

**EXXON VALDEZ OIL SPILL SETTLEMENT
Trustee Council**

**Egan Civic & Conference Center
Space 4
555 West Fifth Avenue
Anchorage, Alaska
February 5, 1992
11:00 o'clock a.m.**

IN ATTENDANCE:

State of Alaska	MR. CHARLES COLE Attorney General Council Meeting Chairman
State of Alaska Department of Environmental Conservation	Mr. JOHN SANDOR Commission
Alaska Department of Fish and Game	MR. CARL ROSIER Commissioner
USDA Forest Service	MR. MICHAEL BARTON MR. DAVE GIBBONS Regional Forester
National Oceanic Atmospheric Administration	MR. STEVEN PENNOYER Regional Director
United States Department of the Interior	MR. CURTIS McVEE Special Assistant to the Secretary

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P R O C E E D I N G S

1
2 MR. PENNOYER: I think we might as well go ahead and
3 get started with this the fifth -- fourth meeting of the
4 Trustee Council of the Exxon Valdez Oil Spill Settlement. Go
5 ahead and briefly introduce the people at the table; I'm Steve
6 Pennoyer, I'm the NOAA Representative, I'm with National Marine
7 Fisheries Service in Juneau, Alaska. To my left is Charles
8 Cole, Attorney General for the State of Alaska, to his left is
9 Curt McVee, Special Assistant to Secretary of the U.S.
10 Department of the Interior. To my right is Michael Barton,
11 U.S. Department of Agriculture, U.S. Forest Service in Juneau,
12 Alaska; and to his left is -- right is John Sandor -- I'm
13 sorry, I had one more, the table's longer in that direction
14 than in this direction -- John Sandor, Commissioner of the
15 Department of Environmental Conservation, State of Alaska. To
16 the far left is Carl Rosier, Commissioner of the Alaska
17 Department of Fish & Game. To Mr. Sandor's right is Dave
18 Gibbons, he's our acting Executive Director and Chairman of the
19 RRSg, the Restoration Planning Team or I hear you have a new
20 name, Dave.

21 MR. GIBBONS: Yeah, we hope to.

22 MR. PENNOYER: Do you want to introduce your folks at
23 the table too, then, please,

24 MR. GIBBONS: Sure.

25 MR. PENNOYER: on the Restoration Planning Team.

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1 MR. GIBBONS: I'll start at the other end of the table.
2 On the far end is Cordell Roy and Pamela Bergmann representing
3 the Department of the Interior. To Pamela's right is Byron
4 Morris representing NOAA, National Fishery Service. On my
5 immediate right is Mark Brodersen representing the Alaska
6 Department of Environmental Conservation. To Mark's right is
7 Jerome Montague representing the Alaska Department of Fish &
8 Game. To Jerome's right is Ken Rice representing the U.S.
9 Forest Service, Department of Agriculture. And to Ken's right
10 is Marty Rutherford representing the Alaska Department of
11 Natural Resources and the Department of law.

12 MR. PENNOYER: Thank you, Dave. We also have Bob Bird
13 (ph) here from the EPA who advises the Federal Trustees on
14 administration matters. And, i think the purpose of the
15 meeting today is to go over our plan for activities for the
16 1992 year and beyond. And, we've the Restoration -- I'll let
17 you talk about your name change in a minute -- the Restoration
18 Planning Team working hard on our instruction on the project
19 budgets for the '92 season and the -- and support costs to
20 cover it.

21 So, the purpose of today is to look at that package and
22 decide what we need to send out to public review in time to get
23 it back, re-review it and get something in-place for the 1992
24 Field Season. I think we're going to meet here for an hour or
25 so, take a lunch break and go on, we're going to have a

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1 teleconference tonight starting at 6:15 p.m. Dave, is that
2 what we're scheduled for?

3 MR. GIBBONS: 5:00 o'clock.

4 MR. PENNOYER: 5:00 o'clock, sorry. I told you
5 forgot -- lost my glasses on the plane.

6 (Off record comments)

7 MR. PENNOYER: We'll be meeting all day tomorrow
8 starting at 8:30 in the morning.

9 MR. COLE: Apparently, they're not hearing you out
10 there, Steve.

11 MR. PENNOYER: Are those things working? Is this
12 better?

13 UNIDENTIFIED VOICE: We can hear you (ph).

14 MR. PENNOYER: Okay. We'll be meeting here tomorrow
15 starting at 8:30 in the morning; we'll again have the
16 teleconference tomorrow night starting at 5:00 o'clock and take
17 public comments at both those teleconference periods. There --
18 I think what we'll do now, unless -- first of all, do Trustee
19 Council Members have copies of the Agenda? I believe -- were
20 copies of the Agenda made available, Dave, to the public as
21 well?

22 MR. GIBBONS: Yes, they were.

23 MR. PENNOYER: So, they're out on a table out there.
24 Does anybody have any changes or additions at this point to the
25 Agenda or should we start down through it and play it by ear?

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1 Yes, Commissioner Sandor.

2 MR. SANDOR: Yeah. Mr. Chairman, I don't have any
3 additions to the Agenda, I have two informational items that I
4 can pass out if we're going to have an introductory statement
5 of each of the Commissioners.

6 MR. PENNOYER: That's fine, why don't you go ahead.

7 MR. SANDOR: The first item, Mr. Chairman, is just a
8 news release dated January 26th of 1992 of a French award of
9 204 million dollars in the spill case Amoco Corporation must
10 pay the principal award of the 204 million dollars in an
11 Appeals Court ruling that was issued that Friday prior to this
12 news release date.

13 The point that I wanted to call to the attention of the
14 Restoration Team and to the Trustee Council that this accident
15 which occurred 14 years ago, and of course the subsequent award
16 had been made and then appealed; 68 million gallons of oil were
17 lost, this more than six times the nearly 11 million gallon
18 Exxon Valdez Spill in 1989.

19 And the other point I want to make is that I suspect
20 since this was a very important wildlife resource area that
21 there may be scientific studies that had, you know, been
22 generated in that area. And I am hopeful that we're
23 communicating with scientists in other areas that are doing
24 damage assessments and restoration work on other oil spills.
25 And I think this is an interesting case. I think it's one we

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1 ought to be following, and I think it's one in which we can put
2 our award in perspective.

3 So that's an information item, the second item that I'd
4 like to just introduce and pass onto the Restoration Group is a
5 proposal to establish a settlement endowment fund. And both
6 Governor Walter Hickel and Secretary of Interior Manuel Lujan
7 had proposed that a substantial part of the Exxon Valdez Oil
8 Spill Settlement Fund be placed in endowment of trust fund, and
9 Mead Treadwell, the Deputy Commissioner of ADEC and my
10 alternate to the Trustee Council, have developed three possible
11 scenarios which are outlined here.

12 Mr. Chairman, all I'm doing is referring to this, as I
13 have already by telefax yesterday to Dave Gibbons and his
14 Staff, and just suggest that they look at these, look at other
15 alternative proposals for an endowment fund and, perhaps, at
16 the next meeting, refer -- place this on the Agenda and -- for
17 our consideration and possible action.

18 That's all the comments I

19 MR. PENNOYER: Thank you.

20 MR. SANDOR: have, Mr. Chairman.

21 MR. PENNOYER: Go.

22 MR. COLE: Thank you, Mr. Chairman. Mr. Sandor, are
23 copies of this available for those who are independents at this
24 meeting?

25 MR. SANDOR: We'll make them available. I have some

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1 but this crowd is larger than I've got.

2 MS. RUTHERFORD: There are six extra here.

3 MR. SANDOR: And, there's -- here's about six or ten
4 more.

5 MR. COLE: I should say we should make arrangements to
6 have copies of that available to anyone who would like to have
7 one, so perhaps, after lunch or during the noon hour we can do
8 that.

9 I would like to say also at some appropriate time, I
10 would like to make a relatively short statement of my views of
11 my -- our legal obligations as a Trustee sitting on this
12 Council. And sometimes, I suspect that my approach to
13 proposals which come before the Council are not understood in
14 the light of my views of the legal obligations of a trustee. I
15 will elaborate more on this subject, perhaps, when,
16 Mr. Chairman, you think it appropriate.

17 But as I view our legal obligations, it's essentially
18 that of a common law trustee in the classic trust sense. And,
19 therefore, each decision which is made by a trustee must be
20 formulated or arrived at with those legal principles in mind;
21 and that's what I have tried to do. I come from, more or less,
22 a legal background, and I feel comfortable in those general
23 areas. And, perhaps, I should earlier have expressed publicly
24 by views as to the approach we are, at least as I view myself,
25 required to make.

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1 So, if you would allow me that curtesy at some juncture
2 when you think it appropriate. Thank you.

3 MR. PENNOYER: Well, Mr. Cole, if you want to do that,
4 perhaps now would be a good time before we start taking
5 decisions at this meeting. If you some views you wish to
6 discuss, perhaps you should do it at this time.

7 MR. COLE: Well

8 MR. PENNOYER: That's okay.

9 MR. COLE: I thought I would duck that a little
10 bit.

11 MR. PENNOYER: Well, I'm willing to let you duck it if
12 you want but

13 MR. COLE: And you put it right back into my lap.
14 Well, let me simply say this, I will endeavor to keep it short
15 but I requested the Department of Law to prepare a memorandum
16 of its views to see whether the legal research has confirmed by
17 visceral feelings based upon some sense of the law of trust.
18 And I think I'm generally pleased to say that they have.

19 I start with the proposition that trustees under the
20 Clean Water Act or Circular (ph) Act are really -- are trustees
21 in the common law sense. And that we are trustees of the
22 natural resources which have been injured as a result of the
23 spill, that we serve as trustees, that in general the corpus or
24 the trust race is that of the recovery, the settlement funds,
25 and that the beneficiary of this trust are the natural

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1 resources of the Government's which have been injured as a
2 result of the spill.

3 Then what are the obligations of us as trustees in
4 administering this trust, which is the framework of, like I
5 say, a standard common law trust. And those duties are bound
6 not so much in statutes that we're dealing with here; you know,
7 I think, however, when the statutes were enacted, it was
8 generally presumed that the Trustees would act as trustees in
9 the framework of a common law trust.

10 So, I just want to briefly touch upon what the common
11 law has -- over the last two or 300 or more years has settled
12 upon as duties of common law trustees. But supplementing that,
13 I think we have a Memorandum of Agreement here between the
14 State and the Federal Governments approved by Judge Holland
15 which sets forth in a little more detail, but largely in the
16 language of the statute, the responsibilities of the trustees.

17 And here's what I think they generally say. First, we
18 have a duty to administer the Trust, that seems obvious and
19 clear. Second, we have a duty to administer of the Trust
20 solely in the interest of the beneficiary and for the benefit
21 of the beneficiary; i.e., the damage to natural resources, the
22 equivalence.

23 Some question I think exists as to the scope of our
24 ability to delegate those duties. The historic common law view
25 has been that these duties may not be delegated. That means,

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1 as I see it, that if that rule of law were applied literally,
2 only the designated trustees could make the decisions.

3 There's been some deterioration of that strict common
4 law rule that's developed in recent years, I think properly so.
5 But as I sense our duties here, when you couple that legal
6 responsibility with the very clear duty to exercise reasonable
7 care and skill in administering the Trust and preserving the
8 Trust property for the benefit of the beneficiary; i.e., the
9 resources, et cetera; I think it's incumbent upon certainly me,
10 I view it as my obligation, to personally satisfy myself that
11 each of these expenditures are within the scope of the central
12 purpose of the Trust, and that they're in furtherance of our
13 obligation to restore the damaged resources or equivalent
14 services, and not simply to accept what is presented to me as a
15 trustee by our expert staff and advisors.

16 And it is for that reason that I asked questions of the
17 Staff to satisfy myself that we are on track in carrying out
18 the purposes of this trust and fulfilling our duties. And I
19 say that because I have the sense that, you know, there is
20 likely to be litigation claiming that we have not fulfilled our
21 Trust duties and responsibilities in administering this Trust.
22 And I want to be prepared to say that if such litigation
23 arises, and I am deposed with respect to any singular
24 expenditure or decision, that I can fully and to the extent of
25 my abilities, ably respond to those questions comfortably

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1 saying this is why I voted the way I did, these are the reasons
2 for it and this is why I think that I voted entirely within the
3 scope of my obligations as a trustee.

4 MR. WHITAKER: Excuse me. I'm a member of the public,
5 and you've cut the testimony all the way back to 5:00 o'clock.
6 When I'd just like to say at this time that while you're being
7 apologetic for the vote where you're going to spend 90 million
8 dollars and give no money to restoration, I really object to
9 that. And, I'd also like to say that I think it's premature
10 for you to be spending any of this money until the Legislature
11 and, possibly, their litigation like you're talking about

12
13 MR. PENNOYER: Sir, can we

14 MR. WHITAKER: on that issue it revolves (ph).

15 MR. PENNOYER: Can we wait for public testimony?

16 MR. WHITAKER: Well, that's fine.

17 MR. PENNOYER: We will take it. We're not going to
18 make any

19 MR. WHITAKER: But see, you've got a bunch of people up
20 here in suits and you've got all this lined up to spend all
21 this money and restoration is going to (indiscernible -
22 interrupted)

23 MR. PENNOYER: No. Sir, nothing is lined --

24 MR. WHITAKER: 90 million dollars.

25 MR. PENNOYER: Nothing is lined up to spend any money.

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1 I think what Attorney General Cole is trying to say is that our
2 decisions on this have to be reached after examination of the
3 projects, after receiving the input from the public on what
4 we're planning to do.

5 MR. WHITAKER: After you've done study after study
6 after study to pay

7 MR. PENNOYER: No.

8 MR. WHITAKER: yourself \$42,000.00 a year. I
9 mean, come on.

10 MR. PENNOYER: Thank you. Can we proceed to let
11 Attorney General Cole

12 MR. COLE: Sir, would be good enough for the record to
13 furnish us with your name and address?

14 MR. WHITAKER: My name is Jedd Whitaker (ph), I'm on
15 record out there. I'm just saying I'm objecting to the
16 proceedings right now because of this.

17 MR. COLE: Thank you for your views, they're a matter
18 of record.

19 But at any rate, I want to be entirely comfortable with
20 my decisions and, perhaps, with background and that
21 explanation, maybe you will understand how, at least in any
22 event, I am proceeding in the course of these decisions which
23 we are about to make. Thank you.

24 MR. PENNOYER: Thank you, Mr. Cole. I think it was
25 very appropriate you made that statement at this time. And

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1 again, following up on what the gentleman said, if there's a
2 perception that we are -- have made these decisions in some
3 fashion, that's not true. And I think what Mr. Cole says is
4 entirely correct; we've got to examine the proposals that have
5 been put in front of us, see how they fit our trustee
6 responsibilities. We instead to send them fully out to the
7 public and get a full public comment before both of these
8 hearings and in writing before we take any final action.

9 So, really, we have not made these decisions yet, and I
10 think your remarks are entirely appropriate. Does anybody else
11 wish to add to that or are there other comments before we start
12 with the rest of the Agenda.

13 Okay. Perhaps, in the time left before lunch, we could
14 deal with a few things, Dave, like the name change for the
15 Resource Restoration Coordination Group; that sounds like a
16 very significant item. Why don't you lead us down through that
17 one.

18 MR. GIBBONS: Okay. Thank you, Mr. Chairman. Before
19 we get there, I need to make a couple of announcements to the
20 public so some of the handouts are understandable. I've got --
21 I apologize to the public for not having these binders to every
22 member of the public out there; it was physically impossible to
23 get them to them. There's six copies back there that you --
24 that the public can use and look at, and they're right there in
25 a box. And I -- like I say, again, I apologize for only having

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1 that number of copies, but it's a rather lengthy document and
2 we finished it this last weekend or even Monday or Tuesday.

3 Not in that package is another staple handout out
4 there, and it's four multi-agency projects that should go into
5 that binder and should go into your package, your handouts out
6 there. And it includes some subtitle, inter-title and some
7 mussel bed work, and then also, some plan association GIS work.
8 So that should go into your package of handouts.

9 The binders, just a quick statement, are
10 recommendations, they're not decisions; they're recommendations
11 to the Trustee Council by the Restoration Team. And they're
12 suggestions, and so we're intending this to be an open process
13 and to discuss these.

14 And with that statement I'll ask the Trustee Council to
15 accept a new name for this group. We were initially called the
16 Resource Restoration Coordination Group and that was quite a
17 mouthful and we kept stumbling on it, and the suggestion to the
18 Trustee Council to rename this as the Restoration Team; it's a
19 simple name and the team concept.

20 MR. SANDOR: Mr. Chairman, I move acceptance of that
21 name change.

22 MR. BARTON: Second.

23 MR. PENNOYER: Any objection? Any discussion or
24 objection?

25 MR. COLE: No.

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1 MR. PENNOYER: No?

2 UNIDENTIFIED SPEAKER: No, sir.

3 MR. PENNOYER: Okay. Thank you.

4 UNIDENTIFIED SPEAKER: It's all right.

5 MR. GIBBONS: I'll move onto the next item. I have to
6 apologize again here, this is to Mr. O'Connor, I misspelled his
7 name on the Agenda; his name is O-R not E-R. And Craig gets to
8 talk a little bit about the chief scientist contract.

9 MR. O'CONNOR: Thanks, Dave.

10 MR. PENNOYER: That's all right, it's a small problem.

11 MR. O'CONNOR: The last time the Trustee Council
12 entertained the concept of extending the contract of the chief
13 scientist. We had a contract that was entered into during the
14 litigation phase of the Exxon Valdez case, and there was a
15 desire to extend that contract to complete the work of the
16 chief scientists on the damage assessment and restoration
17 planning phase of the Exxon.

18 The issue that was presented was a mechanism for
19 extending that contract and the costs associated with it
20 and

21 COURT REPORTER: Excuse me, sir, could you go over to
22 the microphone so I can pick you up. Thank you?

23 MR. O'CONNOR: Is this better, can you hear me?

24 The issue was the mechanism for extending that
25 contract, the potential financial obligations that would be

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1 incurred by the Trustee Council in doing that. The principal
2 issue had to do with potential termination costs because the
3 structure for the contract at this point is an option contract,
4 and to exercise the option, that option has to be fully funded
5 through the Federal Government system. That funding was
6 \$191,000.00 for an eight month period of time; that included
7 both the costs of the chief scientist and his staff, and
8 overhead and support, and his travel associated with performing
9 work under the terms of the contract on behalf of the Trustee
10 Council.

11 The Attorney General's Staff and I discussed the terms
12 of the contract with Bob Spies, the chief scientist and
13 reflected the concerns of the Trustee Council on (1) having --
14 being required to fully utilize the provisions of the contract
15 in the sense that if we commit to eight months, do we have to
16 pay for eight months; are we committed to spend the entirety of
17 the \$191,000.00.

18 The answer to that is no, we are not. We are able to
19 utilize that contract to the extent that we deem it
20 appropriate. And if it's not necessary to incur those costs
21 for the full period of time, it's not necessary to do so. So,
22 if your decision was that we need to retain the services of the
23 chief scientist for a three-month period of time or until a
24 certain event has occurred; i.e., the publication of the
25 framework plan or some other event; his services then could be

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1 reduced and eliminated at that point.

2 The other issue is would there be significant
3 termination costs associated with not fulfilling the total
4 extent of that contract. And the answer to that is that there
5 would not be. We have talked to Dr. Spies, he is aware of the
6 fact that his services under that contract may be substantially
7 truncated given the status of the process and the desires of
8 the Trustees to move from the damage assessment focus to a
9 restoration focus, and his services may not be necessary or may
10 be necessary in a substantially reduced load. And he has
11 indicated that he understands that, and that his willingness to
12 accept the exercise of the option is understood to be that it
13 may be limited, and that we would not be expecting him to
14 create a situation where there (ph) were substantial
15 termination cause. He should be phasing down his operation,
16 unless he's otherwise advised by the Trustee Council.

17 The fact that the contract is an option contract has
18 created a time problem for us; the option has got to be
19 exercised by tomorrow. We have, in place, a mechanism that if
20 the Trustee Council approves the exercise of that option, I am
21 told we can go ahead and fund that contract with the
22 understanding that at such time as the Trustee Council presents
23 to the court a bill or a petition, if you will, for
24 expenditures of for funds to be released from the Registry's
25 Report (ph) with the understanding that NOAA would be

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1 reimbursed for that contract expenditure, so we could go ahead
2 and exercise the option if the Trustee Council deems it
3 appropriate.

4 That is before you at this point.

5 MR. PENNOYER: Thank you, Craig. Are there questions
6 of Mr. O'Connor?

7 MR. COLE: Mr. Chairman?

8 MR. PENNOYER: Yes, Mr. Cole.

9 MR. COLE: Is there any period of notice we have to
10 give to Dr. Spies in order to conclude the contract? I should
11 think we would be required to just properly give him say 30
12 days notice, or 60 or some period of time so he could put in
13 (ph) businesslike fashion and wind up his contract service.

14 MR. O'CONNOR: There is no minimum time requirement
15 that I am aware of, but I think it would be appropriate, as you
16 suggested. I think we have put him on notice already that the
17 duration of this contract may be substantially less than the
18 eight months.

19 MR. PENNOYER: Yeah.

20 MR. McVEE: Mr. Chairman. Yes. Mr. O'Connor, I guess
21 one question, and maybe it's a matter of understanding kind of
22 the payment process. If we were to, you know, draw down from
23 the account -- joint account and then deposit or -- with NOAA
24 the 191,000, would -- if that is not used, would it be
25 reimbursable to the account? Is there some way we can be

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1 reimbursed or is the proposition that you're talking about that
2 we would only pay that part that's used, we'd only be
3 reimbursing NOAA for that -- for the actual costs?

4 MR. O'CONNOR: Well, you would have to give us, at this
5 point, the full amount; to the extent that it was not utilized,
6 then we would reimburse it to the Trustee Council and into the
7 Registry account or wherever else it was directed to go.

8 MR. PENNOYER: Other questions? Yes.

9 MR. COLE: I have, Mr. Chairman. NOAA is, of course,
10 prepared to put that in writing, I presume?

11 MR. O'CONNOR: You have my word on it, Mr. Attorney
12 General.

13 MR. COLE: Well, you know, I have sometimes these views
14 that well, it wasn't authorized, you know, or something like
15 that. I think we should get it -- you know, a signature of
16 Dr. Kanouse (ph) or whomever is the appropriate authorized
17 representative of NOAA that that will be the case. Like I say,
18 we're acting as trustees.

19 MR. PENNOYER: I'm sure we can prepare the appropriate
20 memorandum. John.

21 MR. SANDOR: Just a question or affirmation. Is it
22 correct then to understand that this 191,000 is not to be
23 exceeded but could be substantially less?

24 MR. O'CONNOR: That's correct.

25 MR. SANDOR: And it's for an eight month period?

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1 MR. O'CONNOR: That's correct.

2 MR. SANDOR: Up to an eight month period?

3 MR. O'CONNOR: Yes, sir.

4 MR. PENNOYER: Perhaps, it would be appropriate for
5 Dave to say a few things that they're doing in interacting with
6 the chief scientist and peer review on the preparation of the
7 restoration plan.

8 MR. GIBBONS: Yes. The activities have been going on
9 as we're trying to wrap up the damage assessment studies that
10 were initiated in 1989, and Bob's an integral part of that,
11 providing an unbiased scientific review of what's in there.
12 And that he's -- through a synthesis process and with peer
13 reviewers those -- that work is looked at in detail and
14 scrutinized and will be eventually made available to the
15 public. So, it's an independent scientific review.

16 MR. PENNOYER: We have discussed it in the past. And
17 yeah, Mr. Barton. And I'd agreed on the need for it and the
18 question was (1) how to do it and over what period of time. I
19 think the proposal Mr. O'Connor has put in front of us -- can I
20 have a motion of some kind?

21 MR. BARTON: Mr. Chairman, I move that we accept the
22 proposal as outlined by Mr. O'Connor for Dr. Spies' services.
23 I think he has provided a very valuable service to us over the
24 past two and a half years, and I think for the sake of
25 continuity and an effort to bring the NERTA (ph) studies to

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ANCHORAGE, ALASKA 99501

1 closure that this would be a very worthwhile investment.

2 MR. ROSIER: I'd second the proposal.

3 MR. PENNOYER: Moved and seconded. Is there further
4 discussion? Is there any objection to the proposal? So
5 passed. Thank you.

6 Dave, do you want to go onto Permanent Organization
7 including Personnel & Budgets, perhaps, and then we could maybe
8 look at that over lunch after your presentation?

9 MR. GIBBONS: Sure. Yeah. I'm the lead on this but
10 this is really a Team activity; so, I'm sure that the Team --
11 if I miss something, the Team will make sure and voice their
12 opinions.

13 Up on the flip-chart we put an organization you can't
14 read but you have in your package. When after I put it I
15 realized you can't see it from back here. But it's really --
16 it's right after the Agenda in your package, it's our suggested
17 organization to the Trustee Council. I'll briefly go through
18 that, and then we can go through the personnel and the budgets
19 associated with that.

20 The Trustee Council was approved at the first meeting
21 on December 5th, and the six members were identified as well as
22 the Restoration Team; the members were not identified at that
23 time. It was suggested that an administrative director be
24 established to act as a Chair for this group, and we've
25 identified that person with some duties supporting the

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1 development of a plan and the Restoration Team.

2 We've identified some subgroups. You'll notice the
3 footnote on the bottom, it says that these will be formed and
4 disbanded as needed. These are all not -- some of the groups
5 were established before the Settlement and some of them have
6 been established after. The ones before the Settlement were --
7 you'll see Arch on there, we have an Archeological Steering
8 Group comprised of members from the Trustee agencies with
9 expertise in archeology that review archeological injury and
10 proposals.

11 We have a GIS Group that's been formed that reviews
12 specific proposals for data and as well as maps. GIS sometimes
13 people think of as maps, it's the data overlay also; so there's
14 some data bases involved with that.

15 We've had a Restorat- -- before the Settlement, we had
16 Restoration Planning Work Group. We propose to have a
17 Restoration Planning Group that will provide the restoration
18 framework next month and provide a restoration plan, or
19 whatever the decision of the Trustee Council in regards to the
20 activities of that subgroup.

21 We have a Public Participation Group headed up by Ernie
22 Piper. If I can back up just a second. The Restoration
23 Planning Group is co-chaired by Stan Senner from the Alaska
24 Department of Fish & Game and Susan McMullen (ph) from the
25 Environmental Protection Agency.

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1 The Public Participation Group is chaired by Ernie
2 Piper from the Alaska Department of Environmental Conservation.
3 And we'll get a presentation from Ernie a little bit later on
4 what that group is doing, but they're in the middle of public
5 scoping sessions right now. I understand they were, what,
6 Valdez and Tatitlek yesterday?

7 MS. RUTHERFORD: Um-hum.

8 MR. GIBBONS: So we're in the middle of that. We have
9 a 1992 Work Plan subgroup that prepared a lot of the material
10 that's in the book here; that's co-chaired by Jerome Montague,
11 Alaska Department of Fish & Game, and Byron Morris from NOAA,
12 Alaska Marine Fishery Service.

13 I mentioned the Archeological subgroup and the GIS
14 subgroup; that the Archeological subgroup is chaired by the
15 State Historic Preservation Office, and the GIS, we're in the
16 process of reviewing that now.

17 The Budget Process Group is chaired by myself, and it
18 involves laying out the processes for administrative records,
19 budgets, structures, those types of things. In the interim, I
20 will give an extreme amount of credit to Cordell Roy. In the
21 crunch period we've been, Cordell has filled in as the chair of
22 that group and done a great job.

23 We have a Habitat Protection Lands Group that we were
24 directed last meeting to form. We have some proposals to the
25 Trustee Council on that group. And the formation of that group

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1 or the make-up of that group is presently undecided.

2 We have a Financial box to the side, our proposal here
3 is to have several members from the agencies; perhaps, one from
4 the Federal Government and one from the State Government; to
5 provide oversight and coordination to manage these budgets. I
6 expect, you know, these budgets will be extremely scrutinized
7 to where the money's going and how it's spent and we need
8 financial accountability, and so we formed a group there.

9 Does the Trustee Council have any comments on this
10 before I get into the structure -- the specific structure and
11 costs?

12 MR. PENNOYER: Any questions on the general
13 organization? You are going to cover the specifics in some of
14 these blocks in a little more detail?

15 MR. GIBBONS: Yes, we will.

16 MR. McVEE: I'll get back to it at that time.

17 MR. PENNOYER: Go ahead.

18 MR. GIBBONS: If you'll flip to the next page, these
19 are the detailed budgets; it's titled "Exxon Valdez Post-
20 Settlement" dated 1/31/92. And what we've tried to do here is
21 lay out total costs for the operation, and that's what these
22 reflect.

23 Walking through the first item, the Trustee Council on
24 the organization, we may be incorrect on some of these
25 salaries, we didn't ask the Trustee Council how much they were

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1 paid; we took some guesses. And we've identified them in here
2 as salaries, per diem and travel for the meetings and the work
3 that they do.

4 MR. COLE: Mr. Chairman. How do you propose

5 MR. PENNOYER: Mr. Cole.

6 MR. COLE: How do you propose we proceed or are we
7 going to look at these budget items by group, or as they've
8 been spelled out in this document or should we go through the
9 entire administrative proposed organizational budget and then
10 come back to them individually?

11 MR. PENNOYER: Mr. Cole, I thought in the time we had
12 before lunch, we'd let them run through the whole package and
13 have a chance to think about it over lunch, and then come back
14 and go through them one at a time, if that's okay with the rest
15 of the Council members.

16 MR. COLE: Well, my thought is that I mean it's really
17 sort of pretty self-explanatory. I mean I've read this, I
18 presume everyone else has read it. And we could save some time
19 if we just -- you know, if no one has any questions about
20 what's presented here, that's my only thought. And what do
21 other members think -- Trustees think?

22 MR. PENNOYER: Mr. Rosier.

23 MR. ROSIER: Mr. Chairman. Yes. I think Charlie has
24 hit on a good point here on this. I think that the way it's
25 broken down, I think we ought to just charge right in and move

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1 right through each one of these individually, get them out of
2 the way.

3 MR. PENNOYER: Do any of the other Trustee Council
4 members care to comment? That's fine. Let's do it that way
5 then. We have the first one in front of us then that was
6 presented to us on the Trustee Council. Are there comments or
7 questions? Mr. Rosier.

8 MR. ROSIER: Yes, Mr. Chairman. I guess I have some
9 questions in regard to the need for salaries for the Trustee
10 Council themselves on this. And why should the Settlement
11 monies actually go for salaries at the Trustee Council level
12 when, basically, we're all salaried people operating -- that
13 were identified as part of the Settlement. But I really find
14 it difficult to see us hitting the funds available for this
15 program for salary money for this level, quite frankly.

16 MR. PENNOYER: Mr. Cole.

17 MR. COLE: I'd like to direct a question on this to
18 Mr. Gibbons. Was this proposal -- or did it contemplate a
19 reimbursement to the various agencies of this type of salary or
20 does it contemplate a direct payment to the Trustees of the
21 salaries that are projected here?

22 MR. GIBBONS: What it would actually be would be an
23 actual -- we would hope it'd be an actual cost to the salaries
24 incurred.

25 MR. COLE: Reimbursement to the

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1 MR. GIBBONS: Reimbursement.

2 UNIDENTIFIED SPEAKER: Well to the agency.

3 MR. GIBBONS: To the agencies.

4 MR. COLE: Well, I would like to say was that your
5 understanding?

6 MR. BARTON: Yes, that was my understanding.

7 MR. COLE: Well, I would like to say the Department of
8 Law will not take any salary reimbursement, and will not take
9 any per diem for my per diem expenses and will not take any
10 reimbursement for salaries. I don't want to go so far as to
11 say I would object to what other Trustee members might do or
12 want to do on the subject. But that's certainly the position
13 of the Department of Law which will be followed.

14 MR. PENNOYER: Does that cover travel, too?

15 MR. COLE: Yes. It covers everything.

16 MR. PENNOYER: Does anybody else wish to comment?
17 Mr. Barton.

18 MR. BARTON: I, too, reflect Mr. Cole's philosophy on
19 this, and the Department of Agriculture will forego any of
20 this. I would go so far as to move that we strike this item
21 from the budget.

22 MR. SANDOR: I would second that.

23 MR. PENNOYER: Mr. McVee.

24 MR. McVEE: Yes. I ask that my comment that I know
25 that for the remaining of this fiscal year that Interior

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1 doesn't have any great problem in that there are appropriated
2 funds, you know, to cover. I guess I can't predict what's
3 going to happen from the Interior standpoint for the next
4 fiscal year; hopefully, that, you know, we could take the same
5 position as the other Council members in that respect. But it
6 is a bit of an unknown quantity for my office at this point in
7 time.

8 MR. PENNOYER: I think the thought behind it originally
9 was that some work you might have been doing or some other
10 things an agency might get done are not going to get done
11 because of the amendment (ph) for either travel or per diem or
12 salaries. I think that's the original reason it was included.
13 If you strike it from the budget is the -- I think the
14 implication is, Mr. McVee, that you're not going to -- we're
15 going to all agree that we're not going to claim any travel or
16 per diem or salaries. And I think in terms of tra- -- I guess
17 the only concern I have and, Mr. Cole, is I agree with you on
18 principle, is that if we are traveling and spending a lot of
19 money doing something related to this that means I'm not going
20 to Dutch Harbor, or I'm not going to a Council meeting or I'm
21 not doing something else, there are other expenditures that are
22 going to be taken away from them, you still have to do.

23 So, it again was a reimbursement type of thing more
24 than -- I didn't expect the salaries to be paid either.
25 Mr. Sandor.

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1 MR. SANDOR: Yes. I seconded it and speak in favor of
2 the motion, Mr. Chairman, because the Commissioners' duties, as
3 defined, encompasses a broad range of activities that enter
4 into, you know, virtually a full spectrum of Government, State
5 Government and interrelations with Federal Government.

6 Similarly, to travel to individual places also for
7 multiple purposes, I believe it would be inappropriate for me
8 to accept either reimbursement or an allowance for travel or
9 per diem; and thus, speak in favor of the motion.

10 MR. PENNOYER: Any further comment? Yes, Mr. McVee.

11 MR. McVEE: Maybe one further comment. I guess part of
12 Interior's problem or part of my problem may be more associated
13 with the period of time that we're considering here; this is a
14 March 1 to February 28th budget basically, which doesn't fit
15 within either the State or the Federal Government's fiscal year
16 process.

17 And I agree, you know, it gives us a basis to look at
18 costs of 12 months period, and then that we can prorate, you
19 know, how that's going to effect on us on a fiscal year basis.
20 But I think part of my problem is that, you know, I don't know
21 where Interior will be in terms of appropriations for the '93
22 fiscal year.

23 I feel like I will support the motion on the basis that
24 we will have appropriated funds. And if we don't, then the
25 seat may be vacant I guess, but we'll see.

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1 MR. COLE: Well, I'd like to comment.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: Here's my view. I mean it's the State
4 which, you know, is responsible for most of this travel
5 expense; I mean this is largely here in Anchorage where the
6 Department of the Interior is, Number 1, the State Trustees
7 have to travel from Juneau. So, we are the ones that are
8 having a large -- bearing the brunt of the travel expense,
9 Number 1. And Number 2 is if you look at the State budget for
10 the, you know, coming year, it's going to be far less and far
11 more difficult for the State to share or shoulder these burdens
12 than it is for the Department of Interior.

13 And I'm just making a little suggestion that you keep
14 that in mind.

15 MR. McVEE: I will.

16 MR. COLE: Thanks.

17 MR. PENNOYER: I think NOAA's going to support this as
18 well. I think, in general, we're making -- this is a good
19 policy decision but it's a very small part of the overhead; so
20 we're still going to get into a lot of overhead discussions.
21 Again, like Mr. McVee, we'll have to see what budgets bring;
22 but this is relatively, obviously, a small expenditure for each
23 one of us in terms of total (ph); in principle, it's a good way
24 to go.

25 So, is there any further discussion? Is there any

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1 objection? Okay. This special item is struck.

2 Do you want to go ahead? Dave, you're on a roll, you
3 might do yourself out of the whole package here if you keep it
4 up.

5 MR. GIBBONS: Okay. Moving to a Public Advisory Group,
6 this is still -- we're -- like I mentioned earlier, the Public
7 Participation Group is out soliciting public input on the
8 makeup of this group and their activities. And we're in the
9 middle of that process, but we wanted to reflect some thoughts,
10 perhaps, on the makeup or cost of this group for your
11 information.

12 We thought it was necessary to have public advisory
13 group coordinator liaison person to help with the information
14 transfer, to attend the meetings; we know the public is busy as
15 well as we are; to provide the information to the Public
16 Advisory Group. We've got some excellent input, perhaps, we
17 need more than one public advisory group; perhaps, they should
18 be regionalized. That decision hasn't been reached yet. And
19 then we've included some costs there for postage, and phones
20 and some estimates that we see there.

21 We identified some community meeting costs. We expect
22 that they would like to meet other than in Anchorage, they'll
23 probably meet in Kodiak or Cordova or wherever, and we should
24 identify those costs as costs that will be incurred into the
25 process.

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1 MR. PENNOYER: Questions of Mr. Gibbons? Mr. Sandor.

2 MR. SANDOR: I guess, Mr. Chairman, I'd raise a
3 question of process, and specifically, what action we might be
4 taking and whether it's a tentative action, interim action.
5 Certainly, this is one I think we'd want the comments of the
6 public on the adequacy of the public participation process and,
7 in fact, the size and makeup of the whole Public Advisory Group
8 and the public participation plan itself.

9 It's my personal opinion that what we probably should
10 do on this particular item is give an endorsement or take an
11 action that would endorse the process of forming a public
12 advisory group, of funding it at some level, that the nature of
13 it is to be defined and the final funding levels to be
14 developed in the public participation process itself. Is that
15 what's intended, Mr. Gibbons?

16 MR. GIBBONS: Yes. We were trying to identify some
17 costs that are really unknown at this time, and it was kind of
18 tough to deal with it. But we were trying to provide with an
19 entire cost estimate for the process. And we know these are --
20 you know, we need the public input on the number of members,
21 and how many meetings they want to have and the structure; if
22 they want to have a coordinator or a liaison, all of these are
23 up to the public. But we were trying to identify a placeholder
24 number, perhaps, to identify some kind of a cost associated
25 with this group or groups.

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1 MR. PENNOYER: Well, I assume that the 2,227 is your
2 best estimate of given what we know now, and it's not merely a
3 placeholder.

4 MR. GIBBONS: Well, it's what we have, you know

5 MS. RUTHERFORD: I think, Mr. Chairman, I might add
6 something to that. This was our best estimate a week ago,
7 before we were getting some of the input from the communities.
8 The more meetings we attend, the more indication that there is
9 that there may be a very strong desire for maybe regional
10 public advisory groups, at least three.

11 So this is a very low estimate, it's a placeholder but
12 I think it's somewhat low.

13 MR. PENNOYER: Thank you. Dave, what -- in terms of
14 the whole package, how do you view our action on this package
15 in terms of making money available immediately; are we going to
16 use this to go out and try and get some funds on the short-
17 term? Is a part of what we're going to send out for more
18 public review and make a later decision? What parts -- are you
19 identifying the parts that you need answers on right away in
20 terms of expenditures?

21 MR. GIBBONS: Yeah. What we'd like to do -- and this
22 is an unknown. We need some money to operate, and we'll
23 identify those as we move through them. This is not a critical
24 number, perhaps, until that gets formed. But the Agreement
25 says we'll have a group, I think, identified in 90 days. So we

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1 were trying to get some kind of a number there that we could
2 get this group rolling. And so we could -- whatever the format
3 of this group, we have some money for them to get rolling and
4 then come back with an exact budget of cost.

5 MR. PENNOYER: Mike.

6 MR. BARTON: Mr. Chairman, I move that we accept this
7 as presented, recognizing that it's in the very formative
8 stages, and that the Restoration Team will need to bring it
9 back to the Council after this round of public hearings and
10 they've had an opportunity to develop the concept further and
11 then get us a better budget estimate. But I recognize the need
12 that they have to have some money to do this with, and that's
13 what I see that we're doing by accepting this right now.

14 MR. PENNOYER: Is there a second to that motion?

15 MR. COLE: I'll second it.

16 MR. PENNOYER: Further discussion on this item.

17 MR. COLE: Well, I have a comment.

18 MR. PENNOYER: I'm going to ask everybody to speak into
19 the mikes if they can, two people are having trouble hearing in
20 the back.

21 MR. COLE: I support the motion, but I think it would
22 not be inappropriate to say that the budget of -- to say that
23 the Restoration Group and the Administrative Director should
24 bear in mind that the budget for this public advisory group
25 will be fixed by the Trustee Council and will not be itself

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1 determined by the Public Advisory Group.

2 I just sort of got a gleaning or a glimmer of the
3 thought that those decisions would be or might be up to the
4 Public Advisory Group in that regard. And I don't think that's
5 the sense of this Council. Am I in error in that?

6 MR. PENNOYER: Mr. Rosier.

7 MR. ROSIER: In my view, you're definitely not in error
8 on that. I guess I have a question, though, in regards to the
9 coordinator position and how this would, in fact, fit with the
10 organizational structure that you have presented us with
11 earlier on here. Do you see the Public Advisory Group as an
12 entirely separate entity within this? What was the thought
13 process that the group went through on this? Do you see this
14 as part of a staffing pattern under the Administrative Director
15 or what was the process that you went through on this, Dave?

16 MR. PENNOYER: Dave.

17 MR. GIBBONS: Okay. The process here is the group
18 reports -- well the group provides input to both the Trustee
19 Council and the Restoration Team. And the liaison would be an
20 ad hoc member to the Restoration Team, attend the meetings, get
21 the updated information and provide information from the Public
22 Advisory Group into this process and just provide -- that's our
23 thinking on it. If -- Cordell.

24 MR. ROY: Dave, I might add, Mr. Rosier, that we feel
25 the Public Advisory Group is likely to come in with a great

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1 need to be brought up to speed in terms of information and
2 issues. And we would see this person as providing those
3 information services to them, to be essentially a short staff
4 to the Public Advisory Group.

5 MR. PENNOYER: Mr. Cole. Thank you.

6 MR. COLE: Well, why can't that be done by the
7 Administrative Director and his staff? I mean why do we need
8 another \$75,000.00 person to talk to this Public Advisory
9 Group? We have a fairly significant staff on board now and it
10 can save, you know, another hundred thousand by just
11 eliminating that position. I think we have enough people
12 around to do that.

13 And you know, it really troubles me a little bit, and I
14 don't know if I speak with the sense of the Trustees, that I
15 mean we're going to have this group here with its old
16 structure, and then this group, the Trustee Council with its
17 old structure, and then the sort of staff of the structure and
18 pretty soon you get talking about real money.

19 MR. ROY: Mr. Cole, it's hard for me to argue with that
20 observation. We don't know what the Public Advisory Group is
21 doing to do; we don't have a charter for the group. We don't
22 have a sense of the outcome from the public input and how the
23 Council will react to that and what decisions you will come to
24 on your analysis of that information and our presentation to
25 you.

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1 We think that the organization we have proposed to you
2 in this budget establishes or moves to establish an
3 organization that's going to be quite busy. Now, in this
4 particular position, the need for it is somewhat dependent on
5 what kind of a public advisory group you're going to have, are
6 you going to ultimately approve.

7 MR. PENNOYER: This is, of course, one of the problems
8 with going through it one section at a time. When we get to
9 the Executive Director's staff, maybe we could get some detail
10 on what each person's going to do on that and the duties that
11 they are going to have and why they can't fulfill this
12 particular function.

13 MR. PIPER: Mr. Pennoyer, just if we could put off part
14 of this discussion until the public participation item on the
15 Agenda, I think it (A) might let us move along; and (B) I think
16 I can present some of the arguments that the public has made
17 for this staff member at that time, if that's the wish of the
18 Trustee Council.

19 MR. PENNOYER: Mr. McVee, did you have a comment?

20 MR. McVEE: Yes, Mr. Chairman. I guess, you know, we
21 have a motion, I guess I was going to -- want to state that I
22 was supportive of the motion with the qualifications I think
23 that Mr. Barton made. As a part of the motion that we would
24 have an opportunity to revisit this when we hear the specifics,
25 and that when we determine what the duties and responsibilities

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1 -- or the duties of the advisors are going to be that's going
2 to dictate, I think, the number of meetings they will have and,
3 to a large extent, how they will function and the ultimate
4 costs.

5 So, you know, I think that we need -- we will have to
6 revisit this budget item, even if we do approve the motion as
7 is.

8 MR. PENNOYER: Would it be appropriate to table this
9 motion until after Mr. Piper's presentation to us?

10 MR. SANDOR: Yes.

11 MR. PENNOYER: Go on from there. Is there a problem
12 with doing that? Why don't we proceed in that fashion then.
13 We have -- it's now five after 12:00, the next item is rather
14 long, do we want to take the lunch break and come back; we can
15 do that or would you -- I think next we get into the whole
16 package of Administrative Director's support, or do you prefer
17 to go on through the Administrative Director and then break at
18 12:30?

19 MR. COLE: I'd suggest breaking.

20 MR. PENNOYER: Okay.

21 UNIDENTIFIED SPEAKER: Let's break.

22 MR. PENNOYER: I'll think we'll break. Can we be back
23 at 1:30?

24 UNIDENTIFIED SPEAKER: I hope so.

25 MR. PENNOYER: We'll break until 1:30.

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1 (Off record)

2 (On record)

3 MR. PENNOYER: get started, please, we've got a
4 full Agenda for the afternoon. It turned out there's a fast
5 place to get lunch here and we probably could have come back a
6 little earlier, and we'll keep that in mind for tomorrow. But
7 I think -- does any Trustee Council member have something they
8 want to bring up at this time before we go on with the Agenda?
9 I think we're down to the office of Administrative Director's
10 budget.

11 Okay. Perhaps, we can go into that then. Dave, do you
12 want to start walking down through that budget.

13 MR. GIBBONS: Okay. Thank you, Steve.

14 MR. PENNOYER: Why don't you take us all the way
15 through, then we'll come back and talk about the pieces.

16 MR. GIBBONS: Okay. Displayed here you'll see is the
17 proposed organization for the Administrative Director. I'll
18 just briefly describe what the duties of each one of these
19 positions are and work our way down through it.

20 The Administrative Director is responsible for
21 budgetary matters, contract administration and liaison with the
22 Trustee Council. It's also responsible for the supervision of
23 an administrative staff and maintenance of administration
24 record. This person coordinates and schedules workloads for
25 the Trustee Council and the Restoration Team, is responsible

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1 for interactions with the public, public officials and the
2 Public Advisory Group, and also participates on the Restoration
3 Team as a non-voting chair and except in cases of a tie.

4 The budget analyst position tracks expenditures by the
5 Oil Spill Restoration Team and insures compliance with
6 established fiscal record keeping procedures, prepares monthly
7 financial reports, tracks contracts, maintenance agreements,
8 lease agreements, payroll requirements and other financial
9 matters and performs interest fund, petty cash and cashier; a
10 general budget person for the staff.

11 The administrative -- okay. Within the clerical
12 there's three positions; first is administrative assistant.
13 Primary responsibility is for the maintenance of administrative
14 record, providing the housing and the record keeping for that,
15 schedules and supports all facility meetings, delegates,
16 supervises and monitors special request for word processing,
17 copying by the meeting participants and the Restoration Team,
18 arranges all facility teleconferencing and other -- the famous
19 line, other duties as assigned.

20 The clerical support, there's one person in the
21 clerical support who assists in the maintenance of
22 administrative record, organizes and maintains the docket for
23 Federal Register notices, perform specific Restoration word
24 processing and by supporting both the Restoration Team, the
25 Restoration Planning Group and Administrative Director, and

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1 handles photocopying, fax transmissions, those types of duties.

2 And the last person built into this category is
3 receptionist, answers and directs all phone calls, takes
4 messages. I won't go into that one, everybody's pretty
5 familiar with the receptionist.

6 We have the per diem and travel built in for the
7 Administrative Director. These are guesses but it depends on
8 who the permanent director -- Administrative Director is, it's
9 kind of a tough one. We suggest that the Administrative
10 Director be housed in Anchorage so that travel costs should be
11 reduced some.

12 The next item on there is the Trustee Council public
13 meeting costs; this includes teleconferencing to the various
14 communities, transcripts, public notices, rooms. And we have a
15 proposal that we'll get into a little bit later on where we
16 suggest that these would be housed, suggesting the house in the
17 present half of the first floor building that we're in now, and
18 this will provide multi-services to the Public Advisory Group,
19 to the Trustee Council, to the Restoration Team and various
20 components.

21 Other staff travel, this figure is a ballpark figure
22 for relocation costs, we don't know where this -- the permanent
23 Administrative Director will be coming from; Anchorage, it's
24 zero, Juneau it's cheaper, Seattle it's more. This is a
25 placeholder number.

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1 And the next is a large item, we went through the costs
2 of printing in the past, and we identified what future products
3 we're going to print this year; it includes the 1992 Work Plan,
4 the draft Restoration Framework, a draft for Restoration Plan,
5 and 1993 Work Plan and response to public comments from the Oil
6 Year 3 or 1991; they'll be known as a pink block (ph). And
7 those are the five publications, generally, we've been 2,500 of
8 these and mailing them out; we have a mailing list of about
9 1,500 or more.

10 And the last item on this, the Administrative
11 Director's budget, is a space cost; the reflects the present
12 space cost for the Simpson Building that we're in now at
13 645 "G" Street, it also includes utilities, phones, security
14 equipment, rental maintenance agreements and supplies. A
15 detail of this number is located in the back after the summary
16 of these budgets, and it's called Simpson Building Facilities
17 Cost Detail, it's dated 19- -- 1/19 -- 31. And it separates
18 all these detailed costs out and it does some comparisons; the
19 Simpson Building to the Federal Building to the Response -- DEC
20 Response Center to the Frontier Building. We've got some
21 examples of costs and that's all displayed there for
22 information; the square footage. Basically, that -- the
23 subtotal is the 776,000.

24 MR. PENNOYER: Thank you, Dave. Trustee Council
25 members, questions on individual items? Dave, I'll start one

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1 off then. We're did you \$200.00 per day per diem, for the
2 Administrative Directors?

3 MR. GIBBONS: Well that's a number that we threw around
4 a lot. It varies if the summer per diem is about 200 for --
5 you know, for Anchorage. It depends on where that person is,
6 it's all contingent on that. Winter per diem, it's less than
7 that, it's roughly around 150.

8 MR. STEELE: It also includes cab fare, vehicle rental.

9 MR. COLE: Sure, the whole thing.

10 UNIDENTIFIED SPEAKER: Thank you.

11 MR. PENNOYER: Further questions on the various
12 positions and expenditures outlined in here? Curt.

13 MR. McVEE: Yeah. I guess maybe more of a comment.
14 But that if -- you know, if we have to move the operations from
15 the Simpson Building, you know, because it doesn't meet
16 standards -- the handicap standards or whatever, then, Dave,
17 we're probably looking at even additional costs here on the
18 fourth -- to the fourth floor (ph) space, plus moving costs I
19 guess?

20 MR. GIBBONS: That's correct. We would probably -- we
21 would do it -- handle it a little differently, we'd still need
22 a meeting room and stuff but it would be increased costs for
23 the square footage.

24 MR. PENNOYER: Commissioner.

25 MR. SANDOR: I guess I would raise the question that

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1 looks to not only this year but next year. I see in the
2 workload activity of this office of the Administrative Director
3 as being fairly large this year because of the activities. But
4 it seems to me there's an opportunity to -- well, I think we
5 need to make a commitment of phasing out and integrating into
6 the regular agency programs as many of the activities as
7 possible; and possibly, this is realistic more next year than
8 this year. But -- and this, of course, is for this one year.

9 But I guess the day when you and the other members of
10 the Team looked at this -- is this the concept that this is an
11 extraordinarily expenditure this year and it will be
12 substantially reduced next year, or is -- do you see this as
13 being, perhaps, a perpetual level of planned expenses of this
14 office in the future?

15 MR. GIBBONS: Well the Restoration Team didn't really
16 discuss that. We were looking at a year -- for the one year,
17 and we were trying to identify the products that we've got for
18 this upcoming year. And we didn't look at some, perhaps,
19 future costs. Maybe some of the other Restoration Team members
20 might want to add to that.

21 MR. MONTAGUE: I was just going to say whether it's
22 agency or not, are the costs going to be any different and we
23 think not.

24 MR. SANDOR: Well, I can guess, Mr. Chairman, that
25 would concern me. Because as we look at many of the projects,

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1 they have multi-facets related to them; some of them are
2 totally as a result of the Exxon Valdez damage, some are mixed
3 with other activities, and some of the studies and activities
4 actually have multi-benefits to regular programs as well. And
5 it seems to me that there's some merit in looking at as many of
6 these activities as possible is integrated into DEC programs
7 that are ongoing and as well as other agencies.

8 That certainly applies in the Department of
9 Environmental Conservation, I don't know that it applies to
10 other places. And I guess this is the place that I would point
11 out that, for example, in the assistant to the Secretary of the
12 Interior position and formally the Land Use Council (ph) would
13 play a coordinating role between agencies. I think there are
14 coordinating mechanisms already, and I think we ought to take
15 advantage of them.

16 I'm not too discomforted if this -- with this level of
17 financing for this one year; in fact, it reflects what, you
18 know, have to be done this year. I'm concerned, though, that
19 this is -- if we're setting up, you know, a permanent
20 organization of this level and have no plans of integrating
21 into the regular programs.

22 The DEC and I think most of the agencies have a number
23 of multi-functional programs and this is another activity. And
24 you have a separate -- we're setting this up as a separate
25 organization with separate -- different groups. And I think we

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1 may be overlooking opportunities for utilizing existing Federal
2 and State organizations and, perhaps, duplicating them. So
3 that's what prompts these comments.

4 MR. PENNOYER: Well, won't it be a little bit difficult
5 to look at this from the long-term standpoint when we haven't
6 yet decided what the program's going to look like? We have
7 certain proposals in front of us we're going to consider for
8 1992, but I don't yet know what we're going to approve in the
9 long-term. And I guess the idea of utilizing existing
10 expertise or agency structure I think is good, but we still
11 have some type of centralized responsibilities in Anchorage to
12 this -- to the restoration process to the (ph) Exxon Valdez.

13 So I don't know that you'll ever go to the point where
14 you don't have to have a function where the Trustee Council can
15 call on somebody to look at this program in aggregate rather
16 than in separate pieces. But I don't know -- Dave, as you
17 said, I don't know you have any feelings for how this would
18 evolve in the long-term since we haven't given a long-term
19 direction in the program.

20 MR. SANDOR: Well, I guess, Mr. Chairman, without
21 belaboring this point, I think we do have to look beyond this
22 one year. And we haven't yet, of course, gone through the
23 programs. But I -- the position of this Trustee will be to try
24 to utilize as much as possible the existing organizational
25 structure of our department and not to set up a separate

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1 organization. I know we need a separate organization and
2 probably will always be (ph).

3 But this -- the total budget of 30. million dollars is
4 about twice of what I expected it to be, and I'm looking for
5 opportunities to reduce that. Thank you.

6 MR. PENNOYER: Other comment or question on the budget
7 that has been outlined to us?

8 MR. COLE: I have a comment.

9 MR. PENNOYER: Mr. Cole.

10 MR. COLE: What was by which the Administrative
11 Director's salary was set 95,000 annually? Specifically, did
12 we compare other salaries of government officials such as
13 Commissioner of Environmental Conservation?

14 MS. RUTHERFORD: Mr. Chair. I think it's important to
15 point out that all these figures include benefit packages. And
16 yes, we did try to analyze the responsibilities comparable to
17 this job and try to compare the Federal and the State systems.
18 But this -- these figures do include the benefit packages.

19 MR. COLE: Then that develops the question what
20 benefits are accompanying the salary?

21 MS. RUTHERFORD: We were looking at it to either the
22 Federal or the State would do the hiring, and that agency's
23 benefit package would be applied, and that's to be decided by
24 the Trustees as to what process is used and who eventually is
25 hired.

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1 MR. MONTAGUE: On the Federal side that's equivalent to
2 a GS-15 grade level, I don't know with the State.

3 MR. GIBBONS: I think a Range 26 was used.

4 MR. ROSIER: Just a second (ph) -- Director

5 MS. RUTHERFORD: A Range 26 is a director of a division
6 in the State.

7 MR. COLE: Is that -- all right. And, you know, with
8 respect to \$200 per day per diem, for the benefit of the Daily
9 News, if they're here, I take a hundred dollars a day per diem.
10 And, you know, it avoids problems. But you know, when I see
11 \$200.00 a day per diem, you know, things like that, it sort of
12 makes me nervous about some of the other cost estimates in
13 here. I don't know if anybody else has the same reservation.
14 But I mean I think we should look at things like that.

15 MR. MONTAGUE: So should we make it a hundred then, is
16 that a recommendation?

17 UNIDENTIFIED SPEAKER: No.

18 MR. COLE: I'm not -- excuse me. I'm not suggesting
19 anything, but you know, I just say is that a little rich.

20 MS. RUTHERFORD: We don't disagree that -- with the
21 fact that that may cause you concern because it does have --
22 like Tim had pointed out, it does have car rentals in it and it
23 does have other things reflected, taxi fares. But I think it
24 is important another (ph). We've been very concerned with
25 these budget figures, and we have beat each other up over them.

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1 And I know they are extremely high, but given the workload that
2 we've begun to identify, they are reflective of a fairly
3 conservative approach to the budget. And I think that that
4 truly is what we tried to do.

5 MR. COLE: Did you compare my workload with

6 MS. RUTHERFORD: Well we were just comparing what we
7 have identified as the workloads in the ag- -- in this process.

8 MR. MONTAGUE: But I think it is important to note
9 that

10 MR. PENNOYER: Could you please address the chair
11 before you -- so we can take it in order. Go ahead.

12 MR. MONTAGUE: Thank you. That in terms of the
13 workload since development of this year's Work Plan has
14 started, many, many people, I would say, have been keeping
15 Commissioners hours on this.

16 MR. COLE: Mr. Chairman. I just would like to say that
17 I think it should be related to the Federal per diem rate,
18 which I don't know what it is and the State per diem rate; and
19 whatever those are, I mean it's perfectly acceptable to me.

20 MR. PENNOYER: I got the impression from Dave that's
21 what you used, basically, is that correct?

22 MR. GIBBONS: Yeah. It varies with the time of year.
23 So we could actually -- I could go in and actually take an
24 average of the summer rate versus the winter rate and the
25 number of months and come down with it. It would be a number

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1 less than 200 but not much. But I could come up with -- we
2 could come up with actual numbers.

3 MR. PENNOYER: Further questions. Does anyone have any
4 comment on the Simpson Building, Fourth Floor? Curt.

5 MR. McVEE: I guess just observation in looking at the
6 total package, all of the budgets; you know, the Fourth Floor
7 is 5,708 square feet and there are other components in the
8 budget -- other staff in the budget which will occupy that
9 space. So we aren't talking about, as I understand it, just
10 that space being available for this staff; there are other
11 people who will use that.

12 MR. SANDOR: Mr. Chairman.

13 MR. PENNOYER: Yes, Mr. Sandor.

14 MR. SANDOR: With regard to the Simpson Building, I
15 guess our present lease there runs to or through October?

16 MR. GIBBONS: To.

17 MR. SANDOR: To October. And I guess this is a good
18 example, rather than commit ourselves, you know -- of course if
19 we're not there, we're going to have to go somewhere else. But
20 I think at every opportunity we ought to look at an
21 alternative, and so we certainly do want to -- I would strongly
22 support, you know, an organization that does it. But when
23 there are opportunities as to the conclusion of that lease, and
24 as you get up to that point you look at option of co-locating
25 with, you know, existing Federal or State offices. That's just

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1 -- that's a point I wanted to make on space.

2 And it should be noted that that's I guess our best
3 priced space of all, we're paying, what, a \$1.10 or something
4 like that and the Frontier Building is 3.00 or something. So
5 we want to take advantage of that and we'd like to keep the
6 expenditures as low as possible. That's all I have,
7 Mr. Chairman.

8 MR. PENNOYER: Mr. Barton.

9 MR. BARTON: Yeah. I know I'm getting chronologically
10 gifted, but I thought we had decided at the last meeting that
11 we were going to stay in the Fourth Floor of the Simpson
12 Building until October.

13 MR. SANDOR: Well yes.

14 MR. BARTON: Did we not do that? Okay.

15 MR. PENNOYER: I don't remember October here, but I
16 believe we did make that decision.

17 MR. BARTON: And that we're going to piggyback on the
18 Department of Justice's current contract to do that.

19 MR. PENNOYER: Okay.

20 MR. BARTON: Now, in terms of clerical and
21 administrative support, is it possible to use the existing
22 contract to provide that also until October?

23 MR. PENNOYER: Dave.

24 MR. GIBBONS: Yeah. It was the idea of the Restoration
25 Team to get the approval of the Trustee Council to negotiate

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1 with the Department of Justice and CACI to provide that service
2 up until October 1st.

3 MR. BARTON: In other words, we would keep the Fourth
4 Floor package as it is?

5 MR. GIBBONS: Yes. And then that would give us enough
6 time to develop other options, locations, the question of
7 Federal versus State or contracting employees, all of those
8 factors.

9 MR. BARTON: Did we also decide that at the last
10 meeting?

11 MR. GIBBONS: I'm not sure that was the decision.

12 MR. BARTON: Then I move that we do that.

13 MR. SANDOR: Second.

14 MR. PENNOYER: Moved and seconded, we use the existing
15 contract and negotiate with CACI for the best deal we can get I
16 think was your

17 MR. BARTON: That's what I meant to say if I didn't.

18 MR. PENNOYER: Okay. Is there further discussion of
19 that option? Does anybody have an objection to doing that.
20 Curt.

21 MR. McVEE: What's the cost, I guess. What's the cost
22 of the CACI operation versus development (ph)?

23 MR. PENNOYER: Dave. What costs are included in Mike's
24 motion, basically, I guess is what Curt's asking.

25 MR. GIBBONS: If I can ask Tim Steele, he might have

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1 that detail.

2 MR. STEELE: The 195,000 space and utilities it figures
3 in on a CACI cost. The labor for the CACI personnel are shown
4 in parentheses, but if we used CACI people for those three
5 clerical and one budget analyst position, those costs are shown
6 there in parentheses. The CACI lease on the building runs
7 currently to December with a two-year option on it, but that's
8 all stuff we can negotiate with CACI and Justice.

9 So, the costs shown here, the 195 for space is the CACI
10 cost.

11 MR. PENNOYER: Does that answer your question,
12 Mr. McVee? Cordell.

13 MR. ROY: Mr. Pennoyer, I'm -- I think for the sake of
14 the Council, perhaps Mr. Steele knows this. Are you aware that
15 there is an overhead charge through that contracting procedure
16 through the Justice contract.

17 MR. STEELE: Justice contract overhead charge?

18 MR. ROY: Or to their subcontractor?

19 MR. STEELE: In my discussions with Justice, they are
20 not charging us an overhead charge currently, through this
21 fiscal year anyway for their administration of the contract.
22 These are details that hopefully when we sit down with CACI and
23 Justice to iron out the details we can straighten all those
24 things out.

25 MR. ROY: Okay.

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1 MR. PENNOYER: Further discussion on Mr. Barton's
2 motion? Is there any objection to this motion? Okay. Can we
3 proceed with the office of Administrative Director, then
4 further comments on the budget as presented?

5 MR. COLE: I had one other, Mr. Chairman.

6 MR. PENNOYER: Mr. Cole.

7 MR. COLE: Did we get you might say in the nature of a
8 quote on the relocation costs of the Administrative Director of
9 \$30,000.00 or was that just an estimate?

10 MR. PENNOYER: Mr. Gibbons.

11 MR. COLE: Is this -- let me put it this way. As I
12 understand that or do I understand it correctly that that will
13 be just the estimated -- the cost as required? It sounds,
14 frankly, a little high, 'cause I remember when I moved to
15 Juneau; of course, I didn't have much stuff to move; but it was
16 considerably less than that. And I think there is a State
17 maximum, the amount which you will receive, isn't there,
18 Ms. Rutherford?

19 MS. RUTHERFORD: Yes, it's 10,000 pounds maximum and
20 whatever the rate -- the cost associated with that is.

21 MR. GIBBONS: Plus travel.

22 MS. RUTHERFORD: Plus travel.

23 MR. MONTAGUE: Plus temporary quarters.

24 MS. RUTHERFORD: For two weeks, that's correct.

25 MR. ROY: I believe the

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1 MR. COLE: The place

2 MR. ROY: Excuse me.

3 MR. COLE: Go ahead.

4 MR. ROY: I believe the Federal travel regulations for
5 change of station are somewhat more liberal than that. I
6 remember my moving costs of five years ago up here with my
7 family was -- approached the \$40,000.00 mark; the total cost of
8 the move, household goods, shipment of the family, relocation,
9 selling the house.

10 MR. COLE: Of course that leaves the question of where
11 you moved from.

12 MR. ROY: Miami, Florida, sir. If we hire someone in
13 Anchorage, the costs are minimal.

14 MR. PENNOYER: Dave, did you want to comment?

15 MR. GIBBONS: No. It basically -- we tried -- we heard
16 all this conversation before, if the person's from Anchorage,
17 it'll be zero; if the person's from -- you know, we tried to
18 put a placeholder, a number in there that what we felt
19 comfortable with and that's what we did.

20 MR. PENNOYER: Mr. Barton.

21 MR. BARTON: Well I think the point is we'll tell you
22 what those costs are and return any monies that are not
23 expended. We have over \$30,000.00 so it's not as if we're
24 spending 30,000 when we're actually going to pay what's billed.

25 MR. PENNOYER: Further comment on this -- the question?

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1 Commissioner Sandor.

2 MR. SANDOR: Mr. Chair, I move adoption of this --
3 approval of this in a tentative approval; that is to make these
4 downward adjustments we're talking about but to give the Group
5 the approval of the formation and funding of this office.

6 MR. BARTON: Second.

7 MR. PENNOYER: It's been moved and seconded to
8 tentatively approve this budget and let the Group go ahead and
9 start forming this office. Is there further discussion?
10 Commissioner Rosier.

11 MR. ROSIER: Yes. The Trustee from Agriculture, they
12 are raising a question in my mind in regards to the budget
13 figures as related to the fiscal year and the expenditure of
14 funds at the end of the fiscal year. It seems to me that we
15 get into some policy areas here in which we spend all of the
16 dollars at the end of the year as frequently happens in
17 organizations, or do we, in fact, expect that these dollars, in
18 fact, come back to the Trust -- to the fund?

19 MR. PENNOYER: Mr. Barton.

20 MR. BARTON: I've been laboring under the impression
21 that these are no year monies, and any monies that we budget in
22 this fiscal year that are not expended just remain in the fund.
23 I'd invite any legal advise on that issue, but I think that's
24 the way we ought to operate.

25 MR. ROSIER: I would agree with that method of

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1 operating, Mr. Chairman, is that actually the case?

2 MR. O'CONNOR: Yeah. You're in a position where if
3 you've got money left over, that money has to be utilized for
4 the restoration process, whether you continue to plow it into
5 administrative costs or you put it back into the pot until you
6 reappropriate it for a project or what have you; it's not
7 something that's going to disappear if it isn't spent. It sits
8 in this fund.

9 MR. PENNOYER: Mr. McVee.

10 MR. McVEE: Mr. Chairman. It's my understanding that -
11 - you know, that it wouldn't be a withdrawal, withdrawal
12 wouldn't be made of the entire amount, that we'd be speaking in
13 terms of a quarterly type withdrawal. And it seems like at
14 that point, that certainly we could make adjustments. And that
15 we will have continuous monitoring of the expenditures so that
16 there should be an ongoing process to make adjustments in the
17 budget as we see the actual expenditures.

18 MR. O'CONNOR: I think you're going to have this
19 explained to you later. But periodically, you're going to be
20 asked to sign a document certifying to the court to draw down
21 on that fund for legitimate purposes which are recognized by
22 the court in establishing that fund. So, each quarterly, six
23 months, whatever, each of you are going to have to certify that
24 this is how you believe the money needs to be spent consistent
25 with your trust responsibilities.

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1 MR. PENNOYER: All right. Is there any objection to
2 the proposal? The motion to adopt the budget as presented a
3 tentative fashion with the caveats dealing with reductions (ph)
4 that we're (indiscernible). Okay.

5 Dave, do you want to go ahead?

6 MR. GIBBONS: Okay. The next item is scientific
7 support. We previously discussed the senior scientist and
8 Mr. -- Dr. Bob Spies; I won't discuss that one again.

9 The next one, we want to make sure that it's understood
10 that this is a placeholder number, it's an estimate. Bob put
11 together a draft letter that has not been distributed to the
12 public since it is in a draft form and it does have specific
13 names on it. But this is -- the Restoration Team feels that
14 this number will come down, and so we have a hard time with
15 putting a reduced number now but we'll make those negotiations
16 with Dr. Spies and then come to you with a new number.

17 MR. PENNOYER: Dave, but the understanding is you're
18 not spending anything on peer reviewers until we've reviewed
19 and approved it, is that correct?

20 MR. GIBBONS: Yes, that's the intent.

21 MR. PENNOYER: This is not permission to spend
22 \$500,000.00 in a period (ph). What action do you wish to take
23 here then if we're not actually going to approve an amount?

24 MR. GIBBONS: Well we

25 MR. PENNOYER: Just the understanding that

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1 MR. GIBBONS: Understanding that there is some costs
2 there. We could have Dr. Spies explain where those came from
3 at the present time if you wish or we can just come back to you
4 at a later date and

5 MR. PENNOYER: Mr. McVee.

6 MR. McVEE: Yes, Mr. Chairman. My question was, you
7 know, how does this compare to past year's efforts where you
8 have used the peer review process to review the study
9 proposals?

10 MR. GIBBONS: Okay. Last year's costs were 2.2
11 million.

12 MR. ROY: Well, Mr. Chairman, that's somewhat apples
13 and oranges. We were paying, it seems to me -- I want to make
14 eye contact with Bob Spies on this and make sure what I'm
15 saying is right. We're paying maybe somewhat higher rates
16 because we were working on short time frames and litigation
17 related time tables. And now -- and we're working in a more
18 routine sense with restoration planning or restoration wrap-up,
19 those costs could reduce?

20 DR. SPIES: That's true, those would have to be
21 renegotiated with the reviewers or other reviewers put into
22 place and those who arranging on a subtotal (ph) --
23 (indiscernible - away from microphone). What I tried to do is
24 reduce the total number of reviewers, and the amount of work
25 and the amount of meetings. It's still a little bit on the

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1 liberal side. Without having knowing what the program might be
2 at this stage, it's pretty hard to formulate a specific figure.

3 MR. SANDOR: Mr. Chairman.

4 MR. PENNOYER: Mr. Sandor.

5 MR. SANDOR: I move adoption of not to exceed 191K
6 thing on the senior science and that segment and defer action
7 on this peer review budget until the work plan is completed.

8 MR. BARTON: Second.

9 MR. PENNOYER: It's been moved and seconded, is there
10 discussion? Dave, does that fulfill your needs then for the
11 time being?

12 MR. GIBBONS: Yes. I discussed with Bob this morning.
13 It's hard to project our needs on peer review since we don't
14 have a '92 plan in the end. So we'll -- it's logical.

15 MR. PENNOYER: Is there further discussion on the
16 motion. Mr. Cole.

17 MR. COLE: I'm not sure I understand what we're doing
18 here, maybe somebody could explain it just a little more. Is
19 there any peer review process underway now? Can someone help
20 me on that?

21 MR. SPIES: Yeah. There is peer review going on right
22 at the present moment, both of the damage assessment course
23 (ph) that were completed November of '91. And it is
24 anticipated that the restoration proposals will -- once they've
25 come in and their long form (ph) will be peer review as well.

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1 And there are a few meetings going on, particularly in regard
2 to trying to condense the coastal habitat program and its
3 subtitled programs into a more cohesive and focused program.

4 The proposals that have been received in those
5 particular areas are more than the Management Team wishes to
6 have funded. So we try to encourage you to get together and
7 look hard and objectively at what was being proposed and to get
8 a more condensed, focused, official (ph) program.

9 MR. PENNOYER: Mr. Cole.

10 MR. MORRIS: Mr. Chairman.

11 DR. SPIES: Those are the main activities.

12 MR. PENNOYER: Byron.

13 MR. MORRIS: Correct me if I'm wrong but the peer
14 review that's going on now is under the 0 year (ph) 3 funding
15 and anything that was done from March 1 on would require
16 Trustee Council notification and approval. So these things
17 that I think Bob Spies was talking about could grind to a halt
18 on March 1 without any further approval.

19 MR. COLE: Well, that's -- Mr. Chairman.

20 MR. PENNOYER: Go ahead.

21 MR. COLE: That's the sort of thing I'm concerned
22 about. Do we have to act on any of these now or can we just --
23 maybe we can ask Dr. Spies, do we have to act, give them some
24 authority to continue to engage in the peer review process now
25 or can we properly defer it to later? We wouldn't want to

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1 bring the entire process, I don't think, to a halt by lack of
2 some authority. Because I personally believe that -- and I
3 hope the other members of the Council agree with me, that this
4 is an essential ingredient of the entire question is for (ph)
5 peer review. So that's the only question I have on that.

6 MR. PENNOYER: Dave, I guess the question is you've got
7 \$500,000.00, I assume this is sort of a placeholder for year
8 round cost. Do you have anything in the near term that you
9 need to have approved at this time to keep you going until
10 whenever we meet again?

11 DR. SPIES: I think there is a little bit of confusion
12 on the part of the Department of Justice and the Department
13 of

14 COURT REPORTER: Excuse me, sir, the microphones are
15 not picking you up.

16 DR. SPIES: Okay.

17 COURT REPORTER: You're going to have to come forward.

18 DR. SPIES: I don't think it's clear to the Department
19 of Justice and the Department of Law when their obligations for
20 peer review really ends and where it will be picked up by this
21 process. And I don't really have insight, and perha- -- I
22 don't know if Sharon Saari is here or (indiscernible) -- could
23 you make a few comments on that, Sharon, whether the Department
24 of Justice through the current contract is, you know, going to
25 continue for some time in the peer reviews? It's not clear to

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1 me how long it's going to last.

2 MS. SAARI: Do I have join in the (ph) microphone.

3 MR. PENNOYER: Ms. Saari.

4 MS. SAARI: I guess in answer to your previous
5 question, we have an ongoing federal -- I can only speak to the
6 Federal peer reviewers. When we've spent about 600,000 so far
7 this year -- for a year on that, for a ballpark, in comparison
8 to the 500K that's in there, we have slightly more than a
9 hundred -- about 140,000 left which we can keep spending on
10 those peer reviewers which will give you a little time to work
11 on it. But it won't be at the rate that Bob would like to keep
12 having meetings. So there is some left to support the Federal
13 peer reviewers. And one of the State's people will have to
14 speak to the State peer review budget. But there is some money
15 left to support them for maybe through a little bit into March,
16 it depends on how many meetings there are. But it's not a
17 drop-dead date, March 1st; I mean everyone's gotten confused
18 (ph)

19 MR. PENNOYER: No. But it still seems to me that
20 Mr. Cole's point is well-taken. We're not -- we can't sit and
21 not determine there's going to be peer review, there is. We're
22 going to run out of funds, we shouldn't have a drop-dead date
23 in the process. So what do we need to put in here for a
24 reasonable placeholder to allow expenditures to continue strong
25 (ph)?

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1 MR. COLE: Does -- is the Department of Justice looking
2 for reimbursement of the money which you say it still has left?

3 MS. SAARI: No. The agencies have already
4 given --

5 MR. COLE: All right.

6 MS. SAARI: given us that money, it's already in
7 the bank for this purpose.

8 MR. COLE: Okay. And the Department of Law,
9 Mr. Alex

10 MR. SWIDERSKI: Are we looking for that money? I would
11 turn to you in that question. No, we're not. But we are --
12

13 MR. PENNOYER: Mr.

14 MR. SWIDERSKI: we have advised -- do you want me to
15 approach the microphone?

16 COURT REPORTER: Yes, please.

17 MR. PENNOYER: Yes, please.

18 COURT REPORTER: I have to do a verbatim transcript of
19 this so I need to hear you.

20 MR. SWIDERSKI: I'm Alex Swiderski from the Department
21 of Law. We had advised the Restoration Team that they could
22 expect that Law would decline to fund peer reviewers after
23 approximately the 1st of March. I think that could probably be
24 revisited as far as budgetary considerations. We have not --
25 we are in a position to fund them budgetary-wise into the --

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1 certainly through the conclusion of this fiscal year, which
2 would be June 30th.

3 Our concerns (1) that we have difficulty -- we can't
4 justify funding them once we're out of the litigation process.
5 We view that we are still in that process, but obviously, we're
6 drawing that to -- that's drawing to conclusion.

7 MR. PENNOYER: Commissioner Sandor.

8 MR. SANDOR: Well I think this problem can be, perhaps,
9 rectified or dealt with with an amendment that the second could
10 agree with is that, in fact, we approve this 191K as already
11 stated and authorize the Director of the Response Team to
12 continue with expenditures on peer reviews that are not covered
13 by Federal or State funds. But the -- period. But that point
14 of that is that I don't think we can make a rational decision
15 on a level of funding for peer reviews until we've really
16 looked at the Work Plan and -- but we want to authorize
17 whatever peer reviews are necessary until that time.

18 So if you'd agree with that second, then we could
19 authorize that.

20 MR. BARTON: I agree.

21 MR. PENNOYER: Does that cover us in terms of
22 requesting up front funding to put in the K (ph) so to speak?

23 MR. GIBBONS: We will want clar- -- we would revisit
24 that after the '92 program was reviewed and come up with a
25 number, is that -- placeholder number or

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1 MR. BARTON: You're authorized to spend what you need
2 to up until the '92 program is available for us to review, at
3 which time, we will then determine what more needs to be spent.
4 Is that what we're saying.

5 MR. GIBBONS: That's what I think was said, yeah.

6 MR. PENNOYER: Is the motion clearly understood? Is
7 there any discussion? Any further questions?

8 MR. MONTAGUE: Mr. Chair. I'd like to answer
9 Mr. Cole's question. I think you'd asked would these expenses
10 that currently the Department of Law and Justice have for peer
11 review would be reimbursed. And I understand that it would go
12 into the total cost for reimbursement.

13 MR. PENNOYER: But it doesn't need to be reimbursed
14 ahead of time, so it's not an immediate expenditure question
15 we're facing in terms of getting the operation moving.

16 MR. MONTAGUE: That's correct.

17 MR. PENNOYER: Mr. Barton.

18 MR. BARTON: I think we're talking about two different
19 things here. Justice -- the money that Justice now has is
20 money that Justice has that was garnished from the Federal
21 agencies prior and that's in the bank. So, that does not need
22 to be reimbursed.

23 MR. PENNOYER: I believe some of the previous
24 expenditures are going to be eligible for reimbursement at some
25 point, but maybe not this one.

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1 MR. BARTON: Yeah. And again, maybe we're talking
2 about two different things. The agencies, in turn, will seek
3 reimbursement from the Joint Fund to replace those monies which
4 we borrowed from other funds in order to get this job done.
5 There will be that reimbursement sought. Justice will not seek
6 reimbursement

7 UNIDENTIFIED SPEAKER: From us.

8 MR. BARTON: from us. They better not.

9 MR. PENNOYER: Is this motion understood? Is there
10 further discussion? Any objection to the -- Mr. Gibbons.

11 MR. GIBBONS: No objection to that, but I have one
12 comment after.

13 MR. PENNOYER: Before we take the vote?

14 MR. GIBBONS: Yeah. I guess we'd like to request
15 authorization to investigate how to handle this contracting in
16 the future, after Justice and Law come out of the picture.

17 MR. PENNOYER: I think that's understood.

18 MR. BARTON: (Indiscernible)

19 MR. PENNOYER: Any further discussion? Does anybody
20 object to the motion? All right. We're through with
21 Scientific Support. Do you want to go onto Public Outreach
22 then?

23 MR. GIBBONS: The first line, Public Resource
24 Coordinators, I'd like to discuss that in regards to an Agenda
25 item that's coming up next, would be a Public Resource Center.

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1 It's built in here because it's part of the Administrative
2 Director's budget, but there were also built into the Public
3 Resource Center.

4 The next item on that list would be Information
5 Specialists. We projected, in the near-term, a position and a
6 half here; this is to help us conduct public scoping sessions,
7 public meetings, responses to inquiries by the public, both
8 letters and tracking those. So we expect there to be a big
9 workload there.

10 The next item is an item that covers the First Floor of
11 the Simpson Building, it's split in two. Again, I refer you to
12 that detail in the back. Half of the first floor has only what
13 they call OSPIC, Oil Spill Public Information Center, and in
14 the other half is for its displays that types of activities.
15 What we're proposing under our system would be to maintain the
16 first half of the first floor for a public resource center, and
17 then the second half -- with some offices for the staff and the
18 second half would be a centralized meeting facility for Trustee
19 Council meetings, for Public Advisory Group meetings, for
20 Restoration Team meetings and then some overflow of the people.
21 But that's built into that part there.

22 The travel for the public meetings, that covers the
23 travel of the Restoration Team and the Restoration Subgroup
24 Team members and all that to the meetings that are going on
25 right now; to Cordova, Kodiak, Tatitlek, Chenega. And we try

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1 to limit the number of people that are going there, generally
2 it's three or four people; one representative from the
3 Restoration Team, perhaps a representative from the Restoration
4 Subgroup. Ernie might fill you in some more on that -- on the
5 detail of that. But Ernie's made most of the meetings, I
6 think; and then we have a person to -- note taker or that type
7 of thing. So we want to eliminate that.

8 But that's what that travel for public meetings, 10
9 communities, we're expecting to do it three times; this is the
10 first round, the second round starts when the Restoration
11 Framework is complete, to go around to the communities again to
12 ask them on input, to collect information on injuries,
13 summaries. This is an estimate.

14 MR. PENNOYER: Dave, you skipped over that first item,
15 Public Resource Coordinators rather quickly, you said it was
16 somewhere else, but I'm not clear what you meant by that.

17 MR. GIBBONS: Yeah. I'm going to discuss those two
18 positions on the next item on the Agenda, it's called Public
19 Resource Center, the third item under the Organization; and
20 that's where those two positions are identified. And we can --
21 I can brief you on that now, we can move into that, but I was
22 hoping to discuss those two positions in regards to the Public
23 Resource Center. That's what they -- those positions support.

24 MR. PENNOYER: Okay. Is the Public Resource Center
25 also included? Here in the budget is an item for office space

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1 to them so

2 MR. GIBBONS: That's correct.

3 MR. PENNOYER: So most of the budget that you've listed
4 here is actually in something you're going to discuss later?

5 MR. GIBBONS: Right. It's difficult, we tried to pare
6 down the organization in that we have the Information
7 Specialists and the Public Resource Coordinators supporting
8 each other, so we don't have duplication of people down there.
9 We can get away with a smaller staff, that was our intent.

10 MR. PENNOYER: I guess my point is, Dave, I don't know
11 how we're going to discuss this budget unless you go into that
12 detail since basically three-quarters of it is in something
13 you're going to discuss in the next item of the Agenda unless
14 we take up the Information Specialists and travel separately.
15 The Public Resource Center item plus the Public Resource
16 Coordinators is 300,000 out of the 474,000 in the budget.

17 MR. GIBBONS: We can move into that item and then come
18 back and discuss at a later time the Restoration Team members
19 and the rest of the administrative budget.

20 MR. BARTON: I suggest just the opposite, let's delay
21 discussing the Public Outreach and continue on through the
22 budget and then come back.

23 MR. PENNOYER: Okay. He does have two items that are
24 Information Specialist and travel for public meetings. I'm not
25 sure

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1 MR. GIBBONS: Yeah. I can easily discuss the
2 Information Specialist in that regard, too.

3 MR. PENNOYER: Okay. Well, then maybe Mr. Barton's
4 suggestion is appropriate; let's go through the rest of this,
5 come back and let you give us the Public Resource Center
6 discussion before we talk about this budget (ph). Is that okay
7 with everybody, can we go on? Okay.

8 Next is the Restoration Team.

9 MR. GIBBONS: Yeah. That's -- the six members are
10 identified here, the members that are sitting up on the table
11 here are identified with actual salaries, and travel and per
12 diem.

13 MR. COLE: That's 623,000, Mr. Chairman?

14 MR. PENNOYER: Mr. Gibbons. That's correct (ph).

15 (Pause)

16 MR. PENNOYER: Any questions on the Restoration -- the
17 newly named RT?

18 MR. BARTON: Not if they include (indiscernible)

19 MR. PENNOYER: Any further comment? Except for the
20 fact that I don't know how six people can possibly do it
21 but

22 MR. BARTON: I guess that's part of the bargain.

23 MR. PENNOYER: Part of the bargain. And other people,
24 too, as needed (ph). Do I hear a motion?

25 MR. BARTON: I move we accept this Restoration Team

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1 budget.

2 MR. McVEE: Second.

3 MR. PENNOYER: Any further discussion? Any objection?
4 Approved. Can we go onto the Restoration funded (ph) subgroup?

5 MR. GIBBONS: Yeah. Mr. Chairman and Trustee Council,
6 this is identified here separately, this is a subgroup budget,
7 'cause we feel that this group is going to be working full-time
8 for a year to get a Restoration Framework and a Restoration
9 Plan out. There's a big job there, this is an estimate, but we
10 feel that under the time frames we're working on that these
11 people will be working full-time. So that's why we've
12 identified this subgroup as a budget for a year.

13 It includes six full-time members, again, representing
14 the Trustee agencies. It represents (ph) perhaps some
15 contracting or whatever for technical support, natural resource
16 specialists, computer graphics, writer/editors, those types of
17 skills.

18 Contractual services for the development of Restoration
19 Plan. What we have in mind here would be a natural recovery
20 monitoring scheme that the Restoration Group would like to move
21 forward with. They've done some progress on that to date, and
22 then the travel and per diem for that group.

23 This fits under the category like I mentioned earlier,
24 the subgroups are formed as needed and disbanded as needed, but
25 we see this group working full-time for at least this year.

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1 UNIDENTIFIED SPEAKER: This year?

2 MR. McVEE: Mr. Chairman.

3 MR. PENNOYER: Question. Curt.

4 MR. McVEE: The six full-time, as I understand it,
5 would be those people that were kind of basically assigned to
6 this from the Trustee agencies at the present time. And then
7 are the 4.25 -- 4-1/4 FTs, would that be new hires, basically,
8 or temporary hires or (indiscernible - interrupted)

9 MR. GIBBONS: That would be using skills from within
10 the agencies as well as contracting like a writer/editor, it
11 might be the easiest to contract a writer/editor for several
12 months rather than -- it's just -- yeah, that's what we had in
13 mind.

14 MR. McVEE: I guess the other point, and I just bring
15 it up to be sure that, you know, the signals haven't changed or
16 that there is agreement among the Trustee Council members that
17 previously we had -- Interior had asked about -- you know,
18 having represented on the Restoration Planning Group both Park
19 Service and Fish & Wildlife Service because of two major land
20 management agencies that have a number of projects and as well
21 as considerable jurisdiction with the oil spill area. And as I
22 understand it when we talked about this before that was
23 acceptable to the Council members.

24 MR. PENNOYER: So that would mean you might've upped to
25 seven?

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1 MR. McVEE: I guess that possibly could be but

2 MR. COLE: Mr. Chairman.

3 MR. PENNOYER: Mr. Cole.

4 MR. COLE: I'd like to make my position clear. Under
5 no circumstances will I vote for an appropriation of this
6 magnitude for this purpose. It's a million dollars and I think
7 it's excessive.

8 MR. PENNOYER: Mr. Cole, would you care to elaborate
9 before we take a vote on this. We are going to have to do a
10 Restoration Plan, and we have -- you know, the workload the
11 Restoration Planning Work Group has had to date has been very
12 large. And I don't know, again, it's an ad hoc thing that
13 we're not saying it's going to go on forever but at least until
14 get a formal Restoration Plan done, which they will have to
15 have the people to do it.

16 MR. COLE: We should be able to develop with all these
17 resources that sit at this table on our staff, plus 623,000 for
18 the Restoration Team itself, plus 700,000 for scientific
19 support, et cetera, for less than a million bucks. Now, you
20 know, it's just the way I see it, and I'm not going to change
21 on that. It's too much to put together a Restoration Plan, a
22 million dollars. We have nearly four million dollars here for
23 an organizational budget this year, that's a whopping amount of
24 money for an organization support and to put together the
25 Restoration Plan.

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1 MR. PENNOYER: So, we would do the same job for 196,000
2 leaving it there plus the additional functions we might do?

3 MS. RUTHERFORD: Yes. In point of fact, it's cheaper
4 to leave it there than it is to move it, that's what
5 we're

6 MR. PENNOYER: If, in fact, you buy off (ph) on using
7 the space, do your other space plans include having a library
8 then in

9 MR. GIBBONS: Yeah. The space reflections earlier
10 reflect the library there. But once said (ph)

11 MR. BARTON: Well not -- in the Public Outreach budget
12 you reflect it.

13 MR. GIBBONS: That's correct.

14 MR. BARTON: Yeah. So it is 196 plus 172?

15 MR. GIBBONS: No. The addition there was so we could
16 compare apples and apples in all these options. The 176 would
17 cover this Public Resource facility.

18 MR. BARTON: Well

19 MR. STEELE: Plus the 130, Dave.

20 UNIDENTIFIED SPEAKER: Well, wait a minute.

21 MR. COLE: Mr. Chairman.

22 MR. PENNOYER: Yeah, Mr. Cole.

23 MR. COLE: Could I request somebody go to the board
24 with a felt pen and just put the bottom number of each option
25 there so we know what we're doing. I'm lost in the business.

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1 UNIDENTIFIED SPEAKER: It's not for the move.

2 MR. McVEE: Yeah. That would be the BLM cost as I
3 understand it, personnel and equipment, support, whatever is
4 necessary to operate the added -- the Resource Library with the
5 added material.

6 MR. PENNOYER: I'm just saying we'd have an item in our
7 budget then ongoing of about \$230.000.00?

8 MR. McVEE: Yes.

9 MR. COLE: Can I ask another question, Mr. Chairman?

10 MR. PENNOYER: Mr. Cole, go ahead.

11 MR. COLE: I'm not sure that I understand that. Is
12 this 226 in 3(A) the same 226 that's in here?

13 MR. McVEE: Yes, that's my understanding. Yes.

14 MS. RUTHERFORD: Mr. Chair. If I might note, that's
15 one of the reasons that the Restoration Team isn't recommending
16 either of these options, but rather we're recommending 3(B)
17 which does not have that ongoing cost.

18 MR. PENNOYER: So the recommendation for the
19 Restoration Team is that we just not do anything with the
20 library then after the first -- you don't even include the
21 price of the move then in 3(B)?

22 MR. GIBBONS: In 3(B) the material would be there and
23 the cost reflected there will maintain the material there.

24 MR. PENNOYER: I see.

25 MS. RUTHERFORD: Mr. Chair.

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1 MR. GIBBONS: Yeah. This option reflects 226,000 to
2 move the material to the Natural Resources Library, the BLM
3 Natural Resources Library.

4 MR. McVEE: Mr. Chairman, I've got a copy of the State
5 Director's letter back to us after the contact was made on what
6 he visualized to be the cost of that effort and what would be
7 included in it. I could hand those

8 MR. PENNOYER: Mr. Cole.

9 MR. COLE: In a nutshell, what does he say?

10 MR. McVEE: He says that the bottom line is a first
11 year cost of 226,300 and the second year cost of 230,000. But
12 that the kind of services that would be provided would be, you
13 know, the library materials but also adding some collection --
14 additional collection from all the other agencies, and
15 collecting those into the Natural Resources Library. Actually,
16 it would amount to, you know, further providing additional
17 items in the OSPIC collection from the other agencies.

18 MR. PENNOYER: So, for the library we'd carry a first
19 year cost of 226 for the move and the second year cost is
20 230,000 would appear (ph) in our budget then?

21 MR. McVEE: Yes. Yes.

22 MR. PENNOYER: Well I guess what this implies is that
23 we're going to carry an ongoing budget item in our budget of
24 226 the first year for our move and 230 the second year for
25 just services?

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1 additional staff listed down there.

2 MR. GIBBONS: Right. I'm talking, you know, the Public
3 Resource staff requirements.

4 MR. PENNOYER: The additional staff is those Public
5 Resource Coordinators mentioned previously under Public
6 Outreach?

7 MR. GIBBONS: That's correct. What we're trying to do
8 is combine this to a combined package that we have information
9 specialists for public scoping meetings, and also, some people
10 to deal with the li- -- the Exxon Valdez material and making it
11 available to the public.

12 Option 3(A) is -- you should add 58,000 to that option
13 making that 354.3. This suggests moving the Exxon Valdez
14 public material to another library, maintaining some
15 acquisition of material and no library network. This will not
16 be a complete Exxon Valdez collection. If somebody wants to go
17 to find out information about the Exxon Valdez Oil Spill and
18 injuries, it will not be here. We'll provide -- it says
19 limited public access, what is meant there is there will be no
20 library network so the people will have to walk into the door
21 to get the materials versus somebody from Cordova going to the
22 public library and requesting it as the last option.

23 UNIDENTIFIED SPEAKER: Mr. Chairman.

24 MR. McVEE: Dave is with the Resources library -- BLM
25 Resource Library, this is the package?

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1 MS. RUTHERFORD: 196.

2 MR. GIBBONS: Excuse me, 196. What this does is that
3 if you read the (indiscernible) -- it maintains the published
4 material relative to the Exxon Valdez Oil Spill in one
5 location, provides public access and reference document. It
6 will bring together the response information there, and it
7 provides a limited network so people can -- to access it from
8 outlying areas, they can request it through their libraries and
9 pick up material that way.

10 That's what's reflected in there, and it's reflected on
11 two staff positions there at 130,000. Those staff positions
12 are a Public Resource Coordinator who supervises the public
13 information operation and Public Resource staffing, meeting
14 coordination, those types of activities for that facility.
15 That Public Resource Coordinator who does some of the basic
16 coding of the material that comes in for the library networks,
17 insures and tracks some responses and those types of
18 activities. So that's where those other positions I mentioned
19 earlier are reflected.

20 MR. PENNOYER: Excuse me? It's probably just me, but
21 where are you at?

22 MR. GIBBONS: I'm at 3(B), Option 3(B).

23 MR. PENNOYER: 3(B), okay, I got that.

24 MR. GIBBONS: Yeah, I'm moving from the back forward.

25 MR. PENNOYER: I see, you're talking about the

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1 and work our way forward, perhaps. And Option 4 is the
2 existing OSPIC now. There's some corrections that need to be
3 made to these, and I'll explain them as we go through them.

4 This first one here, we need to take out the first two
5 lines out of it to make it comparing apples and apples to all
6 of our options; so please line out the data processing manager
7 and the executive officer.

8 MR. PENNOYER: Where are you?

9 MR. GIBBONS: Option 4. Line the first two items out
10 because we reviewed this again on Monday or Tuesday of this
11 week, and we're trying to make effort comparisons. So that's
12 really \$310,000.00. Plus, if we want to compare all of the
13 alternatives accurately, we estimate you should add 66,000 to
14 that, which would be space, phones, library network,
15 acquisition of materials and all that; making that total 376.
16 That more accurately reflects the cost, we feel, this is the
17 Restoration Team cost.

18 Moving to Item 3(B), I'm mousing my assistants up here
19 by jumping around. But 3(B) is the option we recommend to the
20 Trustee Council. And this is explained there. You have to add
21 some costs to this one. You'll have to add \$53,000.00 to this
22 one making a total of 196. And that reflects space costs,
23 plans, Xeroxing, phones, those types of things -- not plans but
24 phones. And so that total is 396. What this does is it
25 maintain --

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1 be help if I give some introductory comments in general about
2 how the group has approached public participation outside of
3 the Public Advisory Group. Because really whatever numbers you
4 see and what institutions you see in that budget are reflective
5 of a certain idea. And it may be that you either like or don't
6 like the idea, and if you don't like the idea then that makes
7 if fairly easy to deal with all those institutions that appear.

8 MR. PENNOYER: Well, Mr. Piper, we're going to have all
9 of these sectors anyhow, I guess if that's appropriate before
10 we get to Agency Program Support, then do you want to do the
11 Public Outreach part now?

12 Okay. Let's -- why don't you proceed.

13 MR. GIBBONS: Okay. Flip a few pages back and there's
14 a section on the Public Resource Center. What we've provided
15 here is an alternative to the present OSPIC. OSPIC was
16 established in 1990, I won't go into that. We've got four
17 options here; inherent in each option is there a Public
18 Outreach staff comprised of 1.5 people, which I mentioned
19 earlier; and these are your information specialists. The
20 scoping meeting people that deal -- also deal with the public
21 letters coming in and meet the public and those types of
22 people.

23 And then what we've built here, in addition to that, is
24 a Public Resource Center. And if you'll flip through there
25 there's four alternatives, and maybe we can start at the back

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1 Outreach Program to develop the Restoration Plan?

2 MR. GIBBONS: No.

3 MR. BARTON: No. Okay. Somebody help me with that.

4 MR. RICE: Mr. Chairman.

5 MR. PENNOYER: Yes.

6 MR. RICE: The Public Outreach budget figure that is
7 there is primarily those people that would be needed to put
8 together a public program. It does not reflect the Restoration
9 Team or the Restoration Subgroup involvement in that; those
10 costs are reflected in their basic components.

11 MR. BARTON: And I'm not even dealing with costs right
12 now, I'm trying to figure out the various purposes of these
13 three activities and how they relate.

14 MR. GIBBONS: Okay. Maybe if I can move on to the
15 Public Resource Center, this might add a little bit of light to
16 this, because that's where it seems to be the fuzz. We've got
17 the Restoration Team sitting up here, we have a Restoration
18 Subgroup which is developing the plans, we have a Public
19 Outreach is built in, in some regards, to the Public Resource
20 Center and they are linked together. And that might help
21 explain what we're proposing.

22 MR. PENNOYER: If you think it would clarify it, why
23 don't you go ahead.

24 MR. PIPER: I think, Mr. Chairman, actually, if I could
25 refer to that suggestion a little bit. If we would -- it might

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1 the Restoration Planning Subgroup or the scientific peer review
2 process.

3 So I guess to me it's pretty clear that there isn't
4 much overlap, and I wonder what would make it much clearer?

5 MR. PENNOYER: Mr. Barton.

6 MR. BARTON: Well I can -- let me explain where I am
7 having trouble distinguishing. The first area is the Public
8 Outreach, and the relationship of that to the second area which
9 is the Restoration Planning Subgroup and the relation then of
10 that to the third area, and that's agency program support.
11 Those are the three areas that are fuzzed up in my mind, and
12 anything that can be done to clear that up in subsequent
13 discussions will be appreciated.

14 MR. MONTAGUE: Mr. Chairman.

15 MR. PENNOYER: Yes, Mr. Montague.

16 MR. MONTAGUE: The Public Outreach was -- and other
17 Restoration Team members can address this in more detail. But
18 this was basically how we approached the idea of allowing for
19 meaningful public involvement above and beyond the Public
20 Advisory Group. And it's basically a straw man (ph) direction
21 of what might be considered the support for meaningful public
22 involvement. And the public input for the Restoration Plan I
23 assume can occur irregardless of whether we have a Public
24 Outreach Program.

25 MR. BARTON: Well is not the purpose of the Public

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1 Maybe Commissioner Sandor's idea is the best one, to
2 put this one aside for the moment, look at the administrative
3 costs and then come back to it. I think the next one is going
4 to give us an equal amount of trouble because there's less
5 detail in it than in is on the one that's in front of us now.

6 But does anybody else want to comment on this one or
7 should we move on for the moment and come back to this after we
8 hear from Ernie and look at the bulk of the rest of the
9 administrative part of the budget?

10 MR. MONTAGUE: Mr. Chairman.

11 MR. PENNOYER: Mr. Montague.

12 MR. MONTAGUE: I'd like to address a little bit on the
13 question about overlap. And first of all, the Restoration Team
14 does the -- I guess the so-called grunt work of the Trustee
15 Council. We don't do restoration planning, we're not
16 developing the Restoration Plan. And that's purely a
17 restoration subgroup or planning subgroup process with the only
18 overlap being the direction we give them to go. And the
19 scientific support has nothing to do with either, and that all
20 their work is reviewing reports, primarily, and somewhat
21 reviewing projects.

22 So, in those three categories, they clearly don't see
23 any overlap. And in regards to the Public Advisory Group,
24 that's a requested separate function that was required by the
25 Settlement and cannot do the work of the Restoration Team or

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1 fervently that I'm on the right course, and I don't want to be
2 bullheaded about it, but I have some very convictions, even if
3 I am.

4 MR. PENNOYER: Well I think we're on the horns of a
5 dilemma, because in one case, I think we all recognize we want
6 the most money to go into actual efforts of some kind that can
7 possibly be put into it. On the other hand, it's a hugely
8 complex program and consideration -- I think we want to make
9 sure that the money doesn't go into the wrong place, because
10 once done, it's not going to come back. So somewhere between a
11 good, adequate job of up front planning on what it costs and
12 holding the money to spend on things we haven't determined yet.

13 I know I'm troubled by this budget we've got in front
14 of us now because I don't have the Plan. I see nothing
15 cohesively tying this altogether as to where we're going to
16 go. And I think if this planning is done right up front that
17 maybe, in fact, the need goes away after the first year and
18 we've got a blueprint. We can follow the blueprint, we can
19 make sure the money goes into the most appropriate places.

20 And I agree with you but I don't want to turn around
21 after three or four years and gee whiz, I wish we hadn't done
22 that. And so it's some combination of the two. And I guess
23 coming back to where -- the way we started, it's pretty
24 apparent we're not going to be able to agree on this things
25 individually until we see what the final package is.

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1 And obviously, you know, when I look at these documents
2 and I see -- which may be 35 million dollars somebody tells me,
3 I've only been able to read 30 -- but that's going to take all
4 the money which we have net this year to use and it's just
5 going to be gone; you know, it'll start again next year. And I
6 want to see us get the maximum bang for the buck.

7 And I am approaching this with the view that we must be
8 constrained on our administrative expense. I have no doubt but
9 that these are all legitimate expenditures and legitimate
10 planning. But for example, in the Department of Law, you know,
11 we're able to squeeze (ph) lawyers here this afternoon and
12 we're able to write briefs, and you know we can just somehow
13 get into our budget and get it done without saying well the
14 Department of Law really needs 250,000 or a half a million to
15 support the legal aspects of business (ph). You won't see one
16 nickel in here for the Department of Law. We work on this
17 thing daily. That somehow, you know, we're going to get our
18 job done without, you know, saying we have to have money, you
19 know, out of this.

20 Because it's my belief (ph) that I want to see the
21 money go into the restoration process. And that's, as the
22 Governor would say, where I'm coming from. And that I know I
23 want us to go one step farther, that's what the Governor has
24 historically said he wants done, and then I think we're on --
25 he was on the right course. And I believe, obviously,

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1 Framework to the Trustee Council.

2 So the tasks all blend together into one continuous
3 stream. The second concern is that if you just look at these
4 slots as something you can shuffle people in and out of from
5 the agencies, then we really suffer from a lack on continuity.
6 And you know, the life of every organization historical memory
7 or institutional memory is the real important thing. And
8 that's especially true when you've condensed as much as we have
9 into a two-year period. And so that continuity of people is
10 real important to us.

11 Thank you.

12 MR. COLE: Mr. Chairman.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: Yeah. I would like to make a couple of
15 remarks. First, I have no doubt that the Restoration Team
16 people have worked very hard. I think they performed their
17 assignment well. And I have no doubt but that they are working
18 long hours and in very able fashion.

19 My concern is that I want to see the maximum amount of
20 money left to perform restoration and to do the job out there
21 that this whole settlement and the whole process envisioned we
22 would do. And I am endeavoring to guard against, you know, the
23 delusion of monies which would limit the amount of restoration
24 and enhancement which we can do (ph). You see that is my
25 central purpose here.

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1 to this group while this is out for public review by the Public
2 Advisory Group and the others that are interacting with it, it
3 would seem that you really wouldn't need full-time equivalents
4 running the full year. And hence, you know, at least from the
5 process I'm thinking of, it would seem that these individuals
6 could go back to their assignments, at least on a part-time
7 basis, and we wouldn't be dealing with full-time equivalents.

8 But since this is so interrelated, Mr. Chairman, I'd
9 suggest deferring approval of this until we get through this
10 whole process and specifically the Public Advisory Group
11 presentation by Piper and not act on this budget item at this
12 time. So I would move to table action until that
13 presentation -- those other related presentations are
14 completed.

15 MR. SENNER: Can I just respond briefly to that
16 comment?

17 MR. PENNOYER: Sure.

18 MR. SENNER: And then deal with the Floor. In terms of
19 the FTEs there, one of the things that happens is that when you
20 look a year ahead at a series of documents that you have to
21 produce, these aren't nice, neat, discreet tasks where you work
22 for a period on one and then you do something else and then you
23 pick up on another, they're all piling up on each other. We're
24 already making plans for the content of the Restoration Plan
25 even though we haven't even gotten a draft of the Restoration

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1 appearing repeatedly; so one individual wears multiple hats
2 when it comes to these different entities.

3 And I view the Restoration Subgroup as kind of a poor
4 (ph) planning team which is there for the benefit of the
5 Restoration Team and the Trustees on -- you know, on a full-
6 time basis. So I see us as being fully integrated with the
7 rest of the structure that you've got in front of you.

8 But Dave, maybe you want to comment further?

9 MR. GIBBONS: Yeah. In addition to that on these other
10 subgroups, the Restoration Team members generally chair those,
11 except for the Restoration Subgroup, chair those and are
12 involved with that full-time. So, here we've got a bunch of
13 groups working not full-time but a bunch of groups working
14 hard. And those other groups are primarily made of agency
15 people.

16 MR. PENNOYER: John -- I'm sorry, Commissioner Sandor.

17 MR. SANDOR: I think this is precisely an area where we
18 really need to examine this closely. If the Restoration Plan
19 draft is prepared say by the end of September and we have
20 October, November, December, January, February, the roles, as
21 you point out in the Public Advisory Group process, the
22 Restoration Team itself, would have, it would seem, you know,
23 interaction and be helping shape the final plan.

24 And if, indeed, this Restoration Planning Subgroup is
25 made up of members of agencies who are on an ad hoc assignment

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1 - we're working on even as this meeting is in progress, is
2 really the substantive way to kick off public participation.
3 We've been having meetings here over the last few days that
4 focus on the process of public participation. But the
5 Framework gets to the substance of it.

6 And then from there, the public participation I think
7 will have two focal points; one is this Restoration Plan which
8 is a conceptual document for the decade; secondly, though, is
9 whatever is done in the way of annual work plans -- which is
10 really where the rubber meets the road in the sense of here is
11 where the Trustees and the public will make decisions on
12 specific actions which will occur in each year, and we're going
13 to need to update that annually.

14 So those are the two thrusts for public participation.

15 MR. PENNOYER: I guess the other question that Mr. Cole
16 raised is the interaction of these various parts. We have the
17 Administrative Director and his staff and office, and we have
18 Scientific Support, Public Outreach, the Restoration Team
19 itself and the Restoration Planning Subgroup. And Dave or
20 Stan, you know, is there overlap here? Are these things all
21 addressing separate parts of the same need?

22 MR. GIBBONS: Go ahead, Stan.

23 MR. SENNER: Well one consideration there is that if
24 you start looking at who we would anticipate to work on the
25 different subgroups, you would start seeing the same names

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1 work hard and we think this is a minimal amount of resources to
2 do a credible job in the time frame that you're asking for. If
3 we spread the time frame out longer, we can use fewer people,
4 you know, in that period of time. But we're looking for
5 something that's credible and that will speak well for this
6 whole process.

7 MR. PENNOYER: Mr. Barton.

8 MR. BARTON: Looking down the road, would you expect
9 that this Restoration Plan will be the subject of some
10 controversy?

11 MR. SENNER: Well I don't know about controversy. I
12 suspect on any undertaking of this magnitude it's hard to do
13 something that doesn't have its controversial aspects. But
14 more than controversy, I do see it as something very
15 significant because it will set a framework, parameters that
16 will guide efforts for the next decade and should embody the
17 conceptual and policy desires of the Trustee and the public,
18 and that's a big deal.

19 MR. McVEE: Mr. Chairman.

20 MR. PENNOYER: Mr. McVee.

21 MR. McVEE: Stan, is this kind of the major focus for
22 the public involvement, public participation part of the
23 program, the Restoration Program; is this serving that as a
24 major focus?

25 MR. SENNER: Yes. The Restoration Framework which is -

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1 So between September and the end of that oil year is
2 preparation of that document and the public participation.

3 MR. PENNOYER: Stan, even more pertinent, would you
4 care to try and respond to Mr. Cole's question about why we
5 need this much effort and this many people based on the work
6 you've done over the past year or two; can you give us a better
7 feel as to why that level of staffing is appropriate?

8 MR. SENNER: Well we're working now and far in excess
9 of the regular work week to produce the documents that we're
10 producing and the planning that we're doing. We're trying
11 identify the resources that will enable us to sustain our
12 efforts and produce what is needed, that would be one point.

13 There are three major Restoration planning documents
14 here, a framework and two versions of a plan. There are also
15 the 199- -- what would be a 1993 work plan which will appear in
16 draft and final form, which the Restoration Planning Subgroup
17 would have a significant role in. All of those are documents.
18 The Restoration Planning Subgroup has played a major role in
19 developing the science studies for the year, both damage
20 assessment and restoration. And we invest considerable energy
21 in the liaison within our own agencies working with our own
22 experts on what they envision is needed in the way of a
23 restoration program.

24 So all of these components are in there, and I don't
25 know what else I can say to persuade or justify except that we

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1 September I think would actually require even more than what
2 we've asked in here for. In reality, we'll be lucky to have it
3 done in September. But once the Plan is done and is fully
4 accepted, the disbanding of the Restoration Planning Group
5 probably is possible.

6 MR. GIBBONS: I think it's planned (ph).

7 MR. PENNOYER: I would assume that we were going to
8 some type of a different phase and we do some monitoring that's
9 going to go on in our progress, but the actual planning process
10 would be over with.

11 Stan Senner, do you want to say something about that?
12 Stan's been chairing -- co-chairing or chairing the Restoration
13 Planning Work Group, the old whip wagon (ph), he probably has
14 an insight into (indiscernible - interrupted)

15 MR. SENNER: Stan Senner, S-E-N-N-E-R. Just to respond
16 to Mr. Sandor's question, we have the Restoration Framework in
17 March and a draft of a Restoration Plan in September. We
18 envision another round of public meetings and participation
19 then followed by preparation of a final Restoration Plan.
20 That's what ha- -- you asked what happened in that period
21 between September and the end of the oil year. So it'd be
22 preparation of that final document, which in some senses,
23 endures for the next decade and is updated by the Annual Work
24 Plan. But conceptually, that is the document that sort of is
25 the guide from thereon.

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1 MR. COLE: Mr. Chairman.

2 MR. PENNOYER: Mr. Cole.

3 MR. COLE: Yeah. Solely (ph) following up on your
4 comment. We have an agency support program that totals an
5 additional 3.267 million, am I reading this correctly?

6 MR. PENNOYER: I guess you are.

7 MR. COLE: And that's in addition to the 3.834 million
8 on the total on the preceding page, am I correct in that? So
9 that's roughly seven million dollars that we're dealing here
10 with this organization for this year. Am I correct in my
11 reading of these (indiscernible) expense?

12 MR. PENNOYER: Well I think the last page contains the
13 budget summary that has those outlined with the 3.8 for
14 organizational budget which we have cut some out of already and
15 then 3.267 for agency program support.

16 MR. COLE: And then another 23 million for the Work
17 Program.

18 MR. PENNOYER: The actual implementation
19 (indiscernible).

20 MR. COLE: Thank you.

21 MR. MONTAGUE: Mr. Chairman.

22 MR. PENNOYER: Mr. Montague.

23 MR. MONTAGUE: I'd like to address anything more about
24 the Restoration Planning Subgroup, and more specifically,
25 Commissioner Sandor's question. And getting a Plan done by

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1 of the Restoration Team members or some of the Subgroup members
2 might help me out here.

3 But these are estimates for when the drafts will be
4 out; in March, I've identified some public scoping sessions
5 with the Restoration Framework, those will take place. And we
6 assume that those same things will happen with the draft
7 Restoration Plan. And so, it takes time to get the communities
8 to come back and prepare a final plan and then put together --
9 perhaps the other duties would be the next annual edition to
10 that plan. The first it would -- you know, it'd be 1993's
11 projects or whatever activities tiered under that 19- -- under
12 the draft Restoration Plan.

13 MR. PENNOYER: I think I have an additional question as
14 long as we're getting all of this out on the table. The next
15 line says total organizational budget. We've formed a Lands
16 Subgroup -- on the diagram you've got an Archeology Subgroup,
17 you've got a GIS Subgroup, we've got a Budget Team we haven't
18 talked about yet. Are all of this covered or does that appear
19 somewhere else?

20 MR. GIBBONS: That's covered on the next page. We have
21 a line item there called Agency Support. And this is an
22 estimate of the cost to pull the various agency people out to
23 perform these tasks. There's a lot of things in that project.
24 We can -- we have a breakdown of that budget on the following
25 pages, if the Trustee Council would like to look at those.

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1 Now, you know, some -- I just obviously feel strongly
2 about it. But maybe I can be convinced by reason that we don't
3 need a million dollars for that, but it's going to take some
4 hard sell I tell you.

5 UNIDENTIFIED SPEAKER: I'd hope the convincing would be
6 by reason (ph).

7 MR. PENNOYER: Commissioner Sandor.

8 MR. SANDOR: A couple of questions that relate to this
9 activity. When will the Restoration Framework be developed as
10 far as when will the draft Plan be produced?

11 MR. GIBBONS: Yes. The estimate right now for the
12 Restoration Framework is in mid-March. And an estimate for the
13 Restoration Plan is September. These are both drafts.

14 MR. SANDOR: Okay. If the -- Mr. Chairman. If the
15 Restoration Plan is to be produced at least in draft form by
16 September, I guess perhaps Mr. Gibbons could elaborate on the
17 necessity of having this financed for the whole year. It
18 appears to be financed for the whole year. What happens after
19 September? This year runs from February -- March 1 to the end
20 of February of '93, September, even at the end of that, you
21 know, leaves five months and, you know, raises questions about
22 the funding of that magnitude for that; if the Plan is, in
23 fact, produced by that time.

24 And so maybe you could elaborate on that.

25 MR. GIBBONS: Sure. I can start it, then I think some

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1 MR. PENNOYER: I guess one of the things that was lost
2 is that your Public Outreach budget was \$474,000.00, and it
3 contained some of the things that are here and it didn't
4 contain some others. Can you kind of separate those out for us
5 so we can see what's in 3(B) versus what's in Public Outreach?

6 MR. GIBBONS: Let me go through first and give you the
7 totals for each option so we all have that to work from. Okay.

8 Option 1, the correct figure should be \$160,000.00.

9 MR. COLE: And what -- excuse me, Mr. Chairman.

10 MR. PENNOYER: Go ahead, Mr. Cole.

11 MR. COLE: What are the general parameters of Option 1?

12 MR. GIBBONS: Option 1 is to take the material and put
13 into the archive files either in Anchorage or Juneau and
14 maintain them there. The public access is extremely limited,
15 and there would be no centralized area where people -- the
16 public could go to get these; there's no active acquisitions to
17 build upon the program. It would be just an archival service.

18 MR. COLE: Thank you.

19 MR. PENNOYER: And Mr. Gibbons then that costs how much
20 for Option 1?

21 MR. GIBBONS: That would

22 UNIDENTIFIED SPEAKER: 160.

23 MR. PENNOYER: How did you get down from the
24 2- --

25 MR. GIBBONS: 160,000.

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1 MR. PENNOYER: How did you get down from 226 to 160?

2 MR. GIBBONS: Well the 226 reflects space, you know,
3 costs or whatever, and we're trying to get them -- there would
4 be a savings on space and Xeroxing, that's why we came up with
5 that number.

6 MR. PENNOYER: Okay. Continue.

7 MR. GIBBONS: Option 2 is also 160. The difference
8 between Option 1 and 2 is we understand that the State or
9 Federal archives will not accept active files, they want
10 complete files; and our files presently are active, we're still
11 building upon them and adding more information, doing quality
12 assurance and quality control.

13 And so Option 1 is -- when we looked at it, we said
14 well we've got to present it but it's -- we would have to
15 maintain those files at the agencies until they're complete,
16 then move them from the agency over and not even have them come
17 into OSPIC.

18 MR. PENNOYER: All right.

19 MR. GIBBONS: Option 3 -- go ahead.

20 MR. COLE: Mr. Chairman.

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: Two of us here did not understand the
23 difference.

24 MR. BARTON: I think in Option 1 they're moved from
25 OSPIC to archive, in Option 2 they're moved from individual

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1 agencies to archive without cycling through OSPIC; is that
2 right?

3 MR. GIBBONS: We have to maintain some of those data
4 files until they're complete within the agencies and then move
5 them to the archive.

6 MR. BARTON: Directly.

7 MR. PENNOYER: But you also move the present OSPIC
8 items to the archives, some of the stuff's not in the agencies.
9 Dave, in Option 2, you still have to move something from OSPIC,
10 though, don't you?

11 MR. GIBBONS: Right. They're essentially the same, the
12 minor detail of the acceptance of the data.

13 MR. BARTON: In Option 1 we declare them closed files
14 and archive them?

15 MR. GIBBONS: Yeah.

16 MR. BARTON: And in Option 2

17 MR. GIBBONS: 2, you would maintain them until

18 MR. BARTON: We wait

19 MR. GIBBONS: they're complete and then move them
20 over.

21 MR. BARTON: and then move them.

22 MR. GIBBONS: That's my understanding.

23 MR. PENNOYER: Procedurally somewhat different than
24 (indiscernible - interrupted)

25 MR. GIBBONS: Same result.

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1 MR. PENNOYER: So part of the thing (ph) is the same,
2 there's no access for someone to look in the file
3 (indiscernible - interrupted)

4 MR. GIBBONS: There's no access, they're in an archive
5 file, the archives.

6 MR. PENNOYER: All right.

7 MR. GIBBONS: And they would be a box labelled a
8 subtitle or something in that.

9 MR. PENNOYER: And there would be no attempt as we go
10 along here building Restoration Plans and so forth to put any
11 of that in the access situation?

12 MR. GIBBONS: Well I think maybe Curt can speak to
13 this, but I think the plan we had in mind is that the future
14 final reports and stuff would go to some library function, and
15 that's the 226 there, the BLM.

16 MR. McVEE: Yeah. There'd be a continuing collection
17 of materials into the library system -- a library system.

18 MR. BARTON: And that's in option which?

19 MR. GIBBONS: That's in Option 1 and 2.

20 MR. PENNOYER: I guess I'm confused. If this is going
21 to an archive instead of to a different library, why do we have
22 a continual library function similar to it?

23 MR. STEELE: Published materials versus active files.

24 MR. McVEE: Yeah.

25 MR. STEELE: The published material would go to the

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1 library, the active files would, in one option, be maintained
2 by the agencies, in the other option it would be maintained by
3 the agencies until it was complete and then given into the
4 archives. There are, potentially, some hidden costs there in
5 terms of coding, the archives won't accept the material unless
6 its coded properly and so on and so forth, but that's down the
7 line a ways.

8 Basically the difference between those two options is
9 the fact that agency would keep the material in one option and
10 it would go to the archives in the other option.

11 MR. PENNOYER: Well then what's the 226 you're talking
12 about, does that come in as a separate item?

13 MR. McVEE: The BLM, the Natural Resource

14 MR. PENNOYER: Well would that still be something that
15 had to be figured? Even if you go on Option 1, you would
16 still

17 MR. STEELE: Yes.

18 MR. PENNOYER: have the 226 charge

19 MR. STEELE: The public

20 MR. PENNOYER: off to the side for the library?

21 MR. STEELE: The published material would go to the
22 library is the theory.

23 MR. McVEE: But it would not cost us. It would not
24 cost

25 UNIDENTIFIED SPEAKER: No, it wouldn't.

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1 MR. McVEE: It would be with typical library materials.
2 (Indiscernible - simultaneous speech)

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: Is there anyone in the audience who can
6 explain this succinctly?

7 MR. STEELE: It's tough.

8 MR. COLE: There's a volunteer.

9 (Off record comments)

10 MR. PENNOYER: Okay. We have a volunteer. A succinct
11 volunteer.

12 MS. McGEE: I'll try. I'm the Director for OSPIC. If
13 I understand correctly, Option 1 and 2 mean you do not have the
14 facility as it is now that provides information to the public
15 in a combined collection of Exxon Valdez related material.
16 There are minor differences in 1 and 2, but basically, you do
17 not have OSPIC as it is now, you have a public information
18 officer that provides services such establishing meetings we've
19 had to date, providing handouts and providing the information
20 that the Trustee Council wishes to be distributed.

21 Is that what you think, Dave?

22 MR. GIBBONS: That's correct.

23 MS. McGEE: And Option 3 and 4 -- well 4 is as it is.
24 Option 3(A) and 3(B) maintain OSPIC, and I don't like to use
25 the word OSPIC because I understand that's not a word people

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1 like to hear. But Option 3(A) means those materials are not
2 put on a network as they are now, so they're basically only
3 available within the library.

4 Option 3(B) maintains access to a network by providing
5 an additional person to put that information in an established
6 library standard that can be accepted by those networks.

7 MR. BARTON: But for more access it would cost less?

8 MR. PENNOYER: I guess Option 3(A) that doesn't provide
9 a network costs 354,000 and Option 3(B) with the network only
10 costs 196, it sounds like a bargain.

11 MS. MCGEE: I'd have to go back and look at the
12 figures.

13 MR. STEELE: We're keeping the published material in
14 the current library rather than transferring a portion of that
15 material to another library and accepting those 226

16 MR. McVEE: I guess that's my point, though, that's
17 going to cost 196,000 for us to transfer but we still have to
18 pay 226 in annual charges for maintenance.

19 MR. STEELE: That's actually not

20 MR. McVEE: So the total cost is still

21 MR. STEELE: That's actually not a moving cost, that
22 226 is not a moving cost, that's the first year cost for
23 maintaining -- for accepting that data.

24 MR. PENNOYER: But then it's an ongoing charge?

25 MR. STEELE: That's correct.

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1 MR. PENNOYER: So you haven't saved a lot of money.

2 MR. STEELE: It's cheaper to keep it where it is than
3 to move it is the bottom line.

4 MR. PENNOYER: Mr. McVee.

5 MR. McVEE: Mr. Chairman, a couple of things in the BLM
6 proposal, it says that the materials would go onto the National
7 Library Network and then they refer to three of the networks.
8 But it seems to me like maybe the only difference between 3(A)
9 and 3(B) is the cost of space. Is that

10 MS. McGEE: It's personnel.

11 MR. McVEE: Personnel.

12 MS. McGEE: It's an additional person that takes care
13 of the cataloging and processing of those materials for the
14 network.

15 MR. BARTON: Well

16 MR. PENNOYER: Mr. Barton.

17 MR. BARTON: I'm still very confused.

18 MR. PENNOYER: Mr. Cole, if you can help Mr. Barton.

19 MR. COLE: Well I would say wouldn't it be well that we
20 have this written out in a little more detail for us by
21 tomorrow so we don't have to spend quite so much time this
22 afternoon, unless you want to continue to invest it. Really I
23 have no objection, but I'm so utterly confused that I don't
24 think I could ever understand this.

25 MR. BARTON: I think, though, it would be more helpful

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1 to have less detail rather than more.

2 MR. PENNOYER: I was just going to say we've got a lot
3 of detail here, it just is not necessarily comparable and

4 MS. MCGEE: Could I add one more comment?

5 MR. PENNOYER: Sure.

6 MS. MCGEE: And Mr. McVee, maybe you could tell me if
7 this is correct. If I understand correctly from talking to the
8 Resources Library librarian, the 226, the additional cost is
9 that they would continue to provide those services that OSPIC
10 is now presently providing, the reference and the cataloging
11 that's presently done by OSPIC. Is that correct?

12 MR. McVEE: I think that's correct. It sounds like
13 what they intended in their memo to us (indiscernible - voice
14 lowers).

15 MR. PENNOYER: Well I guess sending people away to do
16 something in a little more detail sounds good but I'm still not
17 sure what they're doing. I guess if you just put the thrust
18 down for each option as to what is going to happen or isn't
19 going to happen. Option 1 and Option 2 provides nothing but
20 archiving, and there's no library anywhere so we're not paying
21 a hidden \$230,000.00 library charge. Fine. That's a decision
22 we've got to make. That 3(A) provides no networking and 3(B)
23 does provide networking, but does 3 -- why does 3(B) cost less
24 than -- just what is in these options. And what are the policy
25 decisions we have to make and what would it cost to make them?

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1 Because it's just too much detail here to compare.

2 MS. RUTHERFORD: Mr. Chair, I don't know if this will
3 help. But at the last meeting there was a lot of discussion
4 that there would be a savings associated with moving the
5 materials over to Bureau of Land Management's library. And, in
6 point of fact, what we found out is that there will be a
7 significant cost associated with that and it's an ongoing cost.

8 So to some degree, it just makes better sense to
9 continue with the services as they're currently being provided
10 with -- slightly cut back. And that's what we're recommending
11 in 3(B).

12 MR. McVEE: Mr. Chairman.

13 MR. PENNOYER: We're -- it's now 3:15, do you want to
14 take about a 10 minute break?

15 MR. BARTON: Could I ask one more.

16 MR. PENNOYER: Why don't you ask one more question
17 before we take a break.

18 MR. BARTON: Where is the \$172,000.00 for space
19 considered in these options? Has 3(B) got it in there or not?

20 MR. GIBBONS: 3(B) has it in there.

21 MR. BARTON: So there's only \$20,000.00 for people in
22 3(B)?

23 MR. GIBBONS: No.

24 MS. RUTHERFORD: No.

25 MR. STEELE: It is very confusing. There's some

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1 allocation of space. There was some continued (ph) in these
2 numbers. It's confusing. We can -- I think we can do a much
3 better job at clarifying this if you want to

4 MR. PENNOYER: Do you want to bring it back tomorrow or
5 is this something you can do in a few minutes to clarify?

6 MR. BARTON: Why don't we bring it back and

7 MR. McVEE: Mr. Chairman.

8 MR. PENNOYER: Okay. Let's bring it back tomorrow.
9 Mr. McVee, one last comment before we take a break.

10 MR. McVEE: I guess I had a suggestion is I thought
11 we'd agreed that we would keep the collection together and that
12 -- but we would look at the options for location. And it seems
13 to me like if -- you know, if we agree that is a functioning
14 collection keeping it together that we could drop all except
15 the last three or maybe even 3(A) and 3(B); you know, we could
16 do

17 MR. STEELE: The only one that keeps it together is the
18 one that we recommend; otherwise, it's split up because the DOI
19 (ph) Library will not accept the entire collection, they will
20 accept only published material. The only option that keeps it
21 together is the option recommended, and that's 3(B).

22 MR. BARTON: Well what about other libraries? Have we
23 been through that drill before?

24 MR. STEELE: We've been through that drill. There's
25 going to be a cost. There's going to be a cost wherever you

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1 take it. And it just seems logical to us, anyway, after
2 beating our heads against the wall on this, is let's keep it
3 together. We need some of the space anyway, let's keep it
4 together, let's cut back the staff, let's cut back the meat,
5 let's have a synergistic approach to this, you know, Public
6 Outreach and go on.

7 MR. PENNOYER: As part of your discussions, can you
8 illustrate to us what you've cut back?

9 MR. STEELE: Personnel.

10 MR. PENNOYER: In terms -- well

11 MR. STEELE: There were five people that were library
12 personnel, we now identified two full-time people that are
13 basically library. You've got some other Public Outreach
14 people that are staff to the Executive Director.

15 MR. PENNOYER: Well I don't -- excuse me, Tim. I don't
16 see two library type people in Option 3(B); I see a public
17 information specialist and two Public Resource Coordinators.
18 I'm not sure, are those library folk or is that

19 MR. STEELE: Library.

20 MR. PENNOYER: this other

21 MR. STEELE: (Indiscernible - away from
22 microphone)

23 MS. RUTHERFORD: Mr. Chair. The one 1.5 full-time
24 equivalents are built into the Administrative Director's Public
25 Outreach budget, and those are the people that are being

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1 leveraged. The people -- the two full-time equivalents at
2 65,000 a piece are the ones that are dedicated totally to the
3 Resource Center.

4 MR. PENNOYER: They would basically be library folks?

5 MS. RUTHERFORD: Yes, that's correct.

6 MR. PENNOYER: Okay. Why don't we take a break and
7 then come back and decide whether we want to take this up
8 tomorrow.

9 UNIDENTIFIED SPEAKER: I move we break.

10 (Off record comments)

11 (Off record)

12 (On record)

13 MR. PENNOYER: I'm still missing a couple of
14 Restoration Team members. Okay. At the break, we retreated to
15 the hallway and tried to make sense out of the library and
16 Public Outreach, and I thought we had it but I'm informed that
17 we really would really benefit by an overnight discussion
18 process and come back, and I'm assured we can have the whole
19 presentation in five minutes tomorrow. So we will defer 3(A),
20 3(B), 1 and 2.

21 And I'd ask you, Dave, we've deferred, as I read it,
22 Public Outreach, we tabled the Public Advisory Group and now
23 we've deferred the section on 3(A)/3(B). What do we have left
24 in this thing that we can deal with in the administrative part
25 today?

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1 MR. GIBBONS: That's it. I'd like to deal with the
2 agency overhead and the activities of both the damage
3 assessment and restoration tomorrow when we get into the
4 detailed study because they all went together.

5 MR. PENNOYER: How about the public participation, do
6 we need that now or do we wait until you are done (ph) to do
7 that.

8 MR. PIPER: Mr. Chairman.

9 MR. PENNOYER: Ernie Piper.

10 MR. PIPER: I would -- mine is a fairly
11 straightforward examination of what's gone on at the public
12 meetings. In view of the fact that there are a lot of things
13 on this Agenda that are much more critical than my
14 presentation, I would respectfully recommend that, perhaps, you
15 deal with some other items and put mine off, and I'll be at
16 your service any other time.

17 MR. PENNOYER: That's right, the reason we were taking
18 yours was because it was germane to some of the budget
19 decisions we're making. But I think we've tabled all of those
20 or deferred them, so we probably don't need your
21 (indiscernible) right now.

22 MR. PIPER: And since they're dealing with those
23 tomorrow, it might be better to deal with everything that has
24 public with a capital "P" on it first thing in the morning or
25 whenever you choose tomorrow.

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1 MR. PENNOYER: That's fine. And maybe you could make
2 your presentation first, then we could come back and deal with
3 budget parts.

4 Okay. What's the next part then, Mr. Gibbons, on the
5 administrative section?

6 MR. GIBBONS: At the last meeting, the January 10th
7 meeting, the Restoration Team was directed to form a habitat --
8 the name wasn't given to it but we're using Habitat
9 Protection/Lands Committee. And we have Ken Rice is going to
10 give you some status on what we've done in this arena.

11 MR. PENNOYER: Now is that a budget item?

12 MR. GIBBONS: No. I -- we don't have anything else on
13 the -- excuse me.

14 MR. PENNOYER: What about the section on Agency Program
15 Support, do we want to at least discuss that before we get off
16 of this topic; that's part of your organizational budget as
17 well?

18 MR. GIBBONS: That's related. The amounts in there are
19 related to which projects move forward and somewhat (ph)

20 MR. PENNOYER: So we should defer the Agency Program
21 Support part until we make the project decisions?

22 MR. GIBBONS: In some agencies, you know -- if 50% of
23 the program is cut, some of that overhead cost will come down.
24 emphasize some of it but

25 MR. PENNOYER: It is your recommendation then we leave

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1 that Agency Program Support part of the budget until we talk
2 about the total package and the number of programs that are
3 proposed to go out to public review? No?

4 MR. GIBBONS: We can tell you what's in there but the I
5 feel the numbers are going to change.

6 MR. PENNOYER: Wishes of the Council; do you want to
7 discuss the Agency Program Support in general or leave it until
8 we get a permanent fix on the numbers? It's 3.267 million
9 dollars.

10 MR. BARTON: How much of it is likely to change there?

11 MR. GIBBONS: Well, it's kind of hard. If you'll flip
12 briefly to the chart that's a horizontal chart and it's called
13 EVOS Recovery Agency Program Support. There's a line item
14 there for two types of personal services, both professional and
15 technical, some travel, contractual services, commodities and
16 equipment. These are an estimate right now of what our needs
17 will be to support the program by agency and by line item.

18 MR. PENNOYER: Can you tell me, Dave, what the double
19 star item means, includes projects specific costs that are
20 reflected in project costs for some agencies, does that mean
21 you have a double -- some of it's here and some of it's in the
22 project budgets or it's duplicate money?

23 MR. GIBBONS: Yeah. What I understand from this is
24 that some of the costs here should be moved over into the
25 project costs.

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1 MR. PENNOYER: But right now they're here?

2 MR. GIBBONS: Right now they're here.

3 MR. PENNOYER: But it's not consistent between
4 agencies?

5 MR. GIBBONS: That's correct.

6 UNIDENTIFIED SPEAKER: So how meaningful is this?

7 MR. PENNOYER: Do you suggest we approach that, the
8 fact that apparently from a budget standpoint we haven't gone
9 through it and made it consistent? Is there -- can we deal
10 with this here or is it something that's going to have to come
11 in another iteration at some other time?

12 MR. GIBBONS: Well we've been trying to deal with it
13 for a couple of week to be honest. We've had some
14 miscommunications on where the costs go, and the agencies have
15 been accounting them differently. And I'm not sure how we deal
16 with this at this present time. Does the Restoration Team have
17 any suggestions?

18 MR. BRODERSEN: Mr. Chairman.

19 MR. PENNOYER: Yes. Mark.

20 MR. BRODERSEN: I think basically what we're going to
21 have to do at this time is ask the Trustee Council for their
22 philosophical concurrence or disconcurrence, if you will, on
23 the projects as they're outlined. And then the next step after
24 that is probably to have a detailed review of the budgets for
25 each project; that's not yet been done. And as one is doing

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1 that detailed budget review, you can see if the projects costs
2 and this overhead cost -- or that can't then be reconciled some
3 way.

4 We had anticipated being able to do a detailed budget
5 review for you prior to this meeting and basically just ran out
6 of time. I feel that that's still a critical element that
7 needs to be done here before the Trustee Council has final buy-
8 off on any of these projects and costs.

9 MR. SANDOR: Mr. Chairman, I think this budget issue
10 should be deferred.

11 MR. PENNOYER: Anybody else? Mr. Barton.

12 MR. BARTON: Would it be helpful if we had -- if the
13 Council agreed to a set of guidelines for compiling this chart,
14 would that be of some utility in pulling this thing together?

15 MR. GIBBONS: Yes. I think it would. What we were
16 dealing with was what happens if a project gets cut if you
17 ha- -- if you don't have the overhead cost built into the
18 project, you have to go back and submit a number and try to
19 prorate that down of how much (ph). So what we were trying to
20 do, and I think it's the best approach, is build the support
21 for each one of the projects into the project component, and
22 then build -- have this number stand as support to the program.
23 These might be, like I mentioned earlier, support from the
24 agencies through various subgroups and this type of thing.

25 MR. BARTON: Well would it be possible then for you to

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1 present to us tomorrow a set of guidelines for developing this
2 table that we could then consider and approve or modify?

3 MR. MONTAGUE: Well, Mr. Chairman.

4 MR. PENNOYER: Yeah.

5 MR. MONTAGUE: Some guidance would help very simply
6 being I guess some the agencies we felt that all overhead costs
7 should be put in one item so that it's clear to everybody where
8 the overhead is. But that does create a problem when you cut
9 and add projects, that requires a redoing of all the figures.
10 And so we need guidance whether that is the preferred approach
11 or whether some overhead of the project should be into every
12 project.

13 MR. BARTON: Well, how big a problem that is depends on
14 whether we're financing work or financing an organization.

15 MR. PENNOYER: I guess it somewhat depends on what
16 you're calling overhead. Are these charges for as Mr. Gibbons
17 said, people that come in and work ad hoc on plans and things
18 like that, that's not project overhead, that would presumably
19 still be an agency support. But what type of things are you
20 putting in project overhead; does it include your contracting
21 officers and things like that or is it general support computer
22 systems or

23 MR. MONTAGUE: Mr. Chairman, it would include both of
24 those, personnel officer work, the scientific oversight of the
25 projects that occurs below the Restoration Team level. Those

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1 are the two, and then the third component which isn't project
2 is the staff that would be needed whether we had projects or
3 not. And some of the figures represent just what would be
4 needed whether they have projects or not.

5 MR. SANDOR: It would be helpful, Mr. Chair, if the --
6 there be consistency, and that is the same, essentially,
7 pattern of application of overhead or the costs and projects be
8 carried through across the board so we can have consistency,
9 and I gather that's not the case now.

10 MR. PENNOYER: We -- can the Management Team come
11 back -- Restoration Team and tell us the type of things that we
12 ought to be giving you guidance on as to whether that should be
13 in projects or in agency support? There's some things that are
14 project oriented and there are others that are probably more
15 agency support -- general support oriented. Because you have a
16 scientific support person, Fish & Game, that looks at all
17 fisheries projects, if one project goes away, you probably
18 can't take away two weeks of that person's time. On the other
19 hand, if there are certain computer operational costs and
20 demand (ph) on the amount of data that's put through the
21 system, maybe that does go up and down with different projects.

22 So, if you can give us some categories of things that
23 could be included in either place, we could probably sign off
24 on where we think they ought to appear. And then our time
25 giving you that guidance here without knowing what's in here.

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1 If you could give us, by tomorrow, maybe a spread of what those
2 things are, we can issue (ph) some guidance.

3 Mr. Cole.

4 MR. COLE: Mr. Chairman. I think that we should defer
5 this until the next meeting so that we can have a more defined
6 analysis of what we are going to allow by way the so-called
7 overhead. I think it's asking too much to come up with those
8 parameters and criteria tomorrow.

9 MR. McVEE: Mr. Chairman.

10 MR. PENNOYER: Mr. McVee.

11 MR. McVEE: Yes. To some extent since, you know,
12 projects will be accomplished by individual agencies, what we
13 can pull out or what we can pull out as overhead, what we can
14 identify as part of project costs probably will be dictated by
15 the financial management systems that the individual agencies
16 have. But it seems like that we could set a general parameter
17 that, you know, we will try to cost everything that we can to -
18 - directly to a project, and that we will have as overhead only
19 what I would call general program manager management type of
20 activities, you know, within, say for example, Fish & Wildlife
21 Service there'd be a number -- a limited number of people that
22 would be oversight folks that would be managing the Fish &
23 Wildlife Service Restoration Program, that would be overhead.
24 And only that part, that everything else would be associated
25 and directly costed towards a project, you know, including if

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1 we could, through the financial management system if it would
2 work, you know, the cost of putting together contracts or
3 whatever. But try to maximize the direct costs into projects.

4 MR. PENNOYER: Mr. Barton.

5 MR. BARTON: Well I agree that we need to defer this
6 decision until a later meeting. But I do think that we need to
7 provide the consistent guidelines in terms of the definition of
8 overhead and the philosophical basis for attributing projects
9 or not attributing the projects so we're all doing it the same
10 way so that the poor Restoration Team is not faced with this
11 same dilemma.

12 MR. PENNOYER: Mr. Cole.

13 MR. COLE: Mr. Chairman, see I agree that. I had in
14 mind that we could maybe ask the Team to get some advice on
15 that from the financial managers of these agencies or someone
16 who has special skills and training in that area and try to --
17 and outline for us the criteria or at least furnish us with
18 their recommendations; that's all I had in mind. It may be the
19 Management Team has -- or the Restoration Team has those skills
20 so that they could do it. I don't know. That was my only
21 thought.

22 MR. PENNOYER: I guess I had thoughts that this
23 Restoration Team has been wrestling with this for the last
24 several months, they might have some questions that they could
25 ask us rather succinctly in terms of dealing with this process.

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1 I know there's been -- Mr. O'Connor did you have a comment?

2 MR. O'CONNOR: Mr. Chairman, the

3 MR. PENNOYER: You better speak into the microphone.

4 MR. O'CONNOR: That's right. Mr. Chairman, I would
5 suggest that since we have certain responsibilities that NOAA
6 has in this process that we ask for our gurus on financial
7 management to get involved in this and to put together a
8 program for the Trustee Council to use a common accounting
9 system and a common monitoring system for financial
10 expenditures.

11 Because right now if I were to have to step into a
12 courtroom and defend the propriety of your decisions, I would
13 have to spend a considerable amount of time trying to decipher
14 exactly what is going on. If we had a cookbook put together I
15 think it would make some sense, and I would volunteer our
16 resources to do that. We could get somebody from the State to
17 offer up a representative as well, it would be a good task to
18 perform in the immediate future.

19 MR. PENNOYER: Well we -- one of the things that's on
20 the diagram but not in this plan is financial management. And
21 we have to, I think, cross that bridge while we're here in
22 regards to who does it. We're going to have to decide how to
23 approach it. And I guess can we be clear on what we're doing
24 with this budget right now? I mean on all of these items, are
25 we -- we're not coming to a final decision, it's going to be

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1 just that, are we?

2 I mean in most of these cases we seem to be building
3 something that -- certainly we're going out to public review
4 with the whole plan, and I assume that includes of these
5 administrative costs as well in terms of what the total program
6 is going to look like.

7 We haven't had -- and I guess maybe that was the
8 statement made earlier that we haven't gotten into even the
9 Team had not done a detailed review of the budgets. And
10 apparently, we haven't had any budget specialists look at the
11 budgets and how they're put together, the consistency with the
12 different rules we may have to follow on different agencies.

13 What we're doing here, for the most part, I think is
14 signing off, as I think Mr. Brodersen said, philosophically on
15 what we think ought to be included here; a general idea of
16 costs. But I don't think we can reach a final limit on most of
17 these costs today or tomorrow.

18 The second piece of that is that we probably are trying
19 to decide on whether we have to go and ask for some start-up
20 money are we not? And so we've got to make some sub-decisions
21 here on which projects or which things would need to go and how
22 we package and what do we with it for start-up costs is some of
23 these programs. And I assume that includes agency program
24 support. I'm not sure of that but I assume that today (ph).
25 So we probably need to, at least, partially deal with this in

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1 some fashion; maybe not sign-off on the total but partially
2 deal with something that's part of this package to get us
3 started.

4 I don't know how we do this, somebody's going to have
5 to give us some guidance on how to approach that. But I'm not
6 sure we can just defer this entirely. I think it may be
7 important to the total package we're sending forward as interim
8 basis (ph).

9 MR. McVEE: Mr. Chairman.

10 MR. PENNOYER: Mr. McVee.

11 MR. McVEE: Yes. You know, I think here, you know,
12 we're trying to develop, as I visualize it, a 12-month budget.
13 And that we have to go, you know, to the public for public
14 comment on that budget before it's finalized, it seems to me
15 like, to conform to the decree and the public review -- the
16 public process requirement. But it seems like the other
17 component is, as you mentioned, is that we've got immediate
18 needs and that's a separate exercise almost that we have to
19 identify.

20 We have to come up with some numbers of what we need
21 right now so that we can start the process to withdraw funds.

22 MR. PENNOYER: I had assumed that probably wasn't a
23 totally separate exercise, that from this package and looking
24 at it, we could say this part is to go how, we need some money
25 here now and that type of thing somewhere in this process.

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1 Mr. Cole.

2 MR. COLE: As I visualize, in part, what we're doing is
3 we're giving guidance to the Administrative Director and the
4 Restoration Team as to what the organization will look like,
5 and can he plan on putting in place these various positions.
6 And I think we're giving them guidance in that area and then
7 perhaps following this meeting they can -- taking up on the
8 guidance and the decisions made by the Council, they can
9 formulate the structure which is a little greater assurance.

10 But what I wanted to say in addition is that with
11 respect to this agency program support, harking back to my
12 remarks at the beginning of today's session, we must be very,
13 very careful that we pay over to the various agencies only
14 those monies which can be linked directly with the restoration
15 process. Because surely, waiting in the wings, are those who
16 will say look the State and Federal Governments are ripping off
17 from the Exxon Valdez Settlement funds monies to support the
18 agencies. You just know that's going to -- will not maybe
19 happen if we're very careful, but they certainly will consider
20 that, and they will look at it very, very closely.

21 So, if we say let us get, you know, expert views as to
22 what we can properly charge back, you know -- or pay back to
23 the various agencies, then we can be secure that we can defend
24 our decisions against legal attack, and that's one thing I'm
25 very concerned about. The decisions we make with respect to,

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1 you know, the public information officer and this and that, I
2 mean those are largely within our good judgment and discretion
3 and exercise of, you know, our duties as Trustees. But in this
4 area where we reimburse agencies, we have to be very, very
5 careful.

6 MR. MORRIS: Mr. Chairman.

7 MR. PENNOYER: Byron.

8 MR. MORRIS: In that respect, Mr. Cole mentioned we
9 could so some of these decisions at the next meeting, which I
10 don't know when that's going to be, but at least in my agency's
11 case, and I'm sure it's the case in some others, we aren't
12 authorized to spend beyond March 1st. And we do have offices
13 established that we maintain to support this program and staff
14 in those offices, and that is a dilemma if we delay too long.
15 And I would like to at least put in your mind at least some
16 interim solution until we can get this sorted out before we,
17 perhaps, adjourn tomorrow afternoon.

18 MR. PENNOYER: Did you have a suggestion?

19 MR. MORRIS: Well

20 MR. PENNOYER: Or are you just saying we're going to
21 have to come up with one?

22 MR. MORRIS: I at least could suggest the amount I
23 could use for the next month or two or three.

24 MR. PENNOYER: Well, I guess that's sort of what is
25 going to happen, because we have here 3.267 -- so far, again,

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1 we have deferred or tabled four of six items here; dropped one,
2 adopted one and deferred four others. And this item, I don't
3 think I can much with this item the way it's outlined right
4 now. There's no way to dig in there and decide what's
5 appropriate and not appropriate. Is part of this going to be
6 reimbursable, it may be hard to tell until you actually see
7 what people want to claim for reimbursement.

8 But we right now have an item, and certainly some of it
9 is going to require some addressing of interim funding. I
10 don't think I'm ready to buy-off on what I see here because I
11 don't see the detail, I don't know the price area (ph). I
12 don't know it was derived. I don't know how much belongs here
13 versus in projects.

14 So, two things, I thought we -- I thought the Team
15 could ask the questions and see if Mr. McVee's outline of what
16 should be in projects versus in the Agency Program Support was
17 appropriate. If they think that's adequate guidance, then
18 maybe they're okay or maybe they're going to ask us some
19 questions around Mr. McVee's statement that would help us give
20 them that type of guidance. Rather than take a long time, I
21 thought they'd been thinking about for this for a couple of
22 months, maybe they might have some succinct questions they
23 could ask us.

24 And the second, is I don't know if we can totally defer
25 this. We may have to come back and do some of these things

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1 because ongoing operations may be dependent on funding here in
2 the near future. And I don't know how to sort those out
3 because I don't know what they are. But again

4 MR. COLE: Mr. Chairman.

5 MR. PENNOYER: Sure. Mr. Cole.

6 MR. COLE: You know, bearing in mind that we have
7 personal liability probably if we transgress the line, I think
8 we should have another meeting before the end of the month if
9 it's just to deal with this discreet subject. I'm not prepared
10 to make those decisions regardless of the necessity for agency
11 fundings beyond March 1st. I just don't see how we can and do
12 what's, you know, required of us.

13 MR. PENNOYER: Mr. Barton.

14 MR. BARTON: Several things come to mind. I appreciate
15 Mr. O'Connor's generous offer, but on behalf of Agriculture I
16 decline. I think that -- I agree that needs doing, but I
17 think it's best done here in Alaska, Number 1; Number 2, the
18 monies will ultimately be spent by individual agencies so those
19 individual accounting procedures have got to be built into the
20 process.

21 The second thing is that I had thought Mr. Gibbons
22 indicated that we might get some enlightenment tomorrow on this
23 as we go through the individual projects. Is that right, Dave?

24 MR. GIBBONS: We could give some, yes.

25 MR. BARTON: You answered that question. Dave, again

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1 though, what percent is liable to be affected by that, of this
2 3.267; half of it, a third, ten percent?

3 MR. GIBBONS: That's kind of hard to really determine
4 because I don't know specifically what's detailed in all of
5 these budgets, you know, by the various agencies. I don't --
6 you know, we know people but we don't know, you know, really
7 names or all that detail that we need to really look at.

8 Another option might be we have a Budget Process Group,
9 and we have representative -- a Budget representative from the
10 State and a Budget representative from the Federal Government
11 on that Team, and they might be able to give us excellent
12 guidance on how to approach this. That's just a suggestion.

13 MR. MONTAGUE: Mr. Chairman.

14 MR. PENNOYER: Mr. Barton and then Mr. Montague.

15 MR. BARTON: I was not done.

16 MR. PENNOYER: I apologize.

17 MR. BARTON: I think we do need to establish some
18 group, this Budget Process group perhaps, to bring some
19 consistency to how we treat these matters and to develop some
20 procedures for us to adopt in terms of how we're going to spend
21 the money, how it's going to be allocated. And, I'd suggest
22 that we build on the group that we have established, and -- by
23 adding to that some people with some special knowledge in this
24 from each of our agencies and get that group cranked up and
25 moving. And, perhaps, that will address Craig's concern, well-

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1 founded concern.

2 MR. PENNOYER: Mr. Montague.

3 MR. MONTAGUE: Yes. I would suggest that, perhaps, the
4 Council may want to just agree on a very conservative overhead
5 figures based upon the cost of the projects. And that would be
6 a very simple and effective way of dealing with it, like 10%,
7 15% of whatever the project costs were could be assumed to be
8 overhead or added for overhead, which by contracting standards
9 is a very low percentage.

10 MR. BARTON: Well, and in fact, I believe we added up
11 around 10% in the NERTA efforts of the prior two years if I'm
12 not mistaken.

13 MR. MONTAGUE: For our projects, that is roughly
14 adequate.

15 MR. BARTON: Yes. I know at some point, we also are
16 going to have to figure out how to mesh the oil year with the
17 Federal fiscal year with the State fiscal year too. And one
18 way to do that is to go quarterly budgeting. And, perhaps,
19 what we need to do is adopt a quarterly budget for this
20 specific item. We can't make too bad a mistake, if we use that
21 approach. And during that quarter, straighten this thing out.

22 MR. COLE: Mr. Chairman.

23 MR. PENNOYER: Mr. Cole.

24 MR. COLE: It's the allocation that troubles me. And I
25 want to see the recommendations for an allocation above the

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1 signature of someone we can point to in the event of litigation
2 and say this is proper allocation under generally accepted
3 accounting principles. And fine, I'll just say that's fine, I
4 think, I hope, and that'll take care of it. But until we get
5 that, I think, you know, we're entering into the zone of risk.

6 MR. BARTON: So you don't think we should even provide
7 any conditional monies for this activity until we get that?

8 MR. COLE: It isn't so much the conditional money,
9 because we can take care of it by means of, you know, you might
10 say journal entries or reallocations of the money. It's just
11 that before there is any overall allocation of the monies with
12 finality to overhead or related things, that we must have, I
13 think, you know, expert opinion. And that is likely available
14 in addition within the State and in the agencies, and we don't
15 necessarily have to go outside of the State and Federal
16 governments. But I think we just need that prepared for us by
17 people who have background and have special skills in that
18 area.

19 MR. BARTON: And I agree with that. But each agency, I
20 suspect, has a specific procedure for the allocation of
21 overhead, they're probably not the same, yet they probably all
22 may gap (ph).

23 MR. COLE: I sort of understood that you might not be
24 prepared to accept notes.

25 MR. BARTON: No. I didn't say that. What I did not

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1 accept was NOAA's help in developing their guidance for my
2 system.

3 MR. COLE: I see. All right. That sort of makes my
4 point.

5 MR. BARTON: I see.

6 MR. ROY: Mr. Chairman.

7 MR. PENNOYER: Yeah. Cordell.

8 MR. ROY: The more we talk, the more and more complex
9 we're becoming with this exercise. As we waded through
10 overhead processes to come up with this chart, we discovered
11 there are significant administrative differences among the
12 agencies, even within the governments. Is there any comfort on
13 the Council at all with a flat percentage for overhead
14 purposes?

15 It seems to me that overheading by percentage is a
16 common practice even in the governments, but certainly in
17 industry. I think for overhead purposes the State Department
18 Administration charges around -- is it six percent?

19 MR. MONTAGUE: Right. For the non-science, the true
20 administrative overhead is five to six percent.

21 MR. ROY: Could there be any comfort is such an
22 approach?

23 MR. BARTON: I think that there is not a discomfort of
24 setting a percentage in terms of budgeting for that, but as I
25 understood Mr. Cole there, he's quite uncomfortable, as am I,

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1 as to how that -- what that money then is actually expended
2 for. We could say 10% is overhead, but don't -- you know, if
3 you go spend on this, that's perfectly legitimate but if you
4 spend on that, then it's not. Is that

5 MR. PENNOYER: Is that 10% the agency support or is
6 that project overhead -- any overhead or something (ph)?

7 MR. BARTON: Well, I just pulled that out of the air.

8 MR. PENNOYER: So if you're dealing with a contractor
9 that charges 20 or 30 on a project, you just (indiscernible -
10 interrupted)

11 MR. BARTON: No, that's projects. That part of the
12 projects not

13 MR. PENNOYER: So, this is non-project overhead?

14 MR. BARTON: This is the agency support overhead.

15 MR. COLE: Mr. Chairman.

16 MR. PENNOYER: Is that overhead in the projects, too?

17 MR. BARTON: Yeah, certainly it is. And if you
18 contract with the University, you can't get around it we've
19 found out.

20 MR. PENNOYER: Mr. Cole.

21 MR. COLE: What I'm getting at, as Mr. Barton points
22 out, then you get to the problem what can you include within
23 overhead and what don't you include in overhead. And that's
24 where we need to be very, very careful because some agencies or
25 departments may say well this is overhead but we need to get

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1 reimbursed for this. And we just need, you know, some
2 guidelines that we can apply right straight across the board
3 and everybody knows the rules, things should work smoothly.

4 MR. PENNOYER: Okay. I'm real willing to defer this.
5 But I'd like to know to when and how to handle it because we
6 have -- we are going to have to deal with some of this up front
7 funding. We have to deal with something to send out for
8 review, and my assumption is that's to include something on
9 overhead; it should. When do we get this Budget Group together
10 and how do we get back and make these decisions? It's now
11 February whatever.

12 MR. COLE: But let me say as we talked about earlier, I
13 don't think we have to make the allocation decisions
14 immediately or with any limited period of time because we can
15 make the adjusting entries and, you know, shuffle money back
16 and forth when we reach, you know, the guidelines and the
17 criteria.

18 I am perfectly prepared to say well, we should allocate
19 monies to these projects now and get on with business. Just
20 the allocation. And that's (indiscernible - voice
21 lowers)

22 MR. PENNOYER: The actual spending of the money then
23 that you're

24 MR. COLE: Yeah. Spending the money is all right, it's
25 how we account for it that's most important. I don't mean to

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1 say it's all right but it's what we're driving at at the
2 moment, that's the issue.

3 MR. PENNOYER: Curt.

4 MR. McVEE: Mr. Chairman, I'd like to make a proposal
5 and I could convert this to a motion I guess. But that
6 we

7 MR. PENNOYER: Do it.

8 MR. McVEE: Okay. I make it a motion that we divide or
9 separate the budget process subgroup and -- because the process
10 subgroup is basically administrative processes, and that we
11 reorganize an interim, at least, budget committee composed of
12 two State and two Federal. And I guess we'll have to decide
13 how to do that, but budget financial management type people
14 that would address all those issues that we have with maybe --
15 with their first attention directed towards a definition of
16 this overhead item, the overhead cost. And do this before our
17 next meeting so that we'd have a document that we could look
18 at, maybe some options we can look at as far as a definition of
19 that cost.

20 And it seems to me like that it'd be essential that
21 this group would look at -- you know, to some extent at the
22 various agencies budget processes and financial management
23 process to do that. A terribly long motion wasn't it?

24 MR. PENNOYER: It was a great motion as long as I don't
25 have to repeat it. Do I get a second for that?

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1 MR. BARTON: Second.

2 MR. PENNOYER: Can we discuss it?

3 MR. COLE: I think we've discussed it.

4 MR. PENNOYER: Thank you. Is there obje- --

5 MS. RUTHERFORD: Mr. Chair.

6 MR. PENNOYER: Yes.

7 MS. RUTHERFORD: Could I ask a question?

8 MR. PENNOYER: Certainly.

9 MS. RUTHERFORD: Would these recommendations from this
10 four people that are Federal and State, would they then come
11 back to the Restoration Team so that then we could, within the
12 parameter -- before they bring them to you, so that then we
13 could apply the information we have from the projects and from
14 the operating budgets to these directions and so that we have a
15 document available to you that breaks it out according to the
16 directions?

17 MR. PENNOYER: Mr. McVee, you didn't intend they work
18 separate from the Restoration Team did you?

19 MR. McVEE: No. I think like other subgroups, they all
20 report through the Restoration Team. I think we need to do
21 that.

22 MS. RUTHERFORD: So, it would be all right then to take
23 the draft that they have, take our budget figures, divide it up
24 like that and present it as a package to you then?

25 MR. McVEE: Yes.

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1 MR. BARTON: You're the risk that we'll love it.

2 MS. RUTHERFORD: Thank you.

3 MR. PENNOYER: Is there any further discussion,
4 question? Is there any objection to the procedure motion from
5 Mr. McVee? Okay. It's adopted.

6 Now, having done that, where do we go next? Are we
7 going to just -- I guess we have a number of deferred opt- --
8 items, including the Restoration Planning Subgroup, which I
9 guess we'll defer until tomorrow. We have a couple of tabled
10 items and three deferred areas, which I think we can put off
11 until tomorrow. So, what's next on our Agenda then?

12 MR. GIBBONS: Well we had next on the Agenda a brief
13 overview of the public meetings, but there's members of the
14 public, I have a suggestion that we, perhaps, the Habitat
15 Protection Lands Committee up now. There's some members of the
16 public who'd like to hear that presentation.

17 MR. COLE: Mr. Chairman.

18 MR. PENNOYER: Mr. Cole.

19 MR. COLE: We have, do we, a 5:00 o'clock or 5:15
20 teleconference?

21 MR. PENNOYER: 5:00 o'clock, that's right.

22 MR. COLE: 5:00 o'clock. I'm thinking about whether
23 there are any people here in attendance today who would like to
24 be heard before the 5:00 o'clock teleconference begins. We
25 should allow an opportunity for people here to make comment as

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1 well as those on the teleconferencing system, I think, but I
2 leave that to your good judgment.

3 MR. PENNOYER: Well, don't you think the people on the
4 teleconference may want to hear the other public testimony that
5 takes place from here as well?

6 MR. COLE: Well, maybe some of them here don't want to
7 stay until 6:30 tonight or 7:00, or you know, it get a little
8 late I found out last time, didn't we?

9 MR. PENNOYER: That's correct.

10 UNIDENTIFIED SPEAKER: The last time we started at 6:30
11 though.

12 MR. PIPER: Mr. Chairman.

13 MR. PENNOYER: Mr. Piper.

14 MR. PIPER: Could I also make a suggestion which might
15 allow you to deal with a few other Agenda items more quickly
16 today, too. That judging from -- having gone around to the
17 communities, the issue of habitat acquisition or protection,
18 however we want to term it, is the primary issue on the plate
19 of most of those communities at this time that we've gone to
20 hear. It may be helpful if they heard the presentation about
21 the Habitat and Lands Committee as well to allow them to then
22 provide comment if they want to from that community.

23 MR. PENNOYER: During the teleconference?

24 MR. PIPER: Yes, sir. And this might allow you to then
25 go through some other Agenda items that are on here now after

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1 that.

2 MR. COLE: I don't know, maybe there's no people here -
3 - anyone here want to comment before we talk to the others
4 (ph).

5 MR. PENNOYER: Well, I think people do. What's the
6 Group's desire, do you want to go to public testimony here at
7 about something like a quarter to and take the Lands
8 presentation during the teleconference period?

9 MR. COLE: Do it.

10 MR. PENNOYER: Are there any items -- other items on
11 here, Dave, you could do quickly?

12 MR. GIBBONS: Yeah. Ernie can give his public
13 participation very quickly.

14 MR. BARTON: I thought we'd do that in the morning.

15 MS. RUTHERFORD: No, we're going to do that tomorrow.

16 MR. GIBBONS: You're going to do that in the morning,
17 that's correct.

18 MR. PENNOYER: We're going to do that in the morning
19 along with the public participation.

20 UNIDENTIFIED SPEAKER: Right.

21 MR. GIBBONS: Just the next item then would be a
22 process for finding a permanent Executive Director, and I just
23 need a little bit of guidance here from the Trustee Council.

24 MR. PENNOYER: Shall we go ahead and try to take one or
25 two items like that first and then sort of blend the

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1 testimonies together?

2 Dave, go ahead.

3 MR. GIBBONS: I've been looking into ways to advertise
4 for this position, and I've been hearing some things that the
5 Trustee Council I think needs to hear. And that is we could
6 advertise under the Federal system under our Demonstration
7 Project, which would cover all Federal employees and the public
8 in an advertisement. And we could go simultaneously with the
9 State, target -- a State advertisement targeted at all State
10 employees. Some of the problems of -- the pitfalls is if
11 they're hired under each one of these systems, they cannot
12 report to a Trustee Council, they have to report to one person
13 is what I'm being told.

14 So my -- where I need some guidance is will the Trustee
15 Council allow this person to report to one person on paper and,
16 perhaps, report to the Trustee Council; or is there some other
17 avenues that we can explore to solve this problem?

18 MR. PENNOYER: Comment?

19 MR. BARTON: Is this a personnel management problem?

20 MR. GIBBONS: It's a personnel management problem that
21 I'm running into. I've had one person tell me to write a rider
22 on a bill to get the personnel changed, the stipulation to
23 that. And I'm just trying to -- it's a practical matter that I
24 need to sort out or help sort out.

25 MR. BARTON: Is this a Federal problem or a Federal and

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1 a State problem?

2 MR. GIBBONS: The way I understand, it's both. That --
3 what I was told is if they were a State employee, they --
4 there's a technicality of having them work for three Federal
5 Trustee Council members and vice versa on the other side, it's
6 a Federal employee having them work for three State.

7 MR. McVEE: Mr. Chairman.

8 MR. GIBBONS: We've looked at the contracts too (ph).

9 MR. PENNOYER: Mr. McVee.

10 MR. McVEE: It seems like we could solve that. That if
11 that -- you know, if a Federal employee were selected that we
12 could agree, you know, among ourselves and understand the -- I
13 understand the regulation that requires that each employee have
14 a supervisor, that's the person that does their annual
15 performance rating, et cetera, et cetera. But it seems like
16 we'd agree among ourselves on who would handle the -- you know,
17 those aspects of the employment; if it were a State person, you
18 know (indiscernible).

19 MR. PENNOYER: Mr. Cole.

20 MR. COLE: I try invariably to hue to the line, to do
21 things exactly the way they are. And I think that it's a form
22 of misrepresentation to say to anybody well he really doesn't
23 work for the Trustee Council, he works for X over here but he
24 really works for the Trustee Council. I mean that just doesn't
25 wash well, and I don't think the public understands that form

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1 of government; I don't understand it, and I think we should
2 just do it the way it is. Say it the way it is and accept the
3 consequences because I think you just get in difficulties
4 when -- you know, and you never see them coming and they always
5 usually come up in some collateral fashion that you -- you
6 know, when you don't things the way they really are, some
7 collateral, you know, thing rises up and, you know, nabs you.
8 I don't think we ought to do that.

9 MR. PENNOYER: I guess the question Mr. Gibbons has is
10 how do we get around it?

11 MR. COLE: Talk to the Department of Justice.

12 UNIDENTIFIED SPEAKER: We want an answer this year.

13 MR. O'CONNOR: Well, I've got a suggestion as well.

14 MR. PENNOYER: Mr. Attorney.

15 MR. O'CONNOR: Okay. You guys have no independent
16 legal standing, you're not an entity that can contract with
17 anybody, right? I mean that's a given, State, you guys
18 really

19 MR. COLE: No.

20 MR. O'CONNOR: as a legal concept do not exist.

21 MR. COLE: I don't agree with that at all.

22 MR. O'CONNOR: Okay. Then if this is a le- --

23 MR. COLE: I mean we're dealing (ph) with that all the
24 time. I mean I think we are.

25 MR. O'CONNOR: Does the Trustee Council have

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1 independent legal standing to enter into a contract with an
2 individual? I think that question has to be answered, and I'm
3 hearing that that has been answered in the negative, is that
4 correct?

5 MR. BARTON: No. I think that's a different question
6 that he's answered. I think we can contract. But the point is
7 if we go to -- if we end up selecting an existing agency
8 person, I suspect that individual would like to retain the
9 tenure in whatever organization that he's currently employed --
10 he or she is currently employed in. But I don't think that
11 we're barred from contracting with somebody if somebody wants
12 to contract with us. No, I don't agree with you.

13 MR. O'CONNOR: The Trustee -- your perception is that
14 the Trustee Council has an independent legal status that it can
15 enter into a contract with

16 MR. BARTON: I think we could. I don't think we have
17 the procedure by which to do that, and in all likelihood, we're
18 going to proceed by using individual agency contracting
19 authorities and procedures. But I think we could contract.

20 MR. COLE: Mr. Chairman.

21 MR. PENNOYER: Mr. Cole.

22 MR. COLE: Well, I don't think there's any question but
23 that we contract with people. I mean (indiscernible)
24 telephones are they in -- you know, along the way and leases of
25 this property from the Simpson Building. And I just think we

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1 do it routinely. And you know, if we can't contract with
2 people, if we don't have independent existence, you know, I
3 think we better call on

4 MR. O'CONNOR: Well today can

5 MR. COLE: a couple of (ph) attorneys to figure
6 out what we are. I mean what sort of a body are we, just a
7 bunch of people sitting around this table? It beats me.

8 MR. O'CONNOR: Well I would give you a little more
9 stature than that. But I don't

10 MR. COLE: But not much.

11 MR. PENNOYER: Did you have anything else to say,
12 Mr. O'Connor?

13 MR. O'CONNOR: I will give you the opinion which is
14 subject to, certainly scrutiny by all of the other lawyers who
15 work in this process. But my opinion is that there is not
16 legal identity, separate and distinct, that's established by
17 the Trustee Council to give you the authority to enter into
18 contractual relationships. That's why all of the work to date
19 has been done through the various agencies through the
20 Department of Justice, through the Department of Law. All of
21 the contracts that we have now are handled through an entity, an
22 agency.

23 And the only way you individuals would have the
24 opportunity to contract in your own right as a group would be
25 to assume personal responsibility for those undertaking and

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1 those contractual obligations. And as your lawyers, I suggest
2 you not do that.

3 So what I'm suggesting you do is recognize the
4 limitations and decide what agencies are going to be
5 responsible for performing certain functions on behalf of the
6 Trustee Council. That's why NOAA, at this point, is carrying
7 the contract with the chief scientist; it's not a contract the
8 Trustee Council has nor is it a contract that they had. The
9 State Department of Law and the NOAA as the lead Federal
10 Trustee assumed responsibilities for entering into those
11 contracts.

12 I think you have the same limitations in post-
13 settlement undertakings. So I'm giving you what my legal
14 opinion is on behalf of the Federal Government on this issue.

15 MR. COLE: Well I'm giving my off-the-cuff legal
16 opinion on behalf of the State of Alaska. And I am firmly of
17 the view that we're an entity as a group of joint trustees
18 which has the ability to contract and deal with these funds. I
19 mean if we can't deal with these funds and make decisions with
20 respect to income and disbursements in a joint capacity, I mean
21 I think we better call a halt to this whole Council proceedings
22 until that's thrashed out. I can't imagine that we're dealing
23 here in individual capacities or that NOAA is, you know, is the
24 contracting party or the State Department of Law is the
25 contracting party, and that 10 years from now this same thing

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1 will be going on. I just don't conceive of that at all.

2 So I don't know how we're going to do this but we
3 better get that resolved forthwith.

4 MR. PENNOYER: How?

5 MR. COLE: Well I can suggest one thing that quickly
6 occurs to me, we could seek an advisory opinion from Judge
7 Holland, present the matter to him. I think there's method
8 (indiscernible) settlement to that for that purpose, and that's
9 one way we can get it from like I say, the man who makes the
10 final decisions, he's retained jurisdiction over this cause you
11 might say or the disbursement of these funds. I think we could
12 go to him and seek counsel.

13 Furthermore, that's sort of a standard trust doctrine,
14 you can see advisory opinions from courts in the matter of
15 trust management, perhaps that's what we should o.

16 MR. PENNOYER: Any legal opinions from the rest of the
17 Trustee Council

18 MR. COLE: Sure. Sure. You know what they say about
19 legal opinions, they're about as good as -- worth as much as
20 you pay for them, so keep in that mind as you evaluate my

21 MR. BARTON: Perhaps, there's some non-lawyers, which I
22 am a non-lawyer. You know, we did contract through individual
23 agencies prior to the Settlement, and at that time, I think
24 that's the only way we could but we did that because we didn't
25 have any other legal authority to do it, and we did it because

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1 it was expedient to do so because we had -- each agency had
2 these contracting mechanisms in place. This Council has no
3 contracting mechanism in place and would have to develop that
4 through a very public process if they're going to go that
5 route.

6 But to me what distinguishes this era from the prior
7 era is the fact of the Settlement and the recognition of this
8 body in the Settlement documents and by the courts. That's
9 basically what I rest my case on.

10 MR. PENNOYER: How do we resolve this, Mr. Gibbons
11 asked for guidance?

12 MR. O'CONNOR: Well, I would ask for (indiscernible)
13 from the Department of Justice their opinion on the subject
14 which would be dispositive of the Federal position, and
15 perhaps, the Attorney General can give us the same for the
16 State to determine what the ultimate authority is. I'm giving
17 you my opinion. I've addressed this issue in my own mind, and
18 my concern for the Federal representatives on the Trustee
19 Council. I don't believe that they have the individual
20 authority (indiscernible) they approve (ph) to function on
21 behalf of their trustees and bind the Federal Government
22 individually.

23 I think the agency authority exists, the Federal
24 procurement authority exists, the Federal personnel rules
25 apply. But this is not a recognized Federal entity.

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1 MR. COLE: Mr. Chairman.

2 MR. O'CONNOR: It's separate and distinct from the
3 individual agencies.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: Well as I visualize it, you know, don't we
6 have a memorandum of understanding that the State and Federal
7 Trustees shall act as co-trustees in the management and
8 execution of the Trust? I think so. That was my
9 understanding, and I keep track of all these things. But --
10 and I thought that Judge Holland approved that -- you know, I
11 know he approved it.

12 So, it was -- the way I visualized it when Judge
13 Holland said that, that we are common law trustee, co-trustees,
14 acting jointly as co-trustees in a basic common law trust
15 concept, which is I said at the very beginning this morning.
16 And, if somehow we don't have that legal framework, I mean I
17 don't know what our legal framework is at all. And, you know,
18 we can get maybe the Department of Justice's views. I know we
19 can look it in the Department of Law, but as far as I'm
20 concerned if there is a view either by the Department of Law or
21 the Department of Justice that we are not legal trust- -- an
22 entity in the nature of trustees, then we should seek the
23 advice and counsel and the opinion of Judge Holland. Because I
24 don't think we can have this group of co-trustees going on for
25 the next 10 years and not being able to enter into contracts

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1 with anyone of any kind or nature in the name of the Trustee
2 Council, which is really the title of the co-trustees acting
3 jointly.

4 MR. SANDOR: Mr. Chair, I move that the Council approve
5 that course of action.

6 MR. PENNOYER: Commissioner Sander, which course of
7 action are you referring to?

8 MR. SANDOR: The one of going to Judge Holland and
9 seeking a resolution of this question after receiving the
10 opinions from Department of Justice and the Department of Law
11 and the State.

12 MR. PENNOYER: So, the initial action would be to ask
13 the Department of Justice and the Department of Law to give us
14 their opinions; based on those to go take them to Judge Holland
15 and ask for some reconciliation if they're different, is that
16 the direction you're proposing?

17 MR. SANDOR: That's the motion.

18 MR. PENNOYER: Not understanding what procedures are
19 really require to go to Judge Holland, is there any other
20 comment?

21 MR. McVEE: I guess

22 MR. PENNOYER: Mr. McVee.

23 MR. McVEE: Yes. I guess maybe my question for Craig
24 is that it is your interpretation that we would also not have
25 authority to enter into cooperative agreements or would your

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1 interpretation extend that far?

2 MR. O'CONNOR: Who would the cooperative agreement be
3 with?

4 MR. McVEE: You know, it might be a cooperative
5 agreement by the Council to one of the Trustee member --
6 agencies, one of -- you know, to do certain things.

7 MR. O'CONNOR: I think the representatives in each of
8 the agencies could enter into an agreement that would bind
9 their agencies to function in a particular fashion, which is
10 exactly what we have here by way of a settlement. What I'm
11 suggesting is that you could not hire a person as its employer,
12 you are not a legal entity that can go out and hire a person or
13 contract and obligate independently of procurement contracting
14 for personnel authorities within the Federal system itself.

15 MR. McVEE: Mr. Chairman, before we vote on this, I
16 need to consult with my Counsel.

17 MR. PENNOYER: Okay. We'll take -- I want to do that
18 before the hearing anyhow (ph). Do you want to take a 10
19 minute break and then that's it, then we'll go straight through
20 with the public hearing after that?

21 UNIDENTIFIED SPEAKER: It's acceptable.

22 MR. PENNOYER: Okay. A 10 minute break.

23 (Off record)

24 (On record)

25 MR. PENNOYER: I'd like to cover a little bit of ground

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1 before we get into it. On the last issue that was before us, I
2 think Commissioner Sander, you've got a statement?

3 MR. SANDOR: Yes, Mr. Chair. I withdraw the motion and
4 defer the question to Attorney General Cole who's going to file
5 going to take -- the State will take action in requesting a
6 motion of the Judge so I withdraw the motion.

7 MR. PENNOYER: Okay. Thank you. Mr. Cole, do you have
8 a

9 MR. COLE: Yes.

10 MR. PENNOYER: you wish to make?

11 MR. COLE: Mr. Chairman, the State Trustees with
12 delivered speed with file an application before Judge Holland
13 asking that he determine whether the Governments as co-trustees
14 have the power to contract.

15 MR. PENNOYER: Thank you. We've -- we're going to be
16 starting a teleconference here in a very few minutes. I have
17 one, two, three, four, five, six, seven, eight, nine, ten
18 locations on-line or will have on-line. I will determine
19 shortly how many people are in those locations. Could I have a
20 show of hands here as to how many people in the audience with
21 to testify tonight?

22 UNIDENTIFIED SPEAKER: Four.

23 MR. PENNOYER: Four. You too? Is the microphone on?
24 I don't believe it is.

25 (Off record comments)

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1 MR. PENNOYER: We have four here. We intend to go to
2 6:30 or 7:00 o'clock, and depending on how many people come on
3 the line, I would appreciate it, folks, if you'll hold your
4 testimony to five -- ten minutes time. Our intent at the
5 moment is to have two items at the start of the teleconference;
6 one will be a brief review of what we've done today so far,
7 Dave Gibbons will give that he promises me in about five
8 minutes or less, and then we're going to get a brief review,
9 also, on the Habitat Protection Lands Committee from Ken Rice
10 before we proceed with the teleconference.

11 (Off record comments)

12 MR. PENNOYER: Is there anything we need to do in the
13 meantime?

14 MR. COLE: There may be someone can testify here.

15 MR. PENNOYER: Well, it was sort of thought they'd want
16 to hear the presentation on Lands, too.

17 MR. BARTON: We could answer Mr. Gibbons question.

18 MR. PENNOYER: Mr. Barton, do you want to take a crack
19 at answering Mr. Gibbons question?

20 MR. BARTON: I think Mr. Gibbons should proceed to
21 advertise for a permanent director in both the State and the
22 Federal system. In the meantime, we'll resolve this problem.

23 MR. PENNOYER: Is everybody in accord with that
24 recommendation?

25 UNIDENTIFIED SPEAKER: Yes.

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1 MR. PENNOYER: Okay. Thank you.

2 (Off record comments - teleconference)

3 MR. COLE: Mr. Chairman.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: I would suggest that if there's anyone here
6 who wishes to testify at this time, before we get everybody on
7 line and before the Habitat presentation, that we hear them
8 now.

9 MR. PENNOYER: Is there anybody here that wishes to
10 testify before the Habitat presentation? Yes, sir. I will go
11 ahead and take these two gentlemen.

12 MR. WINCHESTER: I'll keep my remarks brief.

13 MR. PENNOYER: Thank you.

14 MR. WINCHESTER: I'm James Winchester, I'm the general
15 manager of a public radio station in Valdez; we also broadcast
16 in Cordova and Whittier.

17 From the first day of the Spill on, Public Broadcasting
18 has been intimately involved in the public process of public
19 education. Unfortunately, due to some changes in funding over
20 the past year, our ability to carry that load has been
21 drastically reduced I should say over the two, three -- no, six
22 months to a year. Our news department in Valdez has gone from
23 three people to one. And, I would like to see or have the
24 Trustees consider as part of your Public Outreach Program or
25 another program similar to the Public Information & Education

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1 Program Number (ph) 118 that some funds for public broadcasting
2 be included in this budget.

3 There's some very large numbers bandied about here
4 today, this is an enormous amount of money; it will be expended
5 overly a goodly period of time. And most of these projects are
6 specific to Prince William Sounds, that's our area, that's our
7 principal area of concern as well.

8 A lot of these -- a lot of the projects, a lot of the
9 process here -- this isn't a glamorous story but it's one that
10 folks there are really, really interested in; it's important to
11 their lives. And we're going to have a difficult time staying
12 up with it. We're having a difficult time now. We should have
13 a reporter here today, we don't. So, that's my message, we
14 could use a little help. Thank you.

15 MR. PENNOYER: Any questions? Mr. Cole.

16 MR. COLE: Well, I would suggest that we refer those
17 comments to our Public Outreach section subgroup for their
18 consideration and recommendation.

19 MR. PENNOYER: Further questions or comments? Did the
20 other gentleman wish to testify now?

21 MR. CALLAHAN: Thank you.

22 MR. PENNOYER: Thank you.

23 MR. CALLAHAN: Yeah. Thank you for the opportunity to
24 address the Panel. I was somewhat humored by the first article
25 when this Panel which created Panel (ph) voted themselves into

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1 existence. Congratulations. This is a real problem.

2 MR. PENNOYER: Sir, would you mind giving your name?

3 MR. CALLAHAN: Michael Callahan's my name. I'm
4 representing myself. It says in our Constitution, both in the
5 State Constitution and the Federal Constitution, that Congress
6 shall pass all laws. No law has created this body, no Federal
7 law, no State law. No common agreement between these entities
8 can supersede these law making abilities. You're not an
9 independent entity, you don't exist.

10 Now, how to resolve this is an interesting question.
11 The way to resolve this is not really simple but somewhat
12 simple; you need to be created by an act of law, Federally and
13 State. Now, when you look at the State Constitution, all bills
14 of expenditure shall originate in the House, the same thing is
15 true with the Federal Constitution. Funds cannot be dispensed
16 under a State entity unless it has been passed through the
17 House of the Legislature, constitution.

18 The Constitution -- the Federal Constitution and the
19 State Constitution have been usurped (ph) by Exxon, and a
20 Federal Judge, and this is not a legal entity. You need to go
21 to your legislative bodies, get them to pass a law to create
22 this entity.

23 The State of Alaska gets 50 million dollars out of this
24 Settlement, we don't get anything. You guys got the money.
25 Where does the money go to. You guys decide where the money

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1 goes. This isn't a State body, this isn't a Federal body, this
2 nobody. This is -- you know, check the laws. You know, as you
3 said you want to do things the way they are. Well, the way
4 they are was very clearly established in this state, that's the
5 way things should be done.

6 And I would appreciate it if you gentlemen would
7 respect the laws of the State of Alaska and the United States.
8 Thank you.

9 MR. PENNOYER: Mr. Cole, do you want share a
10 comment (ph).

11 MR. COLE: No, sir.

12 MR. PENNOYER: Any other questions or comments. Thank
13 you. I think everybody else has indicated they wish to wait
14 until the Lands presentation or Bob, do you want to

15 BOB: I'll wait.

16 MR. PENNOYER: Are we on-line in the teleconference?
17 Okay. We have already taken testimony from two individuals who
18 did not want to wait for the presentation we're going to do
19 shortly here. I understand we have the various communities on
20 the line at this time. We're going to have a brief
21 presentation from our Management Restoration Team in terms of
22 some of the items that have been covered today so everybody on
23 line is aware of what we've done so far today. And then, we're
24 also going to get a brief presentation from Ken Rice from
25 Habitat Protection & Lands Committee on what that group has

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1 been doing since our last meeting.

2 We thought the public interest we've seen in our
3 various public meetings on that particular item was such that
4 everybody would benefit from some discussion of where we are
5 before we go on with the public hearing. So, at this time,
6 I'll ask Mr. Gibbons to give a brief overview of some of the
7 items that have been covered today, then Mr. Rice will talk
8 about the Habitat Protection Lands Committee's activities.

9 Mr. Gibbons.

10 MR. GIBBONS: Thank you, Mr. Pennoyer. If I interpret
11 these wrongly, I'm sure the Trustee Council will correct me.
12 I'm going to try to summarize briefly, in less than five
13 minutes, what has occurred today.

14 ANCHORAGE BRIDGE: This is the Anchorage Bridge and
15 we're standing by for this afternoon's teleconference with
16 Juneau, Soldotna, Tatitlek, Cordova, the Egan Convention
17 Center, Homer, Whittier, Seward and Fairbanks now on-line.

18 MR. PENNOYER: Okay. Thank you. I don't know if you
19 picked up what I said before. This is the meeting of the
20 Trustee Council, we have been in session since 11:00 o'clock
21 this morning dealing with various administrative matters.
22 We're going to go ahead and have the Restoration Team quickly
23 run through some of the items we have gone through today so the
24 public that's on the line in the remote sites is aware of the
25 actions we've taken so far. And then we're going to get a

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1 presentation from our Habitat Protection Lands Committee of
2 their activities since the last meeting.

3 So, before we take anymore public testimony, I'll ask
4 Mr. Gibbons to go on with the description of what we've done so
5 far.

6 MR. GIBBONS: Yes. The meeting started out prior to
7 the Agenda with two activities that took place. Mr. John
8 Sander, Commission of Environmental Conservation, passed out a
9 proposal for an endowment fund for further consideration by the
10 Group. Mr. Cole stated each decision -- in the statement that
11 each decision must be formulated with the legal principles in
12 mind. The Department of Law was requested to prepare a
13 memorandum regarding the law of trust, the duties of common law
14 trustees supplemented by the Memorandum of Agreement are as
15 follows: administer trust solely in the interest of the
16 beneficiary and preserve trust property. The

17 TELECONFERENCE BRIDGE: Valdez (ph) is getting a lot of
18 breaking up.

19 UNIDENTIFIED SPEAKER: I can't hear what the gentleman
20 is saying.

21 MR. GIBBONS: Is this better?

22 MR. PENNOYER: Speak more directly into the microphone.

23 TELECONFERENCE BRIDGE: (Indiscernible) we're just
24 catching a little bit of bleed from the Egan side, nothing's
25 started yet.

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1 (Off record comments)

2 MR. PENNOYER: If you'll speak very directly into the
3 microphone and go ahead and give your statement about the
4 activities already accomplished today or discussed today.

5 MR. PIPER: Mr. Chairman, one other point about the
6 teleconference. When all the microphones are open, if there
7 are rustling papers by microphones and that kind of thing, it
8 will tend to cut out the speaker. So, everybody who has an
9 open microphone could rest calmly.

10 MR. PENNOYER: Very will.

11 ANCHORAGE BRIDGE: Anchorage Bridge and we're standing
12 by.

13 MR. GIBBONS: Is this clearer to the teleconference?
14 Can the teleconferencing sites hear me?

15 ANCHORAGE BRIDGE: You're not coming through too well.

16 TELECONFERENCE BRIDGE: But you are much better than a
17 few minutes ago.

18 MR. PENNOYER: A little bit closer, Dave.

19 (Off record comments)

20 MR. GIBBONS: Is this better?

21 TELECONFERENCE BRIDGE: Much better.

22 MR. GIBBONS: Okay. I'm going to try to give a brief
23 summary of what occurred today from the meeting commencing at
24 11:00 a.m. this morning and just terminating.

25 Before the Agenda was started, there were two

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1 activities that occurred. Mr. John Sandor, Commissioner of
2 Environmental Conservation, passed out a proposal for an
3 endowment fund for further consideration. And, Mr. Cole,
4 Attorney General of the State, stated each decision reached by
5 this Group must be formulated with legal principles in mind.
6 The Department of Law was requested to prepare a memorandum
7 regarding the law of trust, the duties of common law trustees
8 and supplemented by the Memorandum of Agreement, and are as
9 follows: Administer the trust solely in the interests of a
10 beneficiary, reserve trust property.

11 We next moved onto the Agenda. The Trustee Council
12 accepted the recommendation of the former Resource Restoration
13 Coordination Group to change its name to the Restoration Team.

14 We next moved onto a discussion of the role of the
15 contract of the chief scientist. And the Trustee Council
16 approved the contract through NOAA of a chief scientist with a
17 maximum amount of \$191,000.00, and that's for an eight month
18 period.

19 Discussions of the organization next -- can you still
20 hear me out there? Organization next took place. The first
21 item was the budget for the Trustee Council. The Trustee
22 Council moved to strike any costs associated with the Trustee
23 Council from the administrative budget.

24 The next item of discussion was the Public Advisory
25 Group, and this item was table until after a public

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1 participation discussion which will take place tomorrow.

2 The space for the Administrative Director and the
3 support staff, the Trustee Council moved to use the existing
4 contract in-place through the Department of Justice with CACI
5 through September 30th, 1992.

6 The peer review discussions, the Trustee Council moved
7 to expend the existing accounts held in -- for peer review in
8 the respective Department of Law and Department of Justice
9 budgets.

10 The budget for the Restoration Team was approved.

11 The budget for the Restoration Planning Subgroup was
12 deferred until the end of the day tomorrow for further
13 discussion.

14 A Public Resource Center discussion occurred. We will
15 revisit that discussion again tomorrow in a five minute
16 presentation; a very streamlined presentation I'll add.

17 On the idea of overhead by the various agencies, a
18 motion was passed to separate the budget and process subgroup
19 into two groups. On the Budget Subgroup, it would have two
20 State and two Federal members from -- budget expertise from the
21 various agencies. And the first task would be to provide
22 guidelines for overhead to the various Trustee Councils and
23 agencies.

24 The next item was the action concerning the selection
25 or the advertisement and process for finding a permanent

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1 executive director. The Trustee Council approved that the
2 interim administrative director proceed with advertising for
3 this position both within the State, Federal and private
4 sectors.

5 And the last item was the Department of Law will
6 petition the court, Judge Holland, on the authorities for the
7 Trustee Council to have contract authority.

8 MR. PENNOYER: Thank you, Mr. Gibbons. That was Dave
9 Gibbons as our interim Executive Director and Chair of the
10 Restoration Team to the Trustee Council. We're going to
11 proceed now to a presentation by Ken Rice on the Habitat
12 Protection Lands Committee activities since the last Trustee
13 Council meeting. Mr. Rice.

14 MR. RICE: Mr. Chairman. What I want to do is start
15 out by backing up a little bit and give you a background as to
16 where we've come from with this Lands Protection program.

17 In 1991, the Trustees published a draft Restoration
18 Program in a March 1 Federal Register Notice. And in that
19 Federal Register Notice, it identified a Lands Habitat
20 Protection Program. The objective of that project, and I'm
21 quoting from the Federal Register Notice, is to identify and
22 protect strategic wildlife and fisheries habitats in recreation
23 sites and to prevent further potential environmental impacts to
24 resources injured by the Exxon Valdez Oil Spill.

25 The whole program was premised on a willing buyer,

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1 willing seller basis, and there would be no condemnation or
2 other negotiations that weren't from a willing seller.

3 The project set out five steps which was the basis for
4 the program that would go forward, and those five steps were
5 identified: key upland habitats linked to injured resources or
6 services. The second step would be to characterize and
7 evaluate potential impacts, evaluate recovery strategies not
8 involving acquisition and assess protection afforded by
9 existing law and regulations. The third step would be to
10 evaluate cost effective strategies to achieve restoration
11 objectives. The fourth being willing seller, willing buyer
12 negotiations with private landowners for property rights. And
13 the last step was to incorporate the acquired property rights
14 into public management.

15 During the summer of 1991, the Restoration Planning
16 Work Group began working with the Nature Conservancy to
17 identify various ways to identify and protect fish and wildlife
18 habitats in recreation sites. In December of 1991, the Nature
19 Conservancy produced a handbook which I have here, and I think
20 copies have been made available to most of the Trustee Council
21 members; and that handbook is entitled "Options for Identifying
22 and Protecting Strategic Fish & Wildlife Habitats in Recreation
23 Sites".

24 It set out several steps that they felt was important
25 in going into any protection mechanism, and those steps

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1 parallel very closely what was in the Federal Register Notice.
2 They said, one, you need to develop conservation objectives
3 that will guide the protection process. This has been somewhat
4 accomplished through the project objectives outlined in the
5 Federal Register Notice; however, we feel that we need to
6 further refine these objectives and allow for protection
7 strategies other than fee simple acquisition.

8 The second step they identified was to identify and
9 rank strategic fish and wildlife habitats in recreation sites.
10 Key features being to develop evaluation criteria, create an
11 inventory of lands suitable for protection and perform an
12 initial threat analysis and then determine the optimum area for
13 protection.

14 In 1992, this process will largely be based on
15 landowner proposals and public nominations. In the long term,
16 we are proposing to conduct a more systematic process. We have
17 several restoration projects aimed at providing information
18 linked to habitats to injured species, and this would provide
19 the scientific basis for linking any habitat protection to
20 those upland resources. Those -- some of those projects
21 include a marble mural (ph) restoration project, stream habitat
22 assessment, Harlequin (ph) duck restoration study and
23 identification of habitats relevant to injured species. These
24 are all projects we'll be looking at tomorrow as part of the
25 detailed budget.

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1 The third step that the Nature Conservancy outlined in
2 their handbook was to develop a protection plan, and this
3 involves working very closely developing a close working
4 relationship with the landowner and determining the most
5 effective -- cost effective methods for protecting those lands.

6 The last step, develop a management plan very similar
7 again to what the Federal Register Notice said, this would
8 include developing management plans as they -- any of those
9 rights move into public ownership.

10 On January 28th of this year, members of the
11 Restoration Team -- Restoration Planning Subgroup and agency
12 specialists met with the Nature Conservancy to review the
13 handbook and close out on that project. The Restoration Team -
14 - as a result of that meeting, the Restoration Team is
15 recommending that a Lands subgroup primarily -- or at least
16 initially made up of the Restoration Team guide the project by
17 identifying objectives, time lines, process criteria and
18 technical experts. And that a second subgroup or a second
19 group, which would be an ad hoc group, made up primarily of
20 agency or possibly contract specialists would be used and
21 called in on a case by case basis as negotiations proceeded.

22 Some of the technical experts that we would need to
23 include, which go beyond the scope of what we have available in
24 the Restoration Team, might include biologists, attorneys,
25 appraisals, realty experts, key contact negotiators, risk

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1 assessment -- or risk management specialists and resource
2 economists.

3 We've developed a tentative time line which we think is
4 achievable this year if the Trustee Council wants to move
5 forward with the program that would deal with some of the
6 proposals that we are receiving now. And what that would
7 entail doing is that by the 21st of February the Restoration
8 Team would circulate draft objectives and criteria for
9 evaluating proposals to the Trustee Council; these would be
10 revised and sent out to the public by the 2nd of March where
11 the public would have a comment to look at these draft
12 criteria.

13 On -- by the 27th of March we would -- okay. On the
14 2nd of March, we would also announce our willingness to accept
15 nominations and proposals from the landowners and also from the
16 public, and we would develop sort of a two-tiered list; one
17 list would include those lands that were identified by willing
18 sellers, the second list might include lands that the public
19 has identified. Realizing that only those -- the -- we would
20 only deal with those lands were there were willing sellers.

21 We would publish a master list by the 27th of March of
22 those lands that we had received nominations on, and then by
23 the 30th of April, we would begin to start negotiations with
24 various landowners and review and evaluate the proposals that
25 we had come forward with.

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1 What I would suggest is that we have two basic
2 questions to go to the Trustee Council with at this time. The
3 first question being does the Trustee Council want to proceed
4 using the concepts developed in the Federal Register Notice as
5 the basis for a land protection acquisition program. And the
6 second question is does the Trustee Council want to adopt a
7 short-term time line that would basically become part of the
8 '92 Work Plan to deal with some of the proposals that we are
9 receiving now and the perception, at least, of imminent threat
10 to some of these lands or do they want a longer term program
11 that links some of the studies more closely to any projects
12 that we move forward with.

13 MR. PENNOYER: Is that -- your presentation,
14 Mr. Rice,

15 MR. RICE: That concludes

16 MR. PENNOYER: then is complete?

17 MR. RICE: Yes.

18 MR. PENNOYER: I think we're going to have to discuss
19 this in some detail, but we have only limited time for the
20 teleconference. So my suggestion will be that -- unless you
21 have a question for clarification right now, that we proceed
22 with the public testimony and we'll have to complete this
23 discussion tomorrow; we'll again be taking public testimony
24 tomorrow evening, so we'll be starting at 5:00 o'clock I
25 believe, testimony (ph) 5:00 to 6:30 tomorrow night.

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1 So, are there questions of clarification for Mr. Rice
2 right now? I think we'll proceed on with the public testimony
3 part of the Agenda, and we started here in Anchorage, I believe
4 we've got a few more people here that held their hand up.
5 Could we take the Anchorage folks first? And again, we've got
6 quite a few stations on line, so if you could limit your time
7 to five or ten minutes I would appreciate it.

8 Who's next from Anchorage? Yes, sir.

9 (Pause)

10 MR. CARMICHAEL: Mr. Chairman, Trustees. My name is
11 Jim Carmichael, I'm the manager of (indiscernible) Afognak,
12 Joint Venture in Kodiak. The Afognak Joint Venture is a
13 partnership created by ANILCA and owns approximately 180,000
14 acres of land on Afognak Island. Two major partners in the
15 Afognak Joint Venture are Afognak Native Corporation and Koniag
16 (ph), Inc.; there are also several minor partners.

17 The Federal Government owns approximately 50,000 acres
18 in the northwest portion of the island and part of the Kodiak
19 National Wildlife Refuge. Several small islands offshore are a
20 part of the National Maritime Wildlife Refuge. The State of
21 Alaska has one small holding on the east side of the island,
22 and the State has more substantial holdings on other islands
23 immediately adjacent to Afognak.

24 Afognak was originally set aside by the Federal
25 Government as a forest and fish culture reserve in the year

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1 1892. Until 1980, it was part of the Chugach National Forest.
2 Extensive selections by village corporations on the southern
3 portions of the island began pursuant to the Alaska Native
4 Claims Settlement Act. And the Alaska National Interest Lands
5 Conservation Act, ANILCA, transferred remaining Native
6 selections from the Alaska Peninsula over to most of the
7 remaining portion of Afognak Island and brought about creation
8 of the Afognak (ph) Joint Venture.

9 While much of the southern portion of Afognak Island
10 has been roaded and logged, most of the Joint Venture's
11 holdings east and southwest of the Federal land that's on the
12 island do remain undeveloped. These holdings contain
13 outstanding fish and wildlife resources, including large herds
14 of elk, Kodiak bear and many of the species that were injured
15 in the Exxon Valdez Oil Spill. Afognak was within the Spill
16 zone and some of its shores were oiled.

17 It had been the Joint Venture's intention to extend its
18 logging operations into holdings that we are now proposing and
19 to explore other income producing options for some of the non-
20 timbered lands that are on the island. Those would be cabins,
21 lodges and developments along the shores of the higher lakes.
22 As a corporate entity, we owe it to our partners and their
23 shareholders to use the land to be able to return them
24 dividends.

25 For the past years, however, we have explored ideas

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1 which would lead to the sale of some or most of our Joint
2 Venture holdings to the Federal and State land managing
3 agencies. If successful, such an arrangement could enable our
4 corporation to create a permanent fund and diversify our
5 business operations; Afognak Native Corporation is actively
6 involved in the logging/timber business, successful at it.

7 Of course, we would continue to develop those lands
8 which are not sold. In that effort, we advocated passage by
9 Congress of a special study of Afognak and Prince William Sound
10 inholdings. Such a directive was passed last year in Congress.
11 We are currently cooperating with the Fish & Wildlife Service
12 as it studies our lands. We are also supporting State
13 legislation introduced by Kodiak Representative Cliff Davidson
14 and Senator Curt Menard (ph) which would provide for State
15 purchase of lands in the Pauls Lake and lower Melina Lake
16 regions of the island.

17 It is our hope that these efforts will lead to a stage
18 acquisition process coordinated with both the State and Federal
19 governments to acquire a substantial portion of the Afognak
20 Joint Venture's lands up to approximately 125,000 acres
21 stretching from the Pauls Lake lower lake area on the northeast
22 to the Melina peninsula on the southwest, including land and
23 timber rights on approximately six offshore islands.

24 We are confident that Afognak's natural resource values
25 will fare well in comparison to other areas within the Spill

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1 zone. We are also hopeful that the presence of sizable tracts
2 contiguous to the large Federal holding and a cooperative
3 seller will be attractive to the Trustees.

4 We have -- or if we have a disadvantage on Afognak it
5 is that our resources are not as well known as some other
6 areas. We hope an objective investigation of the resources
7 will overcome that disadvantage.

8 Having laid out what the Afognak Joint Venture offers,
9 let me outline some conditions necessary for us to meet our
10 obligations to our partners and shareholders. First, we are
11 interested in sale of lands and not development rights. If we
12 are unable to sell most of the lands, we want to see sales of
13 relatively compact parcels so we are not left with
14 discontiguous tracts of lands encumbered by easements or
15 holdings otherwise made difficult to develop.

16 The second, we are interested in selling a mix of
17 timbered and non-timbered lands. To give up ownership of land,
18 we must demonstrate to our partners in the Joint Venture that
19 we are receiving a fair price and that the sale of lands is an
20 attractive alternative to timber development and logging. We
21 will not engage in a series of sales which leaves us holding
22 lands with no revenue potential and no hope of further sales.

23 Third, we have already voluntarily withheld logging on
24 many of our holdings while we have explored these land sales.
25 We have engaged substantial expense in our efforts to work with

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1 Congress and in anticipation of working with the Trustees. We
2 would not wish to be penalized for our cooperative efforts
3 either by receiving bids lower than those offered to hostile
4 sellers or seeing sales of our lands delayed while
5 uncooperative sellers are treated more expeditiously. We have
6 been open and cooperative, and we expect fair play in return.

7 In conclusion, we believe that land acquisition is an
8 important use of the Settlement funds. We believe that land
9 sales can help our shareholders and those of our other
10 corporations in the State. We believe that maintaining the
11 best hunting, fishing and recreational resources is good for
12 the region's economy, and we will work cooperatively with you
13 to achieve those ends.

14 Thank you. Are there any questions?

15 MR. PENNOYER: Mr. Carmichael, if you have a written
16 copy of your testimony, if you could provide that to our
17 Secretary, a copy of your testimony?

18 MR. CARMICHAEL: Yes, I certainly will.

19 MR. PENNOYER: Questions of Mr. Carmichael? Thank you.

20 MR. CARMICHAEL: Thank you.

21 MR. COLE: I have a question.

22 MR. PENNOYER: Sure. Mr. Cole.

23 MR. COLE: Mr. Carmichael, to get a sense of the funds
24 involved in your proposal, could you tell us about -- just
25 about, you know, how much an acre for the timber and the non-

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1 timbered lands we're talking about? I think it's helpful to
2 get a sense of these various proposals.

3 MR. CARMICHAEL: Certainly. I understand the reason
4 for your question. It would be premature to attempt to
5 memorialize anything in that there's probably a process that
6 would have to be gone through and public scrutiny, and we
7 appreciate that. If one were to look at say the Katchemak
8 acquisition there, in a rough average, some of those lands went
9 for \$917.00 an acre. That treats acres as fungible (ph).
10 You'd still have to address the issue of timbered and
11 untimbered quality of the timbering and we are prepared to do
12 that.

13 MR. COLE: But in general, it'd be not unfair to say
14 we're looking at about a thousand dollars an acre for

15 MR. CARMICHAEL: That's correct.

16 MR. COLE: timbered lands?

17 MR. CARMICHAEL: Timbered and non-timbered lands if we
18 were to treat acres as fungible on an average.

19 MR. COLE: Thank you.

20 MR. SANDOR: Mr. Chair.

21 MR. PENNOYER: Yes.

22 MR. SANDOR: Just one quick question. Did Afognak
23 Joint Venture consider or would it consider exchange of the
24 lands?

25 MR. CARMICHAEL: We have not considered, and the reason

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1 we haven't is that in looking at other folks that preceded us
2 with these types of exercises have never been able to find
3 lands that worked out. I don't know that we would not but we
4 don't see anything out there that would fit.

5 MR. SANDOR: Thank you.

6 MR. PENNOYER: Thank you, Mr. Carmichael. Anybody else
7 here in Anchorage. Yes, sir.

8 MR. PHIPPS: Thank you, Mr. Chairman. My name is
9 Allen Phipps, I'm speaking on behalf of the Alaska Center for
10 the Environment, which is an Alaska based regional
11 environmental organization based in Anchorage with
12 approximately 1,500 members, and our primary area of focus is
13 South Central Alaska.

14 I will touch on a variety of topics and follow up with
15 a written letter so that I can flesh some of these ideas out.
16 In anticipation of the meeting next week in Anchorage regarding
17 public process, I would like to say that staff for the Public
18 Advisory Group is extremely important. And we believe that at
19 least two staff members is important because the Public
20 Advisory Group will have a great deal of work to do, and those
21 staff members should be hired by the Public Advisory Group.

22 I will be providing our formal proposal for the Public
23 Advisory Group by the meeting next week. I will just say that
24 is consists of 13 members, each member representing a
25 particular interest group. And it is very important for us, we

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1 believe, that each interest group gets to select the member of
2 the Public Advisory Group that represents them.

3 We also believe it's appropriate that the Trustee
4 Council do as -- or proceed with doing what the Trustees of the
5 Shell Oil Spill Settlement of California did, which was to
6 place two non-voting members selected by the Public Advisory
7 Group on the Trustee Council.

8 Our primary -- our priority for expenditure of these
9 funds is acquisition of fish and wildlife habitat and
10 recreation sites. And we support that both as a fee simple
11 acquisition proposition but also we encourage the Trustee
12 Council to pursue where appropriate other types of cooperative
13 management agreements with willing sellers such as -- other
14 options such as conservation easements and acquisition of
15 development rights. We believe that fully 80% of the trust of
16 the Restoration funds should be made available for these sorts
17 of habitat acquisitions.

18 I think you'll find that land trades are not a very
19 feasible option since it's our understanding that in the past
20 where that's been tried, essentially most of the best timber
21 lands have already been selected by the ANCSA corporations, and
22 there are not other comparable lands available for trade.

23 We're concerned about the amount of money in the
24 proposal that was passed out today for science studies.
25 Obviously, certain scientific studies are important, but again,

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1 we feel that there is enough information already to proceed on
2 an aggressive habitat acquisition program, and we encourage the
3 Trustee Council to direct the Restoration Committee to proceed
4 with an aggressive program.

5 Finally, the Alaska Center for the Environment urges
6 the Trustee Council to recommend that the State and Federal
7 governments not reimburse themselves for costs that they've
8 incurred in response to the Oil Spill. Thank you.

9 MR. PENNOYER: Are there any questions? Thank you very
10 much.

11 MR. PHIPPS: Yeah.

12 MR. PENNOYER: I have just been informed that
13 unfortunately the teleconference network has other duties at
14 6:30 and we're going to have to be off the line at 6:15. I was
15 not aware of this before, that gives us very limited time
16 tonight, and I would request that whoever sets up tomorrow
17 night's conference -- teleconference make sure that we're not
18 having an end restriction if we can avoid it. I had intended
19 to go to either 6:30 or 7:00 o'clock tonight, and this is going
20 to cut us very short.

21 Given that problem, perhaps what I need to do is go
22 around the various (indiscernible) stations and take one person
23 from each station sort of in rotation. So, if you could be
24 thinking of who might be your first in line. I apologize for
25 the rush but I have no control over it. And we'll go out to

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1 the various stations now and take one person from each station.
2 I encourage you to try and keep your remarks to about five
3 minutes because we apparently have very limited time. The
4 stations I have on my list are Fairbanks -- is there anybody in
5 Fairbanks who wishes to testify?

6 TELECONFERENCE BRIDGE: We have one person here in
7 Fairbanks.

8 MR. PENNOYER: That'll take care of the whole location
9 then, fine. Would you please go ahead.

10 MR. JUNAI: Yes. Thank you. My name is Glenn Junai,
11 and I'm Assistant Professor of forest ecology (ph) at the
12 University of Alaska - Fairbanks.

13 I came tonight to learn a bit about what is being
14 considered by the Trustee Council in the program of allocating
15 the Settlement money, but also to express some frustration and
16 hope against hope that there might be some opportunity, that my
17 specific complaint is that there hasn't been, up until now.

18 In 1986, I began a project to investigate Green Island
19 and Prince William Sound to actually look at its biological
20 (indiscernible - background coughing). And one aspect of that
21 study was to determine how it had recovered since the 1964
22 earthquake which devastated the marine environment down there.
23 When the Exxon Valdez Spill happened in 1989, I tried to work
24 through whatever avenues were made available to me, which
25 turned out to be none, to offer the background of that

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1 investigation to do a study to see, since we have 1986 pre-
2 spill data, what this area -- how this area had been affected
3 by the Spill. Through reprogramming some funding I had from
4 the continuing investigations of Green Island, we're able to do
5 -- we were able to establish some initial spots (ph) at the
6 area and look at them in 1989 and 1990.

7 But I'm about ready to throw in the towel now. There
8 just has not been an avenue for a person wanting to do this
9 kind of investigation in the open and not as a part of advocacy
10 of process to establish and create new law (ph) but to find out
11 what happened. There's just not been the support process, this
12 competitive arena to be able to do that. I published two
13 articles on what I've seen so far, but at this point we're dead
14 in the water; I can't continue without some additional support.
15 And I was hoping against hope that the damage -- pardon me, the
16 Settlement -- the funding would offer some avenue that I could
17 offer this idea to continue this investigation to see what the
18 natural process of recovery is at this location, which is
19 fairly representative of much of the area that was oiled, and
20 we do have some good data from the '89 and '90.

21 These aren't resources that are related to what was
22 damaged, but these are the resources that were affected. And
23 do, I don't hear that now; I hear a course of boos from people
24 saying we're spending too much money on science. I'm not
25 exactly certain because it's been under the cloak of litigation

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1 sensitivity, but much of the money that has been spent on
2 investigation, on damage assessment, has been carefully devised
3 as I understand it so that it wouldn't be studies for their own
4 sake or to find out really what's happening but to establish
5 the case that the Government wanted to make in court to
6 establish liability, how much damage and what was damaged.

7 So I have to come tonight simply to say that I still
8 think there's a missing element in what's been done so far in
9 the assessments, the investigations and the studies and that is
10 to look not at the key resources that might've been damaged but
11 the full range of biological diversity resources that were
12 affected. And I do believe that it is important that we know
13 what happened to those -- to the full range of diversity. And
14 the findings as I last reported from my latest work out there,
15 was that this wasn't a discreet event in time, there are
16 affects of the Spill that are continuing.

17 Everybody seems to be in a mental state right now where
18 they say they want to assume that this event is over, we're now
19 doing something with (ph) recovery. That's not -- that's over
20 idealization, and I think it would be a mistake to close our
21 eyes to some of these other aspects of the Spill. And I would
22 like to have somebody somewhere point out an avenue where I
23 might be able to put this proposal in front of somebody to do
24 something about it. So, thank you.

25 MR. PENNOYER: Thank you. Do Trustee Council members

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1 have any question? I'm not sure we have receipt of your
2 proposal, so if you care to provide, I'm sure the Restoration
3 Team could take a look at it. We do have ongoing studies to
4 continue closing out damage assessment on evaluation of injury
5 to various resources, and I don't know if they're in your
6 particular area or not. But if you have a particular proposal,
7 perhaps you could send it in.

8 Are there other questions? Okay.

9 MR. COLE: I'd like to make a comment on that.

10 MR. PENNOYER: Mr. Cole.

11 MR. COLE: I think that really we would like to receive
12 his proposal, not just say he can send it in; but I really
13 think that we would like to see his proposal and he should send
14 it to the Administrative Director and we will take a careful
15 look at it. And furthermore, Mr. Junai, we are -- you could
16 contact I'm sure the Administrative Director and we have the
17 Restoration Team and present your proposals there, and we will
18 give you full support of what's been gone on so far.

19 MR. JUNAI: All right. Thank you. You're breaking up
20 badly on the network, but I get the drift that I should contact
21 the Administrative Director is that right?

22 MR. PENNOYER: That's correct. Mr. Gibbons, would you
23 care to get him the address of the forum (ph).

24 MR. GIBBONS: Pardon?

25 MR. PENNOYER: Would you care to give him an address to

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1 send the proposal to?

2 MR. GIBBONS: Yes. Go ahead and send that to 645 "G"
3 Street, Anchorage, Alaska, 99501, include attention of me, Dave
4 Gibbons.

5 MR. JUNAI: Thank you.

6 MR. PENNOYER: Mr. McVee, did you have a comment.

7 MR. McVEE: If my mike works I do. I guess my comment
8 is that Mr. Junai's identified an area I think that we need to
9 give some consideration to fairly soon, and that is how do we
10 notify the public across the board so, you know, that we are
11 taking proposals and provide an opportunity so everyone has an
12 equal shot. You know, we've had a number of proposals come
13 from outside, but yet we have not provided a formal notice that
14 we are taking.

15 MR. PENNOYER: Yes. I think we think we discussed that
16 at the last meeting, actually, and had encouraged some type of
17 process to formalize that. Marty Rutherford, do you want to
18 comment?

19 MS. RUTHERFORD: Yes, Mr. Chair. I was going to be
20 making this as part of the presentation that we didn't get to
21 today on time lines. But one of the notes I was going to
22 advise you of is that we are expecting to be able to go out
23 request for proposals to the public and to other agencies by
24 May 15th, and hopefully have those proposals in hand by August
25 15th. Now, we were looking towards a '93 field season for

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1 those, but that's something that we can discuss further
2 tomorrow.

3 MR. PENNOYER: Thank you. All right. I think we need
4 to move along, unfortunately, this is going to get truncated on
5 us by the fact we're going off the teleconference line at 6:15.
6 Perhaps, I should continue down the list of remote sites and
7 taking one person from each site. I again encourage you to
8 take probably no more than five minutes so that we can get
9 through as many people as possible.

10 The next site we have on-line is Whittier, is there
11 anybody in Whittier that wishes to testify?

12 MS. HITES: Yes, Mr. Chairman. This is Linda Hites in
13 Whittier. I would like to encourage the Trustees to look at
14 Dr. Junai's proposal. I have had the pleasure of visiting his
15 Green Island site, it's one of the rare sites that we do have
16 pre-Spill data on and was not subjected to extensive cleanup.
17 So, flag that proposal and pay attention to it, I think it's a
18 good idea to continue with that study.

19 I also have a resolution that the City of Whittier --
20 City Council passed this past Monday night supporting the
21 concept of acquisition of sensitive habitat, certain timber
22 rights within the Sound and other areas. I will be sending
23 that to you and won't take the time to read it tonight. But we
24 would particularly like you to consider lease option purchase
25 or lease purchase options so that we miss the window of

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1 opportunity to acquire critical habitat.

2 Thank you.

3 MR. PENNOYER: Thank you. Are there any questions for
4 Ms. Hites? Okay. Thank you very much. I have received an
5 announcement that we can extend the teleconference tomorrow
6 night later than we had originally intended, so there will be
7 opportunity for people to testify at that time.

8 I'll continue down the list, Tatitlek, is there anybody
9 from Tatitlek that wishes to testify?

10 TATITLEK: Not at this time, we'll provide written
11 testimony and possibly testimony tomorrow at tomorrow's
12 session.

13 MR. PENNOYER: Fine. Thank you very much. I
14 appreciate that. If anybody has to go tonight and can't be
15 there tomorrow night, they should probably take precedence. I
16 have been also asked to take Kodiak next. Kodiak, do you have
17 people that wish to testify, can we take one member from
18 Kodiak? Mayor Sullivan (ph) are you there? Kodiak, are you
19 hearing me? They may have gone off line.

20 Let's continue down the list then. Cordova, anybody
21 from Cordova that wishes to testify tonight?

22 TELECONFERENCE BRIDGE: Yes, there is, just a moment,
23 please.

24 MS. McFERNEY: Yes, this is Mary McFerney, Executive
25 Director of CDFU in Cordova, which CDFU stands for Cordova

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1 District Fishermen United. And we'd like to be on record
2 supporting the projects that are outlined in the Damage
3 Assessment Work Plan and the Restoration Work Plan regarding
4 ADF&G's ongoing salmon tagging and enumeration projects, and
5 also the herring evaluation projects. We feel that those are
6 very critical to restoration and enhancement consideration.

7 We would also like to be on record supporting the
8 proposal for land acquisition. Land acquisitions are essential
9 for habitat preservation and resource enhance (telephone
10 cutout) and they should be given a very, very high priority
11 when it comes to allocating the Settlement funds.

12 Thank you.

13 MR. PENNOYER: Thank you very much. Any questions of
14 the Trustee Council at this time? Thank you. Let's go on to
15 Valdez and take somebody from Valdez. Is there anybody in
16 Valdez that wishes to testify? Back again and try Kodiak.
17 Kodiak, have anybody from Kodiak that wishes to testify
18 tonight?

19 TELECONFERENCE BRIDGE: I don't believe Kodiak is on
20 line, Mr. Chair, nor is Valdez.

21 MR. PENNOYER: Thank you. Homer, anybody from Homer
22 that wishes to testify?

23 HOMER: No, sir, not this evening.

24 MR. PENNOYER: Thank you very much. Seward, anybody
25 from Seward that wishes to testify tonight?

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1 MR. SPIRELLO: This is Seward.

2 MR. PENNOYER: Do you have anybody there who wishes to
3 testify?

4 MR. SPIRELLO: Yes. My name is Richard Spirello (ph),
5 I live 24 miles north of Seward. I have two topics of comment;
6 the first concerns public participation in the restoration
7 process and the second concerns spending the Settlement fund.

8 Public input must include more than just gathering and
9 recording our testimony. I propose that the Trustees and
10 empower local people who would represent themselves only to
11 provide specific and practical alternatives for restoring
12 affected areas. Subcitizen's groups already exist but the
13 Trustees could create many more. The Trustees could assign
14 geographic areas to private citizen's groups and then challenge
15 them to propose specific alternatives for restoring the areas.

16 To compensate for the real or perceived lack of
17 technical expertise of ordinary citizens, the Trustees could
18 hire or borrow personnel from scientific, environmental or
19 natural resource organizations and make their expertise
20 available to the citizen's groups. As examples of agencies
21 whose expertise might be tapped, I cite the Institute of Marine
22 Sciences, the Alaska Center for the Environment and the
23 National Park Service. These organizations are already
24 involved in the restoration process but not as technical
25 advisors to citizen's groups. And to further aid the citizen's

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1 groups, I propose providing access to office supply, postage,
2 secretarial services and meeting space.

3 And before leaving the subject of public participation,
4 I want to comment on the testimony itself. Too often I have
5 seen testimony just recorded and then buried in the appendix of
6 the next document published by the agency collecting it. This
7 is unsatisfactory. The Trustees ought to publish testimony,
8 and the Trustees ought to publish their own response to it. I
9 want the Trustees to publish the collected testimony about the
10 restoration, and I want the Trustees to publish their specific
11 addressing of the issues raised and their specific reasons for
12 rejecting proposals and their actual plan to implement those
13 proposals not rejected. I want the Trustees to make it clear
14 to the public how they actually used public testimony.

15 And finally, I want to comment on how to spend the
16 Settlement funds in a general way. Spend funds only to restore
17 the affected areas, make the affected areas produce the same
18 quality and quantity of biomass and scenic amenities that they
19 produced before the Spill. I include the uplands as well as
20 the submerged lands. And I include plankton and bottom
21 dwellers and not just telegenic species such as otters. Where
22 it's impossible to restore affected areas, acquire equivalent
23 resources. And to that end, I think it's appropriate to use
24 Settlement funds for the Katchemak Bay State Park buy-back.
25 And it would also be appropriate to make similar buy backs of

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1 private holdings here on Resurrection Bay, including the
2 inholdings in Kenai Fjords National (indiscernible - background
3 coughing).

4 As an example of how not to spend the funds, I cite the
5 proposed Aquarium tourist attraction in Seward; although, it
6 may be touted as a scientific endeavor, it's only a flagrant
7 attempt to use Settlement funds to build a tourist attraction
8 in Seward. Resurrection Bay is our attraction, restore it. I
9 don't think that building hotels, marinas, road and tourist
10 facilities in Prince William Sound or elsewhere by any
11 reasonable standard restores the affected areas, let those
12 projects secure their own funding.

13 The Settlement funds are finite and they're
14 irresistibly attractive to schemers and developers. Every
15 Settlement dollar spent on economic development projects is a
16 dollar not spent to specifically restore the flora and fauna of
17 the affected areas. I trust you to guard those funds and to
18 spend them only to restore the affected areas. So please do
19 not violate the trust and thank you.

20 MR. PENNOYER: Thank you, sir. Any questions from the
21 Trustee Council? Thank you very much. We'll go on now to
22 Kenai. Anybody from Kenai that wishes to testify tonight?
23 Kenai.

24 KENAI: We're just observing at this time, thank you.

25 MR. PENNOYER: Chenega, anybody from Chenega that

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1 wishes to testify tonight? Juneau. Anybody from Juneau that
2 wishes to testify tonight?

3 MR. JANKA: Yes. This is David Janka (ph), I'm the
4 Director of Prince William Sound Conservation Alliance in
5 Valdez, I guess that's why I wasn't in Valdez to testify, why
6 we weren't on-line I suppose.

7 Anyway, thank you for the review of today's
8 proceedings. And I had made comments last night at our Public
9 Advisory Group road show last night on the process of the
10 Public Advisory Group, we appreciate that; there was a lot of
11 good ideas last night presented.

12 At this time, Prince William Sound Conservation
13 Alliance requests the Trustee Council to initiate some sort of
14 an option to purchase for the habitat acquisitions. Some -- we
15 support the habitat acquisitions and -- very much. But some
16 sort of a moratorium is needed now on all the lands until the
17 studies, the framework -- the Restoration Framework is
18 completed and the analyses are put together so we have some
19 guidelines and knowing what we're doing. Because a lot of
20 money can be thrown out a lot of different directions right now
21 and some good, possibly bad but we're not going to know. And
22 unfortunately about a couple of months away until trees are
23 going to be falling and we won't see those forests again many
24 hundreds of years. So I really support some sort of a buy back
25 option, something to where we can put a moratorium such as the

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1 Forest Service put on many (ph) of their purchases when the
2 Spill took place; they were ready to put out a tremendous
3 amount of board feet out for sale, and when the Spill took
4 place, they shut it down and are now amending their plans. I
5 hope we can do something along those lines for the private
6 inholdings.

7 I think HB 411, Cliff Davidson's Bill, would help in
8 assisting that purchasing because there is much of a concern
9 that there's not going to be a great deal of money from the
10 Trustee Council available in '92, you know, and that the House
11 Bill 411 would help with that option purchases.

12 The other comment this evening is in support of the Oil
13 Spill Public Information Office or what is known now as the
14 Public Resource Center. I didn't have time to go over a lot of
15 some of the options that were presented in the packets, I just
16 got those when I came in this afternoon. As a person who
17 potentially would like to sit on the Public Advisory Group or
18 at least have input into it, I would see the Resource Center as
19 being invaluable as my -- as any -- as all of the Public
20 Advisory Groups learning curve especially the first couple of
21 years takes place, as studies are finished out, as studies are
22 released from litigation, closures (ph) that there be a place
23 where we can get this information as well as the public as well
24 as the subgroups, Council and such.

25 I'm not sure how I won the hat (ph), people can run it.

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1 And I feel that seven (ph) is definitely a little high and pre-
2 information of any amount to the entire public might be a
3 little high but somewhere in-between there. But the strong
4 support, our group gets a lot of requests from people all over
5 the country on information about the Exxon Valdez, and to have
6 a center such as this to help us help them as well the future,
7 the next 10 years of restoring the damaged environment is going
8 to be invaluable.

9 Thank you very much.

10 MR. PENNOYER: Thank you. Any questions from the
11 Trustee Council? Okay. We have about 10 minutes left on the
12 line. Perhaps, we'll go back through the sites and let
13 people -- anybody in the remote sites that wants to testify do
14 it and then I'll come back to Anchorage and we can finish up
15 here. Anybody else from Fairbanks? Fairbanks?

16 FAIRBANKS: Fairbanks doesn't have any more
17 participants.

18 MR. PENNOYER: Whittier. Do some of these twice after
19 they're off the line before and I've forgotten. Cordova,
20 anybody else from Cordova?

21 MR. THOMPSON: Yeah. This is John Thompson, I'm
22 Chairman of the Prince William Sound Loggers United. Prince
23 William Sound Loggers United is an association of individuals
24 who have been employed to perform logging work on timber owned
25 or controlled by Eyak Timber, Eyak Village Corporation and/or

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1 assessed to them (ph) joint enterprise of White Stone (ph) that
2 reside in the Cordova area.

3 We are the people whose Alaskan jobs and security will
4 be eliminated by the purchase or in adverse condemnation by the
5 Trustee Council of all or most timber rights in the Prince
6 William Sound area. We are the people who were promised
7 approximately 10 years of logging employment in the area. Some
8 of us were induced by the expectancy of such job security to
9 relocate to South Central Alaska from other states and areas.
10 Along with that, comes a responsibility of signing rental
11 agreements, the purchase of homes, vehicles to work, enrolling
12 our children in schools, daycare centers, et cetera; basically
13 being productive citizens in our community.

14 While we acknowledge that there may exist public
15 support for the acquisition of land and/or (ph) timber in the
16 Prince William Sound area to deserve the standing force (ph) in
17 the public interest, including such purposes as recreation,
18 aesthetics and fish and wildlife protection. We implore the
19 Council to include the sacrifice of our jobs in any plan for
20 acquisition which we'd get from the termination (ph) of planned
21 logging activity.

22 The people of Alaska and of this Council should
23 remember that more than the resource centers must be
24 compensated. The rights of the loggers being eliminated in
25 this acquisition must also be compensated. More than the value

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1 of the timber will be taken (indiscernible) will be taken as
2 our ability to partake in a productive manner in our community.

3 It is our belief and that of our legal counsel that the
4 Trustee Council and -- excuse me -- our employers have not only
5 a legal but a moral obligation to include us in any transaction
6 which directly or indirectly purchases (ph) our jobs, thereby
7 extinguishing them along with the purchase of trees in the
8 Prince William Sound area.

9 We ask only that our property interests and our
10 employment relationships be given the same respect and legal
11 protection as the property interests of Shearstone (ph), White
12 Stone, and Eyak and the forest of Prince William Sound. If the
13 preservation of our forest -- of such forests and the resulting
14 loss of our employment is in the public interest, so be it; but
15 include us in this plan to help us survive. Make us your
16 allies and not your adversaries in what must be done to benefit
17 the Prince William Sound. And I thank you.

18 MR. PENNOYER: Any questions or comments by Trustee
19 Council members? Thank you very much, sir. Going on down the
20 list, I guess Valdez had nobody last time. Kodiak, are you
21 back on the line now? Homer, anybody else from Homer?

22 HOMER: No, we're observing only.

23 MR. PENNOYER: Okay. Seward, anybody else from Seward?

24 SEWARD: There is no one else to testify. Thank you.

25 MR. PENNOYER: I think Kenai was off the line last

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1 time. Kenai, is anybody from Kenai on the line?

2 KENAI: We're just observing. Thank you.

3 MR. PENNOYER: Okay. And Chenega last time was not --
4 did not want to testify tonight. Juneau, anybody else from
5 Juneau?

6 MS. STANCARA: This is Theresa Stancara (ph). I've
7 been a resident of Valdez for nine years, and I'd just like to
8 say that I really support the timber acquisition, timber rights
9 and land. I think the coastal areas have damaged enough by the
10 Spill, and we need to save and preserve what's left, and that
11 that does include the uplands.

12 Also, I'd like to really support the Oil Spill
13 Information Center to remain open. I think that it does serve
14 a very useful purpose. There are many people that are
15 constantly asking for information and it's a good source for
16 that, so I definitely support that. Thank you.

17 MR. PENNOYER: Thank you very much. I've been down
18 through the list of remote sites twice now. Is there anybody
19 else on line from remote stations that still wishes to testify?
20 Any stations with people who want to testify tonight?

21 MR. NAVA: Yes, calling from Cordova. My name is Tom
22 Nava (ph), I'm a spokesman for the Prince William Sound and
23 Copper River Regional Salmon Planning Team. We, at our last
24 meeting in January, past a resolution that I'd like to read at
25 this time. Excuse me.

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1 Whereas pink salmon stocks in the Prince William Sound
2 were clearly damaged by the Exxon Valdez Oil Spill. And
3 whereas damage assessment and restoration science work on pink
4 salmon in Prince William Sound provides information greatly
5 contributing to the understanding of damaged stocks and their
6 interrelationships with other salmon stocks in Prince William
7 Sound. And whereas, resolu- -- restoration of these damaged
8 stocks is largely possible only through fisheries management
9 actions that are highly dependent upon information generated
10 from damage assessment and restoration science projects. And
11 whereas the economies of the Oil Spill affected communities in
12 Prince William Sound are largely dependent upon the salmon
13 industry and are directly benefitted by the improved management
14 precision brought about through knowledge gained from existing
15 salmon restoration science projects. And whereas the integrity
16 of wild salmon stocks in Prince William Sound will receive
17 benefit from knowledged gained from these programs, and this
18 knowledge will have application to salmon producing --
19 production planning and the future of the salmon industry in
20 Prince William Sound.

21 May it thereby be resolved that the Prince William
22 Sound and Copper River Regional Planning Team strongly endorses
23 the Exxon Valdez Trustee Council's continued support for
24 restoration science projects for salmon in Prince William Sound
25 as the long-term method of restoration of damaged wild stocks

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1 through applied science -- or excuse me -- applied management,
2 scientific evaluation and enhancement of the commercial
3 fisheries.

4 And that's the end of our resolution.

5 MR. PENNOYER: Questions or comments of Mr. Nava
6 tonight. Okay. Thank you very much, Tom. Anybody else out on
7 the teleconference line that needs to testify tonight?

8 MR. BECKER: Yes. My name is Carl Becker, I'm speaking
9 in Cordova. I'm a fisherman, and I'd like to speak in favor of
10 the acquisition of lands and development rights with a
11 significant portion of the proceeds from the civil settlement
12 funds.

13 I'd also like to address my concern that vital research
14 for the fisheries may somehow go lacking in funding. But I
15 must say that it's difficult to come out in support of specific
16 projects without a full disclosure of the research that has
17 been done to date and a better understanding of the damage that
18 has occurred. I assume that the peer review that has been
19 conducted in the years since the Oil Spill has selected those
20 projects which have demonstrated a significant degree of
21 damage, and that is why they have continued to be funded. And
22 I would like those to receive the funding that they merit, and
23 also, that their results to date be released to the public.

24 I'd just like to say in the interest of the fisheries
25 that unless research is continued into the effects of the Spill

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1 on our -- both fish and other resources, it'll be difficult for
2 the Department of Fish & Game to manage those resources in a
3 manner that will lead to their recovery.

4 So I would urge that the larger portion of the civil
5 funds be devoted to acquisition, a significant portion to
6 research, and I would urge that the State and Federal
7 governments forego any paybacks for expenses to date. Thank
8 you very much.

9 MR. PENNOYER: Thank you, sir. Any comments?
10 Mr. Cole?

11 MR. COLE: Yes. Mr. Becker, this is Charlie Cole.
12 Have you seen the proposed budget for the -- let's say calendar
13 year 1992?

14 MR. BECKER: Mr. Cole, no, I haven't. Are you
15 referring, perhaps, to what has been released in the Daily News
16 story today, is that correct?

17 MR. COLE: Well I didn't get around to reading the
18 Daily News today I must say. But presumably they're reasonably
19 accurate, is sometimes the case. And what I wanted to say and
20 present to you is this simple question. If you look at the
21 budget, I see there's at least 31 million dollars proposed in
22 the budget and I'm told there is a little more, three or four
23 million, that's about 35 million, and if you support those
24 projects and then you support the acquisition of habitat in
25 addition and the acquisition of options, how do you propose

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1 that the Trustee Council resolve that dilemma; there is no more
2 money left for the acquisition of habitat or the receipt -- or
3 contracting for options if we support all of these proposed
4 budget expenditures. And how would you propose that the
5 Trustee Council solve that problem?

6 MR. BECKER: I guess I haven't had a chance to look at
7 that budget, I just saw the final -- the bottom line on that.
8 And I guess I'll just have to read a different newspaper. But
9 what I would suggest is that both the State and Federal
10 Government forego any repayment of their expenditures to date.
11 I think that that was a -- it's unfortunate that government has
12 to spend money sometimes the way the State and the Federal
13 Government have, but I would say that that is money that's
14 basically under the bridge and that we should go on now with
15 the restoration process and devote as much money as we can to
16 that.

17 And I know that's not a very satisfactory answer,
18 perhaps, but that's the best I can do right now without taking
19 a closer look at that budget. And I wish I could address it
20 more specifically.

21 MR. COLE: Mr. Chairman. Well, I would say that we
22 would be pleased to furnish you with -- you know, perhaps we
23 could even fax to you there in Cordova tomorrow morning an
24 outline of that budget if we could have a fax number.

25 MR. GIBBONS: It's there.

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1 MR. COLE: It's there. Mr. Gibbons says it's there, if
2 you could make arrangements to take a look at it. And with
3 respect to the monies which are now in the State and Federal
4 treasuries, that could be released by legislative
5 appropriation, and you may wish to contact the Legislature and
6 your Representatives to see if they want to turn that money
7 back to the Trustee Council. Thank you.

8 MR. BECKER: Yeah. Thanks, Mr. Cole. The fax number
9 that I could get that budget at is 424-6000.

10 MR. PENNOYER: Mr. Gibbons.

11 MR. BECKER: That's the City of Cordova offices. And I
12 appreciate your suggestions, and I will be contacting my
13 Legislators regarding the criminal funds and the use of those
14 for acquisitions and research. Thank you very much, I
15 appreciate the chance to testify.

16 MR. PENNOYER: Mr. Gibbons.

17 MR. GIBBONS: Those were tel- -- faxed to the Cordova
18 Volunteer Teleconference Center, Cordova City Hall at 424-6000
19 yesterday.

20 MR. BECKER: Okay. Then what I'll do is I'll be sure
21 to get a copy of those and you all won't have to make another
22 fax. Thank you very much.

23 MR. PENNOYER: I think I was informed that we had to
24 end the teleconference by 6:15, we're slightly past that now.
25 I apologize, but I think we'll have to take anybody else that's

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1 on line tomorrow night. So at this point, I'm going to
2 terminate the teleconference, and we'll be starting again on
3 the teleconference at 5:00 o'clock tomorrow evening. Thank you
4 all.

5 I think what we'll do now is go ahead and allow -- or
6 finish up the public testimony here in Anchorage. Who else
7 wishes to testify tonight? Yes, ma'am.

8 (Pause)

9 MS. BRODY: I'm Pamela Brody with the Sierra Club,
10 which has approximately 2,000 members in Alaska. Thank you
11 very much for the opportunity to testify. I would also like to
12 thank the Trustee Council for early in the day choosing to
13 forego the option of being reimbursed for your own expenses out
14 of the Settlement funds, I really appreciate that.

15 There are several things I'd like to talk about
16 tonight. First of all, I'd like to make the point that
17 restoration dollars are most important now, this year and in
18 the next few years, that up front restoration costs are what we
19 should be looking at. And so when it comes to deciding when to
20 reimburse government costs, that if that is to happen, it's
21 better to happen later rather than sooner so that more money is
22 available now for restoration.

23 I also was unhappy to see that there's no line item in
24 the budget for acquisitions, and I am told that acquisitions
25 could be done out of the remaining money, which is about six or

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1 seven million dollars, but I would rather see that as a line
2 item and that that should be one of the first things that the
3 Trustee Council looks at as one of the most important things.

4 Regarding the reimbursements to the State and Federal
5 Government, will be going to the Legislature and recommending,
6 in fact, that they choose not to be reimbursed. And I would
7 like to request that the Trustee Council also make that
8 recommendation to the Legislature. But if, in fact, they are
9 going to be reimbursed, again I'd like to say that that can
10 come out of the final few years of payments rather than the
11 current years of payments, and that would free up some money as
12 Attorney General Cole says would be needed.

13 The next thing I'd like to talk about is the endowment
14 proposal that Commissioner Sandor introduced today. And we are
15 very concerned about this proposal. One of the things that
16 concerns me is that it says that this would be for "perpetual
17 funding of important programs and projects"; and I'm not sure
18 what that means and perhaps I'm misunderstanding. But it
19 doesn't sound like the wording the Memorandum of Agreement
20 which says purposes of restoring, replacing, enhancing,
21 rehabilitating or acquiring the equivalent of natural resources
22 injuries (ph) as a result of the Oil Spill. This is what we
23 expect the money to spent on, and it may be that this is the
24 purpose of the endowment; this particular document does not say
25 so.

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1 Also of concern is if this money goes into an
2 endowment, then who controls how that money is spent, is that
3 still the Trustee Council or some other body? And what would
4 be the payment money available -- when would money be
5 available? And there are several options here; one of them
6 is -- the first one is that it will be only the earnings on
7 this endowment that would be available. If that happens, there
8 would be very little money to begin with when we need the money
9 most; and a lot more money later when we would have less need
10 for it.

11 There is also two options of what they call levelized
12 payments of 20 million dollars a year, 20 million dollars plus
13 overhead. I'm not sure how that would work in terms of cash
14 flow so I don't understand it too well. But again, I think it
15 has the problem of not providing the money when we need it
16 most.

17 My next point I'd like to talk about the studies which
18 you will be considering tomorrow. And we are concerned about
19 the total amount being requested for studies, 21 million
20 dollars, since you are concerned. And I don't have the
21 knowledge at this point to say what studies I think are
22 appropriate or not appropriate. But I would ask the Trustee
23 Council to seek the advice of peer reviewers outside of the
24 agencies. The agencies have made the proposals and for them to
25 also judge which proposals should be funded is a conflict of

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1 interest I would think. They may have the best of intentions
2 but it is in their interest to make those amounts as large as
3 possible.

4 That's -- for this year, I would recommend getting the
5 outside peer review, and for future years, I would recommend
6 that agencies and outside consultants both have the opportunity
7 to submit proposals and compete for these funds.

8 My fifth point is that there is some need, I believe,
9 of fast track decision making process, both in terms of
10 acquiring options on lands for restoration and also on deciding
11 whether or not to approve studies. Some studies, I believe the
12 decisions need to be made very soon or the opportunity will be
13 lost to do the study this summer, and I think some process is
14 necessary for addressing that.

15 And my final point is about public participation. In
16 terms of the budget, I think that it is important that the
17 Public Advisory Group have staff and that, also, that they be
18 able to hire their own staff. And I also think that it's
19 important that the library continue to remain open to the
20 public and not be archives alone (ph).

21 Thank you.

22 MR. PENNOYER: Thank you very much. Questions for
23 Ms. Brody.

24 MR. SANDOR: Thank you.

25 MR. PENNOYER: Mr. Sandor.

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1 MR. SANDOR: Just a comment. Pamela Brody, we very
2 much appreciate your comments with respect to the endowment,
3 the Restoration Team will be evaluating that and other
4 proposals, the projects and programs must, under that scenario,
5 benefit restoration of resources. It also includes such
6 proposals as extension or acquisition of the resources
7 (indiscernible - background coughing) and so forth. Your
8 comments will be very helpful.

9 MS. BRODY: Thank you very much, Commissioner.

10 MR. COLE: Mr. Chairman.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: I'm on another issue. Thanks. But I've
13 been told that in addition to this 30 million here that we're
14 dealing with -- let's see if I can get the exact number so I'm
15 on track -- 30,118,000, that the proposed budget involves some
16 other money, something which brings it up to 35 or so. Am I
17 off base on that or is there something to that?

18 MR. MONTAGUE: Mr. Chairman, that figure is the total,
19 the 30 million figure, and as far as I know there aren't any
20 other expenses. And further, the 30 million represents
21 projects not studies, many of the projects are not studies.

22 MR. COLE: Well I didn't mean to be specific about it,
23 it's just the total budget that is 30 million 188. All right.

24 MS. BRODY: In answer to that, I believe what has been
25 proposed is 53 or 54 million to be -- to go to reimbursements

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1 to the Federal and State expenses, and then approximately 30
2 million for the programs and projects. And so there remains
3 six or seven million that's not budgeted at all, it's not part
4 of the 30 million, it's available.

5 MR. COLE: I'm now getting to there. The 29.5 million
6 some weeks ago went into the State Treasury, and the 24 plus
7 million some weeks ago, at the same time, went into the Federal
8 Treasury. So that's why I say in order to, you know, recoup
9 that 29.5 million that the State received, it's in the Treasury
10 now you see and you have to get it out somehow if you want to
11 put it into these projects. That's what I was trying to
12 explain earlier.

13 MS. BRODY: Could I ask then for the future years,
14 what's going to happen to the payments that come in; is it
15 decided how much will go into -- directly into reimbursements?

16 MR. COLE: Well the Memorandum of Agreement provides
17 the total amount of monies which will go for -- to
18 reimbursement of the State and Federal governments or a formula
19 for determining that. We have agreed between the State and
20 Federal governments that the total reimbursements will be
21 phased in over a period of five years in order to allow monies
22 to be available for this very purpose which we're addressing
23 now. And I think it was, you know, 25, something like that, it
24 came down a little bit toward the end.

25 But remember then, there's the 50 million dollars which

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1 is under the legislative and the executive budget process which
2 Representative Davidson's Bill is addressing now. And that's
3 something that -- those monies could be used for restoration
4 purposes under the same formula as the limitations on
5 expenditures of the funds here except for this study -- science
6 study center is slightly broader in that regard.

7 Does that answer your questions of sort of where we
8 are?

9 MS. BRODY: Yes, that's helps. Could I ask one more
10 question?

11 MR. COLE: You bet.

12 MS. BRODY: Thank you. The agreement to pay back over
13 the first five years, is that something that can be revisited
14 or is that set in stone?

15 MR. COLE: The total amount I think is set in stone
16 under the Memorandum of Understanding approved by the Federal
17 Court. How that's paid back I would say, not having thought
18 about it before, but I would think that there would be some
19 flexibility there.

20 MS. BRODY: Thank you.

21 MR. COLE: I can't say for sure, that would require, I
22 think, the joint agreement of the State and Federal agencies,
23 but it's something that I think the State, in any event, would
24 be prepared to consider; although, the legislature sometimes
25 seeks money.

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1 MS. BRODY: Thank you.

2 MR. McVEE: Mr. Chairman.

3 MR. PENNOYER: Yeah, Mr. McVee.

4 MR. McVEE: Yes. I guess, you know, the concept of the
5 endowment as I understand it would provide some funds for those
6 that will follow us that may have an idea or ideas that are
7 better than ours relative to restoration of Prince William
8 Sound, you know. So I think on that basis it certainly has
9 some merit.

10 MR. PENNOYER: Okay. Thank you very much. I think
11 we'll go on now, next testimony. Bob Anderson.

12 MR. ANDERSON: Mr. Chairman, thank you. I'm Bob
13 Anderson, the guy from Cordova with many hats; one being the
14 President of Shearstone Company and another being a City
15 Councilman down there. And we have submitted a proposal to the
16 Council at the request of others suggesting a moratorium for
17 companies like us that are presently, and have been for several
18 years, involved in logging activities.

19 Let me -- I would like to go over a little old ground
20 that I covered with you the 10th just to refresh all of our
21 memories. I mentioned that I was involved in probably most of
22 the land selections within the Chugach Region in the last 15 --
23 17 years due to my capacity at one time as president of the
24 Chugach Region and the president of the Eyak Village
25 Corporation. I have also assisted the other villages within

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1 the Region in some of their land selection problems as they
2 pursued their various goals in selecting their land.

3 But with that in mind, I would like you to rest assured
4 that I don't speak for any of the corporations involved, I'm
5 not an officer in any of those corporations. But I think the
6 history is important because back when all the selections were
7 made they were made within the confines of the ANSCA (ph) that
8 spelled out certain ways that you could do it. Maybe 20 years
9 later now, it might not be a bad idea to bring all the players
10 to the table and take a look at it.

11 I know, for instance, the Eyak Corporation hadn't
12 thought about any land trades, per se, or land sales, per se,
13 but I think they might want to revisit it now. And now would
14 be the proper time to do it I would think in my mind. I know I
15 helped make those selections, I think I can see where I might
16 recommend to them to make some readjustment. I would suspect
17 that maybe some of the other villages haven't done that either.
18 Maybe the Chugach Region hasn't done it either. But I think
19 this is the proper time to do it.

20 I think I mentioned at one of the other meetings the
21 Chugach National Forest is now going through its five-year
22 review on its management plan, that also adds impetus to why
23 now might be the proper time to all get down to the table. As
24 most of you know, the State is not a major landholder in the
25 Prince William Sound, the major -- they mainly have

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1 responsibility for management of fish within the Sound. Now,
2 the State can be an important player in the management scheme
3 of the Sound.

4 Some other areas that I think -- we continually seem to
5 talk about the eight or 900 million dollars, or whatever the
6 figure is, it seems like it's supposed (ph) to be drifting away
7 and it's not as much as we thought it was when we initially
8 started. We seem to talk about the 800 million or 900 million,
9 there are a number of other options that should be taken a look
10 at too; timber for timber sales, land trades, Federal property.
11 I mean just a whole raft of things that could be put into this
12 thing. And I think that's one reason, amongst many, that our
13 company is interested in trying to do something.

14 Besides what we see as a mass of public support for us
15 to stand down for three years and not do our logging for three
16 years while you can go through a process and decide how we're
17 going to manage that Sound out there. I've been a resident of
18 that Sound for in excess of 50 years, I think I know a lot
19 about it. Those things have come to mind. We haven't done
20 that since the land claims process first started.

21 One reason I'm here tonight and my company is here is
22 when this moratorium concept was first brought forth to us, we
23 thought about it and thought that as long as our company wasn't
24 harmed and we were dealt with in a reasonable manner we would
25 be more than willing to try to cooperate. Normally, we would

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1 have been operating in early January, we have not fired a chain
2 saw yet. And that wasn't done without considerable risk
3 financially to us as a company. We do have a social
4 conscience. We're aware of how our neighbors feel. We're all
5 long-time residents of this state. And, it was for those and
6 other reasons that we've done it.

7 We're being pushed to the point now, though, where we
8 do have to operate. We will probably have to -- unless we get
9 a clear signal from the Trustees that you folks do want a
10 moratorium, we are going to have to start our operations now.
11 And that will put us back to where we were last year,
12 unfortunately; and we didn't enjoy last year, it wasn't much
13 fun for us. But you have to understand, I think, a little more
14 of the history on why the corporations selected the timber and
15 other things. In many ways, in Prince William Sound and our
16 area of Alaska, it was probably the only asset that could help
17 buy the future that ANSCA had set out for it.

18 So you have to understand why Native corporations in
19 general are in some -- part of the reason in why they're in the
20 timber business. They don't like the -- in my view, I can't
21 speak for them but they don't like the public pressure; they
22 don't like to be seen as folks that are defoilers of the
23 environment. They're very cognizant of those feelings; I know
24 I am, it's bothered me a great deal. But we're committed to
25 making our company successful, if we don't get a moratorium, we

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1 have to log. We have a responsibility to ourself.

2 And if and when we do log, one thing we've found out is
3 we've found out that there's a tree out there that is not
4 sacred; there is somebody out there that doesn't want us to cut
5 that tree down. But the other thing is that we do know is when
6 we do start up, if we have to start up next week, we are going
7 to be into some areas that are extremely sensitive. And I just
8 want to feel that Bob Anderson has done his part to try to make
9 -- do our half of trying to make a moratorium work in case we
10 do have to go back to logging lastly (ph).

11 That's really all I have to say. If you have any
12 questions, I'll be more than happy to try to answer them.

13 MR. PENNOYER: Bob, from a business standpoint, what do
14 you consider a clear signal?

15 MR. ANDERSON: I don't know. That bothers us quite a
16 bit, Steve. I need to have a lot of certainty that there is a
17 moratorium. If I shut this company down, we've taken the risk
18 -- a tremendous risk of millions of dollars, you know. Steve,
19 maybe you can help me out?

20 MR. RENBERG: Money's always nice.

21 MR. ANDERSON: Yeah. Money's always nice, that solves
22 our problems.

23 MR. PENNOYER: Well, I guess

24 MR. ANDERSON: But we need an indication, a strong
25 indication, a comfort level (ph). I think that we do -- we'll

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1 have a moratorium. I don't know what the answer to that one
2 is.

3 MR. PENNOYER: Commissioner Sandor.

4 MR. SANDOR: Well, Bob, I heard some flexibility in two
5 respects; one, I heard you talk about the moratorium and the
6 possibility of the corporation being interested in trades or
7 acquisitions of various forms of property, including Federal
8 property, it might even be surplus, a variety of thing -- a
9 flexibility of deferring action with compensation, of course.
10 I thought I also heard that you're sensitive to certain
11 specific areas being of special interest, even though all trees
12 are sacred. And, you're aware of course the Nature Conservancy
13 Proposal and that moratorium proposal, so it seems that you are
14 looking at the possibility of trades as well as selling in fee
15 rights.

16 MR. ANDERSON: Well, the Shearstone Company only owns
17 timber, John. But in my way of thinking I think we've got to
18 look beyond the 800 million or whatever that figure is. We've
19 got to look at the other avenues. I would even suggest that
20 you try to drag Alyeska and Exxon back into this thing, they
21 haven't settled with the Third Parties, and I think they have a
22 responsibility. Companies like mine and the Native groups in
23 the Sound, we're the ongoing victims of the Oil Spill. Now,
24 we're being criticized for activities in our logging efforts,
25 and a lot of that was brought on because of what Exxon did to

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1 us; so I think they have a respo- -- but we have to explore all
2 those areas. I think you have the responsibility to explore
3 beyond 800 million dollars or whatever it is.

4 MR. PENNOYER: Mr. Cole.

5 MR. COLE: Are you offering the possibility that the
6 Native groups would also take some of their recoveries from
7 Exxon and contribute to the habitat there?

8 MR. ANDERSON: I don't know that, Charlie; I'm not an
9 officer in any of those, though I am acquainted with a lot of
10 people there. But I would think that they would be open to
11 that suggestion. It would certainly be worth exploring now
12 (indiscernible).

13 MR. COLE: Let me tell you what bothers me in these
14 proposals that we get to us (ph), and I haven't discussed this
15 with other Trustees. But what bothers me is we have reasonable
16 proposals, I would say that from the Afognak group, from your
17 people. But it troubles me that we would make commitments on
18 certain areas without looking at the overall problem of the
19 habitat and the necessity to protect habitat in Prince William
20 Sound. And, if we say all right, the Shearstone proposal looks
21 sensible and we will take options on it or we'll do that now,
22 and then we will do it in Afognak, and then as time goes on,
23 without looking at the whole thing, we wind up and we find that
24 there's some very critical habitat that we don't have enough
25 money to acquire. Then we say my God, I mean you know what a

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1 colossal problem we have now, you know, on our hands; we don't
2 have enough money to buy habitat, this other habitat is
3 critical.

4 And I think what -- you know, at least my present
5 thinking, without having the Council and advice of the public
6 and other members, is to say we should look at the overall
7 habitat problem in Prince William Sound and see what's the most
8 critical habitat, and how much it will cost and how much money
9 we have available, and then make, you know, a rational,
10 reasoned approach as to the habitat we acquire and how we spend
11 the money and how we fold these in to the money we're spending
12 for administration and the money we're spending for these
13 projects and not just studies. And that's what troubles me.

14 I realize that time is of the essence they say in the
15 law, but you know, I think that we really have to study
16 critical habitat first.

17 MR. ANDERSON: Well I have to agree but how do you
18 solve problems of companies like us, we have ongoing businesses
19 and, you know -- business and we're -- this year our production
20 plan is we're going to shoot for at least 28 million feet of
21 timber. We're back into those areas that we'll be harvesting
22 in areas that we're getting hammered for. We're not enjoying
23 it.

24 I'm not convinced that there's not a spot in Prince
25 William Sound for the logging industry. What I am suggesting

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1 is that I think that now is the time to take a look at it, find
2 out where the spot for our industry is. Maybe it's not where
3 we're at, that's why I'm suggesting other possibilities of
4 spots or whatever that it takes to either move us, buy us out
5 or whatever. But we cannot be asked like a lot of people out
6 in the -- we can be asked but we're sure as heck not going to
7 do it to just shut our company down; we've done that for a
8 number of weeks now already at tremendous risk to us. And but
9 that's what we're being asked to out there by a very large
10 majority of the population, even some folks that don't have a
11 problem with logging, they're saying the same thing; we would
12 like to have you shut down for two or three years, and that's
13 what I see coming (ph).

14 MR. COLE: Let me say I have asked Commissioner Heinz
15 and the Department of Natural Resources, if you can is to just
16 produce for us an overall map of Prince William Sound so we
17 have this overview, and then we can look and see where the
18 Spill affected areas were, where the critical habitat areas
19 are, and then, you know, approach it from than angle. That's
20 been my view, that's what I'm trying to do.

21 MR. ANDERSON: Well

22 MR. PENNOYER: Mr. Barton.

23 MR. BARTON: I'll pass.

24 MR. PENNOYER: Any other questions at this time. Thank
25 you, Bob.

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1 MR. ANDERSON: Thanks, Steve.

2 MR. PENNOYER: More testimony from -- yes, Mr. Parker.

3 MR. PARKER: Thank you, Mr. Pennoyer. My name is Jeff
4 Parker and I'm speaking on behalf of the Alaska Sport Fishing
5 Association and Trout Unlimited. If you, by any chance, recall
6 my testimony from last time, I speak by organizing my thoughts
7 in numbers, sort of like a child paints I guess; I hope my
8 thoughts will be usable.

9 I have 12 points I want to quickly skate across. One
10 is that we support the trust proposal or endowment proposal
11 that has been put forward by Commissioner Sandor, that we
12 support it in concept; I haven't yet reviewed it with respect
13 to the details. I think I have less reticence about it than
14 Pam Brody of the Sierra Club voice because I think it
15 consistent with Commissioner Sandor's remarks, Attorney General
16 Cole will probably attempt to keep us within -- or keep you
17 folks within the law as to what to spend the income on
18 endowment from -- or for what purposes you spend it.

19 With respect to another point that I would like to
20 express support for and that is, if I understood correctly Dave
21 Gibbons comments that the Trustee Council has decided to allow
22 a public nomination process with respect to acquisitions.
23 That's really my second point. I think that's fundamental so
24 that the process remains open.

25 Third, the last time on December 10th, I spoke to three

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1 recommended criteria for purposes of deciding what acquisitions
2 were appropriate. Roughly those criteria were that the land
3 involved -- the land be valuable for habitat or use value
4 purposes that, that it face a clearly identifiable near or
5 long-term risk and that the acquisition of the fee title or
6 conservation easements in the land bear some relationship to
7 the injuries occasioned by the Spill, regardless of whether
8 those are injuries to resources, to services or to non-use
9 values.

10 Therefore, my third point is that I am pleased to see
11 that the Trustee Council is apparently continuing the thrust of
12 the March, 1991 Federal Register Notice which was basically
13 consistent with those criteria.

14 However, with respect to that, I have one criticism and
15 that's the fourth point. That is that Notice spoke of
16 recreational sites. I think that if people -- it would be
17 better to say recreational lands. People do not recreate in
18 this state in the same manner that they all rec- -- or in the
19 same -- all recreation does not occur in the same manner as it
20 occurs at the mouth of the Russian River. I think you could
21 describe the mouth of the Russian River as a site. I think
22 Prince William Sound, Southeast Alaska, Southwest Alaska have
23 the recreational use pattern is much more disperses; people
24 utilize the lands as opposed to just specific sites.

25 My fifth point is that I was pleased to hear also in

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1 Mr. Gibbons summary that the Trustee Council is apparently not
2 limiting itself over the long haul to an area that is "affected
3 by the Spill" and that you will look towards restoration
4 through either habitat acquisition or acquisition for purposes
5 of restoring lost services or lost non-use values outside of
6 some, what is to me, an ambiguous area that is an area
7 "affected by the Spill." I would urge you to be very careful
8 about limiting your efforts within any such alleged area, and
9 that you move expeditiously towards broadening the view of
10 where it might be appropriate to acquire lands for either
11 purposes of conserving habitats and therefore restoring
12 resource value or restoring use value or non-use value.

13 I think that basically in order to broaden that view it
14 basically comes down to about 25 corporations, they're clearly
15 identifiable in the Native Claims Settlement Act, as I recall
16 it's Section 9 -- and somewhere between 9 and 11. But there
17 are approximately 25 corporations that are in the southern
18 coastal drainages, and I think it's very hard to say that there
19 is more than one area outside of the southern coastal drainages
20 that would meet the criteria of a clearly identifiable near or
21 long-term threat, roughly one of the criteria in the March
22 Federal Register Notice. And, I would be pleased to give a
23 list if you would wish of what I think those corporate lands
24 might be as possible candidates or possible interested parties
25 on a willing seller/willing buyer basis.

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1 My sixth point is a narrow concern, and I cannot speak
2 for either the Sport Fishing Association or Trout Unlimited at
3 this point specifically on Restoration Proposal Number 106,
4 which is to double the Fort Richardson hatchery output for
5 purposes of planning catchable, that'll be six inch, rainbow
6 trout in Anchorage lakes due to the fact of an expected almost
7 zero return or severely limited return of sockeye salmon in the
8 Kenai River system and when the 1989 age class returns.

9 I suspect that both those organizations, Trout
10 Unlimited and Alaska Sport Fishing Association, which
11 repetitively have dealt with and have been very frequently
12 opposed to a number of different types of enhancement projects,
13 particularly -- well I shouldn't say particularly of this sort,
14 but that isn't to say that we have opposed all enhancement
15 projects. We've opposed a number though and have been on a
16 number of planning teams for the State concerning such
17 proposals. I would expect that those -- that both Alaska Sport
18 Fishing Association and Trout Unlimited will have reservations
19 about that Proposal Number 106 being an adequate restoration of
20 lost use values.

21 My seventh point on land trades -- maybe I should
22 adjust this, excuse me, to keep from bending over. I used to
23 negotiate land -- or assist in negotiating land exchanges for
24 the U.S. Fish & Wildlife Service in the 19- -- late 1970's, and
25 specifically assisted on a number of exchanges and they're in

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1 ANILCA (ph).

2 The comments that were made previously about this state
3 being too picked over for purpose of land exchanges or at least
4 substantial land exchanges I think were very accurate comments.
5 The State has had a history of first State selection, and
6 founded upon that, borough selection and municipal government
7 selection, Native claims selections, conservation, if you will,
8 selections, really designations, as well as many state
9 conservation designations. All of that leads -- has led -- has
10 been -- has created very much a picked over situation, and I
11 think that there'll be not very much prospect for substantial
12 use of land exchanges within Alaska.

13 Aside from that, though, the previous gentleman's
14 comments about the potential for exchanges of surplus Federal
15 lands, those that are surplused to General (ph) Services
16 Administration, those were useful comments. Similarly, if you
17 want to get wishful thinking, the RT, the Resolution Trust
18 Corporation certainly has plenty of federal land.

19 My eighth point, reimbursement costs; I would concur
20 with the general comments previously made by others that the
21 Government try and stagger their reimbursements costs so as to
22 facilitate conservation efforts more up front. With respect to
23 that, if you were able to do so, you might be able to utilize
24 monies that are available for possible acquisition in this
25 fiscal year or in this calendar year for options on the

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1 critical sorts of habitats that Mr. Cole was referring to. I
2 concur very much and am pleased to have heard the tenor of
3 Attorney General Cole's comments on that, options tailored to
4 critical areas, whether they are critical habitat or critical
5 scenic views for use value are an appropriate way I think to
6 view early use of limited monies.

7 My ninth -- I believe my ninth point is that there's
8 too much research in this budget, that's been addressed
9 elsewhere.

10 My tenth point, a very quick one, is -- well, actually,
11 let me come back to that. Yeah. My tenth point and it's not
12 germane to the restoration project -- process, either legally
13 nor should it be probably politically. But one of the things
14 that many of the Trustees or some of them may not be aware of
15 is that it is fairly easily -- easy to document that in an
16 economic sense that -- for purposes of producing jobs and
17 commerce, wilderness based recreation industry is probably one
18 of the most productive of jobs in terms of visitor days that we
19 have in this state.

20 I will give to the Trustee -- or I'll mail to the
21 Trustees a study that was sponsored by the Alaska Sport Fishing
22 Association, the Alaska Hotel & Motel Association and the
23 Alaska Professional Sport Fishing Association, the latter a
24 trade association of lodges, that shows job production and
25 commerce off of certain comparable wilderness based recreation

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1 industries and non-wilderness based recreation industries. And
2 I hope you'll find the conclusions interesting, legally not
3 significant but useful, perhaps, for other purposes or these
4 purposes.

5 Finally, an advisory group, obviously, our group -- our
6 associations would be interested in participating in selecting
7 a reasonable candidate to the advisory group. That's the
8 eleventh point.

9 The twelfth and last one, annualization of payments.
10 If there is great demand to do a lot up front, early with
11 limited money, it may be possible to utilize what limited
12 monies you have to add -- to create a payment plan to a
13 conveyor of property or property interests; a corporation, for
14 example, that is relinquishing certain interests or the fee
15 title; so that you don't have to acquire -- you don't have to
16 pay it all in Year 1 but you can stagger and pay over time.
17 That would allow you to accomplish more in -- at the front end
18 with limited resources. And I hope that vague explanation is
19 reasonably clear.

20 Those are my 12 points, I hope I skated fairly fast.

21 MR. PENNOYER: Thank you, Jeff. Questions of
22 Mr. Parker? Thank you very much.

23 MR. SANDOR: It was sent. Time is going on. But this
24 annualization of payment plans, I suppose that -- how far can
25 that be extended into the future and with an endowment -- could

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1 endowment incomes be used for the pay -- those kinds of
2 payments?

3 MR. PARKER: I would think that you could design it so
4 that an endowment income would cover that. And basically, as
5 the principal of the endowment grows, the income would grow and
6 basically it would be sort of like a mortgage; if you've got
7 more money to pay on your mortgage than you're obligated to
8 pay, you can probably buy out -- you can shorten your mortgage
9 term, basically.

10 MR. SANDOR: Mr. Chairman. I'd suggest that you convey
11 those ideas to our Restoration Team.

12 MR. PARKER: That I do so?

13 MR. SANDOR: Yeah.

14 MR. PARKER: That's fine.

15 MR. SANDOR: Yeah. Fine.

16 MR. PENNOYER: Thank you. Questions. Thank you very
17 much. Yes, sir, you've been trying to get up there and I've
18 been looking right past you, so why don't you go ahead.

19 UNIDENTIFIED SPEAKER: I'd just like to request to be
20 the first speaker tomorrow.

21 MR. PENNOYER: That's -- you can be the first one
22 tomorrow night.

23 UNIDENTIFIED SPEAKER: Okay.

24 MR. PENNOYER: I've passed you by too long tonight, I
25 agree. Yes, ma'am.

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1 MS. RODERMAN: Hi. I'd just like to make a few
2 comments. My name is Lisa Roderman (ph), I am an eight year
3 resident of Cordova and I've also been the principal
4 investigator on a damage assessment study aimed at evaluating
5 the affects of the Spill on sea otter weanlings (ph) and
6 involved in some of the other damage assessment towards (ph)
7 sea otters.

8 I'd like to just -- I'll try to keep my comments brief,
9 I just have two points I'd like to make. One was prompted by
10 Mr. Anderson's comments and so I hadn't planned to speak on
11 this. I agree with the Trustees and with Mr. Cole in
12 particular that study is needed in order to identify all of the
13 critical habitats in Prince William Sound. And, in fact, we
14 submitted a proposal to identify critical habitats for sea
15 otters. However, in order to expedite the process of buying
16 some lands now, I would suggest that the Trustees could get
17 individual scientists together who have been working in Prince
18 William Sound for a long period of time on particular species,
19 get them together for a very brief meeting initially and ask
20 them to identify the most critical habitats for their species.

21 In other words then, there will be some critical
22 habitats that go unidentified and to identify those some say
23 well we need it. However, I think off the top of our heads,
24 most people that have been studying anything in Prince William
25 Sound for a long period of time could identify certain areas

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1 anyway. And a lot of the people that you should speak with
2 have already been involved in the damage assessment process and
3 so are readily available to the Trustees.

4 My second comment has to do with the importance of
5 expert (ph) peer review. And I don't mean these comments as a
6 criticism of anyone that's been involved in the process, many
7 of whom I consider friends, no process is perfect and any
8 process can be improved. The peer review process I believe is
9 one of the most important processes in this whole damage
10 assessment and restoration business. It's certainly one of
11 your biggest ticket items, and it -- also, the studies that the
12 peer reviewers are reviewing is your biggest ticket item, and
13 it's also -- the studies are crucial to your accomplishing your
14 goal of aiding in the restoration of Prince William Sound.

15 At this time, the peer reviewers are acting, however,
16 in an advisory role to the Trustees and to the agencies only.
17 And that process hasn't been perfect. I think the public --
18 the problem is this, is that the public has not had access to
19 these studies or the data because of litigation needs. And,
20 therefore, the public assumes that the recommendations in all
21 cases of peer reviewers are being followed, and therefore, that
22 the best studies are being done, and also which is just as
23 important to the scientific process, by the best available
24 people. And yet, in all cases this is not true, and in some
25 cases agencies have done studies that the peer reviewers don't

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1 recommend.

2 And I think the whole process could be improved if the
3 decision as to which -- the decision is best to which studies
4 went forward was left up to the peer reviewers themselves. In
5 other words, you're paying these people a lot of money, and you
6 obviously have respect for their opinion because you've
7 employed them to review these studies. And why not give these
8 people the power then to make their decisions as to which
9 studies go forward and who is going to do these studies. I
10 think that the process then would have more credibility to the
11 public. You'd avoid any question of conflict of interest such
12 as has been raised by the agencies simply filling their own
13 coffers if you did this; the peer reviewers have no conflict of
14 interest; and I think there would be considerable dollar
15 savings as well.

16 Those are my only comments. I had one other comment
17 which is just that to aid in this process and maybe to kick it
18 off I would suggest that the public could be made -- the
19 comments of the peer reviewers in terms of the recommendations
20 as to studies that are being put on the table now could be made
21 available to the public. And also, I would, you know, very
22 much advise the individual Trustees to utilize the very
23 formidable resources and knowledge of the chief scientist
24 personally to understand how closely the peer review process is
25 aligning with which studies are being proposed. You see a set

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1 of studies and I think maybe falsely believe in all cases that
2 those are ones that were recommended as going forward.

3 Thank you.

4 MR. PENNOYER: Questions or comments? Thank you very
5 much. Is there anybody else that needs to testify tonight?
6 Yes, sir.

7 MR. RENBERG: Thank you. My name is Steve Renberg
8 (ph), I'm the CEO of Eyak Corporation; I also wear the hat of
9 financial manager of Shearstone, Inc. As a follow-up to Bob
10 Anderson's comments and to Mr. Cole's comments about wanting to
11 do a study of the areas first and determine the critical
12 habitat, I think the point was is that we've been asked to do a
13 moratorium so that study -- those studies could be done so that
14 we're not logging in what may be determined to be "critical
15 habitat."

16 The proposal that you received, I believe it was for
17 three years; that could be divided down into one year
18 increments. It doesn't have to be, you know, you have to give
19 us a three year moratorium or nothing. We are at a critical
20 crossroads. I advised them that we really should have started
21 January 15th. We've got to make a decision. We have to do
22 something starting Monday. And, in fact, I'm going to Cordova
23 tomorrow to meet with the logger to lay out the plans and the
24 units that we're going to be doing.

25 But the whole purpose was to enable the studies to be

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1 done that you're talking about and give the time element
2 involved. And if you start out with one year and say look
3 we'll do the moratorium just for one year and then towards the
4 end of the year we'll make a decision whether we want to
5 continue on or not. That would certainly help us.

6 The other thing you asked for was what number would
7 make us feel comfortable. There was a number proposed that
8 would give us an idea that yes, you are serious about a
9 moratorium; that would allow us to plan with out logger whether
10 or not they're going to continue on through the year or we're
11 just going to pull out what we felled and decked (ph) from last
12 year.

13 Thank you.

14 MR. PENNOYER: Questions? I

15 MR. SANDOR: What was that figure?

16 MR. RENBERG: Half a million.

17 MR. PENNOYER: Thank you. Are there

18 MR. RENBERG: By the way, you get something for that.

19 MR. PENNOYER: At the end of the process.

20 MR. RENBERG: Well, no, I mean part of our proposal was
21 whatever was paid in would be used for (indiscernible -
22 interrupted)

23 MR. PENNOYER: For the purchase (ph) fund.

24 MR. RENBERG: Yeah. As a payment on something. Any
25 dollars that -- we agreed that any dollars put in would be --

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1 would acquire some kind of a resource at the end.

2 MR. SANDOR: Thank you...

3 MR. PENNOYER: Anybody else tonight? Yes, sir.

4 MR. STEINER: Just a real quick one. I won't be long.

5 The one thing I wanted to ask is whether or not the repayment
6 of the 29.5 million dollars and the 24 million dollars to the
7 State and the Feds without any public involvement in that
8 decision, is that meaningful public involvement? Is that
9 within the bounds that Judge Holland accepted the Settlement
10 and the MOAs? Evidently, the decision was that it is, I'm just
11 curious.

12 MR. COLE: Mr. Chairman.

13 MR. PENNOYER: Mr. Cole.

14 MR. COLE: Actually, under the document that Judge
15 Holland approved, both the State and Federal governments could
16 have glommed on to all the money.

17 MR. STEINER: With no public involvement?

18 MR. COLE: With no public involvement; slam, bank,
19 slam, dunk, you know. But we didn't do it, you know, and we
20 decided to take this money over time to allow the very process,
21 like I say, which is going on now, you know. And the public --
22 time for public involvement on that issue was when the MOA and
23 those agreements came up for public comment; I mean, you know,
24 it was there. I realize there, you know, are some problems
25 there. But I mean it has had full public comment. And I think

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1 the governments have been -- you know, done the right thing in
2 order to stagger that payment. And for I think the State would
3 -- certainly I would be prepared to even set that back a little
4 bit if we could, you know, in order to allow more money up
5 front; took a little money up front and maybe it would've been,
6 you know, some thought to taking a little more money back at
7 the end of the line. It's a thought we would think about I'm
8 sure.

9 Thank you.

10 MR. STEINER: I think that would certainly help within
11 (ph) the reason a number of people feel that the money now and
12 not 10 years (ph) or so. Thanks. I appreciate that
13 consideration.

14 MR. PENNOYER: Thank you. Any other question?
15 Mr. Barton.

16 MR. BARTON: Yes. I just have a comment. You know,
17 I'm certainly sympathetic for -- to the concept of altering the
18 repayment schedule. But I do think in all fairness we need to
19 remember there wasn't any public involvement when the agencies
20 were scrambling for money to do this job and borrowing money
21 from programs, in some cases, from other areas of the country.
22 So, there's that side of the equation also that ought to be
23 considered as we move forward.

24 MR. PENNOYER: Thank you. You know, in terms of the
25 reimbursement, it's not, you know, simply paying back

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1 government if effect. In a way, you're paying back some of the
2 people who we did take money and projects away from to do the
3 work. So I mean I'm not going to argue about all the pieces of
4 it, but in many cases, agencies like ours forewent (ph) to
5 projects in areas to the damaged resources that were important
6 to people as well. So at least the reimbursement covers that
7 type of thing, it's not just simply putting money back into
8 government. In our case, it'll buy more research in
9 Southeastern. We forewent for two years when we did the Prince
10 William Sound work, you know, helped on ground (ph) fisheries
11 search in certain areas that we didn't do, that type of thing
12 is involved as well, as well as other areas of the country.

13 So -- but we'll certainly look at the time schedule
14 question.

15 MR. STEINER: Very good. I guess the last thing is the
16 reason the citizens wanted a settlement was so that we would
17 have some money for restoration. And, if we're backloading the
18 restoration money, then there really was no compelling reason
19 to settle. And, I think you've seen some of the outcry about
20 the terms, the conditions, the payments of the settlements.
21 That was the one compelling reason the public wanted the
22 settlement so

23 MR. PENNOYER: Well, I think it's our intent that we do
24 accomplish that restoration. And I hope that the plan that we
25 come out with will help give people a chance to comment on that

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1 and we'll assure you we are.

2 Further comment for tonight? We were advertised at
3 8:30 tomorrow morning, is that still your desire?

4 UNIDENTIFIED SPEAKER: Sure.

5 MR. PENNOYER: Okay. I guess you are. Okay.

6 MR. SANDOR: Yeah, Mr. Chairman, one thing.

7 MR. PENNOYER: Commissioner Sandor.

8 MR. SANDOR: We had la- -- at our last Trustee Council
9 meeting we'd asked the Restoration Team to look at that
10 proposal by the Nature Conservancy, if you will, with regard to
11 acquisition. And I wonder if between now and the meeting
12 tomorrow we might reflect on this critical issue with regard to
13 acquisition and the 500,000 proposal as a critical sign, that
14 we might deal with that tomorrow.

15 MR. PENNOYER: The first item on the Agenda tomorrow I
16 think will be the review of Mr. Rice's report and questions and
17 comments, and it would be appropriate to do that at the same
18 time.

19 MR. SANDOR: Thank you.

20 MR. PENNOYER: Thank you very much, see you in the
21 morning. Adjourned.

22 (END OF PROCEEDINGS)

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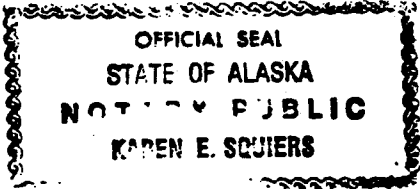
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