

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

RECEIVED
APR 16 1994

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

**Trustee Council Teleconference from Juneau
April 11, 1994
1:00 p.m.**

TRUSTEE COUNCIL MEMBERS in attendance, all via teleconference:

- | | |
|---|--|
| State of Alaska | MR. CRAIG TILLERY
Alternate for Attorney
General BRUCE BOTELHO |
| United States Department
of the Interior | MR. GEORGE FRAMPTON, JR.
Assistant Secretary
(MS. DEBORAH WILLIAMS,
Alternate) |
| State of Alaska Department
of Environmental Conservation | MR. JOHN SANDOR
Commissioner
(MR. MARK BRODERSON, Alternate) |
| State Department of Fish
and Game | MR. CHUCK MEACHAM , Alternate for
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 |

EVOS TRUSTEE COUNCIL STAFF

Via teleconference from Juneau:

- | | |
|-----------------------|------------------------|
| JIM AYERS | Executive Director |
| MOLLY MCCAMMON | Director of Operations |

In person in Anchorage office:

L.J. EVANS

**Public Information Officer (in
person in Anchorage)**

ERIC MYERS

OTHERS IN ATTENDANCE:

Via teleconference:

**DR. TED COONEY, Associate Professor, University of Alaska
Fairbanks, Institute of Marine Science**

DR. BRIAN ROGERS, University of Alaska Fairbanks

DR. ROBERT SPIES, Chief Scientist to the Trustees Council

In person in Anchorage:

ROD KUHN

P R O C E E D I N G S

1
2 (Reporter's note: The audio quality of the teleconference
3 network was extremely poor at times during this meeting and some
4 individuals were difficult and at some times impossible to hear and
5 transcribe from the recording.)

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

7 MR. WOLFE: I believe we have everyone on the line,
8 and Anchorage there. (Inaudible -- poor teleconference
9 transmission). With us here in Juneau is John Sandor, Commissioner
10 of Department of Environmental Conservation; Chuck Meacham, acting
11 as the alternate for Carl Rosier, Alaska Department of Fish and
12 Game; Craig Tillery, alternate for the Attorney General's Office,
13 Alaska Department of Law; and -- George, are you on?

14 MR. FRAMPTON: Yes. This is George Frampton. I'm on,
15 but I'm going to have to run upstairs and see the Secretary in
16 about ten minutes, and I don't know how long I'll be gone.

17 MR. WOLFE: George, is your alternate on?

18 MR. FRAMPTON: We're trying to get Deborah.

19 MR. WOLFE: Okay. Will you let us know when you
20 leave, if Deborah is on, so that we can continue through the
21 decision-making.

22 MR. FRAMPTON: All right. If Deborah does not get on and
23 I have to leave, then I will appoint (inaudible) as my alternate.
24 He is here and will sit through the entire meeting.

25 MR. WOLFE: Okay. Thank you, George. Okay. Then we
26 have Steve Pennoyer from National Marine Fisheries as the

1 representative for NOAA; and the Executive Director Jim Ayers. And
2 we also have the Chief Scientist Bob Spies. Bob, are you on the
3 line?

4 DR. SPIES: I am, Jim.

5 MR. WOLFE: Okay. Thank you. I think at this time we
6 can let Jim run briefly through the agenda for the day, and if
7 there's any changes we can make those at this time.

8 MR. AYERS: Under the Executive Director's Report, I
9 want to get back to the Council on the various activities that we
10 are engaged in to implement, the actions that have been taken,
11 including moving forward with the restoration plan. Under the item
12 of Financial Report, I (inaudible) we tried to get out to you two
13 new pages with regard to the financial report. I hope you have all
14 received those, substituted those that were sent. Back items will
15 cover that as well. Under the '94 work plan, certainly the most
16 significant item on the agenda in terms of details and complexity
17 is item A, detailed budgets of 94320. There is an increment for
18 projects '191 and '199. We also have a report on the status of
19 NEPA compliance for 1994 projects. Then under New Business, there
20 are two items: project 94428, Subsistence Restoration Planning, and
21 the project 94427, which is the Harlequin Duck Boat Survey and
22 Methodology, and both of those projects have to do with information
23 that we've been working on and an approach that we think will help
24 both areas and would like to bring before the Council today. I
25 expect, Mr. Chairman, that we will be able to move through these
26 fairly rapidly, giving the details as we get into the

1 recommendations.

2 MR. WOLFE: Any additions or recommended changes?
3 (Aside comments -- no audible changes) Let's go ahead then. Jim,
4 do you want to start with your Executive Director's Report then?

5 MR. AYERS: Yes. Thank you, Mr. Chairman. We are
6 moving forward with a comprehensive balanced approach, that was the
7 direction of the policy and the policy of the Trustee Council. One
8 of the items that we are trying to move forward rapidly -- we have
9 been ordered to get it incorporated into the EIS of the restoration
10 plan, is the implementation strategies. (Inaudible) that is in
11 your packet, and is the organizational structure. The piece that
12 you've received before that's not in your (inaudible) is laying
13 goals and objectives and mission statement which we talked about at
14 the January 31st meeting. This particular aspect of that
15 implementation is that which is related to science, planning and
16 management, monitoring and research. It is described in a sort of
17 a one-page description in the packet under the executive director's
18 report. The focus is to develop a science approach that is
19 ecosystem based and uses an interdisciplinary work process for
20 implementation. The chart, perhaps, is the best way to describe
21 that, and let me say that this chart is like many other charts of
22 the Trustee Council's business, everyone has their own view and
23 (inaudible) about circles and squares, and every other feasible
24 difference that could be contrived with regard to its structure.
25 But, I think generally people agree. We've had two working
26 sessions to discuss an organized, adaptive, management approach,

1 and in this particular 1A, Figure 1A, is organizational structure
2 that actually reflects, I think, the general thinking of -- I don't
3 want to say general thinking -- I don't believe there is such a
4 thing anymore -- I'm not sure -- this has become pretty specific,
5 and this has been a matter of a lot of discussion. The idea is
6 that there would be interdisciplinary work groups which are also to
7 provide, on the previous page, of fish, birds, mammals, nearshore
8 organisms and sediments, and archaeology. Those interdisciplinary
9 working groups would also have representatives that serve on a
10 coordinating committee to work directly with the Chief Scientist
11 and the Executive Director in discussing hypothesis in the program
12 for the coming work year. The focus here is to have an ecosystem-
13 based approach. The difference between Figure 1A and 1B is that
14 there's been a great deal of conversation about the ecosystem
15 itself. What are the major systems within the ecosystem that we're
16 talking about. There was originally agreement, discussion, of the
17 (inaudible) or ocean system, the upland system and the nearshore
18 system. There are human uses that are involved in each of those.
19 IB takes upland and nearshore and combines them and talks about the
20 sea and land interface and the pelagic (ph) ecosystem and human
21 services, and frankly, I think that we'll get on with it.
22 Ultimately, it looks to me it will be 1A (inaudible) -- there's not
23 been a consensus or informal consensus of trying to integrate
24 upland and nearshore into one system. The opinions, again, of the
25 various scientists of the agencies and the universities, and the
26 Chief Scientist, as well as the -- there was a peer reviewer --

1 scientists. We're meeting again on the 13th, 14th, and 15th -- in
2 fact the end of this week, we'll all be back together. We are
3 proceeding in developing an ecosystem-based approach, and moving as
4 rapidly as we can so we will have a basis for going forward with
5 the '95 work plan. One of the aspects of this particular effort
6 that will eventually come back before you is the development
7 formation of the science review board. The idea there is that the
8 Chief Scientist would share a group of three or four additional
9 scientists -- would be a review board. That particular review
10 board would be responsible for annually coordinating the
11 synthesizing of the various studies and research that has -- comes
12 before it -- again, looking at the adaptive management chart, which
13 is the chart that is a circle or cycle -- that we would move
14 through an adaptive management cycle process. We would go forward
15 with projects -- actually, at this stage what we would do is we
16 would have the synthesizing of what we know today, what have we
17 learned from the various studies and the money that we've invested
18 to date in the monitoring, what are some initial or additional
19 strategies for an ecosystem approach, developed by (inaudible), and
20 proceed in a comprehensive ecosystem approach method to
21 coordinating committee or the interdisciplinary work group, we'd
22 formulate the work plans, with review of the Trustee Council. The
23 Science Review Board would be interacting with the coordinating
24 committee, the Executive Director, and the Trustee Council,
25 providing advice. Ultimately, you cannot do all of the things that
26 people are (inaudible -- extraneous noise) dreaming up to do. In

1 the end, we will have to establish agency guidelines. That is what
2 we're trying to do with the implementation structure, guiding
3 principles, goals and objectives, and a science plan. Ultimately,
4 the Science Review Board will give us advice on what do we know
5 today and what's the most prudent approach -- including monitoring,
6 I might add, which has become an item of debate that you probably
7 heard about -- how frequently should we do monitoring on the
8 various species, what is it we hope to learn. Once we have that
9 information back, are we utilizing that information before we make
10 additional investments in research and monitoring. That's the
11 basis of the adaptive management approach is that you utilize the
12 information you're gathering to make decisions about what's the
13 most prudent thing to do next. The habitat acquisition and
14 protection -- I'll move right into that items unless anyone has any
15 questions about the (inaudible -- coughing) --

16 MR. WOLFE: Any decisions on alternate approaches
17 (inaudible).?

18 MR. AYERS: No, Mr. Chairman. All of these items are
19 simply items of report, and none of these actually require --
20 they're items I just wanted to bring the Trustee Council up to date
21 on the implementation effort and work that we're doing with the
22 scientists to prepare for the '95 work plan.

23 MR. WOLFE: Any other questions?

24 MR. MEACHAM: Mr. Chairman?

25 MR. WOLFE: Mr. Meacham.

26 MR. MEACHAM: I've got a question for you here, Jim. On

1 the adaptive management-type, will that -- that you handle
2 (inaudible -- extraneous noise)?

3 MR. AYERS: I think that there were three significant
4 differences, okay? One is that -- and somebody may correct me --
5 I think that it's safe to say, number one, there's not any formal
6 synthesizing structure in place where before we moved to the next
7 year we actually have a review and discussion with a group of
8 scientists, including a science review board, about what do we
9 know, what do we think the most important thing to do next is,
10 where are the gaps. I think, secondly, a major difference is the
11 Science Review Board itself, establishing a four or five member,
12 independent board of scientists that would sit with the Chief
13 Scientist, the Trustee Council, the Executive Director and review
14 what we know to date, make recommendations on science in the
15 future. The first thing, I think, Chuck, that is different is the
16 -- although it has been discussed -- is actually the idea that we
17 would go out, once we know what it is we're looking for, that we
18 would proceed with an RFP approach.

19 UNIDENTIFIED VOICE: And lastly, in terms of
20 conducting workshops, what would be the nature of those?

21 MR. AYERS: The annual workshops would be to do two
22 things. One, to have workshops where we actually have the
23 synthesizing interaction going on with the various
24 interdisciplinary work groups, fish, mammals, etc., and that
25 interaction with the scientists discussing what have we learned,
26 what do we know, where are we. And second, maybe a workshop would

1 be an expanded version of the forum that we just did where we would
2 actually bring the public in and have an interaction with the
3 public about what we have learned and where we are going.

4 MR. WOLFE: Any other questions?

5 MR. AYERS: Under habitat protection and acquisition,
6 there three items listed here, Mr. Chairman, but let me -- before
7 I get those specific ones, let me give a brief overview. I have
8 been working on proceeding within the parameters established in the
9 resolution passed at the January 31st meeting regarding habitat
10 protection. The objective at this point is to create a suite of
11 habitat protection packages throughout the spill area (inaudible)
12 level of restoration that would benefit the nineteen injured
13 resources and services. We are in the process of accomplishing
14 that as outlined in the specific resolution of January 31st. The
15 comprehensive protection process is moving forward. As you know,
16 the Prince William -- there's actually some 850,000 acres that were
17 evaluated and ranked in the three general areas: Prince William
18 Sound, Kenai Peninsula, and the Kodiak-Afognak Archipelago. In the
19 Prince William Sound area, there's approximately 30 parcels that
20 will be totaling 184,000 acres. The landowners include Eyak,
21 Chenega, Tatitlek, and Chugach. Now the U.S. Forest Service and --
22 representing the federal side and has the lead -- and the
23 Department of Law has met with the Habitat Working Group. One of
24 the other things we said we would do is do a benefit analysis,
25 working each of the areas to develop a package that is affordable
26 which doesn't prohibit or (inaudible) the additional parts of the

1 comprehensive approach, general restoration and monitoring
2 research. We have worked with the Habitat Working Group in the
3 Prince William Sound area. That is evaluating the various
4 protection options. The package currently is composed of an effort
5 looking at the Chenega Corporation lands, and discussions have been
6 proceeding with them. The Kenai -- the other landowners have
7 either indicated that they are not interested in discussing with us
8 or we're waiting at least their invitation for discussion, and we
9 will be prepared to move forward when we receive contact, as we
10 receive contact, from them. The Kenai Peninsula or the outer Kenai
11 Peninsula, the comprehensive process evaluated 24 parcels, some
12 237,000 acres. The two high ranked parcels are located in the east
13 arm of Tuka Bay (ph). The landowners, as you know, are Port
14 Graham, English Bay, actually Chugach Alaska Corporation, but Port
15 Graham and English Bay have been in conversation with National
16 Parks Service. National Parks Service has been working with the
17 Habitat Working Group to put together a packet and a look at those
18 particular properties owned by Port Graham and English Bay. We're
19 waiting to hear from the National Parks Service whether they're
20 interested in participating in our appraisal process and so forth.
21 We've not heard official communication from them at this point, but
22 we did go forward, the Habitat Working Group and I talked -- the
23 Habitat Working Group is looking at how the package of Kenai lands
24 (inaudible -- extraneous noise) efficient and effective way.

25 MR. PENNOYER: Excuse me?

26 MR. AYERS: Yes.

1 MR. PENNOYER: I didn't understand the remark.

2 MR. AYERS: Which one?

3 MR. PENNOYER: We were -- there was some indication that
4 the National Park Service -- process but not (inaudible) -- I'm not
5 sure I understand that word you used.

6 MR. AYERS: I said appraisal process. It is my
7 understanding that there is an appraisal at this time that would
8 need to be reviewed -- it has been reviewed, it was not acceptable.
9 It could either be redone or there would be a brand new appraisal
10 implemented. We have not received an official request yet. Once
11 we receive an official request from the National Parks Service, we
12 will go forward with an appraisal, but they simply -- unless they
13 decide to redo the appraisal they have (inaudible).

14 MR. PENNOYER: (Inaudible -- out of range of microphone)

15 MR. AYERS: If they simply -- my understanding,
16 particularly since their visit with the Habitat Working Group, that
17 they want to participate in the civil trust funds that maybe
18 available to the Trustee Council, yes. (Pause) The National Park
19 Service and, again, I think on the state side, the Department of
20 Law have met, they met on March 31st to discuss the package
21 reconfigurations of the Kenai Fjords area. The team would like to
22 incorporate and certainly this is indication of many that the
23 emphasis of discussions that take place with the sellers, that the
24 sellers obviously are not interested in selling only a limited
25 portions of their high value properties (inaudible). They are
26 interested, however, in packaging that with moderate and low

1 parcels, and in some cases that's actually to our benefit. It
2 allows us then to package in that particular area to protect the
3 species and ultimately lower the price. The National Parks Service
4 package currently includes lands, as I said, primarily lands in
5 English Bay and Port Graham. We anticipate a request for
6 appraisal, but we have not received that request. In the Kodiak-
7 Afognak area, there were 27 parcels that have been evaluated and
8 ranked. Those total 241,000 acres. Nine of those parcels or some
9 180,000 acres are rated high. One of the parcels in located on
10 Shuyiak Island, two are located on Afognak, and six are within the
11 southern Kodiak area. The landowners are Kodiak Island Borough,
12 Afognak Joint Venture, and Koniag, and the Ahkiok-Kiguiok (ph)
13 operation. Fish & Wildlife Service and the Department of Law
14 negotiating team met with the Habitat Working Group twice. They
15 are still working on packaging or trying to develop a strategic
16 package for the southern Kodiak area. The negotiating team is
17 attempting to incorporate certain low and moderate valued parcels
18 in order to get the maximum protection at the most affordable
19 price. The Habitat Working Group is currently reviewing that
20 proposed package, and because it is so complex -- there's Old
21 Harbor and Koniag and Ahkiok-Kaguiok (ph) Corporation and we all --
22 as you look at the map, our Parks Department map, it's a very
23 diverse packaging or grouping of parcels. It does not easily fit
24 into one package. It looks like three packages when you look at
25 the various landowners and where the large parcels are out of that
26 (inaudible). We are, however, continuing to work with Fish &

1 Wildlife Service, Department of the Interior, and the Department of
2 Law in developing both an integrated negotiation package and an
3 integrated funding package, using a variety of the funds that may
4 be available in order to accomplish -- which would allow us to fund
5 the amount of dollars that would ultimately be required of the
6 civil trust to protect the highest values. Afognak and Shuyiak --
7 the Department of Law and the Department of the Interior have met
8 with the Habitat Working Group three times. They met in December.
9 They were one of the first to discuss various protection options.
10 They have reconfigured the various parcels on Afognak, and in
11 particular the high value -- for those of you who have looked at
12 Afognak, obviously there's far more there than at this point, given
13 the value, the estimated value of timber, that could be
14 accomplished within the guidelines that you've given to me
15 regarding packaging at an affordable price that doesn't also
16 eliminate or prohibit other uses and goals, like habitat protection
17 -- additional habitat protection, monitoring, research. Therefore,
18 northern Afognak, we have (inaudible) that land, we have completed
19 that land in a way that looks like it's possible to get the maximum
20 benefit for protection yet something that's affordable. Shuyiak
21 Island parcels have not been reevaluated at this point, and it
22 appears that it will be negotiated within the boundaries that have
23 been applied in the comprehensive habitat protection -- which is
24 high values. The protection packages include lands owned Afognak
25 Joint Venture, Kodiak Island Borough, I think. I guess I'll stop
26 there, just to say that that's an overview of those three areas.

1 The next step will be -- we have received requests regarding the
2 appraisal for Shuyiak and northern Afognak. We will be proceeding
3 with those (inaudible -- extraneous noise) moving forward, and
4 we're waiting to hear from the National Parks Service. The Habitat
5 Working Group is continuing to work with the Department of Law and
6 the Department of the Interior, and we anticipate that getting
7 completed, although it's going to take another couple of weeks to
8 actually do a good analysis of the southern Kodiak area, and then
9 we'll move forward with a request for appraisal of that area.

10 MR. PENNOYER: It comes back to us from there?
11 (Inaudible -- out of microphone range)

12 MR. AYERS: What we're trying to do is based on
13 generally the analysis that the Habitat Working Group is doing.
14 What I am trying to do is develop the packages in each of the three
15 areas as the resolution requires, then put together the package of
16 protection (inaudible) the package of protection out to the spill
17 area without -- with consideration of those other two areas,
18 general restoration and monitoring (inaudible). The package as I
19 see it now will be a Prince William Sound package, a Kenai package,
20 and the Kodiak-Afognak. We need to do an appraisal, we've transit,
21 so to speak, in each of those areas so that we think we have a
22 (inaudible -- extraneous noise) on how to get maximum protection,
23 but also to allow negotiation to take place so that the sellers
24 (inaudible) sit down and talk to us about something that they can
25 live with. We need to then do the appraisal -- we will start
26 moving on appraisals next week. That appraisal information is

1 going to come back and actually give the information that we need
2 in order to see if we've gone far enough, you see, in the packaging
3 of each of those three areas -- can we afford it. At that time,
4 once we get the appraisals back in, I will come back to the
5 Council, which I -- I'm unclear -- I think the appraisers are
6 unclear at this point about whether that's going to be July or
7 August, maybe even early September before they are able to
8 accomplish that effort. I'll come back at that point and report
9 what we've found out and what we (inaudible) to accomplish that
10 task. Now, if we have the information early in June, I would be
11 reporting back on an ongoing basis, saying this is what -- but
12 right now, it will be July or August before we have appraisal
13 information and I come back with a report that this is the
14 appraisal of these various packages, this is what protections
15 throughout the spill area looks like at this point, and this is how
16 much that costs, or this is what two or three of your choices will
17 be.

18 MR. WOLFE: Questions?

19 MR. AYERS: At that point, at the point I can get to
20 those recommendations, we will need to establish a time when the
21 Council then will make a decision whether to move forward to give
22 the negotiators authority as we outlined earlier to proceed with
23 actual procurement agreements subject to then NEPA compliance. The
24 final EIS would have to be reviewed by (inaudible -- out of
25 microphone range). I'll mention one other thing that has come up
26 that we (inaudible) and perhaps under our financial reports, but

1 the (inaudible) to the sellers that ultimately in order to put a
2 strategic package together throughout the spill area will take a
3 payment program, an amortization effort -- it will have to be
4 designed once we know what the package looks like. It will take a
5 down payment and annual payments. That is something else the
6 Trustee Council will have to look at. There will be two or three
7 options there. That's another thing that we wanted to make clear
8 with all the sellers. I wanted to remind you -- Jim is working on
9 three or four different options of what that might look like. The
10 most significant, or most significant discussions that have been
11 going on with the sellers is the discussion of appraisal. It
12 requires that we develop a standardized appraisal process. We have
13 worked with various appraisers and federal regulations did a graph
14 of a process working with the Forest Service in the lead,
15 circulated that to the sellers, and the sellers came back with
16 specific comment, I might add. There is a -- there is a feeling,
17 I guess, more than documented situation, that fair market value is
18 established through an appraisal process. The issue of what to do
19 if you don't agree with that appraisal is the essence of the
20 debate. Should there be more than one appraisal. We are working
21 with the sellers now. We've received their comments. I have not
22 responded -- as a matter of fact they just got there final comments
23 in on Friday, I guess, Thursday or Friday, and that was because we
24 finally put a deadline and said, look, we really need to know what
25 you think. There are two issues. One is -- we can get into it if
26 you'd to, but I think we're working it out with the sellers, and

1 I'll get back with each of you as we move forward with the
2 appraisal process. If there is a second appraisal -- if they do
3 their own appraisal, how would we deal with that? And currently
4 there is not -- they have submitted proposals on how they would
5 like to see a second appraisal dealt with and negotiated. However,
6 federal standards and requirements certainly specify that there
7 will be a review process, a formal review process. So the issue
8 would be how would the sellers submit their comments, information
9 or even second appraisals into that review process. We're working
10 with the federal review appraisers at this time, and we'll be going
11 back and talking to the sellers about here's the way, do you have
12 pertinent information, including an appraisal, that is relevant,
13 important information that perhaps has been overlooked, here's the
14 way to get that information before the process -- we've not
15 established what that process will be. That is probably the most
16 significant issue to the sellers right now is that discussion. The
17 small parcel -- I'll stop here for a second. Is there anybody --
18 I anticipate that we'll be proceeding with appraisals within the
19 next two weeks.

20 MR. WOLFE: I do have one question. It is has to do
21 with if you go out and do appraisals, and the appraisals are
22 significantly more than what we have funding more, it could raise
23 a lot of expectations on the part of the owners out there. Are we
24 doing something to balance that or forewarn them?

25 MR. AYERS: We have -- we have done two things. I
26 hope to do that, and I think that's why they're staying -- they're

1 paying close attention. One is, we've said that if the limited
2 package that the resolution that you passed on January 31st, that
3 habitat acquisition is not going to obviate the potential of this
4 Council to engage in long-term monitoring, research, or even
5 general restoration. Generally, we -- you know, everyone knows
6 there's limit to the expenditure, that it's not going to be even --
7 well, I'm not going to get into the percentage discussion really,
8 but we have established with the sellers that I am bound to put
9 together a package, and that that's the reason the Habitat Working
10 Group is moving these packages down. The second thing is that
11 we're telling them is that we need to get that all put together, so
12 that you can see the whole pie at the same time, and that's the
13 reason that you can't (inaudible) one of these too quickly in front
14 of all the others because it will be very difficult to tell. I
15 think the expectations far exceed the capability, and I don't know
16 what else you'd tell them about that. But, you're exactly right,
17 Mr. Chairman, there certainly is expectation beyond capability.

18 MR. WOLFE: Mr. Sandor.

19 MR. SANDOR: With regard to the appraisal process, am
20 I to understand there's proposal to use a different standard than
21 fair market value?

22 MR. AYERS: No. But there's a debate about fair
23 market value. Commissioner Sandor, Mr. Chairman, there is a great
24 debate among attorneys, and I may need the help and wisdom of our
25 Department of Law here, but the attorneys from the sellers' point
26 of view have a debate about the interpretation of fair market value

1 determination, and by that they mean government comparable -- what
2 is a government comparable that may be used to determine fair
3 market value? And I guess the essence of that question is, for
4 example, Seal Bay. If you were to use Seal Bay, you would use
5 Kachemak Bay -- are those acquisitions going to be viewed as
6 comparable to be looked at of what's going on in the market place.
7 Is there a private market out there for the type of acquisition
8 that we're doing that can be utilized, and if not we should use one
9 of those two things to establish what the value of land is.
10 There's quite a bit of debate about that -- what land should you
11 use.

12 MR. WOLFE: Mr. Sandor.

13 MR. SANDOR: At an early date, I hope the Trustee
14 Council can put that one on the table (inaudible -- out of
15 microphone range).

16 MR. WOLFE: Commissioner Sandor, do we need to pursue
17 that today or some time later?

18 MR. SANDOR: Return to it (inaudible -- out of
19 microphone range) I think at our next meeting ((inaudible -- out of
20 microphone range)).

21 MR. AYERS: I think where there will be convergence of
22 the two theories -- of the debate -- will be when we go ahead with
23 our appraisal -- we're going to do that, we're going to get our
24 appraisal, and if they want to have a different opinion or a
25 different appraisal, how to establish what the process is so they
26 can bring it in for the reviewers, and then we will know what the

1 discussion is. I think then and only then are we able to tell. I
2 don't know. Dave, if you have a different -- or Craig? I don't
3 know how you could -- they don't have an express difference, and
4 I'm not sure we're going to find out what the express difference is
5 until we have the individual appraisals.

6 MR. PENNOYER: No, but I see what the concept is, does
7 oil spill restoration land have some inherent value as opposed to
8 beach front property everywhere else. Is that what they're
9 bringing into oil restoration lands, in terms of what they are in
10 some (inaudible) our appraisal, parcel by parcel?

11 MR. AYERS: Yes. Yes. And that there are federal
12 guidelines -- that we are proceeding through the federal contract
13 and through the federal guidelines and saying let the appraiser,
14 let a certified appraiser go look at that and do a finding about
15 acquisitions and make a determination, a business finding of
16 whether that's an appropriate appraisal to be considered or not.
17 We go through those. Now, that then will come back to you, and
18 that very well may be the very question or legal discussion that
19 you talked about.

20 MR. PENNOYER: Uh-huh.

21 MR. AYERS: It will be on an individual basis, I
22 suspect in some cases it will acceptable and in other cases the
23 individual attorney or individual seller may want to have a
24 (inaudible) . . .

25 MR. SANDOR: Mr. Chairman, it's always my (inaudible --
26 out of microphone range) informed of the nature of this debate and

1 that (inaudible) . . .

2 MR. WOLFE: Very good.

3 MR. AYERS: Follow to the motion on the private
4 landowner habitat, the second option -- there was a motion at the
5 last meeting that follows also the resolution regarding habitat
6 acquisition and protection. I have met with Mr. Sturgeon,
7 president of Koncor Corporation, I've also actually talked to a
8 couple of other people, and then asked the Habitat Working Group
9 members who had worked in that area to also talk with Mr. Sturgeon
10 about his ideas. There are a number of options that are available
11 to private landowners that would probably assist -- that would
12 assist in the restoration of injured resources. We're currently
13 reviewing three general classes of options. The first area would
14 be modification of development plans to provide better protection
15 for the injured resource. If there's a private landowner, if they
16 have proposals for activities, they could submit those to us
17 through the various respective agencies, we would review and
18 comment on harvest schedules, road alignment, logging or mining
19 locations that relate or may relate to our information on the
20 injured resource. Secondly, direct restoration of injured
21 resources through habitat modification and enhancement. That is
22 working with private landowners like egg incubation boxes, spawning
23 channels, fish ladders, in-stream improvements or even bird nest
24 boxes in some areas. The third area would be rehabilitation of
25 habitat that has been impacted by previous forms of development or
26 some other activity, like an earthquake, for example, which is one

1 of the items -- one of the particular examples that Mr. Sturgeon
2 (inaudible). Rehabilitation of habitat would be (inaudible)
3 assisting and revegetation, culvert removable, landscape
4 recontouring, erosion control, or second growth management comments
5 if it were beneficial to the injured resource. Now, if that -- we
6 are doing -- we went back to check and see once we put those three
7 categories together, working with them, we went back to see if that
8 was consistent with the court decree and the efforts of the Trustee
9 Council, either under monitoring and research or general
10 restoration. This year we are involved in building ladders on
11 Afognak Island, one in particular is the little (inaudible) Creek
12 that -- we're engaged in and have quite a bit of support. There is
13 in-stream habitat improvement we're doing this year on Chenega
14 lands, and we are surveying private lands for habitat (inaudible)
15 for marbled murrelets, harlequin ducks, typing and channel typing
16 in a couple of projects. So we actually are doing some of these
17 three categories already, and it actually would help, I think, both
18 private landowners and restoration for us to formalize these three
19 general categories and then work with the private landowners
20 further as directed by the Trustee Council in these three general
21 categories. We would propose to further develop them and bring
22 them back to you as proceed to develop the FY95 work plan. That's
23 along the lines that people were thinking that there's additional
24 -- maybe we could work on it. That's kind of where we're gone with
25 that. We've got those three categories and we're working out and
26 developing specifics in each of those categories. So restoration -

1 - was there any additional questions though on the habitat
2 acquisition protection effort?

3 MR. WOLFE: Not a question, but I (inaudible) your
4 ideas about this.

5 MR. AYERS: There are some things that have been
6 proposed that we're going to do some research with the individual
7 agencies on, but I think generally it was a good meeting with Mr.
8 Sturgeon, and I think there are some basic -- and other private
9 landowners -- that (inaudible) . . .

10 MR. WOLFE: Right.

11 MR. AYERS: The next item, Mr. Chairman, under the
12 Executive Director's Report is the restoration reserve, and perhaps
13 I could ask -- I didn't get a chance to talk to you about this
14 beforehand, Mr. Tillery, but if you could assist me in this report,
15 I would appreciate it.

16 MR. TILLERY: The restoration reserve was in the last
17 court request, the first time it was signed. It was removed when
18 it became apparent that we needed to tell the court what we were
19 doing with the money and we didn't know yet. The concept of
20 reserve -- there is no problem with that. The problem is where the
21 money is going to reside. Basically, it's what bank are you going
22 to use. And the concern is that the U.S. Department of the
23 Treasury may not -- if they find that we can't take the money and
24 put it either outside of the U.S. Treasury or the court registry.
25 This issue was visited back in 1991, when we first set up the trust
26 fund, and at that time the Department of Justice, Office of Legal

1 Counsel, and the Department of the Treasury apparently took the --
2 well, they took the view that we could not set up outside of one of
3 those two places. (Inaudible) things have changed and that we're
4 talking about something different now. We have asked the
5 Department of Justice to revisit it. The Department of Justice,
6 Environmental Resource, as we did in 1991, are supporting the view
7 that it can be established in, for example, in this case, in the
8 State Treasury outside of the registry. They have taken that to
9 the Office of Legal Counsel, which is a separate division within
10 the Department of Justice, and it was hoped to have an answer by
11 Friday. I spoke with the Department of Justice about an hour ago,
12 and they still had not heard, or Environmental Resource Department
13 had not heard from the Office of Legal Counsel. So what we are
14 doing is waiting for that determination. If it does, and says,
15 yes, it's fine, we can go ahead, then we will circulate a
16 resolution that more defines how the reserve is going to work.
17 There will be another resolution that will ask the court to
18 (inaudible) that we will withdraw the money, and we will very
19 likely actually bring the reserves to the court in the form of a --
20 in some type of a pleading, and ask the court to sign off on it,
21 based upon the statement in the Memorandum of Agreement that says
22 that the money will be held in the court unless the parties agree
23 otherwise and the court agrees to it. So, that's the status.
24 (Inaudible) reserves, but the details are where the banks -- what
25 bank we're going to use are still to be worked out.

26 MR. AYERS: Mr. Chairman, that is essentially where we

1 are on that. We have -- we've done (inaudible) . . . I have gone
2 to the Department of Revenue (inaudible) . . . it is certainly as
3 we look at the long-term monitoring and research effort that in the
4 interests of the public, we're asking for (inaudible) for
5 establishing the reserve, and we will do so based on your
6 direction. I -- I just passed the small parcel process under the
7 habitat acquisition and protection, and I did put the agreed memo
8 about the protection process in your packet, and I don't -- I --
9 it's simply an update on what's happening with small parcels, that
10 what's included in the resolution that small parcels be a part of
11 the effort. The process is still in discussion, but basically with
12 the small parcels the issue of ranking the parcel and the criteria
13 that would be used is still in discussion. There's still some
14 discussion among each of your respective staff. I hope to get that
15 completed within the next seven days and move forward with
16 solicitation for nomination by May 1st. There has been discussions
17 about this is going to take -- it could be finished by October.
18 There have been other discussions that it would go into FY95. I
19 think at this time, we don't know. We know that generally that the
20 agencies have nominations, land (inaudible), the public
21 nominations, trying to establish a process that would filter those
22 nominations in a fair and efficient way. If there's a (inaudible),
23 certainly we can be finished by October. If there's a thousand or
24 more that have to be evaluated, ranked, then it's possible it could
25 go into the next fiscal year, but we won't know that until we get
26 ready -- until we finish the nomination process, establish the

1 criteria, evaluate them, and before we even talk to landowners, we
2 would be back to talk to you with a report. If, in fact, it looks
3 like it's going to go into next year, you will know that as we get
4 the material for the FY95 year, and that would be back before you
5 as well and keep you updated on it.

6 MR. MEACHAM: Your filtering process, does that take
7 place in the threshold evaluation early -- early on?

8 MR. AYERS: The threshold evaluation is to try and
9 (inaudible) as many -- I mean, everybody who has some bird
10 migration in the state very well may be (inaudible) proposal. So
11 the idea of a threshold evaluation was that we would set some
12 evaluation criteria where it has to be tied specifically to an
13 injured resource, it has to have an agency support, those kinds of
14 very structural criteria, before we ever get into the evaluation
15 and ranking of them -- how -- is to try and let the landowners know
16 right off the bat.

17 MR. MEACHAM: I think that's a good idea.

18 MR. WOLFE: More questions on the small parcels? I
19 guess maybe my memory is failing me, but are we going to solicit
20 proposals for small land acquisition, small parcel acquisition or
21 is it our desire to have the criteria available if the Trustees
22 identify parcels that they'd like to go ahead with? Is there some
23 position that we've taken on this at this point in time. I know we
24 got to the point of requiring that the Habit Work Group to develop
25 criteria, but we never went to another stage. This has gone a
26 little bit beyond what we intended in my early recollection of what

1 we decided early, although I don't disagree with what's being
2 proposed. Mr. Meacham?

3 MR. MEACHAM: I can't answer your question really, but
4 is the question whether or not to include all nominations along
5 with the agencies, or (inaudible) nominations or just have the
6 agencies (inaudible) . . .?

7 MR. WOLFE: That was my question. In essence, do we
8 want to solicit for offerings of parcels for evaluation by the
9 Trustees for acquisition, and considering that we have more on the
10 table right now than we can afford, and we haven't finished our
11 comprehensive proposal, my concern is if we get too far in to
12 evaluate a number of small parcels, we get a little further along
13 and/or the agencies have a specific parcel that they're extremely
14 interested in. Mr. Meacham?

15 MR. MEACHAM: I (inaudible) to have reasonable threshold
16 criteria, you can probably get through a number of public proposals
17 fairly quickly, and I don't know that (inaudible) . . .

18 MR. WOLFE: I don't know the answer to that. I would
19 assume if you have to visit each site and do some on-the-ground
20 evaluations, than what we did in the comprehensive evaluation of
21 large parcels, the evaluation process would be very time-consuming
22 if there are a lot of small parcels out there.

23 MS. WILLIAMS: Mr. Chairman, this is Deborah Williams,
24 alternate for George Frampton.

25 MR. WOLFE: Deborah.

26 MS. WILLIAMS: Hello, how is everyone? When we're

1 talking about public participation, obviously there are two
2 subgroups. One is landowners, and the second is the general
3 public. Are we now specifically just talking about nominations
4 from landowners? That, obviously, is a more relevant and more
5 limited subgroup.

6 MR. WOLFE: I would ask Jim to answer, but I think he
7 was making it general public.

8 MR. AYERS: Eh, yes. Mr. Chairman, Ms. Williams, the
9 small protection process chart that's in your packet under the
10 Executive Director's Report, there are two pages. One is a memo
11 from me to the Council; the other is the small parcel protection
12 process chart that's a draft. But basically item -- at the top of
13 that page talks about a request for agency and landowner
14 nominations -- agency/landowner nominations. It is envisioned that
15 there would be a parallel or simultaneous solicitation from
16 agencies and potential landowners based on criteria, and we would
17 actually ask them the question, you know, in more specific terms.
18 We would specify the type of lands that we are interested in having
19 nominations for in an effort to cut that down, and that's why we
20 have the threshold evaluation as the next item -- do they meet the
21 terms or the conditions of the request of what we're interested in?
22 Certainly, that is what the debate -- the discussion has been about
23 -- should we try to (inaudible) at this point to have this more
24 open solicitation of nominations beyond simply agencies. The idea
25 would be, certainly, that the landowners would demonstrate that
26 their land would be of value, to do so with an agency.

1 MS. WILLIAMS: It does seem to me as if landowner
2 nominations is a good idea, and I wanted to make sure that we
3 weren't throwing it open to all public nominations, that I might
4 nominate someone else's property as being a good idea. I don't
5 think that is a good idea. If the public is interested in a
6 particular piece of property that is owned by Landowner "X", I
7 think the public might want to talk to Landowner "X" and say, gee,
8 there's this process, why don't you throw your property into the
9 process and see if it is purchased or otherwise addressed by the
10 process. So, I would support the notion, Jim, that you have
11 reflected in your flow chart that landowners could nominate their
12 land and that it be screened according the steps in your process.

13 MR. WOLFE: Mr. Ayers.

14 MR. AYERS: This is Jim. And I would add one more
15 thing about the agency/landowner, and that is, the agency would
16 have to -- would certainly have to be a participant in the
17 nomination offer. The Trustee Council is not going to own and
18 manage land, so there will certainly have to be an agency that's
19 got to be willing to receive that particular piece of property,
20 based on its relationship to the injured resource. So, I wanted to
21 point that out as well. That's another significant part of the
22 consideration here that I think has been discussed in the working
23 group. There are some details yet to be worked out on that
24 criteria. Certainly, you and your staff will be a part of
25 finalizing that before we go forward, and that's the reason I say
26 "to date." I would rather have not brought this because I don't

1 think there is an agreement on the criteria. There are details of
2 the criteria and how that threshold is going to work, and before we
3 go out, it needs to be worked out so that it is more selected
4 solicitation -- selective solicitation.

5 MR. WOLFE: Any other questions? Okay.

6 MR. AYERS: The next item is the EIS report, and I
7 think either Dave or Rod -- is Rod on line?

8 MR. WOLFE: Rod are you there? (Pause) Maybe he
9 isn't. Dave, do you --

10 STAFF: He's here, sir.

11 MR. WOLFE: Is the Anchorage office on line?

12 MR. KUHN: I'm here.

13 STAFF: Yes, sir. We are.

14 MR. KUHN: I'm here.

15 MR. WOLFE: Rod, could you give us a brief update on
16 the status of the EIS thus far?

17 MR. KUHN: Okay. Since the Trustees' approval of the
18 restoration plan and the environmental impact statement project on
19 January 31, an interdisciplinary team has been formed, and we've
20 set up offices here on the first floor of the restoration office,
21 and the team members have reviewed the work that's gone on in the
22 past and are incorporating as much of that as possible. Such
23 things as chapter one and chapter two of previous work has been
24 revised, a lot of other things have been revised as well, and all
25 of the recent developments, such as the development of the draft
26 restoration plan as a replacement for the previous alternative five

1 in the brochure, that's all part of what we're doing to date. The
2 analysis is progressing according to the schedule that I have given
3 the Trustee Council, and the draft environmental impact statement
4 will be available for public review and comment by mid-June. The
5 comment period should run from approximately June 17th through
6 August 1st. Are there any questions?

7 MR. WOLFE: Oh, maybe just a quick run-through the
8 percentages that were going to be used for alternative five at this
9 point, based on the comments that we had.

10 MR. KUHN: I have not gotten a final reply to some
11 inquiries I've made on that, so I'm still awaiting a formal reply
12 on that. I have some approximations, but I don't have a final
13 reply on that yet.

14 MR. WOLFE: Okay. Any questions on what's going on in
15 the EIS process at this point? Okay. Thanks, Rod. Jim?

16 MR. AYERS: Yes, Mr. Chairman. I have been talking
17 with Rod, and he has actually written a memo to me that I will
18 discuss with each of you, but generally it's along the same lines
19 as that which was circulated to each of the Trustee Council
20 members. He wanted the agency -- we're trying to get clarification
21 of what is the fund balance -- what is your receivables -- and then
22 also those percentages that you mentioned, and I will be shortly
23 responding to his request for that on a draft that, if you want to
24 take a look at or if you want to discuss today at the end of the
25 meeting before I send it to him, I can certainly submit it to Mr.
26 Chairman and the members. With regard to recreation and

1 subsistence planning, there is an item on today's agenda with
2 regard to subsistence planning. It's an item that was before the
3 Council on January 31st as a report, and the state, through its
4 criminal settlement funds, has established a fund for subsistence
5 efforts with regard to injured subsistence resources and services.
6 However, there have been problems with planning because within the
7 purview of those funds, they do not have the -- don't have the
8 money to actually go do the planning. There needs to be a
9 coordinated effort between the civil trust and the state's criminal
10 fund and the various federal and state agencies surrounding the
11 subsistence question, and that's a project that we'll talk about
12 later. The recreation effort -- Molly actually gave me a time-line
13 which I have misplaced with the bundle of paper that I have, but
14 the -- we have been working with DNR -- the Department of Natural
15 Resources, Parks Division, is committed to working with us, as in
16 fact I think they are required to work with the state Trustees in
17 their effort to develop a recreation plan and effort for the spill
18 area. They have funds through the criminal settlement -- state
19 criminal settlement funds -- and we have been working to ensure a
20 coordinated effort. There is a plan now to proceed. They are in
21 the middle of developing a comprehensive recreational planning
22 program that will include working and coordination with the
23 Trustees in developing objectives and criteria for strategies, and
24 that includes a coordinated effort with people like the United
25 States Forest Service, who obviously have a primary management in
26 the Chugach Range. The Prince William Sound, Kachemack Bay,

1 Shuyiak Island areas all have state parks, and within that then
2 there's an effort to develop a comprehensive recreational effort
3 throughout the spill area and address many of the recreation
4 questions. We'll be working with them on that. They will be
5 implementing that, beginning it in April, and hopefully submitting
6 a draft objective and criteria for their program and working with
7 the state Trustees, and the state Trustees will maintain
8 communication with them. They hope to have a plan completed by
9 February. As I see a line through this -- yeah, February, the end
10 of February that they would have a completion of a draft
11 recreational plan for the spill area.

12 UNIDENTIFIED VOICE: (Inaudible -- poor audio quality
13 and extraneous noise)

14 MR. AYERS: I'm just trying to keep you updated on
15 those issues. The Trustee Council has mentioned that services
16 ought not to be left out in reports, and I'm just including those
17 as a matter of course. There's no written -- this is all we've
18 gotten to date, but we have communicated with DNR, and I feel
19 comfortable that they are going to now develop a recreational plan,
20 including public meetings. We'll be working with them in those
21 public meeting efforts.

22 MR. PENNOYER: Mr. Chairman, how does that relate to our
23 (inaudible -- coughing) recreational plan (inaudible -- out of
24 range of microphone) Prince William Sound recreational plan.

25 MR. AYERS: Mr. Chairman, Mr. Pennoyer, this year
26 there was a follow-up proposal to continue to do that recreational

1 effort. It seemed to be duplicative, and when we met with DNR it
2 was clear that in fact most of that effort was duplicative, but
3 we've worked with them -- that's what we talked to Mr. Johannsen
4 about at the last meeting, that we would take our information.
5 Veronica Gilbert from our staff, I think has completed a rewrite of
6 that information and that study. We have -- we've given that to
7 the Division of Parks. We're working with them now to see that
8 that's implemented, and we will work with them on the public
9 communication effort to ensure that we stay in touch on how they're
10 going to implement that recreational effort -- recreational plan.

11 MR. WOLFE: Just a little further note there, DNR was
12 co-lead with the U.S. Forest Service and (inaudible) region plan,
13 and I believe the report is due out in April (inaudible), and we
14 should have a final report shortly.

15 MR. PENNOYER: Out of curiosity, how much money are we
16 talking about?

17 MR. WOLFE: I don't know.

18 MR. PENNOYER: Two hundred thousand?

19 MR. WOLFE: I'll get back to you.

20 MR. AYERS: I think that the -- Mr. Chairman, Mr.
21 Pennoyer -- I think that in response to both your question and to
22 the question that the effort has been invested today. I thought
23 the seventy-nine thousand, but I'll get the actual number.
24 (Inaudible) I'll get that exact number. But that report when it's
25 finished will be the basis of DNR's effort. Like I say, they have
26 funds to implement and assure us they will work closely with us on

1 that effort. Okay. The forum and public participation effort, let
2 me say just two things. One is that we have completed the
3 publication about the forum itself, which you all should have
4 received, and recently -- this seems a little elaborate on the one
5 hand; on the other hand, we were getting several calls about what
6 was the public's response. We were getting calls from the public
7 about what was the public's response, and so we actually have now
8 simply bound -- obviously it's not multi-color or anything, it's a
9 basically bound response to the question -- to the public response
10 to the fifth anniversary of the grounding of the Exxon Valdez --
11 the forum that we held. I think that the public responded fairly
12 that the Trustee Council's action of comprehensive approach and an
13 annual status report is not only appreciated but is imperative for
14 the public to continue to feel like they understand what's going
15 on. So, I think it was well received, and we have (inaudible) our
16 adaptive management process. A long-term restoration will only be
17 as successful as the public's understanding and participation in
18 the management of that ecosystem. There is another schedule, Mr.
19 Chairman, and I don't know -- has this been circulated? We are
20 proceeding with our public participation effort, and we have --
21 through our office -- I think Rebecca and Molly have made an effort
22 to contact your offices and talked with the various people who are
23 involved in your scheduling, and to the best of our ability we
24 tried to schedule some public participation in the various
25 communities, as you directed previously. That's schedule is before
26 you. I know it's very difficult to come here for plane travel. We

1 will proceed with the schedule, and hopefully there will be members
2 of the Trustees that will be able to make one or more of those
3 community visits. We have been talking with the community,
4 however, and they in particular want to just participate in the
5 discussion in their community about their observations. Molly and
6 I will proceed with that and will keep you informed of this
7 schedule so that you may participate, depending on your schedules.

8 MR. WOLFE: Questions on the forum? Okay.

9 MR. AYERS: Mr. Chairman, the only other thing under
10 the Director's Report is the time-line for all of this. These are
11 -- there are time-lines that Molly and others have been working on
12 to put together, and there are a -- as one of the scientists
13 described it the other day in very scientific terms, "there's a
14 billion things going on here," and one of the things that we wanted
15 to make sure people continue to be aware of is that these billion
16 things all seem to happen at the same time, and so there's a time-
17 line that Molly has put up on the board here, a critical path
18 analysis, if you will, of the various major projects that we have
19 going on and the time-lines in which they have to be accomplished
20 in the next seven months. It's overwhelming to look at, and I
21 think on any given day there's long range and why there's
22 confusion. You all should have received now the memo that we sent
23 out this morning. Jim Sinclair, Director of Administration, has
24 been working with the state and federal representatives, either OMB
25 or -- who represents the federal?

1 MS. MCCAMMON: Bob Baldorf (ph).
2 MR. AYERS: Bob Baldorf from the federal side OMB, and
3 trying to put together an accurate balance and accounting of our
4 funds. We have submitted a request to the court, and again I might
5 call on learned counsel about the question of our access to
6 information from the court, but we've asked the court to submit to
7 us copies of their accounting reports that they generate weekly
8 regarding the Trustee Council's joint trust fund -- your joint
9 trust funds. Page 1 is a statement of the settlement funds as of
10 February 28 to the best of our ability, and in essence what that
11 shows is that the funds, the receipts that have been -- that have
12 happened to date beyond Exxon payments, earned receipts, the
13 disbursements that have happened out of that account actually of
14 the \$900 million dollar settlement. Those are not just the joint
15 trust funds, but the total disbursements that have come from the
16 Exxon settlement funds, and then the actual funds that are
17 available, which is the Exxon future payments or receivables, the
18 balance that is in the joint trust funds, and then other, which is
19 balances that may be available. Page 2 of this is the actual joint
20 trust fund, and that's the money that's actually been deposited
21 into the trust funds and then withdrawals, and as you'll note from
22 Page 1 to Page 2, that there certainly has been disbursements that
23 did not pass through the joint trust funds. For example,
24 reimbursements and Exxon clean-up costs have not been -- those are
25 not funds that pass through the joint trust fund and therefore do
26 not show on the accounting of the joint trust fund. The balance as

1 of February 28 was ninety thousand (sic) two hundred and fifty-nine
2 dollars -- eh, two hundred and fifty-nine thousand seven hundred
3 and ten dollars. That does not reflect our current court request.
4 The total available today is whatever interest we've earned between
5 February 28 and today, five hundred and sixty thousand from Exxon,
6 and the balance of the joint trust fund, which is ninety-thousand
7 (sic) two hundred fifty thousand seven hundred and ten dollars.

8 MR. WOLFE: It's million.

9 MR. AYERS: Pardon me?

10 MR. WOLFE: Million.

11 MR. AYERS: Six hundred and fifty million two hundred
12 and fifty-nine thousand seven hundred and ten dollars. (Aside
13 comments) The five hundred and sixty million in accounts
14 receivable from Exxon is anticipated to all pass through the trust
15 fund, except for reimbursements, which is why I suggested in the
16 memo that's circulating and I suggested to the accounting director
17 of the EIS effort that reimbursements do need to show as a
18 percentage that ultimately will come -- it needs to be considered
19 as one of the percentage that will be -- that is currently a
20 liability debt -- six hundred and fifty million two hundred and
21 fifty-nine thousand seven hundred and ten dollars. I'll stop there
22 while you take a look at those figures. We do intend to put
23 together a balance sheet and a financial statement as rapidly as we
24 can get the detailed information from both the court and the
25 respective OMB.

26 MR. WOLFE: Questions on the financial report?

1 Balance available? Okay.

2 MR. AYERS: Did I miss anything? I didn't? Did --
3 let me just say one thing, do we have an understanding, Mr.
4 Chairman -- do we have an understanding of what the court --
5 whether the court is going to allow us to have the records of the
6 court accounting?

7 MR. TILLERY: The court sent us an order last week
8 saying they had received a letter from a Mr. Ayers, who represented
9 himself as the executive director of the Trustee Council, asking us
10 if he was indeed some official -- in some official position -- and
11 should they release this information to him. We are drafting and
12 will be sending back to the court a pleading suggesting that this
13 information should be publicly available, which is something the
14 court does not consider to be public information. We would suggest
15 that it should be publicly available, that the court should allow
16 the Trustee Council to have access to it (inaudible), and that the
17 Trustee Council should be the place where the public should go to
18 get the information. That should be filed tomorrow or the next
19 day.

20 MR. AYERS: Mr. Chairman, we're into the '94 work
21 plan. Project 94320, which is the next major item of business,
22 there is a recommendation, a written recommendation, in your
23 packet. On line, I believe, is Ted Cooney from the University of
24 Alaska, as well as Brian Rogers. Dr. Cooney is on line to discuss
25 any questions or to respond to any questions regarding the details
26 of the project. Vice President Rogers is on line to respond to

1 financial questions, including the discussion surrounding the
2 indirect rate . . .

3 STAFF: Mr. Chairman?

4 MR. AYERS: . . . Also on line is Dr. Spies who has
5 worked with the peer reviewers and the scientists involved in the
6 project.

7 STAFF: Mr. Chairman?

8 MR. AYERS: There is one other item, and that is that
9 there's been an incredible effort and experience to try and put
10 together such a comprehensive scientific program in the last
11 hundred and forty days, or whatever it's been, to put this
12 together, and it's been an outstanding effort on the people that
13 are working on this project, the Prince William Sound Science
14 Center and at the University. It is exactly what I think the
15 Trustees are -- an example of the type of ecosystem approach
16 project that we are looking for, but let me also say that there are
17 a number of problems that need to be worked out of our system in
18 terms of funding and analyzing this type of proposal, and the
19 effort that you see in your packet is in no small way also due to
20 the effort by people in the Department of Fish and Game and also
21 NOAA, in particular Joe Sullivan and people that work with him over
22 at Fish and Game, and also the people that work in the Anchorage
23 office in communicating with a variety of people in a variety of
24 quarters under very difficult and sometimes adversarial roles to
25 try and put information together to the best of their ability to
26 get this project in front of us today, so that the people that are

1 involved in the project can actually get into the field. This
2 recommendation is before you, and I could go through it in summary
3 or I could go through each of those project recommendations that I
4 have laid out in the memo. You find that -- actually there's
5 eight, including the general recommendation; there are seven
6 specific recommendations with regard to this project, and I guess
7 it's your pleasure, Mr. Chairman.

8 STAFF: Mr. Chairman?

9 MR. WOLFE: The (inaudible) is with the Trustee
10 Council. Mr. Pennoyer?

11 MR. PENNOYER: Mr. Chairman, would you relate for me the
12 role of the Trustee Council in the actual action we're expected to
13 take today based on our prior recommendations and proposals,
14 (inaudible) this whole project cost (inaudible -- coughing) and the
15 recommendations (inaudible -- out of microphone range).

16 MR. AYERS: Mr. Chairman, as Molly looks for the
17 actual wording of your motion, there was certainly a core
18 understanding that I had that only those things which were time
19 sensitive and had been -- are supported by the Chief Scientist and
20 peer reviewers would go forward. We sent out a memo on March 9th
21 and moved forward with those, except for that portion which had to
22 do with the hatcheries specifically. The March 9th memo was very
23 clear, at your direction, that we were not to proceed without
24 completion of NEPA compliance based on the advice and direction of
25 the attorneys. We then proceeded to work with the attorneys, both
26 here and in Seattle and Washington, D.C., in completing the NEPA

1 compliance with regard to the hatcheries, and that funding you
2 authorized subject to NEPA compliance. The other aspects of
3 Project 94320 were approved conditionally, with the direction that
4 the Executive Director identify and come back with detailed work
5 plans and peer review of those specific sub-projects in 94320 and
6 schedule a teleconference for review and approval by the Council in
7 thirty to sixty days, which is what you now have before you is that
8 review and recommendation.

9 MR. WOLFE: Mr. Pennoyer?

10 MR. PENNOYER: Would you refresh my memory then on what
11 has already been approved, based on the short-term need, and what
12 is the balance that has not been approved. (Inaudible -- out of
13 microphone range) numbers in front of us and (inaudible).

14 MR. AYERS: Primarily, what is in front of you today
15 are all of the detailed project descriptions. What has gone
16 forward were -- is some project management funding, some \$25,000,
17 the \$1,750,000 for the PWSAC fry manipulation and research project,
18 and the boat charter effort, although the boat charter effort --
19 although it has been approved, is actually incorporated into the --
20 it was time sensitive and we wanted to move forward, so we've gone
21 out with the RFP, we have bids in, but actually there's not
22 expenditure of funds until you take action today, because this is -
23 - you know, the boat charters are essential for these projects.
24 There is no need for the boat charters without these projects. So,
25 essentially, it's only the hatcheries and \$25,000 for program
26 management that has been previously approved. Everything else is

1 before you today. Does anybody have -- is there any modifications,
2 did I miss anything in that?

3 MR. PENNOYER: The time-critical recommendations in the
4 previous memo on project 3279 (inaudible -- out of microphone
5 range) -- subject to NEPA compliance (inaudible -- out of
6 microphone range) that you talked about (inaudible -- out of
7 microphone range), the equipment purchase (inaudible -- out of
8 microphone range) go forward as immediate needs on this one
9 proposal?

10 MR. AYERS: I didn't -- I have calculated that that it
11 would be the six million three hundred ninety-seven thousand eight
12 minus the hatchery minus the equipment and the boat charters. Do
13 you have those numbers -- do you happen to know those numbers.

14 MS. MCCAMMON: It would be six point two five minus the
15 three point two five.

16 MR. AYERS: About half.

17 MR. PENNOYER: Mr. Chairman?

18 MR. WOLFE: Mr. Pennoyer.

19 MR. PENNOYER: (Inaudible) received the detailed project
20 budgets for each of these sub-projects (inaudible) review.

21 MR. AYERS: Each of the detailed project descriptions
22 have gone through -- they were reviewed by the Chief Scientist and
23 a distribution to individual and respected peer scientists, were
24 reviewed by them, and those comments have been resubmitted -- eh,
25 submitted -- back to the Chief Scientist and then back to us. Dr.
26 Spies, would you like to elaborate?

1 DR. SPIES: Yes, sir. Those are all nearly complete.
2 We have a few more outstanding due to the short nature of the
3 turnaround time in the review process, but we're reasonably
4 satisfied that we have the bulk of them reviewed, (inaudible) in
5 terms of the main projects. The second part of the review is
6 financial review, and that was done as part of this exercise, but
7 we looked mainly at the technical merit and enclosed, summarized
8 our comments on the technical merits of the project.

9 MR. PENNOYER: Mr. Chairman?

10 MR. WOLFE: Mr. Pennoyer.

11 MR. PENNOYER: (Inaudible) note then that the
12 recommendations (inaudible) Dr. Spies, and he has some
13 recommendations as well. The Trustees (inaudible) going to take
14 action though, the funding of these projects, the recommendations
15 (inaudible -- extraneous noise) yes or no, a lot of pieces
16 (inaudible).

17 MR. AYERS: Mr. Chairman, Mr. Pennoyer, the
18 recommendation that is before you is -- is to accept first of all
19 the recommendations of the Chief Scientist and reinforced, I guess,
20 by the Executive Director in my recommendations, in particular at
21 94320, which is actually sixteen separate projects to be approved
22 by the Trustee Council to proceed consistent with recommendations
23 and conditions that I have laid out. Some of those specific
24 conditions that the Chief Scientist and the peer reviewers have
25 made with regard to the respective projects. In particular, that
26 with regard to project leadership, and that's on page 3 of the

1 recommendations, that with regard to project leadership that it's
2 clear that there needs to be formal recognition that Dr. Cooney
3 will have the initial leadership role in '320, and provides that
4 Dr. Cooney exercise that leadership authority necessary to
5 successfully implement that particular aspect of the project.
6 Leadership, responsibility and accountability, needs to be
7 emphasized to ensure continued support, and if the future
8 leadership and direction of this project (inaudible) evaluate by
9 the Chief Scientist and the Executive Director and the Trustee
10 Council, and specifically by that I think that we're making it very
11 clear that we need to evaluate this project and widen the whole
12 adaptive management approach and make a decision then this next
13 year, once we have information back from them about how to proceed.
14 Specifically, with regard -- and then -- I was going through each
15 one of these -- but with regard to the recommendation, the
16 recommendation is actually twofold. One has to do with policy, the
17 second has to do with funding. Specifically, I'm recommending the
18 funding based on our detailed budget analysis, and let me say that
19 I suspect they're not only typo errors but there are probably some
20 numerical errors in some cases, due to the fast and pressurized,
21 stressful nature of putting this package together so that we had a
22 greater understanding of what the project was and we had a clear
23 understanding of what the Chief Scientist was recommending, and
24 that we could bring it to you so that we didn't lose this season --
25 they've got to get in the field. We're recommending that you do
26 fund the projects (inaudible). We're recommending that you fund

1 the overall project with the details that our outlined in the
2 spreadsheets according to each project that is in the back of the
3 recommendation, which is called Table 2, Budget Summary, and those
4 are specific break-outs of each of those respective sub-projects.
5 So, with regard to the funding, I -- we're recommending that we do
6 so based on the detailed budgets of each of those respective sub-
7 projects. With regard to policy, the specific policy measures that
8 I think -- that I would like to cover for your reflection and then
9 determination.

10 MR. WOLFE: Mr. Pennoyer.

11 MR. WOLFE: Mr. Chairman, (inaudible) go ahead and put
12 the budgets specifically in front of us, the key areas in the
13 budget that are different than what we originally looked and
14 (inaudible) to discuss them, such as the indirect rate, whether we
15 should or not (inaudible) withdraw one project -- but put them in
16 front of us and perhaps we could discuss that and then discuss the
17 policy questions separately.

18 MR. WOLFE: Mr. Ayers?

19 MR. AYERS: Mr. Chairman, Mr. Pennoyer, the
20 recommendation with regard to the budget, and I haven't actually
21 done the math -- are you doing the math? -- the recommendation with
22 regard to the budget is that the Council accept the budget as
23 presented in Table 2, which provides a budget summary of all of the
24 funding that is related to 94320. That specifically is that --
25 that total which is six million two hundred fifty thousand dollars,
26 which is the amount that you authorized for this project at your

1 January 31st meeting minus the one million seven hundred and fifty
2 thousand dollars that you have previously authorized. Jerome, I
3 don't -- do you have a number for the equipment? A total dollar
4 amount for the equipment?

5 MS. MCCAMMON: One point five two nine.

6 MR. AYERS: One point five two nine --

7 DR. MONTAGUE: That's for charters.

8 MR. AYERS: And the amount for vessel charters?

9 DR. MONTAGUE: That's for --

10 MR. AYERS: That's for vessel charters and equipment
11 that's previously been authorized. So, six-two-five-o minus the
12 three-two-seven-nine, two-point-nine-seven-one. The amount of
13 money that is before you, Mr. Chairman, is two million nine hundred
14 seventy-one thousand dollars that is associated with the various
15 projects. That does not include the -- as we outlined -- that does
16 not include equipment or the boat charters which have been
17 previously authorized. Now, the actual amounts -- where those
18 dollars actually are, are incorporated into several additional
19 projects, both the boat charters and equipment -- and there the C,
20 D, and E on the boat charters -- (rustling through papers) -- the
21 amount of funding that is requested -- that is before you today is
22 two million nine hundred and seventy-one thousand dollars for the
23 projects that are listed in A through Q, except for item L, which
24 has been -- which has already been authorized, and within those
25 projects -- for example B, D, and J. Those are projects that have
26 significant boat charter and equipment costs. There's one other

1 item that has equipment costs. Do you know what item that is?

2 (Pause) Dr. Cooney, are you on line?

3 DR. COONEY: Yes, I am, Jim.

4 MR. AYERS: Dr. Cooney, would you agree with what I
5 just described with regard to where the primary funding for boat
6 charters and equipment are, and I said B, D, and J?

7 DR. COONEY: I believe that's correct, Jim. I'm
8 looking at my list. I think that's primarily where they are. I
9 think there is roughly thirty -- twenty-five or thirty thousand in
10 number H there -- or letter H -- as well.

11 MR. AYERS: Okay. So, it's primarily B, D, J and N.
12 Those projects are primarily equipment and boat charters which you
13 have previously authorized.

14 MR. MEACHAM: Mr. Chairman?

15 MR. WOLFE: Mr. Meacham.

16 MR. MEACHAM: If this is a single project, and
17 apparently there were portions of this already approved, would it
18 be reasonable then to approve just the balance (inaudible) -- fully
19 implement this project, the (inaudible) elements, is that where we
20 are?

21 MR. AYERS: Mr. Chairman, Mr. Meacham, that is exactly
22 where we are. That is the description, and each of these project
23 descriptions that are -- have detailed the amount of that
24 particular aspect of that sub-project of the overall project. That
25 is what you're approving, is that amount for that particular sub-
26 project.

1 MR. MEACHAM: Thank you.

2 MR. AYERS: That is outlined in that summary.

3 MR. PENNOYER: For purposes of discussion, I move that we
4 accept this budget.

5 UNIDENTIFIED VOICE: Second.

6 MR. WOLFE: We have a motion and a second to accept
7 this budget. Any?

8 MR. PENNOYER: Yeah. I'd still like to get a discussion
9 -- there's a discussion of three items there on the budget, and
10 before we vote on the total, I'd like to have some discussion of
11 the University of Alaska indirect rate, the ownership and storage
12 questions, and internal (inaudible) operation -- although there
13 have been some modifications, some excellent modifications to the
14 initial budget we looked at. Could you (inaudible) --

15 MR. AYERS: Yes, Mr. Chairman, the -- and I would like
16 also to come back to the other aspects, specific recommendations of
17 the set pieces, but in particular, starting with the budget issues,
18 I have, number one, the University of Alaska indirect rate -- and
19 let me also say that the proper title of this particular item ought
20 to be indirect rate. It says University of Alaska/Prince William
21 Sound Science Center indirect rate, and it -- it is not a clear
22 written policy of the Council that I have been able to establish.
23 I have not (inaudible) and submit it to you a specific policy
24 regarding indirect rates generally. In particular, we have before
25 us today the indirect rate as it relates to Project 94320 and
26 specifically the University of Alaska and the Prince William Sound

1 Science Center. In the body of this budget is an indirect rate
2 that is approximately twenty-five percent. I say approximately
3 because the University works out to be twenty-five percent of the
4 direct costs of what it cost to run the project. The Prince
5 William Sound Science Center is approximately twenty-four point
6 eight percent. The extra cost for the University of Alaska is
7 mitigated somewhat by the fact that they did not charge the full
8 twenty percent rate on the pass-through funding for the Prince
9 William Sound Science Center, as they noted in this. However, it
10 is clear that the compilation is a misunderstanding. The Trustee
11 Council has established, as I understand it -- the Trustee Council
12 had communicated with the University over this issue in the past,
13 and there was a general understanding that the indirect rate would
14 be twenty percent. The Trustee Council, or at least staff, I have
15 talked to some members, have indicated to me that the Trustee
16 Council intended that that was twenty percent of a project. If it
17 cost the project -- if a project cost a million dollars to run, the
18 University would be able to charge twenty percent or two hundred
19 thousand dollars. That is not how the University nor the Prince
20 William Sound Science Center calculate the rate. Their rate is
21 based on a calculation of the total project cost, and by that I
22 mean the project is simply a portion of the project, and there is
23 a cost to the University in doing that, the indirect rate, that is
24 -- works out to be twenty-five percent. We go through --

25 MR. MEACHAM: Mr. Chairman, my understanding of the way
26 it was in the past was twenty percent of the project cost.

1 (Inaudible) This represents a change in the way --

2 MR. AYERS: It's my understanding that Brian Rogers,
3 vice president for finance at the University is on line. Are you
4 there, Brian? (Pause -- no response) Dr. Cooney?

5 DR. COONEY: Yes. I will not presume to speak for the
6 University on this matter. I am not authorized to do so. I'm
7 sorry that Dr. Rogers is not on the line. I -- that's as far as
8 I can carry you.

9 MR. AYERS: We anticipated being on this item earlier.
10 I don't know if he's gotten called away to another meeting.
11 Rebecca, are you on line?

12 STAFF: No, sir. This is L.J. We're checking on Dr.
13 Rogers, and we'll find out what the status is and let you know.

14 MR. AYERS: Would you call his office and call Ms.
15 Ewalt and see if she can locate him, please?

16 STAFF: He was on line when we -- a little while ago,
17 sir. I'm not sure what the status is right now. We're checking on
18 it.

19 MR. AYERS: I'm sure it's because he anticipated being
20 called upon earlier.

21 MS. WILLIAMS: Mr. Chairman, this is Deborah Williams.
22 From Sandy Rabinowitch, I understand that the Trustees -- that the
23 Trustee agencies normally charge fifteen percent for personal
24 services and then an additional amount for contractual costs. I
25 would be interested to know the exact difference in cost between a
26 -- either fifteen percent or a twenty percent overhead fee versus

1 the twenty-five percent that's in the project. How many dollars
2 are we talking about?

3 MR. WOLFE: Okay. I'm not sure Jim can answer that,
4 but the fifteen percent was what the Trustees had used as an
5 indirect cost for agency -- yeah for the Trustee agencies as part
6 of our financial operations to do that. It wasn't necessarily
7 intended to drive a contract overhead cost, although we have asked
8 that our contractors keep their overhead to a minimum, but we are
9 talking two different things here, Deborah.

10 MR. AYERS: What Dr. Rogers described to me is that
11 the University has two particular problems in this area. One,
12 their indirect rate -- the cost of them managing a project is
13 approximately forty-seven percent. The way, however, that that
14 rate is established is through audits of the cost of all of their
15 administration of managing projects through the University. The
16 federal government then establishes with them a rate. Due to their
17 relationship and the amount of money and the amount of business
18 that they've done for the Trustee Council, they have consistently
19 lowered that rate, which has also lowered their overall average.
20 They gone from what was a forty-seven percent -- their policy was
21 fifty, their average was forty-seven, they are now down to forty-
22 one because they have consistently done business with the Trustee
23 Council, the federal auditors have consistently used that, but
24 their average -- they have now lowered their average to -- their
25 overall University average for all projects is now forty percent.
26 In this particular case, it was their understanding that the

1 formula process as used by the federal government, which is in
2 essence twenty-five percent of the project but it is the project --
3 the project cost plus twenty-percent of that, equals the total,
4 that gets the indirect cost and then twenty percent of that number
5 works out to be twenty-five percent. It's their decision. They --
6 that is what they believe they must have -- that Ocean and
7 Fisheries Science does not have the funding nor the administrative
8 support. Agencies have, in the past, they're able to support this
9 because agencies have both a Department of Administration and their
10 own administration, therefore they don't require as much support
11 because behind those entities there's a Department of
12 Administration or procurement and those things, as well as a
13 division of administration within the respective agencies that are
14 funded through their own programs. They do not have that
15 capability. They have to fund their own department of
16 administration, own division of administration, and they
17 specifically -- the Ocean and Fisheries Sciences program does not
18 have the funding to support this project. It does take -- their
19 actual cost of managing this project, twenty-five percent of the
20 project or twenty percent of the total.

21 MR. WOLFE: Mr. Ayers, the question at this point in
22 time is do we accept the twenty-five percent or are we going to
23 disagree with, I guess, and if we disagree with it, what is the
24 position of the University in your opinion?

25 MR. AYERS: My understanding is that they would not be
26 able to do this project. They literally have had their budget cut.

1 According to Mr. Rogers, they've lost their indirect rate or
2 they've lowered it by some six percent because of the federal
3 government's recent audit, and the lowering of their overall
4 University indirect rate, and what -- our recommendation was that
5 in view of the need to move forward and get this project into the
6 field that we accept this with the understanding that the indirect
7 rate is an exception to apply to this start-up year only for this
8 project, and that except for any work that is to be undertaken by
9 the University or Prince William Sound Science Center on behalf of
10 the Trustee Council in FY95 or beyond, that rate will be calculated
11 as a twenty percent of direct costs or direct me to go develop a
12 policy on indirect rates, and in so doing I will involve myself in
13 discussion with you people and report back.

14 STAFF: Mr. Chairman?

15 MS. WILLIAMS: That is one concern that I have about the
16 twenty-five percent if we vote on it without any caveat that it
17 will establish a precedent for our future actions with the
18 University and other non-profit entities, and so I hope the other
19 Council members will think about the precedential value of this.
20 I think Jim has offered us some alternatives to that.

21 STAFF: Mr. Chairman?

22 MR. PENNOYER: Mr. Chairman, Jim gave you a direct
23 recommendation -- what he was saying we move on it as one year
24 only, start-up question (inaudible) at this point in time, and
25 still go into the field, and clearly that way. The second question
26 is that it's not a precedent and we reconsider it in the '95 budget

1 year, and by considering the indirect rate we're going to allow for
2 it by going to some type of (inaudible) process?

3 MR. AYERS: Exactly. Mr. Chairman, Mr. Pennoyer, the
4 conversation that I did have with Brian Rogers was exactly along
5 those lines, and we understood that -- it means that they could be
6 competitive. They understood that that is the nature of the beast,
7 whether they come in at twenty or twenty-five or higher or lower
8 number, would be determined by an RFP process. But this still
9 would be clear that there would not be a set rate of twenty-five
10 percent beyond this first year. The Prince William Sound Science
11 Center, I did talk to their director just prior to this meeting,
12 and I think that it's clear, and I don't know if he's on line
13 there, but they will be willing to negotiate the rate when the
14 (inaudible) rate is to go into FY95 and we can actually get to the
15 bottom of what the costs are -- (inaudible -- interruption by
16 staff)

17 STAFF: Mr. Chairman? Mr. Chairman?

18 MR. WOLFE: Mr. Sandor.

19 MR. SANDOR: With the understanding that both Deborah
20 and Jim have just outlined, that it's not a precedent, it is an
21 exception, I would move acceptance of the University (inaudible).

22 MR. WOLFE: Mr. Pennoyer?

23 MR. PENNOYER: Mr. Chairman, we have a motion for
24 acceptance of the total proposal. I don't know that we have to
25 move separately on this piece, which was (inaudible) appropriate,
26 part of the overall motion that we incorporate the concept we've

1 alluded to (inaudible) -- an amendment that the main motion include
2 the caveat -- the fact that the University of Alaska/Prince William
3 Sound Science Center overhead is a one year option only for this
4 start-up year and we reconsider the future issue -- discussion
5 (inaudible -- out of range of microphone).

6 MR. WOLFE: We have a motion, a second, and an
7 amendment and then second.

8 MR. PENNOYER: I think we have to vote on the amendment
9 to the main motion. There may be other amendments we may want to
10 make to the main motion as we get -- first deal with this amendment
11 -- any objection to -- ?

12 MR. WOLFE: Do we want to vote on the amendment at
13 this point in time?

14 MR. PENNOYER: (Inaudible) get on the record.

15 MR. WOLFE: Any objection to the amendment as
16 proposed? Deborah, could you hear the motion?

17 MS. WILLIAMS: I certainly could, and I thoroughly agree
18 with it.

19 MR. WOLFE: Okay. Hearing no objection, the amendment
20 to the main motion passes.

21 MR. PENNOYER: The second item listed under the
22 recommendations on the budget, I'm not sure how that affects the
23 dollars amount to the recommendation that the Executive Director
24 has made. We may wish to make that amendment as well, if he want
25 to go through -- (inaudible -- out of range of microphone).

26 MR. AYERS: Mr. Chairman, that's what (inaudible) were

1 just discussing. The equipment issue has been an item of
2 discussion. Actually, it is an item of probably policy discussion
3 of the Trustee Council, which is the issue of -- when equipment is
4 purchased, does it remain as a part of the asset of the Trustee
5 Council, or does it become the property of the agency, entity or
6 the contractor that actually is awarded the equipment funds? In a
7 particular case, the issue became rather debatable -- and rather
8 than go into the debate, we agreed that we would provide -- there
9 is funding available -- those budgets reflect funding for them that
10 they said they needed in order to provide for not only purchasing,
11 but insurance, storage, maintenance and repair of this equipment.
12 Now, it's a fairly substantial amount. I don't remember what
13 percentage it worked out to be, but it was actually -- I think it
14 came out to be essentially the same as their indirect rate, which
15 is about twenty-four -- is that correct? -- yeah -- twenty-four
16 percent. We said for this first year that we were going to allow
17 that but that we certainly needed to sit down and -- that we needed
18 to sit down and negotiate that again. I have talked to the
19 director of the Prince William Sound Science Center, but I think we
20 need to talk to both the Science Center and the University of
21 Alaska and come to a resolution on the issue of equipment, storage,
22 and maintenance and repair, for otherwise that's going to be an
23 additional cost. In my view, that would be a part of an indirect
24 rate -- their overall indirect rate that they would have been
25 charged for equipment beyond the first year -- be their
26 responsibility. That's in part one. Secondly, who does that

1 equipment belong to at the termination of this project, and I think
2 we need to resolve that issue, but I'm not prepared to make a
3 recommendation today because it also affects a larger policy
4 question about all the various computers, the pieces of equipment,
5 the boat motors, the tanks that have been and continue to be
6 purchased with Trustee Council funds. My recommendation is that
7 this equipment currently, which belongs -- I guess it belongs to
8 the Department of Fish and Game at this point, or perhaps the
9 University --.

10 DR. MONTAGUE: It belongs to the University until the end
11 of the project, at which time it goes back to the (inaudible -- out
12 of microphone range).

13 MR. AYERS: The University, if they are going to own
14 the project, they would be responsible for insurance, storage and
15 maintenance through their indirect rate, particularly if it's the
16 higher indirect rate. But we do -- at this point, what I would
17 recommend is that we go forward with the (inaudible) that ADF&G and
18 the University (inaudible) understanding that it reflects that
19 they're going to take care of all of these various services and
20 that these services will not be charged in addition to the indirect
21 rate in the future.

22 MR. WOLFE: Mr. Pennoyer.

23 MR. PENNOYER: Mr. Chairman, thank you. Jim, so
24 basically then, within the amount of money proposed here, those
25 charges will be taken care of?

26 MR. AYERS: Yes. Yes.

1 MR. PENNOYER: Without any diminution of the work that's
2 reflected in this budget?

3 MR. AYERS: That's correct. That's correct.

4 MR. PENNOYER: Secondly, in terms of ownership of
5 equipment, I guess the pause I have is that we just passed a motion
6 saying that we might do an RFP process on this project in the
7 future (inaudible) required, but I didn't intend to do an RFP
8 process and have to go out and re-buy all the same equipment. That
9 somehow -- you're getting into a project -- equipment that we've
10 been told will last five to ten years, I don't feel that if we do
11 give -- start subcontracting on the project that we should spend
12 the next year, if something different happens, having to re-buy all
13 the equipment.

14 MR. AYERS: That's exactly -- Mr. Chairman, Mr.
15 Pennoyer, that's -- that is exactly the method that I have tried to
16 convey to them. It is my understanding that Fish & Game has
17 conveyed the message to the University that the property belongs to
18 the University until the project is completed, and then it reverts
19 back to the Department of Fish & Game.

20 MR. WOLFE: They're saying that that ownership of
21 property is addressed in the financial operating procedures for the
22 Trustee Council. That is true, and what's being proposed is
23 consistent with what we did with University under our last contract
24 with them -- agreement with them -- on the coastal habitat studies,
25 so I don't see there's any change from what we've been doing, so we
26 want to keep it that way, I think. I think that's what you

1 proposed.

2 MR. PENNOYER: Jim, I'm not sure this -- I move that we
3 do it as you said, with our understanding that the storage and so
4 forth and equipment be covered under the initial amounts we've
5 approved for these projects, with the equipment to remain in the
6 ownership of the Trustee agency and no diminution of work to take
7 care of those costs.

8 UNIDENTIFIED VOICE: Second.

9 MR. WOLFE: Motion made and seconded that -- we verify
10 that (inaudible -- simultaneous talking and extraneous noise).

11 MS. WILLIAMS: Mr. Chairman, I certainly agree with what
12 Mr. Pennoyer just said, that we firmly believe that the equipment
13 should be owned by the Trustee Council representative and that
14 ultimately it belongs to that agency or entity.

15 MR. WOLFE: Okay, very good. Any objection? (No
16 response) There is no objection, the motion carries. Mr. Sandor?

17 MR. SANDOR: Let the record reflect that Mark Broderson
18 will represent me from now on for this meeting.

19 MR. PENNOYER: Mr. Chairman, the last item on the budget
20 was the otolith (inaudible) marking, 94320-C, and there's some
21 discussion their withdrawing the project, but keeping some part of
22 it, and I notice the project budget includes -- is still the same
23 as it was before, not really (inaudible) in the table.

24 DR. MONTAGUE: It was three sixty-one.

25 MR. PENNOYER: Oh, I see. Okay -- significant reduction.
26 Okay, that doesn't show on the table -- (pause). I don't think a

1 motion is necessary. It's part of the total budget (inaudible)
2 understand the rationale --.

3 MR. WOLFE: Okay.

4 MR. PENNOYER: I would just like to proceed on the main
5 motion on the budget, although I would like to characterize that as
6 being approval, pending our approval of all (inaudible)
7 recommendations as well if they have something to do with how it's
8 going to spent. If we take a first vote on the project budget as
9 discussed, and then recognize the fact that it (inaudible) have
10 some problems that might affect our approval, we might come back
11 and revisit it, but we can go ahead, you can ask for approval or
12 for any objection on the main motion (inaudible) the budget part
13 (inaudible).

14 MR. WOLFE: Any objection? (No response)

15 MR. PENNOYER: Mr. Chairman, sir -- you and the Chief
16 Scientist, I haven't started to compare them exactly, so I'm not
17 really sure if there are differences or not or additional things
18 that the Chief Scientist recommended or not. You might want to
19 (inaudible) discussion -- if both of you (inaudible) policy having
20 to do with this project in terms of its initial implementation and
21 leadership, and also in terms of its longer term review, and so
22 forth. Could you take and approve those one at a time now?

23 MR. AYERS: Yes, Mr. Chairman, the project leadership
24 I think I covered, but in essence it's clear that Dr. Cooney
25 leadership, guidance, and authority need to be there so that
26 responsibility and accountability is something that we can call in

1 University -- and Dr. Cooney in particular -- for this start-up
2 year. That will include the discussion eventually of how then this
3 project will be dealt with in the future, but certainly this first
4 year, it needs to have a clear leadership and guidance, and it's
5 our understanding and it's certainly just simply that reinforcement
6 that this will be Dr. Cooney. Dr. Cooney is the lead scientist,
7 which, as I say, provides the authority, but beyond that
8 responsibility and accountability through him for the project. The
9 issue of -- the next item, which is on the bottom of page three --
10 adaptive management and project implementation -- and I think that
11 adaptive management is more than just the jargon we need to think
12 of. Adaptive management is the practical sense approach that as
13 things change, we realize what has changed, and we think about what
14 that change means and adjust to it. On page four, it is certainly
15 a part of the policy recommendations that the plans have to be
16 tailored to the biological realities, as Dr. Spies says, and
17 implementation of this first field season will necessitate
18 flexibility and a willingness on the part of investigators to scale
19 the work effort to the biological opportunities that are available.
20 In some cases, that's going to mean deferring significant portions.
21 And Dr. Thomas and I talked earlier today. They are anxious to get
22 in the field. That's the reason we've all worked hard to get this
23 project up and out the door today, so they can get in the field.
24 I think that based on my conversations with Dr. Spies and some of
25 the peer reviewers, it's clear we're going to have to rely on Dr.
26 Cooney and the prudence of the PIs to identify those places where

1 it just doesn't make sense or that they're just not going to make
2 it this year, and we need to understand it. We're not going to get
3 it all done this year, and we're not going to know a lot in
4 September about this writing about what the study did accomplish.
5 We want to make sure that we're all clear on that up front, and
6 that if they need to forego doing something, they forego it and let
7 us know, without penalty, but in fact give them credit for that
8 prudence. The next item is that of data management modeling, and
9 again, based on everything that I've read in the project it's clear
10 that this is a very complex issue, and that information system and
11 modeling is a key part of this and that it's going to be complex.
12 We need to realize that's what folks are -- the Chief Scientist and
13 peer reviewers have said. There are substantial questions about
14 the utility of this deterministic modeling effort to address
15 fishery management issues. It's not going to all be there the
16 first year. We recommend that this aspect of the work be closely
17 scrutinized, and I think scrutinized includes good communication
18 between Dr. Cooney and Dr. Spies and peer reviewers about the
19 success of what we're learning about this data management and
20 modeling effort, and that we come right back in '95 and take a look
21 at this to try to determine the effectiveness of this, what the
22 direction should be, but that specifically they pay attention to
23 it, and I'm sure that they will, but that we have -- that we're
24 clear that we need good communication between the projects and the
25 Chief Scientist regarding this modeling effort. Program review and
26 evaluation is something --

1 MR. PENNOYER: Mr. Chairman?

2 MR. WOLFE: Yes.

3 MR. PENNOYER: (Inaudible) policy to pass each one of
4 these and ask if there are any questions, then when we get to the
5 end we can decide whether we like it all or not, but coming back
6 and reviewing (inaudible) difficulty. A particular question on
7 (inaudible) on each one of these, and my question at the end
8 (inaudible).

9 MR. WOLFE: Should we go back and answer questions on
10 the three that we've covered at this point or -- let's do that?
11 Any questions on the project leadership issue at this point? No
12 questions. On the adaptive management project implementation as
13 described by Jim, any questions there? Okay, no questions. Any
14 questions on data management and modeling? Okay, no questions.
15 Jim?

16 MR. AYERS: Again, Dr. Cooney and Dr. Spies are on
17 line. Certainly, good Doctors, do not hesitate to interrupt me if
18 you feel that I need to be corrected of my understanding of
19 our conversations or written comments or if you want to add
20 something.

21 DR. COONEY: Okay. We feel free to chime in when we
22 feel the necessity, Jim.

23 DR. SPIES: You've done a good job so far, Jim. Plug
24 on.

25 MR. AYERS: Okay. Program review and evaluation. The
26 Chief Scientist has been working with the project investigators in

1 trying to establish clear milestones. Management by objectives is
2 the trend of management that we're trying to permeate the entire
3 system with. Every aspect -- from every staff person to actual
4 projects, we are trying to instill the concept of management by
5 objectives with measurable milestones. Dr. Spies has been working
6 with project investigators and it is certainly our effort that
7 those principal investigators will establish clear milestones, and
8 again, as he has indicated and others have talked about, next
9 September milestones are needed so that we'll be able to comment to
10 you about this with regard to '95. The Trustee Council, I think,
11 we need to continue to reiterate the point that future planning and
12 support for this or any other project is determined by the success
13 of that project the previous year and the completion of effort. In
14 addition, that the '94 field season should be given more in-depth
15 review, probably in mid-January we're going to -- as Dave -- they
16 have indicated, both the peer reviewers and the scientists involved
17 in the project, as well as Dr. Cooney, (inaudible) mid-January
18 before they have good (inaudible) information, although we're
19 probably going to have to make some decisions in October and
20 November in some cases, but it will probably be mid-January. Do
21 you want to add anything to that, Ted?

22 DR. COONEY: Well, just to indicate that we are going
23 to pull all the stops out this summer to have data available, at
24 least crucial data available for the mid-September check of
25 milestones. We certainly understand the need for an accomplished -
26 - an accomplishment based outcome -- that's going to give you the

1 ability to carry forward, and we want to demonstrate to the Council
2 and its agents after the field season that we have more than just
3 a few impressions about what took place in the field this coming
4 summer. We are pulling all stops that we can to provide a core of
5 results at that early meeting to indicate and to demonstrate what
6 we've done this summer, to be followed up by a much more
7 comprehensive review of data by mid-January.

8 MR. WOLFE: Okay. Mr. Pennoyer.

9 MR. PENNOYER: Yes, Jim, so in effect that says you're
10 going to restart this whole meeting you laid out for us on an
11 adaptive management style, diagrams, organization, (inaudible) this
12 summer. This means that this project, as other projects,
13 (inaudible) isn't necessarily unreasonable for all projects
14 (inaudible) including this project would enter into this type of
15 organizational diagram and adaptive management cycle.

16 MR. AYERS: Absolutely, Mr. Chairman, Mr. Pennoyer.
17 That is exactly -- based on the direction that the Trustees have
18 given me with regard to ecosystem based approach, we've been
19 utilizing and working with the scientists in developing what that
20 means. What that means is an adaptive -- a growth, scientific,
21 adaptive management approach -- and this particular project is one
22 piece of the ecosystem approach, albeit a good model, it is that
23 type of approach that ought to be applied to all of our efforts,
24 and then get -- then this will fall into the same (inaudible)
25 adaptive management approach. It will be reviewed, and they knew
26 they all won't be able to come in at the same time, but that

1 projects, through a science review and synthesizing, projects would
2 not only be peer reviewed, but there would be good, open discussion
3 in the interdisciplinary work group, and a recommendation would
4 come to you before we actually funded a project. Yes. This would
5 fall into that adaptive management cycle. Let me also say that
6 it's very ambitious for us to try to get there for '95 right now
7 because it's largely trying to put together this cycle at the same
8 time we're going out with our '95 solicitation for projects.

9 MR. WOLFE: Mr. Meacham.

10 MR. MEACHAM: Yes. Yes, I concur with the value of
11 working to get these milestones of these projects, but I guess,
12 looking at some of the activities that are (inaudible) particular
13 project, there's a lot going on before September, so I think people
14 should not disappointed if they don't receive at that point all the
15 information that they would like to have through these projects
16 available.

17 MR. AYERS: I think in many ways Dr. Cooney has been,
18 you know, committed to this effort in keeping as accurate --
19 instilling some discipline and understanding in all of the various
20 principal investigators that that is what they are expected. At
21 the same time, I think we need to be aware that -- and realistic --
22 that we're going to be in kind of jam if we says that's the
23 absolute. We're going to have to meet with them in this September
24 and the scientists to look at the adaptive process and in some
25 cases there's going to be gaps. We're going to have to make a
26 decision. In some cases we'll be able to wait until January

1 because some things won't be finished by this time period, but that
2 will give us enough time to then get good information, assessizing
3 (ph), and still give the decision about funding before they get
4 into the season. However, as Dr. Cooney and Dr. Thomas and many of
5 the others involved in the project have pointed out, it's got to
6 happen long before April, and I think now that will work because I
7 -- we've done all this in a hundred and forty days, and there's a
8 lot we would do differently if we had more time.

9 MR. WOLFE: Any further questions on the program
10 review and evaluation? (No response) Okay.

11 MR. AYERS: Under NEPA compliance, Mr. Chairman,
12 members, NEPA compliance as far as we know, and I'm always going to
13 try to remember to say that with regard to NEPA, (inaudible)
14 recently -- Environmental Protection Act, a copy of the FONSI for
15 the hatchery has been completed, is on file -- it is our
16 understanding that all of the other parts are helpful for
17 categorical exclusion under NEPA, and we're working on that. In
18 any case, those projects will be allowed to proceed prior to a
19 determination of full NEPA compliance, and -- I think with regard
20 to that we need to clarify a couple of policies with regard to how
21 we're going to proceed when there are questions and that all
22 projects must have -- there is a policy regarding NEPA compliance,
23 but in the event that there's a categorical exclusion, it is the
24 responsibility of the proposer -- the principal investigator -- to
25 ensure that they are working with the respective agency liaison to
26 get that categorical exclusion. There can't be an assumption that

1 because it's probably eligible for the categorical exclusion that
2 they take no action. We've got to get that clear. In some cases,
3 people are simply writing to (inaudible) and have gotten into
4 (inaudible). The other issue with regard to policy there is that
5 there are some questions regarding policies that have not been
6 established, and they vary from particular activities within a
7 project that may require regulatory action or a policy on the part
8 of the Council, and -- for example, the taking of birds or mammals,
9 we need to establish and review a policy. I have asked the Chief
10 Scientist to identify with peer reviewers any kind of taking of a
11 bird or mammal to bring that to my attention, and we need to
12 formulate a policy and I need to bring that before you so that it's
13 clear what your policy is going to be with regard to the taking of
14 birds or mammals. I think -- the public in general -- a lot of
15 interest has been generated recently, and I think we need to
16 clarify what that's going to be with regard to the Council's
17 policy.

18 MR. WOLFE: Mr. Meacham.

19 MR. MEACHAM: Yeah, in your comments there about taking
20 -- our talking about (inaudible) takes as opposed to other takings?

21 MR. AYERS: Mr. Chairman, Mr. Meacham, that's exactly
22 right. I was referring simply to the lethal action that results in
23 the death of either a bird or mammal.

24 MR. WOLFE: Mr. Pennoyer.

25 MR. PENNOYER: Mr. Chairman, without getting off into the
26 NEPA parts that deal with a longer term policy that might warrant

1 more discussion, I move that we accept the Executive Director's
2 recommendation on the project leadership, adaptive management
3 project implementation, data management and modeling, program
4 review and evaluation, and NEPA compliance as it relates to Project
5 '320.

6 MS. WILLIAMS: I second.

7 MR. WOLFE: Okay. We have a motion to accept Mr.
8 Ayers' recommendations on items one through four. Any objection?
9 (No response) Motion carries.

10 MR. PENNOYER: Mr. Chairman, one addition question? That
11 would be of Dr. Spies -- if (inaudible) back and forth, is there
12 any points Dr. Spies wants to make relative to this project?

13 DR. SPIES: I think just for the points and
14 recommendations with regard to policy based on the points I make,
15 though I make (inaudible) refinements, my general recommendations
16 regarding policy with respect to 94320 (inaudible).

17 MR. MEACHAM: Mr. Chairman?

18 MR. WOLFE: Mr. Meacham.

19 MR. MEACHAM: One comment here, Ken Shock (ph) was
20 really, really working to get these NEPA compliance taken care of,
21 and I want to thank National Marine Fisheries Service for working
22 with us and helping out.

23 MR. PENNOYER: Mr. Chairman, I would like to thank all
24 the people that worked on preparation and review of these detailed
25 projects plans, and I know that this year particularly it's been a
26 very tough thing to get done in a short period of time, a lot of

1 midnight oil burned to get this in front of us for this meeting
2 instead of delaying the meeting. So, I don't have the names of all
3 the individuals on the staff, agency (inaudible) but our thanks to
4 all of them for getting this done in time (inaudible).

5 MR. WOLFE: Okay. Moving on to the next item on the
6 agenda, which is NEPA for 94199? (Inaudible) for Project 94191.

7 MR. AYERS: Okay. Mr. Chairman, the (inaudible) for
8 Project 94191, which is the oil-related egg and alevin mortality at
9 a cost of ninety-seven point seven thousand dollars. This is
10 required supplemental funding for the original request -- this is
11 an unanticipated finding that -- that the agency was coming up with
12 about the same time as we were actually reviewing and proposing
13 projects, so it was coming in as we were finalizing our
14 recommendations before the January 31st meeting. The study needs
15 to be repeated this year in order to build the strength of the
16 results regarding the differences that the heritable and genetic
17 damage in pink salmon between oiled and un-oiled streams. The
18 project description is in your packet. It is expected to receive
19 a categorical exclusion. There is no legal concern at this time,
20 although I think there are some implications certainly verifying
21 that there's damage, and there is good reason to assume that there
22 is at this point. However, it's going to take the study to develop
23 the empirical data to support the hypothesis. It very well may
24 have important implications for restoration, particularly if we are
25 considering genetic damage, and will probably need to be continued
26 at least through FY96, as pointed out. The other, I guess, long-

1 term implication -- I have not talked with our attorneys about
2 this, but this is not something that was anticipated at the time of
3 the settlement, nor did we understand the fund settlement, so we're
4 pursuing this -- it's pretty new information that's coming out
5 here. The peer reviewers are very interested in proceeding with
6 this and are very concerned about this. I highly recommend that we
7 move forward, as did the Chief Scientist on this project.

8 MR. PENNOYER: Mr. Chairman?

9 MR. WOLFE: Mr. Pennoyer.

10 MR. PENNOYER: We've -- how much money did we vote for
11 this project this year already?

12 MR. AYERS: One ninety-one --

13 DR. MONTAGUE: Mr. Chairman, I think it was about seven
14 hundred and some thousand dollars between the interim funding and
15 the remaining funding through NOAA.

16 MR. PENNOYER: For that amount we didn't do the ninety-
17 seven -- put in reverse, if we don't the ninety-seven point seven,
18 what happens? The other seven hundred and some thousand dollars
19 (inaudible)?

20 DR. MONTAGUE: The other part related to this wasn't
21 dependent on it. I mean, this is (inaudible) work regardless of
22 the (inaudible) in '93. The experiment done in '93 was the odd
23 year (inaudible), and those results came in January, the first
24 tentative results, and to answer your question in one respect, if
25 you were to not approve this project to go ahead (inaudible).

26 MR. MEACHAM: I think the additional funding here goes

1 towards really confirming something that seems to many people to be
2 almost unbelievable event. I mean, if you include the prior
3 results of (inaudible -- out of microphone range).

4 MR. PENNOYER: (Inaudible -- out of microphone range)
5 pink salmon (inaudible -- out of microphone range)

6 MR. MEACHAM: Yes.

7 MR. BRODERSON: Mr. Chairman?

8 MR. WOLFE: Mr. Broderson.

9 MR. BRODERSON: To follow up what Chuck was saying there,
10 when these proposed project for last year, -- when the project was
11 first proposed for last year, several peer reviewers told us we
12 would not be able to see the effects that we actually in the end
13 did, and we need now to confirm that with another year's worth of
14 data so that it was not a part of that study, as result the damage
15 actually did occur, and the result, standing alone from last year,
16 and will repeat by themselves (inaudible -- out of range of
17 microphone) very, very strong indication for continuing injury to
18 this resource if the results we saw last year actually repeat. We
19 need to know that regardless (inaudible -- out of microphone
20 range).

21 MR. PENNOYER: Mr. Chairman, my point was this if this
22 result is true, the major lynch pin for what may or may not be
23 (inaudible) in Prince William Sound (inaudible -- out of range of
24 microphone).

25 MR. MEACHAM: Yes. I would move that ninety-seven point
26 seven thousand supplemental funding be approved.

1 MR. PENNOYER: Second.

2 MR. WOLFE: Motion made and seconded. A question, on
3 my part, has Dr. Spies received this project proposal at this point
4 and supports it?

5 MR. PENNOYER: His recommendation is in here in the
6 packet memo that --

7 MR. WOLFE: Okay. I didn't get to it, but -- yes,
8 okay. Very good. And the motion that's been seconded that we
9 approve the ninety-seven point seven -- or ninety-seven thousand
10 seven hundred dollars for the supplemental funding for Project
11 94191, any objection? Hearing no objection, motion approved.

12 MR. AYERS: The next item, Mr. Chairman, has to do
13 with Project 94199, which is the expansion of the Institute of
14 Marine Science. This particular amount -- eh, this particular
15 request is an addition. We estimated that there may be a need for
16 some fifty thousand dollars to begin work on the NEPA compliance
17 when we were putting it together for the January -- putting the
18 request together for the January 31st meeting. We had no idea
19 whether it was going to be an EA or an EIS at that time. There was
20 an estimate that it could cost any place from fifty to a hundred --
21 eh, to two hundred -- thousand dollars and beyond. We are working
22 with the State, the University, as well as the Institute of Marine
23 Science in Seward and the City of Seward. We are not going to pay
24 out of civil trust funds for all of the contractual work with
25 regard to the EIS; however, Fish and Game and Minerals Management
26 Service of the Department of the Interior are working on the EIS

1 for the project, and Minerals Management Service is the lead agency
2 for NEPA. In order to get this accomplished, we need an additional
3 eighty-three thousand dollars to pay for the staffing of the EIS,
4 and it is described in the description -- we split the original
5 fifty thousand between Fish and Game and the Department of the
6 Interior. An additional ninety-seven thousand is actually what's
7 required. Sixty-four thousand to cover costs over at DOI and
8 thirty-three thousand for the remainder of the project, EIS
9 project, on this work for ADF&G. We did move some -- I don't know
10 if that's in here or not -- the reason we're not asking for the
11 full ninety-seven thousand, we did move fourteen thousand dollars
12 out of Project 94110 towards this particular effort, so the balance
13 that's required is eighty-three thousand dollars.

14 MR. WOLFE: Comments? Questions? Mr. Pennoyer?

15 MR. PENNOYER: Could you review for us the status of the
16 project (inaudible) that is ongoing or -- we've got a NEPA question
17 in front of us or not, whether the two relate to each other, but we
18 do have a process (inaudible -- extraneous noise). The Trustee
19 Council voted at the last meeting which was that the project be
20 designed (inaudible) settlement appropriate to the next research
21 project -- programs that are going to be conducted through out the
22 spill, etcetera, etcetera, and I don't know how that exactly
23 relates to this hundred and some thousand dollars for NEPA
24 compliance work, but I guess somewhere the two ought to come
25 together.

26 MR. WOLFE: Mr. Ayers, can you address this.

1 MR. AYERS: Eh, well, first of all, Molly has handed
2 me the attachment that has to do with what it was that (inaudible),
3 including the University of Alaska, City of Seward, Seward
4 Association for the Advancement of Marine Science -- SAAMS. The
5 appropriate Trustee agencies reviewed the (inaudible) related to
6 the proposed improvements and the required capital and operating
7 budget, developed and integrated funding approach which ensures
8 that the use of trust funds are appropriate and legal under the
9 terms of the MOA and the Consent Decree and prepare recommendations
10 on the appropriate level of funding for consideration by the
11 Trustee Council that would be legally permissible under the terms
12 of the MOA. Secondly, in order to do that, we have Kim Sundberg
13 from the Department of Fish and Game working almost -- actually, he
14 is working full time on this issue -- he's working -- he went to
15 Fairbanks to work with the University of Alaska and has recently
16 met with a variety of the scientists and the architects that are
17 involved with this project, including talking to Dr. Spies and
18 other scientists. He recently went down to look at both Monterey
19 Bay and one of the other projects, working that to try put together
20 the actual part of the facility with the architect that will be
21 used for research of seabirds and marine mammals, and that this
22 project then, project description, including architectural design,
23 and identifying those portions which have to do specifically with
24 the research and monitoring efforts. In addition to that then,
25 identifying those parts which may not be permissible under the
26 terms of the MOA and Consent Decree, and we have been talking with

1 federal Trustees and will continue to talk to federal Trustees
2 about the opportunity for other potential funds which would cover
3 those costs which wouldn't fit under the Consent Decree. He, Kim
4 Sundberg, will be preparing a full report, both of -- of all of
5 those aforementioned meetings -- scientists, the University and his
6 recent visit both to -- primarily to do with aquariums, but -- both
7 aquariums, but having to do specifically the tanks and research
8 capability at the University and the recent visit to those at the
9 University of Washington and preparing a report to us about that
10 and then a separation of the two particular aspects -- research and
11 monitoring can be funded with the civil trust -- and those costs
12 which may not be funded with civil trust and what those are. We
13 will then bring that back before you. In addition to that, Kim
14 Sundberg, we have asked and he will be providing a type of monthly
15 report from here on out regarding the progress on this effort. The
16 time-line we put on our critical path analysis for those
17 (inaudible) taking place, so is the scoping meeting, the public
18 review and hearings on the DEIS will begin on the 20th. In the
19 meantime, Kim is putting together a description of the project that
20 does what I just said, and what you directed me to do is to bring
21 that back to the Council, including a discussion of the integrated
22 funding approach, before we got out on June 20th with a draft EIS,
23 and it would be after the DEIS on June 20th and August 22nd.

24 MR. WOLFE: I think Mr. Pennoyer brought up the point
25 that several of us were interested on coming together at some point
26 here before the (inaudible) .

1 MR. AYERS: And, Mr. Chairman, members of the
2 committee, part of it has to do with the amount of things are on --
3 that actually we're trying to get accomplished in seven months.
4 This one in particular has not fallen by the wayside, but most of
5 what's going on right now is Kim Sundberg's research in trying to
6 work with the agencies, including the University to get a clear
7 understanding, and sometimes in order to get that understanding it
8 ends up being negotiation, as you can understand. The architects,
9 at the same time, are struggling with how to describe a particular
10 aspect that is going to be research and monitoring as opposed to
11 something that might not be eligible. So, we will have a full
12 report back to you, and I apologize that it's not moving -- the EIS
13 part of it is moving along as scheduled -- a description and the
14 work with the architect describing what's permissible under the
15 civil trust versus what is not is becoming more complex. The
16 architects are having some (inaudible) difficult.

17 MR. WOLFE: Mr. Pennoyer?

18 MR. PENNOYER: Mr. Chairman, I move we approve the
19 requested eighty-three thousand dollars for this project.

20 MS. WILLIAMS: I second.

21 MR. WOLFE: I have a motion to approve the additional
22 money for NEPA work on Project 94199, and it's been seconded. Any
23 objections? No objection, funding approved. The next item is NEPA
24 compliance for '94 projects.

25 MR. AYERS: Eric -- is Eric on line? Eric, are you on
26 line? Is Anchorage on line?

1 MR. MYERS: Yes. I'm on line.
2 MR. AYERS: Is anybody on line?
3 MR. MYERS: Can you hear me?
4 MR. AYERS: Barely.
5 MR. MYERS: Hello?
6 MR. AYERS: Eric?
7 MR. MYERS: Yes, it is.
8 MR. AYERS: Okay. Eric, we're just about to talk
9 about the NEPA compliance status report.
10 MR. MYERS: The information in the status report is
11 simply, as shown, a status of the various projects that require
12 some sort of NEPA compliance in the form of an environmental
13 assessment or an environmental impact statement, and that's an
14 informational status report that I'm in the process of updating
15 continually. In fact, there's even a more current version than the
16 one that was provided for the Trustee Council, but if there are
17 questions regarding specific projects and their status, they should
18 probably be directed to the respective liaison, as identified on
19 the sheet.
20 MR. AYERS: Okay, and in particular, each of these
21 projects have activities taking place, but no project will proceed
22 without the EA being completed.
23 MR. MYERS: That is correct.
24 MR. AYERS: Okay. I guess to proceed, we have already
25 talked about the Seward IMS one, but others -- that each of these
26 has EAs that are in process, and that the three (inaudible) well,

1 except for the Marine Science, have been combined.

2 MR. WOLFE: Any questions on the NEPA for the '94
3 projects at this point? Okay. If there are no questions, we'll
4 move on to the next item. We're making good progress.

5 MR. AYERS: The last -- the next item is new business,
6 Mr. Chairman, and those are under the new business portion of your
7 packet. Why they're in reverse order, I'm not sure. Perhaps
8 that's the way we're numbering now, I don't know. I lost track of
9 that, and I think -- these literally got up to -- into an airplane
10 just that morning -- Friday morning -- so there are a couple of
11 items that I will mention, that changes -- again, I can't say too
12 much and so I don't feel like I'm being redundant to say that the
13 staff went far beyond any normal commitment that I've seen in terms
14 of getting this out the door, and there are a couple of numerical
15 changes that I want to present immediately. On the face of the
16 memorandum under this project, 94428, this is restoration planning
17 and implementation, the actual dollar amount is ninety-nine point
18 two, not ninety-nine point one, and I think it has to do with the
19 addition as the time has gone on. In addition to that -- eh, the
20 detailed work plan actually supports the ninety-nine point two.
21 Since the new project has been designed and implemented to be a
22 one-time-only planning process to coordinate with state and federal
23 agencies in affected subsistence communities to identify
24 subsistence restoration efforts, I'm not sure about proposals at
25 this point, but certainly to work together with the agencies and
26 the communities to identify specific subsistence efforts for the

1 FY95 work plan, but to ensure that they are subsistence users
2 involving (inaudible) in the FY95 planning effort, but more
3 specifically, the '95 effort as it relates to the five million
4 dollar appropriation of the Exxon Valdez criminal settlement funds
5 to the State of Alaska. The State of Alaska criminal settlement
6 funds were made available for subsistence efforts at the meeting
7 and there were several questions regarding civil trust limits, in
8 terms of actually going forward, as you all know much better than
9 I, with actually funding services as opposed to resources related
10 to services, and the State of Alaska committed to work with the
11 subsistence communities and actually took a portion of their
12 criminal settlement funds, at the urging of the Trustee, committed
13 that to the subsistence communities through the Department of
14 Community and Regional Affairs. The Department of Community and
15 Regional Affairs reported at the January 31st meeting that, in
16 fact, they wanted to move forward, however they were having some
17 difficulty and subsequently reported that they don't have the
18 funds. They'll work with the communities and the other agencies,
19 including the federal agencies, to put together the unified
20 coordinated proposal. We said that if that's the problem, we would
21 bring it before the Trustee Council. The subsistence division at
22 the Department of Fish and Game has worked hard to detail a
23 proposal that's in your packet to describe how they would go about
24 working with the federal agencies in the communities and get
25 involved, and Jim Fall, who was at our forum and who I've known
26 quite some time, is well respected in both the research and

1 scientific community, as well as the actual subsistence
2 communities, would be the lead on this project. I think that it's
3 one of the foremost things that we can do working with the
4 subsistence communities right now is to actually fund an effort,
5 coordinate the restoration of subsistence planning projects. One
6 time only, ninety-nine point two million dollars. It will be a
7 joint effort: ADF&G, DOI-Forest Service.

8 MS. WILLIAMS: (Inaudible)

9 MR. WOLFE: Okay.

10 MS. WILLIAMS: Mr. Chairman?

11 MR. WOLFE: Ms. Williams.

12 MS. WILLIAMS: Yes, we agree very much with this project,
13 with one small modification, and that is that we encourage the
14 Council to adapt the language just a little bit to emphasize that
15 the purpose of these studies would be to study the natural
16 resources upon which subsistence and other services are based. We
17 think it is important to keep our focus on the natural resources,
18 so this is consistent with the various agreements, settlements, and
19 so, with that change, we would wholeheartedly endorse this project.

20 MR. TILLERY: Mr. Chairman?

21 MR. WOLFE: Mr. Tillery.

22 MR. TILLERY: The problem with basing this strictly on
23 natural resources, any of the things that would be most effective
24 for subsistence may not deal particularly with natural resources --
25 trying to pass along subsistence knowledge or put it together, may
26 see things that aren't -- can't be traced to some particular

1 natural resource. This was part of a conversation with Jim Cole
2 (ph), State Subsistence Division. I think what the Department of
3 the Interior is alluding to is the old state-federal disagreement
4 about whether you can restore -- whether you have to restore only
5 resources under (inaudible). I would not like to see the
6 description be changed to limit us from going out and talking to
7 people about things that go beyond restoring natural resources. I
8 worry if you talk about replacing natural resources, I talk to the
9 legal justification for going out and buying (inaudible)
10 replacement for pink salmon, but I would find I couldn't go out
11 there and talk about doing something that would try to keep these
12 subsistence lifestyles going during a period of time when people
13 may not otherwise be able to engage it when their ability may be
14 diminished or lost. I -- I think we can work it out, but I don't
15 think we can work out today, and I am wondering if perhaps we can't
16 approve the funding for this proposal with some kind of a caveat
17 that over the next few days we are going to have to come to grips
18 with this. We need to make a decision on this. I mean, we can't
19 go out to the villages and say we don't know answers as to what
20 they can do with -- what we can do with the money. I don't believe
21 that's going to be acceptable. And if this requires going in front
22 of Judge Holland and asking him for a decision on this services
23 versus taking simply natural resources, that may be where we end
24 up. I would also (inaudible) the Trustee Council that Judge
25 Holland just recently issued a decision in which he rejected non-
26 economic assistance claims and suggested to the Natives that have

1 sued them that the Trustee Council has received -- the Trustees
2 have received settlement money and that the use of that money would
3 so remediate, in his view, some of those claims that they have.

4 MR. WOLFE: I think, Craig, what you're saying isn't
5 in disagreement with what Deborah was trying to make in her point
6 there, but our emphasis has always been on the resource end of it,
7 and we always early on in the litigation end of this issue dealing
8 with subsistence made it clear that subsistence as a federal or
9 state resource -- we've always talked about the resources used for
10 subsistence, and that's how we stayed out of some of the third-
11 party litigation. Maybe now, we're not able to stay out of that,
12 but I guess the sensitivities to that issue is still appropriate in
13 our view also. I guess the other thing is that the Department of
14 Agriculture, the Department of the Interior pointed out
15 appropriated dollars a pretty intensive subsistence use of injured
16 resources study in the oil spill affected area which probably none
17 of you ever saw, but we did fund that, and that information is
18 available and I think would go a long ways towards to satisfying
19 what you're looking for in this study. That study was done and
20 finished about six or nine months ago, maybe a year at the outside,
21 probably less than that. Pete Peterson (ph) was the principal
22 person putting the study together for the contractor that did the
23 work for us, so there's a lot of information that's been done at
24 this end already. So, I don't disagree with the project, I don't
25 think I heard Deborah Williams disagreeing with the project either,
26 but the sensitivity to possible litigation is our concern at this

1 point.

2 MR. TILLERY: What do you mean, the litigation by whom?

3 MR. WOLFE: Third parties, the users.

4 MR. TILLERY: Mr. Chairman, maybe (inaudible) what I
5 said about Judge Holland.

6 MR. TILLERY: I understand what Judge Holland said, but
7 there are different opinions on Judge Holland's actual opinion. He
8 said one thing one time; he said another thing in another -- in
9 (inaudible) summary. So, our attorneys are saying that it's not
10 clear exactly what he said, and that they are trying to clarify
11 what he said.

12 MR. TILLERY: As I suggested, perhaps this is one of the
13 times when we might want to ask him to clarify.

14 MR. WOLFE: Our role as a Trustee Council in dealing
15 with -- it maybe, and I would ask that you work with Maria and
16 Barry Roth (ph) to -- Barry is probably more up on it than Maria at
17 this point in time, but I don't think we want to stop this project
18 at this point in time. I think we need to be sensitive to the
19 attitude. We're really talking about -- we have first
20 responsibility for the resources not for those other factors, and
21 I understand what you're saying, but the uses are important, or the
22 services side of it are important and we recognize that. Okay, any
23 further discussion on this issue? Mr. Pennoyer?

24 MR. PENNOYER: Mr. Chairman, I don't disagree with the
25 concept either. I mean, we had a lot of subsistence-oriented
26 projects in the past for resources on the ground, including the

1 mariculture project which some of us liked but which maybe didn't
2 fit some of the concepts of what some thought the settlement monies
3 should be spent on, and so I think that issue is out in front of
4 us, and I guess this project would -- surface all sorts of
5 projects, the mariculture project might surface out of this
6 (inaudible) settlement monies and other projects might be
7 questioned. I guess my question is -- I'm going to vote for this
8 project, but in terms of how projects proceed through our review
9 process, has this project been given full public and peer review
10 type of aspect that we've asked of the other projects?

11 UNIDENTIFIED VOICE: Yes.

12 MR. PENNOYER: I suspect a lot of this has been part of
13 other proposals which have come to us over the last year as
14 subsistence, and I'm not clear if that takes care of it or not.
15 Mr. Ayers, do you view this as having an adequate review for us to
16 vote on it at this time?

17 MR. AYERS: Mr. Chairman, Mr. Pennoyer, in honesty I
18 would say no. That in terms of what I know you to believe
19 adequate review is, I do not believe that this project description
20 as its outlined has had adequate review. I think that given
21 guidance, I think the public has looked at the subsistence issue in
22 terms of projects -- there was a project, a subsistence project
23 that went out during the '94 work plan -- there were actually two
24 that talked about subsistence, I can't remember, and they were
25 approved and there was discussion. With regard to -- and I think
26 this is the result of all that discussion in January 31st -- that

1 it is an outcropping of -- there were ten -- there was a lot of
2 discussion about subsistence about insufficient effort in the area
3 of subsistence and what we need to do, but I -- what I would
4 recommend is that we work with the department and the federal and
5 state representatives and to (inaudible) the expanded projects of
6 planning and coordination, and that what you do is you authorize
7 this project to go forward with the understanding that I'm to work
8 with the state and federal attorneys in developing a project
9 description, but that the effort to develop the coordinated with
10 regard to subsistence and to come back with recommendations for you
11 and the state Trustees with regard to the use of the five million
12 dollars, and not get bogged in with that language that's in that
13 particular project description. So, you authorize the general
14 concept of the project and the funding, as outlined with the
15 various agencies, with the understanding that we would develop the
16 project description. That is in fact something similar to what you
17 do. You require a detailed project description, and after you
18 authorize the project before it goes too much further, it gets a
19 detailed project description developed. I would suggest that's
20 what we're talking about here and not get bogged down with that
21 language in the long (inaudible).

22 MS. WILLIAMS: I would concur with that approach.

23 MR. PENNOYER: Mr. Chairman, if we do that though, in
24 your view has (inaudible) adequate public input to this type of a
25 program to meet this approach. Essentially the project description
26 has occurred and the public has in fact (inaudible) what is

1 necessary and so forth. I'd like to at least have that down on the
2 record.

3 MR. AYERS: Yes, Mr. Chairman, Mr. Pennoyer, for the
4 record, it is clear to me that there's been more than adequate --
5 if there is such a thing -- but there is adequate public review and
6 comment and participation with regard to subsistence and the need
7 to have a coordinate effort in planning for subsistence restoration
8 effort. (Pause) And this project falls within those comments and
9 the public participation and the public encouragement and review in
10 this project is consistent with what we've heard from the
11 communities and the public regarding the need for a coordinated
12 effort of subsistence.

13 MR. PENNOYER: Mr. Chairman.

14 MR. WOLFE: Mr. Pennoyer.

15 MR. PENNOYER: And there is a detailed project budget
16 here. Is this the (inaudible) -- is this considered to be a
17 detailed study plan or is this a (inaudible -- extraneous noise).

18 MR. AYERS: No.

19 MR. PENNOYER: There's a fair amount of detail.

20 MR. AYERS: There's a fair amount of detail in that
21 project budget, and there will be a detailed project description,
22 but that budget would stay essentially as it is, and I think that
23 the people and the activity that is going to go forward to work
24 with the community is going to go forward. It's not going to
25 expand the budget.

26 MR. PENNOYER: This is -- this is the review of the

1 detailed study plan basically at this meeting. Would you
2 (inaudible -- extraneous noise) briefly characterize what the cost
3 is for, specifically what ninety-three thousand -- whatever --
4 ninety thousand dollars is going for for this project.

5 MR. AYERS: It's three different areas. I don't have
6 that project detail in front of me, but it's approximately eight
7 thousand dollars for the teacher -- do you have it? (Aside
8 comments) It's approximately twenty-four thousand -- yeah -- the
9 personnel sixty-three thousand nine hundred twenty-five dollars --
10 you have that page.

11 MR. PENNOYER: (Inaudible)

12 MR. AYERS: (Inaudible -- aside comments)

13 DR. MONTAGUE: (Inaudible -- out of microphone range) The
14 Department of Fish and Game is not (inaudible) -- staff wouldn't be
15 working -- would be working part-time or not.

16 MR. WOLFE: Mr. Montague, these are people who
17 wouldn't normally be out there on some of the other projects, is
18 what I understand you're saying. They are specifically for this
19 job or explain --?

20 DR. MONTAGUE: They're already on staff part-time, and
21 this is just utilizing their time. We are not taking on new hires.

22 MR. WOLFE: Mr. Pennoyer.

23 MR. WOLFE: The balance of it is the (inaudible).
24 (Pause) Absent the Chief Scientist review (inaudible) --

25 (Pause)

26 MS. MCCAMMON: Mr. Chairman, this is Molly McCammon. If

1 I could just amplify briefly, I think the main goal of this project
2 is to work -- is to do real intensive public outreach by this
3 project, working closely by the state and federal attorneys so that
4 we don't end up with a wish list of projects that are not really
5 cost permissible to fund but that we end up with a number of
6 projects that both the state and federal attorneys agree are
7 permissible under the terms of the settlement, and if they aren't
8 legally permissible, that might be permissible under the state
9 criminal settlement, and the idea is to work real closely with the
10 attorneys, work closely with the Trustee Council staff, work
11 closely with Fish and Game, Department of the Interior, Department
12 of Agriculture, and all the affected communities to develop this --
13 a comprehensive subsistence restoration -- effort, basically.

14 MS. WILLIAMS: Mr. Chairman, I agree with what Ms.
15 McCammon just said and, on behalf of the Department of the
16 Interior, we of course would like that Ms. McCammon and Mr. Ayers
17 would work closely with the Barry Roth(ph), and in agreement with
18 what Mr. Tillery said, if need be, if there simply cannot be a
19 consensus reached among the attorneys, we would not oppose
20 clarification by Judge Holland of this issue.

21 MR. WOLFE: Okay, any other pertinent questions?
22 Okay, I guess I have a question. Is this time critical that we
23 need to make a decision today, and I hear some of you saying that
24 it is. If that's the case, when would you need the requested
25 funding for this project?

26 MR. AYERS: The reason that it needs to go forward

1 today, Mr. Chairman, is that in order for us to be prepared for the
2 '95 work plan, we need to start working with the communities as
3 soon as possible in developing a subsistence comprehensive plan as
4 Molly described it, so those efforts can be described in such a way
5 that we can decide which part of that is appropriate for the civil
6 trust, which may be more appropriate for the state criminal
7 settlement funds, so that's the reason we brought it before you
8 today without having really worked through some of the more
9 detailed legal questions that are involved in the project. We need
10 to get it into the field this spring, and we're working with the
11 communities to get the pamphlet together so we can come back to you
12 with the '95 work plan, and also to get the state to move forward
13 with the funds that they've already received.

14 MR. WOLFE: The -- one further question, I would --
15 right now we fund each agency, each Trustee agency, to put together
16 project proposals to bring forward to the Trustee Council for
17 review, so this is not out of line with what we've already funded
18 for the agencies' to some degree, other than maybe magnitude here.
19 Can you comment on that?

20 MR. AYERS: I guess --

21 MR. WOLFE: I want this project to move forward. I
22 wondering if we could defer it a little bit and find out more about
23 what is in the Ag-Interior subsistence study that we paid for and
24 that just got finished a little while ago dealt with subsistence
25 use of injured resources and see if we could discover something a
26 lot more comprehensive by way of a project proposal, but at the

1 same time clarify some of the legal questions? Mr. Meacham?

2 MR. MEACHAM: I wonder if we could approve it for
3 funding at this point but as a requirement indicate that the study
4 discuss -- consider the development of more thorough (inaudible).
5 If your report is out and available, (inaudible) to be done.

6 MR. WOLFE: It is. It's not something that we made
7 publicly available to everybody, but the report is completed. It's
8 (inaudible) how to proceed with this project -- how do you want to
9 proceed?

10 MR. PENNOYER: Mr. Chairman.

11 MR. WOLFE: Mr. Pennoyer.

12 MR. PENNOYER: It's not a motion I have, but I was just
13 going to state my concerns, and that it's not legal, technically.
14 That has to be part of any proposal that comes before us, but there
15 is a question of who considers (inaudible) -- what's your expert
16 body that tells you what's the right amount of money to do this
17 particular job, review the projects objectively, both public and
18 household review. This is not in way dissimilar from the project
19 for ecosystem research, for example, adaptive management schedule
20 and Chief Scientist and so forth. I don't know if we've got a
21 chief anything in this. People proposing it is the Subsistence
22 Division of the Department of Fish and Game (inaudible) -- in doing
23 this type of thing, and I'm looking for somebody to tell me that
24 that has been done and that this is the key type of study that
25 hiring people at seventy-five hundred dollars a month is
26 appropriate for doing this project design and that these are the

1 appropriate expenditures, and you know -- if any of these project
2 proposals, for example, on the ecosystem project (inaudible)
3 project for Prince William Sound, I didn't try to delve into the
4 specifics of how you measure (inaudible) populations around the
5 annual cycle in Prince William Sound -- (inaudible) -- but I have
6 assurances that people and peer reviewers who do understand that
7 had reviewed it and have made their recommendations. I have sort
8 of a general recommendation here, but I don't know the specifics of
9 this study related to work we've already done or anything else for
10 this study. So, I think this is the type of plan we need --
11 (inaudible) -- I guess a motion to take into account what's been
12 done before, and for the Executive Director to work with the
13 project proposers, taking that into account, and then to approve a
14 detailed project not to exceed the amount that we've indicated, I
15 guess I so move.

16 UNIDENTIFIED VOICE: Second.

17 MR. WOLFE: Motion made to proceed with the project
18 essentially as proposed.

19 MR. BRODERSON: Mr. Chairman?

20 MR. WOLFE: Mr. Broderon.

21 MR. BRODERSON: Let's make it clear for the record, what
22 I think I heard was that we are to proceed with the description
23 with the caveat that the Executive Director work with the people
24 proposing the project, utilize the recently completed federal
25 study, and based upon that study either scale back the cost of this
26 project or appropriately (inaudible -- out of range of microphone

1 and extraneous noise).

2 MR. PENNOYER: The caveat also, Mr. Chairman, is that
3 they, during that process, take care of the legal question --

4 MS. WILLIAMS: Yes.

5 MR. PENNOYER: -- in whatever we are doing here doesn't -
6 - the folks understanding the legal requirements (inaudible) --
7 some additional step, I don't know -- (inaudible) back on the
8 Executive Director, absent a science review board or something
9 close to this type of thing, and I think that's what we have to do.
10 We agree (inaudible) -- get a certain plan back to us. We approve
11 it to continue with those qualifications, but at this stage, I
12 don't know exactly what it is that's required -- (Inaudible --
13 extraneous noise) -- starting outline, the caveats that were
14 brought up, going back to the Executive Director working with the
15 appropriate legal (inaudible) before the final -- (inaudible).

16 MR. BRODERSON: Mr. Chairman, is the Executive Director
17 comfortable (inaudible -- extraneous noise) with approval level of
18 this project (inaudible -- simultaneous comments).

19 MR. AYERS: Yes. Mr. Chairman, yes. That's
20 consistent with our -- and I think that it does require more
21 detailed project description that includes the clarifications that
22 you mentioned. It also includes what Jerome has mentioned that
23 there has been this other federal study, and if that federal study
24 is available, and it's not mentioned in this particular -- it's not
25 mentioned to date towards the program coordinating -- so to answer
26 your questions, Mr. Chairman, Mr. Broderon, is that I'm

1 comfortable and actually think that's good guidance with regard to
2 how to proceed with this project. In the event that we run into a
3 -- this particular question with regard to legal questions -- is it
4 -- I was going to wait until this was over to clarify it, but I
5 might as well do it during the motion -- is it this, the Trustees'
6 desire at this point to actually pursue that question with Judge
7 Holland, if it becomes necessary and the state, in discussion
8 between the state and federal Trustees?

9 MS. WILLIAMS: Mr. Chairman, that is my desire.

10 (Inaudible aside comments)

11 MR. WOLFE: There's additional clarification though,
12 I would expect that if it's going to be elevated, for it to come
13 back to the Trustee Council for discussion before we -- and I think
14 we almost have to have that.

15 MR. AYERS: So, Mr. Chairman, with that understanding
16 then, if we do proceed -- we will proceed, we'll go -- we'll work
17 with the proposers, certainly the project coordinator -- actually,
18 the Department of Fish & Game, as well as (inaudible) -- and with
19 regard to the legal requirements, after talking to the federal and
20 state attorneys, get back to you what the status is prior to
21 actually having effort proposed to present to Judge Holland -- the
22 question goes to Judge Holland -- come back to you for (inaudible).

23 MS. WILLIAMS: Mr. Chairman, I call for the question.

24 MR. WOLFE: The question's been called. Any objection
25 to the motion? There are no objections, the motion carries.

26 MR. AYERS: Mr. Chairman, the next project is 94427,

1 the harlequin duck boat surveys and methodology testing costs.
2 This is the first project I ever had discussion about and continue
3 to -- and boat surveys continue to be a discussion. The items of
4 housecleaning, two things. First, the actual cost is twenty point
5 four in order to be consistent with the detailed project budget --
6 twenty point four thousand -- thousand dollars. (Aside comments)
7 The purpose of this particular project, and let me say, Mr.
8 Chairman, that in the course of the last thirty days, I have had at
9 least twenty hours of discussions regarding the harlequin duck
10 project and study, and I am comfortable in response to the
11 question, do I think this has been adequately reviewed? The answer
12 is unequivocally yes. This is exactly what ought to happen with
13 this project. I sat with a variety of the scientists at the
14 Department of Fish and Game, I've talked with the Chief Scientist
15 and others about this, I've talked to other bird experts about this
16 particular issue, and had a teleconference three weeks -- just
17 before the forum -- on this particular project, and in fact this
18 project falls consistently within the adaptive management approach,
19 which is what they propose to do is go (inaudible) final to date
20 all the studies that they've done regarding harlequin ducks,
21 including the surveys, what they think, and develop a methodology
22 of how to proceed. Now, that's what was explained to me, that was
23 exactly what was going to occur from Mr. Rosie (ph) and Mr. Wayne
24 Raglan (ph), that they look, bring closure to those studies, and
25 develop a methodology with regard to how they are going to proceed,
26 what was necessary in terms of harlequin duck future monitoring and

1 research. This particular project is supported by the Chief
2 Scientist who recommends the study await the results of the FY92
3 and 93 field reports, which have not been finalized. Now, it is my
4 understanding that there is a commitment that those will be
5 finalized, that --

6 DR. MONTAGUE: (Inaudible -- out of microphone range)

7 MR. AYERS: Yes. We are told it will be get done is
8 the point, Mr. Chairman, and nothing will happen until those
9 reports are completed, and that in fact the proposers, in this
10 particular case, developed the methodology of classifying the
11 agents composition in the region. They are going to proceed this
12 year with this particular project with a minimal survey to just
13 maintain this year's survey. They will go back in FY95, having
14 completed the finalized report -- having finalized the '92-'93
15 field reports -- and this '94 effort, including the development of
16 a methodology that they will then incorporate into our long-term
17 monitoring effort for harlequin ducks. This does not include the
18 taking in the legal -- in the legal -- lethal sense of harlequin
19 ducks. (Pause) Our recommendation again is twenty point four.

20 MR. WOLFE: Do we have a motion?

21 MR. PENNOYER: Move we approve at twenty point four
22 thousand dollars for the harlequin duck boat survey and methodology
23 testing (inaudible -- extraneous noise) designs for future
24 (inaudible) next year.

25 UNIDENTIFIED VOICE: Second.

26 MR. WOLFE: Discussion? Any objection? Hearing no

1 objection, the project is approved.

2 (Aside comments)

3 MR. WOLFE: Okay. Mr. Ayers?

4 MR. AYERS: Yes, Mr. Chairman -- sorry, Mr. Chairman.

5 MR. WOLFE: Mr. Tillery?

6 MR. TILLERY: Now, that we have approved a few more
7 hundred dollars worth of funding, the status of the court request
8 comes up. The issue is whether we should go ahead with the court
9 request that you've all signed for the third time, or whether we
10 should do a new one, and I think it would have to do with whether -
11 - timing. We've got -- before we put up the (inaudible) signs, we
12 get a grasp of the papers -- the Department of Justice is looking
13 at it now -- we hope to be able to get out with this tomorrow or
14 the next day. If we wait and do a new court request with the new
15 resolutions, we have to find everybody. On the other hand, going
16 to back to Judge Holland with the two hundred thousand dollar court
17 request is not going to be looked upon favorably. If we don't redo
18 this current one, I would prefer to wait and add these in when we
19 go in for the twelve million from the reserve fund when we get that
20 resolved, hopefully within a week or two. That's the choice I see.

21 MR. WOLFE: Any comments on that end of it? I was
22 under the impression that we needed sort of a hand with the court
23 request to get funding available as soon as possible, so we
24 probably do not want to delay the one that's making its way through
25 the process right now. So, I guess it would be prudent for us to
26 wait until we combine this with the twelve million -- do we want to

1 vote on that, or do we just want to --?

2 MR. MEACHAM: This is just a question. Is there
3 reasonably good probability that this can be taken care of in the
4 next thirty days.

5 UNIDENTIFIED VOICE: Yes.

6 MR. MEACHAM: I think that's a good option.

7 MR. WOLFE: Can we proceed along that line? Okay. Do
8 we need a motion to.

9 (Simultaneous comments)

10 MR. WOLFE: That was my point. Mr. Ayers?

11 MR. AYERS: I know people are anxious to leave. I
12 wanted to clarify three things. One, that in fact we don't
13 anticipate a meeting now until probably June, depending on what
14 we're able to accomplish with getting out the draft FY95 work plan
15 and our effort for implementation with the science -- the
16 implementation structure and the completion of a draft EIS -- is
17 being put together -- but we anticipate probably a June meeting.
18 The issue of habitat package is subject to the appraisal issue and
19 the questions that Commissioner Sandor raised with regard to
20 habitat, that debate, that issue will come back to you once we've
21 got the appraisal and we're involved in that situation, that will
22 come back to you. I don't anticipate that's going to be until late
23 summer. With regard to your review of the DEIS and the FY95 work
24 plan, we're hoping that will fall in June, but it very well could
25 fall between June and August, in which case it would be a July
26 meeting. So, I just put that before you so that you're aware that

1 at this point the next time I officially meet with you, outside a
2 teleconference, an official meeting, would probably be June, and
3 then it depends on either the EIS, FY95 work plan, and how far we
4 are along, and the effort on acquisition and any problems that we
5 may run into there, that would depend on whether it was July or
6 August before we get that together.

7 MR. PENNOYER: We await your command -- (inaudible)

8 MR. WOLFE: Mr. Broderson?

9 MR. BRODERSON: Point of clarification there, you're not
10 apparently planning then to bring back the 95 work plan to the
11 Trustee Council before it goes out, including the draft (inaudible
12 -- extraneous noise)

13 MR. AYERS: I don't know when that will be available,
14 and if the '95 work plan -- if you look at the time-line of the '95
15 work plan -- workshop of priorities, etcetera, public solicitation
16 of FY95 projects, development of draft work plan and budget happens
17 on June 1st, it's not clear to me that there would be an actual
18 package to bring before the Trustee members, and I don't see that
19 happening in the -- before the end of the next forty-five days.
20 There will be a meeting in June, but I'm guessing that it will be
21 June before we actually -- that's forty-five days, and I can't
22 imagine what package is together for the Trustee Council --

23 MR. BRODERSON: (Inaudible)

24 MR. AYERS: -- but the answer is, yes, I don't
25 anticipate meeting in the next forty-five days, unless, you know,
26 something unforeseen situation develops -- there's certainly been

1 a number of them today. I do intend to proceed as I spoke during
2 the habitat acquisition with sellers and interest groups -- if
3 we're contacted, if they're interested, we intend to proceed with
4 that discussion, and basically, we will get back to you on an
5 individual basis as that proceeds.

6 MR. WOLFE: Any further business? I think Mr.
7 Pennoyer made a motion to adjourn.

8 MR. PENNOYER: I move to adjourn.

9 UNIDENTIFIED VOICE: Second.

10 MR. WOLFE: Objection? Motion made to adjourn, any
11 objection?

12 UNIDENTIFIED VOICE: I don't care. (Laughter)

13 MR. WOLFE: We are adjourned.

14 (Off Record at 4:30 p.m.)

15 END OF PROCEEDINGS

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

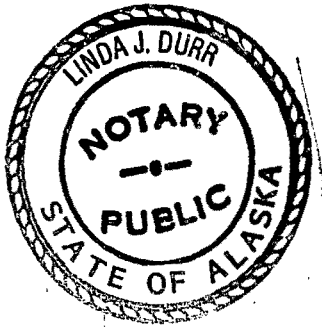
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 102 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council teleconference meeting taken electronically by me on the 11th day of April, 1994, commencing at the hour of 1:00 p.m., at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

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

DATED at Anchorage, Alaska, this 18th day of April, 1994.



Linda J. Durr

Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/97

