

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

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RESTORATION OFFICE
Simpson Building
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Anchorage, Alaska

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

Trustee Council Teleconference Meeting

VOLUME IV
(Continuation of April 28, 1994 teleconference)
(Pages 56 through 140, inclusive)

May 31 1994
1:00 p.m.

TRUSTEE COUNCIL MEMBERS in attendance:

State of Alaska

MR. CRAIG TILLERY
Trustee Representative for
BRUCE BOTELHO, Attorney
General, Alaska Department of
Law

State of Alaska Department
of Environmental Conservation

MR. JOHN SANDOR, Commissioner,
and **MR. MARK BRODERSON**,
Alternate

United States Department
of the Interior

MS. DEBORAH WILLIAMS, Trustee
Representative for **GEORGE**
FRAMPTON, Assistant
Secretary

State Department of Fish
and Game

MR. CARL ROSIER
Commissioner

United States Department of
Agriculture - Forest Service

MR. JAMES WOLFE, Director,
Engrg & Aviation Mgmt

United States Department of
Commerce - NOAA

MR. STEVE PENNOYER
Director, Alaska Region,
National Marine Fisheries
Service

TRUSTEE COUNCIL STAFF

MR. JIM AYERS	Executive Director, Trustees Council
MS. MOLLY MCCAMMON	Director of Operations
MS. L.J. EVANS	Public Information Officer
MR. ERIC MYERS	Project Coordinator
MS. REBECCA WILLIAMS	Executive Secretary

OTHERS IN ATTENDANCE in Anchorage/Juneau/via teleconference

BARRY ROTH, U.S. Department of Justice
KIM SUNDBERG
DR. DAVE GIBBONS
DR. JOE SULLIVAN

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1 MS. WILLIAMS: I move to approve.

2 MR. PENNOYER: Does anybody have any additions -- is

3 there a second to that --

4 UNIDENTIFIED VOICE: Yeah.

5 MR. PENNOYER: Is there any discussion, does anybody have

6 additions to that agenda?

7 MR. SANDOR: Excuse me, what is the fourth item?

8 MR. PENNOYER: The fourth item is something called "2:30

9 p.m. executive session on habitat protection and acquisition

10 strategies."

11 MR. SANDOR: I guess (inaudible -- extraneous noise)

12 (Aside comments)

13 MR. PENNOYER: I guess the whole point of this agenda, I

14 am going to announce the fact we will be having an executive

15 session on habitat protection and acquisition strategies at about

16 2:30, depending on the progress of our new discussions, and after

17 that is over, of course, we will reconvene and summarize that

18 before we call it a day. Are there any other additions? I have

19 one addition. I have a resolution here for Michael Barton. I'd

20 like to get that in under the -- maybe right off the bat, if we

21 can. Are there any other additions? (Pause) Is there any

22 objection to the agenda as shown? (Pause) -- No shuffling of

23 papers -- Okay, everybody has gotten an agenda. Now, have you had

24 a chance to look at it -- does anybody have any further comments?

25 UNIDENTIFIED VOICE: Call for the question.

26 MR. PENNOYER: Okay. Is there any objection to the

1 agenda, as outlined, with one modification as stated. (Pause -- no
2 audible objection) Maybe, we could do that right off the bat then.
3 I have here the resolution of appreciation for Michael A. Barton,
4 recognizing his outstanding leadership and dedication as Trustee
5 Council member for the U.S. Department of Agriculture in the Exxon
6 Valdez Oil Spill Trustee Council. Perhaps, I'll very briefly read
7 it, probably too fast for the recorder, but I'll pass it -- we'll
8 have it in writing. "The Exxon Valdez Oil Spill Trustees Council
9 expresses its profound appreciation to Michael Barton for his
10 extraordinary leadership and stewardship as the Trustee Council
11 member, U.S. Department of Agriculture in the Exxon Valdez Oil
12 Spill Trustee Council. At the time of the spill, during response
13 and damage assessment, as well as subsequent planning and
14 implementation, and administration activities Michael Barton always
15 brought exceptional judgment and insight to the process of
16 formulating policy for the restoration of the injured natural
17 resources and the services they provide. Michael Barton's
18 dedication to service and his composure under pressure contributed
19 significantly to the Trustee Council's design of a balanced
20 approach to restoration of the oil spill affected area. The
21 Trustee Council unanimously commends Michael Barton for his
22 professional friendship and wish Mr. Barton well in future
23 endeavors.

24 MR. SANDOR: Move adoption.

25 MS. WILLIAMS: Second.

26 UNIDENTIFIED VOICE: Second (simultaneously with Ms.

1 Williams).

2 MR. PENNOYER: Is there any objection? (No audible
3 objection). I will then pass this around for signature during the
4 course of the meeting.

5 So the next item on the agenda -- I think we've done the order
6 of the day, I believe, by reading through the agenda and schedule -
7 - the next item is approval of meeting notes from April 11th and
8 28th and May 2nd and 3rd, and I believe those are in the notebook
9 that was passed out, that we -- do we want to do that now or does
10 anybody wish to take a few more minutes to look at them during the
11 course of the meeting and perhaps come back and approve them toward
12 the end? Is there any preference? (Pause -- no response) Do I
13 have your approval then?

14 UNIDENTIFIED VOICE: Move to approve.

15 UNIDENTIFIED VOICE: Second.

16 MR. PENNOYER: Is there any objection to their approval?
17 (Pause -- no audible objection) The meeting notes of the dates
18 read are therefore approved. I think then the next item is the
19 Executive Director's report. Jim, that's you.

20 MR. AYERS: Thank you, Mr. Chairman, the purpose of
21 today's meeting, Council Members and members of the public, is to
22 apprise the Council, at your request, of all of the activities that
23 are currently being undertaken to implement your direction of a
24 comprehensive restoration program, including the policy directions
25 that have been given over the course of the last one hundred and
26 twenty days in that some way modify that course or give more

1 specific direction. On the wall behind me and as was circulated at
2 the last meeting -- we tried to put it in an overhead, and that
3 didn't work, and then we went to this version which also is a
4 (inaudible) visual -- (inaudible -- simultaneous talking). The
5 individual copies of this that are being circulated are in essence
6 -- there are eleven major efforts and a multitude of tasks within
7 those efforts being undertaken today. Those are the items that we
8 will be discussing: the restoration plan, including the EIS
9 process; the implementation management structure, including the
10 development of a science approach to implement the ecosystem
11 approach at your direction; the FY95 work plan process that has a
12 variety of changes to it, subject to your direction; there is the
13 update on work projects, including the '94 work plan, which is
14 referred to in our report as project status; there is the Institute
15 of Marine Science, which is moving forward, we'll be discussing
16 today; public information and communication, specific items at your
17 direction; as well as habitat protection issue which we will air
18 out in general as an overview to a closed session and specific
19 negotiation discussions and the strategies during executive
20 session; there's a financial and administration report that is also
21 ongoing that we will cover, and a discussion of the restoration
22 reserve is a part of that administration and financial report. The
23 majority of the items on the agenda are a part of that critical
24 path analysis, except for the two items under the --. Under "new
25 business" there are two items that I believe require Council
26 action, one way or the other, those are the negotiations with

1 regard to two sellers who are recently contacted us. I do not want
2 to describe them as willing sellers, but they are interested in
3 discussing such with us, that's Tatitlek and Chugach Corporation.
4 There is also the subject of conversation that I would like for you
5 to at least consider and that is what about others that may contact
6 us with regard to authorization to proceed at least with looking at
7 the value and ranking that and bringing that back before you. The
8 other items under "new business" is the transfer of some twenty
9 thousand dollars from project 94165, which was a herring genetic
10 stock identification project, which is being taken care of, to a
11 project -- which is 94427, which is a harlequin duck survey and
12 methodology testing which we will discuss, and it is my
13 understanding that Joe Sullivan is on line in Anchorage to discuss
14 that issue. At 2:30 then, we will go into executive session. Back
15 to the issue of those items which are before you -- and I do want
16 to -- just one of the items that will be covered today are part of
17 the overall restoration plan implementation which you have directed
18 us to move forward on. This graphic was first discussed at our
19 January 31st meeting and shows that your direction (inaudible) a
20 balanced, comprehensive approach to restoration, including that
21 area which we now know, based on many of our monitoring and
22 research projects will go on beyond the year 2000, which is the
23 creation of a restoration reserve. There are, obviously, three
24 major areas: general restoration, research and monitoring, and
25 habitat protection. (Inaudible) the restoration reserve, which is
26 something we will discuss under the financial report. The basic

1 organization chart between -- the staff will be presenting the
2 projects that are underway now, if you can see this, this is
3 essentially the organizational chart that we have adopted that you
4 had authorized in November. This particular organizational chart,
5 with some modification, and I will be requesting authorization to
6 modify the organizational chart, subject to the needs that we are
7 now aware of, at our next meeting, which will be in August. The
8 next -- if you go to it -- the next chart actually shows the four
9 major policy directions that you've given with regard to planning
10 and management, that we should -- to develop an ecosystem approach,
11 that we should evolve a synthesis of integration of all of the
12 research, including the past research that's been going on, that
13 there should be an adaptive management approach to this process,
14 and that there should be an explicit public involvement component.
15 The adaptive management -- I think that's the next chart, I'm not
16 sure -- (aside comments). We now know that that direction -- we've
17 had five different work sessions, three major work sessions with a
18 variety of scientists and staff. This is in your packet, it's an
19 organizational chart, somewhere in the back, which I will be
20 proposing in August for adoption for the '95 work plan. This is
21 the chart that we distributed, I guess, the first time in April
22 after discussions with the scientists, but basically build the
23 organizational structure on an ecosystem approach. It divides it
24 into nearshore, the upland or the pelagic system, including the
25 various human uses, it establishes work groups for an ecosystem
26 approach of fish, birds, mammals, nearshore organisms and the

1 archaeology. Those groups approaching the issue of ecosystem
2 management -- the issue that is going to take some conversation
3 we'll be discussing over the next two weeks is a science review
4 board. A science review board will work with the Chief Scientist,
5 will be a small board of three to five members, they will work with
6 the Chief Scientist in integrating and synthesizing the information
7 to assure that the gaps are being met and the (inaudible) are being
8 identified from an ecosystem point of view. They will work with
9 the various groups, the fish, the birds, mammals, nearshore,
10 archaeological work groups to ensure that there is an ecosystem
11 approach, not just singular, independent specie projects. The
12 science review board will also work to identify gaps in information
13 that need to be filled or even propose new hypotheses that ought to
14 be looked in the event of continuing declines in specific injured
15 resources. The science review board will also work with the
16 Executive Director and the Trustee Council in reviewing proposals.
17 It does supplant the peer reviewers. There will still be
18 individual, specific peer reviews or specific talents or
19 disciplines. The science review board would bring the synthesizing
20 to all of the various data (inaudible) projects and monitoring into
21 a coordinated effort with recommendations on how to move forward.

22 MR. PENNOYER: Excuse me, Jim, would the science review
23 board have anything to do with the peer review process though?
24 They coordinate it instead of the Chief Scientist trying to do it
25 by himself?

26 MR. AYERS: Yes. They would work -- and that is

1 exactly the conversation that's been going on with the scientists,
2 and I will circulate a proposal as soon as we get it together on
3 the major function of the science review board. They would work
4 with these various coordinating committees in identifying what we
5 know today. They would also work with those groups to identify
6 gaps, what might be other problems. Then they would also propose -
7 - for example, there may not be a marine mammal expert on the
8 science review board, and in the event, let's say, there's a harbor
9 seal issue, they would have those projects sent out for the peer
10 review after discussion of what do we think the problem is, let's
11 say, with harbor seals, what might be a project, those projects
12 that would come in having to do with harbor seals, they would sent
13 out to a peer reviewer, would be a marine mammal, hopefully a
14 harbor seal expert. The science review board, the effort there
15 would be to reinforce and bring additional synthesizing discipline
16 to our science program. The only item that was of major dissention
17 -- leave it up there for just a second, Molly, because we'll come
18 back to it when you talk about public input -- the other item is
19 that we have consistently, at every meeting over the last two
20 months of the scientists, have invited public members, including
21 members of the PAG or representatives of the PAG. And so, we've
22 also, and they have participated in the development of this
23 particular organizational chart which is showing that they're not
24 just a separate entity, but they are part of the actual planning
25 and review of information. They, in addition, as through our
26 subsistence project that you authorized previously, the communities

1 would also work and have a representative or public members who
2 work in each of the respective work groups: fish, birds, mammals,
3 nearshore, and archaeology. The adaptive management chart is the
4 next one up there. This is the adaptive management chart that you
5 saw a first draft of on April 7th that came out of the science work
6 group, an effort of a variety of scientists, and when I say
7 scientists, that includes some of our independent scientists, as
8 well as our State scientists. We brought in the various PIs, as
9 well as Dr. Spies and a few of his peer reviewers. The adaptive
10 management process is simply that. It is taking the development of
11 project ideas, using that for the formation of a draft annual work
12 plan, and that out for public review, and then before the Trustee
13 Council for authorization, then, to the extent possible, and we're
14 still working on this part of it, how to do RFPs and actually DPDs.
15 They would -- we would develop RFPs and go out with those RFPs
16 where appropriate, we would review a proposal and DPDs -- this will
17 be the SRB with the Chief Scientist. They will review proposals
18 and DPDs, subject to whatever that respective authorization was, to
19 the Council. The project would get implemented, there would be
20 interim reports, annually we would continue to do -- we would
21 formalize our status report and have an annual workshop to look at
22 what is the status, what did we find out in the previous year, they
23 would review and revise strategies, but within that, again, would
24 be the SRB leading a synthesizing and review of the information.
25 This would also be conducted with the other respective work groups:
26 birds, fish, etc. From that information we would make a decision

1 about what we thought we needed to do for the next or the following
2 or the subsequent year.

3 MR. TILLERY: Your -- your cycle here after developing
4 annual work plans, does it contemplate something in there about it
5 coming to the Trustee Council before it goes out for public review?

6 MR. AYERS: Yes.

7 MR. TILLERY: Is that part of developing an annual ...

8 MR. AYERS: Yes, and actually, we talked about that
9 several times, and it's -- this -- we had that discussion, and each
10 time we had the discussion, it was pointed out that that is
11 essentially how it has happened in the past, that it comes back to
12 the Council, and the Council actually has the presentation about
13 that particular -- about that particular work plan for each
14 proposal, although some of that should be screened out -- there are
15 some that are screened out -- but actually does come back to the
16 Trustee Council for authorization. The '95 schedule is where we're
17 talking about the work plan itself, those proposals, has got to get
18 out for some sort of public review prior to the Council meeting in
19 October. The question of the Council actually taking action on a
20 draft work plan before it's circulated, is an issue that we're
21 going to discuss when we get to Molly's point, because the '95 is
22 a problem. Frankly, there's a problem in the next ninety days of
23 how to get proposals in and get it back to the Council and still
24 meet a forty-five -- a thirty to forty-five days -- a thirty day
25 public review process. So, it's a problem in '95, and we're going
26 to talk about that specific issue when we get to the '95 work plan.

1 Okay, the next chart is one -- and I don't know if we have --
2 do we have copies of that made?

3 UNIDENTIFIED VOICE: (Inaudible response)

4 MR. AYERS: We'll get copies of that made if we don't
5 have them. (Aside) Would you have Mary make copies of that
6 (Aside comments). The Trustee Council is currently engaged in a
7 variety of activities that generate information and input. What
8 this proposal is is that we need to develop and integrated process
9 for information management. On the right hand side, this
10 particular chart talks about the research and monitoring. On the
11 other side, the Council has public input consistently coming in.
12 We also have, and we have been seeking, cultural and historical
13 information from a variety of sources from existing oil spill
14 baseline data. We have completed restoration damage assessment, as
15 well as the natural history of the oil spill area, that is being
16 put together. Currently, that information flows in a variety of
17 parallel tracks, but it is not organized. OSPIC is doing the best
18 it can, but it's at a process that was originally established by
19 Preston Thorgrimson, and it's not necessary -- necessarily lends
20 itself to getting that information into a usable format. What this
21 proposal is in a nutshell is that we will develop a system for
22 integrating that information. It would then be available to OSPIC,
23 -- and then on the left hand side that says educational and
24 informational coordinated system. What we're talking about there
25 is point-and-click access to our information -- our basic
26 information: what's the natural history of the spill area, what do

1 we know about the spill, what do we know generally about all the
2 injured resources, what is their current status; the basic
3 questions the public is asking us now. The problem we have now is
4 that we mail out bundles of information, including that which is
5 submitted by what is ever on the street available from private
6 donations, so to speak, of information. We mail it out in hard
7 copy, bundled, instead of having an integrated, easy access to the
8 information that people are requested. And, again, the easiest way
9 to look at it is point-and-click access to the current status of
10 the injured species. On the other side of that chart is an
11 information system that would be available for managers and
12 scientists. Where is all this information that we have gathered
13 over the last five years? Currently, it depends which specific
14 piece of information you're looking for whether or not you can find
15 it. For example, much of the data is still residing within
16 agencies, where it probably should reside as far as detailed data.
17 However, we ought to at least be able to easily find out from a
18 menu where is that information. We ought, again, be able to have
19 easy to use, user-friendly information about the injured resources
20 and where the detailed information is, and you ought to be able to
21 find that in a matter of minutes. You cannot currently do that,
22 and we are spending close to a half million dollars a year on an
23 information system. It needs to be built around a system that is
24 user friendly, public accessible, as well as bibliography and
25 references available to science and managers.

26 MR. TILLERY: Jim, on looking at what you have go into

1 this system, I think it's maybe a philosophical question about what
2 they want to spend their money or how complete a repository of oil
3 spill information you want it to be, but you don't include response
4 information, stuff like shoreline oiling mess and those kinds of
5 things. Is it intended that response information be under OSPIC,
6 or is that going to stay for ever outside in state or federal
7 archives, or are you -- do you anticipate that OSPIC will be the
8 central place anybody who wants to know about the oil spill goes
9 to.

10 MR. AYERS: Mr. Chairman, Mr. Tillery, based on
11 everything I've heard from the public as well as some scientists,
12 I think that there ought to be a central location for information
13 regarding the oil spill. I think the shoreline oiling information
14 ought to be at least referenced and at least easily found through
15 this window. So, the answer to your question is I think that
16 information ought to be easily identified under the existing oil
17 spill area baseline info'. The oiling of shorelines, it seems to
18 me, you ought to be able to go under "menu," look at area, find
19 Green Island or if you want to know the oiling of that island, you
20 would be able to -- it would have a reference of exactly where you
21 can go and find that information. I don't know if that information
22 needs to be or is in archives today. But my view is, you ought to
23 be able to find that easily. The question of whether or not the
24 hard copy should be located in this OSPIC, I don't know. It seems
25 to me, it would be, but if it's easily accessible and it's already
26 in the State archives, perhaps that would satisfy, but it seems to

1 me like it could be in one location.

2 MR. WOLFE: Mr. Chairman? I have a question, Jim, and
3 it relates primarily to -- at one point I thought we were looking
4 at opportunities to move the Oil Spill Information Center into a
5 more public forum, rather than just have the Trustee Council
6 continue to manage that. Does this accommodate that other -- or is
7 it leading us to that at some point?

8 MR. AYERS: We talked to both -- Mr. Chairman, Mr.
9 Wolfe -- we talked with the University system, we talked with the
10 independent library association, we talked with the BLM, who has
11 the library in Anchorage. They're not necessarily interested at
12 this point. Not -- not -- what they want is to know if we would
13 endow, so to speak, a library staff. What I think is we need to
14 build what it is we want to see and then make a decision about
15 whether or not the Council -- and this is not before you as a
16 proposal today, but just letting you know that we're researching
17 this. It would come up as a proposed project, once we work out
18 some of those details. But the specific answer to your question
19 is, so far no one's interested. They're only interested in us
20 endowing, so to speak, a -- some sort of project. I guess what we
21 want to know is, first, how the Council would like to see this
22 project work, and then we'll go out with an RFP and see if there's
23 someone interested, and that would be the answer, or we would
24 actually just simply continue to have it in our facility.

25 MR. PENNOYER: Jim, are the projects all required to
26 produce interim and final reports? And in looking through your

1 list here, I notice that not very many of them (inaudible) that
2 task, but still there's going to be a whole body of those final
3 reports that are either final for specific time period or maybe
4 even final depending on what area of work. What are we going to
5 that? I mean, those are all presented through our Chief Scientist,
6 our science review board, reviewed by peers and all that stuff, and
7 some of them end up in symposia things -- (inaudible -- poor
8 teleconference quality) -- work is done, but is it produced
9 according to some standard that we put out? I'm not sure they're
10 all editorialized in exactly the same fashion or exactly the same
11 outline, but we are going to produce final reports and interim
12 reports, so it seems to me besides just the information where you
13 go for it, we are required to be presented to us some body of
14 reports that either we distribute them or they just end up like
15 (inaudible) reports (inaudible) downstairs, which are available for
16 reference, I think you have to deal with that as well.

17 MR. AYERS: Point well taken. There is a variety of
18 opinions about that right now. Mike Broderon and I talked about
19 that the other day, and it is my understanding that DEC has
20 actually looked at the technological capability of scanning
21 information into electronic databases, which is probably the more
22 prudent approach. Spies is very clear that at some point we need
23 to figure out what we're doing about all of these reports, and at
24 this point it's not something that certainly -- it's not in his
25 contract currently, but we looked at two options, and one, the most
26 recent one that I've heard of that seemed the most prudent was the

1 one that Mark Broderon had talked about last week, which was
2 scanning the information into an electronical (sic) database and
3 putting it on CD and

4 MR. BRODERSON: Very cheaply you can distribute copies,
5 electronic copies of the whole thing, produced for a few dollars,
6 rather than trying to reprint massive hard copies (inaudible --
7 out of microphone range).

8 MR. AYERS: We need additional research, Mr. Chairman.

9 MR. PENNOYER: Thank you. Any further questions on this
10 particular graphic? Okay. I forgot at the start of the meeting to
11 introduce the last voice you heard which was Jim Ayers, our
12 Executive Director, so I'll introduce him for those who won't be
13 here. Next -- do you have more in your report or are you . . .

14 MR. AYERS: No, Mr. Chairman, I just wanted . . .

15 MR. PENNOYER: . . . through with these various topics?

16 MR. AYERS: . . . I just wanted to give the overview,
17 and the rest of this -- are the people who are actually working on
18 each of those respective assignments, and I would propose that we
19 just continue right on through, Mr. Chairman.

20 MR. PENNOYER: You want to go ahead and introduce them
21 for the people in the tropics then?

22 MR. AYERS: June Sinclair is our administrative
23 officer, and June is responsible for the financial and
24 administrative details of the Trustee Council, and June has a
25 couple of overheads, although I'm not sure you're going to be able
26 to see that one, but it is in your packet (inaudible). Thank you.

1 MS. SINCLAIR: This is June Sinclair. I guess I'll start
2 with the court request. It's my understanding the requests number
3 six and number seven will be combined, (inaudible -- out of
4 microphone range) together. I have all the signatures now for
5 court request number seven, and I'll turn that over to (inaudible -
6 - out of microphone range) . . .

7 MR. PENNOYER: Excuse me, June, would you say what's
8 under six and seven. I'm not fast with the numbers yet.

9 MS. SINCLAIR: Sure, court request number six, the net
10 amount after interest will give a balance of thirteen point six
11 million dollars, and seventh court request is two point two after
12 interest.

13 MR. PENNOYER: But the first one is 1994 work plan, and
14 the second one is the added projects . . . that we approved last
15 time?

16 MS. SINCLAIR: Right.

17 MR. PENNOYER: . . . that we approved last time?

18 MS. SINCLAIR: The sixth court request covers all the
19 approval -- projects -- in the January 31st meeting, and the
20 seventh covers the (inaudible -- out of microphone range).

21 MR. PENNOYER: For some reason I assumed the first court
22 request was long gone. It wasn't?

23 MR. AYERS: Mr. Chairman, briefly, I would say that it
24 encountered more than just a discussion from the Department of
25 Justice in its review and has bogged down at the Department of
26 Justice level. I've had three separate conversations with Mr.

1 Brighton, who assured me two weeks ago that it would be released.
2 They wanted to be clear, at least in the conversations I had with
3 Mr. Brighton, they wanted to be clear that the Council was not
4 actually making obligations for long-term operating costs of
5 facilities, like hatcheries, without a more thorough review. We
6 assured them that that was not the case, that if they were going to
7 build or construct or engage in long-term operations of hatcheries,
8 we would sure like to sit down and talk to them about it, but that
9 was not the action the Council took. Now, to specific actions
10 which was in the work plan that was submitted, that they felt like
11 then we would clarify -- they were going to clarify that in some
12 letter that that was their observation at this point at least, as
13 far as the one point seven five million, and that the court request
14 would be released immediately. That was two weeks ago, and I was
15 somewhat surprised last week to find that it hadn't been released,
16 although Mr. Brighton told me today he, too, was somewhat
17 surprised. He thought he had authorized it to go forward, but it
18 has bogged down over further discussion. He assured me this
19 morning that that was no longer the case, and I understand that the
20 Department of Law has talked with Justice today.

21 MR. PENNOYER: Mr. Tillery, would you care to elaborate
22 for us where we are right now on court request number six?

23 MR. TILLERY: My understanding is that number six will
24 go out this week. We will try to combine the number seven, which
25 is the Eyak money and the additional three hundred thousand, with
26 six. If we can't get that done this week, six is going to go out

1 by itself. It would make more sense to add it all in and hit the
2 court one time, but I think at this point the problems with the
3 Department of Justice is ironed out.

4 MR. PENNOYER: It might be handy in the future if you
5 find out things we think are long gone, aren't long gone, to try
6 and let us know, would you. We might want to make phone calls on
7 our own and find out what's hanging up the decision.

8 MR. AYERS: Mr. Chairman, I apologize. I let the
9 liaison group know as soon as I knew, but I'd be glad to notify the
10 Trustees in any further delays with the Department of Justice.
11 It's my understanding, I think everyone's understanding, at least
12 mine, was that once it reached the Department of Justice that it
13 was going to move forward, which is what Mr. Brighton told me. And
14 how it bogged down and why, I suspect -- I know, in the future, Mr.
15 Chairman, I'll notify the Trustee Council with the delay, and I
16 suspect we ought to put a fifteen day time limit on the request
17 from the Department of Justice, unless they find that unreasonable,
18 and then if they're not going to get it out, that they notify us in
19 writing why they're not going to release the request.

20 MR. PENNOYER: If there are lessons to be learned, we
21 probably ought to know them so we don't do the same thing twice if
22 there's going to be a problem or . . .

23 MR. AYERS: Yes.

24 MR. PENNOYER: So . . .

25 MR. AYERS: It seems obscure to me. I'll try and
26 clarify what the process is going to be.

1 MS. SINCLAIR: The other issue related court requests is
2 the twelve million dollar reserve that was discussed and (inaudible
3 -- out of range of microphone and poor teleconference quality) . .
4 . and the specifics on that. Also in the packet are financial
5 statements. The first statement is up there on the overhead and
6 gives you an idea of what's been happening with the settlement
7 funds, (inaudible -- extraneous noises on teleconference) coming in
8 (inaudible), what disbursements have been made, and what funds are
9 estimated to be available. (Inaudible -- extraneous noises on
10 teleconference) . . . payment . . . (inaudible -- extraneous noises
11 on teleconference) . . . It's estimated at nine point nine seven
12 five (inaudible -- extraneous noises on teleconference) . . . made
13 in November of '94, '95, and '96. It will have to go back to the
14 court to request withdrawal of those funds. The next is (inaudible
15 -- extraneous noises on teleconference) . . . two and provide us
16 information on (inaudible -- extraneous noises on teleconference)
17 . . . activity . . . We are now including from the court an
18 accounting report on a monthly basis that lists out all the
19 expenditures, interest payments, the court . . . (inaudible --
20 extraneous noises on teleconference) . . . Basically, this package
21 are the (inaudible) financial statements and those are the . .
22 . (inaudible -- extraneous noises on teleconference) . . .
23 information and ties back to the court request authorization,
24 except the '92, '93, and '94 work plans, we only . . . (inaudible -
25 - extraneous noises on teleconference) . . . '92 update . . .
26 (inaudible -- extraneous noises on teleconference) . . . , and the

1 '94 work plan was (inaudible) activities to date. You will note
2 that there are some negative numbers in the '94 work plan, but
3 that's related to the court request not being processed yet. It's
4 not related to (inaudible -- extraneous noises on teleconference).
5 The State of Alaska projects (inaudible -- extraneous noises on
6 teleconference) fiscal year, and the legislature did extend that to
7 (inaudible) '95, so that is no longer (inaudible -- extraneous
8 noises on teleconference). The '95 work plan, we start working on
9 a detailed budget, . . . (inaudible -- extraneous noises on
10 teleconference) . . . in anticipation of (inaudible) and
11 identifying projects that need interim funding . . . (inaudible).

12 MR. PENNOYER: Questions on the financial statements?

13 MR. TILLERY: Mr. Chairman?

14 MR. PENNOYER: Yes.

15 MR. TILLERY: Are you going to be able to tell us what
16 we've earned on the money that's sitting in the court registry by
17 looking at their reports?

18 MS. SINCLAIR: Yes.

19 MR. TILLERY: The percentage of interest?

20 MS. SINCLAIR: Not the percentage of interest, but I can
21 tell you actual dollars.

22 MR. TILLERY: Can you find out the percentage of
23 interest and get back to us?

24 MS. SINCLAIR: Yes.

25 MR. PENNOYER: Any questions -- do you have a question on
26 the financials at this time, Jim?

1 MR. AYERS: No, Mr. Chairman. Only if there was a
2 change in either -- what I'm interested in mostly, and June and I
3 have talked about this, whether or not these statements are
4 satisfying your need to know. What we're trying to do is do both
5 things through these statements. One, is give you an overview of
6 the current status of the Exxon settlement funds, including the
7 receivables from Exxon and obligations against those funds, and
8 secondly, to give you a clear picture of the cash flow through the
9 actual joint trust held by the court registry. I guess the
10 quarterly reports -- I find the quarterly reports helpful, but not
11 necessarily thorough at this point because they have not reached a
12 point where we can tell whether or not agencies or even particular
13 projects are having a problem. We're getting better at that; we're
14 getting closer to being able to tell, but I think we're going to
15 continue to rely on the agencies themselves to tell us whether or
16 not they think expenditures are on track with regard to a project.
17 So, I guess, I feel like this is as fair as it can be at this
18 point. Questions by Craig are helpful because we know then to
19 include some of that information in the report itself. If there's
20 additional information you'd like to see, otherwise -- otherwise
21 we'll continue this format on a quarterly basis.

22 MR. PENNOYER: Jim, certainly one of the ideas here was
23 get enough so we can identify the problem areas, and I assume that
24 going through the morass of numbers, and we've generated more and
25 more numbers all the time, that you will identify for us any
26 potential problem areas and highlighted them . . . (inaudible --

1 poor teleconference quality).

2 MR. AYERS: Exactly. Mr. Chairman, that is my
3 understanding as well, and we are doing that. At this point, let
4 me say that at this point it is still difficult in some areas
5 because of what (inaudible) . . . We are beginning to see negative
6 numbers, which lights up everybody's bulb, and as we begin to find
7 those, it was clear that we were getting ourselves a fairly
8 substantial problem as a result of Justice's delay.

9 MR. PENNOYER: Commissioner Sandor.

10 MR. SANDOR: Mr. Chairman, I also believe it desirable
11 that these various reports get to the Public Advisory Group
12 (inaudible -- simultaneous talking) . . .

13 MR. PENNOYER: Did you distribute this to the Public
14 Advisory Group?

15 MR. AYERS: Mr. Chairman, yes, Commissioner Sandor,
16 that -- as I mentioned before they have a complete packet of this
17 information. We have been talking with them about that in advance
18 of this meeting. I appreciate the comment, and if there are
19 additional changes that you hear of -- we have talked with them and
20 contacted them and we have mailed this out to them.

21 MR. PENNOYER: Mr. Wolfe.

22 MR. WOLFE: Mr. Chairman, Mr. Ayers, the statement in
23 the report early on that a reserve account would not be requested
24 (inaudible) court registry, that an account would be set up within
25 the court registry to accommodate that. I guess I fail to see how
26 the court registry could be expected to set up an account without

1 having some request from the Trustee Council. Can you explain
2 that?

3 MR. AYERS: Yes, Mr. Chairman, Mr. Wolfe, we've only
4 recently found out -- I did not know that there was another level
5 of the Department of Justice. I mentioned it at the April meeting
6 that there is an Office of Legal Counsel -- there is an Office of
7 Legal Counsel within the Department of Justice that somehow has
8 additional jurisdiction beyond Mr. Brighton. The Office of Legal
9 Counsel has determined that a reserve outside of the federal
10 government control is unacceptable. However, they are willing to
11 accept, evidently, the third branch as government, so they are
12 willing to accept that there would be a reserve set up within the
13 court registry. Currently, I think as far as Mr. Tillery's
14 question, currently, the court registry simply invests at the
15 fifty-two week Treasury level, which is the lowest interest rate
16 possible. What we are trying to do is develop a plan to bring
17 before the Council, and we would ask the Council then to give some
18 instruction to the court registry with regard to investment of
19 balances. For an example, you do have the authorization to request
20 the court registry to invest in securities beyond five years, which
21 -- and we are certainly favoring those investments with an
22 understanding that we get a report about what -- what if you were
23 to decide or later the Trustee Council were to decide to pull it
24 out within that five years. You certainly -- as the feds tell me,
25 we run the risk of losing some of our earnings but not of the
26 principal, but even at that it would be a much higher return than

1 what we are receiving today. So we're -- I'm trying to understand
2 what it is that OLC will accept, we'll develop that proposal and
3 bring it back before you, but my understanding is the only thing
4 that they are willing to accept is an investment by the court
5 registry in longer term securities, and we would give them some
6 advice in doing that -- which would in fact, at this point, give us
7 more than a seven and a quarter percent interest return on even
8 Treasury -- longer term Treasury certificates -- as opposed to the
9 three and a quarter percent which we're earning, or estimated to be
10 earning, today.

11 MS. WILLIAMS: Mr. Chairman, I would move that that be
12 worked (inaudible -- poor teleconference quality) . . . by the
13 Executive Director prepare an option paper on . . . (inaudible).

14 MR. SANDOR: Second.

15 MR. PENNOYER: It's been moved and seconded. Any
16 discussion? An objection to the proposal?

17 MR. TILLERY: Mr. Chairman, to clarify, not just the
18 reserve fund, but all the monies we're holding.

19 MS. WILLIAMS: Yes.

20 MR. TILLERY: Including the ones that have federal
21 control, the court registry . . . (inaudible).

22 MR. PENNOYER: Any objection to the proposal? (No
23 audible objection) Craig?

24 MR. TILLERY: Thank you, Mr. Chairman.

25 MR. PENNOYER: That completes the financial reports. It
26 fairly clear, it's 2:00 and we're not going to get done in half an

1 hour we advertised for the executive session, so I guess we'll just
2 plow on and everyone on line will know we'll get there when we get
3 there. The next item is project status.

4 MR. AYERS: On the project status report, Mr.
5 Chairman, Eric Myers is unavailable today . . . (Laughter at
6 Anchorage) -- Is Eric on line?

7 MR. MYERS: I think I'm available if you want me to
8 answer any questions, I'll be happy to.

9 MR. AYERS: I apologize. I was living on earlier
10 information. (Aside comments) Eric, in view of the time line and
11 the (inaudible) project status report, if you'll hit the highlights
12 and then if there are questions, how about we do those?

13 MR. MYERS: I'll keep them real brief. If you'll turn
14 to the project status tab, you will find a set of project status
15 summaries. It's a little bit confusing perhaps at first, but
16 essentially you've got two quarterly reports for each of the work
17 plan years '94, '93 and '92, for the quarterlies of December 31st
18 and, the most current, March 31st. This is, in effective, our
19 inaugural quarterly status summary. In the future, we anticipate
20 only having one, the most current version, for you on a quarterly
21 basis, and the next will becoming available sometime after June
22 30th. In any case, you will see that the status summaries are
23 fairly straightforward, simply providing the most current available
24 information regarding any individual work plan project. The -- in
25 '94, you will see that the results and references are essentially
26 not there, simply because the projects haven't proceeded far enough

1 to yield any results and references, but in the '93 and '92 status
2 summaries, you will see increasingly greater references and
3 results. I don't want to take any more time. Again, your
4 questions, I can either attempt to answer them or refer you to the
5 appropriate agency liaison.

6 MR. PENNOYER: Commissioner Sandor.

7 MR. SANDOR: It's a good summary. Are there any
8 problems areas within this item of concern to you that you could
9 share with us, the Trustees.

10 MR. MYERS: I wouldn't say there are any particular
11 problem areas, there are quite a few reports that are imminent in
12 terms of their being finalized, and we need to work to ensure that
13 we come up with an effective procedure for processing and dealing
14 with all this information that's going to be flooding in the door
15 here quickly, but I wouldn't characterize that so much as problem
16 as I would a substantial challenge.

17 MR. PENNOYER: Commissioner Sandor?

18 MR. SANDOR: To follow up, a comment or suggestion --
19 if in the course of tracking these projects, somebody began to fall
20 behind schedule, we'd like to have them called to our attention at
21 our August or September meeting, and it might even be worthwhile
22 having them asterisked or some kind of way of flagging these
23 projects that aren't -- that are behind schedule. We would prefer
24 not to be surprised at the end of the year.

25 MR. MYERS: I will work with the agency liaisons on
26 that.

1 MR. PENNOYER: Mr. Wolfe.

2 MR. WOLFE: Jim, my question in fact goes along the
3 line that John was perceiving, and it really has to do with are we
4 on schedule with all of our project reports from the '93 fiscal
5 year that we -- I think we slated for, what, April the 15th or
6 something like that as I recall. Do we have all those in now,
7 Eric?

8 MR. MYERS: I would have to review each of the status
9 summaries. I think that they're largely in in terms of the reports
10 being submitted. What is possibly taking the longest is the back
11 and forth between the principal investigator and the peer reviewers
12 in terms of reaching a consensus as to when a particular report is
13 ready for publication. That's really where the protracted delays
14 come, not in so much the preparation of the initial report, which
15 I think are generally timely.

16 MR. PENNOYER: Eric, echoing what Commissioner Sandor
17 said, I notice that clear back to '92 some reports -- some projects
18 still have a report being drafted, not submitted, not finalized,
19 not anything else, and I guess I recall back to a conversation we
20 had about two years ago when then Trustee representative Cole
21 submitted a proposal that if a prior year's report wasn't done
22 within one month of the deadline, the next year we would not
23 disburse any further funds. Obviously, there are all sorts levels
24 of rationale that might make that a little bit drastic in terms of
25 cutting off information flowing needlessly, but there was a lot of
26 discussion about people doing other things and priorities, and I

1 guess the Commissioner has requested that you highlight for us
2 whether there is -- there might be a problem, and that we then have
3 the opportunity to visit with the particular agency, the PI, the
4 agency rep, to see what can be done about it. I do know that going
5 clear back to '92, that there are some reports that have not been
6 submitted yet and are still being drafted, and having made that
7 push a couple of years ago, it seems reasonable that we follow up
8 on it now -- perhaps not by withholding funds or doing anything
9 dramatic of that nature, but put the project on notice that future
10 funding for its continuation may be in jeopardy, or something like
11 that. So, at our next meeting, if those could be highlighted, I
12 think that would be helpful.

13 MR. MYERS: I will work to provide that information to
14 the Council.

15 MR. PENNOYER: Any comments on projects status. Thank
16 you for the very detailed review on -- as we get time to go through
17 it and visit with you again, I'm sure we'll be able to -- we'll
18 have more questions, but for now then I guess that's all. Thank
19 you. Next is the restoration plan EIS. Mr. Ayers?

20 MR. AYERS: Yes. I believe Rod Kuhn is on line. Many
21 of you received the draft of the draft EIS. There is a memo in
22 your packet under the EIS tab, and, Rod, are you on line?

23 MR. KUHN: Yes, sir.

24 MR. AYERS: Very good.

25 MR. KUHN: Okay. We have this being launched at the
26 end of January. I completed work on the draft environmental impact

1 statement and I have included in that array of alternatives,
2 modification of alternative five to reflect the draft restoration
3 plan. The preliminary draft, as you indicated, was circulated to
4 the Trustees for their review and comment, and I want to be sure
5 and express my thanks to all the Trustees and their staff for
6 responding so quickly and so thoroughly on that. The DIS is now in
7 the hands of the printer, and if all goes as expected -- I spoke to
8 the printer a little while ago, we should make the date with the
9 Environmental Protection Agency filing of the document that will
10 allow the public comment to run for forty-five days from June 17th
11 through August 1st. The comments from the Trustees, even up to the
12 eleventh hour, were incorporated, including one that, I think, that
13 Jim sent in from Kodiak, and I want to thank him for that, and
14 those have all been addressed. In fact, there were some -- a few
15 points that were of concern to some of the Trustees in particular,
16 and working with their staff, their liaisons, we were able to
17 resolve those. Everything is going ahead as scheduled. The staff
18 here has set up public meetings to be held during the public review
19 period. They are tentatively scheduled now to occur as follows:
20 June 27th in Anchorage, June 29th in Seward, July 1st in Homer,
21 July 5th in Kodiak, July 7th in Cordova, and July 19th in Valdez.
22 And that's where we are to date, if anyone has any questions, I'd
23 be happy to answer them.

24 MR. PENNOYER: Any questions about the EIS?

25 MS. WILLIAMS: Mr. Chairman, my question of Mr. Kuhn, do
26 you anticipate holding evening meetings in the locations you just

1 cited?

2 MR. KUHN: The locations that I cited, we are
3 planning on having open house-type, informal meeting, running from
4 four o'clock to 8:00 p.m.

5 MR. PENNOYER: Any questions on the EIS? Commissioner
6 Sandor.

7 MR. SANDOR: Early this month, we received from
8 (inaudible) the Department of Natural Resources, Alaska, the
9 results of the forest health management reports . . . (inaudible --
10 poor teleconference quality) transmitted to you. Hopefully, Jim
11 Ayers and hopefully each of the Trustees have gotten copied here in
12 case the individuals haven't received that. The thing that's
13 particularly interesting about this forest ecosystem discussion was
14 the impact of the -- of the -- insect infestation on the old growth
15 and the habitats that depend on old growth. This massive increase
16 over the last three years, which is represented in the graph,
17 illustrates that the loss of habitat greatly exceeds that of
18 habitat lost by timber harvesting, and I don't know how you're
19 going to address that in the EIS. The last EIS that was drafted
20 last year was unable to adequately reflect that because it's
21 (inaudible) to identify. In the last draft of the EIS, it was
22 similarly was not identified, but we do want to recognize that the
23 impact of that habitat loss. I guess I'd ask the question, how is
24 this to be dealt with?

25 MR. KUHN: Okay. The actual infestation is only
26 mentioned in chapter three of the environmental impact statement,

1 where we're talking about the affected environment. There is no
2 action proposed by the Trustee Council at this time to deal with
3 that -- that is outside of the actual oil spill impacts and outside
4 the scope of what the Trustees are doing. That would, in fact,
5 though, have, I assume, some -- to be of some concern in when we're
6 acquiring habitat and how that habitat is valued. So, but that is
7 still something is more site-specific when you're looking at
8 acquiring parcels, and not something of a programmatic nature that
9 we're evaluating in this particular document.

10 MR. PENNOYER: Commissioner Sandor.

11 MR. SANDOR: Yes. I take exception to that, Mr.
12 Chairman and fellow Trustees. What we're concerned about with the
13 loss of habitat that's harlequin ducks, marbled murrelets, and
14 other species are dependent on is that, and part of the habitat
15 restoration program that we have deals with habitat loss, and there
16 is substantial harm that's several thousand acres that's within the
17 oil spill area. It is true that we're concerned about acquiring
18 lands that may be subject to insect infestation, but I think we
19 should also be concerned for loss of other critical habitat that
20 results as a result of insect infestation, particularly the old
21 growth habitat that both the wildlife and (inaudible) depend on.
22 So I think that should be examined and all of that discussed with
23 members of the Public Advisory Group and shared (inaudible). Thank
24 you, Mr. Chairman.

25 MR. PENNOYER: Commissioner Sandor, is that a specific
26 recommendation for the EIS in terms of how it's . . .

1 MR. SANDOR: Yeah, I'd say the petitioner will make
2 reference to that in the summer or subsequent meetings of the
3 significance of this . . . (inaudible -- poor teleconference
4 quality) is the massive increase in the infestation that jumps
5 from, well, two hundred thousand acres in 1980, four hundred
6 thousand acres in 1981, six hundred thousand acres in 1982, and
7 seven hundred and some thousand acres in 1993 . . . (inaudible --
8 poor teleconference quality) . . . the species that are dependent
9 on old growth and the loss of old growth from either timber
10 harvesting or the bark beetle (inaudible) in the spill impact area
11 is essentially the same. The question of what, if anything, can be
12 done about this, I would point out that if the areas are not dealt
13 with, and the area is converted to grass, and the restoration of
14 the forest is not as quick as if the insect-infested trees are --
15 the killed trees are removed. So, I think all of us are looking,
16 of course, at evaluating the (inaudible) species of trees from
17 timber harvesting, and I think we also need to look at these
18 several thousands of acres of forests that are being lost from the
19 insect infestation. Hopefully, this (inaudible) that I have
20 incurred over the last two days (inaudible) is troublesome. I
21 think one needs to address it (inaudible), I guess perhaps an
22 option, but I really urge the restoration team to look at that and
23 to decide what, if any, action ought to be taken and develop
24 recommendations or whatever. That was my objective in
25 transmitting this to you, the Executive Director, and requesting
26 that it be sent on to the restoration program staff on the 18th.

1 MR. PENNOYER: Mr. Ayers.

2 MR. AYERS: Mr. Chairman, as Commissioner Sandor
3 pointed out, he had sent this information along, we've had the
4 Habitat Working Group take a look at the most recent information
5 and we've (inaudible) them to work with each of the respective lead
6 agencies and the Habitat Acquisition and asked them to do an
7 explicit review of the information with regard to this particular
8 area. (Inaudible) circulated in an information packet to the
9 Public Advisory Group and asked them for their comments. There are
10 a number of Public Advisory Group members that, as Commissioner
11 Sandor points out, that are interested and are concerned about it.
12 We are -- we've also asked the Habitat Working Group to give us
13 recommendations on actions that they think might be appropriate in
14 the event that there's an area that falls within the spill area
15 that we may be involved in.

16 MR. PENNOYER: Okay. Further comments -- EIS? Thank
17 you. We'll go onto the next topic, Mr. Ayers.

18 MR. AYERS: Yes, Mr. Chairman, the next topic is,
19 again, an EIS discussion at this point. It is the issue of the
20 Institute of Marine Science, and Kim Sundberg from the Department
21 of Fish and Game is here with us and has the lead on that project.

22 MR. SUNDBERG: Thank you. Project number 94199 was a .
23 . . (inaudible due to poor teleconference quality) . . . spill area
24 in general, (inaudible) laboratory studies related to the
25 restoration and rehabilitation of species injured by the EVOS,
26 particularly for marine mammals and marine birds, but also fish

1 genetics. On January 31st, the Trustee Council approved financial
2 support for the Institute of Marine Science, (inaudible)
3 improvement project, and directed Jim Ayers to, number one, take
4 necessary steps to comply with NEPA; two, consult with the
5 appropriate entities, including the University of Alaska, City of
6 Seward, and the Seward Association for Advancement of Marine
7 Science, otherwise known as SAAMS, and appropriate Trustee agencies
8 to review the assumptions relating to the proposed improvements and
9 come up with an operating budget; three, to develop an integrated
10 funding approach to ensure the trust funds are appropriate, legally
11 permissible under the terms of the Memorandum of Agreement of the
12 Consent Decree; and four, to prepare recommendation of the
13 appropriate level of funding for consideration by the Trustee
14 Council that would be legally permissible under the terms of the
15 Memorandum of Agreement of the Consent Decree. And what I would
16 like to do is briefly provide a status update on this project. The
17 funding is currently on schedule, and its proceeding ahead with the
18 four tasks that were outlined in the January 31st meeting. With
19 respect to the first task, NEPA compliance, there -- it was decided
20 following the January 31st meeting, in late February, that the
21 project would require an environmental impact statement process.
22 We put together a thirty-three week EIS schedule. The Department
23 of the Interior is the lead federal agency on the environmental
24 impact statement, and Nancy Swanson is with the -- chief of
25 environmental operations (inaudible -- poor teleconference quality)
26 and the EIS project manager, and I believe Nancy is on the

1 teleconference in Anchorage if anyone has specific questions.
2 (Aside comments by others). We completed a scoping process
3 (inaudible), sent out newsletters to five thousand people. The
4 scoping has been completed, and the EIS team has identified three
5 alternatives for the draft environmental impact statement. Those
6 include the proposed action, which is a research rehabilitation
7 institute with a public education and visitation component.
8 Alternate two, which is a reduced action, which includes all needed
9 research and rehabilitation component of the project; and three, is
10 a no-action alternative. The draft environmental impact statement,
11 a preliminary draft of that is completed, and the EIS team is
12 reviewing that right now. That's scheduled to be finalized and go
13 out for public review on June 1, 2nd. So, with a forty-five to
14 sixty day public review period, and we've scheduled public hearings
15 in the evenings, which will be an open house or by formal hearing
16 in Seward and Anchorage on July 26th and 28th. According to the
17 schedule, the --

18 MR. PENNOYER: Excuse me, Kim, we've had a request from
19 the recorder for everybody to speak louder. Perhaps, you could
20 move down to get to the microphone. Thank you.

21 MR. SUNDBERG: According to the schedule, the comments on
22 the final -- on the draft environmental impact statement -- will be
23 completed, and its final EIS will be issued to the public on
24 September 23rd, followed by a record of decision will be issued on
25 October 28, 1994. Task two, consultation with appropriate entities
26 and review of assumptions, there's been ongoing consultation with

1 the University of Alaska, City of Seward, SAAMS, and Trustee
2 agencies continuously. We've developed two formal working groups.
3 One is called the scientific working group, which I chair. It
4 involves representatives of the Institute of Marine Science, the
5 ADF&G, the National Marine Fisheries Service, the National
6 Biological Survey. That group has met formally twice, including a
7 two-day workshop. The product of that work is a design program
8 work book which is going directly to the architect and designers of
9 the project to describe the program and components that would occur
10 at the facility for research and rehabilitation, and that design
11 program work book is the basis for the conceptual design of the
12 facility and subsequent design following that. There is another
13 work group that was formed by SAAMS, called the education work
14 group, and they are working similarly on the public visitation and
15 education end. I would like to just add that the public education
16 is education component is primarily funded with private funding and
17 (inaudible) to raise private donating for that component. In
18 addition a portion of the twelve point five million dollar grant
19 from the state appropriated from the criminal settlement
20 restitution, and SAAMS has retained the services of a professional
21 fund-raising company, called J. Donovan Associates, which does
22 fund-raising for such groups as KAKM Television and Providence
23 Hospital. They are coming back with a detailed financial plan in
24 mid August which will provide the target for private donating for
25 the project. Currently the target is a ten million dollars private
26 funds. The research component that's come out of the scientific

1 work group is primarily related to studies on marine mammals,
2 marine birds, fish genetic, invertebrate biology and oceanography,
3 and specifically this facility would provide infrastructure that
4 does not currently exist in the spill area or in Alaska for
5 conducting such research. That would be distinct tanks and pools
6 for holding marine mammals, conducting studies on those in a
7 laboratory-controlled situation, wet labs, dry labs, and office
8 space, a library, and other facilities that are needed to carry out
9 that type of research. Currently, when that type of research is
10 done, it has to be done in other institutions outside of Alaska.
11 The rehabilitation component is specifically related to
12 rehabilitating mammals and birds that are injured or become sick as
13 a result of processes that are ongoing in the environment. The
14 focus is on animal health research, primarily, rather than serving
15 as an animal hospital per se. It is intended to find out what is
16 going with marine mammals, marine birds in the spill area with
17 their health, what's causing mortalities, and to use these animals
18 in a research situation once they are rehabilitated. Animals that
19 are completely rehabilitated will be returned to the wild, those
20 which are determined not to be released will be used at the
21 institute for research and public education. Another part of this
22 project that was presented on January 31st involves a research
23 vessel and a research submersible. We have a vessel committee
24 that's chaired by Dr. Thomas Rohr (ph) of the Institute of Marine
25 Science, and he has been working with Dr. Ray Highsmith, Dr. A.J.
26 Paul, myself and Tom Smith of the Institute of Marine Science to

1 come up with better estimates as to what steps for the purchase of
2 a vessel and operation of a vessel and research principles are
3 involved. Currently, our preliminary estimates are that purchasing
4 a and converting a mud-boat type of a vessel, which is a type of
5 vessel used for sending rigs in the Gulf of Mexico is fairly
6 readily available, would be about two point four million dollars
7 for equipment and the research vessel. An annual operating cost is
8 estimated about one million dollars a year. The submersible that
9 appears to be the best type of submersible to work in this area
10 would be a two-person, delta submersible which would cost about six
11 hundred thousand dollars to purchase, and its seasonal operational
12 costs are about two hundred thousand per year, assuming 70 days
13 period in Alaska. The vessel committee will continue to flesh out
14 that, those costs, and provide more detail later. The operation of
15 the project at the present time is envisioned that it will be run
16 by a non-profit organization. The University has not expressed an
17 interest in owning this facility. They (inaudible) experience with
18 other such facilities in terms of non-profit organizations,
19 501(c)(3) organizations, are fully capable of operating and
20 maintaining a facility of this type, and it is envisioned that
21 SAAMS or perhaps a derivative of SAAMS will be the owner of the
22 project. They would be governed by a board of directors, which
23 would be composed of the research people from -- research at the
24 facility and Trustee Council entities, City of Seward, and others.
25 With respect to other research institutes in the area, conducted an
26 ongoing consultation with the Fisheries Technology Center in

1 Kodiak, the Seward -- Prince William Sound Science Center, Copper
2 River Delta Institute, University of Alaska Institute of Marine
3 Science, and the Seward Marine Center. We had one formal meeting
4 and we're scheduled to have another meeting July 28th, and
5 basically we are discussing how new projects fit in with other
6 research facilities along the coast. With respect to the
7 integrated funding approach, there are four major components of
8 funding currently envisioned. Number one is the state restitution
9 funds, which has twelve point five million which we are already
10 allocated to the project; the ten million dollars in private
11 donations I have already mentioned -- we'll have a more detailed
12 plan for private donations in mid August; EVOS settlements funds,
13 joint settlement funds, civil settlement and also federal
14 settlement funds -- currently looking at those. When we come back
15 with this project, we'll put together a -- an integrated approach
16 to funding this project . . . (inaudible -- poor teleconference
17 quality). I would just like to finally say that we're putting this
18 -- putting together the recommendations based on the (inaudible) of
19 the three tasks, and expect to have that available or a major
20 component of that would be available in mid August. Currently, the
21 pro forma for this facility indicates that it would have a revenue
22 stream of approximately three point eight million dollars a year
23 and that that would be the operating (inaudible) for the facility.
24 And I brought with me some conceptual designs of the project which
25 are a result of the scientific work group and (inaudible) work
26 group. Basically, the project is located (inaudible) and the

1 Institute of Marine Science on the waterfront. (Inaudible due to
2 poor teleconference quality) . . . property . . . facility . . .
3 area, parking lot over here. The research and rehabilitation part
4 is over on this side . . . (inaudible) . . . includes support
5 veterinarian, marine bird area, invertebrate labs and marine mammal
6 labs. This area over here is research habitat, naturalistic
7 habitat area where animals can be housed for a long period of time.
8 There are also pools and portable tanks at various (inaudible) . .
9 . The public visitation part is outlined in brown here. There
10 would be a walkway around here, entry over here, and . . .
11 (inaudible -- poor teleconference quality) this side of the
12 project. The visitation and research component . . . (inaudible)
13 . . . what's going on with marine research in the EVOS area, what
14 are the problems that are going on with birds and mammals and other
15 species in the ecosystem, and what are people doing about it, and
16 that's . . . (inaudible -- poor teleconference quality). The
17 second (inaudible) for viewing and an additional (inaudible)
18 primarily to . . . (inaudible -- poor teleconference quality). At
19 the moment, the final conceptual design is to be completed in two
20 weeks, and then we'll go to schematic design of the facility and
21 bring that back to the Council (inaudible). . . . answer any
22 questions anybody has.

23 MR. PENNOYER: Ms. Williams.

24 MS. WILLIAMS: (Inaudible) . . . conceptual designs will
25 be in the draft EIS when distributed to the public?

26 MR. SUNDBERG: Yes.

1 MR. PENNOYER: Mr. Wolfe.

2 MR. WOLFE: Mr. Chairman, I have a question for Mr.
3 Sundberg, and it really relates to we'll be well into NEPA before
4 we sort out what type of structure we need, but you'll still trying
5 to -- you haven't come to closure at all on those needs to support
6 EVOS restoration and so we can develop what the long term needs are
7 for the restoration part and get that behind us. I guess my
8 concern is that we need to get that ironed out very quickly, and so
9 my question is really to Mr. Sundberg and others working on this
10 that when can we expect to have all the information available?

11 MR. SUNDBERG: This information related to the project?

12 MR. WOLFE: Yes -- Mr. Chair?

13 MR. PENNOYER: Mr. Wolfe.

14 MR. WOLFE: My question is, is there's an expectation
15 that the joint restitution or restoration funds and there might be
16 some federal restitution funds would be used, but the project would
17 define the need to justify that at this point in time, and I think
18 all of us are interested in getting ahead in that, therefore we
19 haven't defined that need yet so that we can lock in.

20 MR. SUNDBERG: Well, the project description was provided
21 to the Trustee Council on January 31st and the draft environmental
22 impact statement has some more materials relating to that
23 (inaudible) . . . components of this project. So there is quite a
24 bit of information that's been generated currently on the project
25 that (inaudible).

26 MR. PENNOYER: Mr. Wolfe? (inaudible)

1 MR. WOLFE: I guess following the preparation of that
2 package, as I understand their counsel, as well as the
3 administrator's office that looked at that package, there are legal
4 questions that were identified that we needed to address with
5 respect to that proposal, and it was my understanding that you and
6 others were working on resolution of those questions, and I guess
7 that to me would drive the answer to the question that I was
8 asking.

9 MR. SUNDBERG: I would just add that I have been working
10 with legal counsel folks at the Department of Law and the with the
11 Trustee agencies. We've had several meetings. We'll be having
12 another meeting later on this week to discuss that and to -- those
13 assessments are ongoing with respect to the legally permissible
14 expenditures of the joint funds.

15 MR. PENNOYER: Mr. Wolfe.

16 MR. WOLFE: Mr. Chairman, I guess my recommendation is
17 that maybe we need to have the team working on this project with
18 our liaison people and our counsel folks and let see if we can't
19 get some resolution to the legal questions and get that behind us,
20 and then we can deal with the distribution of funding for the
21 project at some point here before too long.

22 MR. PENNOYER: Mr. Sundberg, additional questions, in
23 terms of one of the elements that was identified in the original
24 questions was sort of how the Seward facility would fit in with all
25 the other research we are going to do on the Sound, including the
26 ongoing funding of operational aspects of that research. We've got

1 a major sea project in Cordova, we've got a harvesting or a
2 facility being built in Kodiak and discussed there, and other
3 aspects, and as you correctly, and I know you were drafted out by
4 a lot of other areas there, doing research that might be related to
5 EVOS. I notice one part here it mentions sighting and visiting
6 with some of those other locations. They all thought portions of
7 the project should be located elsewhere, and I'm not -- is there a
8 report that's going to be presented to us going to bring that back
9 together again, so we have that in view as to what the long-range
10 research objective is of the facility and how it relates to the
11 other research we plan to do in this reserve fund, or whatever.

12 MR. SUNDBERG: Well, we have been trying through the
13 scientific work group to provide or validate assumptions that were
14 made about this facility, the need for it, the types of research
15 that would go forward. That's (inaudible) the scientific work
16 group has been developing assumptions and identifying the need for
17 the project construction. In part, the location of the project, it
18 was determined by the Trustee Council, this project was approved
19 for Seward, and subsequent to that the EIS even looked at some of
20 this siting criteria for Seward and why that might be a good
21 location for it. Primarily, that is -- the criteria that we came
22 up with that -- Seward -- it's centrally located in the EVOS area,
23 it has the Institute Marine Science program with twenty-three of
24 continuous operation, it has suitable land availability, room for
25 expansion, it has availability of a high quality seawater for
26 laboratory studies, it has road accessibility to researchers and

1 the public, and its proximity to a research vessel dock, it has
2 availability of adequate water, sewer, electric utilities, has
3 available opportunities for revenue to offset operational costs.
4 So those are factors that are -- make Seward a suitable location
5 for such a facility like this. We have been continuing to discuss
6 the programs that may occur out of Seward, which is somewhat
7 different to the programs that are my understanding that are going
8 on in other facilities, particularly as they relate to marine
9 mammals and marine birds. Those facilities do not have nor do they
10 have the plans to -- for holding marine birds or marine mammals for
11 doing laboratory research. I don't even think they have wet labs
12 that are set up for doing fish work or laboratory work in a
13 seawater lab. I believe Kodiak facility has some plans for that
14 facility but those are related to fisheries technology and seafood
15 processing. I don't think NOAA has plans for a wet lab (inaudible
16 -- teleconference interference).

17 MR. PENNOYER: Commissioner Sandor.

18 MR. SANDOR: Yes, I thought the scoping report
19 (inaudible) verbal report (inaudible) purpose of this project
20 having previously (inaudible) very helpful. (Inaudible) Jim
21 Wolfe's suggestion that we sit down now, as soon as the (inaudible
22 -- interference on teleconference) . . . that was is to take
23 place.

24 (Aside comments)

25 MR. PENNOYER: Mr. Ayers.

26 MR. AYERS: Mr. Chairman, I'll see to it that --

1 actually before Mr. Roth (ph) leaves town and Maria is available,
2 that we get together this week. If you're available, while
3 everybody's here in town, why don't we sit down and go through some
4 of these things that have been raised on what those concerns are
5 and see how we can revise the project description to accommodate
6 the recent concerns that have been raised, and I would suggest that
7 we do that tomorrow if that's possible.

8 MR. ROTH: I have a meeting on Friday with Alex
9 (inaudible) . . . Maria (inaudible -- poor teleconference quality)
10 Okay?

11 MR. AYERS: We'll work it out, Mr. Chairman.

12 MR. PENNOYER: Thank you. Further questions on this
13 item? Okay, no other action is required at this time and we gave
14 some direction, which has been requested. Next item is public
15 information and communication -- Molly McCammon.

16 MS. MCCAMMON: Mr. Chairman, there is a section in your
17 packet that refers to an update on public information and
18 communication activities, and I won't go through it (inaudible).
19 However, it brings to your attention a separate memo on the results
20 of the public release that we had in April. So if you have any
21 questions on any of these activities, we do have a full schedule
22 planned throughout the summer as well. Going on to the FY'95 work
23 plan timeline, I actually have a new schedule that we could have
24 put on the overhead. (Aside comments while overhead is being
25 prepared). The timelines that we're talking about now is basically
26 the same as the one in your packet, except it adds a few extra

1 steps in terms of budget preparation. The main (inaudible) that we
2 work under in this situation is trying to have the FY95 work plan
3 adopted on October 31st. So, we took that as our action date and
4 then worked backwards, trying to include enough time for public
5 review and all the various steps. It basically started on May 15th
6 with an invitation to the public to submit FY95 restoration
7 projects. This packet was put together and made available to a
8 mailing list, a small mailing list that we have of those folks who
9 are interested in actually submitted projects. It was also
10 advertised in our newsletter, in the Alaska Journal of Commerce, in
11 the Alaska Administrative Journal, and in newspapers in the spill
12 region, and in the Anchorage Daily News. The main (inaudible)
13 period is for thirty days, until June 15th. However, we are also
14 experimenting with two separate, competitive-type processes on an
15 experimental basis, very small scale experimental basis for FY95.
16 If successful, we hope to extend those in FY96. One is use of the
17 federal broad agency announcements for going out and submitting
18 projects, the other is the state's two-step general (inaudible)
19 process. So those are the experimental processes that are
20 relatively very specific type of research projects. The deadlines
21 for those is actually June 30th, but whatever we get through this
22 two separate processes will also be incorporated into the FY95 work
23 plan. Last week we took the first steps of identifying what kind
24 of interim funding needs might be needed for the first quarter of
25 federal fiscal year '95. We will be working with the agencies in
26 the next two weeks to get those finalized and to start putting

1 together an interim budget for that first quarter. The proposals,
2 once they come back to our office by June 15th, we will be
3 reviewing them and organizing them. They will then be sent to the
4 Chief Scientist and interim Science Review Board, which will be a
5 technical review committee of approximately five people. They will
6 be reviewing those until July 10th. They will be meeting in
7 Anchorage July 11th and 12th to put together their technical
8 recommendations on those project proposals. In response to the
9 Public Advisory Group's requesting the opportunity to have input in
10 the work plan process early on, we've scheduled a meeting for June
11 28th to go over all of the proposals that we've received by that
12 time and to get input from the PAG before the draft work plan is
13 actually developed. We were not able to schedule it after the
14 technical review occurs. There just wasn't time to do it in a very
15 compressed time frame this summer. The work groups will be meeting
16 in mid July with the Executive Director to develop recommendations
17 and actually figure out what goes into the draft work plan. The
18 draft work plan, to meet this timeline, needs to be printed and
19 mailed the last two weeks of August. It would go out to the public
20 for public review the month of September. The month of October we
21 would compile those comments, and there would also be further
22 review by the Public Advisory Group, the Science Review Board, the
23 general public -- the Trustee Council would approve the work plan
24 on October 31st. The way this timeline works, it requires
25 (inaudible) the Trustee Council takes action after the federal
26 fiscal year begin, it requires an interim budget, to finally have

1 all those projects put together and identified and ready for
2 Trustee Council action in late August. So, what we've got on FY95
3 is -- actually in the practice of a year, we've put together two
4 work plans in one year, and that's the reason for such a compressed
5 time schedule. If you look at FY96, which is the next schedule
6 ahead, I think there is light at the end of the tunnel. Our goal
7 next year is to actually go out for solicitation for the FY96
8 projects in March and early April, we'll have the review in the
9 spring, the draft work plan will go out for public review during
10 the summer months, and it is estimated or at least anticipated that
11 the Trustee Council would approve the FY96 work plan at the end of
12 August, so that we would be ahead of the schedule in terms of
13 (inaudible) the actual federal fiscal year (inaudible). The goal
14 is that in FY96 not to have an interim budget, so hopefully we will
15 be able to keep to that. I think the major question in terms of
16 the FY95 work plan is how to get Trustee Council approval
17 authorization on the draft work plan, and the way we have the
18 schedule put together now, the draft work plan needs to be prepared
19 in its final stages of preparation by August 1st, it needs to get
20 to the printer at the earliest -- at the latest -- by August 12th
21 to be printed and distributed and in people's hands by September
22 1st. We don't anticipate a Trustee Council meeting now until late
23 August, so at this point the kind of timeline we have proposed here
24 would basically be putting together the draft work plan would be in
25 advance consent of the Trustees. We will be working really closely
26 with all of the liaisons on what goes into the draft work plan, and

1 we will make sure they are working very closely with the Trustees
2 and feel comfortable with what is going in at this point.

3 MR. PENNOYER: Questions on '95 or '96? Commissioner .
4 . .-

5 MR. ROSIER: Thank you, Mr. Chairman. Molly, quite
6 frankly it's a pretty tight schedule, but one area that creates
7 difficulties for us in the past has been the review of the project
8 proposals by the PAG.

9 MS. MCCAMMON: Right.

10 MR. ROSIER: And it appears to me that we're not
11 solving anything with this time schedule. It looks like they've
12 got a maximum of one day to get through the entire package, and I
13 think that we've given the Chief Scientist, technical review there,
14 ten days, actually thirteen days, there on this. Is there any way
15 that we could subtract -- add additional time for at least review
16 prior to that briefing for the Public Advisory Group.

17 MS. MCCAMMON: Mr. Chairman, Commissioner Rosier, we
18 worked out the schedule with Doug Mutter and with Brad Phillips,
19 the chair of the Public Advisory Group. I don't know if this
20 totally addresses their interest in their being involved in the
21 work plan development, but I believe it does at least go somewhat
22 to addressing that. It gives them two opportunities to comment on
23 the work plan, whereas in the past they have only had the
24 opportunity after the draft plan has actually been published and
25 put out for public review. So they will continue to have that
26 opportunity at the end of the process, but this also puts them in

1 the process early on. We're trying to work it where we have PAG
2 actually doing the review after the technical review, but before
3 the work force took action, sometime between July 12 and July 13th
4 -- and the only way we could do that would be if we were to give
5 ourselves five days or a week to put together in some kind of
6 written form what the interim Science Review Board actually puts
7 together. I mean that would have put it completely off schedule,
8 and there was no way we could meet that kind of time line. So, we
9 have worked with Brad Phillips and we believe that this is
10 satisfactory for this year. It gets them at least part way there.

11 MR. PENNOYER: Commissioner Rosier.

12 MR. ROSIER: As a follow-up, it appeared to me that
13 there some additional time in there. What's going to happen during
14 this period 6/27 through 7/10 when the Chief Scientist and
15 technical review is ongoing? It appears to me that the Public
16 Advisory Group briefing the schedule some during that -- would at
17 least give them -- according to this schedule, you're talking about
18 them having a maximum of, what, three days? Staff review and
19 organization project proposal is 25th, and you're talking about
20 meeting with them three days later. It is possible to move that
21 into this period during the Chief Scientist -- to give them at
22 least a week? These are volunteer people that are -- whose time is
23 pretty precious. It just seems to me that three days after the
24 staff gets done with these, you sit down and give them a one day
25 briefing on this, and then we've got a long blank spot of time here

1 while the further review by the Chief Scientist is going on. It
2 just seems to me that the Public Advisory Group briefing sometime
3 during that thirteen day period there with the Chief Scientist
4 review would be a lot more meaningful than given four days that
5 appears to be provided for in this schedule.

6 MS. MCCAMMON: I agree with you on that, Commissioner
7 Rosier, and I will check that schedule again and see if that can be
8 done. I believe there was some scheduling problems due to the fact
9 that there's the lengthy July 4th weekend in the midst of that.

10 MR. PENNOYER: Any questions? Mr. Ayers.

11 MR. AYERS: Mr. Chairman. To some this may sound like
12 a reiteration. Let me point out that the conversation I had is
13 that this is more than what the Trustee Council (sic) had in the
14 past. They actually are having this briefing after we have
15 received projects which should be in 6/15, and those projects are
16 in, and so the staff wants a chance to compile that information to
17 the best of our ability, to give them a good packet three or four
18 days before they actually meet on the 28th, and we'll actually go
19 through the -- some of the raw stuff, which is what they've asked
20 for in the past. But you are correct, what they want to then hear
21 is another step, which is what does the scientist say the problems
22 are and how do these projects relate to the science. All of that
23 has been transpiring after the draft work plan has already been
24 submitted -- or out for public review, and then -- sent out for
25 public review and just a few days before the Trustee Council
26 meeting. They wanted to get in the loop much sooner. So this is

1 actually three months sooner than they've been in the loop
2 previously, but you are correct -- it's jammed. They do have the
3 28th meeting, whether we can add another one in their with the
4 Chief Scientist, that's what we'll work on. The Trustee Council
5 meeting is another issue, however, Mr. Chairman, which is the issue
6 that was raised earlier, and what we're talking about doing is,
7 there were three issues that got pulled out of those draft plans --
8 work plans -- by the Trustee Council in the past. What we're
9 proposing here is working with the work force, making sure the
10 Trustee Council members all have the packet, go to that with the
11 work force, and put together the packet and get it out to the
12 public as soon as possible, not necessarily having a review of the
13 draft draft work plan through a full Council meeting. You would go
14 through the draft work plan, but not a draft of the draft work
15 plan. You will do that individually with your work force members.
16 I want to be clear on that.

17 MR. PENNOYER: In the past we've always had a problem
18 reviewing draft work plans. Kind of what we've done is sort of
19 abrogating some of the responsibility by sending it out, waiting to
20 see what we got back, and that was not necessarily -- since we've
21 got a restoration plan in front of us now and we're further down
22 the pike -- it's not necessarily a productive activity. The
23 Trustee Council ought to initially, at least, in some fashion make
24 its views known on what the annual work plan should generally look
25 like. We will want detailed work plans in front of us, but you say
26 there will be another chance to do that. You're suggesting that we

1 do that through our work force members, rather than as a group.
2 I'm not -- in '95 I can see that, but in '96, I'm not sure you've
3 worked all that out yet. There will be a little bit more time, and
4 I think we going to have to consider whether we need to review
5 something before we send a general draft plan out to public review
6 as a group, rather than just through our individual work force
7 members. So, I'm not ready to sign off on that myself until we've
8 tried '95 on for size and see how it goes. Hopefully, we will far
9 enough down the pike that we can give a little more direction to
10 the draft plan, based on our restoration plan and our work to date
11 that we've been able to do in the past.

12 MR. WOLFE: Mr. Chairman.

13 MR. PENNOYER: Mr. Wolfe.

14 MR. WOLFE: I hear your concerns, but I tend to take
15 the reverse of where you're coming from on that, and that's due to
16 the lack of a restoration plan being in place, that at this point
17 in time we get in work force -- I have some concerns about going
18 out with a draft restoration -- '95 work plan -- without having
19 some oversight by the Trustee Council. Maybe I'm unduly concerned,
20 but I do feel like once we get a restoration plan in place and have
21 some -- a basically a general strategy for what restoration is
22 occurring, then I would think would be the point at which it would
23 be possible to go out to the public with a work plan without having
24 the Trustee Council oversight. But until we get that in place, I
25 have concerns on that.

26 MR. PENNOYER: Mr. Ayers, do you want to follow up on

1 that, taking the '95 work plan schedule (inaudible) in terms of
2 getting out a draft and the Trustee Council deciding what to do
3 with it or -- where would you -- would you put us in somewhere
4 around August 11½ -- where would we fit?

5 MR. WOLFE: I'm not sure about August 11½. Somewhere,
6 probably end of July time frame.

7 MR. PENNOYER: If the draft work plan gets sent out to
8 public review on August 12th, and there's (inaudible) between the
9 12th and the 31st. The 31st is closed, so . . .

10 MR. WOLFE: Mr. Chairman, I would be encouraged
11 somewhere in the back end of the process, close to where the Chief
12 Scientist and the review board is looking at it also. That's when
13 we would normally get involved in reviewing any document.

14 MR. PENNOYER: So, you -- I would presume we would want
15 the Science Review Board taking a look at things and then meet with
16 us . . .

17 MR. WOLFE: That is correct.

18 MR. PENNOYER: . . . or is your idea before that?

19 MR. WOLFE: No, I'm not interested in before we get
20 the Chief Scientist involved.

21 MR. PENNOYER: So, Ms. McCammon, how would you take into
22 account Mr. Wolfe's concern.

23 MS. MCCAMMON: Mr. Chairman, if the Trustee Council
24 wished to actually have an official meeting and take action on the
25 draft work plan, putting that together, I would think you would
26 have to talk probably around the third week of July after the Chief

1 Scientist and Science Review Board met, after the work force and
2 the Executive Director went through all of the proposals. After we
3 go through that review, in our expectation, there will be some --
4 there could be some identification of gaps coming over on work
5 plans, so we'll be using those last two weeks maybe to draft an
6 additional project to try to fill in those gaps, so I would think
7 we would want to fairly quickly after that on the 15th.

8 MR. WOLFE: Mr. Chairman, it looks like it would fit
9 between the 15th and the 31st. I think that's where Molly has
10 suggested.

11 MS. MCCAMMON: That's correct.

12 MR. PENNOYER: Commissioner Sandor.

13 MR. SANDOR: Mr. Chairman, I too thought, well, after
14 the Chief Scientist and the interim Science Review Board finalizes
15 their recommendations that that would be a time at which we
16 hopefully, collectively, look at this -- and I think -- and I hear
17 Molly saying that the restoration work force and the Executive
18 Director will review the projects for inclusion in the draft work
19 plan also will be completed by the 15th, and sometime after that
20 would perhaps be an opportune time, is that what I heard?

21 MS. MCCAMMON: That's correct, Commissioner Sandor. The
22 reason is that the Science Review Board is only going to be looking
23 at proposals from the scientific, technical perspective. We are in
24 the process of drafting criteria for them to do that kind of review
25 on there. The work force and the Executive Director will actually
26 look at proposals from more of a policy perspective and we'll have

1 a whole different set of criteria that we'll be looking at those
2 projects with, and those are also currently under draft right now.
3 The work force should have those by late this week or early next
4 week in draft form. So that there are two kinds of review,
5 essentially, that the projects are going through.

6 MR. PENNOYER: Commissioner Sandor.

7 MR. PENNOYER: Well, in follow up, Mr. Chairman, I
8 endorse then -- that's a particularly bad time for me, but Mark, my
9 second, will be here. I think we'll need formal discussion indeed,
10 and exchange (inaudible), about that period of time, and I guess I
11 would move that we do have a collective review of, not only the
12 Chief Scientist and the interim Science Review Board's
13 recommendations, but also the restoration work force and the
14 Executive Director review of proposals -- budgets -- sometime from
15 the 15th to the 26th.

16 MR. PENNOYER: Is there a second to the motion that we
17 review the draft work plan before it is sent out to public review?

18 MR. ROSIER: Second.

19 MR. PENNOYER: Is there other discussion? This -- we'd
20 like to avoid what sometimes we've done in the past -- in the past,
21 I remember staff bringing us a book about a foot and a half thick
22 of the draft, and us looking at the thing, oh my God, what are we
23 going to do with that, let's just send it out and see what we get
24 back and then make a decision. I would hope we could do more with
25 it, but it's going to require you to really organize this for us,
26 and probably at that stage we'd be signing off on concepts more

1 than on detail. So, if it's the (inaudible) events, we agree to
2 try to schedule a meeting for late July sometime to look over the
3 draft '95 work plan, before it goes out to public review, and a
4 concepts review, mostly dealing with concepts not being -- not
5 expecting to come to a formal presentation (inaudible) . . . Is
6 that . . .? Mr. Wolfe.

7 MR. WOLFE: I would also just say that this would also
8 accommodate Mr. Rosier's on PAG, and I say that the PAG (inaudible
9 -- extraneous noises on teleconference) . . .

10 MR. PENNOYER: At this point, after the Executive
11 Director makes his review. If not, we'll try and put it before the
12 Science Review -- does not work too -- the PAG, but also do their
13 review during that time period, so they'd be looking at the
14 Executive Director's recommendation, not just the science. They
15 would have the benefit of seeing the consolidation of thought that
16 would occur prior to us getting it.

17 MR. AYERS: Yeah -- that's another -- that would give
18 them another iteration that that timeline would get a little more
19 complicated. That's what we were just talking about, to get them
20 into the loop again, just prior to the Trustee Council, that would
21 give them another shot at it. That would then be three shots, as
22 opposed to the one they've had in the past.

23 MR. PENNOYER: Okay. Does that take care of your
24 concerns, Mr. Rosier?

25 MR. ROSIER: Yes, it does, Mr. Chairman. Thank you.

26 MR. PENNOYER: Mr. Ayers.

1 MR. AYERS: Mr. Chairman, there are two items, two
2 issues that I want to make clear here, for your information. One
3 is that we have taken the direction, and with regard to my brief
4 overview earlier, the policy direction with regard to an ecosystem
5 approach, we have been working with the scientists

6 MR. PENNOYER: Mr. Ayers, we have a motion on the table.
7 Is that addressing this motion?

8 MR. AYERS: Yes, it is.

9 MR. PENNOYER: I'm sorry, go ahead.

10 MR. AYERS: The agencies' scientists, as well as the
11 other scientists outside, have been a part of developing the
12 framework for the proposals for these projects that are going to
13 come forward. We are hoping to narrow the scope so you don't have
14 the big pile that you're referring to, and what you will get is the
15 very condensed version, subject to the conditions the ecosystem
16 approach would put on it. The other thing for clarification is, it
17 is my understanding you're not looking for final recommendations
18 with regard to each one of these projects at this July meeting. Is
19 that correct?

20 MR. PENNOYER: I assume we couldn't take final action
21 anyhow until it went out to public review . . .

22 MR. AYERS: Right.

23 MR. PENNOYER: . . . so I assume we're not looking for
24 your final recommendation, we're looking for your best shot at that
25 time.

26 MR. AYERS: And the condensed version, subject to the

1 criteria that we have put together about what we're looking for for
2 '95.

3 MR. PENNOYER: Okay, Mr. Ayers. Is there further
4 discussion of this motion? Is there any objection to the motion?

5 MS. WILLIAMS: Mr. Chairman.

6 MR. PENNOYER: Ms. Williams.

7 MS. WILLIAMS: I was just going to underscore with a red
8 highlighter here your suggestion that staff think of the most time-
9 effective way to develop information so that hopefully you will see
10 (inaudible) our review of it in half a day or no longer than a
11 day. I understand in the past sometimes that you've taken two or
12 three days, and I don't think any of us can afford that amount of
13 time, and I particularly encourage them to think of the most
14 creative ways to present that information to us (inaudible).

15 MR. PENNOYER: I would expect things like work force
16 briefings of individual members to air out their concerns for
17 specific projects before we get to the meeting and not have to go
18 through each project in depth, and then go back to general
19 questions one, two, three, four, five, six, and so forth. Is there
20 further discussion of this motion? Is there any objection to the
21 motion? (No audible objection) The motion is therefore approved.
22 You have a Trustee Council meeting in the latter part of probably
23 July to look at the draft work plan before it is sent out for
24 public review. Just as a follow-up then for '96, I would assume
25 that we would not an update for a similar type of thing, and I
26 guess we'll cross that bridge on timing when we get to it, but I

1 that I guess is the motion to -- something of that nature, not in
2 that timeframe but and interadaptive cycle to get it in there.
3 (Inaudible -- interference on teleconference). Any further comment
4 on the work plans. Mr. Tillery.

5 MR. TILLERY: Is there any thought in this cycle of
6 having some place there where the Department of Justice takes their
7 shot at these, so we don't have delays after the Trustee Council
8 has approved?

9 MR. PENNOYER: Do you have an answer to that?

10 MS. WILLIAMS: Well, I'll try. I just want to represent
11 to Mr. Tillery that is going to be a target of mine when I get back
12 to Anchorage, to sit down with Justice and make sure that they
13 incorporate them more expeditiously. I'll be talking to my other
14 federal counterparts to see if we can accommodate that.

15 MR. PENNOYER: I think we had on the sketch here
16 somewhere something about lawyers.

17 MS. WILLIAMS: Yes. (Laughter)

18 MR. PENNOYER: Somewhere on the schedule . . . (Aside
19 comments and laughter). (Inaudible -- laughter) . . . schedule
20 specifically address lawyers? Justice?

21 MR. AYERS: Yes, we talked about that with them the
22 last time, if you recall, that was the direction the Trustee
23 Council gave me. I met with Mr. Brighton the 1st of March about
24 that issue and tried to get them to actually comment on projects
25 when other people did. They have not been very forthcoming or
26 responsive with regard to that issue, saying that they wouldn't

1 know exactly how to respond until they see the Council action. I
2 would hope that they would comment on the projects, which is what
3 we have asked them to do in the past.

4 MR. PENNOYER: Aren't they doing the same thing we're
5 doing and review the, quote, draft plan is a preliminary fashion
6 and give us advice and come back and --

7 MR. AYERS: (Inaudible) jet flying is always jet
8 flying.

9 MR. PENNOYER: Mr. Roth.

10 MR. ROTH: Mr. Chairman, the -- Justice has restaffed
11 to try to reflect this and indicated -- and has asked in fact to be
12 given copies earlier so that they're thinking about it. There were
13 at least to see if they are given early responses, those views are
14 incorporated in the (inaudible) and hopefully that will work. If
15 it doesn't, we got (inaudible) due process. But they've now
16 figured out how to have more staff and have a person who
17 (inaudible) . . . Anchorage to (inaudible) that work.

18 MR. PENNOYER: Thank you. Anything further on the work
19 plan?

20 MS. WILLIAMS: No.

21 MR. PENNOYER: As I pointed out -- (inaudible --
22 extraneous noises on teleconference) . . . Mr. Wolfe.

23 MR. ROSIER: A quick question for the Executive
24 Director -- this science -- when are we going to have something
25 under the Science Review Board. Are you going to release some kind
26 of a written document on that or -- do we have something on that at

1 this time?

2 MR. AYERS: Mr. Chairman.

3 MR. ROSIER: We're beginning to build it into work
4 plans and so forth, and I'm afraid I don't know a great deal about
5 it.

6 MR. AYERS: Mr. Chairman, Commissioner Rosier, I'll
7 get something together for you by the end of this next week. We'll
8 circulate it to the Trustee Council and work force by the end of
9 next week.

10 MR. PENNOYER: Thank you.

11 MR. AYERS: Including -- a sort of a view from the
12 Chief Scientist.

13 MR. PENNOYER: (Inaudible -- extraneous noise on
14 teleconference) a flight by six o'clock tonight, and we're already
15 running thirty minutes late, so if we could proceed with that in
16 mind. The next item is habitat protection and acquisition status.
17 That ought to be short. (Laughter)

18 DR. GIBBONS: I'll try to make it short, Mr. Chairman.
19 (Aside comments). Very briefly, the first one is the standard of
20 (inaudible) obligations, the second one is the appraisal process as
21 we see it, and the third is the actual appraisal . . . (inaudible -
22 - extraneous noise on teleconference). The detailed negotiations
23 for each of the parties will be handled in executive session, so I
24 don't want to get into those. In the public version of the
25 document here, there is a brief synopsis of the public -- of the
26 status of negotiations of the various areas of Prince William

1 Sound, the Kenai, and the Kodiak archipelago, so that is a kind of
2 a status in there. So, I'll briefly go through these three items,
3 and we'll try to get us some way back on line. The first is the
4 development of the standard appraisal specification. At the
5 January 31st Council meeting, you directed the development of a
6 standard appraisal specification. At that point in time, an
7 interagency, state and federal interagency team started to develop
8 these and drafted a package -- there were many drafts of these
9 specifications that were developed by about -- early part of March,
10 they were sent out for review to the landowners after repeated
11 review by federal-state people. In addition to that, sending those
12 standards out for review, we met with -- several team members met
13 with several representatives of the landowners here in Juneau
14 (inaudible) . . . standardize the appraisal specifications. We
15 received the comment from, I believe, five -- five or six --
16 various comments, letters, from the landowners, and we incorporated
17 the specifications as appropriate. We had to deal with state and
18 federal law -- I didn't know what (inaudible -- extraneous noises
19 on teleconference) . . . know what it is now. So we used those as
20 -- to guide us as to what the specifications should be -- should be
21 like. So we modified the standard specification to what we thought
22 was acceptable to the landowners. In mid April we requested a
23 review by the head of Forest Service review appraiser and the head
24 of the review appraiser from the Department of Justice. We
25 received comments from them, they concur with the standard as they
26 are drafted now. So we went through many reviews is what I'm

1 trying to get across, and we have set a standard, standard dated
2 April 21st, and copies were sent to the willing landowners
3 (inaudible) development. Concurrently with this process, we
4 developed federal-state review appraisers to develop the appraisal
5 process as you see it, and in your book at the tab, I think it's 3,
6 is the process that was developed for appraisals. I'm not going to
7 go through the written -- each of these steps, but if you will go
8 to the third sheet, it's dated 5/18/94, its the first part of the
9 appraisal process, I'll quickly walk you through what -- how we see
10 that. I won't (inaudible) that eight of the twelve boxes --
11 process -- has the landowner involvement in, so there's no
12 (inaudible) process (inaudible) by a lot in the major areas of
13 review. So, the first box is that the lead negotiating agency
14 advised the landowner that, with the landowner's consent, the
15 Trustee Council is prepared to undertake an appraisal of the
16 property rights. The landowner is advised to provide all
17 information important to determining the value of its lands, and
18 the landowner may, at its own expense, procure its own appraisal,
19 do its own appraisal process at this time, which also must comply
20 with USPAP and UASFLA to be completed by the government. A copy of
21 the standards are attached to this document for land agency. Step
22 2, the lead negotiating agency requests the U.S. Forest Service to
23 have the contract appraiser conduct the appraisal. The Forest
24 Service contract will be the vehicle for conducting the appraisals.
25 There was -- sent out for an RFP and bids received and a contract
26 awarded to Blacksmith. So that bid, that contract, will be the

1 vehicle for the Trustee Council appraisals. The third step is,
2 without landowner (inaudible) involvement here is USFS issues task
3 order to the contract appraiser. All that is is a work order --
4 get busy and cover these areas is what we'd like to see. Step 4,
5 prework conference with the contract appraiser, the landowner
6 appraiser, if the landowner chooses to have their own appraisal
7 done, the lead negotiating agency, and representatives of the
8 landowners. This is an opportunity for the landowner to provide
9 any and all pertinent information to be included in the appraisal
10 process. It is a means for the various interested parties. Step
11 5, a site visit is conducted by the contract appraiser and
12 landowner appraiser, if any. Representatives from the lead
13 negotiating agency and the landowner are encouraged to attend and
14 provide further pertinent information, again, requesting all the
15 information we can from the landowner. Step 6, contractor and
16 landowner submit draft appraisal reports for review by the lead
17 negotiating agency review appraiser and state and federal review
18 appraisers. This, again, involves the landowner. You'll see that
19 the darkest boxes here are the ones that involve the landowner, so
20 it's clear what -- if you've got a highlighted copy, the darker
21 boxes involve the landowner. Step 7, state and federal review
22 appraisers submit comments to the lead review -- the lead review --
23 and Forest Service review appraisers. The Forest Service provides
24 comments to the respective contract and landowner appraisers. Step
25 8, comments considered by the contract and landowner appraisers,
26 modify draft appraisals where appropriate, final appraisal reports

1 submitted to the Forest Service for distribution to review
2 appraisers. A note here that this step may be repeated. It's a
3 cycle that may go on before a final appraisal is accomplished.
4 Step 9, state and federal review appraisers submit comments. Lead
5 negotiating review appraisers issues review statement designating
6 an approved or rejected appraisal. Step 10, lead negotiating
7 agency submits approved appraisal report and review statement, or
8 review statement for the rejected appraisal, to the landowner for
9 review and comment. Step 11, the lead negotiating agency review
10 appraiser transmits landowner comments to the contract appraiser
11 and federal and state review appraisers for consideration. The
12 final step, the lead negotiating agency review appraiser identifies
13 final approved appraisal and issues final review statement. So,
14 that's the process as we see it. Like I said, eight of the twelve
15 steps involve the landowners in the process for (inaudible)
16 specification standard (inaudible). This process will be sent to
17 all the willing seller landowners today (inaudible) signed and
18 transmitted. That will take us to step 2, (inaudible) to step 3.
19 Now, if there's any questions -- the appraisal -- the timeline for
20 the appraisal is (inaudible).

21 MR. AYERS: Let me say a couple of things while we're
22 passing these out. In the twelve-step process, let me say that we
23 have spent a considerable amount of time, as Dave mentioned,
24 reviewing the sellers' comments. I would say that it's safe to say
25 that our appraisal process meets the direction you gave us with
26 regard to establishing a uniform appraisal process, and completely

1 -- no -- and better meets the need of the seller and also the
2 interests of the seller. However, I would not want it represented
3 that it completely meets all the requests of the sellers. I want
4 to be clear on that, but it is the process that we think will work,
5 and it is consistent with UASFLA and USPAP. I do not believe that
6 we can represent it as saying that it meets all of the interests of
7 the sellers in what they would like to see happening in regard to
8 appraisals. It does provide for them to have an appraisal of their
9 own and for that to get into the process. The other thing that I
10 would mention is that in the description of the 12-step process, it
11 does indicate that all requests for appraisals comes through the
12 Executive Director, representing the Trustee Council, and there was
13 an issue raised by the attorneys and there has been a memo in each
14 case where it is clear, and I raise this issue because one of the
15 sellers recently represented to me that only when I have an
16 indication from the seller personally, should I request
17 authorization for an appraisal from the Forest Service, and there
18 is a step in there that requires that I request from the Forest
19 Service an appraisal for the Trustee Council. It is an important
20 step, and I did -- I failed to do that recently, and a seller's
21 attorney unequivocally that they had not, in writing, represented
22 that they wanted to discuss an appraisal. So that process is in
23 place that takes written request from me to the Forest Service,
24 representing the Council, and I will do so only with the
25 understanding that there's been written authorization by the seller
26 for an appraisal to be conducted. I just wanted to mention those

1 two things. They are major issues with sellers right now and I
2 want the record straight.

3 MR. PENNOYER: Commissioner Sandor.

4 MR. AYERS: Well, this lays this out as I understand
5 it, the UASFLA process, we may have no opportunity to do anything
6 but comply with those -- in such things as transaction letters --
7 goes along (inaudible -- poor teleconference quality) . . .
8 appraisal process or an independent appraisal process, and
9 (inaudible) we do have this, and I think as a result of that
10 (inaudible -- poor teleconference quality) . . . processes.

11 MR. PENNOYER: Mr. Tillery.

12 MR. TILLERY: I'm not sure I quite understand what this
13 process is. Assuming we get to step 8, and you have two
14 appraisals, the contract appraisal and the landowner appraisal,
15 that both conform to UASFLA and USPAP, then you -- step 9 -- you
16 designate and approve or reject an appraisal. Do you contemplate
17 identifying two -- two approved appraisals?

18 DR. GIBBONS: There's only one approved appraisal --
19 that's my understanding. An appraiser is standing by to answer
20 that question. He has signaled yes, but I understand there is only
21 one approved appraisal. The other one is there, but there's an
22 approved appraisal.

23 MR. TILLERY: Then is the one that's not approved
24 rejected?

25 DR. GIBBONS: I don't think it's considered rejected, is
26 it?

1 (Response out of range of microphone)

2 MR. TILLERY: When it comes to the Trustee Council, are

3 they going to get one or two appraisals?

4 MR. AYERS: One.

5 MR. TILLERY: Get one?

6 DR. GIBBONS: One fair market value.

7 MR. TILLERY: Even if the second one conforms to law?

8 MR. AYERS: Mr. Chairman.

9 MR. PENNOYER: Mr. Ayers.

10 MR. AYERS: Mr. Tillery, the (inaudible) and my

11 understanding is what we've done is provide for the most in-depth

12 review of an appraisal process to get to a fair market value, the

13 price -- the fair market value. It is not an appraisal that you

14 will get or discussion of an appraisal, hopefully, but a fair

15 market value based on an appraisal. This provides that if there's

16 two appraisals, or three or four, but in this case if there's two,

17 if the value of the -- the value of the land will be based on an

18 appraisal and various factors in that appraisal. Through the

19 review appraisal process, another appraisal that may have different

20 numbers, will be reviewed by the reviewers, and they will then say

21 to the contractor, please look at this, this is an oversight, or

22 maybe you ought to go back and look at this, or, no, we think this

23 particular factor has been found exactly right, so that value is

24 found by the review appraisers to be the right -- consistent with

25 USPAP and UASFLA. It is my understanding that the review

26 appraisers will then come down through a review of each of the

1 appraisals, and they may choose one or the other, or they
2 incorporate some of the -- let's say the sellers possess some
3 information through appraisers that is beyond knowledge that's been
4 picked up by the contract appraisal, Blacksmith in this case. That
5 information would go back to Blacksmith, they'd look at that, give
6 that, you know, find some value. The review appraiser then would
7 discover all that during his very extensive reviewing process. But
8 when it got to the Council, there would not be two or three
9 appraisals for you to then get into the argument. You certainly
10 could ask for that, but it is not my understanding that the
11 reviewers would bring something forward -- and they don't have that
12 jurisdiction to bring three or four options forward with regard to
13 value.

14 MR. TILLERY: Mr. Chairman, may be you can answer this
15 way. If the seller came to the Trustee Council meeting and
16 presented their view of the value which differed from what came out
17 of this process, but based on an appraisal that our review
18 appraiser said did conform with these two federal standards.

19 MR. AYERS: All I can say, Mr. Chairman, (inaudible).

20 MR. TILLERY: If that happened, under federal law is it
21 permissible?

22 MR. AYERS: Now that's -- now that particular question
23 is easy for me to answer -- I don't interpret federal law, so I
24 would suspect that what we should do is ask the federal attorneys
25 who have been around the block on this several times now. And
26 actually we're going to engage in a very lengthy conversation here,

1 Mr. Chairman, for the record.

2 MR. PENNOYER: Does the federal attorney care to comment
3 now or wait and further review this.

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

6 MR. PENNOYER: Well, whichever one wants to come.

7 UNIDENTIFIED VOICE: (Out of microphone range and
8 poor teleconference quality) . . . federal standards . . . for
9 example . . . higher value

10 MR. PENNOYER: Commissioner Sandor.

11 MR. SANDOR: In the interests of time, I'm going to ask
12 that the attorneys for the federal government take this and discuss
13 this separately with Mr. Tillery.

14 MR. PENNOYER: Are you willing to carry on such a
15 separate conversation and report back to us the results of that
16 discussion.

17 MR. TILLERY: Mr. Chairman, I'm satisfied with the last
18 answer that I heard.

19 MR. PENNOYER: Answering Mr. Sandor -- Commissioner
20 Sandor's request, I guess we're going to get a more formal response
21 to the question here as we go along. Can we move on. I've been
22 asked by the way that we stop shuffling papers as much as possible.
23 Apparently, this microphone is very sensitive to that. Each have
24 about twenty-two pounds of paper in front of us, I realize it's
25 going to be difficult, but we'll try our best. Dave, do you want
26 to continue.

1 DR. GIBBONS: I just have small point and then I'll be
2 done. Point three was (inaudible -- extraneous noise on
3 teleconference) . . . we have ordered four, five, appraisals,
4 another one waiting imminently in the wings. There's a sheet here
5 that I passed out that gives you the status of what those are. I
6 don't need to discuss them other than just to let you know that
7 we're proceeding now with appraisals on five, soon to have six,
8 appraisals going, and this is the status as we know of today.

9 MR. PENNOYER: Thank you. Then in terms of the process
10 that you're discussing in this previous diagram with all the
11 diamonds and squares on it were down here on those.

12 DR. GIBBONS: Right.

13 MR. PENNOYER: So, further discussion on this report at
14 this time? Hearing none, we have two more items before we break
15 for executive session that the Executive Director wanted to bring
16 up entitled "New Business: Authorization for Ranking and
17 Negotiations Tatitlek, Chugach, and other" and the transfer of
18 \$20,000 from the Prince William Sound herring project to boat
19 surveys.

20 MR. AYERS: Mr. Chairman, very briefly it is my review
21 and my opinion, and my opinion only, that the Trustee Council
22 resolution that gave me the detailed authorization to move forward
23 with regard to land acquisition, did not necessarily provide for
24 authorization for me to have conversation with those who may want
25 to discuss parcels that have not been ranked. So what I'm asking
26 for is the authorization to enter into at least preliminary -- at

1 least into the ranking and preliminary negotiations with sellers
2 who may want to talk to us about parcels that may not have been
3 ranked.

4 MS. WILLIAMS: So moved.

5 UNIDENTIFIED VOICE: Second.

6 MR. PENNOYER: It has been moved and seconded to give the
7 Executive Director this authority. Is there further discussion?
8 So, then what you're saying is you'll engage in those and then come
9 back to us before it went . . .

10 MR. AYERS: It would just put them in the first step,
11 which is simply to find out the seller's interest compared to our
12 interest, get a ranking, I would have to come back to you as I have
13 with the others for detailed negotiation authority.

14 MR. PENNOYER: Thank you. Is there any objection to that
15 motion? (No audible objection). The motion is passed.

16 MR. AYERS: The second item, Mr. Chairman, is the
17 transfer of some \$20,000 from Prince William Sound herring stock
18 identification. The actual reason that \$20,000 is not in here but
19 is a footnote at the bottom, which is available because poor
20 herring returns did not allow for full-scale testing. However, we
21 are doing a full-scale testing planning project in '95, and as you
22 may recall, we did move some additional funds because what is
23 needed is a toxicological research effort that is going on with
24 regard to herring. The \$20,000 would be used for the harlequin
25 duck project or this (inaudible) of the year it is necessary to do
26 spot checking in a couple of areas, and I think Joe Sullivan is on

1 line, if you would like to discuss that item further.

2 DR. SULLIVAN: Yes, I am here. This is Joe Sullivan in
3 Anchorage. Basically, you should have a memo in front of you that
4 outlines why we need to do this, but -- can you hear me, by the
5 way, down there?

6 MR. PENNOYER: Yes, Joe -- except when we shuffle papers.

7 DR. SULLIVAN: That's okay. I just -- sometimes my voice
8 doesn't seem to come in on this system here. Anyway, basically, we
9 have reports from Exxon contractors that there are more broods out
10 there than our studies have indicated in 1993 and previous years,
11 and we're not certain whether or not they have their act together
12 as far as being able to recognize birds -- eh, broods -- or whether
13 they are looking at female birds or what's going on, but we do
14 think that it's -- since the aspect of successful recruitment into
15 the population is extremely important in the recovery of harlequin
16 ducks or not, it's something that we really need to check out. So,
17 what we're not looking for here is a full blown survey, what we're
18 looking for is an ability to get out for a couple of weeks in the
19 middle of the summer and check the areas where they have reported
20 what they say is numerous broods near Green and Naked islands, and
21 also look at some of the areas where we believe we've seen some
22 recruitment in the past couple of years. So, it's not a lot of
23 money, but we do believe that it's necessary to get out there
24 during the couple of weeks in the middle of summer and check that
25 out and see whether that is in fact true or not or whether perhaps
26 their techniques are not sufficient to really accurately document

1 what's there and what's -- or what isn't there. In the '95, we
2 plan to do a larger scale survey of harlequin ducks in general.

3 MR. PENNOYER: Commissioner Sandor.

4 MR. SANDOR: Yeah, I'm very -- Mr. Chairman -- I'm very
5 pleased to see this. I only regret that it's not the full scale
6 project which we, of course, did not approve. I move the transfer
7 of the \$20,000 from project 94165 to project 94427.

8 UNIDENTIFIED VOICE: Second.

9 MR. PENNOYER: Mr. Sandor . . .

10 MR. SANDOR: (Inaudible) . . . pass out to the
11 Trustees this (inaudible) on the oil impact on harlequin ducks
12 which I found persuasive (inaudible -- extraneous noises on
13 teleconference).

14 MR. PENNOYER: I guess my only question, Commissioner
15 Sandor, or -- is, if this is not compelling, are we dealing with
16 just the transfer or should increased funding be provided. I don't
17 think we were transferring is a mechanism that's within an existing
18 budget that was approved, which, if submitted and so forth -- I
19 guess that it's easier to handle than submitting a new court
20 request, but I'm not sure I've heard the viability of one versus
21 the other so far. If there's a real need here, is just going out
22 there and looking at a technique an appropriate thing to do or
23 should we be out there actually doing a full blown survey? Mr.
24 Ayers.

25 MR. SANDOR: Well, Mr. Chairman, one of the reasons I
26 passed this two-page sheet that (inaudible) -- it seems to me that

1 the challenge is much larger than we first -- I guess this is the
2 step of getting more of the answers that are needed, and I honestly
3 can't answer the question of whether the \$20,000 is enough, but if
4 there's enough to get started, I assume that if it's recommended to
5 the Trustees.

6 MR. AYERS: Mr. Chairman.

7 MR. PENNOYER: Mr. Ayers.

8 MR. AYERS: In response to the information and the
9 request, the various parties involved, including the Department of
10 Fish & Game, has requested this year over the year to develop a
11 full blown methodology because they anticipate a long-term effort
12 at recovery -- a long-term recovery of harlequin ducks. They
13 declined and are declining. There is an issue about outstanding
14 reports and information that needs to be synthesized with regard to
15 those reports, unless -- they had originally requested with some
16 twenty -- \$22,000 -- to develop a methodology for a long-term
17 monitoring program of some ten to fifteen years, and use this year
18 as a year to develop that methodology.

19 MR. PENNOYER: So this request is consistent with the
20 original proposal, I presume.

21 MR. AYERS: The Chief Scientist and Dr. Fry (ph), the
22 peer reviewer, recommended that approach as well, and if you want
23 to talk about the toxicology reports, we can get into that. They
24 did not feel those needed to go forward this year. They felt that
25 this was a measure that ought to happen in addition to their
26 methodology effort -- methodology development effort this year, and

1 completing their previous reports and synthesizing that
2 information, they thought this ought to go forward this year
3 because they need -- they have this additional information, which
4 is, they have brood stock or reported broods that they believe, as
5 Joe pointed out, are actually molting females, and that we ought to
6 fund a review of that report, and we ought to do so now . . .
7 (inaudible -- simultaneous talking)

8 MR. PENNOYER: Any further discussion of this motion?
9 Any objection to the motion? (No audible objection) Motion is
10 approved; transfer is approved. We will now take a break unless
11 there is further discussion to -- for about five minutes, and then
12 go into executive session.

13 (Off Record at 3:38 p.m.)

14 (On Record at 5:52 p.m.)

15 MR. PENNOYER: Okay, we'd like to reconvene this meeting
16 of the Exxon Valdez Oil Spill Trustee Council. We've had an
17 executive session to discuss the progress of those negotiations
18 relative to habitat acquisition, and I believe we will want to
19 conclude our business here expeditiously, and we are going to have
20 a motion as part of that.

21 MS. WILLIAMS: Mr. Chairman?

22 MR. PENNOYER: Go ahead.

23 MS. WILLIAMS: I would like to make a motion to have the
24 Executive Director develop a draft process of policy statement on
25 less than fee simple habitat acquisition, which will examine public
26 access and canopy protection, among other issues, and to bring this

1 policy statement and process -- this draft policy statement and
2 process -- to the Trustee Council, by resolution, or at the next
3 scheduled Trustee Council meeting.

4 MR. PENNOYER: Is there a second?

5 UNIDENTIFIED VOICE: Second.

6 MR. PENNOYER: Discussion?

7 MR. SANDOR: Question -- is it process on our options
8 (inaudible).

9 MR. PENNOYER: The answer is yes. (Inaudible) of this
10 motion, and in the meantime we will proceed with process we set in
11 place to determine the process we have ongoing, the appraisal
12 process and so forth. It doesn't put everything on hold until that
13 time?

14 MS. WILLIAMS: Absolutely correct.

15 MR. PENNOYER: Commissioner Sandor.

16 MR. SANDOR: Then it is understood that if the
17 negotiations are going to be less than fee, this whole issue of
18 access is to be defined and dealt with at the next meeting.

19 MS. WILLIAMS: That's correct.

20 MR. PENNOYER: Okay.

21 MR. AYERS: I expect Rebecca got that -- Rebecca, are
22 you on line?

23 STAFF: Yes, we are.

24 MR. AYERS: Did you catch that latter clarification by
25 Commissioner Sandor.

26 STAFF: No, it needs to be repeated, please.

1 MR. SANDOR: I said that in the negotiations of
2 anything less than fee that this whole matter of appraisal for less
3 than fee is to be dealt with by the Trustee Council at its next
4 meeting, so that these -- (inaudible) about this process, and the
5 answer is yes.

6 MR. PENNOYER: The clarification is that that doesn't
7 stop us from proceeding with appraisals, however, just to keep this
8 in mind.

9 MS. WILLIAMS: Yes.

10 MR. PENNOYER: Thank you. Any further discussion on the
11 motion? Is there any objection to the motion? (No audible
12 objection) The motion passes. The last item of business I have on
13 my agenda is setting a date and time for the next meeting and
14 deciding whether we were recessing or adjourning, or what we're
15 doing with this one. Commissioner Sandor.

16 MR. SANDOR: Move we recess until a report can be
17 prepared (inaudible) to which the Executive Director and the
18 committee.

19 UNIDENTIFIED VOICE: Second.

20 MR. PENNOYER: One further item of business then, in
21 terms of calendars, do you want to take a few minutes and decide
22 when an appropriate time for the next meeting would be. The -- we
23 have some (inaudible) activity and has to rule that out because
24 some of us weren't available in any given week. So, can we talk
25 about that? I'm gone through June 18th -- June 19th, first of that
26 week. I'm here for the following two weeks.

1 MS. WILLIAMS: I'm not available the last week in June.

2 MR. PENNOYER: How about the third week in June? Have a
3 half day meeting somewhere in there?

4 MR. WOLFE: Would this be in Anchorage this time or
5 here?

6 MR. PENNOYER: Teleconference where most of us at a place
7 we can get to, I guess. We'll try for the third week in June,
8 then? (Aside comments) -- the 19th or 20th? The Executive
9 Director will call around and find out when in that week we can get
10 together. Is that acceptable? Any further business? (No
11 response) I declare this meeting recessed.

12 (Off Record at 5:56 p.m.)

13 END OF PROCEEDINGS

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CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

That the foregoing pages numbered 56 through 139 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council teleconference meeting taken electronically by me on the 31st day of May, 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 6th day of June, 1994.

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

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