract, but . . .

21 DR. GIBBONS: I will have to -- I will call CACI and the
22 contracting officer. If CACI says we're not willing to sign a
23 three to four month contract, that kind of tells me an answer too.

24 MR. COLE: Well, we could always have an opportunity
25 to put these CACI people on the state payroll and the federal
26 payroll and reimburse in that fashion. I mean, it --

1 DR. GIBBONS: I've been looking at that for -- we've
2 been exploring that and we would save money if they were put on
3 either the federal or state payroll.

4 MR. COLE: Put them on the federal payroll.

5 (Laughter)

6 DR. GIBBONS: I haven't had anybody offer them any FTEs
7 (ph) though.

8 MR. PENNOYER: Can we leave that one for the moment and
9 maybe take a break here in a bit and we can make those calls?
10 Okay, so what's next, then, in the other items that are on the list
11 for administration that you reviewed last night?

12 DR. GIBBONS: We went through the rest of the
13 administrative budget, and the first basic principle we came up
14 with is that there would be no equipment purchases in the interim
15 three-month period. Some staff would be released who are funded
16 solely by the funds here, would have to go, and the existing
17 vacancies would not be filled that we have. By administrative
18 area, in the executive director's office, we would not fill the
19 administrative assistant position that's identified. We would not
20 fill the systems analyst position that is identified. There would
21 be no public meetings concerning the restoration plan this fall,
22 and we reduced other items such as printing and miscellaneous items
23 in the executive director's office. The finance committee, we felt
24 that we could not cut. They have two jobs to do in the next three
25 months. One is to review the '94 budget again. They've reviewed
26 it once, but they need to go through it again, and the second would

1 be to prepare the quarterly report, and the quarterly report for
2 finances, so we didn't cut the finance committee at all. The
3 public advisory group, they were scheduled, they have two meetings,
4 we reduced them to one meeting in November, and reduced the travel
5 by fifty percent. The Restoration Team, we reduced the travel by
6 one-third, just scheduling less meetings and teleconferencing, and
7 we weren't sure of the structure that you wanted for the
8 Restoration Team. Right now, we're -- the Restoration Team is
9 fully employed by the money. We could do a fifty percent funding
10 on those. There's a bunch of options. It's really up to the
11 Trustee Council what they want to do with the Restoration Team, but
12 you need full-time managers or half-time managers, is the question
13 that we're not -- we -- you know, it's up to you to make. The
14 restoration planning work group, to fund them, cut the proposed
15 budget by one-third and terminate the employment of these people
16 the end of November. There would be no travel for the restoration
17 planning group. The habitat protection work group, we would reduce
18 that group dramatically to a subgroup who are doing the analysis of
19 the parcels, eliminating the realty and other specialists that we
20 have on that habitat protection analysis group, and that would
21 reduce it by over a half. And the last group, the work plan work
22 group, we would reduce them by fifty percent to a one-month time
23 period after October to prepare the '94 work plan. We looked at
24 the products that we were scheduled to put out between now and
25 January. We would put out a draft final restoration plan, but
26 under the scenario that we have here, the group would not be

1 available, the same group would not be available to prepare a
2 final, if it was not the final or whatever the situation was with
3 the document in October. There would -- they were scheduled to
4 start developing recovery plans by resource. This is the idea of
5 how all the pink salmon projects fit together, how all the sockeye
6 projects fit together, by resource, that would not be done. We
7 would not do that. The comprehensive habitat analysis would not be
8 reviewed and completed by Thanksgiving. It would be mostly
9 complete by the subgroup, but there would be further review needed.
10 The '94 draft work plan would be completed, but the people
11 available for the final would not be there, so we would do a draft
12 for public release. Also, this group was slated to start the '95
13 work plan, the initial processes for that, and that would not take
14 place. Basically, that's what we came up with.

15 MR. PENNOYER: Mr. Cole?

16 MR. COLE: In dollars, how much would that be a
17 reduction of?

18 DR. GIBBONS: That's a reduction of about three hundred
19 to four hundred thousand dollars. That's what we were shooting
20 for. A part of that reduction, as I mentioned earlier, is to
21 reduce the chief scientist contract from six hundred thousand to
22 four hundred thousand, so a fifty thousand dollar reduction in the
23 first quarter would be there.

24 MR. FRAMPTON: So what then? Based on that description
25 of what you would cut, what's the dollar figure that you would be
26 asking to approve for three months?

1 DR. GIBBONS: We were shooting for six hundred and ten
2 thousand dollars.

3 MR. FRAMPTON: In addition to the big blocks that we've
4 already spoken of?

5 DR. GIBBONS: In addition to the space and the building
6 and CACI and the chief scientist.

7 MR. FRAMPTON: So you'd be asking us for, in addition to
8 chief scientist, CACI and the building, an additional six hundred
9 and ten thousand dollars for the quarter?

10 DR. GIBBONS: Right. We'd be asking you for one million
11 seventy-nine point one for CACI and building and four hundred
12 thousand for the chief scientist and peer review, if you agree with
13 that reduction from six hundred thousand, and then taking one
14 quarter of the remaining and then reducing it by forty percent
15 gives us six hundred and ten thousand dollars.

16 MR. COLE: Mr. Chairman?

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: Again, how much would the cut be for the
19 first quarter in terms of dollars?

20 DR. GIBBONS: In terms of dollars --

21 MR. COLE: Did you say three to four?

22 DR. GIBBONS: Three hundred fifty thousand to four
23 hundred thousand.

24 MR. FRAMPTON: Mr. Chairman?

25 MR. PENNOYER: Mr. Frampton.

26 MR. FRAMPTON: I move that we approve a quarterly interim

1 budget based on the description that Dr. Gibbons has given us.

2 MR. SANDOR: I second.

3 MR. COLE: I'll object to that, gentlemen. Too
4 drastic a cut at this critical time when we're trying to get out of
5 some of these things for the next year. I'm in favor of some cuts,
6 but I just think that's too steep.

7 MR. PENNOYER: I guess I am concerned with what you said
8 we're not going to do, and I realize we may decide as we go along
9 here to do things differently in the future, but we haven't made
10 those decisions, and I don't know yet what takes the place of the
11 things that aren't going to be done, and while this is only a first
12 quarter cut, once you do it, it sort of presages, because the
13 people and background and so forth are going to be gone, what's
14 going to happen in the next three quarters, and I'm not clear that
15 hiring an executive director and staff takes the place of all this
16 or we'd just add a staff that adds up to this much money at some
17 point. So I don't know the structure yet. I guess I have a little
18 problem with approving that budget cut based on what I heard here,
19 in that type of time frame, so -- Mr. Cole?

20 MR. COLE: Well, I have more than a little problem
21 with it. I have a big problem with it. First, we don't have the
22 executive director on board. We haven't even pointed to one, made
23 any offers, that kind of thing. Number two, the executive director
24 is likely not to be here for a month, at least, maybe more. By the
25 time he gets his staff, we assume he comes here in a month, the
26 first of November, you know, he may not get his staff until the

1 first of the year. He will need some time to get a feel of the
2 organization. During this next three months we have a restoration
3 plan we must do. We must take another peripherally hard look at
4 the '94 work plan. We should get underway with looking at if we do
5 habitat acquisitions as a part of the '94 work plan, and to just,
6 you know, dramatically whack the organization we've had in place
7 over essentially the past two years at this, what I think is a
8 critical juncture, would be a mistake. I mean, I favor taking a
9 look at the reorganization of what we've been doing. I think it's
10 essential, but not too much too soon.

11 MR. FRAMPTON: Mr. Chairman?

12 MR. PENNOYER: Mr. Frampton.

13 MR. FRAMPTON: Well, I agree with you, Charlie, a hundred
14 percent, but I don't think this is taking a whack out of the
15 organization. I think that the staff went back and did a very good
16 job of describing some cuts that, frankly, in the course of any
17 business or government agency would normally be required and
18 normally be made before a proposed budget is approved. No
19 equipment purchases, no commitments to fill existing positions, and
20 no plans to do work or issue documents in the next three or four
21 months that we now have no plans to issue. What I think they've
22 done is a terrific job at coming up with not gutting the staff but
23 simply eliminating the things that ought not to be in the budget.
24 I like what I heard. I think it's prudent, and I would be very
25 satisfied. Now, if we can't reach a consensus to make this deep a
26 cut, then, you know, I'm eager to move on and have a vote and reach

1 a consensus at some lesser conflict. Frankly, it seems to me that
2 what we've just been through here yesterday and today is a normal
3 budget examination process that resulted in precisely the leaner
4 operating budget that would normally be approved in any kind of a
5 private sector or public sector business for the operation of its
6 entity for the next three months. I think they did a good job. I
7 think that's what we need, and I'm in favor of it.

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: I don't think, Mr. Secretary, that it
10 would be normally approved in any business or government or agency
11 necessarily, number one. Number two, but I think we do have a plan
12 to, quote, move forward, close quote, with the restoration plan,
13 with the '94 work plan, with the '94 work projects, with habitat
14 acquisition and other parcels for which we need a solid
15 justification and basis, all within the next three months. I think
16 the next three months will be a very busy time for the Trustee
17 Council and staff. After the next three months and these
18 fundamental decisions are behind us, I would then feel more
19 comfortable, and we have an executive director on, and his staff on
20 board, then saying where are we, but not so much now.

21 MR. SANDOR: Mr. Chairman?

22 MR. PENNOYER: Mr. Sandor.

23 MR. SANDOR: Mr. Chairman, at dinner last evening, I
24 asked Mark Brodersen, our Restoration Team member, to briefly
25 outline the impact of reductions on our department, and I think
26 it's important, really, to realize what the consequence of that cut

1 would be. I don't know what they are in other departments, but
2 with respect to the Department of Environmental Conservation, quite
3 a severe -- can you briefly summarize what that would mean to the
4 DEC?

5 MR. BRODERSEN: Mr. Chairman, basically we have three and
6 a half to four people, depending on how you count, and with these
7 cuts, we let at least one, maybe one and a half of those people go.
8 It also means that we're not able to participate as fully in the
9 process -- not be able to have the people there to do it. I hope -
10 - what you really need to focus on here is what Mr. Cole talked
11 about, it's what you'd lose. The recovery plans that we've talked
12 about in the past, the discussion has always been where do they go,
13 not whether we do them or not, and I've heard repeatedly that we
14 need to have the various resources and their injuries put into
15 context so we know what the problems are and how to fix them. It
16 seems very important that we get those underway. It's not going to
17 be an easy set of documents to make, as we've all recognized, and
18 that regardless of what structure we end up with in the end, the
19 work that we do now on developing those recovery plans will be a
20 good basis for finishing them, regardless of the structure we end
21 up with. The other thing that really troubles me, I'd like to
22 request that we go back and track over the decision on not to put
23 out the work plan. I think we run the risk here of
24 disenfranchising the public and letting them know what we're doing
25 and having them have an avenue to get back into this process and
26 tell us what to do, or at least give us some suggestions of what to

1 do. Yesterday during the public comment period, folks were already
2 commenting on some of the projects that they believed would be in
3 this work plan, trying to get us to focus on some of the needs that
4 they perceive that they have. The other aspect of this is that we
5 really need to do another major round of public meetings this fall,
6 and we should take out the work plan, we should take out the
7 restoration plan, and we need to explain what those parts are to
8 people, and we need to get their input back. In April, we did this
9 and it was extremely valuable to ourselves and I think to the other
10 people that went out and did it. At that time we told folks that
11 we hoped to come back again in the fall, no promises, but that we
12 certainly thought that it would be a good idea, and everybody that
13 we talked to at the public hearings really wanted to see us back
14 again. It's an easy operation to do and it's also one of the ways
15 that we ground ourselves in reality as to what's happening with
16 folks out in the spill area, and at the same time, they know some
17 of our difficulties. I went to eleven of those meetings. Every
18 single meeting started on a rather -- antagonistic isn't quite
19 right, but perhaps aggressive, on the part of the people that were
20 in the audience, wondering what in the heck we were up to, and by
21 the end of each of those meetings folks came away with -- not
22 everyone, but folks came away with much more of a sense of we
23 actually were trying to pay attention to them, that we actually
24 were trying to help, and perhaps we weren't doing it right, but we
25 were trying to do it right. I think it's important that we
26 continue to foster that attitude, that it's not something that we

1 can just run off and do, it takes quite a few staff to be able to
2 run those public meetings. We just need to make sure that -- on
3 the work plan here, that we do have an avenue for people to get
4 into it, and I dug out the schedule that we've given out to you all
5 before in terms of putting out the work plan. If we put out the
6 work plan here in the next few days, which is about two weeks from
7 now, we'd have to have a camera-ready copy, we can get through the
8 mechanics of getting it out to the public for a decent review and
9 get comments back for consideration of the Trustee Council in
10 January. It takes awhile to get through the mechanics. It's not
11 something that you can just do. There's the printing of it,
12 there's the mailing of it. Jerome did a very good job yesterday of
13 actually going through the mechanics of what it takes to get that
14 work plan out. If we are to have a reasonable period of time, or
15 actually a very shortened period of time, to get these projects
16 into the field in '94, we can't wait much past January to make
17 those decisions and get that work out there. The comment was made
18 that the work plan, as it is now, is a bit of a hodge podge, and
19 not really restoration needs based, you know, to track back over
20 how we got to that there, I'm not quite sure that I agree with it,
21 but even assuming that's what it was there. Back in January,
22 actually starting in December, the Restoration Team, the chief
23 scientist and the peer reviewers put together a work plan framework
24 document that was restoration needs driven. These projects were
25 not even near the number of projects that were here. The Council
26 looked at that and said, yes, this was a good start, but that we

1 need to involve the public more in this process, and at that point
2 we then expanded out the work plan to include the large number of
3 documents or projects that's in it now, to actually show the people
4 that we were being responsive to their request to have their
5 project considered, and that doesn't keep us, in the final result,
6 from still having a restoration needs driven work plan. That's
7 what the Restoration Team is supposed to develop in December, but
8 what it does do is give everybody a chance to see that we've heard
9 them, and we've gone out to public meetings, we've paid attention
10 to their comments, and that we are considering what people are
11 saying to us. It's -- the public process here is very important
12 throughout all of our process, and I think we need to be very
13 careful that we don't suddenly here at the last moment short-
14 circuit that public process and not give the public their due
15 consideration on talking to us about our projects.

16 MR. PENNOYER: Excuse me, Mark, you're --

17 MR. BRODERSEN: I'm done.

18 MR. PENNOYER: You're going -- I think you're mixing
19 little apples and oranges here, and maybe appropriately, but if we
20 needed to comment on the administrative budget per se and the
21 things that were going to be left off of it, and that's not one of
22 them that's left off, because in some ways we still were going to
23 do a '94 work plan, yet I needed to relate back to what -- no one
24 here for the final, was the comment, and my problem was the budget
25 reduction. It was not budget reduction, it was approving something
26 -- I said I wasn't going to have a '94 work plan, that I can't

1 easily do unless I know what the substitute is, so -- Commissioner
2 Sandor, I'm sorry.

3 MR. SANDOR: Chairman, I seconded the motion for this
4 very discussion opportunity. I think it's reasonable that
5 Mr. Frampton raises that kind of questions, but it's also, you
6 know, we need to know the consequences. Mr. Brodersen was gracious
7 enough not to mention that he would be the one that would leave
8 because he actually felt he was most expendable from the stand --
9 if somebody else could replace him, and knowing that Loeffler and
10 the other staff that might be the alternatives would really, in a
11 sense, scuttle the Restoration Team and our objective of being able
12 to get the restoration plan out by Halloween. And nobody is
13 indispensable, and so anyone of us could leave, Brodersen could
14 leave, but from what I have observed, and the amount of time that
15 Mark has given to this process, including work over the Labor Day
16 weekend, every day, and twelve-hour day averages, I don't -- and I
17 know there's others that perhaps work to that extent. It would be
18 a disaster, in my opinion. And if we do take this kind of a
19 reduction, that's the consequence. We will not actually achieve
20 those objectives. There's a time for cuts, but I don't think the
21 time is now. And when the new executive director is in place, and
22 the process of reorganization is completed, I think that might be
23 better. I think we really should stick with the interim budget as
24 it is presently defined. Thank you, Mr. Chairman.

25 MR. PENNOYER: Commissioner Sandor, I guess I'm -- as
26 Mr. Frampton says, a lot of the things he heard here, that were

1 looked at strongly, were things that made good sense, not buying
2 extra equipment, not hiring new staff, not doing things of that
3 nature. There may be staff positions that have not been going to
4 these meetings because the positions either aren't filled or aren't
5 there, and a lot of those things still might make sense even on an
6 interim budget cut at this time. We're not to step out boldly
7 adding to a structure that we may end up changing. What bothered
8 me was comments like no recovery plans, no work plans '94 and no
9 work plans '95, and I don't know if those are the consequences, but
10 if approving something -- I seem to be approving those statements.
11 Now, maybe those statements can be done in some other way, but
12 until we hear it, it's difficult to approve a budget that says
13 we're not going to do some things that we know we have to do, but
14 some of the things that we've proposed are things that might be
15 something that we can deal with here. Mr. Cole?

16 MR. COLE: Mr. Chairman, I think that, first, the
17 starting point is that there is objection by at least Commissioner
18 Sandor and me to the motion, so there's no use talking about the
19 motion anymore. What we need to talk about is, how much can we
20 reduce the budget for the next quarter and still achieve what we
21 substantively need to achieve? I think that's what we should be
22 talking about now. Of course, no capital projects. How much for
23 their acquisitions? How much can we reduce there if we don't fill
24 these vacant positions that we could get by with, how much can we
25 save there? So what I would like to suggest we address our
26 attention to is how much can we effectively cut without disrupting

1 the project?

2 MR. PENNOYER: I thought you were offering an amendment
3 to the motion.

4 MR. COLE: Well, I don't have the number, or I would.
5 If I had a good sense of the number, I would make a motion to amend
6 to reduce it by so many hundreds of thousands of dollars.

7 MR. PENNOYER: Mr. Wolfe.

8 MR. WOLFE: Mr. Chairman. I don't know, maybe the
9 Restoration Team or Dr. Gibbons can come up with a number today
10 that -- maybe a way to get off dead center here would be to come up
11 with a percentage and ask them to tell us another smaller
12 percentage and tell them what they could -- to go to the board and
13 come back at the next meeting and tell us what they would have to
14 give up, and then give them some guidelines on things like reducing
15 the equipment purchases, as you all were talking about, but to stay
16 away from things like the Public Advisory Group, that we can't
17 afford to jeopardize that, after we can't afford to jeopardize the
18 habitat effort. So there are some things that we do not want to
19 change, but I do think that we could give them a target. Maybe --
20 I would suggest maybe five or ten percent.

21 MR. PENNOYER: Or is there -- I'm not sure of our timing
22 here. We do this to ourselves every meeting we go to, but we've
23 got carryover funds and we're approaching October 1st. I'm not
24 clear where we are on timing for this interim budget, or whether we
25 can just say go away and come back with twenty percent next and our
26 meeting at the end of October and that takes care of things. I

1 think we've got to address some of it now, do we not?

2 MR. COLE: Mr. Chairman?

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: I frankly think that the percentage
5 reduction, if I may say so, is a somewhat irrational approach to
6 the problem. What we should need to know is how much can we
7 reasonably reduce the budget, and by that we have the staff tell
8 us, based upon the things that -- usually I think that we have firm
9 agreement on we could eliminate during this next quarter, and then
10 do it. And I would suggest that maybe we move on to another
11 subject and have them tell us at ten o'clock how much they can cut
12 out without severely damaging the process.

13 MR. PENNOYER: Dr. Gibbons.

14 DR. GIBBONS: Yeah, I think that if we come back to you
15 with our basic assumptions that -- no equipment purchases, filling
16 no existing or new vacancies, that we can come with an answer
17 pretty quickly to you. My guess right now might be around fifteen
18 percent, fifteen to twenty. That would be my guess.

19 MR. PENNOYER: (Inaudible - simultaneous talking)

20 DR. GIBBONS: That's strictly my guess.

21 MR. PENNOYER: Well, I move that --

22 MR. PENNOYER: (Indiscernible -- simultaneous talking)
23 any further direction (indiscernible).

24 MR. FRAMPTON: I'd be happy to withdraw my motion and let
25 the staff try to come back with a proposal along the lines that's
26 been discussed here. Maybe after we take a midmorning break.

1 MR. PENNOYER: Dr. Gibbons, of the things you mentioned,
2 and Council, are there any further guidance we want to give them?
3 I mean, when it says cut a restoration plan work group, you know,
4 I think your statement was that the end of November -- well, that
5 may be okay so I'm not sure that that's something we automatically
6 say you don't want to do. There are functions in here that may
7 logically, under the schedule we've set, will go away or partially
8 go away, so it's not necessary to just to cut -- the concept is
9 don't just do everything you've been doing, necessarily, and assume
10 that that's the guideline, all you're going to do is shave
11 equipment and what not. So if they're -- Mr. Frampton.

12 MR. FRAMPTON: I did not hear, myself, anything that was
13 planned to be eliminated that I felt was essential to do in the
14 next three to four months. One thing that I'm not sure has been
15 discussed in previous meetings is the elimination of the budget for
16 developing species -- comprehensive species-by-species recovery
17 plans. That strikes me as something that, if it hasn't been
18 thoroughly reviewed and approved as a budget item in your previous
19 discussions here, it's something that ought to be looked at
20 because, given the state of our knowledge and lacking a science
21 plan, to commit a lot of resources to do that is something that, at
22 least, I'd like to find out more about before committing to. But
23 that's something that can be postponed for the first three months
24 of fiscal '94, and that's something that I would suggest might be
25 taken out of the budget as well.

26 MR. PENNOYER: Okay. Shall we go on to the -- move on to

1 the next item then, and you can come back and talk to us about it?
2 We probably would need to talk about that item a little bit too
3 because there's some specific Council members that made the
4 request, there were statements such as we want to do pink salmon
5 but let's not approve six pink salmon projects worth three million
6 dollars until we know what we want to do with pink salmon. Now,
7 whether that means writing a recovery plan or engaging the planning
8 effort we've talked about on ecosystem monitoring, I don't know.
9 Okay. I guess, within this topic, didn't we have at least two more
10 pieces? One piece was the project necessity part, or do you want
11 to skip that until they come back on the administrative budget?
12 Have you read the necessary projects that needed to go on now?

13 DR. GIBBONS: That's the last part --

14 MR. PENNOYER: Next to the last. We also have the
15 ecosystem monitoring question.

16 DR. GIBBONS: Right, we have that question too.

17 MR. PENNOYER: Would you lead us through the projects
18 that have to be done now?

19 DR. GIBBONS: Yeah, Mr. Chair. What's -- basically,
20 there are nine projects and they are being forwarded by the various
21 agencies. What I intend to do is just identify the project and
22 have the agency who's proposing that interim funding talk to that,
23 to the need for that interim funding.

24 MR. PENNOYER: Which column -- which column and which
25 table am I looking at?

26 DR. GIBBONS: It would be the yellow highlighters and --

1 MR. PENNOYER: Can we go through them and you identify
2 what they are, and we can ask questions if we want, rather than get
3 a ten-minute explanation of each one, or we'll be here.

4 DR. GIBBONS: Sure. The first project is by DEC. It's
5 lead is DNR, it's 94110, habitat protection data acquisition and
6 support. It's a project to further -- gather further data for the
7 habitat conference and the habitat process and for possible
8 acquisition. And there's some -- that's split up into various
9 groups.

10 MR. PENNOYER: That occurs in each of the various
11 agencies?

12 DR. GIBBONS: Various agencies who are participating in
13 that, and (pause) it might go to the Form 1A. That would give you
14 the total number.

15 MR. PENNOYER: So this budget item appears in all the
16 agencies, then, and it's for staff support --

17 DR. GIBBONS: It's --

18 MR. PENNOYER: -- to participate in the habitat work
19 group?

20 DR. GIBBONS: It's the data analysis for the
21 comprehensive -- I'm trying to find my 1A here. Yeah, it's split
22 between the various agencies, DNR, ADF&G, the Forest Service, and
23 the Department of the Interior, are the four agencies involved with
24 that.

25 MR. PENNOYER: Marty?

26 MS. RUTHERFORD: Mr. Chair, the staff that are in 110

1 are the people that are in the subgroup, that are actually doing
2 the habitat analysis. It's to be completed and to you by
3 Thanksgiving, and they're primarily biologists, and they're working
4 with existing data to the degree possible, both in the agencies and
5 the information that's coming out of the field studies now, and
6 this does provide for, if there are -- as we complete the analysis
7 of all the private lands within the spill area, if there are data
8 gaps, it does provide the ability to try to acquire some additional
9 information by field visits. So, again, there are Fish and Game,
10 DNR, Forest Service, the U.S. Fish and Wildlife Service, on that
11 subgroup.

12 MR. FRAMPTON: Is this the six thousand dollar item?

13 DR. GIBBONS: No, the total --

14 MR. FRAMPTON: (Inaudible -- out of microphone range)

15 DR. GIBBONS: Right. The total is two hundred seventy-
16 three thousand seven hundred.

17 MR. PENNOYER: Does that contain any new positions?

18 DR. GIBBONS: No.

19 MR. PENNOYER: New computers and equipment, new field
20 work?

21 MS. RUTHERFORD: No, sir. Yeah, well, there might be
22 some field evaluations, some field visits to substantiate
23 information that they've got from the agencies.

24 MR. COLE: Mr. Chairman?

25 MR. PENNOYER: Mr. Cole.

26 MR. COLE: Talking about field trips, this is broken

1 down in 94110 and this other, and there are, as I counted, at first
2 there's seven trips, the DNR, then there's another seventeen trips,
3 and then there's another twenty-four trips. Seventeen and twenty-
4 four is, what's that?

5 MR. PENNOYER: Where are those trips to, or what are the
6 trips for?

7 MR. COLE: Then there's another ten trips, I mean --

8 MR. PENNOYER: Are these charter trips?

9 MR. COLE: Then there's another twelve trips, if I
10 read this right, but maybe I'm reading it wrong.

11 DR. GIBBONS: There are two columns in the table. One
12 is the report in the interim and the other one is remaining, and
13 what you're reading on the left is the total for the year.

14 MS. RUTHERFORD: Charlie, you need to look at the 3A
15 of that 110 because that's got the cumulative. Basically, what
16 there is, is it provides four point eight thousand dollars for
17 seven trips during the months of October through January to do some
18 parcel evaluation. Again, it's a part of the -- this package
19 that's coming to you at Thanksgiving. It provides another twelve
20 point four thousand for January through the remainder of the year,
21 and that would be focused on -- well, let me back up a little bit.
22 There's -- we will be providing you with large parcel analysis at
23 Thanksgiving. There are many, many small parcels that we will not
24 have had the opportunity to complete analysis on by that
25 Thanksgiving date. So, depending upon your interest in it, of
26 course, but we assumed that you want us to go back, identify those

1 small parcels, and do the analysis on it as part of the remainder
2 of the year, and this -- those additional seventeen trips would be
3 doing the field analysis associated with those small parcels.

4 MR. PENNOYER: Yeah, but we're not voting on the
5 seventeen trips now.

6 MS. RUTHERFORD: No, you're not voting on those
7 seventeen trips now, and frankly, you would have had in hand the
8 comprehensive analysis, the large parcel comprehensive analysis, by
9 Thanksgiving, in enough time to try to determine whether or not you
10 wanted to proceed with small parcel analysis before you make the
11 decision on the remaining dollars.

12 MR. FRAMPTON: Can I ask a question?

13 MR. PENNOYER: Mr. Frampton.

14 MR. FRAMPTON: How much are you asking for, for the
15 interim?

16 MR. PENNOYER: Two hundred seventy-three?

17 DR. GIBBONS: Two hundred seventy-three thousand
18 dollars.

19 MR. PENNOYER: All agencies?

20 DR. GIBBONS: All agencies.

21 MS. RUTHERFORD: Yeah, it's two seventy-three.

22 MR. PENNOYER: That's in addition to monies that are in
23 the administrative budget under the Habitat Acquisition Working
24 Group, right?

25 MS. RUTHERFORD: Yes, this is. This is the subgroup,
26 and basically this harkens back to what Dave said a few minutes ago

1 by -- if we were going to do that forty percent cut, it would have
2 reduced the Habitat Protection Work Group, not the subgroup, which
3 is the subgroup within 110, but it would reduce the Habitat
4 Protection Work Group, which is basically the realtors, the more
5 general -- not so much the biologists, which are on the subgroup.
6 So --

7 MR. FRAMPTON: From what to what?

8 MS. RUTHERFORD: Well, where's the (inaudible). I had
9 it broken out.

10 MR. PENNOYER: It all kind of links together, doesn't it?

11 (Pause while Ms. Rutherford searches for figures)

12 MR. PENNOYER: Dr. Spies, you had a comment?

13 DR. SPIES: Ah, yes. I just wanted to mention that we
14 held a review of (inaudible -- out of range of microphone) try to
15 assess these process of habitat and one of the suggestions is that
16 we visit the (inaudible) allow people to go out and participate in
17 the (inaudible) strong support (inaudible).

18 MR. PENNOYER: Thank you.

19 MR. COLE: Mr. Chairman?

20 MR. PENNOYER: Mr. Cole.

21 MR. COLE: I've repeatedly said, how much data do we
22 need to make a decision to buy a particular parcel? I mean, you
23 know, my view has almost been, one could take a look at an aerial
24 map of the Sound and say, look, here are the parcels that we ought
25 to acquire, and to spend five hundred thousand dollars to say we
26 should acquire Knight Island Passage tracts, Jackpot Bay, or Eshamy

1 or Port Gravina, you know, we've got all this public comment, we
2 have this data, and I just have been of the view for a long time
3 that we're over-surveying these lands.

4 MS. RUTHERFORD: We're adding up the figures now.

5 MR. COLE: Trips to every small parcel out there in
6 the Inlet is what, how small are we talking about, five acres?
7 Someone goes out there and walks around them?

8 MS. RUTHERFORD: Less than a hundred and sixty acres
9 are the small parcels. The small parcels are less than a hundred
10 and sixty acres.

11 MR. COLE: Maybe we're into this, and maybe it's too
12 late to back out, but before we look at any more projects in '94
13 along this line, I think I will tighten my views a little bit.

14 MS. RUTHERFORD: Well, you certainly -- you certainly
15 have the opportunity, as part of the remaining budget, which
16 doesn't go into effect until after January, to make a determination
17 whether you need any more small parcel analysis. I mean, that's
18 the option, and that's one of the ways we've broken it out, too.

19 MR. FRAMPTON: Can you tell us very quickly where we are?
20 I realize we're getting ahead, but it's important to this item
21 because I think that between you're asking for under this project
22 and what's built into the habitat acquisition evaluation working
23 group, you are asking us in the neighborhood of four or five
24 hundred thousand dollars for the next three to four months to
25 complete the habitat acquisition analysis, or continue that work.
26 Maybe I'm wrong, but it's two hundred twenty-five thousand here.

1 There's probably a few hundred thousand in the other place, and the
2 question is, if this job is almost completed, and we're going to
3 get a report on it at Thanksgiving, and, you know, why -- I mean,
4 this is why I came to the forty percent cut in the first place.
5 Why are we going to budget another half million dollars or four
6 hundred thousand dollars for this in the next ninety days when the
7 job, for all intents and purposes, at least, at the level at which
8 we need to get the information before year-end is virtually done.
9 I guess that's my question.

10 MS. RUTHERFORD: Okay. Let me just talk about the
11 subgroup for just a moment. The subgroup is in the process of
12 working many, many hours to try to get the analysis complete by
13 Thanksgiving of all the large parcels. They will have that product
14 to the trustees by Thanksgiving. However, their role is sort of --
15 it's currently, as it's currently been operating, is more than just
16 doing the analysis. They have also been working closely with
17 negotiating teams, as the negotiators go through and are beginning
18 to talk to the landowners about specific parcels and the type of
19 protections are discussed, then the subgroup is going back and
20 doing re-analysis in terms of whether or not the protections that
21 are being pursued actually get to the heart of what is needed to
22 protect whatever species they are addressing. So, it's -- they
23 will not necessarily be completed by -- it won't be over by
24 Thanksgiving if it continues in the fashion that it is currently
25 happening. The Habitat Protection Work Group is slightly
26 different. It meets when there is a need. For instance, when you

1 folks ask for another indication of how we would recommend, we have
2 a single negotiating team, the habitat protection group makes those
3 recommendations -- look at it, they analyze it, they make those
4 recommendations to the Restoration Team. So, while there's funding
5 in here for them, they don't necessarily draw against it all the
6 time because they're not working full-time. So, you know, if I
7 were going to make recommendations, I mean, I agree with Dave's
8 column. We've talked about a forty percent cut. I think it should
9 come out of the Habitat Protection Work Group and not necessarily
10 -- I mean, and not at all the subgroup because their workload is
11 heavy right now.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: Mr. Spies, I think in fairness to those
14 who supplied you with your information, one should ask, why did
15 they think we need this more detailed on-site review? What were
16 the reasons given?

17 DR. SPIES: That particular advice was supplied by
18 someone from Nature Conservancy with quite a bit of experience in
19 the Lower 48, and basically, the idea is not to buy a pig in a
20 poke. If you're going to buy, make a major expenditure, there
21 should be someone from the process that goes and looks at the land,
22 and I think that what they've been doing is not really a great deal
23 of detailed survey. It's a pretty rough kind of a thumbnail sketch
24 of the resources available. They go out and visit the site and
25 look at the trees and try to survey the same resources as the
26 otters and seabirds and so forth that are around there, and it's a

1 pretty minimal effort, I think, from the standpoint of assuring the
2 trustees that the resources that they want to protect are actually
3 at the site. And there's quite a bit of variation out in the Sound
4 that takes place, and the abundance of these resources, and it's a
5 pretty minimal effort just to go out and visit it once. And these
6 people have actually used private boats to get out there over this
7 last year, so it --

8 MR. COLE: Mr. Chairman, just let me say, talking
9 about private boats, air and boat charters for parcel surveys in
10 the budget, aircraft and helicopter charters for evaluation of
11 upland, a hundred and twenty hours at two hundred and fifty dollars
12 an hour, vessel contracts for shoreline evaluation, twenty-five
13 days at one thousand two hundred dollars a day, another thirty
14 thousand, those are sixty thousand dollars in there. I've already
15 commented upon the number of trips out there, which are about
16 fifty. I wouldn't say that -- here's another air charter for
17 survey of uplands as part of small parcel evaluation, eighteen
18 hours at two hundred fifty dollars an hour. I mean, you know, it
19 isn't as though they're -- here's another one, air charter for
20 parcel survey, eighteen hours at two hundred fifty dollars an hour.
21 I mean, you know, it isn't as though -- here's another one, air
22 charters for survey of uplands, twelve hours at two fifty an hour.

23 DR. SPIES: In my comments, Mr. Cole, I wasn't meant
24 to endorse the budget as it is because I have not reviewed it. I
25 was just commenting on the general principle that the reviewers
26 have suggested that we do make an effort to visit these parcels.

1 MR. COLE: Well, let me say, I was responding to the
2 private vessels going out to look at these parcels. This looks
3 like to me that they've had --

4 DR. SPIES: That's what they did last year.

5 MR. COLE: -- rather extensive commercial charters
6 for this.

7 MR. PENNOYER: Marty?

8 MS. RUTHERFORD: Charlie, I guess I -- just a couple
9 of different things. We put that in there because, frankly, we've
10 taken a little heat from some of the agencies because we tried to
11 keep our costs low and we used some private vessels, and there was
12 people who didn't feel that that was an appropriate way for agency
13 people to act, but the whole -- but the point really is that that
14 was -- and we always try to keep those kind of costs low and if we
15 didn't have a need for it, we wouldn't use it and it wouldn't get
16 expended. The other thing is, I just want to point out again, that
17 those are almost all in the remaining column, the column that
18 starts January forward, and if you did not want the small parcel
19 analysis, of course, we wouldn't have to do it. There's very
20 little -- there is some need for some additional Kodiak work
21 between now and when that comprehensive process is to you at
22 Thanksgiving, but that's the only work.

23 MR. COLE: What agency is giving you heat for
24 economizing in the use of private vessels to make these surveys?

25 (Laughter)

26 MS. RUTHERFORD: Do I have to answer that?

1 MR. COLE: Never mind. I guess the question is
2 rhetorical.

3 MS. RUTHERFORD: The other thing I just want to add is
4 that we -- you know, we have been regularly turning back quite a
5 bit of this money that is -- I mean, it's gone and expended. If we
6 don't need to expend it, we won't, and we try to seek guidance from
7 the other agencies as to whether this kind of field work is
8 appropriate. I guess I have one thing to add to what Bob Spies
9 said, and that is, one of the -- I mean, it goes back to buying a
10 pig in a poke. The data that we're using oftentimes is rather
11 sweeping information. It will indicate that there are, you know,
12 there is good habitat for a species and, you know, in this huge
13 area, but we really don't know how it applies to particular bays or
14 -- so, and, of course, when we're trying to maximize our dollars,
15 we have to try to get a sense of where that -- specifically the
16 value is the highest. So we felt that it was very important to try
17 to pinpoint where the species are versus just using the data that's
18 in the agencies, which is, again, broad.

19 MR. PENNOYER: Mr. Frampton.

20 MR. FRAMPTON: Well, I think the discussion here has sort
21 of illustrated the dilemma that we're in. I mean, I feel
22 personally that this is very important work, and if done, you know,
23 efficiently, is going to be very, very valuable. However, the
24 question of the scale on which it's done is a question in my mind,
25 as I guess it is in the Attorney General's mind, and moreover, the
26 way the budget is put together, you have a sense that, you know,

1 the budget presents everything that everybody can imagine might
2 have to be done to do this job at the ninety-nine and a half
3 percent level. That doesn't mean that when people go out and do
4 the work they're wasting money necessarily, but you know, it's just
5 -- it's the budget process then that makes it very difficult to
6 grapple with because we -- in order to exercise our
7 responsibilities, you know, in a reasonable fashion, we should be
8 not simply approving dollars for even the most essential functions
9 that represent everything that everybody might want to spend, and
10 then feel good about the fact that you only spend sixty percent of
11 it after a year. Then there's no control at all, really, from a
12 budget point of view, about real resource priorities, and I suspect
13 that we -- you know, if we did nine of these things, we may have
14 somewhat similar problems with several others, and the question is
15 compounded now by having to pick what's appropriate for three
16 months or four months out of twelve. So, you know, I don't know
17 quite how to grapple with this. We don't want to prevent the
18 essential work from being done. I am concerned about the scale,
19 because that's really a policy decision. Do you want to do the
20 twenty percent piece or the hundred percent piece, and even if it's
21 only the twenty percent piece, we want to make sure that that's
22 adequately funded, people feel like they have the necessary money
23 to do whatever trips have to be done. How do we get our hands
24 around this?

25 MR. PENNOYER: Marty?

26 MS. RUTHERFORD: I think one of the ways to get your

1 hands around it is, have you been satisfied with the information
2 you've received on Seal Bay, Kachemak, and Eyak? I mean, is that
3 the level of information that makes you comfortable? Is it too
4 much or is it too little? Frankly, it's not the Cadillac, but it's
5 not the Yugo either. It's somewhere -- you know, frankly, it's a
6 little closer to the Yugo than it is the Cadillac, but it's --
7 we're feeling that -- the scientists who are involved, and it feels
8 somewhat comfortable that they can support that and that they can
9 assure the Trustee Council that the habitat that they're pursuing
10 is worthwhile, is worth pursuing. I want to just give you an
11 example of something that happened yesterday with Eyak. When they
12 got the additional information on the remainder of their lands,
13 those bays, Simpson Bay, Windy Bay, Sheep Bay, those bays that we
14 had rated highly, it was interesting. Eyak came up to us
15 afterwards and said, we're really surprised, those are the best
16 habitat areas, your process is working. So, I mean, maybe -- it
17 may be a little too much and it may not be. I feel pretty
18 comfortable with it. I think that you've gotten, you know, good
19 quality out of it. They're trying to do a lot of work in a very
20 compressed time on a huge amount of land. When we brought those
21 peer reviewers together under Bob Spies' contract to critique our
22 process, what they -- you know, they were saying is you're
23 attempting to do a hell of a lot of work in a very short amount of
24 time and, you know, these are some things that strengthen it. And
25 one of the things that they said is, do go out, do check the lands,
26 and make sure that they have some value so that you can -- you're

1 not just using this broad brush approach. So, given that, I'm
2 comfortable that the subgroup needs the two hundred seventy-three
3 thousand between now and January. It is a policy call as to
4 whether or not the habitat protection work group, which is more
5 policy guided -- guidance on habitat protection that, by the way,
6 the figure is two hundred and thirty-eight between now and
7 October 1 and January 30th, whether or not that --

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

9 MS. RUTHERFORD: That's correct. Two hundred and
10 thirty-eight versus --

11 MR. COLE: (Inaudible) five thousand dollars every
12 day, take off the weekends and the holidays, and --

13 MS. RUTHERFORD: It's four months. It's October
14 through January.

15 MR. COLE: Through January? All right, call me a
16 liar for a thousand days. Four thousand dollars a day, you know,
17 --

18 MS. RUTHERFORD: It's -- you know, it's high.

19 MR. COLE: That's for -- and you take off two-
20 sevenths of that, from the total number of days, so it's maybe six
21 thousand a day, you know. Doesn't one get the sense that that's a
22 lot of money to be spending every day for looking at these parcels?
23 One of the things that troubles me, and I had a sense that
24 Mr. Frampton would mention it, when we say we're turning money
25 back, I mean, that tells me that our budgeting process is flawed,
26 I mean, because we're authorizing, somehow, apparently, too much

1 for these projects.

2 MR. FRAMPTON: Forty percent too much. Do you want to
3 reconsider your position?

4 MR. COLE: No, no, no. I'm not going to change that
5 much.

6 (Laughter)

7 MS. RUTHERFORD: Again, I would -- may I just comment
8 again that -- the subgroup, again, is working, you know, full-time,
9 so that's there, I don't think you can extend the cut. The sub --
10 the rest of the Habitat Protection Work Group works as needed and
11 it's dependent oftentimes on what you guys ask of us, so
12 oftentimes, you know, the reason we've been able to lapse money is
13 because the workload wasn't as heavy in some period of time as in
14 others.

15 MR. PENNOYER: Do you want to separate for me 110 from
16 the rest in terms of the Habitat Protection Work Group versus the
17 subgroup that's actually gathering data?

18 MS. RUTHERFORD: I'm sorry.

19 MR. PENNOYER: How much interim funding goes into the
20 Habitat Protection Work Group?

21 MS. RUTHERFORD: The interim funding is about two
22 hundred and thirty thousand.

23 MR. PENNOYER: For the Habitat Protection Work Group?

24 MS. RUTHERFORD: For the work group.

25 MR. PENNOYER: And that's what project number?

26 MS. RUTHERFORD: That's within each of the -- it's in

1 the Restoration Team portions of the budget for each of the
2 agencies. That's like, it's a work group.

3 MR. PENNOYER: (Inaudible)

4 MS. RUTHERFORD: Yes. We pulled out the subgroup that
5 are working on the analysis and put it into 110 because that was
6 more appropriate where it's shown up because it's more of a work
7 project, not administration.

8 MR. PENNOYER: So under the administrative budget, two
9 hundred and some is Habitat Protection Work Group under the
10 Restoration Team budget?

11 MS. RUTHERFORD: That's it.

12 MR. PENNOYER: Separately in this stage, but under -- in
13 the budget under that.

14 MR. COLE: Mr. Chairman, I would move to approve the
15 proposed budget for this project, but with the caveat that the
16 group -- have you keep in mind the thoughts expressed today by some
17 members of the Trustee Council which I would hope is the sense of
18 the Council.

19 MS. RUTHERFORD: Yes, sir.

20 MR. FRAMPTON: I second the motion.

21 MR. COLE: (Inaudible) Trustees would like to be
22 assured that they agree with that wholeheartedly.

23 MS. RUTHERFORD: Thank you.

24 MR. PENNOYER: Mr. Wolfe, do you have a comment?

25 MR. WOLFE: I have a question. Just for
26 clarification, the funding in 94110 is to complete the

1 comprehensive habitat analysis work that's underway. It does not
2 get into the small parcels at this point in time.

3 MS. RUTHERFORD: For the interim, that's correct, and
4 we expect the interim until you look at the remainder of the
5 budget.

6 MR. WOLFE: Very good.

7 DR. GIBBONS: Mr. Chair?

8 MR. PENNOYER: Dr. Gibbons.

9 DR. GIBBONS: And also the number that's identified here
10 in our interim is a four-month, and we would reduce that down to a
11 three-month budget, October, November and December.

12 MR. COLE: Four months?

13 DR. GIBBONS: Well, Mr. Chair? The basis for our
14 interim was to have a final '94 work plan in January. What we
15 heard yesterday was that to do it for three months and to see what
16 happens there, so I would think it appropriate for us to drop back
17 to a three-month budget rather than our interim four-month budget.

18 UNIDENTIFIED VOICE: If that's the wish of the Trustee
19 Council.

20 MR. PENNOYER: I guess it's there then? Have we had
21 enough time to approve the balance of the --

22 DR. GIBBONS: Yes, the habitat process is shooting for
23 Thanksgiving, so --

24 MR. PENNOYER: Dr. Morris.

25 DR. MORRIS: I would just like to point out, in so
26 doing you end up facing another decision around the middle to late

1 December (indecipherable -- extraneous noise) dealing with this
2 effort.

3 MR. PENNOYER: Could you explain those reasons, please,
4 Dr. Morris.

5 DR. MORRIS: Well, you're approving a three month
6 budget which would run out January 1st. There would be no further
7 funding unless you authorized it -- would call for a council
8 meeting in, sometime in at least mid-December.

9 MR. PENNOYER: Why couldn't we make that decision at the
10 same time we look at the draft '94 work plan to go out to public
11 review when we get the restoration plan at the end of October,
12 early November?

13 DR. MORRIS: I'm not sure what the schedule on the '94
14 work plan is right now, but it was essentially, it was originally
15 for middle January would be when these decisions were made, would
16 be made, and that's why we set up these four month --

17 MR. PENNOYER: Dr. Morris, you're missing my comment. My
18 comment was not when we approve the final '94 work plan, but when
19 we approve the draft to go out for public review, consistent with
20 the restoration plan. We will have to make these decisions about
21 organization at that time as to where we're going with small parcel
22 studies and other aspects of our organization. The thrust right
23 now, Mr. Brodersen brought up some points we haven't finished
24 discussing perhaps, but the thrust right now is to make the
25 decisions on the public review document for '94, based on the
26 restoration plan draft, that gives up guidance as to what direction

1 we're going to go, and I assume that guidance would include the
2 supportive questions on where we go on data acquisition and some of
3 the work group activities on small parcels and so forth. And so,
4 again, by doing three months now, you're right, it puts us in a
5 slightly different position one month earlier, but we have to make
6 some of those decisions anyway, aren't we? Dr. Montague?

7 DR. MONTAGUE: I think Byron really has an important
8 point that isn't getting across. So, if I understand what you're
9 saying --

10 MR. PENNOYER: I'll try again.

11 DR. MONTAGUE: ... in October or November, we'll have a
12 meeting at which we'll approve a January budget? And then in
13 January, we have another meeting to approve the rest of the year,
14 so in this year we approve a three month budget, a one month
15 budget, and an eight month budget, is that what's being proposed?

16 MR. PENNOYER: Mr. Cole.

17 MR. COLE: Are we going to have a meeting in
18 November? I thought that was a given and we could simply address
19 this issue at the regular November meeting without any difficulty
20 whatsoever.

21 MR. PENNOYER: Dr. Montague, I understand what you're
22 saying. It does make something awkward, but we've got an awkward
23 situation here in which we think we may be, at least open to
24 proposal, of changing direction over the next three month period of
25 time, and it's difficult to approve some of these structural things
26 for four months, to do them for four months, when we think that

1 we're not going to necessarily do them for all four months. So,
2 given the fact that this is all going to make it very awkward,
3 including the '94 work plan, the restoration plan, this is a
4 transition year we knew was going to be awkward, and if we're not
5 going to follow the original task of putting everything out to
6 public review and just sort of pro forma doing it, I don't know
7 that we have a choice. If three months is not the appropriate time
8 to make that cut, some of these items -- maybe we need to consider
9 a different time frame.

10 MR. COLE: Could we have the question, please.

11 MR. PENNOYER: Is there any further discussion on this
12 item? Is there any objection to the motion? (Pause -- no audible
13 objection). Okay, we got through item 110. 064 -- harbor seal
14 habitat use and monitoring.

15 UNIDENTIFIED VOICE: Is that the Alaska Department of Fish
16 & Game project?

17 MR. PENNOYER: 94064. Twenty-seven thousand six hundred
18 dollars, and I assume that's all single agency.

19 DR. GIBBONS: It is.

20 MR. COLE: I move we approve.

21 MR. PENNOYER: Do I have a second?

22 MR. ROSIER: Second.

23 MR. PENNOYER: Can we have just a brief explanation of
24 why that needs interim funding?

25 DR. MONTAGUE: Two reasons. The primary cause, I think
26 about twenty-five thousand is to place the order for the satellite

1 tags for the harbor seals, and there's, I think, fifteen hundred in
2 there for the principal investigator to attend the bi-annual marine
3 mammal conference.

4 MR. PENNOYER: But it does involve purchase of equipment
5 for a project next year we haven't approved yet?

6 DR. MONTAGUE: That's correct, and the project could not
7 be approved next year if the tags weren't ordered.

8 MR. PENNOYER: You couldn't accomplish the project next
9 year if you don't order the tags now because the time to get the
10 tags is over a longer period of time?

11 DR. MONTAGUE: Correct.

12 MR. PENNOYER: It's one of those catch-22's, gentlemen.

13 MR. FRAMPTON: Do we have an opinion from the Chief
14 Scientist about the essential, how essential this is to the program
15 for next year.

16 MR. PENNOYER: Dr. Spies.

17 DR. SPIES: Yes. The harbor seal project has been
18 very well researched and very well conducted since the damage
19 assessment. It's a generally meritorious project in terms of the
20 effort in Prince William Sound. Even as we start to move into
21 areas of -- as the process seems to be moving scientifically
22 towards understanding the ecosystems, the harbor seals are one of
23 those resources that have been declining that play a major role in
24 the system an apex predator, so my sense is, lacking an overall
25 science plan, as we do, but my sense is that this is a -- would be
26 an important aspect of it under anything that we would plan to do

1 in a major way in terms of studies out there, so I would probably
2 endorse this. I think we'll probably do the study, but if we don't
3 know -- look into buying those tags back to put them on sealions
4 next year.

5 MR. FRAMPTON: Can I ask a question? The project
6 description shows that this is a two hundred and seventy thousand
7 dollar project, with the PTTs. Is that what you're talking about?

8 DR. MONTAGUE: Correct.

9 MR. FRAMPTON: Being ordered in January and February --
10 is this description inaccurate?

11 DR. MONTAGUE: No, that's correct.

12 MR. FRAMPTON: So, if you're not ordering the PTT's 'til
13 January-February, can't we wait and look at this in November to
14 commit what amounts to a two hundred and seventy thousand dollar
15 project?

16 DR. MONTAGUE: Well, perhaps, Mr. Chairman, I'm a little
17 confused. So, are we now approving the '94 work plan in November
18 and not January? If we are approving it in November, then yes.

19 MR. FRAMPTON: But could we -- do we have to -- my
20 question was, do we have to make this decision on this particular
21 project? We are deferring all project decisions, except the ones
22 we're discussing today, and my question is is this one we can
23 postpone making a judgment on it today because it looks like we're
24 going forward to commit two hundred and seventy thousand dollars
25 here, but the project description suggests that we don't have to
26 place the orders for these things until January or February.

1 DR. MONTAGUE: Well, the reason the budget is in here is
2 when we were approving a budget through January, so -- so the
3 twenty-five thousand part of this is a January item. The two
4 thousand or fifteen hundred dollars to attend the meeting is a
5 November item.

6 MR. FRAMPTON: But I think our goal here is to try to
7 only get those that really have to be done now.

8 MR. PENNOYER: I think the problem is, Dr. Montague,
9 you're looking at the final approval of the '94 work plan. What
10 we're saying here is that we don't want to approve or commit to
11 projects until the restoration plan draft is done. Now, that -- if
12 there's still time to have interim funding for something that looks
13 at least on a draft basis we're going to approve and send out for
14 public review, as the initial stage not the final review, but send
15 out for public review, then I think what we're saying is we don't
16 want to commit to projects, interim projects, that don't require
17 funding over the next two or three months. And we may do that --
18 again, approve interim funding at a November meeting based on the
19 restoration plan draft and the decision to send obviously a project
20 out to public review. I think in this case we're going to do it,
21 I would agree, but as a concept generally as we go through these
22 we're saying we haven't sent things out to public review. When we
23 do send the first public review out, the thrust I'm getting from
24 the Council is that we want to know that we agree those are
25 consistent with the draft restoration plan that we're going to get
26 at the end of October. So, any of these things in here that don't

1 require interim funding over the next three months probably
2 shouldn't be approved at this time.

3 DR. MONTAGUE: Okay, Mr. Chairman, I mean our last
4 night's preparation was based on the four months for these interim
5 funding. You're right, in this case the only absolutely have-to-
6 approve if you want to approve it is for the PI to attend this
7 meeting in November.

8 MR. PENNOYER: How much is that? (Pause)

9 MR. COLE: Mr. Chairman, that's, as I read this
10 proposed budget, to attend the bi-ennial marine mammal conference
11 to present study results, Galveston, November '93.

12 MR. PENNOYER: The whole world will be in Galveston in
13 November '93, I can attest to that by the requests to travel by our
14 agency. (Aside comments)

15 DR. MONTAGUE: About two point five.

16 MR. PENNOYER: Two point five? It says one point -- oh,
17 the per diem (indecipherable aside mumbling).

18 MR. FRAMPTON: I move to approve the travel
19 necessary for the conference.

20 MR. PENNOYER: Do I have a second for two point five?

21 MR. ROSIER: Second.

22 MR. PENNOYER: Is there any objection to two point five?

23 MR. COLE: Mr. Chairman, I'd like to know to present
24 what study results? It says present study results, what study
25 results of which are we --

26 MR. PENNOYER: Dr. Montague, is it just last year's study

1 or is it a composite of the work we've done since then, since the
2 assessment started?

3 DR. MONTAGUE: Well, I believe it's a composite since we
4 started.

5 MR. PENNOYER: We've been studying harbor seals for four
6 years now, one of monitoring.

7 DR. MONTAGUE: Right.

8 MR. PENNOYER: I think we've done them every year.

9 DR. MONTAGUE: It's been -- it would be reporting on
10 entirely Trustee Council projects.

11 MR. PENNOYER: Is there any further discussion? Is there
12 any objection to two point five million then -- (laughter) two
13 point five thousand? They'll think I'm buying land in a minute!
14 (Laughter) Two thousand five hundred dollars. (Pause -- no
15 audible objection) Okay, can we move onto the next item? The next
16 item is 716 -- we already did that one, that's part of 110. We've
17 got the herring spawn deposition and reproductive impairment for
18 thirty-seven thousand dollars for 166. Dr. Montague, is that the
19 same category as this other one? I know that project isn't going
20 to Galveston, so --

21 DR. MONTAGUE: 166 ...

22 MR. PENNOYER: Maybe it is.

23 DR. MONTAGUE: The costs for this during the November to
24 January period, and we don't have it broken out between November,
25 December, and January. I would assume a good bit of it would be in
26 November and December, and that's to initiate the vessel charter

1 bids and contracts to secure the divers and ensure certification
2 and do diver training, complete the data review and sample design
3 for the egg loss study, complete sample design for diver
4 calibration, and contribute a fractional portion to the remodeling
5 of the Cordova lab to -- a couple of years ago, or the last two
6 years we've had fines at that lab on the Trustee Council projects
7 for using materials that we haven't used there, so it needs to be
8 upgraded to OSHA standards.

9 MR. PENNOYER: Dr. Montague, when does this program go in
10 the field?

11 DR. MONTAGUE: Early March.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: I see this proposed budget is for five
14 diver physicals at four hundred and twenty-five dollars apiece;
15 diver master class for three dive leaders for annual
16 recertification; dive annual recertification, three times two
17 hundred; diver physicals, two at four twenty-five. Why are we
18 paying for their physicals for these divers? -- or maintaining
19 their equipment?

20 MR. PENNOYER: Dr. Montague, as related to this -- paying
21 for it out of some other fund, are these the only project these
22 people dive on, is this the only reason they're divers?

23 DR. MONTAGUE: Well, Mr. Chairman, I believe that is the
24 case, but I can't say for sure.

25 MR. PENNOYER: Mr. Frampton.

26 MR. FRAMPTON: We did not do this last year, isn't that

1 correct?

2 DR. MONTAGUE: That is correct.

3 MR. FRAMPTON: What?

4 DR. MONTAGUE: That is correct.

5 MR. FRAMPTON: This is an expensive project, a four
6 hundred and seventy thousand dollar project. My impression is that
7 it's also a very important and desired project. I wouldn't want to
8 do something here that made it impossible not to do it next year,
9 particularly in light of what's happened in the Sound, but the
10 question -- I mean, this may well be a project we clearly want to
11 do next summer, but the question is, you know, can we -- since the
12 activities for January through March seem a little, a little bit
13 preparatory, can we really bump this off a month or two? I mean,
14 I would not want to prejudice consideration of this project; I
15 think it's probably an important project, but it seems like
16 committing to do it today maybe not all that essential.

17 MR. PENNOYER: Dr. Montague.

18 DR. MONTAGUE: Mr. Chairman, if we're talking today about
19 the November-December period, that's two-thirds of the time that
20 this preparatory work would be taking place, and to enter the field
21 with a project of this size the 1st of March takes a fair amount of
22 preparation.

23 MR. PENNOYER: Can I have a motion to approve the
24 expenditure?

25 MR. COLE: Mr. Chairman?

26 MR. PENNOYER: Mr. Cole.

1 MR. COLE: Can I have an answer to who these divers
2 are and why we're paying for their physicals?

3 MR. PENNOYER: You've got one of them is right out in the
4 audience here. He's worried about his physical.

5 DR. SULLIVAN: Basically, these are people who are
6 associated with -- (directed to approach microphone) -- I'm sorry.

7 MR. COLE: Are they state employees?

8 DR. SULLIVAN: Yes.

9 MR. COLE: Okay.

10 DR. SULLIVAN: Basically, they -- I don't -- to my
11 knowledge, I don't know very many other projects, I mean I can be
12 wrong, I don't know everything about fish and game, but these
13 people and their diving is strictly associated with this project.
14 I mean, that's a major part of this project is diving. I don't
15 think, for example, the pink salmon project uses any divers at all.

16 MR. COLE: Are these state employees who will be
17 performing as divers on this project?

18 DR. SULLIVAN: Yes, sir.

19 MR. COLE: All right. And they do not do any other
20 diving in the course of their employment by the state?

21 DR. SULLIVAN: Not to my knowledge.

22 MR. COLE: And is it cheaper to have them do these --
23 this diving than it is to hire a commercial dive company, and have
24 we looked at that?

25 DR. SULLIVAN: To tell you the truth, I don't know the
26 answer to that.

1 MR. COLE: Well, it's just that I see we're paying
2 for divers' physicals, and I raise the question, but, you know, I'm
3 just wondering whether it might be more economical to hire a
4 commercial dive company to do this, and also avoid the risk of --
5 other risks that the state would incur by doing this itself. I
6 don't know, but I would think we should look at that.

7 DR. MONTAGUE: Mr. Chairman, one notable element of this
8 is that it combines skill usually of biologists and diving skills
9 together, and which wouldn't very often be found in diving company,
10 and also these people, I think I'm correct, were the divers on this
11 project two or three years ago when it was funded by the Council so
12 they have ...

13 MR. PENNOYER: Further discussion?

14 DR. MONTAGUE: ... unique herring diving experience.

15 MR. PENNOYER: Any one have a motion? Mr. Frampton,
16 question, motion?

17 MR. FRAMPTON: Mr. Chairman, obviously some of these
18 projects which are start-up projects you might not want to
19 prejudice, but the start-up costs are relatively low, the interim
20 costs are relatively low. Do we have money that has been not used
21 that is going to be not used in fiscal '93 -- a certain amount of
22 money that we could devote to the start-up, the three month start-
23 up of these projects that we want to approve, instead of approving
24 new money that we could just take a dollar figure and a couple of
25 dollars to that for three months apiece for these projects, and
26 say, all right, but let's make sure we don't prejudice the ones we

1 think we may want -- may well want to do? I mean, it may be that
2 this has to be started. On the other hand, it really doesn't look
3 like, you know, checking out what's happening and the layout, and
4 those are the things that are in this project for Janaury -- for
5 October to March -- and that can't be all that expensive. Can we
6 approve a small amount of money for these kinds of things but use
7 it for money that's been turned back from these projects?

8 MR. PENNOYER: Dr. Gibbons.

9 DR. GIBBONS: Well, I'm not sure the exact amount of
10 money left over from the '93, but we are exactly sure of the amount
11 of money left over from the '92 period, and that's six point five
12 million dollars, which I mentioned before. That has been taken out
13 of the court, authorized by the Trustee Council, given to the
14 agencies but not spent, and that money -- the intent of that money
15 was to offset any costs this year in '94 to be applied towards
16 that. Whatever the '94 work plan is, we will take that six and a
17 half million dollars and offset that.

18 MR. PENNOYER: (Indecipherable -- coughing) question
19 directly whether this project has leftover funds?

20 DR. GIBBONS: Just so you understand it, this project
21 was not conducted in '93. This is a new project.

22 UNIDENTIFIED VOICE: Right.

23 DR. MONTAGUE: Mr. Chairman, the policy usually has been
24 to lapse funds for that year and get new funds. You know, it's
25 kind of a bookkeeping mess to lapse the funds for most projects but
26 save some for others. I guess we can do it that way.

1 MR. PENNOYER: Whichever pot we take it out of, we are
2 still approving a concept that requires funding that wouldn't be
3 used somewhere else. So, any more questions on this particular
4 project? Is there any objection to the approval of the thirty-
5 seven thousand one hundred dollars? (Inaudible aside comment by
6 Mr. Cole) Would you say again what the thirty-seven thousand one
7 hundred dollars is for, Dr. Montague.

8 DR. MONTAGUE: Yes. To ensure certification requirements
9 are met and training on the divers to complete the review of the
10 existing herring data in order to decide what's the best thing to
11 do for '94. That's the first thing they have to do, review what
12 all is known to date and maybe have some hypotheses as to what
13 happened in '93 and set those up and decide what those are before
14 the project begins; to do the project design and prepare the
15 detailed project description and a fractional portion of the lab
16 remodeling.

17 MR. PENNOYER: In actual fact, if we'd done this project
18 in '93, some of that would have been part of the fall data analysis
19 report writing, so called, and so forth anyway, would it not?
20 Assessing where we were and give you some idea of where you wanted
21 to go, is that correct?

22 DR. MONTAGUE: Correct.

23 MR. PENNOYER: If you didn't do it in '93, you've got a
24 gap you need to fill.

25 DR. MONTAGUE: Correct.

26 MR. PENNOYER: Thank you, is there any objection to the

1 funding of the thirty-seven thousand one hundred dollars, without
2 arguing whether it should be thirty-four or thirty-two or thirty-
3 eight because I don't know how we specifically get at that. (No
4 audible objection) Thirty-seven thousand one hundred dollars is
5 therefore approved. Next project is forty thousand dollars for
6 coded-wire tagging of wild pinks for stock ID. This is a new
7 project.

8 DR. MORRIS: Mr. Chairman.

9 MR. PENNOYER: Dr. Morris.

10 DR. MORRIS: There is a NOAA component to project 94166
11 that also had a request for interim funding, but I believe it can
12 be postponed until November for that.

13 MR. PENNOYER: How much is that?

14 DR. MORRIS: Twenty-five thousand nine hundred.

15 MR. PENNOYER: So it appears over into the NOAA lead
16 agency (aside mumblings) on this sheet here -- yeah, okay. So,
17 we're postponing the twenty-five thousand dollars?

18 DR. MORRIS: Yes, it was for vessel charter and buying
19 lab supplies, which could still be done if we waited until November
20 for authorization.

21 MR. PENNOYER: Okay, fine.

22 (Pause -- Aside mumblings)

23 MR. PENNOYER: Dr. Gibbons, as we do this, Mr. Frampton
24 has a good point, would you identify where this appears in more
25 than one place. I mean, I know some of them, like the previous one
26 we did where all six items -- harbor seals was only in one spot, so

1 if there are others that are going to pop up, let us know about it
2 as we get to it.

3 DR. GIBBONS: I could do that. Under the second column,
4 cooperating agencies, that will tell you which ones have multiple
5 agencies and which agencies they are.

6 MR. PENNOYER: Okay. So under coded-wire tag of pinks
7 for stock ID, we've got forty-eight, and what is under NOAA? Or is
8 it?

9 DR. GIBBONS: No. Herring -- the herring -- Dr. Morris
10 was talking about the herring, (indecipherable) approve at twenty-
11 five ...

12 MR. PENNOYER: But you said that the cooperating agency
13 is listed -- oh, I see, we're not on the coded-wire tag...

14 DR. GIBBONS: No, coded-wire tag of pinks,
15 (indecipherable -- simultaneous talking) cooperating agency.

16 MR. PENNOYER: Okay, fine.

17 DR. GIBBONS: So that's the total amount.

18 MR. PENNOYER: Thank you.

19 MR. COLE: One eighty-five ...

20 MR. PENNOYER: Forty point eight. 94185, forty thousand
21 eight hundred dollars. (Indecipherable aside mumbling) Forty
22 thousand eight hundred dollars, Dr. Montague, why do we have the
23 coded-wire tagged pinks at forty thousand eight hundred dollars?
24 Can you explain this?

25 DR. MONTAGUE: Okay. The field work for that activity,
26 again, would begin in early March. The work now is to go out into

1 the field to do the site selection of where they put the weirs up,
2 the facilities up to catch the fish in order to apply the tags.
3 Once those are selected, you have to commit to leases with the --
4 in most cases with the private landowners to set up a camp at those
5 sites. The field equipment for the camps have to be committed to
6 and purchased. Again, the detailed project description has to be
7 prepared.

8 MR. COLE: Mr. Chairman.

9 DR. MONTAGUE: And those are the costs that would be
10 covered on that.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: I see that one of the items for this
13 project is contract costs, including land leases with Native
14 corporations for campsites, leases as much as three thousand
15 dollars per site per year, and we have six thousand dollars there.
16 I won't approve a lease to a Native corporation for a campsite.

17 DR. MONTAGUE: Mr. Chairman, I guess perhaps the Council
18 didn't know but we've done this many times in '92 and '93.

19 MR. PENNOYER: Did you do it on Kodiak for weir sites?

20 DR. MONTAGUE: I don't think this is Kodiak.

21 MR. PENNOYER: No. I mean you do it in other areas.
22 It's not an uncommon practice, I think, is it not?

23 DR. MONTAGUE: No, it was in Prince William Sound for
24 weir sites and camps.

25 UNIDENTIFIED VOICE: We do.

26 MR. PENNOYER: I would say it's a common -- not an

1 uncommon practice.

2 MR. ROSIER: Not an uncommon practice, no.

3 MR. PENNOYER: Counting weir sites, a couple of them in
4 Bristol Bay, I think.

5 MR. ROSIER: Certainly, and a number of regions in the
6 state this is done.

7 MR. COLE: I'm not inclined to change my mind,
8 gentlemen, on this. They ask us to spend tens, if not hundreds, of
9 thousands of dollars for subsistence studies and things of that
10 nature out there, and I think that they could certainly accommodate
11 us by allowing us the gratuitous use of a small parcel of their
12 lands to perform studies which benefit them -- you know. I mean,
13 if they don't want us to do these studies, that's fine. But to ask
14 us to pay rent so we can set up a camp out there to do a study of
15 coded-wire tagging of wild pinks so that they can use those
16 resources for their subsistence living is more than I can accept.
17 So, sorry, it's the way it is.

18 MR. PENNOYER: You'd propose an amendment -- well, I
19 don't know whether I even have a motion yet, but your motion would
20 be forty-eight minus six thousand dollars then?

21 MR. COLE: Well, certainly minus six thousand,
22 however it comes out.

23 DR. MONTAGUE: Mr. Chairman, if the Council has the
24 ability to, you know, to offer that persuasion to the people, I
25 think that's great, but I think it puts the investigator in a
26 tenuous position to try to go out personally and argue with them

1 about why they should do it free.

2 MR. PENNOYER: (Indecipherable) again, it -- this is
3 maybe an important component of pink salmon work in Prince William
4 Sound if we're to get a handle on what needs to be done on pink
5 salmon in Prince William Sound overall. We haven't done that yet.
6 Do all these expenditures have to be done over the next couple of
7 months before we get a chance to look at the restoration plan and
8 maybe find some money for recovery planning for at least this
9 species, which is certainly a major concern of the Sound. Well,
10 including the leasing, I mean, do you have to do something like
11 that over the next two or three months?

12 DR. MONTAGUE: Well, this is for the October, November,
13 December, January period. I honestly can't say which part of it
14 was January.

15 MR. PENNOYER: Well, what I'm sort of hearing is any
16 project that starts in March is going to require interim funding
17 substantially, and projects that start later than March, don't, is
18 sort of what you're saying.

19 DR. MONTAGUE: That's usually the case. I don't know if
20 that blanket statement is true.

21 MR. PENNOYER: Do I have a motion or other questions? So
22 far we've got, doing this on a consensus basis, forty point eight
23 less six thousand for interim funding. Is there any -- any motion?
24 Mr. Wolfe.

25 MR. WOLFE: Let me say, I'll second the motion, for
26 discussion purposes.

1 MR. PENNOYER: I haven't had a motion yet.

2 MR. WOLFE: I thought we did make a motion.

3 MR. PENNOYER: No. Mr. Cole objected to the ...

4 MR. WOLFE: Okay, that's fine, then I'll just ask the
5 question.

6 MR. PENNOYER: Proceed.

7 MR. WOLFE: Philosophically, I agree with your concern
8 for us paying to utilize a site where there is a mutual benefit to
9 all of the landowners in the area or users of the area, but I would
10 hate to jeopardize the project on the basis of that small part of
11 it. I would ask the project folks though if they had explored
12 other alternative sites that might be free, and maybe we can move
13 on, and just leave it that they should explore further.

14 MR. COLE: Are there not Forest Service lands in the
15 general vicinity.

16 MR. WOLFE: I would imagine that there are some fairly
17 close by.

18 MR. PENNOYER: Dr. Montague.

19 DR. MONTAGUE: Thank you. Mr. Chairman, when we tagged
20 wild fish in earlier years, it was done on these Native landowner
21 sites, and I believe that they were the best streams to do it on
22 and those were the best sites, but we're willing to look again.

23 MR. ROSIER: Mr. Montague. Thank you, Mr. Chairman.
24 It would appear to me at this point that we should look at the
25 alternatives that might be available for alternative campsites. It
26 means that, perhaps it means, you know, supplying the camp with a

1 skiff or something like that and provide transportation to the
2 tagging site, this type of thing. I think there are alternatives on
3 this. I would move adoption of the interim budget at thirty-four
4 point eight on this item.

5 MR. FRAMPTON: I just want to point out that this is a
6 study to -- a two year study -- to study two streams, and it's
7 about a six hundred thousand dollar project. Again, it may be one
8 of the most important projects that we're going to fund in the next
9 two years, and it might not, and I'm a little troubled about
10 committing thirty, forty thousand dollars here and there to pick
11 two sites if what -- if there's going to be any misunderstanding
12 about whether we're going to be approving the whole project,
13 because if we're going to be approving the whole project with these
14 votes, then, you know, we're committing ten million dollars here
15 today to a bunch of projects without any coherent sense of whether
16 they fit into any plan or whether they are the high priority
17 projects or the low priority projects, and that's exactly what
18 we're trying to avoid. So, I want to make certain that when I vote
19 for these projects, the record reflects that we're voting to keep
20 our options open only, and that this doesn't mean that I don't
21 understand that I'm voting to approve the full expenditures for a
22 full year for any of these projects.

23 MR. PENNOYER: Is that clearly the understanding of the
24 group?

25 MR. ROSIER: That is certainly my understanding of what
26 we are doing here this morning.

1 MR. PENNOYER: We have in this '94 work plan, I don't
2 know what the total is for pink salmon studies, but it is fairly
3 substantial. Maybe it should be more, but we don't know what the
4 mix that we want to approve for that is, and we don't have a plan,
5 and ...

6 MR. FRAMPTON: This is only a tiny piece of this
7 particular project, just looking at escapement from two streams,
8 period.

9 MR. PENNOYER: It's more than a tiny piece in total
10 dollars, but it's a ...

11 MR. FRAMPTON: It's six hundred and eighty thousand
12 dollars -- five hundred and eighty thousand dollars.

13 MR. PENNOYER: Okay. Is there any further discussion?
14 Again, if these expenditures are not really required over that time
15 period before we get the restoration plan, we really want that
16 identified so that we know that we can wait until November to
17 approve something. Okay, the next project is oil related egg and
18 alevin mortalities, and there's two components apparently, one
19 ADF&G and one NOAA.

20 DR. GIBBONS: The total price, Mr. Chair, is eighty-five
21 point four.

22 MR. PENNOYER: And the NOAA part is eighteen point three,
23 and the other part is sixty-seven point one.

24 DR. GIBBONS: Yeah, project 94191

25 MR. PENNOYER: '191.

26 MR. COLE: Sorry.

1 MR. PENNOYER: 94191. Two parts, a ADF&G part for sixty-
2 seven thousand, and a NOAA part for eighteen point three. This is
3 an ongoing project that was approved in essence before the multi-
4 year evaluation of the effects of oil on pink salmon, and either
5 Dr. Montague or Dr. Morris, do you want to talk about the interim
6 funding?

7 DR. MONTAGUE: For the Fish & Game portion, what's
8 required is field work. The egg and fry dig for sampling, the eggs
9 and fry from the oiled and unoiled streams takes place this fall,
10 and that would be for personnel time to do the work, travel to the
11 field, air charters and so on.

12 MR. PENNOYER: I would point out that this project was
13 approved knowing it was going to be a multi-year expenditure,
14 although we reserved the right, obviously, to review the results
15 and cancel. However, if we're going to continue this, they do have
16 to get the eggs and the fry during the fall field season, I think
17 is what you're saying, Dr. Montague?

18 DR. MONTAGUE: Correct.

19 MR. PENNOYER: For the lab analysis that would occur in
20 the following months.

21 DR. MONTAGUE: Well, for that as well as to determine if
22 there's differential survival between the oiled and unoiled
23 streams.

24 MR. PENNOYER: That is what I meant by analysis.
25 Presumably that requires analysis. Correct? I should be using the
26 word "lab" I guess. Mr. Frampton.

1 MR. FRAMPTON: I'll move the approval of interim funding
2 requested.

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Do we have a second for discussion.

5 MR. ROSIER: Second.

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: I see there that NOAA asked for office
8 supplies and software upgrades and seven thousand dollars. Do you
9 want to give us an explanation?

10 MR. PENNOYER: No. (Simultaneous laughter) Dr. Morris,
11 software upgrades and office supplies, in the interim?

12 DR. MORRIS: Not in the interim; in the remaining ...

13 MR. PENNOYER: Oh, I'm sorry. We don't need these NOAA
14 parts to be expenditures then in this interim period?

15 DR. MORRIS: Not the office supplies and software
16 upgrades, which I guess I can't explain right at the moment.

17 MR. PENNOYER: Of the eighteen point three listed for
18 NOAA, what part don't we need in the interim.

19 DR. MORRIS: We need all of it. It's personnel, it's
20 fish food, and it's the camp supplies for support of the raising of
21 the fish at Little Port Walter and the travel to Little Port
22 Walter.

23 MR. PENNOYER: (Aside mumblings) So those are not in the
24 -- those are not interim expenditures anyway?

25 DR. MORRIS: No, they're not.

26 MR. PENNOYER: The office supplies and the software

1 upgrades.

2 MR. COLE: Well, maybe if this project comes up ...

3 MR. PENNOYER: I will be prepared to explain it to you,
4 Mr. Cole.

5 (Simultaneous laughter)

6 DR. MORRIS: As will I.

7 MR. PENNOYER: I'll have to ask Dr. Morris why it's in
8 there.

9 MR. COLE: Not only that, Mr. Rosier, there's nine
10 thousand five hundred for you.

11 (Laughter)

12 MR. ROSIER: I was already trying to figure out what I
13 was going to say.

14 (Laughter)

15 MR. PENNOYER: Is there further discussion of the pink
16 salmon oiled stream project -- oiled pink salmon project -- oil-
17 related egg and alevin mortality project? I'll get it out yet.
18 Consider that -- that's eighty-five four. (No response) Okay,
19 let's try the next one then, and the next one is 94258, sockeye
20 salmon overescapement, a hundred and forty-one thousand, and
21 there's no cooperators listed, so that's the total amount. Dr. --
22 one forty-one -- oh, project '258, yes, for a hundred and forty-one
23 thousand. Dr. Montague, that's a substantial amount for the
24 interim.

25 DR. MONTAGUE: Yes. This is an ongoing project that is
26 determining the cause and the probable ways to restore the sockeye

1 salmon production in the Kenai River, and it has a considerable
2 field component in the months of October and November and some in
3 December, and that would include estimates of growth in Skilak
4 fish, estimates in the lipid content, stomach contents in Skilak
5 lake, limnological work in Skilak Lake in October and November,
6 limnological work in Kenai Lake in October and November, dio-
7 zooplankton surveys in Skilak Lake, dio-zooplankton surveys in
8 Tustamena Lake. And one of the key hypotheses they're trying to
9 get at here is during the peer review meetings it was indicated
10 that in southern Canada and the Lower Forty-eight sockeye systems
11 if the juvenile sockeyes don't have a certain weight and fat level
12 in December, they don't make it to the next spring, and that very
13 well could be the case here, and we haven't work in the lakes in
14 fall in November and December previously, so we need to test that
15 hypothesis, and that's the primary reason for these costs.

16 MR. PENNOYER: So, Dr. Montague, we already approved
17 report writing at two thirty-eight for that project?

18 DR. MONTAGUE: That's correct.

19 MR. PENNOYER: And we're approving a hundred forty-seven
20 interim funding for this project, and this interim period will be
21 about four hundred and twenty thousand dollars, four hundred and
22 thirty thousand dollars.

23 DR. MONTAGUE: That's correct.

24 MR. COLE: Three seventy-nine.

25 MR. PENNOYER: I'm sorry, three seventy-nine. I stand
26 corrected -- to give you fifty thousand more.

1 MR. COLE: Ninety-four two fifty-eight?

2 MR. PENNOYER: Yes. That includes permanent staff, then,

3 salaries for this period of time and the -- obviously?

4 DR. MONTAGUE: Correct.

5 MR. PENNOYER: Maintaining the staff that was on last

6 year.

7 DR. MONTAGUE: Well, I don't know if maintaining is the

8 right word, doing -- the required staff to do the necessary work.

9 I mean, I don't think that we have the same size of staff that we

10 had during the summer field season.

11 MR. PENNOYER: No, I'm certain you had temporaries on.

12 MR. COLE: Mr. Chairman.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: So I understand this, is it essential, as

15 I look at this for personnel, three hundred thousand dollars during

16 the interim?

17 MR. PENNOYER: Dr. Montague.

18 DR. MONTAGUE: Well, are we talking about reporting or

19 interim?

20 MR. COLE: The '93 report and the '94 interim --

21 three hundred thousand. Round.

22 DR. MONTAGUE: Correct.

23 MR. COLE: And this is the next three months or four

24 months? I have a little trouble with that still.

25 DR. MONTAGUE: Well, it's -- the figure that you see here

26 for the report portion, which is the two fifty-eight portion, goes

1 through whenever the reports are done in April or May. The other
2 hundred and forty-one portion is through January.

3 MR. PENNOYER: The hundred and forty-one is part of the
4 one million one hundred thousand dollar total project annual cost
5 then?

6 DR. MONTAGUE: Correct, except the total -- yesterday I
7 indicated to you that there were some of our projects that I
8 thought were too high, and I think our total cost on this will be
9 reduced for the remaining portion of the year.

10 MR. ROSIER: (Indecipherable -- out of microphone
11 range) reviewed on at the present time.

12 MR. PENNOYER: But we are going to do some of the field
13 work for that project this fall interim?

14 MR. ROSIER: That's correct. This one says -- Dr.
15 Montague indicated this is a follow through based on the peer
16 review that the Council asked us to go through this last spring.

17 MR. PENNOYER: In other words, if we didn't approve the
18 interim, we would preclude the option of doing the project next
19 year in the fact that experienced staff would be lost and so forth.

20 DR. MONTAGUE: Well, I guess the key loss in that would
21 be if, if indeed the reason that, you know, the smolt production in
22 the Kenai River has fallen by ninety-seven percent is because the
23 fish aren't, don't have enough lipid content by the time the middle
24 of December rolls around. That's probably the most important
25 question we can answer, so to delay a year on that would, that
26 would be a big mistake.

1 DR. SPIES: Mr. Chairman, I just might mention that
2 that was probably the singlemost prominent recommendation by the
3 peer reviewers of the sockeye salmon.

4 MR. PENNOYER: To do the fall work?

5 DR. SPIES: To do the fall work.

6 MR. COLE: I move we approve.

7 MR. PENNOYER: Do we have a second?

8 MR. ROSIER: John seconded.

9 MR. PENNOYER: Any further discussion? We moved we
10 approve the hundred and forty-one thousand dollars, again, with --
11 quote -- (with)out prejudice. (No audible objection) Okay, we've
12 approved that. Shall we take a short break here.

13 MR. COLE: I have to go. How many more projects,
14 interim projects, do we have to do.

15 UNIDENTIFIED VOICE: Four.

16 MR. PENNOYER: You want to do the four, is that what
17 you're suggesting? Or do you want to take a break?

18 MR. COLE: Well, they want to take a break.

19 MR. PENNOYER: People are pressing me for a break.

20 (Off Record: 10:30 a.m.)

21 (On Record: 10:43 a.m.)

22 MR. PENNOYER: I'd like to get started again if we could.
23 We're still trying to make a noon deadline. I'm not sure how we're
24 going to do that yet, but we're trying to. So, we need to get back
25 to this budget item, finish it, go to the agenda and figure what
26 else we have to do, if we're going to make it. We have probably

1 until about 12:30 unless we shift a lot of scheduling, so let's see
2 how far we can get here. I think we are all present and accounted
3 for. Shall we continue down the last four items on this list for
4 interim funding. I believe the next item we're looking at is -- we
5 already did the habitat protection data acquisition and support.
6 '126 habitat protection and acquisition fund -- 94126, is that
7 correct?

8 DR. GIBBONS: That's correct. Agencies -- Department of
9 Natural Resources, Department of the Interior, and the Forest
10 Service for a total of two eighty-four point nine.

11 MR. PENNOYER: So there's ninety-nine six ...

12 DR. GIBBONS: For the habitat acquisition fund.

13 MR. PENNOYER: Two eighty-four point nine. Now, can you
14 explain to us the difference in habitat acquisition fund and the
15 habitat data acquisition and support and the habitat work group.

16 MS. RUTHERFORD: Yes, sir. The habitat protection
17 fund is basically -- it's the project that would include the monies
18 for actual acquisition, for appraisals, for title work and haz-mat
19 work. So this -- these monies would only be accessed once the
20 Trustees have decided to pursue negotiations and acquisition on a
21 particular parcel.

22 MR. PENNOYER: This past negotiation is actual -- to the
23 stage that we're looking at the haz-mat work, and the other is
24 appraisals in support of stuff to parcels we've already decided to
25 purchase or --?

26 MS. RUTHERFORD: That's correct.

1 MR. PENNOYER: So, this fund would not be accessed unless
2 we specifically approved it. Do we need any further questions on
3 it?

4 DR. GIBBONS: Mr. Chair.

5 MR. PENNOYER: Dr. Gibbons.

6 DR. GIBBONS: I've got one. This is the one that the
7 Trustee Council needs to decide in the future how much money they
8 want to put in to acquire. This is -- this is that project.

9 MS. RUTHERFORD: And that's what the TBD stands for --
10 to be determined.

11 MR. PENNOYER: This two eighty-four nine is just the
12 placeholder for appraisal work, for example, if the Eyak thing came
13 to fruition?

14 MS. RUTHERFORD: We basically built this around an
15 eighty thousand dollar per action that would support the
16 appraisals, the title work and the haz-mat surveys and the --

17 MR. PENNOYER: Do I have a motion on the two eighty-four
18 nine -- a placeholder for the specific, approved on a case-by-case
19 basis haz-mat work, appraisal work, and other specific work
20 necessary for the agencies to do to acquire property? Mr. Wolfe.

21 MR. WOLFE: Mr. Chairman, I make a motion that we
22 approve the total amount for the habitat protection acquisition
23 fund that's proposed in the interim.

24 MR. ROSIER: Second.

25 MR. PENNOYER: It's been moved and seconded, is there
26 further discussion? (No audible response) Thank you. Next, is

1 94217, Prince William Sound area recreational plan implementation.
2 There are two pieces to that, ADNR and U.S. Forest Service. Can
3 you give me a total amount, please?

4 DR. GIBBONS: A total of forty-four point nine.

5 MR. PENNOYER: Forty-four point nine total. Could
6 somebody care to explain the Prince William Sound recreational plan
7 implementation.

8 MR. RICE: Mr. Chairman.

9 MR. PENNOYER: Ken Rice.

10 MR. RICE: Mr. Chairman, the way this project was ...

11 MR. PENNOYER: ... 217.

12 MR. RICE: ... originally set up was the agencies
13 were working with the public to identify specific recreation
14 projects that could be implemented in '94 that had pretty much
15 consensus or approval by the users of Prince William Sound.
16 They've done a lot of public involvement but we're scheduled to
17 hold a workshop in November to pull a lot of the ideas together and
18 get a product with specific projects for '94 and then a list of
19 projects for out-years that could be completed. The money that was
20 requested here would complete that workshop and project ideas.

21 MR. PENNOYER: So the whole forty-four nine is for one
22 workshop?

23 MS. RUTHERFORD: It's for the staff to support it and
24 the actual costs of the workshop.

25 MR. RICE: It's the setup of the workshop, more of
26 the pre-work that's going to go into it, holding the workshop.

1 MR. PENNOYER: Forty-five thousand dollars? We're paying
2 travel for the participants or is this just staff work?

3 MR. COLE: Didn't we only put in fifty thousand for
4 the ...

5 MR. PENNOYER: The whole symposium.

6 MR. COLE: ... the whole symposium?

7 MS. RUTHERFORD: Let me -- may I speak on this, Mr.
8 Chairman?

9 MR. PENNOYER: Yes, you may.

10 MS. RUTHERFORD: All right. The work -- the workshop
11 is in November. However, there were more parts to this project.
12 Part of it was to identify '94 projects, to begin to identify
13 projects for out-years, to develop the injury statement for
14 recreation that will be added to the restoration plan, and to begin
15 the process of, for purposes of restoration, planning uses within
16 Prince William Sound, and finally there was, part of the objective
17 was to identify any special designations that might be appropriate
18 for Prince William Sound, at least to identify them and to explain
19 them, and to note up and down sides to those special designations.

20 MR. FRAMPTON: Mr. Chairman.

21 MR. PENNOYER: Mr. Frampton.

22 MR. FRAMPTON: Isn't there another recreation, isn't one
23 of the other nine also a --?

24 MS. RUTHERFORD: It is -- no, not -- no, not the other
25 nine.

26 MR. FRAMPTON: Okay.

1 MS. RUTHERFORD: There was a proposed new project that
2 would start ...

3 MR. FRAMPTON: For?

4 MS. RUTHERFORD: ... in January ...

5 MR. FRAMPTON: For Gulf of Alaska?

6 MS. RUTHERFORD: ... for Gulf of Alaska, that's
7 correct.

8 MR. PENNOYER: But that's not in the interim?

9 MS. RUTHERFORD: That's not in the interim. That
10 would be a new project. Prince William Sound is a continuation.
11 I might also note that there has been a tremendous amount of
12 interest and strong public support throughout the Prince William
13 Sound for this project. They've really appreciated the Forest
14 Service reps and DNR reps who have gone out and worked with them on
15 trying to identify some consensus projects for '94 and some
16 appropriate future recreation activities.

17 MR. FRAMPTON: I have two problems here that I want to
18 raise. One is that the federal Trustees have an understanding that
19 we are not going to support recreation development projects in
20 looking at the '94 work plan. The second is that, and a part of
21 that is that our lawyers have told us that this is not appropriate.
22 Having said both those things, however, I had some discussions with
23 Forest Service people in Washington about the fact that this
24 particular project, which is identifying sites and particular
25 designations, has been ongoing, and in that respect and whether we
26 start new projects -- that small amount of money, and I was told

1 ten to twenty thousand dollars for the workshop and for the
2 printing and all that, we could finish this project up this fall
3 and winter, and that would be useful, and was asked, in spite of
4 the other problems, to go ahead and approve ten to twenty thousand
5 dollars to finish this particular project up and do the workshop,
6 and I have no problems with doing that. But when I looked in the
7 budget and (indecipherable) for it, I see, you know, this is a
8 hundred more thousand dollars for '94 and so forth, so I wonder if
9 we could get sort of a dollar figure for completing the project and
10 the workshop that's reasonable. That would help me sort of
11 evaluate this.

12 MS. RUTHERFORD: Mr. Chair?

13 MR. PENNOYER: Yes.

14 MS. RUTHERFORD: We -- when we were aware that there
15 was concern about this particular project, so we went back in and -
16 - the Forest Service and DNR -- and we took another look at it, and
17 while the current budget is forty-seven thousand for the interim --

18 MR. FRAMPTON: That's for both agencies?

19 MS. RUTHERFORD: For both agencies -- we were able to
20 reduce that, come up with some ways to reduce that to thirty
21 thousand for the interim, and then there's a very, I think --
22 (looking for document) ...

23 MR. PENNOYER: Mr. Cole.

24 MR. COLE: Well, I support this project. I think
25 that we must be guided by the fact that there is strong public
26 support for this project or projects of this nature, that we are

1 spending large sums of money for habitat, land acquisition, and we
2 should keep in mind that those lands are in the public realm and
3 that the public deserves, warrants, is entitled to an opportunity
4 to see those lands, to walk over those lands, and to have some
5 beneficial use of those lands, and we continuously hear the people
6 say, well, I don't know about buying land but it shouldn't simply
7 be locked, quote, locked up, close quote. And I think that, first,
8 I agree with that, and secondly, we should be cognizant and mindful
9 of the -- of those views, and this is a relatively small amount of
10 money to spend in connection with those lands for those purposes.

11 MR. FRAMPTON: What is the figure? Can we just --

12 MS. RUTHERFORD: (Inaudible -- coughing) -- the
13 interim the remainder was eighty-one point two. The interim
14 portion of it was forty-seven. If we were to cut some things out
15 and let some things go, we felt we could reduce the entire interim
16 remaining budget to about fifty-eight thousand, with thirty
17 thousand in the interim.

18 MR. PENNOYER: For both agencies?

19 MS. RUTHERFORD: For both agencies. Do I hear a
20 motion?

21 MR. ROSIER: So moved.

22 MR. FRAMPTON: Second.

23 MR. PENNOYER: What would the split be for accounting
24 purposes, just proportional to what it was before?

25 MS. RUTHERFORD: It's a little different. It's fifty-
26 seven point nine for the total, with thirty thousand being the

1 interim.

2 MR. PENNOYER: No, I meant the distribution between the
3 agencies, the split is two agencies' budgets?

4 MS. RUTHERFORD: Let me see --

5 MR. PENNOYER: I don't know if that's critical, but
6 somewhat proportional.

7 MS. RUTHERFORD: I've got it. How about if I just
8 give it to you.

9 MR. PENNOYER: That's fine. It's been moved and seconded
10 that thirty thousand be applied to the interim period of time for
11 project two seventeen. Is there any objection? (No audible
12 response) Thank you. Mr. Wolfe.

13 MR. WOLFE: The name implementation implies something
14 that's occurring here. Could we strike that?

15 MR. PENNOYER: Cross out the word "implementation."
16 Studies, plans -- how about planning?

17 UNIDENTIFIED VOICE: Planning.

18 MR. PENNOYER: It says planning. Planned development,
19 maybe, something like that? Okay.

20 MR. COLE: Implementation plans.

21 MR. PENNOYER: That's what it says.

22 MR. WOLFE: No. It says planned implementation, and
23 we aren't doing the implementation.

24 MR. COLE: Why don't we just switch it around to ...

25 MR. PENNOYER: Okay.

26 MR. COLE: ... implementation plan.

1 MR. WOLFE: That's fine.

2 MR. PENNOYER: Implementation plan. Okay. The next

3 project is 94007, site-specific archaeological restoration, twenty-

4 six point five. That appears in multiple places apparently. Can

5 you give me a --.

6 DR. GIBBONS: Just one funding for interim, twenty-six

7 point five by the Forest Service.

8 MR. PENNOYER: Okay. Twenty-six five, 94007, site-

9 specific archaeological restoration -- twenty-six five.

10 MR. RICE: Mr. Chairman.

11 MR. PENNOYER: Mr. Rice.

12 MR. RICE: Mr. Chairman, originally this money would

13 have been carryover money or money that was not spent in '93. What

14 happened was that the site that was selected for protection was an

15 ANSCA 14(h)(1) site, and we have a policy of working directly with

16 the regional corporation on any work on that. They were unable to

17 secure their 8A contracting so that we could give them a sole

18 source contract, and hence we weren't able to complete that in

19 '93. What we would intend to do is to use the unspent money to

20 give them the contract and have them complete that next year. It's

21 not necessary that we do that -- that that contract be let by

22 December, so it could occur --

23 MR. PENNOYER: So you could forego the twenty-six five in

24 the short term?

25 MR. RICE: That's correct.

26 MR. PENNOYER: Any objection to not taking actions here?

1 (No audible response) Okay. Mr. Wolfe, did you object?

2 MR. WOLFE: (Gestures with head that he did not
3 object)

4 MR. PENNOYER: Okay. Habitat protection -- let's see,
5 then we skip all the way down to...

6 DR. GIBBONS: 94159.

7 MR. PENNOYER: Marine bird and sea otter boat surveys for
8 (indecipherable) point seven.

9 MS. BERGMANN: Mr. Chairman, given the new information we
10 have had at this meeting, we are withdrawing this for interim
11 funding because if we have a decision at a meeting in November that
12 will be sufficient time.

13 MR. PENNOYER: Withdrawn. Does that complete the list
14 then?

15 DR. GIBBONS: Yes, it does, Mr. Chair.

16 MR. PENNOYER: Is there another item -- what about all
17 these NEPA costs? Are we doing something with those?

18 DR. GIBBONS: Those are site-specific NEPA costs
19 associated with a project. Before the Trustee Council can approve
20 projects, NEPA compliance has to be met, and that's what these
21 costs are.

22 MR. PENNOYER: They're all new projects, basically?

23 DR. GIBBONS: No. Some of them are continuing projects.

24 MR. PENNOYER: Do we have to deal with those at this
25 meeting?

26 DR. GIBBONS: Umm.

1 MR. PENNOYER: What is the total amount? (Pause) Two
2 sixty-six, we have report writing, but --

3 DR. GIBBONS: The total cost is sixty-five point four
4 thousand dollars.

5 MR. PENNOYER: This is paving the way to approve new
6 projects if we decide to approve them so they're done in a time
7 when they might take effect in '94?

8 DR. GIBBONS: Yes.

9 MR. PENNOYER: If we do that, can we preclude our ability
10 to approve any of these projects for '94 to get into the field.

11 DR. GIBBONS: You set back the project. You need the
12 NEPA compliance before you can approve a project, yes.

13 MR. PENNOYER: Sixty-five thousand dollars.

14 MR. COLE: Which projects are you talking --

15 MR. PENNOYER: A whole list of them: mussel beds
16 restoration and monitoring, shoreline assessment and oil removal,
17 deposit sand and (indecipherable) clam recruitment, restoration of
18 high intertidal fucus, salmon in-stream habitat and stock
19 restoration, Kenai River sockeye salmon restoration, Port Graham
20 salmon hatchery, Fisheries Industrial Technology Center, Alaska Sea
21 Life Center in Seward, site-specific archaeological restoration,
22 cutthroat and dolly habitat restoration, salmon in-stream habitat,
23 some projects that we may or may not end up approving for '94, and
24 I guess some of these are not even time critical.

25 MR. COLE: Does each of those projects require NEPA
26 compliance?

1 MR. PENNOYER: A couple of them sure do.

2 MR. COLE: Could we have a report, I mean in writing,
3 citing cases, on NEPA compliance required for each of these
4 projects by the next meeting. I mean we are here, and, you know,
5 this NEPA compliance always comes up, you know, well, we have to
6 have NEPA compliance, you know, and, we can't move without NEPA
7 compliance, and yet I have not seen the case law from the circus
8 courts -- I mean circuit courts (simultaneous laughter) -- that,
9 you know, we need this compliance, and so I would like to have
10 greater assurance that we have to have NEPA compliance for these
11 things.

12 MR. PENNOYER: Yes, and I think there's a question in
13 timing. NEPA compliance -- many of these projects don't start,
14 have to start in March if we approve them. Do we have to -- can we
15 commit past this NEPA compliance test when we come back with a
16 draft restoration plan in place, and can make at least some major
17 decisions because a couple of these projects are going to be
18 somewhat major policy decisions. And can we wait on this whole
19 NEPA compliance question until we come back in NEPA with a draft
20 restoration plan in front of us and approve it, say, for a work
21 plan for public release.

22 DR. MONTAGUE: Mr. Chairman.

23 MR. PENNOYER: Dr. Montague.

24 DR. MONTAGUE: If January is the time that we're going to
25 approve or disapprove all the projects for the '94 work plan, I do
26 not believe that the NEPA compliance could be completed to the

1 federal agencies' satisfaction unless it's started now.

2 MR. PENNOYER: Well, I guess we go through them a project
3 at a time then and decide which ones we think have reasonably good
4 assurance of being approved. I don't know how we do that.

5 MR. COLE: And require NEPA compliance.

6 MR. PENNOYER: And require NEPA compliance. I don't know
7 how we can do that.

8 MR. COLE: He has a comment there.

9 MR. PENNOYER: Mr. Rice.

10 MR. RICE: Mr. Chairman, the process that we went
11 through to come up with these dollars is that each federal agency
12 that had the lead for NEPA compliance on looked at those projects
13 and determined whether they could fit within their categorical
14 exclusions, and if they could not, then the next step is
15 environmental assessment, and we worked with the -- either the
16 state the agency or, if the state was the lead on that project, or
17 that individual agency looked at how much it would cost to do an
18 environmental assessment.

19 MR. PENNOYER: I'm open to suggestion. Mr. Frampton.

20 MR. FRAMPTON: Is it possible that, given that a lot of
21 this is on projects like ten million dollars for Port Graham salmon
22 hatchery and five million for Alaska Sea Life Center.

23 MR. RICE: Thousand.

24 MR. FRAMPTON: Sorry -- five thousand Fishery Industrial
25 Technology Center, that, you know, may pose some legal problems as
26 well as a policy issue, that we could just let this go and have the

1 agencies absorb a few thousand dollars in costs in the next three
2 months that have to be done to go forward with NEPA, just let the
3 agencies absorb that? Is that a sensible approach to this or --?

4 MR. PENNOYER: Before we answer that question --

5 MR. FRAMPTON: The alternative might be, say, you know,
6 all right, fifteen thousand, twenty thousand dollars we could say
7 is fine for NEPA work that has to be done for the next three months
8 so you have a budget line for it. That's an alternative.

9 MR. PENNOYER: It depends how serious you are about a
10 particular project. Dr. Gibbons.

11 DR. GIBBONS: I believe that, you know, if you make your
12 decisions in October and release the draft plan that NEPA
13 compliance can be made, you know, between then and the time that
14 you finally make a decision on the projects. That would be my
15 (indecipherable). I know some of these are very controversial, and
16 NEPA, you know, doing NEPA now, starting it now versus 1st of
17 November, I'm not sure that that is all that critical.

18 MR. PENNOYER: I don't think we can go through and argue
19 the merits of each of these projects at this meeting -- or could we
20 without a restoration plan draft? Is there a motion to not take
21 action -- or anybody object to not taking action on this item at
22 this meeting? (No audible response) No objection. Okay.

23 MR. COLE: Mr. Chairman.

24 MR. PENNOYER: Mr. Cole.

25 MR. COLE: Can we get a report in writing about which
26 of these projects are regarded by those well experienced in NEPA

1 compliance is required so we can look and evaluate it ourselves,
2 satisfy ourselves that this is required and why.

3 MR. FRAMPTON: Are my federal colleagues prepared to
4 represent that we'll ask our lawyers for that?

5 MR. PENNOYER: There's no problem with asking our
6 lawyers.

7 (Aside discussion)

8 MR. SANDOR: (Indecipherable -- extraneous noise) as it
9 might arise, I think if you put that in a motion, I'd second it.

10 MR. COLE: So moved.

11 MR. SANDOR: Second.

12 MR. PENNOYER: It's been moved and seconded. Seconded
13 ahead of time and subsequently moved to (laughter) to have a legal
14 opinion in writing on the need for NEPA compliance and why briefly
15 on the projects so indicated. Any objection to that?

16 MR. COLE: Let me say one thing.

17 MR. PENNOYER: Mr. Cole.

18 MR. COLE: If we add sort of a text analysis of NEPA
19 and case cited -- we prepared one of those in the State Department
20 of Law, which I must say I thought was an outstanding product
21 (laughter), not done by me, of course, but one of our superstars.
22 Then we could just have two or three sentences dealing with each
23 project, you know, we don't have to have a big monumental
24 dissertation for each project, but the framework and then three or
25 four or five sentences, maybe not more than five sentences, stating
26 why each project that we're dealing with requires compliance. I

1 mean, that's what I would like to see. Is that the second -- is
2 that satisfactory to the second?

3 MR. SANDOR: Yes, and perhaps extending one step
4 farther to identify those that could be dealt with in -- what are
5 they called -- categorical exclusions.

6 MR. PENNOYER: Are there any objections to the lawyers
7 receiving that type of instruction? I hear no objection. Okay, I
8 think that concludes our business on the interim report and NEPA
9 funding requests. Mr. Gibbons -- Dr. Gibbons.

10 DR. GIBBONS: During the break, I tried to get a hold of
11 CACI and the contracting officer. I did get hold of the
12 contracting officer, and Mr. Wolfe was correct that there's a
13 termination for convenience. He couldn't tell me what that would
14 be. He said that it's the cost of shutting down the operation. I
15 have an option that I haven't cleared -- I couldn't get a hold of
16 CACI -- that might be better, and that would be that right now the
17 CAC contract is being held by the Department of Justice and we've
18 extended for several months, if I can I'll get hold of CACI and the
19 Department of Justice and see if we can continue that for three
20 months, without going into a long-term contract, and we'll let the
21 Trustee Council decide finally what they want to do with the space
22 and the people, but I need to touch base with the Department of
23 Justice and CACI folks.

24 MR. FRAMPTON: When you say the space and people, aren't
25 those separate?

26 DR. GIBBONS: They -- they're not separate. Right now,

1 they're under the Department of Justice contract. We felt it was
2 more expedient to move the space to the state, so that's what's
3 going to take place here on October 1st, the space will be handled
4 by the state. But the CACI then would go to the Department of
5 Agriculture.

6 (Simultaneous talking)

7 MR. FRAMPTON: I just want to reiterate -- I want to
8 reiterate for the record that my understanding that all of the
9 Trustees are totally set on wanting to do whatever is necessary to
10 maintain the space and the lease renewal, and that the question
11 that's being raised here is simply committing a year's worth of
12 money to a particular contractual arrangement to supply people and
13 other services that we may want to -- did not -- you know, three
14 months, four months down the line, we may want to sit down --

15 DR. GIBBONS: That's fine.

16 MR. FRAMPTON: ... and renegotiate.

17 DR. GIBBONS: We can split them. We have split them, so
18 -- from the entire space, and we can check with CACI folks on the
19 Department of Justice part.

20 MR. PENNOYER: Okay. We have one additional piece -- go
21 ahead, yes.

22 MR. FRAMPTON: Under an interim funding, I guess, work
23 projects and this ecosystem monitoring approach, I want to put on
24 the table for discussion at least a proposal, a project, for the
25 first three months of the year that I have discussed with some of
26 you. We have here what I see is three real interesting and

1 significant opportunities and a chance to take advantage of all of
2 them. One is that the coalition of individuals and groups in and
3 around Prince William Sound, fishermen, scientists, the Prince
4 William Sound Aquaculture Corporation, the Science Center, Cordova
5 United Fishermen, have made a proposal that if we are prepared to
6 ask them to do it that in a very short period of time, they can
7 come up with a proposed or a draft science agenda for Prince
8 William Sound, and that's something we don't have right now, and I
9 think we, my feeling is that we very much need to develop in the
10 coming months. The second opportunity is that the Nature
11 Conservancy, locally and nationally, in consultation with some
12 other groups, non-profits groups that have GIS technologies, have
13 said, have made a proposal that they believe that they have the
14 capability to do at least a scoping study of what kind of
15 biological survey and monitoring effort might be appropriate for
16 the spill area, along the lines of what would be a part of, at
17 least, the five million dollars that we've set aside for a
18 comprehensive monitoring research for the area at our last meeting.
19 And the third opportunity is that NOAA has proposed to organize a
20 workshop in November if we could approve it now to bring together
21 scientists who have studied the Sound and to try to identify what
22 we know, what we don't know, and what we need to study over the
23 next couple of years. This would be a very practical, hands-on,
24 informal, short-term project, and my proposal is that we consider,
25 having approved millions and millions of dollars this morning for
26 the next three months for various agency budgets, that we consider

1 approving a hundred thousand dollars for the following: twenty-
2 five thousand dollars to make it possible to hold this workshop in
3 November or, if possible, November. That would be organized by
4 NOAA, with the cooperation with ADF&G, and, if it's useful, with
5 the new national -- federal national biological survey unit here in
6 Alaska, which is the old Fish & Wildlife Service research center.
7 And the other seventy-five thousand dollars also to be administered
8 by NOAA or someone at NOAA, to be selected by the NOAA Trustee,
9 that would go toward, in the next three and a half months,
10 deferring or reimbursing expenses by the fishermen's group and the
11 Nature Conservancy to work together to scope out their proposals
12 for, number one, a research plan, and number two, a information
13 monitoring and survey plan for the spill area. I realize that this
14 is a little unusual, but I think that when you have highly
15 motivated, highly sophisticated and very able citizens' groups,
16 non-profits and coalitions, who say they can come in in ninety days
17 and give you at least a draft of something that you don't have that
18 you desperately, that when we're spending millions and millions of
19 dollars on our own agencies that we really ought to take them up on
20 it and at least bring them into the process. The purpose of the
21 workshop would be sort of a mid-course in this three and a half
22 months to allow all the people working on this to come together
23 with agency scientists and university scientists and sort of test
24 out their initial ideas. So that's my proposal for an additional
25 interim budget project.

26 MR. PENNOYER: Mr. Cole. Do I have a second to the

1 motion, first of all?

2 MR. COLE: Second.

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: Well, I would like to say I think that the
5 workshop project should be developed, orchestrated jointly, by NOAA
6 and the Alaska Department of Fish & Game because -- somewhat for
7 obvious reasons. That's the point number one. And, so we can
8 address that, I would so move to amend this motion to provide that
9 it should be jointly administered by the Alaska Department of Fish
10 & Game and NOAA.

11 MR. PENNOYER: Any objection to that amendment?

12 MR. FRAMPTON: Well, I didn't make a motion. I just put
13 this on the table.

14 MR. COLE: Well --

15 MR. PENNOYER: I thought you were making a motion, excuse
16 me.

17 MR. COLE: I thought you were making a motion.

18 MR. FRAMPTON: You made the motion, and I (indecipherable
19 -- simultaneous talking).

20 MR. PENNOYER: ... an appropriate motion. No objection
21 to the amendment? Okay.

22 MR. COLE: I think that we should be careful, as has
23 been implied, to make certain that if we do adopt this proposal
24 that we make it clear that we are not thereby establishing one of
25 these infamous precedents that one hears so much about, generally;
26 that each interest group has an opportunity to come to us and say,

1 well, like the Citizens' Vision, to say we would like, you know,
2 fifty, a hundred thousand, to perfect our vision, if you will. So,
3 this needs to make certain that this is --

4 MR. FRAMPTON: (Inaudible -- simultaneous talking)

5 MR. ROSIER: (Laughter) -- just an hour ago.

6 MR. COLE: I must admit that (simultaneous talking
7 and laughter)

8 MR. FRAMPTON: Not a citizen, but a civil court.

9 MR. COLE: Well, you know, but I think this is a
10 legitimate concern that, you know --.

11 MR. PENNOYER: I would only point out, Mr. Cole -- I
12 share your concerns very much, but in this case we have had at
13 least partial projects brought to us, there's been considerable
14 ground work we didn't fund, and the assumption is that this -- the
15 workshop to me was not just a workshop, it was, as Mr. Frampton
16 said, a mid-course discussion between people who have worked on
17 damage assessment and on restoration the past couple of years, to
18 bring that body of knowledge and others who may be able to
19 contribute to it together with the fishermen's groups and the Prince
20 William Sound Science Center, and so forth, that have worked as
21 well on trying to figure out where we are and bring them all
22 together.

23 MR. COLE: But if it's taken up -- I mean, if
24 something's been brought to us by a group, I mean we will see a
25 deluge starting tomorrow morning of things brought to us by groups
26 saying, well, I mean, here, this is the entree, we'll give you our

1 proposed work projects too. I'm not saying I disagree with this,
2 but I think we should very carefully structure this to make certain
3 that this is not used for that. You know, sort of like Janet Reno
4 allowing Representative Dingel to cross-examine Justice Department
5 prosecutors and then, the next day, George Miller says, well, how
6 about cross-examining Bill Brighton who settled the Exxon Valdez
7 case. I mean, you know, you have to be careful when you start down
8 those slippery paths, and I think we should be here. And -- I also
9 thought we had this symposium within the past year to find out what
10 the status of injuries were, and I think we should be careful not
11 to duplicate the symposium project. Mr. Frampton wasn't here but
12 we had a large symposium, at considerable expense, to find out what
13 the scientists thought those injuries were. So, that's something
14 we should be mindful of, I think. And -- well, that's the end of
15 my comments at this juncture.

16 MR. PENNOYER: I hope the workshop was not a symposium.
17 We've had the symposium, we've had some other damage assessment
18 results, and our vision was a workshop that got down and said,
19 okay, here's what we know so far, we got that from the symposium,
20 and where do we go from here, and it was a little bit more of a
21 planning function, an informal workshop, than a formal --

22 MR. COLE: My trouble is I don't understand the
23 distinction between a workshop and a symposium, I guess.

24 MR. PENNOYER: Quite a bit of money.

25 MR. ROSIER: It's cheaper.

26 (Laughter)

1 MR. PENNOYER: It's cheaper. It doesn't require as long
2 to prepare for it or to present the proceedings. Mr. Frampton?

3 MR. FRAMPTON: As you know, Mr. Cole, I agree with those
4 concerns and am sensitive to them, but I think there is a basis for
5 making an exception here. We have committed to try to go forward
6 and look at how to do comprehensive monitoring in the Sound to fill
7 in pieces in addition to what we're doing, and from my work trying
8 to scope out what a national biological survey is going to be, it
9 is clear to me that the Nature Conservancy probably has more
10 expertise in doing this kind of thing than any other non-profit or
11 private group in the country. And on the science plan side, I
12 think that the -- you have a collection of organizations and
13 individuals from Prince William Sound that's a pretty broad and
14 sophisticated coalition. It has the support of the local people
15 and the Fish & Game who have been working with them, and they have
16 been working with the Trustee Council. Obviously, we're turning
17 over to them a planning effort this Trustee Council, but I think
18 that that is a little more than an individual special interest
19 group. These are people who are a large, broad coalition of people
20 who are vitally affected and who are on the scene and who can
21 somehow -- for them -- justified under the circumstances.

22 MR. PENNOYER: Before we take a final action on this, the
23 seventy-five thousand dollar for -- the workshop part is
24 understood, although I don't know what the cost (indecipherable)
25 would be. On the seventy-five thousand dollar part, however, did
26 you have any Trustee Council wish to give any indication as to how

1 that should be administered, proposals to the Nature Conservancy we
2 could look at over the next week or so. I'm not clear exactly how
3 that would be divided up or utilized. I'm willing to work with it,
4 I just don't know if you have any guidance on that at this point.
5 Mr. Cole.

6 MR. COLE: I generally support that part of the
7 motion since it was I who proposed the five million dollars for the
8 comprehensive study for the Sound, and when I did it I didn't have
9 it very well in mind, you know, what would be the composition of
10 that project and how we could do it, but I have the sense that the
11 sort of thing we needed to do was to take this overall inventory of
12 the resources there to get baseline data to establish relationships
13 between the various projects so that we weren't piecemealing the
14 restoration and scientific studies going on in the Sound, and to
15 get some, if you were, the great minds, indeed in the world, to
16 give us guidance of how we should be going about this process of
17 integrating everything we're doing, in a sense, and that's why I
18 would support this project. But, speaking of sort of guidance,
19 that I would want the Conservancy to reach out, if you will,
20 throughout the world, if need be, for people who can help us as we,
21 you know, develop this pursuit.

22 MR. PENNOYER: Dr. Gibbons.

23 DR. GIBBONS: After the last meeting of the Trustee
24 Council, we got together with the Chief Scientist and brainstormed
25 an approach for dealing with this project, and he's put together a
26 project description, and he may want to come forward and talk about

1 this a little bit. But we kind of talked together, he was going to
2 contact all the interest groups in Prince William Sound and bring
3 together -- them together -- as part of a proposal. I've got it
4 here and it calls for -- I'm just looking -- it calls for a
5 workshop in November and some other things. I might pass this
6 around. If you want to hear the Chief Scientist's views on this,
7 it might help the process a little bit.

8 MR. PENNOYER: Dr. Spies?

9 DR. SPIES: Not having any specific direction from the
10 Trustee Council as to how to proceed in a usual follow-up meeting
11 after the last Trustee Council meeting, the Restoration Team asked
12 me to start the ball rolling, and not in that process to preclude
13 any particular option that you may want to choose later for
14 direction on how this effort, process, should take place and go
15 forward. And so on that basis I have started talking to a wide
16 variety of people within and without the process, including NOAA
17 scientists, Prince William Science Center representatives, Prince
18 William Sound Regional Citizens' Advisory Council, and at a meeting
19 in a teleconference at which I sat in on approximately a week ago,
20 I talked to fishermen and to some variety of universities, people
21 at the National Academy of Sciences and others about their ideas of
22 what is -- would be needed to make the determination of what is
23 wrong with Prince William Sound, if anything, and how we can have
24 a better predictive understanding of what's going on. And the
25 sense that I'm gathering from, particularly the scientists
26 involved, is that we need some sort of a process-oriented

1 understanding of how the Sound works, particularly for the purposes
2 of predicting the strength of fisheries from year to year, the
3 herring and the pink salmon in particular -- and that inventory is
4 a important part of this process perhaps that we do not have
5 information on the abundance of particular resources. I think the
6 challenge is to integrate what has gone on on damage assessment up
7 to this point which has not been a functional understanding of the
8 ecosystem, and the reason that has not been possible is that we
9 didn't know enough about Prince William Sound science ecosystem
10 when the spill happened to be able to assess damages from that
11 point of view. We essentially had to go out and count the number
12 of organisms that were -- we thought were there after the spill,
13 and compare that to what was there before, with some exceptions,
14 and try to make a determination of the total amount of damage,
15 bodies counts -- very crude in terms of the scientific approach,
16 but that was what was dictated by the litigation. I think now it's
17 time that these further questions coming up about how the system
18 functions to turn our approach more towards a functional approach
19 to this, and that's the sense that I've been getting from talking
20 to the scientists. I'm certainly willing to do anything that the
21 Trustee Council wishes, as far as carrying this process forward or
22 however the policy decisions would come down at this thing, but I
23 see it also as -- there's a monitoring plan that's been discussed
24 and already worked on, there's and RFP for that, there's all this
25 damage assessment, there's a '94 work plan science program, and
26 then there's an ecosystem study, and somehow I think down the road

1 we have to integrate all this and be assured that it is all fitting
2 together and making sense. And there's particular -- a lot of talk
3 about particular recovery plans for different species: what should
4 we be doing for pink salmon, and how does that fit in with
5 everything that the agencies are doing, and so on and so forth.
6 And so, I think there has to be some serious organizational
7 thinking about the atmosphere and the structure in which science
8 that you sponsor takes place.

9 MR. PENNOYER: Mr. Frampton.

10 MR. FRAMPTON: Well, I appreciate your presentation, and
11 what I would suggest is that Mr. Cole amend his motion or my motion
12 -- I didn't make a motion, but -- to provide that the workshop be
13 done jointly by NOAA and ADF&G in close coordination with the Chief
14 Scientist. And in response to the question you had, Steve, that of
15 the other seventy-five thousand dollars, approximately fifty would
16 be available for the science plan and approximately twenty-five for
17 the Nature Conservancy monitoring effort. And I -- I would so
18 amend my proposal because I think that while clearly a broader
19 integration and plan for ecosystem monitoring is going to be
20 required, that the purpose of my proposal is not to wait several
21 months on this but to energize private action now, and get some
22 people going and some energy and some ideas on the table by the
23 time of the workshop. I think that I would suggest that at our
24 October meeting we take up, after hopefully approving a final
25 draft, or draft final restoration plan, that we take up the
26 question of how we structure the next step in designing a science

1 plan and an ecosystem monitoring plan.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: If the second will consent, I will so
4 amend my motion.

5 MR. SANDOR: Agreed.

6 MR. COLE: I would also like to say that -- and urge
7 the chief scientist, the co-leaders of this project, to reach out
8 to people throughout not only the United States but the world, if
9 need be, for their contributions, and one of the reasons I say that
10 is because I think that people would be -- generally in Alaska and
11 elsewhere, would be more comfortable if we sought independent, you
12 know, scientific views on what we should do, because you know, we
13 get this repeat theme that this is simply an incestuous
14 relationship among government agencies, and et cetera, et cetera,
15 and to the extent that we could seek guidance, if indeed, blessings
16 of these independent, renowned scientists, it would be well. You
17 know, I want to emphasize that from my standpoint.

18 MR. PENNOYER: Okay. I'm going to assume that the
19 workshop is not just to pay travel for the workshop, it includes
20 Dr. Spies and whoever else we need to get involved, local
21 communities and everybody, in planning how we're going to do this
22 thing, and the workshop is simply a physical coming together at
23 some point to do something, and up to that time, people would still
24 have had the plan, would have to interact, and Dr. Spies or whoever
25 will have to talk to Prince William Sound Science Center people,
26 and a lot of stuff has to come together. So the workshop is not

1 just as a workshop, it's sort of a process to get a plan ready. So
2 with that understanding, and I'm not sure if -- I guess the Nature
3 Conservancy will have to give us a proposal for their twenty-five
4 thousand dollars that we can look at too, but if it's -- if that
5 much is clear on the direction we're going, I'm willing to try and
6 administer that jointly with ADF&G and figure out how we do it, so
7 is there any further discussion of this motion?

8 MR. COLE: I think the message is that, if I get the
9 sense from Mr. Frampton, is do it right. Adequate money is there
10 to do this right because it's crucial to what we do in the next
11 several years to assure ourselves we're heading in the right
12 direction. We're not wasting money, we're coordinating all these
13 plans. So, do I speak for other fellow trustees on that then? If
14 this isn't enough money, I would be prepared to commit to more
15 money, but --

16 MR. PENNOYER: We'll report back to you, thank you, and
17 in October and if it requires more money, we'll certainly let you
18 know.

19 MR. FRAMPTON: I'm not suggesting that this is by any
20 means enough money to do this. I think we have the opportunity, we
21 probably have the obligation, and we ought to have the money to,
22 you know, set up one of the best long-term ecosystem monitoring and
23 research programs in the world here, and if we can't use a modest
24 chunk of a billion dollars to do that, then we all ought to give up
25 and go home. And it is probably going to take a lot more than a
26 hundred thousand dollars to plan -- to scope this and plan it and

1 get the right people, the best people in the world to do it, but
2 I'm just interested in not waiting another month and getting some
3 people going and kicking off some of the activities and some of the
4 people who have to start engaging on this issue.

5 MR. PENNOYER: Thank you. Any further discussion of this
6 proposal? Mr. Wolfe?

7 MR. WOLFE: Mr. Chairman, it's still unclear to me, is
8 this a marine ecosystem approach to the Prince William Sound, or
9 does it include the uplands?

10 MR. COLE: The entire ecosystem. As far as the
11 scientists say, that's part of the ecosystem.

12 MR. WOLFE: Good.

13 MR. COLE: We got the forest connection, the forest
14 is in there too.

15 MR. WOLFE: That's exactly my point.

16 MR. COLE: I thought you would.

17 MR. WOLFE: I feel a little bit left out of the
18 process if we, in the spirit of cooperation, didn't agree to co-
19 sponsor this effort.

20 MR. PENNOYER: We appreciate that.

21 MR. WOLFE: Okay, because I feel like, at this point
22 in time, all the discussion has been about marine types of
23 activities. The Forest Service has some research facilities and
24 personnel already in place in Cordova also, and it dealt with a lot
25 of the Copper River Delta activities.

26 MR. COLE: Do you want to be a joint sponsor?

1 UNIDENTIFIED VOICE: I volunteer you.

2 MR. COLE: So moved.

3 MR. PENNOYER: Your help is accepted.

4 MR. ROSIER: Glad to have you.

5 (Laughter)

6 MR. PENNOYER: Is there anybody to follow with the
7 amendment to the motion to let Mr. Wolfe personally -- is there any
8 further discussion -- oh, excuse me, Mr. Wolfe. Organization,
9 officially, okay. Is there any further discussion of the motion?
10 The uplands and lowlands --

11 UNIDENTIFIED VOICE: The uplands and the marine
12 ecosystem.

13 MR. PENNOYER: The marine, okay. Is there any further
14 discussion of the motion? Any objection to the motion? One
15 further item in the '94 work plan, and that is I don't think we
16 ever came back and looked at the revised budget question on the
17 administration, and we need to do that quickly. We've got
18 proposals of everywhere from forty percent reductions and how we --
19 discretionary is a bad word, the non-mandated parts of the
20 administrative set-up to -- I don't know. You were supposed to go
21 off and take a look at the budget and some of the things that you
22 were specifically -- Mr. Cole requested to look at that might be
23 cut and then come back to us. Do you have a report, Dr. Gibbons?

24 DR. GIBBONS: Mr. Chair, I'm sorry, I was trying to
25 resolve the contract issue during the break and I didn't get a
26 chance to get on that topic.

1 MR. COLE: Mr. Chairman, I move that we reduce that
2 budget by seventeen percent.

3 (Laughter)

4 MR. PENNOYER: Is there a second at seventeen percent?

5 MR. FRAMPTON: I'd like to second that.

6 MR. PENNOYER: Mr. Cole, you may speak to your motion, as
7 you've spoken at seventeen percent.

8 MR. COLE: Well, the reason is, I struck upon the
9 seventeen percent figure, is that Dr. Gibbons said he thought
10 viscerally that he could reduce that without major damage by
11 fifteen to twenty percent. And I could have said seventeen and a
12 half, but I selected seventeen because it seemed a little less
13 damaging. And I think that the administrative director and the
14 staff can work around that number and still enable us to discharge
15 effectively their projects and other things which need to be done
16 in the next several months.

17 MR. PENNOYER: Mr. Cole, for clarification, your
18 seventeen percent reduction is everything excluding CACI and the
19 chief scientist contracts?

20 MR. COLE: (Inaudible)

21 MR. PENNOYER: Well, I meant, with CACI too, yeah, but
22 all the other expenditures will be reduced by seventeen percent?

23 MR. COLE: Yeah. I'd like to hear from Dr. Gibbons.

24 MR. PENNOYER: Dr. Gibbons, do you have questions
25 (Indiscernible - simultaneous talking)

26 MR. COLE: (Indiscernible - simultaneous talking)

1 DR. GIBBONS: I agree with the other reductions. We
2 were -- when I was factoring that in, I was looking at a fifty
3 thousand dollar reduction in the chief scientist for the first
4 quarter, so that would be a reduction of all the Restoration Team
5 support and the habitat group and stuff, and the fifty thousand
6 dollars reduction in the chief scientist.

7 MR. COLE: Whatever it is, I think the intent of the
8 motion is, you figure it out, you make the allocations, you know
9 best how to do that. That's the sense of the motion.

10 MR. PENNOYER: I think the sense of the motion could also
11 include, though, that you don't drop the major things we've been
12 talking about.

13 DR. GIBBONS: Well, the basic assumption that we've got
14 is, we're not filling existing vacancies, we're not going to buy
15 any new equipment, all those are set, and I'll come back to you
16 with that in writing but -- you know, and how we're going to get to
17 where we are here.

18 MR. PENNOYER: Is there any further discussion of this
19 motion? Is there any objection to the motion? Thank you. I think
20 that completes our work on the '94 work plan and addendum items
21 that went with it. Does anybody have anything further on the '94
22 work plan section? Dr. Montague?

23 DR. MONTAGUE: Mr. Chairman, yes, I believe it's
24 important to clarify exactly where we are on the production of the
25 draft document. So, if I understand correctly, we should not
26 proceed with publication and we should sit until the end of October

1 and then there will be a meeting to decide which projects --

2 MR. PENNOYER: Which draft document are you referring to?

3 DR. MONTAGUE: Well, the two big notebooks that you have.

4 MR. PENNOYER: The '94 work plan, except for the interim
5 parts that we've discussed, has been deferred until the draft
6 restoration plan is in front of us. The publication of it, the
7 mailing it out, the printing it, revising it, anything else.

8 DR. MONTAGUE: Okay.

9 MR. PENNOYER: Thank you.

10 MR. COLE: Could we take up now this letter to the
11 GAO?

12 MR. PENNOYER: I was going to ask Dr. Gibbons what we had
13 left to do and which things we --

14 MR. COLE: I have a motion in that regard I'd like to
15 make.

16 MR. PENNOYER: Okay. Let's do the GAO letter then,
17 please.

18 MR. COLE: I move that we authorize and request
19 Mr. Frampton to write this letter to the GAO requesting that they
20 withdraw that report.

21 UNIDENTIFIED VOICE: Do you have any objection?

22 MR. PENNOYER: Mr. Wolfe, do you second it? Does the
23 state trustee second that motion?

24 MR. SANDOR: Second.

25 MR. FRAMPTON: Can I comment on that, please?

26 MR. PENNOYER: I don't have a motion yet. It's been

1 moved and not seconded. Okay. The floor is still open for
2 discussion.

3 MR. ROSIER: No, John Sandor seconded it.

4 MR. PENNOYER: Oh, John Sandor seconded it. Okay, it's
5 open for discuss --

6 UNIDENTIFIED VOICE: It's for real.

7 MR. PENNOYER: I understand. I understand, okay. It's
8 been moved and seconded that Mr. Frampton prepare a letter to the
9 GAO requesting that they withdraw the GAO report. Mr. Frampton.

10 MR. COLE: Well, here, let me say this before he
11 comments, you know. I will (laughter) -- I will undertake to write
12 the letter, if that's the sense of the Council, so we can expedite
13 this hearing this morning.

14 MR. PENNOYER: I'm not clear as to what the mechanism is
15 here. You're going to take what's been written here, redraft it
16 and send it out to us for approval or something? What is your
17 motion (indiscernible - simultaneous talking)

18 MR. COLE: Well, if you want to approve it before I
19 sign it and send it, that's all right. I had in mind I would just
20 send it out. I think it's important that we get that done.

21 MR. WOLFE: Mr. Chairman?

22 MR. PENNOYER: Mr. Wolfe.

23 MR. WOLFE: Mr. Cole, the federal agencies have been
24 requested by OMB to respond individually with their comments and
25 proposed actions as a result of the -- proposed in the GAO report,
26 so we, as a group, have to come up with some response. And this

1 letter is fashioned in the format that is required for OMB
2 responses, at least, it follows it pretty much, and that was what
3 it was intended to be the basis for. We do need the input from the
4 state agencies on the proposed action, so some sort of a
5 consolidated response to the proposal would be helpful to --

6 MR. COLE: The proposed letter tastes an awful lot
7 like Pablum.

8 (Laughter)

9 MR. FRAMPTON: Are we talking about this draft that was
10 given to me? Did you -- did the Forest Service prepare that?

11 MR. WOLFE: No, no. The Restoration Team.

12 MR. FRAMPTON: And that's what you're referring to as
13 Pablum?

14 (Laughter)

15 MR. FRAMPTON: Can I --

16 MR. PENNOYER: Mr. Frampton?

17 MR. FRAMPTON: I just wanted to say that you probably
18 weren't aware that, at our last meeting, when you spoke to this
19 issue, Mr. Cole, that a staff member of Chairman Miller was here,
20 and said to me afterwards, is that guy, Cole, crazy? He wants us
21 to write -- he wants the GAO to write another report?

22 MR. COLE: I may be crazy. That's why I'm sitting
23 here. (Laughter) That's the best evidence I can think of that.

24 MR. PENNOYER: You mean still sitting here. Well, I'm
25 not sure, Mr. Wolfe, what your comment was. The federal agencies
26 have been requested to write something that's going to somehow --

1 MR. WOLFE: We requested --

2 MR. PENNOYER: And we were required internally to write
3 something.

4 MR. WOLFE: That's right.

5 MR. PENNOYER: Now, the question here is, the Trustee
6 Council had, like the last meeting, indicated that they as a whole
7 wanted to write something, and we're each going to write something
8 for our own agencies, but the question is how or whether that comes
9 together with something from the state into a combined response
10 that's going to be sent to GAO.

11 MR. WOLFE: The gist of my comment was that I hope
12 somehow we're able to go out with basically one set of messages on
13 this. It may not be possible, but I would hope that the actions
14 that are proposed to respond to the recommendations in the GAO
15 report, that we could at least be consistent on those.

16 MR. PENNOYER: So, how do we wish to approach that,
17 recognizing, each of us, the individual agencies, are going to have
18 to write our own, probably more or less Pabulum response to
19 individual comments. How do we deal with the Trustee Council
20 response as a whole?

21 MR. COLE: I'll have something --

22 MR. PENNOYER: Mr. Cole prepares something for our
23 perusal, or do you want to send your own individual comments?

24 MR. COLE: I could get it in just a moment.

25 MR. PENNOYER: While Mr. Cole is looking for things, what
26 else is on the agenda we have to do, Dr. Gibbons, at this session,

1 in the next twenty minutes maybe?

2 DR. GIBBONS: I -- the negotiation option was requested.
3 I think we can delay that.

4 MR. PENNOYER: Okay.

5 DR. GIBBONS: We're proceeding on with that. Let's see,
6 the comprehensive habitat evaluation process, we would just inform
7 you how we've streamlined the process and how we're working now.
8 We've streamlined it from the March 1 that you approved, and we cut
9 some steps out to make it quicker, and I was just going to point
10 those out.

11 MR. FRAMPTON: Could we get a -- you know, if there's
12 time, I would like to get a five minute report on where you are and
13 what it is that we're going to see by Thanksgiving and -- just a
14 few-minute update on that. I think that would be useful.

15 MR. PENNOYER: I was also thinking if there are
16 informational items and somebody had to leave, they could, but the
17 only must-do here at the moment is the GAO response.

18 DR. GIBBONS: I think the proceedings we need to act.
19 We brought it to you last time, Mr. Cole requested an analysis of
20 the publication of four thousand copies rather than three thousand.
21 We've done that and they should be --

22 MR. PENNOYER: Shall we finish the GAO request, go to the
23 proceedings and then, perhaps, take up the informational items?

24 MR. FRAMPTON: Yes.

25 MR. PENNOYER: Mr. Cole, do you have something to say?

26 MR. COLE: This is serious business. The New York

1 Times, in an editorial dated Wednesday, August 25, 1993, said this,
2 in part: Under the civil settlement, Exxon agreed to pay nine
3 hundred million in eleven annual payments, a miserly sum
4 considering the extent of damage. You know, there are experts and
5 contingent evaluation studies and so forth, the editorial board,
6 but one that seemed preferable to a lengthy court battle. The
7 money was to be administered by a trustee council that would
8 restore the Sound and protect the area. One method is purchasing
9 fish and animal habitats, and placing them off limits to
10 development. Then they say this: It hasn't worked out that way.
11 The money collected from Exxon through 1972 (sic) was used
12 primarily to reimburse state and federal agencies, as well as
13 Exxon, for expenses related to the spill. It continues: The GAO
14 report documents sweetheart deals, shabby accounting and dubious
15 studies. Now, you know, this is serious business when they talk
16 about us being part of sweetheart deals, engaged in and entered
17 into by the Trustee Council. That's coming out of that GAO report,
18 and it reflects, I think, adversely on every person who has been
19 part of the Restoration Team, who has been a member of the Trustee
20 Council, and -- I mean, I don't think we ought to stand for that.
21 There haven't been any sweetheart deals and insofar as I'm
22 concerned, I haven't -- didn't see anything that one could
23 reasonably read in that GAO report that said there was any
24 sweetheart deals engaged in. And I didn't see anything in there in
25 which they said that there were dubious studies. And all of those
26 studies have been sent out to the public, we have detailed

1 comments, we have detailed records, and I think it's outrageous and
2 it reflects -- I mean, grossly, falsely, the activities of this
3 Council. And I don't know how about you people in the federal
4 system, except that which, you know, you turn your cheek to that,
5 but I don't think we in the state ought to, and I certainly don't.
6 So there. That's how I feel. Does anybody need a --

7 MR. PENNOYER: Commissioner Sandor?

8 MR. COLE: -- (Indiscernible) to explain how I feel?

9 MR. PENNOYER: I think you covered it. Commissioner
10 Sandor?

11 MR. SANDOR: Yes, Mr. Chairman. I'd remind ourselves,
12 we've already had this debate, discussion, at our last meeting, and
13 without objection, without a single objection, this Trustee Council
14 voted to, in fact, send this type of a letter which might be spiced
15 up a bit, but we've already made -- we made this decision already.
16 If there's any detection of a recantation of some type, or a, you
17 know, a second thought about this, but -- then we can reopen the
18 debate, but the condemnation of that was quite clear. It was an
19 inaccurate report that simply could not be allowed to stand on the
20 public record. So, you know, I'd just remind ourselves that this
21 was decided, let's go forward. I would move that we would give the
22 Attorney General, or whoever else wants to finalize this letter, to
23 add a little spice or whatever else, but the content is there. The
24 only modification of this is that I would include with that letter,
25 and with this report, the summary of what the expenses are through
26 -- what allocations were made and obligations were made through

1 this fiscal year. That's the only thing, and in fact, ask that
2 this be included in the report. So the motion is simply to
3 reaffirm what we had decided to do and to approve this letter and
4 to authorize Attorney General Cole to put it in final form.

5 MR. PENNOYER: Yes, the chair's recollection is the same
6 thing. We approved it. The question now is how to do it, both to
7 get it in final form and to get it back to the Council members and
8 decide if they can -- one of the problems is, this was drafted by
9 staff. Each federal agency has had to write a response. I haven't
10 actually approved ours yet, but they should be consistent, and I
11 don't know about the cover memo spice, but the details should at
12 least be consistent. So we still have some coordination left to do
13 here, although it's something we had agreed to do. Commissioner
14 Rosier?

15 MR. ROSIER: Yes. As I recall that vote, it was-- we
16 did have an abstention in that vote, did we not? It seemed to me
17 --

18 MR. COLE: The answer is no.

19 MR. ROSIER: Yes, I think we did. I was --

20 MR. COLE: No, no. Listen to the tape and see
21 (indiscernible). I listened to it.

22 MR. ROSIER: It seemed to me that there was an
23 abstention, and we could go back and look at the -- listen to the
24 tape or look at the tape or whatever here, but I don't disagree,
25 certainly, with Mr. Cole has had to say, but on the other hand, it
26 was a five person vote with one abstention.

1 MR. PENNOYER: Commissioner Sandor?

2 MR. SANDOR: What I said was that the motion was
3 approved without objection.

4 (Laughter)

5 MR. PENNOYER: I understood what you said, and I agree
6 that that's what happened.

7 MR. SANDOR: And one can play the tape, but even with
8 the abstention, there was no objection.

9 MR. PENNOYER: Mr. Frampton, do you want to make a
10 statement?

11 (Laughter)

12 MR. FRAMPTON: Well, Mr. Chairman, I certainly don't want
13 to undertake to write any letter because it's clear to me that I
14 could not possibly capture the Attorney General's outrage. My
15 efforts would fall far short of what he seems to envision in this
16 letter. I did abstain. I don't -- I have no objection at all to
17 sending a letter responding to the report, as indeed each of the
18 federal -- or federal departments is going to be required to do.
19 But I have not had a chance to read the staff's draft, and perhaps
20 if it's not spicy enough, your folks that turn out these seventy-
21 five page briefs overnight should get one of those folks to take it
22 and put some oomph in it. How about that?

23 MR. COLE: I'm sure it would -- well, frankly, I'd
24 like to get those turkeys on the witness stand and cross-examine
25 them.

26 (Laughter)

1 MR. PENNOYER: If we try that in your office, it could
2 work very well.

3 MR. COLE: I assure you that it would be a
4 revelation, but I guess that's nothing that we have the pleasure of
5 looking forward to, so we can just write something.

6 MR. PENNOYER: Can we agree to --

7 MR. FRAMPTON: I can understand the sensitivity of all of
8 the federal trustees in getting too worked up about --

9 UNIDENTIFIED VOICE: What date is that?

10 MR. FRAMPTON: -- objective reports that -- by people who
11 vote our budgets every year (laughter) that are (indiscernible -
12 simultaneous talking).

13 MR. COLE: A secret war assault team (showing Mr.
14 Frampton his hat).

15 (Laughter)

16 MR. FRAMPTON: I told Charlie I want one of these before
17 I leave here.

18 MR. PENNOYER: (Inaudible) Mr. Frampton.

19 MR. FRAMPTON: For thirty-nine million dollars, or
20 whatever it is?

21 MR. PENNOYER: Can we agree on a procedure then? It
22 seems to me that we are going to want to see whatever is sent
23 before we sign off on it, particularly in regards to both the
24 technical content of the comment response and also to the letter.
25 How should we go about doing that? The federal agencies will have
26 finished their comments here, what, in a week or so, as a basis for

1 the technical part of the response on our side. How do we want to
2 take on the question of writing this letter?

3 MR. COLE: Well, why don't we just have the state
4 trustees write their own letter, then, and you people can write
5 yours with appropriate sensitivity.

6 MR. PENNOYER: Mr. Wolfe.

7 MR. WOLFE: Mr. Cole, I -- it probably would be
8 appropriate for two separate letters, but the technical content of
9 the letter, I hope, would be fairly consistent. So if your folks,
10 if the state can look at what's been drafted so far, and we'll look
11 at what's been drafted so far, and maybe get our comments back to
12 the Restoration Team today or tomorrow.

13 MR. PENNOYER: Okay? Okay. Is there any further need to
14 discuss this? Okay, we'll do that then, we'll get our technical
15 comments back to the Restoration Team, and what's been drafted
16 relative to what we know is being drafted internally, and each
17 group will write a separate cover letter expressing their view of
18 what's happened. Thank you. Okay, we have one other item for
19 concluding business and that is the symposium proceedings, and a
20 report has been requested by Attorney General Cole as to how much
21 more it would cost, I believe, to print a thousand extra copies of
22 the proceedings. Dr. Gibbons, do you have that information?

23 DR. GIBBONS: Yeah, it's in your package, a short letter
24 dated September 7th. What we did is, we went back and checked on
25 the additional cost. They have estimated the additional cost to be
26 five thousand dollars for a thousand more copies of the document,

1 thus the cost to the Trustee Council would be sixty-nine thousand
2 rather than sixty-four thousand for -- sixty-four thousand for
3 three thousand copies, sixty-nine thousand for four thousand
4 copies, and it's the recommendation of the Restoration Team that we
5 go ahead and recommend to you that you spend sixty-nine thousand
6 for four thousand copies rather than sixty-four for three thousand
7 copies.

8 MR. PENNOYER: Is there an ancillary question, how much
9 we're going to charge per copy, though that wasn't decided?

10 DR. GIBBONS: It would be the same cost per charge for
11 the copies. It would be -- I think its --

12 MR. PENNOYER: For their two different proposals?

13 DR. GIBBONS: -- option for two would be fifty-four
14 dollars per copy.

15 MR. PENNOYER: And that would reimburse the entire cost?

16 DR. GIBBONS: It would reimburse the entire cost of the
17 --

18 MR. PENNOYER: To some point. Fifty-four dollars is a
19 reasonable cost for most symposium proceedings?

20 DR. GIBBONS: Yes.

21 MR. PENNOYER: You have shopped around? Some are much
22 higher? Mr. Frampton.

23 MR. FRAMPTON: I'm in favor of printing the extra
24 thousand copies because of the low margin of cost. I do have
25 doubts that you will get rid of all four thousand, but -- at least
26 quickly, but based on my experience with these kinds of things, I

1 suspect that you will be able to -- if you do a pretty broad
2 mailing, you'll be able to get rid of, you know, twenty-two,
3 twenty-five hundred. Nonetheless, and in fact, you may be giving
4 a lot away, but nonetheless, I would rather, once we commit, and
5 considering the lower margin of cost, to sell this thing for a
6 little bit less.

7 MR. COLE: That was my --

8 MR. FRAMPTON: We could. I mean, I'd even favor going
9 down to, you know, thirty-nine dollars or in the mid-forties,
10 certainly under fifty dollars, because if we're going to print the
11 extra ones, and we're getting them, then, at a lower incremental
12 cost, let's try to get them out there. I mean, the point is that
13 we're trying to educate people, and it is going to mean that we're
14 going to have to give some of them away, and postage and all that,
15 but I'd rather do it at a lower cost. I know you've discussed
16 this, and I haven't been here, but --

17 DR. GIBBONS: Could we do this? We could just determine
18 the amount of the cost it would be for four thousand copies and
19 reduce the charge for the book accordingly, so the Trustee Council
20 gets -- would that be --

21 MR. FRAMPTON: Well, that's about forty-three dollars.

22 MR. COLE: I move for thirty-five dollars.

23 MR. PENNOYER: At thirty-five dollars. Is there a
24 second? At thirty-five dollars, how much does the Trustee Council
25 have to pay then for the publication? We're going to presume we're
26 going to end up paying some amount of money for the publication of

1 the proceedings even if we sell them all. Dr. Rice.

2 DR. RICE: I'm not sure you guys are on the same
3 page. Basically --

4 (Laughter)

5 UNIDENTIFIED VOICE: (Indiscernible) not just for the
6 public.

7 UNIDENTIFIED VOICE: (Indiscernible - simultaneous
8 talking)

9 DR. RICE: We have to go back a little ways,
10 obviously. Basically, what you need to be discussing is how much
11 money do you want to be reimbursed. Right now, there's thirty
12 thousand in one pot that we believe you do not want back, it's
13 profits, basically, if there is such a thing, from the symposium
14 itself, and then this is how much more money you would have to put
15 in, which is in the sixty-four, sixty-nine thousand bracket,
16 depending on whether you go for the extra thousand copies. So,
17 yes, that's what will determine how much the cost of the
18 proceedings is. They've estimated at thirty-three, four, five,
19 cost, assuming you get no reimbursement, and fifty-one, two, three,
20 or whatever --

21 DR. GIBBONS: Fifty-four.

22 DR. RICE: Fifty-four, if you get sixty-four
23 thousand.

24 DR. GIBBONS: That's at a different cost per book
25 though.

26 DR. RICE: Right, yeah, so there would be a little

1 bit of wiggle room there, but my point is, what you need to
2 determine, really, is how much money you want to be reimbursed.

3 MR. COLE: Mr. Chairman?

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: I mean, we are on the same page. I moved
6 thirty-five dollars per copy.

7 DR. RICE: And no reimbursement.

8 MR. COLE: Well, whatever comes out as reimbursement,
9 comes out, you know.

10 MR. PENNOYER: And my question was what that would cost.
11 We would charge thirty-five dollars per copy. How much additional
12 funding do we have to come up with?

13 DR. GIBBONS: You have to come up with the sixty-nine
14 thousand dollars.

15 So the thirty-five is a break-even for --

16 DR. GIBBONS: Right.

17 MR. PENNOYER: So the cost is sixty-nine thousand?

18 DR. GIBBONS: That's what it's going to cost you to get
19 four thousand printed and they sell it.

20 MR. PENNOYER: Okay. If we want fifty-four dollars, it's
21 a break-even proposition?

22 DR. GIBBONS: Right.

23 MR. PENNOYER: So it's somewhere between those. Okay?
24 Well, Mr. Cole moved thirty-five dollars, which means we obligate
25 ourselves to a sixty-nine thousand dollar expenditure.

26 DR. RICE: And expect a reimbursement.

1 MR. PENNOYER: Is there any further discussion of the
2 motion at thirty-five dollars a copy, recognizing that we're
3 approving a sixty-nine thousand dollar budget item?

4 UNIDENTIFIED VOICE: Can we at least get a round number?

5 MR. PENNOYER: Is there an amendment?

6 MR. FRAMPTON: I'll second it.

7 UNIDENTIFIED VOICE: I'll second it.

8 MR. PENNOYER: It's been moved and seconded twice, I
9 think, so thirty-five dollars is the motion. Is there any further
10 discussion? That ipso facto approves a sixty-nine thousand dollar
11 budget item. Okay? Any objection to it? (Inaudible objection)
12 All right, that's done. What's your next item? Any informational
13 items?

14 DR. GIBBONS: Yeah, the last item would be the
15 comprehensive habitat process, and briefly, we're just going to run
16 through that and we'll show you what the document is going to look
17 like, what you get at Thanksgiving, and we'll go from there. I
18 gave you a memo dated September 8 to give you a status of where we
19 are in the comprehensive process. There's a flow chart associated
20 with it that outlines the process for evaluating, ranking, and
21 selecting and acquiring title rights for partial interest to lands.
22 The step one of this was to, on March 18, 1993, to mail out a
23 letter to all interested landowners in the oil spill-affected
24 areas. We received thirty-one responses from landowners who are
25 interested in dealing with the Trustee Council, and presently we
26 are in the process of evaluating their lands for presentation to

1 you in November.

2 MR. FRAMPTON: The evaluation of those willing seller
3 parcels or areas?

4 DR. GIBBONS: That's correct. It's a large acreage. I
5 don't know exactly what it is. I think it's approaching a million
6 acres.

7 MS. RUTHERFORD: And it's only, again, large parcels over
8 a hundred sixty acres. It will be very similar to this document
9 you got back in February that's -- opportunity lands and imminent
10 threat. Dave will be talking a little bit about some other changes
11 to it, but basically, it will have maps showing you what the area
12 -- the regions are, the polygons are, and then it will have
13 information about the various resources and services and how they
14 rate and a comment about them, and it will be very similar to this,
15 although Dave will talk you through some changes to the process.

16 MR. FRAMPTON: Using the same code key numbers for
17 parcels, or have you got a different map system?

18 MS. RUTHERFORD: We'll have a slightly different map.

19 DR. GIBBONS: That was the imminently threatened. We're
20 going to deal with the composite, you know, comprehensive, and so
21 they'll change a little bit.

22 MS. RUTHERFORD: We were not -- one of the major changes
23 in this process now is that we're -- the way we approached the
24 polygons that we analyzed with what, and so that's probably one of
25 the biggest changes and --

26 MR. FRAMPTON: What's what?

1 MS. RUTHERFORD: The way we approached the polygons that
2 we analyzed was not appropriate, so we're trying to look at more
3 ecosystem units.

4 DR. GIBBONS: Yeah, one of the major changes is that we
5 broke it down to the smallest ecological unit, and then we can
6 build from there. So you've got a basis of a lot of ecological
7 units you can combine any way that you would like. One of the
8 things that we heard, we went -- in June we had a peer review
9 session that Dr. Spies mentioned on the habitat evaluation process,
10 and one of the things that they recommended to us was, rather than
11 going out with scores, individual scores, that the Restoration Team
12 break it into classes or groups like high, medium and low. And the
13 reason that they did that was due to competition within those
14 groups for, you know, for acquisition, provides for more
15 competition. So that was one thing that we wanted to bring up to
16 you, rather than giving you exact number scores to break it in --
17 which we'll have those anyway, but to break them into high, medium
18 and low to provide for more competition between the individual
19 landowners, giving the negotiators some more flexibility. The next
20 change would be that, after we've prepared this and you've reviewed
21 it in November, would be to go out for public comment on the
22 evaluations. Are we correct with them? Can you add anything?
23 We'll hold some public meetings that way. Then the next step would
24 be to have you establish a rank list of properties that you want to
25 go out and protect, or possibly protect, or begin the negotiations
26 with, and then have the staff available on hand as we have in Eyak,

1 is if a proposal comes back that is, you know, less than fee
2 simple, how does that affect the value of that property to the
3 injured resources and services, to do that evaluation? If you'd
4 use buffers rather than large areas, what does it -- how does it
5 affect the value of that parcel to the restoration of injured
6 resources and services? And that's primarily the largest changes
7 we have on it. We did do a few other ones. We heard from the
8 public in our public meetings that we shouldn't just group
9 anadromous fish into one category. So in the evaluation, now,
10 we've broken up sockeye salmon, pink salmon, dolly varden, tetro
11 trout, and herring, and we will evaluate those individually rather
12 than a category called anadromous fish. Herring is not an
13 anadromous fish; we added that one to it to respond to the public
14 comment. Basically, that's the changes that we made. It's been
15 mentioned before that we'll come to you in November with an
16 analysis of the large parcels. We don't have time to do the small
17 parcels, and that's a decision that you can take up at that time if
18 you want us to do those. So, basically, that's where we are with
19 the comprehensive habitat process.

20 MR. PENNOYER: Thank you, Dr. Gibbons. Is there anything
21 else specifically we need to take up for the good of the --
22 Commissioner Sandor?

23 MR. SANDOR: Yes, Mr. Chairman. The Eyak Corporation
24 has asked that we try to expedite our review of their latest
25 proposal, and we certainly want to accommodate that. We also
26 discussed yesterday the review of the documents that have been

1 requested in follow-up to our August 9th meeting. I have asked
2 that, Saturday, in Juneau, that I be given an opportunity with
3 appropriate members of my staff to review the documents given.
4 Some of the documents that were requested are not yet available,
5 and I would like to simply make that information aware to the
6 Trustees, and I would specifically suggest, and I guess move that
7 we reiterate our request for the documents that have not been
8 given, and ask the Forest Service, which is leading the
9 negotiations which -- with Eyak, to request those. And then I
10 would invite any members of the Trustees who would want to review
11 those documents Saturday, simply to visit the offices of the
12 Department of Environmental Conservation if they wish to do so.
13 But the motion is to reiterate our request for the documents that
14 have not yet been received.

15 MR. PENNOYER: Have you provided a list of those to the
16 Forest Service?

17 MR. SANDOR: The Forest Service will -- I do not have
18 that list. I specifically asked for one.

19 MR. PENNOYER: Is there a second to the motion?

20 MR. ROSIER: I second it.

21 MR. PENNOYER: Is there further discussion? Mr. Wolfe?

22 MR. WOLFE: The Saturday meeting is contingent upon us
23 being able to make every -- make sure everybody is together in
24 Juneau on Saturday. Right now we have our people --

25 MR. SANDOR: You mean everybody?

26 MR. WOLFE: Well, I didn't mean everybody. I mean our

1 attorney that --

2 MR. SANDOR: Oh.

3 MR. WOLFE: -- has it, and I don't know if Charlie
4 wants to have his attorneys, his folks there or not, but we're
5 shooting for Saturday, I guess.

6 MR. COLE: Tomorrow?

7 MR. SANDOR: Yes, yeah.

8 MR. COLE: We're meeting tomorrow in Juneau?

9 MR. SANDOR: Not the trustees.

10 MR. PENNOYER: No, no.

11 MR. SANDOR: I had, well, let me -- as I said
12 yesterday, I tried to look at the documents that had been obtained,
13 and was told that I could only review them, see them, not share
14 them with any of my staff. That miscommunication was corrected
15 yesterday, and the corporation has no problem with these documents
16 being reviewed by myself and my staff. So I'd like to do that
17 tomorrow. It isn't necessary for anybody else to be present, I
18 trust, but I was just saying that, one -- not all the documents
19 requested are available, and I would like to reiterate that request
20 if the Forest Service is discussing this issue with Eyak, and then,
21 secondly, if anyone else is interested, to join me and my staff in
22 perusal of these documents, that's fine.

23 MR. PENNOYER: The invitation is understood. The motion
24 is the part about requesting missing documents, and it's been
25 seconded. Is there any objection to the motion? I have one other
26 item too. Have we confirmed and announced the need for the

1 executive session on Monday? Mr. Frampton?

2 MR. FRAMPTON: (Inaudible) continue this meeting, to
3 recess the meeting?

4 MR. PENNOYER: For an executive session?

5 MR. FRAMPTON: An executive session by telephone? Can we
6 plan to do that at one o'clock?

7 MR. PENNOYER: On Monday. One o'clock, Alaska time?

8 MR. FRAMPTON: Five o'clock Eastern time.

9 MR. PENNOYER: If we can provide a list of who needs to
10 be on it to somebody so that the conference can be coordinated.
11 Who wishes to undertake the coordination? I'm going to be in a
12 hotel somewhere, so I can't do it, I don't think.

13 UNIDENTIFIED VOICE: (Inaudible)

14 MR. PENNOYER: Okay, and we all should leave numbers with
15 you?

16 MR. FRAMPTON: You'll need to tell me where you're going
17 to be.

18 MR. PENNOYER: I'll be at the Hilton Hotel in Anchorage,
19 for me, I guess.

20 MR. COLE: I'll tell you later where I'll be.

21 MR. PENNOYER: But that's where I'll be, George.
22 (Laughter) And I'll be in my room (indiscernible).

23 UNIDENTIFIED VOICE: I have one final item.

24 MR. PENNOYER: Is there any other need for further
25 discussion on that? So we will just recess this meeting to an
26 executive session on Monday.

1 MR. COLE: Do we need to set a date?
2 MR. PENNOYER: The follow-up -- the next meeting?
3 MR. COLE: The follow-up --
4 MR. PENNOYER: No. P.S., I don't think we can pick the
5 date here anyway, and it may be dependent on the production of the
6 documents we're looking for. Mr. Cole, you had a follow-up item?
7 MR. COLE: Well, one other item is that one of the
8 Eyak elders is here. Mr. Lankard, does she still want to make a
9 brief presentation to the Council?
10 MR. PENNOYER: Sure, I don't mind. I just may have to
11 run out the door in a little bit.
12 MR. LANKARD: She said that the point was well-taken
13 yesterday on some of our concerns.
14 MR. PENNOYER: Thank you very much. Is there anything
15 further for this meeting? Then it stands recessed until the
16 executive session on Monday.
17 (Recessed until Executive Session on September 20, 1993)
18 (Off Record at 12:30 p.m., September 17, 1993)
19 (Executive Session held September 20, 1993, 1:00 - 4:00 p.m.)
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///

LIGHT BLUE
No.45072



0 83086 45072 3

TRUSTEE COUNCIL
Continuation teleconference
MEETING
21 SEPT. 1993

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

RECEIVED
SEP 28 1993

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

VOLUME III

Continuation Teleconference Meeting

September 21, 1993

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. JAMES WOLFE (Alternate for Mike Barton Regional Forester) |
| United States Department of Commerce - NOAA | MR. DOUG HALL (Alternate for Steve Pennoyer, Director, Alaska Region) |

OTHERS participating:

DONNA NADEL, President, Eyak Corporation
JAMIE LINXWILER, attorney for Eyak Corporation
ALEX SWIDERSKI, Alaska Department of Law

P R O C E E D I N G S

(Executive Session held 11:00 a.m. - 12:40 p.m., September 21, 1993)

(On Record 1:00 p.m., September 21, 1993, all Trustee agencies participating by teleconference. Mr. Doug Hall is participating for NOAA as alternate for Mr. Steve Pennoyer.)

CONFERENCE OPERATOR: Excuse me, L.J..

MS. L.J. EVANS (OSPIC Staff): Yes, ma'am.

CONFERENCE OPERATOR: I have Charlie Cole on the line at this time.

MS. EVANS: Okay, go ahead.

MR. COLE: Are we back in public session on the teleconference?

MS. EVANS: Yes, sir, but we're not receiving you very -- with much volume.

MR. COLE: Well, can I speak a little more loudly?

MS. EVANS: That's better, thank you very much.

MR. COLE: Who is on the teleconference line?

MS. EVANS: Here in Anchorage, LJ is here, and Craig Tillery, and Alex Swiderski, and a number of members of the public, and Linda Durr, the court reporter.

MR. COLE: And who are -- is there anyone else on this telephone hook-up.

CONFERENCE OPERATOR: Excuse me, LJ Evans, I have John Sandor on the line at this time.

MR. COLE: John, are you there?

1 MR. WOLFE: No, John isn't here. Carl and I are still
2 here.
3 MR. COLE: All right, Carl Rosier and Jim Wolfe.
4 MR. WOLFE: Right.
5 MR. COLE: Is Mr. Frampton on the line? (No
6 response)
7 MS. EVANS: Gentlemen, we are not picking you up very
8 loudly. I hope that you'll bear with us and speak very clearly and
9 loudly, thank you.
10 MR. COLE: Are we waiting for Mr. Frampton? (Pause)
11 We are waiting for Mr. Frampton to get on this teleconference
12 meeting of the members of the Trustee Council. This is Charlie
13 Cole. I have been asked to preside at this meeting. On the line
14 presently is Jim Wolfe, representing the Forest Service, Department
15 of Agriculture; and Carl Rosier, are you there? Carl Rosier is
16 there on the line in Juneau. And Mr. Pennoyer and Mr. Sandor both
17 had prior commitments and are unavailable at this time, and we're
18 now waiting for Mr. Frampton in Washington, D.C., to be hooked into
19 this conference. Mr. Swiderski, are you able to contact the
20 teleconferencing operator and see what success we're having in
21 speaking with Mr. Frampton?
22 MR. SWIDERSKI: We're having that done.
23 MS. EVANS: He can't hear you.
24 MR. COLE: Well, could someone do that in Juneau --
25 Anchorage?
26 MR. SWIDERSKI: We're having that done right now.

1 MR. COLE: All right, thank you.

2 (Pause -- awaiting teleconference hook-up with Mr. Frampton)

3 CONFERENCE OPERATOR: Excuse me, LJ Evans, I have
4 George Frampton on line at this time.

5 MR. COLE: Mr. Frampton are you able to hear us?

6 MR. FRAMPTON: Yes, I am, thank you.

7 MR. COLE: All right. Well, I would like to announce
8 that during the past hour the Trustee Council has been engaged in
9 an executive session discussing the most recent proposal from Eyak
10 Corporation with respect to the acquisition of certain parcels of
11 its land by the Trustee Council. Present during those discussions
12 among members of the Trustee Council was Mr. Frampton, representing
13 the Department of the Interior, Doug Hall representing NOAA, Jim
14 Wolfe representing the Forest Service, John Sandor representing the
15 Alaska Department of Environmental Conservation, Carl Rosier
16 representing the Alaska Department of Fish & Game, and myself. Are
17 we ready to take any public action, gentlemen, with respect to the
18 most recent offer of Eyak?

19 (Pause)

20 MR. FRAMPTON: Sorry, I was away from the phone for a
21 moment.

22 MR. COLE: Well, I was -- Mr. Frampton, this is
23 Charlie Cole. I just said or asked whether any member of the
24 Trustee Council was prepared at this time to propose any action on
25 behalf of the Trustee Council with respect to Eyak's latest offer.
26 I heard no response.

1 MR. FRAMPTON: This is George Frampton. I would propose
2 and move that we reject the most recent Eyak offer as submitted in
3 writing with a date of today, that we continue negotiations with
4 Eyak to arrive at a -- try to arrive at a satisfactory agreement,
5 but that at the same time we begin to initiate contact with
6 landowners who may be interested in selling habitat interests
7 elsewhere throughout Prince William Sound.

8 MR. COLE: Is there a second to that motion?

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

10 MR. COLE: The motion has been made ...

11 CONFERENCE OPERATOR: Excuse me, LJ Evans, I have Mr.
12 Hall on line at this time.

13 MR. HALL: Hello?

14 MR. COLE: Mr. Hall, are you back on line?

15 MR. HALL: I am. They got me out of a meeting here.

16 MR. COLE: Right, well, Mr. Frampton has just made a
17 motion with respect to the latest offer of Eyak Corporation, and
18 for your benefit I would now like him to restate that motion.

19 MR. HALL: Okay.

20 MR. FRAMPTON: Doug, I moved that we reject the most
21 current offer, as reflected in writing of this date, from Eyak,
22 that we continue to negotiate with them to see if we can work out
23 a mutually agreeable deal, arrangement, agreement, but that at the
24 time we now begin to initiate contacts and discussions with other
25 landowners throughout Prince William Sound who may be interested in
26 reaching agreement to sell interest habitat or interest in habitat

1 with a view to seeing what other alternatives -- agreements might
2 be reached in other parts of the Sound.

3 MR. COLE: Mr. Hall, Mr. Rosier on the teleconference
4 in Juneau, seconded the motion. Is there any discussion?

5 MR. HALL: Steve, what's your quick analysis of this?
6 I mean, what's your feeling after hearing all the discussion?

7 MR. COLE: Mr. Pennoyer is not on the line, Mr. Hall.
8 He was required to leave for another meeting.

9 MR. HALL: Okay, (indecipherable)

10 MR. COLE: And Mr. Sandor is not on the line. He
11 also was required to leave for another meeting. Mr. Barton is not
12 on the line; Mr. Wolfe is on the line on behalf of the Forest
13 Service.

14 MR. HALL: Well, this reflects my feeling about it
15 from when I was -- briefly discussed this last night, and Steve and
16 I had a discussion about it this morning, and I sounded, you know,
17 I was not party to the rest of the discussions but this ...

18 CONFERENCE OPERATOR: Hello, LJ Evans, are you there?

19 MR. COLE: Yeah, we're all here. Who are you asking
20 about?

21 CONFERENCE OPERATOR: Okay. This is the conference
22 operator. Someone had called in and said that the audio was not
23 good. Can you hear me?

24 MS. EVANS: Operator, everything is fine.

25 MR. FRAMPTON: We can hear you. We'll try to talk
26 louder.

1 MS. EVANS: Operator, the sound quality is fine now,
2 and you can just add in people without asking for me. Charlie Cole
3 is now chairing the meeting.

4 MR. FRAMPTON: Okay ...

5 CONFERENCE OPERATOR: Okay, that's fine. I need to
6 add Jamie Linxwiler, Donna Nadel, and the legislative office yet,
7 and I will be connecting them momentarily.

8 MR. COLE: Well then, we will defer any action on
9 this motion until they are added to the line, and when they are
10 added to the line, I will ask Mr. Frampton to, for the third time,
11 restate his motion.

12 MR. HALL: Charlie, can I, with the indulgence of the
13 Chair, can I cast my vote in favor of this motion at this point.

14 MR. COLE: Yes, you may. And your vote will be so
15 recorded, and I understand the reason for that is you're required
16 to return to the meeting from which you were asked to leave.

17 MR. HALL: That's correct, and I -- is there any
18 disagreement with this, at this point. Is there any opposition to
19 this motion?

20 MR. COLE: We have heard none so far, Mr. Hall, but
21 we have not had any opportunity to discuss it at this resumed
22 public meeting.

23 MR. HALL: Okay.

24 MR. COLE: But your vote will be so recorded and you
25 may, if you wish, return to your meeting.

26 MR. HALL: Yeah, I think that's what, at this point,

1 we have to -- I have to do that.

2 MR. FRAMPTON: Thank you, Doug, appreciate it.

3 MR. HALL: Okay, thank you. (Mr. Hall left
4 teleconference line)

5 MR. COLE: This is Charlie Cole again. Do I
6 understand, Mr. Rosier, that you will vote on behalf of
7 Commissioner Sandor?

8 MR. ROSIER: Commissioner Sandor will be present here
9 to vote when we're ready to vote.

10 MR. COLE: All right, fine. Thank you.

11 MR. FRAMPTON: Charlie, this is George Frampton.

12 CONFERENCE OPERATOR: Excuse me, Jamie Linxwiler is on
13 line at this time.

14 MR. COLE: Well, Mr. Linxwiler, can you hear us?

15 MR. LINXWILER: Certainly can, Mr. Cole.

16 MR. COLE: Well, we're in a public meeting of the
17 Trustee Council, and generally all members of the Council are
18 present or represented or will be present when any formal action is
19 taken at this meeting. Mr. Frampton has made a motion with respect
20 to the latest Eyak offer. He's stated it twice now, but for your
21 benefit, I will ask him to restate it, please.

22 MR. FRAMPTON: My motion, proposal motion was that we
23 reject the latest Eyak offer as expressed in writing of this date,
24 that we continue negotiations with Eyak to see if we can reach a
25 mutually acceptable agreement, but that we, at the same time, we
26 immediately commence discussions with other willing, potentially

1 willing, sellers throughout Prince William Sound with a view to
2 negotiating other agreements to acquire habitat or interest in
3 habitat elsewhere.

4 MR. COLE: I thank you, Mr. Frampton. That motion
5 has been seconded, twice now, by Commissioner Rosier, and it's also
6 been voted upon the NOAA representative, Mr. Hall, and he voted in
7 favor of the motion. I am now asking whether there is any member
8 who wants to discuss that motion?

9 MR. SANDOR: Call for the question.

10 MR. COLE: All right, we will now call for the
11 question on the motion. I will ask for a roll call vote.
12 Commissioner Sandor?

13 MR. SANDOR: Yes.

14 MR. COLE: Commissioner Rosier?

15 MR. ROSIER: Yes.

16 MR. COLE: Mr. Wolfe?

17 MR. WOLFE: Yes.

18 MR. COLE: Mr. --

19 CONFERENCE OPERATOR: Excuse me. Donna Nadel is on
20 line at this time.

21 MR. COLE: Mr. Frampton?

22 MR. FRAMPTON: Yes, I'm here.

23 MR. COLE: And how do you vote on your motion?

24 MR. FRAMPTON: I vote yes.

25 CONFERENCE OPERATOR: Can you hear?

26 MS. NADEL: Yes, but I didn't hear the motion.

1 MR. COLE: And I vote yes on the motion, likewise.
2 So the motion passes. Let me restate for Ms. Nadel the motion.
3 Mr. Frampton moved and the commission voted affirmatively on his
4 motion to reject Eyak's latest offer communicated today, in
5 writing, to continue negotiations with Eyak in an effort to reach
6 an agreement with respect to the acquisition of interest in this
7 land, and lastly, to initiate discussions with the owners of other
8 lands in Prince William Sound with a view to entering into
9 agreements for the acquisition of habitat protection. It's a --
10 CONFERENCE OPERATOR: Excuse me, Mr. Cole.
11 MR. COLE: Yes.
12 CONFERENCE OPERATOR: Okay. I have the legislative
13 office on line at this time. When I tried Gate (ph) and Mr. Grand
14 (ph), they weren't aware of the conference call. Do you want me to
15 try to get them on line again? They were on line with someone
16 else.
17 MR. COLE: Does anyone see any reason to do that?
18 MR. WOLFE: Charlie, this is Jim. We don't need to.
19 MR. COLE: All right. Thank you, Mr. Wolfe.
20 CONFERENCE OPERATOR: Okay, I think I have everyone on
21 line, do you need me to take roll then?
22 MR. COLE: No.
23 CONFERENCE OPERATOR: Okay, if you have any problems
24 with this conference call, please dial 800-770-2121.
25 MR. COLE: All right. Thank you.
26 CONFERENCE OPERATOR: I'm leaving the line now.

1 MR. COLE: Thank you. Is there any further business
2 to come before the meeting at this time with respect to the Eyak
3 negotiations?

4 MS. NADEL: Yes. This is Donna Nadel. May I say
5 something?

6 MR. COLE: Yes, you may.

7 MS. NADEL: You know, we went into this -- is this
8 Charlie Cole?

9 MR. COLE: It is.

10 MS. NADEL: We went into this in good faith, but the
11 (indecipherable) changed so many times that I hope you understand
12 where we're coming from with this -- the final proposal. When we
13 walked out of the meeting on Thursday, we were under the impression
14 that, well, basically, you read the proposal, didn't you, that we
15 sent up?

16 MR. COLE: I believe every member of the Trustee
17 Council and their staff read it, Ms. Nadel.

18 MS. NADEL: Okay, well, I hope they did. Because we
19 walked away and went into a whole different situation when we were
20 dealing with the new group of people, and all of a sudden the rules
21 have changed. And we felt we were being fair in playing the game
22 with you guys, and indeed I feel it was a game, the board feels it
23 was a game, and we went into it with good faith, and I don't think
24 that the Council acted in good faith.

25 MR. COLE: Well, Ms. Nadel, speaking on behalf of the
26 Council, I'm disappointed to hear that. I can assure you that

1 every member of this Council and every member of their staff who
2 have been engaged in these negotiations have been dealing in the
3 best of good faith. We have expressed repeatedly a sincere desire
4 to reach agreement with Eyak, and I do not think that the fact that
5 we have been unable to reach an agreement at this juncture is any
6 evidence, not a proverbial scintilla of evidence, that we are not
7 in good faith. I mean, we have some very basic reservations about
8 the fulfillment of our responsibilities in the negotiations of
9 acquisition of habitat, and we are doing our very best to discharge
10 them responsibly, and that's about all I can say. We would wish to
11 continue with the negotiations. We do not feel, I'm certain every
12 member of the Council does not feel, that in any fashion have we
13 changed our approach since the meeting last Thursday. We regret
14 we've not been able to reach accord, but frankly we simply find the
15 latest proposal unacceptable by a unanimous (indecipherable --
16 extraneous noise) of members of the Trustee Council.

17 MR. FRAMPTON: Could I add to that, Charlie? This is
18 George Frampton. The written proposal that we were faxed, dated
19 today, I'd just like to point out appears to me to be a step
20 backwards from the proposal that was on the table on Thursday
21 morning, which we discussed quite thoroughly in the open meeting
22 and analyzed some of the problems that made it unacceptable to the
23 Trustees, and two steps backwards, in my view, from the proposal
24 that was then put on the table after lunch on Thursday. So, I
25 think it's not been really valid to suggest that the composition of
26 the negotiating team or some change of mind or bad faith on the

1 part of the Trustees has caused our action today. We sent very
2 clear signals that the -- that we needed to keep -- go back to the
3 table. We could not accept what was on the table last Thursday
4 morning. This is a step backwards from that, and I think everyone
5 realized last Thursday afternoon.

6 MS. NADEL: This is Donna Nadel again. Can I say
7 something, again.

8 MR. COLE: Indeed, you may, Ms. Nadel.

9 MS. NADEL: Mr. Frampton, when I was in the meeting,
10 I was under the impression, and maybe we were not communicating
11 clearly, I was under the impression that your people would come
12 back and tell us the critical areas and specific sites. We go into
13 a meeting, and all of our land is outlined as specific sites, every
14 bit of land that Eyak owns, and then we came to the realization
15 that it was not the habitat and the trees you were trying to save,
16 you were trying to save the fish streams, and basically, as far as
17 I was concerned, you were trying to kill birds with one stone in
18 doing that because that would please the commercial fishermen as
19 well as us. I hate to be so blunt, but that's the impression that
20 I got. And we stated in the very beginning that our lands are not
21 for sale. I'd like to read you something that this whole board has
22 -- and leave you with thought that this whole board has gone under
23 the impression of, and it was written by to Seattle, The Earth is
24 Our Mother, and there's one portion in it that I hope you all take
25 home with you today. (Quoting) We know the white people do not
26 understand our ways. One portion of land is the same for them as

1 the next, for they are strangers that come in the night and take
2 from the land whatever they need (end quote). This is exactly how
3 this board feels. This is our land, it's our heritage, we were
4 willing to work in good faith with you, we had every option of
5 trying to save the trees. We have been trying for the last year
6 and a half to clean up the messes that were indeed made in the
7 past, and that's one of the reasons we even went forward with this,
8 and Mr. Van Zee knows that. He's been aware of it from the
9 beginning. We cannot go on negotiating any longer with you because
10 we were backed into a corner, and I've said that before. There is
11 no more negotiating then on your part because our land is not for
12 sale.

13 MR. COLE: Well, Ms. Nadel, this is Charlie Cole, I
14 personally and I'm certain that every member of the Trustee Council
15 regrets that you feel that way. We have no desire to steal your
16 lands or to deprive you of cultural interests in those lands. If
17 you do not wish to negotiate with us further, that, of course, is
18 your purogative, but I do think it's unfair to suggest that because
19 we've not been able to reach an accord that the Trustee Council has
20 any illicit motives here. Does any other member of the Council
21 want to comment -- Mr. Sandor -- Mr. Rosier?

22 MR. ROSIER: Well, I think we've said it all. I think
23 we can continue with this dialogue for sometime, but I think it's
24 all been said at this time.

25 MR. COLE: Commissioner Sandor?

26 MR. ROSIER: Out of the room at the present.

1 MR. COLE: All right. Well, thank you, Ms. Nadel.
2 I think we are certainly -- would be pleased to be able to continue
3 negotiations in an effort to reach accord to find an acceptable
4 middle ground of Eyak's interests and those of the Trustee Council,
5 and we will be available to continue the negotiations at any time
6 should you decide you wish to do that.

7 MS. NADEL: This is Donna Nadel again, and I would
8 just like to close with the close statement as that was our final
9 offer and we have no other offers. So --

10 MR. COLE: All right. Thank you very much. Good
11 day. I would like to say that the Trustee Council is continuing to
12 discuss the selection of an executive director and we will return
13 to executive session within the next ten days or two weeks to
14 further deliberate that issue. Is there any other matter to come
15 before the Trustee Council now?

16 MR. FRAMPTON: Charlie, I think it may require a formal
17 motion, and if so, I move that we go back into executive session
18 and adjourn without a particular date at this time so that we can
19 re-enter executive session next week.

20 MR. COLE: All right.

21 MR. COLE: As required -- or the week after.

22 MR. COLE: Is there a second to that motion.

23 MR. WOLFE: Mr. Chairman, I think we need to adjourn
24 into an executive session. Can we make a motion to amend the
25 motion.

26 MR. COLE: Yes, I regard it as so. The motion to be

1 -- has been so amended and so seconded. Is there objection to the
2 motion? (Pause -- no audible response) Very well, the motion is
3 passed, and is there any further business to come before the
4 Trustee Council at this moment?

5 MR. FRAMPTON: Charlie, I just want to ask about your
6 plans and Carl's and John's. Are you going to be in Yakima
7 tomorrow?

8 MR. COLE: Yes.

9 MR. FRAMPTON: And what about Carl? Carl, are you going
10 to be in your office tomorrow?

11 MR. ROSIER: Yes, I will.

12 MR. FRAMPTON: Okay, great.

13 MR. COLE: Okay, well, thank you, gentlemen.

14 MR. FRAMPTON: Thank you very much for your time.

15 MR. COLE: All right.

16 (End of teleconference)

17 (Off Record: 1:22 p.m. September 21, 1993)

18 E N D O F P R O C E E D I N G S

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

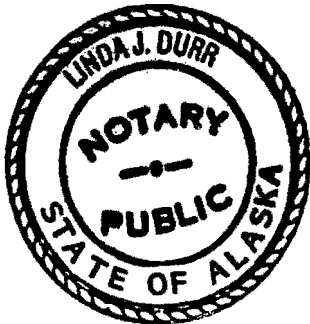
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 349 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by me on September 16, 17, and 21, 1993, commencing at the hour of 9:30 a.m. on September 16, 1993, at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me, Sandy Yates, and Angela Hecker to the best of our knowledge and ability from that electronic recording.

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

DATED at Anchorage, Alaska, this 27th day of September, 1993.



Linda J. Durr

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

