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2 **EXXON VALDEZ OIL SPILL SETTLEMENT**  
3 **Trustee Council Continuation Meeting**

4 **Juneau - Federal Building, Room 415**  
5 **Anchorage - Simpson Building**  
6 **March 9, 1992**  
7 **2:30 o'clock p.m.**

8 **IN ATTENDANCE:**

9 State of Alaska

10 **MR. CHARLES COLE**  
11 **Attorney General**

12 State of Alaska Department  
13 of Environmental  
14 Conservation

15 **Mr. JOHN SANDOR**  
16 **Commissioner**

17 Alaska Department of Fish  
18 and Game

19 **MR. CARL ROSIER**  
20 **Commissioner**

21 USDA Forest Service

22 **MR. MICHAEL BARTON**  
23 **Council Meeting Chairman**  
24 **DR. DAVE GIBBONS**  
25 **Regional Forester**

National Oceanic &  
Atmospheric Administration

**MR. STEVEN PENNOYER**  
**Director**

United States Department  
of the Interior

**MR. CURTIS McVEE**  
**Special Assistant to the**  
**Secretary**

\* \* \* \* \*

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MR. BARTON: I'll try to get perfection here, though, Juneau, you aren't coming in.

DR. GIBBONS: Who do you have at your end, Mike?

MR. BARTON: Pardon me?

DR. GIBBONS: Who do you have at your end?

MR. BARTON: I still didn't get the question.

UNIDENTIFIED VOICE: Who's here.

DR. GIBBONS: Who's there at your end from the Trustee Council?

MR. BARTON: We have Curt McVee and myself. I was going to ask for Juneau, Juneau identify who's there.

DR. GIBBONS: The Trustee Council Members are Rosier and Pennoyer.

MR. BARTON: Okay. We don't have Sandor or Cole?

DR. GIBBONS: No. We don't even have a quorum.

MR. BARTON: Well, I guess we need to recess until we can round them up.

DR. GIBBONS: Okay. We're recessing.

MR. BARTON: All right. But you'll need to notify us when you get both Sandor and Cole.

DR. GIBBONS: Okay. We'll call you back.

MR. BARTON: Okay. Thanks.

DR. GIBBONS: Do you have your number there?

UNIDENTIFIED VOICE: 278-8008.

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1 MR. BARTON: 278-8008.

2 MR. PENNOYER: Okay. Thank you. We'll be back with  
3 you in a couple of minutes I hope.

4 MR. BARTON: Okay.

5 (Off record)

6 (On record)

7 MR. BARTON: ..... (indiscernible) this is a  
8 continuation. We have in Anchorage myself, Mike Barton,  
9 representing the Secretary of Agriculture, and Curt McVee,  
10 Special Assistant to the Secretary of Interior. Would those in  
11 Juneau identify themselves for the record? There is a record  
12 being kept here in Anchorage.

13 MR. PENNOYER: Steve Pennoyer, National Oceanic &  
14 Atmospheric Administration.

15 MR. ROSIER: Carl Rosier, Alaska Department of Fish &  
16 Game.

17 MR. SANDOR: John Sandor, Department of Environmental  
18 Conservation.

19 MR. COLE: Charlie Cole, Department of Law.

20 MR. BARTON: We all have copies of the Agenda in front  
21 of us, items that were continued over from the last meeting.  
22 The first item on the Agenda is the review of the Restoration  
23 Framework. Dr. Senner.

24 DR. SENNER: Okay. Thank you, Mr. Chairman. Can the  
25 people in Juneau hear me?

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1 (Indiscernible telephonic responses)

2 DR. SENNER: All right. Thank you. The -- you have  
3 all been provided copies of a draft of the Restoration  
4 Framework document, and this was given to you at the last --  
5 the earlier part of this meeting here in Anchorage. The  
6 general goal of the Restoration Team is to release a  
7 Restoration Framework and the 1992 Annual Work Plan  
8 concurrently, and the hope is to do that later this month.

9 The idea, then, is to invite comments from the public  
10 on both the Restoration Framework and the Annual Work Plan, and  
11 then based on those comments do two things; first, a final 1992  
12 Annual Work Plan will be issued. The Framework document,  
13 however, is viewed as a one-time document, and the idea is to  
14 take comments from the public on that and then use them as the  
15 basis for preparing a draft Restoration Plan and Environmental  
16 Impact Statement which would come out in the fall; and we have  
17 been targeting September, 1992 for that draft document.

18 The Restoration Framework describes the structure and  
19 process that is being established to implement the settlement.  
20 It gives background on injuries and restoration options and  
21 invites comments on issues that are helpful in the development  
22 of the Restoration Plan and draft Environmental Impact  
23 Statement. In that sense, it's intended to be a scoping  
24 document to satisfy the requirements of the National  
25 Environmental Policy Act.

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1 Today, what we'd like to do is have your comments on  
2 the substance and concepts of the Restoration Framework. I  
3 think we'd like to avoid, if possible, serious word-smithing.  
4 I think we need to get your feedback on the concepts and then  
5 spend another week taking your comments and those that come in  
6 from Restoration Team members and legal advisers and produce  
7 another draft of this Restoration Framework for your  
8 consideration. And hopefully, after another draft is completed  
9 and reviewed by you, we would be close to having something that  
10 could be signed off and sent to the printer. But I do want to  
11 stress that we're not seeking approval of this document today,  
12 we want your comments and then we'd like to take it back and  
13 improve on it.

14 Mr. Chairman, I don't have any other presentation than  
15 that. I think we could open it for your comments.

16 MR. BARTON: Comments, discussion from the Council  
17 Members?

18 MR. McVEE: Mr. Chairman.

19 MR. BARTON: Mr. McVee.

20 MR. McVEE: Yes. You know, we have some specific  
21 comments. I guess that some of those we were to get in by  
22 yesterday, March 8th. But I guess two suggestions; one would  
23 be to have some legal folks, some of the legal team, take a  
24 look at the document from the standpoint of the right  
25 nomenclature and how -- whether it reflects, you know, the

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1 technical -- proper technical language relative to those  
2 concerns. And the other thing is a review by the Chief  
3 Scientist of the damage. Maybe you've already done that, I  
4 don't know. If you have done that .....

5 DR. SENNER: I can clarify there. The version in the  
6 document you have was not -- did not have the benefit of  
7 Dr. Spies' comments. We do now have his comments on that  
8 chapter and we would integrate those into the next version.

9 MR. McVEE: Okay. I think, other than that, that  
10 the -- you know, specific suggestions we could just get -- you  
11 know, have -- get those to you. So -- but I think the legal  
12 review would be worthwhile.

13 DR. SENNER: I agree. I should say we have had -- we  
14 have provided copies to, I believe, five of our different  
15 attorneys and have heard back from some of them, but we'd  
16 certainly invite additional legal review.

17 MR. BARTON: Other comments?

18 MR. PENNOYER: Stan, Steve Pennoyer. How many copies  
19 of this do you think you're going to be sending out?

20 DR. SENNER: Dave might know better than I, but I  
21 believe the notion was to print about 3,000, and we have a  
22 mailing list on the order of 2,000 or 2,500. Dave, do you --  
23 can you clarify further?

24 DR. GIBBONS: That's correct, Stan.

25 MR. PENNOYER: Just as a question for the group as a

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1 whole, about half of this document is just reproducing the  
2 various legal documents that support it. Is there -- do people  
3 feel there's a need to send out 2,500 copies of that, just as a  
4 question; it's a fairly sizeable amount of the package. And  
5 I'm not sure if folks need to read through the whole --  
6 individuals might write and request it, is there some option  
7 maybe of allowing that to happen and provide it to those who  
8 clearly would be interested rather than sending 2,000 -- 3,000  
9 copies of it?

10 DR. SENNER: Mr. Pennoyer, I -- this is Stan, I can  
11 just say the -- we'll do whatever the Trustees want on that.  
12 The reasoning or logic in putting in the Appendix was to make  
13 the original documents as accessible as possible to the public.  
14 We simply wanted to go the extra mile and put it all right  
15 there in front of them. But it probably has resulted in the  
16 loss of some additional trees if we do put them in there.

17 MR. BARTON: Other com- -- .....

18 MR. PENNOYER: You could put a notation in there that  
19 reference to the documents that are available and they are  
20 available upon request or something.

21 MR. BARTON: Are you making a motion?

22 MR. PENNOYER: Okay. I move.

23 MR. BARTON: Is there a second?

24 UNIDENTIFIED VOICE: Second.

25 MR. BARTON: It's moved and seconded. Anymore

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1 discussion? Any objection to the motion? Okay. So moved.

2 DR. SENNER: All right.

3 MR. BARTON: Other comments or questions on the  
4 Restoration Framework?

5 UNIDENTIFIED VOICE: He can't see your hand.

6 MR. SANDOR: Mr. Chairman, this is John Sandor. I have  
7 just a question on the Restoration Plan schedule. Is that set  
8 back a month as a result this is not going -- this was to have  
9 gone out for public review -- and then it's going out for  
10 public review when?

11 DR. SENNER: Mr. Sandor, we are still basically on  
12 schedule. Our target, all along, had been to have this  
13 Framework in the mail by mid-March, and we are not going to  
14 make that but we're probably only missing it by a couple of  
15 weeks. And at this point, I don't think that that would result  
16 in a delay in the longer term schedule on the Restoration Plan  
17 and the other things that follow. We're certainly trying to  
18 hold to the original schedule.

19 MR. SANDOR: We do have -- well, there is some, as you  
20 say, word-smithing and some relatively small changes that have  
21 been sent to you. And you suppose you can get those out within  
22 two weeks? So you'll be on -- the answer to the question is  
23 we're on schedule then?

24 DR. SENNER: Yes, we are; and we'll try and keep --  
25 stay that way.

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1 MR. SANDOR: Mr. Chairman, I move that the Trustee  
2 Council authorize the distribution of this Restoration Plan as  
3 published, as refined by the comments that comes from this  
4 group according to the schedule that's published.

5 UNIDENTIFIED VOICE: Second that motion.

6 MR. BARTON: Was there a second down there?

7 MR. PENNOYER: Yes.

8 MR. BARTON: Okay. Any further discussion on the  
9 motion?

10 MR. PENNOYER: One question, Mike, (indiscernible).  
11 Stan, would you lead me to the section where it points out the  
12 acceptability of acquisition of alternative resources as one  
13 (ph) restoration?

14 DR. SENNER: Okay. Mr. Pennoyer, if you'll look in  
15 Chapter 7 which begins on Page 53 of the document, and the page  
16 numbers are down at the bottom, this would be just right in  
17 front of the Appendices. Have you got that?

18 MR. PENNOYER: Yes, I do. Thank you.

19 DR. SENNER: Okay. If you look at the bottom of that  
20 page, there's a letter "A" that begins "no action" under the  
21 heading Possible Restoration Alternatives. And what we have  
22 outlined are six alternatives, and these include no action,  
23 Letter B is management of human uses, Letter C is manipulation  
24 of resources, D is habitat protection at acquisition, E is a  
25 combination of the above options, and then the last one,

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1 Letter F, would be acquisition of equivalent resources.

2 And the point in having that there is simply to  
3 indicate that the Trustees and the public an emphasize any one  
4 of these several approaches in deciding what are acceptable  
5 options. And one could choose to emphasize, for example, only  
6 the equiv- -- the acquisition of equivalent resources. That --  
7 I would say that the way that little -- that paragraph is  
8 written under there probably needs to be broadened slightly  
9 because it puts it all in terms of property acquisition when,  
10 in fact, there may be other things that can be done that come  
11 under the heading of acquisition of equivalent resources that  
12 are not just property acquisition.

13 But that is the intent, to just indicate there are  
14 different emphases one could have in developing alternative for  
15 a draft restoration plan.

16 MR. PENNOYER: Mr. Chairman.

17 MR. BARTON: Mr. Pennoyer.

18 MR. PENNOYER: Yeah. Okay. Stan, does that then  
19 follow through somewhere under criter- -- how would you  
20 evaluate the acquisition of equivalent resources under your  
21 criteria section?

22 DR. SENNER: Okay. The .....

23 MR. PENNOYER: Follow through in the other sections is  
24 what I'm sort of getting to.

25 DR. SENNER: Okay.

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1 MR. PENNOYER: In what situations would that be the  
2 most viable alternative?

3 DR. SENNER: Okay. If you turn back, then, to  
4 Chapter 6, it's just the previous chapter, on Options, Criteria  
5 and Evaluation, I think it's our view that these criteria, A  
6 through K, are really appropriate whether one is talking about  
7 something that is direct restoration or replacement or  
8 acquisition of equivalent resources. This is -- excuse me,  
9 this is on the bottom -- or Page 47, where the options/criteria  
10 are. Those criteria are really applicable, regardless of which  
11 type of restoration you're evaluating.

12 Now, perhaps, it isn't clear, and I would admit I  
13 haven't read it from that standpoint, whether -- it perhaps  
14 isn't clear that one could apply those criteria to any type of  
15 restoration action and maybe there's some clarification there.

16 MR. PENNOYER: Okay. As I read through them, they  
17 seemed to be only related to a specific injury or lack of in  
18 natural recovery. And that wasn't clear to me, but that's -- I  
19 must have quit on Page 53 so thanks for pointing out that last  
20 one.

21 DR. SENNER: Okay.

22 MR. SANDOR: Follow-up question, if I can. On Page 56  
23 then is a chart which I presume put this in perspective. And  
24 the way I interpret that chart is -- that flows (ph), the  
25 document is, in fact, places that -- it into that perspective,

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1 and it seemed to be a good chart.

2 DR. SENNER: Yeah. Mr. Sandor. There are two charts,  
3 in fact, yeah, Page 56 and 57, and they present kind of  
4 alternative concepts or ways to approach decisions here. and  
5 the -- there's sort of two extremes, one is a very hierarchical  
6 way of looking at it and the other is just the opposite.

7 MR. SANDOR: Excuse me. On the other hand, though,  
8 they both stem from the injured resource in the process of  
9 recovering them (ph)?

10 DR. SENNER: That is correct. And that is because -- I  
11 mean as we understand it, the Settlement says that all  
12 Restoration Funds are to be spent on the restoration of injured  
13 resources or the equivalent of, and so we don't get away from  
14 connections to injury.

15 MR. BARTON: Well, that's consistent, I believe, with  
16 the March 1, '91 Federal Register Notice in the criteria and  
17 steps that we adopted in that document.

18 Other comments or questions?

19 MR. COLE: Yes, Mike, this is Charlie Cole. Are we, in  
20 any sense, approving anything in this document if we vote now  
21 to send it out for public comment?

22 MR. BARTON: No. No, that's all we're doing is  
23 approving it to go out for public comment. And my  
24 understanding is that upon completion of that process, then we  
25 would formally adopt it.

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1 DR. SENNER: And I .....

2 MR. COLE: Thank you.

3 DR. SENNER: Yes. I would say I think the intent of  
4 the drafters here is that everything in the document is fair  
5 game for public comments, and you've made no final decisions  
6 beyond, you know, whatever.

7 MR. BARTON: Any other comments or questions. Was it  
8 the intent of the maker of the motion that we would have an  
9 opportunity to provide the word-smithing comments that we might  
10 have as well as any legal review into this document before it  
11 goes out?

12 MR. SANDOR: And within a reasonable amount of time.  
13 That's why I was asking the question about the time frame.  
14 There's some word-smithing and some review, but it's  
15 essentially to send -- it authorizes the Restoration Team to  
16 send this out for public comment.

17 MR. BARTON: As I understood, and maybe Dr. Senner can  
18 clarify this, the intent was to have the Trustee Council go  
19 over it one more time, is that right?

20 DR. SENNER: It's whatever your pleasure. But what I  
21 had thought we were doing was to take your comments now and  
22 whatever written ones you provide, and then give you one more  
23 iteration to look at and, perhaps, give your final approval to.  
24 And we would hope to have that to you next week.

25 MR. SANDOR: Well, I may have been off base and the

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1 motion be amended. But the motion as I made it was to  
2 authorize the Restoration Team to send this package out for  
3 public comment after this word-smithing and whatever other  
4 defects might be noted. But if we're going to stick with that  
5 schedule that's published, it has to go out this month.

6 MR. BARTON: That's right. And that's what I  
7 understood your motion to be, Mr. Sandor, that's why I asked  
8 the question. So right now, we have a .....

9 UNIDENTIFIED VOICE: Mr. Chairman.

10 MR. BARTON: ..... motion on the table to approve this  
11 document subject to word-smithing and legal review without any  
12 further action -- and released for public review without any  
13 further action of the Council. Anymore discussion on that  
14 motion? Any objection to the motion?

15 Okay. We've adopted it.

16 DR. SENNER: Thank you.

17 MR. BARTON: Moving along to Item 2 on the Agenda is  
18 the Eyak proposal. Dr. Gibbons.

19 DR. GIBBONS: Yes. At the February 28th Trustee  
20 Council meeting, you directed the Restoration Team to review  
21 the issues of and the urgency for addressing the Eyak  
22 Corporation/Sherestone timber harvesting -- harvest moratorium.  
23 The Habitat Protection/Lands Working Group has been in contact  
24 with the principal parties and has obtained additional  
25 information. This information has been looked at

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1 preliminarily, and in the Trustee Council package there is a  
2 draft summary in there and also some material from the  
3 Sherestone proposal.

4           The Restoration Team has drafted a letter that's  
5 included in the public package as well as the Trustee Council  
6 package. And it walks through the procedure that we've done in  
7 the last week. The only sequential step presently we have for  
8 identifying and protecting the habitats important to injured  
9 resources and services is found in the Federal Register Notice;  
10 and this is also included in the package with the area  
11 highlighted.

12           The Restoration Team feels that these provide the basis  
13 for protecting habitat but need to be expanded. As a result,  
14 the Restoration Team is developing draft objectives for the  
15 habitat protection, evaluation criteria, short- and long-term  
16 processes for habitat protection, and a definition of imminent  
17 threat. The resulting draft information will be presented to  
18 you at the April Trustee Council meeting.

19           The Restoration Team recommends that the Eyak  
20 Corporation/Sherestone proposal be considered after an overall  
21 habitat protection framework has been established by the  
22 Trustee Council.

23           MR. PENNOYER: Mr. Chairman.

24           MR. BARTON: Yes.

25           MR. PENNOYER: Dave, that last sentence, what is after

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1 an overall habitat protection framework has been established,  
2 that's after the April meeting?

3 DR. GIBBONS: After the April meeting, that's correct.  
4 So, we will present you with the objectives, the evaluation  
5 criteria and the process and a definition of imminent threat.

6 MR. BARTON: Comments or questions from the Council  
7 Members?

8 MR. McVEE: Mr. Chairman.

9 MR. BARTON: Mr. McVee.

10 MR. McVEE: I move we accept the language that has been  
11 developed by the Executive Director and Staff.

12 MR. BARTON: Is there a second?

13 MR. PENNOYER: For the purposes of discussion, I'll  
14 second it.

15 MR. BARTON: Okay. Mr. Pennoyer seconds the motion.

16 MR. PENNOYER: Yes, I second it.

17 MR. BARTON: Discussion or comments from the Council  
18 Members.

19 MR. PENNOYER: Question, Mr. Chairman. The motion on  
20 the floor is the last paragraph of the March 9 letter signed by  
21 Dr. Gibbons?

22 MR. McVEE: Yes. And the motion was to accept the  
23 language of the last paragraph that was presented by  
24 Dr. Gibbons.

25 MR. PENNOYER: But -- Mr. Chairman.

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1 MR. BARTON: Yes.

2 MR. PENNOYER: Implicit in that is what's in the  
3 previous paragraph, though, that we will be presented with  
4 these criteria, we will have the short- and long-term processes  
5 and so forth at the April meeting so a decision could be made  
6 at the April meeting about the criteria, and based on that we  
7 could either (indiscernible) or get along with discussion of  
8 where we go with the Eyak proposal?

9 MR. BARTON: Dr. Gibbons.

10 DR. GIBBONS: That's correct.

11 MR. COLE: Well, this is Charlie Cole. I'm not sure I  
12 could go along with the view that we will be in a position to  
13 evaluate this or any other proposal at the April meeting.  
14 Period. Would you like me to state the reasons?

15 MR. BARTON: Please do.

16 MR. COLE: Let me say this, that we will simply have  
17 before us the criteria at that meeting which is presented to us  
18 by the Restoration Team, that does not necessarily mean we will  
19 accept that criteria at that time, Number 1. Number 2 is even  
20 if we accept the criteria at that time, we may want to have an  
21 overall view of how this criteria will function before we make  
22 decisions on specific proposals. That's one of the things I  
23 have in mind when I say that we might not necessarily be in a  
24 position to act on this Eyak proposal at the next meeting.

25 MR. PENNOYER: Mr. Chairman.

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1 MR. BARTON: Yes.

2 MR. PENNOYER: Yeah. I don't think I was -- Step 1 was  
3 to say the criteria would be there based on the words in  
4 Paragraph 2 of Dr. Gibbons' letter, not that we'd necessarily  
5 be able to do it. Step 2 would be to discuss what we do in the  
6 meantime, if anything, with the Eyak/Sherestone proposal. And  
7 I think it's fairly evident, I don't have a map in front of me,  
8 I don't know what the specific areas are, I can't clearly  
9 relate yet in my own mind what the values are that are being  
10 proposed versus the cost. There are a lot of questions that  
11 still have to be answered. And the next step was going to -- I  
12 was going to bring up was that we'd agreed that we couldn't do  
13 much without, at least, discussing criteria.

14 Are there things we should do with this or other  
15 proposals between now and April, or should we wait to even  
16 discuss them further until the April meeting? That was sort of  
17 the direction I was going. I don't disagree with Mr. Cole at  
18 all, I'm not clear we're going to be ready to do anything just  
19 because we have adopted or maybe haven't adopted criteria at  
20 the April meeting.

21 MR. BARTON: Well, I believe the motion is that the  
22 Eyak Corporation/Sherestone proposal be considered after an  
23 overall habitat protection framework has been established. And  
24 I don't see that we're going to do that by the April meeting.  
25 We did, I think, last meeting charge the Lands Habitat Work

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1 Group with the development of objectives and criteria for the  
2 April meeting.

3 MR. McVEE: Mr. Chairman. I guess it was my impression  
4 of the language that's in the draft, we talk about, you know,  
5 the fact that resulting draft information will be presented.  
6 And this is talking about criteria, et cetera, for a short- and  
7 long-term process for habitat protection, that this would be  
8 presented to the Trustee Council at the April Trustee Council  
9 meeting. I guess I understood that language to be informative,  
10 you know, and that that would -- you know, that we would have  
11 the first look at that kind of information. And then the  
12 following paragraph to be, you know, a separate thought that we  
13 would not deal with the Eyak/Sherestone proposal until that  
14 framework had been established by the Trustee Council. I don't  
15 think that -- I didn't read this as saying we were going to  
16 have something established in April, you know, or committing to  
17 that. But I think that earlier we said that we should, you  
18 know, get on with this habitat protection criteria and concepts  
19 as quickly as possible because of the interest in this area.

20 MR. BARTON: Further discussion or comment?

21 MR. SANDOR: Mr. Chairman.

22 MR. BARTON: Mr. Sandor.

23 MR. SANDOR: This phrase "overall habitat protection  
24 framework" is not really defined adequately enough. But I  
25 guess what I'm concerned with is several things. What I see at

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1 the end of the tunnel or at some point, and hopefully sooner  
2 than later, is that this Trustee Council will reach an  
3 agreement or an understanding or consensus that what we're  
4 willing to do is a more specific thing; like protection of  
5 critical habitat. And it's a step to get into that process,  
6 the identification of critical habitat. And the Eyak proposal  
7 as laid out, as I look at it and understand it, doesn't really  
8 do that, and this bothers me.

9           And I think it would be a shame, I think, if we send a  
10 signal that somehow this proposal is, you know, close to being  
11 approved by adoption of this motion, and that we're set on a --  
12 I guess we're set on a path that, in effect, does this, not  
13 necessarily at the April meeting or the May meeting. I would  
14 have been more comfortable with a motion that describes not  
15 only the overall habitat protection framework but the very  
16 specific criteria for identifying and protecting critical  
17 habitat. Is this overall protection -- habitat protection  
18 framework going to do that? And so that's, I guess, the  
19 question I've asked.

20           MR. COLE: Mr. Chairman.

21           MR. BARTON: Mr. Cole.

22           MR. COLE: I'm a little uncertain, as I think  
23 Commission Sandor is, about what the word "framework" means in  
24 that last paragraph. Could we have an explanation of what that  
25 word means?

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1 MR. BARTON: Dr. Gibbons.

2 DR. GIBBONS: The understanding of the Restoration Team  
3 and Habitat Protection Subgroup members that are present in  
4 Anchorage or here can chime (ph) in more if they feel more  
5 definition is needed. But the framework includes, of course,  
6 the objectives; why you're doing the activity you're doing. It  
7 has evaluation criteria, and that will be detailed enough to  
8 evaluate each proposal in a uniform manner. And we've been  
9 looking at areas with points -- evaluation criteria with points  
10 and these types of things to try to come up with proposals that  
11 you can evaluate and one stands out more than another one based  
12 on the proposal itself.

13 The short- and long-term process, what we mean here is  
14 we feel that the short-term process, perhaps, would deal with  
15 the moratorium issue, imminent threat type of issues; and the  
16 long-term process would deal with the broader range of things  
17 as we move down the road a few year (ph) and it fits true (ph)  
18 the long-term process of evaluating the proposals; having a  
19 better tie between injured resources and habitats that they  
20 need. And then the last part would be a definition of imminent  
21 threat, what is imminent threat and do you link that to the  
22 moratorium proposals.

23 So, I'm providing an overall both short-term and long-  
24 term process for dealing with this issue.

25 MR. PENNOYER: Mr. Chairman.

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1 MR. BARTON: Yes, Mr. Pennoyer.

2 MR. PENNOYER: Dr. Gibbons, maybe if you did include  
3 the last two sentences of the previous paragraph as an  
4 explanation of what we're really trying to say; it's not as  
5 complete but it's certainly more complete than the last  
6 paragraph of that letter. It talks about the draft objectives,  
7 the evaluation criteria, short- and long-term processes; it  
8 says a little more than you've already said. And I think  
9 that's really my previous discussion, that that was more what  
10 we had in mind than just an overall framework, which won't tell  
11 us too much. I would hope in April we'd have practically a case  
12 history of looking at things. You have a proposal now and kind  
13 of specifics of how criteria will fit into evaluations of such  
14 proposals, that's sort of what I had in mind.

15 MR. BARTON: I'm confused.

16 MR. COLE: Mr. Chairman.

17 MR. BARTON: Mr. Cole.

18 MR. COLE: One of the things that I continue to harp on  
19 is that I would like to see us have before us, more or less, an  
20 overall plan of what we're going to do with respect to the  
21 acquisition of critical habitat, et cetera, before we get too  
22 far along. And one of the things that caught my eye was the  
23 note in this report that there were 46 documented anadromous  
24 streams on the Eyak lands; that's 46. And could we have any  
25 sense of how many anadromous streams exist within the entire

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1 affected oil spill area, since we're looking at the protection  
2 of critical habitat?

3 MR. BARTON: I'm sure we must have that somewhere.

4 MR. PENNOYER: (Indiscernible - telephone cutout) that  
5 that information could be put together but I'm not sure that I  
6 could pick a number at the present time.

7 MR. COLE: Well, it .....

8 DR. GIBBONS: Well, it'd probably be several hundred.

9 MR. PENNOYER: It'd be -- yeah, I'm sure it would be.

10 MR. SANDOR: Thousand.

11 MR. COLE: Commission Sandor says at least a thousand.

12 MR. PENNOYER: In the whole spill area?

13 MR. COLE: Yes.

14 MR. McVEE: Mr. Chairman.

15 MR. SANDOR: That would probably do it.

16 MR. BARTON: Just a minute.

17 MR. SANDOR: You could probably make it a thousand  
18 plus.

19 MR. COLE: Well (indiscernible - interrupted) .....

20 MR. BARTON: Juneau, we're having a hard time picking  
21 you up.

22 MR. COLE: Well, if there are 46 on these lands, that  
23 would be, essentially, five percent of all the anadromous  
24 streams in the entire oil spill affected area. And I would  
25 just have sort of a hunch that a thousand, therefore, would be

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1 somewhat low but I can't say. But anyway, in a sense, makes my  
2 point, talking about a thousand, plus or minus, anadromous  
3 streams that we should evaluate for their value as critical  
4 habitat.

5 MR. BARTON: Well, that -- Mr. Cole, that was the  
6 source of my confusion; at the last meeting, we said that we  
7 intended to bring this habitat restoration effort into synch  
8 with the long-term restoration effort. And yet, I thought I  
9 heard us -- at least some of us saying that we were going to  
10 deal with this issue separately. So, perhaps, somebody could  
11 clear up my confusion. Or am I confused?

12 MR. PENNOYER: Well, Mr. Chairman, I think it has to do  
13 with short- and long -- I wasn't at the last meeting,  
14 obviously, but I think it had something to do with short- and  
15 long-term and immediate threat, moratoria (ph) and whether  
16 you're losing opportunities and that type of thing. I don't --  
17 as opposed to the longer term consideration -- I think it was  
18 looking at lost opportunities wasn't it? That was the reason  
19 that there might be some need for a more expeditious look at  
20 possible lost opportunities, not to do them in a rushed way  
21 without evaluation but to do them first if we suspect there's a  
22 lost opportunity, make it sort of a priority.

23 MR. McVEE: Mr. Chairman.

24 MR. BARTON: Mr. McVee.

25 MR. McVEE: I thought some of our concern was that Eyak

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1 and Sherestone had presented the proposal and had been  
2 attending our meetings, I think almost from the very beginning,  
3 and that there was a feeling on the part of the Trustee Council  
4 that they deserved, you know, some response to those proposals,  
5 maybe not in terms of how we were going to deal with it but at  
6 least in a time frame of when we would be prepared to deal with  
7 it in kind of -- in a manner of fairness.

8 MR. SANDOR: Well, that's true.

9 MR. BARTON: Where does that leave .....

10 MR. SANDOR: Mr. Chairman, that's true. And you'll  
11 recall the question I asked of one of the representatives when  
12 he asked about a signal; and I believe the record would show  
13 that I said well what would be a signal in dollar value. And  
14 the answer to that question is 500,000. And of course,  
15 different people would react to that figure in different ways.  
16 But the proposal as it's now defined (ph) goes way, way, way  
17 beyond that, and is a proposal that seems to me -- goes far  
18 beyond protection of critical habitat but goes, in fact,  
19 addresses every possible opportunity or chance for protection  
20 of critical habitat. And I'm afraid if we give a signal that  
21 this proposal is in the ballpark, we'll be flooded with similar  
22 proposals elsewhere.

23 And that's why I was hoping you'd -- if we could get  
24 some consensus at our April meeting about what specifically  
25 we're after in the way of critical habitat; somewhat like the

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1 next to the last sentence in that second paragraph of  
2 Dr. Gibbons' memo, that comes close to doing that. I didn't  
3 see that in that last paragraph of Dr. Gibbons' memo and -- but  
4 I understand the motion is one of combining both the first and  
5 second -- or the second and third paragraphs. But I'm not so  
6 sure that would even do it.

7 But I guess in summary, the proposal, as I understand  
8 it, from Eyak and Sherestone is way, way beyond what I  
9 anticipated. And if we just move forward without giving some  
10 kind of -- or reaching some kind of a reaction on this, maybe  
11 we'll be creating problems of identifying other proposals,  
12 inviting other proposals, 'cause we have to treat all of these  
13 potential parties the same.

14 MR. PENNOYER: Mr. Chairman.

15 MR. BARTON: Mr. Pennoyer.

16 MR. PENNOYER: The question I have is somewhat along  
17 the line of Commission Sandor's. If -- I'm not sure what the  
18 Commission is saying. When we get done with the April meeting,  
19 we'd like to be able to be pretty specific about our criteria.  
20 And, in fact, not just have general criteria that we would then  
21 step back and sort of look at and not know exactly how they fit  
22 the bill, but basically (ph) how do -- like coastal buffer  
23 zones fit the idea of restoration in our view and as a  
24 priority, and the timber holdings around Eyak Lake and areas  
25 meriting special attention and so forth. There ought to be

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1 pieces in there that I'm not sure I understand -- and they may  
2 fit, I don't know, but they're not obvious to me how they fit  
3 restoration.

4 As Mr. Cole pointed out, we've got a lot of anadromous  
5 streams all through the country, and I'm not how they stack up  
6 (ph). So, there's just a lot of things. As you go through the  
7 criteria, it'd be helpful if we were getting specifics so I  
8 understood how that related to the type of things we're seeing.  
9 And maybe that's we can do for the present moment.

10 MR. BARTON: Well, I wonder, too, if we couldn't  
11 compare the proposal against the March 1, '91 criteria since  
12 that's what we have to work with at the moment.

13 Other comments or questions?

14 MR. McVEE: Mr. Chairman.

15 MR. BARTON: Mr. McVee.

16 MR. McVEE: Yes. I guess what I'm hearing from a  
17 number of the Trustee Council Members that -- or at least what  
18 I'm reading into what I'm hearing is let's get the criteria  
19 developed, let's have the program -- habitat protection program  
20 developed for our consideration. And, you know, then we will  
21 deal with any and all proposals, I guess. I think that, you  
22 know, if that's what I'm hearing with the -- and if we want to  
23 let the RT reconsider, you know, this draft with the permission  
24 of the -- to the second, I'd be willing to withdraw my motion  
25 and we could, you know, turn the project back over to the RT

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1 for reconsideration.

2 MR. BARTON: And what would we expect them to do upon  
3 reconsideration?

4 MR. McVEE: Well, Mr. Chairman.

5 MR. COLE: Mr. Chairman.

6 MR. BARTON: Yes, Mr. Cole.

7 MR. COLE: Are you saying that the Restoration Team has  
8 already done its work with respect to this proposal?

9 MR. BARTON: No, I'm not saying that at all. I'm just  
10 not -- I'm not understanding what we would expect them to do  
11 that we wouldn't expect them to do with the present motion.

12 MR. COLE: I have a little trouble following that. You  
13 might .....

14 MR. BARTON: We have a motion on the floor to consider  
15 the proposal after the development of the overall protection  
16 framework. Prior to that, the development of that framework,  
17 it's my understanding that we would develop draft objectives  
18 for habitat protection evaluation criteria, short- and long-  
19 term processes and a definition of imminent threat. If we're  
20 going to ask the -- it seems to me then if we adopted this  
21 motion, then we would bring this back and apply whatever it is  
22 we approve at the April meeting.

23 I'm having trouble understanding then, given that, what  
24 we would expect the Restoration Team to do if we asked them to  
25 take this back.

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1 MR. COLE: That they haven't already done?

2 MR. BARTON: Right. At this time.

3 MR. McVEE: Mr. Chairman.

4 MR. BARTON: Mr. McVee.

5 MR. McVEE: I guess my thought there was that on the  
6 basis of the discussion that the Trustee Council have had that  
7 they could clarify this draft that's before us and some of the  
8 timing and, you know, that aspect of it as to when we might get  
9 to the point of dealing the proposal; something positive, you  
10 know, to give to Eyak and Sherestone.

11 MR. PENNOYER: Mr. Chairman, I guess the --  
12 Mr. Chairman.

13 MR. BARTON: Mr. Pennoyer.

14 MR. PENNOYER: I guess the proposers are operating from  
15 the same vacuum we've got, they don't have any idea for sure  
16 what our criteria are going to be. And I think the number of  
17 things they've got in here illustrate that. I don't know what  
18 the Restoration Team or the proposers are going to do with this  
19 if some were -- some of their signals don't go until after the  
20 April meeting. I mean I think that's your guideline, you're  
21 going to have to wait until you have the criteria in-hand  
22 before you do very much with it, unless you're willing to send  
23 some signals out now and ask them to come back with something  
24 different, and even then it may not fit what you adopt in April  
25 -- we adopt in April.

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1 MR. BARTON: I'll withdraw my second. Is there a  
2 motion?

3 MR. McVEE: Are you going to move to reconsider?

4 MR. SANDOR: Maybe another point of clarification or  
5 information. I'm not sure that these March 1, 1991 criteria  
6 are what the Restoration Team is working with. Maybe that  
7 would be the point to start, at simply, in effect, resigning or  
8 signing off on these criteria. But if you look at the Federal  
9 Register in what we're dealing with now, the Trustees have  
10 developed the following preliminary sequence of steps for use  
11 in identifying or protecting strategic fish and wildlife  
12 habitats and recreation sites. And it goes on to describe the  
13 criteria -- is, in effect, the Restoration Team operating from  
14 the basis that those are the criteria that are to be used in  
15 the process and to apply, that in the previous section of that  
16 Register? (Indiscernible - interrupted) .....

17 MR. BARTON: Well, I think that maybe that is a good  
18 starting point and that that is the criteria against which the  
19 proposal could be evaluated. I don't -- I'm not sure of the  
20 answer to your specific question; if Dr. Gibbons cares to help  
21 us out.

22 DR. GIBBONS: Yes, Mr. Chairman. I think the  
23 Restoration Team feels that this is the basis but we need more  
24 detail than what's described in the Federal Register Notice;  
25 some of the things that were talked about earlier, costal

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1 buffers or some of these things. And how do you evaluate  
2 proposals and make priorities; this one's higher priority than  
3 this area. And so, it provides the basis but it doesn't  
4 provide the entire process.

5 MR. SANDOR: Mr. Chairman. As a starting point, I mean  
6 this would be helpful to have, at least, a reaffirmation or, in  
7 fact, any modification extension or elaboration of these  
8 criteria. But that would get to a major problem I have is with  
9 the motion that was on the floor that was now withdrawn,  
10 apparently, is this Restoration Framework is so broad. This  
11 would help, I guess, to get -- to maybe try to discuss this  
12 point.

13 Like at first (ph) a question, would -- is it the  
14 intent of the Restoration Team then to, at the April meeting --  
15 or was it the intent at the April meeting to take these  
16 criteria and if, in fact, they needed refinement to actually  
17 propose them to the Trustee Council?

18 MR. BARTON: Dr. Gibbons?

19 DR. GIBBONS: Yeah. I think the intent of the  
20 Restoration Team was to take these five criteria or sequential  
21 steps and expand upon them, providing more detail and the  
22 process for dealing with proposals, and come back to the  
23 Trustee Council at the April meeting with this greater detail  
24 and bigger framework.

25 MR. SANDOR: Well, Mr. Chairman, I would move

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1 endorsement of that proposal; in effect, directing that the  
2 Restoration Team do that for the Trustee Council's  
3 consideration as a part of whatever it presents in April.

4 MR. BARTON: Is there a second?

5 MR. McVEE: I'll second.

6 MR. BARTON: Any further discussion of that motion?  
7 Any objection to the motion?

8 MR. COLE: Mr. Chairman.

9 MR. BARTON: Mr. Cole.

10 MR. COLE: I would like to comment briefly on this very  
11 troubling issue in the possibility that my views would be  
12 considered by the Restoration Team. But underlying the -- much  
13 of the support for the Sherestone proposal, which comes from  
14 the public, is the desire to halt logging on these lands. I  
15 think that's clear; we read it in written comment and we hear  
16 it in oral comment. And yet, it seems to me that the United  
17 States of America, through its Representatives in Congress, has  
18 expressed a policy of the United States that these lands are  
19 available for logging; otherwise, the Congress would not have  
20 enacted legislation granting these lands to private landowners  
21 without limiting logging on them.

22 So, now we as Trustees of the Exxon Valdez funds are  
23 being asked, broadly speaking, to overrule, as it were,  
24 congressional policy and to halt logging on these lands by  
25 buying them back or acquiring the easements. It troubles me

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1 that that result will flow if this Council is largely guided  
2 acquisition of lands or habitat to thwart that congressional  
3 policy. So, therefore, I conclude my remarks on this  
4 subject .....

5 MR. BARTON: Thank you, Mr. Cole.

6 MR. COLE: ..... with respect to my views of the  
7 fundamental approach to be taken by the Restoration Team are.

8 MR. BARTON: Thank you, Mr. Cole. Other comments,  
9 other discussion?

10 You know, we've been talking about identifying critical  
11 habitat and the various ways to protect that habitat; one of  
12 the threats being logging. But I presume that if we're really  
13 concerned about acquisition to protect critical habitat, that  
14 we're really more concerned -- or concerned more -- about more  
15 than just logging, too. The item under discussion has been  
16 logging, but it seems to me that there are other threats in the  
17 future, and that we need to be talking about maybe development  
18 rights as a body or fee simple for those critical habitats. I  
19 guess that's my comment.

20 The other -- another comment I have relates to Mayor  
21 Weaverling's letter that he introduced I think on the 27th of  
22 February regarding mitigation for loss livelihood, and we have  
23 not dealt with that question either.

24 MR. COLE: Mr. Chairman.

25 MR. BARTON: Yes.

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1 MR. COLE: Let me respond, I think in the interests of  
2 expression of my views is that Congress surely knew when it  
3 conveyed or authorized the conveyance of these lands to private  
4 landowners without any prohibition of logging on them that  
5 logging on those lands would be apt to destroy critical  
6 habitat. I mean surely Congress was aware of that. So, I am  
7 simply saying that as we think about mandate in the expenditure  
8 of the Exxon Valdez funds, we must bear in mind that the  
9 expenditures should be related to the acquisition of habitat to  
10 restore damaged resources owing to the Exxon Valdez spill, not  
11 simply to acquire habitat to protect resources in the broad  
12 sense.

13 MR. BARTON: That, I think, has been my working  
14 assumption, and I think that is also embodied in the March 1  
15 Federal Register Notice.

16 MR. SANDOR: Mr. Chairman. That's really the way I  
17 interpreted that. And I guess as a specific example, that I  
18 presume that Congress would accept and understand if Harlequin  
19 duck nesting areas are found -- are known or are found to be  
20 present in limited numbers, and if, as I understand is the  
21 case, that these nests are critical to the restoration of the  
22 damaged resource, then that I think that test would be met of  
23 identifying and protecting those rights (ph). And that's  
24 partly what led for me to make the motion of defining those  
25 kind of critical habitats, but that isn't related (ph) to

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1 damage to resources or .....

2 MR. COLE: Well, Mr. Chairman.

3 MR. BARTON: Yes, Mr. Cole.

4 MR. COLE: In the interest of sharpening this  
5 discussion, perhaps, a little bit. You see, we much be careful  
6 that the fact that logging would damage Harlequin duck habitat,  
7 per se, is not the critical test. Because Congress had said  
8 it's all right to log these lands, if you damage Harlequin duck  
9 habitat. And that's the narrow focus of which I'm trying to  
10 get to. We surely do not want to thwart congressional policy.

11 MR. PENNOYER: Mr. Chairman.

12 MR. BARTON: Yes, Mr. Pennoyer.

13 MR. PENNOYER: Yeah. I guess I agree with Commission  
14 Sandor about the linkages. And of course, in the current  
15 proposal in front of us, as I pointed before, it's a little  
16 hard to see some of the linkages. But in any private property  
17 or even on National Forest lands there, of course, can be laws  
18 and determinations made that govern that habitat use. So,  
19 while the land was certainly made available to private  
20 ownership, I'm not sure that any -- that that rules out  
21 subsequent protection of some kind if there's an over-arching  
22 (ph) concern.

23 So, I think I'll wait to see the specific application  
24 of either Mr. Cole's discussion or Commissioner Sandor's in the  
25 criteria that are put in front us, hopefully related in some

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1 way so I can relate to the specific proposals that we've seen  
2 here.

3 MR. BARTON: Do we have a motion in front of us, does  
4 anybody know?

5 MR. SANDOR: Yes.

6 UNIDENTIFIED VOICE: Yes, you do.

7 MR. McVEE: Yeah.

8 MR. SANDOR: The motion, Mr. Chairman, I believe was  
9 that -- I thought I made is some time ago.

10 MR. PENNOYER: Is there a second to the motion.

11 MR. SANDOR: Maybe I'll restate it and if there's no  
12 second, it can die for want of second. And that was that the  
13 Restoration Team at the April meeting would develop -- would  
14 present to the Trustee Council for approval the March 1, 1991  
15 criteria related to the habitat protection, and refine it if it  
16 feels necessary to do so for consideration and possible  
17 approval by the Trustee Council. That was the motion I had  
18 intended to make would thus (ph) make it.

19 MR. BARTON: Was there or is there a second?

20 MR. McVEE: There was a second.

21 MR. BARTON: There was a second. Any further  
22 discussion on the motion?

23 MR. MONTAGUE: Mr. Chairman.

24 MR. BARTON: Yes.

25 MR. PENNOYER: Mr. Montague is asking.

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1 MR. MONTAGUE: This is Jerome Montague.

2 MR. BARTON: We can't hear you.

3 MR. PENNOYER: He's coming to the speaker.

4 MR. BARTON: Fine.

5 MR. MONTAGUE: This is Jerome Montague, Mr. Chairman.  
6 We've interpreted, as Dave has indicated, a short-term and a  
7 long-term approach. The short-term approach we're generally  
8 interpreting as meaning something on which we would take action  
9 before the Restoration Plan is completed. And on that point, I  
10 would like to bring your attention to Criteria 3 of the 5 that  
11 are listed in the Federal Register Notice. And at the end of  
12 the 3 it says: This would include evaluation of other  
13 restoration alternatives these resource injuries. And I would  
14 just like to point out that action before the completion of the  
15 Restoration Plan would preclude a very complete evaluation of  
16 the alternative restoration measures, which I thought you  
17 should be aware of, of why you're voting on this motion.

18 MR. BARTON: Okay. Thank you, Mr. Montague. Any  
19 further discussion from the Counsel?

20 MR. PENNOYER: Mr. Chairman, one quick question.

21 MR. BARTON: Mr. Pennoyer.

22 MR. PENNOYER: Commissioner Sandor, as I understand it,  
23 you have really (ph) substituted what's in the Federal Register  
24 Notice as a basis for these determinations. But don't we still  
25 want them to look at the things that are in the end of the

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1 paragraph, the second paragraph -- excuse me -- of Dr. Gibbons'  
2 letter which say that they're going to look at the evaluation  
3 criteria, short- and long-term processes using as a starting  
4 point or basis the items presented in the Federal Register  
5 Notice?

6 MR. SANDOR: Yeah. Mr. ....

7 MR. PENNOYER: You want them to do more if needed (ph).

8 MR. SANDOR: Yeah. Mr. Chairman, the motion was to  
9 essentially start with what was in the March 1 Federal Register  
10 and to add whatever additional criteria or information that  
11 they want to present to the Trustee Council for consideration  
12 and proposed approval.

13 MR. PENNOYER: At the April meeting.

14 MR. SANDOR: At the April meeting.

15 MR. BARTON: Further discussion? Is there objection to  
16 the motion? Hearing none, it's adopted.

17 Item 3, the Public Advisory Group. Mr. Piper.

18 MR. SANDOR: Mr. Chairman.

19 MR. BARTON: Yes, Mr. Sandor.

20 MR. SANDOR: We took part -- took care of one part of  
21 Item 2. A related (ph) item of Item 2, if it meets with  
22 Trustee Council's pleasure, it seems to me that the Restoration  
23 Team in dealing with this issue might benefit by follow-up work  
24 that was performed by the Nature Conservancy in a previous  
25 contract. And I guess in relation to this, I would move to

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1 authorize the Restoration Team to be in contact and possibly  
2 work with the Nature Conservancy in reaching a definition of  
3 critical habitat and a process of this.

4 So, the motion is that (1) authorize the Restoration  
5 Team to contact the Nature Conservancy and explore the  
6 possibility of developing a proposal that could be considered  
7 at the April 9 meeting, of utilizing their expertise.

8 MR. BARTON: Is there a second? I'll second the  
9 motion.

10 MR. COLE: Well, I'll second it to have a second on the  
11 floor.

12 MR. BARTON: I bet you to it, Mr. Cole. Discussion.

13 MR. PENNOYER: Well, I'd ask Dr. Gibbons, you have what  
14 they prepared before, is that one of the bases for what you're  
15 doing -- the Nature Conservancy study contract is one of the  
16 bases for what you're doing not?

17 DR. GIBBONS: That's correct. We had a close-out  
18 meeting with the Nature Conservancy on the document that we had  
19 prepared -- requested prepared by them. They have given us  
20 recommendations on how to approach criteria and processes, and  
21 we will use any information we have to build a framework for  
22 dealing with this. We hope to use their expertise whenever  
23 possible to help us out. They're very good at this type of  
24 thing, they've done it a lot, so we plan to use their  
25 expertise.

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1 MR. PENNOYER: So -- Mr. Chairman. So, you basically  
2 were going to follow-through with what Commission Sandor --  
3 therefore, his motion fits into what your plan was anyhow, is  
4 that in essence?

5 DR. GIBBONS: In essence, that's correct.

6 MR. BARTON: Further discussion? Is there objection to  
7 the motion? Hearing none, the motion's adopted. Further  
8 discussion on Item 2, the Eyak proposal.

9 MR. COLE: Yes, Mr. Chairman.

10 MR. BARTON: Mr. Cole.

11 MR. COLE: In looking through these materials which  
12 were furnished us, and as I recall someplace in here there was  
13 a note that 96% of the land in Prince William Sound is  
14 government owned, is that true? Did I .....

15 MR. BARTON: I believe that figure is in here.

16 MR. COLE: Do you say that's right?

17 MR. BARTON: I believe that figure is in here.

18 Dr. Gibbons, can you -- do you know?

19 DR. GIBBONS: I'm just trying to put my finger on it  
20 now.

21 MR. BARTON: It's a substantial amount of land, there's  
22 no question about that.

23 MR. COLE: Well, the question that I have is this: Are  
24 there any plans from the Department of Agriculture, Forest  
25 Service to permit logging on any of these lands in Prince

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1 William Sound owned by the United States and under the  
2 stewardship of the Forest Service?

3 MR. BARTON: Not at this time.

4 MR. COLE: Is that sort of a plan that's under review  
5 or -- by the Forest Service?

6 MR. BARTON: Yes. The Chugach Forest Plan is currently  
7 being amended as a result of the oil spill to evaluate the  
8 management activities that have been proposed in the 1984 Plan.

9 MR. COLE: I wonder if it would be in order to request  
10 the Restoration Team to look into that plan and the review and  
11 furnish us with information on that as well as any such  
12 proposed or contemplating practice -- contemplated practices on  
13 State land. So, this sort of goes along with my view that we  
14 should look at Prince William Sound, and Afognak, and Kodiak  
15 and downwind as an integral unit.

16 MR. BARTON: I think that would be appropriate. Is  
17 there a second to that motion?

18 MR. SANDOR: I'll second it.

19 MR. BARTON: Okay. Any further discussion? Any  
20 objection to the motion? Hearing none, the motion's adopted.  
21 Further discussion on Item 2?

22 Item 3, Public Advisory Group. Mr. Piper.

23 MR. PIPER: Mr. Chairman. There are two pieces of  
24 paper that we'll be working off here, I think both of them are  
25 in your packet. The first is a memorandum dated March 9,

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1 signed by Dr. Gibbons on behalf of the Restoration Team about  
2 the Public Advisory Group. The second piece of information  
3 that should be attached to it is a brief legal opinion and  
4 analysis of the requirements of the Federal Advisory Committee  
5 Act done by State and Federal legal counsel.

6 The over-arching purpose behind discussing this today  
7 is so that .....

8 MR. BARTON: Mr. Piper, let us find that, first.

9 MR. PIPER: Okay.

10 MR. BARTON: What I have is a March 7 letter, is that  
11 the same letter?

12 MR. PIPER: Dr. Gibbons, is that the same one? My is  
13 dated March 9?

14 DR. GIBBONS: No. There's a few changes in it.  
15 There's a March 9th newer version.

16 MR. BARTON: Okay. Is there a way to get a copy of  
17 that?

18 DR. GIBBONS: There should be copies available there at  
19 the meeting.

20 MR. BARTON: Okay. We have it or I have it, others had  
21 it. Go ahead, Mr. Piper.

22 MR. PIPER: The over-arching purpose in considering  
23 this today is to adopt the basic procedural requirements for a  
24 Public Advisory Group so that the Trustee Council would be in  
25 accord with the court order requiring that requirements like

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1 this be in place within 90 days of the affective date of the  
2 Settlement.

3         The first on the list is a charter. We've -- Staff has  
4 taken a cut, of course, at a generic charter, but because of  
5 the time that it will take to put a charter through the  
6 approval process, we propose that we draft a very specific  
7 charter based on the action that you take today on the  
8 procedural requirements.

9         If you take that action, this is what it will pretty  
10 much allow you to do. First, it will allow us to write that  
11 specific charter and through the designated federal agency deal  
12 with that federal secretary who does the approval and oversight  
13 of the Public Advisory Group for this purpose. And it would  
14 also allow you to solicit nominations from the public. And as  
15 a practical matter, this would be going out for a second round  
16 of public review in conjunction with the Framework document so  
17 that the public, not just in the spill area but outside of the  
18 spill area, would get a crack at reviewing this.

19         At the close of that 45-day Framework comment period,  
20 what would likely to do is that you could make whatever charter  
21 amendments you felt were necessary based on public comment.  
22 You could go ahead and appoint that group, and you could have  
23 it in-place and functioning during the writing of the actual  
24 Restoration Plan, which Dr. Senner has discussed that would be  
25 coming out in September is the target date. So, the goal here

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1 is to have the group functioning during the writing of that  
2 plan which would guide restoration activities off into the  
3 future.

4 As I said, the first item is the charter, and that  
5 deals with the subsequent items on this list. Membership, the  
6 Public Advisory Group should contain 15 members; that was the  
7 upper limit that the Trustee Council put on that in a motion  
8 last week. The Restoration Team decided to go with all 15  
9 because it gives you the maximum amount of flexibility for  
10 balancing that. It also optimizes or maximizes the potential  
11 for the public to be involved in a variety of ways.

12 Balance and representation, the Public Advisory Group,  
13 according to the Federal Advisory Committee Act, must be fairly  
14 balanced is the legal terminology. We propose that it's fairly  
15 balanced among at least the following principal interests;  
16 aquaculture, commercial fishing, commercial tourism,  
17 environment, conservation, forest products, local government,  
18 landowners -- or Native landowners, recreational users, sport  
19 hunting and fishing, subsistence and science and academic.  
20 This is, essentially, the list that went to the public and this  
21 is the one that you reviewed that went out. Mr. Barton  
22 indicated a desire to take a second look at it, and this is  
23 your chance to do so.

24 Also, by Trustee action last meeting the Trustee  
25 Council voted to reserve at least one seat for local

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1 government. Another special provision would be required under  
2 the Settlement -- the Chenega Settlement, which would be that  
3 Native interests be represented. What the Restoration Team has  
4 proposed is that Native interests other than subsistence shall  
5 be represented by at least one traditional or Indian  
6 Reorganization Act Village Council, essentially, one of the  
7 village governments and ANCSA corporation.

8           Nomination and selection, fairly simple. The public  
9 would nominate, organizations would nominate and the Trustees  
10 would appoint.

11           Powers and duties would be that the Public Advisory  
12 Group is supplementary to the public process as a whole, that  
13 it has a non-binding role in its advice, and that its principal  
14 interaction with the Trustee Council is presenting its views  
15 during Trustee Council meetings in whatever form it chooses.

16           Support would be provided through Staff through the  
17 Administrative Director's Office. Currently, the proposal --  
18 the approval of the Trustees is that one of the information  
19 officers be the liaison on an as-needed basis. We -- the  
20 Restoration Team does note that the public comment has  
21 requested Staff -- you may want to revisit this as time goes  
22 by, depending upon the work load. It's based on the models of  
23 other advisory groups the State and Federal government deals  
24 with. There's often a fairly substantial care and feeding  
25 aspect to it, and down the road, if it appears that the work

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1 load is heavy, you may want to revisit this.

2 In terms of budget, the Trustee Council would approve a  
3 list of spending guidelines, such as meetings, reimbursements  
4 and so on. And the Public Advisory Group would allocate its  
5 approved budget among those items as it saw fit, with a cap  
6 established by the Trustee Council. The current suggested  
7 budget, based on 15 members, is \$106,000.00 for this planning  
8 year.

9 MR. BARTON: This planning year being?

10 MR. PIPER: Well, the original one was for an entire  
11 year, I think one of the reasons it may be reduced is that  
12 we're looking at the Federal fiscal year and Tim Steele may  
13 help me on that.

14 MR. STEELE: The -- yeah, Dave, you may want to  
15 elaborate or certainly catch me if I'm wrong here. But the  
16 Restoration Team took another look at the comments from the  
17 Trustee Council and the guidance was being developed by the  
18 subgroup and revisited the budget, basically, to 106,6 is what  
19 they put on as a recommendation.

20 MR. BARTON: Is that for a normal fiscal year or the  
21 residual part of a fiscal year or is that an annual budget  
22 figure, I guess is my question?

23 MR. STEELE: That's through the rest of this oil year.  
24 We're going to be changing from that, but basically through  
25 that year.

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1 MR. BARTON: Okay. So, it's not an entire -- do we  
2 have .....

3 MR. STEELE: It's an entire year but they will not be  
4 in-place for that entire year because they haven't been  
5 appointed yet. And so, it's through the end of February of  
6 '93.

7 MR. BARTON: Do we have an annual cost for this  
8 operation?

9 MR. STEELE: For this year, the recommended cost .....

10 MR. BARTON: No. No, no. An annual cost.

11 MR. STEELE: You do not have it yet, you have a  
12 recommendation for this 12-month period.

13 MR. PENNOYER: Well, it should -- yeah, annual cost, it  
14 should be the same, it's through the end of February of '93,  
15 which is 12 months, that's an annual cost no matter when you  
16 start it or end it, is it not; or do you anticipate the cost to  
17 go up or down?

18 MR. STEELE: That's the rec- -- .....

19 MR. PENNOYER: Is that start-up costs, buying  
20 (indiscernible) stuff or is for other meetings that you .....

21 UNIDENTIFIED VOICE: No.

22 MR. STEELE: That's the recommended annual cost.

23 MR. PENNOYER: Okay. Thank you. Mr. Chairman.

24 MR. BARTON: Yeah, Mr. Pennoyer.

25 MR. PENNOYER: Mr. Piper, maybe you can help me out

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1 here. We have a memo of March 9th, which is a general  
2 discussion of various aspects of the Public Advisory Group. We  
3 have a memo from legal counsel of March 5th that gives specific  
4 corrections to, I think, a charter document that I have dated  
5 February 25th. You say the first item's the charter, is that a  
6 more detailed document with the legal counsel's corrections  
7 what we're really looking at?

8 MR. PIPER: That's right. The other -- if you'll  
9 notice, there are certain blanks in the legal analysis as well,  
10 because those questions simply aren't answered, such as the  
11 budget.

12 MR. McVEE: Mr. Chairman.

13 MR. BARTON: Mr. McVee.

14 MR. McVEE: Isn't it easier if we deal with the charter  
15 and those elements that have to go into the charter sort of  
16 independently from some of the procedural items such as which  
17 interests are represented and so on. It seems to me like that  
18 there's only a few elements now left to deal with in order to,  
19 you know, get the charter approved or get it in the process.  
20 One of them was the 15 members, which I think we have dealt  
21 with; another one is the cost -- the annual cost, which I  
22 understand now, you know, we basically have a recommendation  
23 on. And I think there was a third one which was the .....

24 MR. PIPER: Man years.

25 MR. McVEE: ..... man years that would be involved.

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1 And okay, then there's a fourth one which is, you know, who's  
2 going to push the paperwork through the federal process, a  
3 designated agency to do that.

4 And I think those about the only four items we need to  
5 deal with in order to get the charter. The other elements, you  
6 know, the balanced representation and so on are things that we  
7 need to deal with but they don't have to be in the charter.

8 MR. BARTON: I move the Department of Interior push the  
9 paper through, is there a second?

10 MR. COLE: Second.

11 MR. PENNOYER: Second.

12 MR. BARTON: Any further discussion? Any objection?

13 MR. PENNOYER: Don't you dare, Curt.

14 MR. PIPER: If I could just elaborate on the charter  
15 one moment. At the last Trustee Council meeting, the Trustees  
16 approved the first cut of the charter based on a legal review  
17 and word-smithing. We have the legal review, which essentially  
18 upgrades the specificity of that charter, and any decisions  
19 that you make about some of the other items like the budget  
20 will upgrade that specificity further.

21 MR. McVEE: Could we do a com- -- .....

22 MR. PENNOYER: Mr. Chairman.

23 MR. BARTON: Mr. McVee.

24 MR. McVEE: Yes.

25 MR. BARTON: And then Mr. Pennoyer.

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1 MR. McVEE: Yeah, one thought just -- you know, that it  
2 seems like we're getting close to closure on this, maybe a  
3 comprehensive motion which would be to adopt -- a motion to  
4 adopt the draft generic charter and with those four blanks  
5 filled in; the 15 members, the -- what was the other one --  
6 the .....

7 MR. PIPER: Man years and budget.

8 MR. McVEE: ..... man years and budget and .....

9 MR. PIPER: The Department of Inter- -- .....

10 MR. McVEE: If you want to volunteer the Department of  
11 Interior to push the paperwork through, that would be the  
12 fourth item.

13 MR. BARTON: I thought we just did that.

14 MR. McVEE: Okay. I would so move that's in (ph)  
15 order.

16 MR. BARTON: All right. Is there a second to the  
17 motion?

18 MR. PENNOYER: Second.

19 MR. BARTON: All right. Mr. Pennoyer.

20 MR. PENNOYER: I was just going to ask Mr. McVee, that  
21 then, basically, includes -- your motion includes all the  
22 various word-smithing and changes that are in the March 5th  
23 legal counsel memo as corrections to the generic charter you  
24 approved before?

25 MR. McVEE: Yes. That was the intent.

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1 MR. PENNOYER: Thank you.

2 MR. BARTON: Further discussion?

3 MR. SANDOR: Mr. Chairman, a question.

4 MR. BARTON: Mr. Sandor.

5 MR. SANDOR: The March 9 memorandum, I presume, was  
6 summarized, essentially, the charter changes and what's  
7 intended in that -- I guess the question is are we -- is this  
8 motion of adoption of this charter and changes recommended by  
9 counsel in the March 5 memo also, essentially, adopt this  
10 March 9 -- the content in this March 9 memo as well?

11 MR. BARTON: Mr. McVee?

12 MR. McVEE: Yes, Mr. Chairman. No. It only addresses  
13 those four elements that are necessary for the charter.  
14 There's no intent to address in this motion the balanced  
15 representation, the nomination and selection of empowered (ph)  
16 duties and support; although, that's maybe inherent in the  
17 budget item, but I think those are operating procedures which  
18 don't have to be addressed in the charter.

19 MR. BARTON: Further discussion? Is there objection  
20 to the motion? Hearing none, the motion's adopted. Any  
21 further discussion on the Public Advisory Group item?

22 MR. PENNOYER: Mr. Chairman. I think there's a couple  
23 of items that need -- I notice in the legal memo it states that  
24 well, does not appear the means for ensuring a fairly balanced  
25 member- -- are you talking about just the charter or the whole

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1 item?

2 MR. BARTON: I'm talking about the whole item, but the  
3 charter's certainly fair game.

4 MR. PENNOYER: I noticed the legal memo says well, it  
5 does not appear the means for ensuring a fairly balanced  
6 membership on the Public Advisory Group must be included in the  
7 charter. The procedures used to comprise the group should be  
8 clearly stated by the Council to allow the designated agency to  
9 describe to the GSA (ph) the plans for obtaining balanced  
10 membership. So, I presume we still need to talk about how  
11 we're going to go out and nominate or seek nominations.

12 MR. BARTON: Where are you reading?

13 MR. PIPER: If I .....

14 MR. PENNOYER: Mr. Piper, did you .....

15 MR. PIPER: If I could .....

16 MR. PENNOYER: Mr. Chairman.

17 MR. PIPER: I think I understand what Mr. Pennoyer is  
18 saying. But what -- the items in the March 9th memo that you  
19 need to get at now are as follows: Letter B, which is balance  
20 and representation; Letter C which is nomination and selection;  
21 Letter D, in some part, their powers and duties; specifically  
22 Dii). I know that's sort of a bad number to deal with here  
23 so .....

24 MR. COLE: Mr. Chairman.

25 MR. BARTON: Mr. Cole.

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1 MR. COLE: Let us address 2.B. entitled Balance and  
2 Representation.. I think that we should discuss that, and if  
3 you don't mind, I would like to propound a question to  
4 Mr. Piper.

5 MR. BARTON: Please do.

6 MR. COLE: What is the difference between the category  
7 Environment and the category Conservation?

8 MR. PIPER: There are lots of different kinds of groups  
9 that deal with issues in the environment and conservation;  
10 sometimes, they take on different functions. I hate to pigeon-  
11 hole a group for itself, but let me use examples from Southeast  
12 since they're out in the spill area. One might argue, for  
13 example, that something like territorial sportsmen would be a  
14 conservation group; they undertake specific kinds of actions or  
15 cite (ph) specific sorts of proposals; an advocacy group or a  
16 group that works on a broader spectrum of environmental issues  
17 may be similar to the Southeast Alaska SEAK (ph).

18 MR. COLE: Mr. Chairman.

19 MR. PIPER: Sorry, I'll go through the whole acronym  
20 but .....

21 MR. BARTON: Yes, Mr. Cole.

22 MR. COLE: What troubles me is that this listing there  
23 of the groups, 12 as I hastily count them, is not specific  
24 enough to give me comfort; for example, as I have just  
25 mentioned the difference, possibly, between environment and

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1 conservation. It seems to me if we're not very careful we  
2 would get, you know, two -- an individual or the same general  
3 category representation in the environmental listing as well as  
4 the conservation listing. And I think we have to be careful  
5 about that.

6 The same comment applies to the forest products  
7 category. Who is in the forest products category; loggers or  
8 landowners desiring to sell their forest products?

9 The same thing troubles me slightly with respect to the  
10 categories Native landowners and subsistence. Now, we -- I'm  
11 not saying there's not a distinction between those groups  
12 because I full well recognize there is. But I don't -- I think  
13 we must be very careful about overlaps.

14 And then I think that I'm a little bit (indiscernible -  
15 telephone cutout) on those categories to be little i) one and  
16 little ii) two. There's -- ii) is special provision for Native  
17 interests, which indicate that there should be at least one  
18 traditional or Indian Reorganization Act village council and at  
19 least one ANCSA corporation. Well, that would be two Native  
20 interests, and are those Native interests both within the  
21 category of Native landowners?

22 You see, I'm just a little troubled that these are a  
23 little too terse designation of the principal interests. And  
24 lastly, I would say that we should give very serious  
25 consideration to putting two members of the legislature on this

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1 group. I suspect that they would -- Staff could very quickly  
2 say look, I mean I see you have provision for at least one seat  
3 for local government, how about state government? They will  
4 certainly make that observation; therefore, I would suggest we  
5 might want to say two from the state government and one from  
6 the Senate and one from the House (indiscernible -  
7 interrupted) .....

8 MR. BARTON: Two from the Federal government?

9 MR. COLE: I was afraid you were going to say that. I  
10 saw that one coming, I must say. But at any rate, you know,  
11 whatever. But I think when you start putting local government  
12 in there and not state government, we're heading for trouble.

13 MR. McVEE: Mr. Chair- -- .....

14 MR. COLE: So, that's my comment. Thank you.

15 MR. BARTON: Mr. McVee.

16 MR. McVEE: Yes. Charlie, I served on an advisory  
17 board for the Land Use Council, and we had two Legislators on  
18 that at one time. And I don't recall the statutory problem,  
19 but they were told they could not serve on that advisory board  
20 for some reason; I don't remember all the details, but they had  
21 to step down and we lost that contact.

22 MR. COLE: Maybe we could ask our learned counsel to  
23 look into that. I mean I think it's, you know, something that  
24 we need to give a lot of thought to. Because I'm here  
25 responding to their requests daily that I appear before them,

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1 and I have a good sense of how they feel about this.

2 MR. BARTON: Further discussion or comments.

3 MR. PENNOYER: Mr. Chairman.

4 MR. BARTON: Mr. Pennoyer.

5 MR. PENNOYER: Maybe the way we go about this will say  
6 something about the decision we have to make here today. Are  
7 we actually having to pick the specifics of the categories  
8 today, or the specifics of the numbers of people in each  
9 category, or are we indicating the people we will accept  
10 nominations from and based on the quality of the nominees we'll  
11 try and achieve a broad interest across these representative  
12 categories? Are we really saying we're going to have at least  
13 one from each one of these? I have the same problem Mr. Cole  
14 has about environment and conservation, to some degree  
15 recreational users and sport fishing and hunting; they may be  
16 the same people; maybe we'll get a really good candidate that  
17 can represent two of those interests together.

18 So, are we having to decide without seeing the nominees  
19 at this time, how many are in each category specifically, or  
20 are we going to send something out saying these are the  
21 categories we're going to look at and achieve a balance between  
22 them? We made a couple of minimum things in here we've said,  
23 but do we really have to go beyond that?

24 MR. BARTON: Mr. Piper.

25 MR. PIPER: Mr. Pennoyer, Mr. Chairman. No, sir.

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1 There's -- the Restoration Team specifically avoided the issue  
2 that each of these had a designated seat. The intent is that  
3 the interest be represented, whether they're -- whether one  
4 individual represents two or three interests is, basically as  
5 you said, a call of the quality or the qualifications of the  
6 individual. The only seats that we've actually designated for  
7 interest are those that either (A) were designated by specific  
8 Trustee Council action being the local government seat, and the  
9 second one being the fact that there be a meet of interests  
10 seat as required by the Chenega Bay Settlement.

11 So, these are not designated seats for each of these  
12 groups, that's not the intent of the recommendation.

13 MR. BARTON: Well, do we need to identify the interest  
14 or at all or try to list the interests?

15 MR. PIPER: Well, what you have to be able to do in  
16 your -- to get your charter approved and to get the paper  
17 pushed properly and pushed out the other side in Interior is  
18 that it be that you show that you're trying to fairly balance  
19 among the interests and that you have a plan to do so. And I  
20 would anticipate that that would include explaining what those  
21 interests were that went into your consideration.

22 MR. McVEE: Mr. Chairman.

23 MR. BARTON: Mr. McVee.

24 MR. McVEE: Yes. I guess it's very helpful to have  
25 some type of a listing that seems like it could be identified

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1 as these would be the possible interests that would be  
2 considered; that would serve as a basis then in the nomination  
3 process for groups to target, you know, on some possibilities.  
4 We might find that there are some others that we want to  
5 consider before we make the final cut, but I think we have some  
6 flexibility there. But I think it's useful to have some type  
7 of a listing, maybe it doesn't have to be all inclusive.

8 MR. BARTON: But I wonder about 2(B) or not to be, and  
9 2(C) and the juxtaposition of those. If I interpret 2(C)  
10 correctly, are we -- well, let me ask the question. Are we  
11 saying that the nominations must come from public interest  
12 groups, among others, and then what are those public interest  
13 groups; and is that question then answered in 2(B)?

14 MR. PIPER: The -- Mr. Chairman.

15 MR. BARTON: Mr. Piper.

16 MR. PIPER: The intent of 2(C) is merely to say that  
17 the -- and it's largely in response to public comment, that if  
18 the Trustees are balancing the Board and they get to the issue  
19 of commercial tourism, for example, that the Trustees do not  
20 select someone from out of the blue, so to speak, but rather it  
21 be from a recognized, active professional group in the area,  
22 such as the Alaska Visitors Association or Prince William Sound  
23 Tourism Coalition, that kind of thing.

24 It would -- one of the reasons that we went to the  
25 maximum of 15 members was to give you that flexibility, also,

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1 of balancing things as you saw you needed to. You might draw  
2 two people from one segment or not, but you're not specifically  
3 targeting individual groups and certifying them as able to give  
4 nominations.

5 MR. BARTON: But the implication .....

6 MR. COLE: Mr. Chairman.

7 MR. BARTON: Yes, Mr. Cole.

8 MR. COLE: I think that this is a very, very critical  
9 area because much of the public confidence in the, you might  
10 say, integrity of this group dealing with the Public Advisory  
11 Group rests on how these people are selected. Because if we're  
12 not extremely careful, and fair and balanced, the charge  
13 against us will be that we hand-picked the members of this  
14 Public Advisory Group to sort of stack the deck.

15 And so, I think, first, in addition to that, that in C  
16 we should say, instead of a recognized professional, service or  
17 public interest groups, we have to key (ph) those people to the  
18 cate- -- the principal interests listed in category B. So, I  
19 think that the Public Advisory Group members from nominees  
20 presented by the public -- or by, you might say, members of the  
21 principal interest groups listed in B. I mean otherwise, if  
22 you don't do that, C is sort of meaningless. Or maybe it isn't  
23 C that's meaningless but B is meaningless.

24 MR. BARTON: Well, that implication is reinforced by  
25 the fact that if we took one person from each of those interest

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1 groups and the other three, we come up with 15.

2 MR. COLE: That assumes that we don't deal with the "at  
3 least" language in (i) and (ii).

4 MR. McVEE: Mr. Chairman.

5 MR. COLE: Of course .....

6 MR. BARTON: Mr. McVee.

7 MR. McVEE: Yes. I think that it's been pointed out to  
8 me that the (ii) language should be, you know, one traditional  
9 or Indian Reorganization Act village council or one ANCSA  
10 Corporation; that the requirement is that there would be one  
11 representative from that -- representing those three entities.

12 MR. BARTON: Which three entities?

13 MR. McVEE: Well, it would be the traditional or Indian  
14 Reorganization Act village council or one ANCSA Corporation; I  
15 guess maybe there's two entities here. Yeah.

16 MR. BARTON: Is that consistent with the Chenega  
17 Settlement? I mean does -- is the Chenega Settlement  
18 structured in such a way that that seat is already  
19 predetermined to eliminate one of those two groups? So which  
20 group does not get a seat?

21 REGINA: My recollection of the Chenega Bay Settlement  
22 is that one seat on any Public Advisory Group, at least, is  
23 guaranteed for the Native interests, which is defined as  
24 Class I and Class II of the Chenega Bay thing. So, it's -- the  
25 Native interest is defined as a conglomerate of the traditional

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1 or the Native vil- -- or the Reorganization Act village or the  
2 ANCSA Corporation. So, you've only promised one seat for those  
3 three interests. That doesn't answer your question of how do  
4 you choose it. And I assume that you will receive nominations  
5 from their lawyers or from them or .....

6 MR. BARTON: I doubt that we'll ask the lawyers.

7 MR. McVEE: Thanks, Regina.

8 MR. BARTON: Is there a motion?

9 MR. COLE: Thanks.

10 MR. BARTON: Is there a motion?

11 MR. COLE: Well, consistent with -- Mr. Chairman.

12 MR. BARTON: Mr. Cole.

13 MR. COLE: I move that request -- we request the  
14 Restoration Team to furnish us with greater specificity of the  
15 principal interests listed in B and to elaborate on the  
16 nomination and selection process shown in Paragraph C.

17 MR. BARTON: Is there a second? I'll second that.  
18 Further discussion?

19 MR. SANDOR: Question, Mr. Chairman.

20 MR. BARTON: Is there objection to the motion? Hearing  
21 none, the motion's adopted. Further discussion of the Public  
22 Advisory Group?

23 MR. PENNOYER: We have some discussion here,  
24 Mr. Chairman; when Mr. Sandor -- Commissioner Sandor said  
25 question, he wasn't calling for the question, he had a question

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1 for the maker of the motion.

2 MR. SANDOR: Yeah.

3 MR. BARTON: I apologize. Mr. Sandor, please ask your  
4 question.

5 MR. COLE: You were right the first time.

6 MR. SANDOR: That's all right, Mr. Chairman. I just --  
7 the question I had was I presume that since we've adopted the  
8 charter and meet our obligation for the 90 day requirement and  
9 that the motion is perfectly in order, we do not have to do the  
10 specificity by today, is that true?

11 UNIDENTIFIED VOICE: That .....

12 MR. BARTON: That's not my understanding. I thought we  
13 needed to deal with -- I'm looking at the legal advice offered  
14 in the March 5 memo on Page 32, Paragraph 6. I thought we were  
15 -- we had to -- well, let me read it: The Federal Advisory  
16 Committee Act regs provide that the designated agency, the  
17 Department of Interior, shall describe the GSA, the plan for  
18 obtaining a fairly balanced membership. So, we need to do  
19 that; now, whether that means what we're -- if there's another  
20 way to do it other than what we've been discussing, perhaps.  
21 Is that right, Mr. Piper.

22 MR. SANDOR: Mr. Chairman, my question was just to make  
23 certain that we leave this meeting today with our obligation on  
24 that 90 day requirement. And the presumption is that we can  
25 deal with the specificity as outlined in the motion on the

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1 floor, and deal with what other remaining issues that must be  
2 dealt with in that March 5 memo. I just wanted to make that  
3 clear.

4 MR. COLE: Mr. Chairman.

5 MR. BARTON: Mr. Cole.

6 MR. COLE: Mr. Chairman.

7 MR. BARTON: Mr. Cole.

8 MR. COLE: With the consent of the second, I would like  
9 to amend my motion to say roughly as follows: Move that the  
10 Public Advisory Group required to be formed under the terms of  
11 the Memorandum of Understanding be comprised of at least the  
12 principal interests listed in Paragraph B of the March 9  
13 memorandum, that one seat on that group be reserved for a local  
14 government representative within the area of the Exxon Valdez  
15 oil spill, that the group be represented by one Native  
16 individual from a traditional or Indian Reorganization Act  
17 village council or one Alaska Native Claims Settlement Act  
18 corporation, that the Trustees publicly solicit nominees from  
19 each of the principal interests listed in subparagraph B, and  
20 that following receipt of nominees from the principal interest  
21 groups the Trustees appoint to membership on the Public  
22 Advisory Group those individuals whom the Trustees decide will  
23 most fairly represent each of the principal interests groups,  
24 and that care be taken in those appointments to avoid  
25 overlapping representation of the principal interests.

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1 MR. BARTON: Is that the end of the motion?

2 MR. COLE: Yes.

3 MR. BARTON: Discussion? Let me -- I have a question.  
4 Is it your intent to limit the nominations to the interests  
5 that are identified?

6 MR. COLE: Yes.

7 MR. McVEE: Mr. Chairman.

8 MR. BARTON: Mr. McVee.

9 MR. McVEE: I guess my question is along the same  
10 lines, Mr. Cole, in that if we in our wisdom have missed some  
11 interest group here, and we find out through, you know, the  
12 nominations process that that is true, we would not have an  
13 opportunity, as I understand it then, to reopen consideration  
14 of the list.

15 MR. COLE: That is not my understanding.

16 MR. McVEE: Okay.

17 MR. COLE: I think that we could always correct  
18 grievous errors. And I also think that if we're judicious in  
19 the appointments, we will find that no -- or that it's unlikely  
20 that any single individual will be so narrow as to not have  
21 some shade of representation of other interest groups within  
22 himself or herself.

23 MR. BARTON: Further discussion?

24 MR. PENNOYER: Mr. Chairman.

25 MR. BARTON: Mr. Pennoyer.

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1 MR. PENNOYER: The intent of the motion is something  
2 about no duplication, but there are basically 1, 2, 3, 4, 5, 6,  
3 7, 8, 9, 10, 11, 12 listed categories and we have 15 members.  
4 So what did you mean by no duplication, Mr. Cole?

5 MR. COLE: Mr. Chairman. My thought was to avoid the  
6 appointment of an individual who might be both an  
7 environmentalist and a conservationist.

8 MR. PENNOYER: So, we'd still would stay with 15  
9 members, the total (ph).

10 MR. COLE: Yes.

11 MR. PENNOYER: Thank you.

12 MR. COLE: Yes.

13 MR. PENNOYER: In other words, he is (indiscernible -  
14 telephone cutout) overlapping representation?

15 MR. COLE: Pardon me?

16 MR. PENNOYER: Overlapping representation?

17 MR. COLE: Yes. That was the concept, an overlapping  
18 representation.

19 MR. PENNOYER: More than one (indiscernible).

20 MR. COLE: We don't get say two environmentalists, one  
21 who represents the environment interests and then another  
22 environmentalist -- well, self-proclaimed environmentalist, for  
23 that matter, who says -- is the conservationist category is  
24 my -- what I had in mind there. And the same is true dealing  
25 with rec- -- the category recreational users and sport fishing

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1 or sport hunting; you know, it's a pretty thin line what's  
2 recreational user as distinguished from a sport fishing user.  
3 But that's the concept that I intended to convey when I used  
4 the term overlapping interest.

5 I just think that if this is going to work, we must  
6 very fairly and balancelly form this Public Advisory Group so it  
7 represents a very broad spectrum of the interest groups in this  
8 process.

9 MR. McVEE: Mr. Chairman.

10 MR. BARTON: Mr. McVee.

11 MR. McVEE: I would like to offer up an amendment to  
12 the motion that would broaden out the nomination process to  
13 include, I guess, nominations from the public. And while I  
14 think it's important to solicit the various interest groups,  
15 that I think it's also worthwhile to offer or to accept  
16 nominations from the public. I realize that this might give us  
17 more applications to sort through, but that I believe that it  
18 conveys, you know, the fact that we're trying to select a broad  
19 range of interests from all those that have an interest in the  
20 area and in the programs.

21 I'd like to offer up an amendment to include public  
22 nominations.

23 MR. COLE: Mr. Chairman.

24 MR. BARTON: Mr. Cole.

25 MR. COLE: The maker of the motion consents to the

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1 amendment .....

2 MR. BARTON: Okay.

3 MR. COLE: ..... with the consent of the second.

4 MR. BARTON: Are you asking if we have a second  
5 or .....

6 MR. McVEE: Or we can amend .....

7 MR. BARTON: ..... did somebody there second one --  
8 second that? Well, to clear up .....

9 MR. COLE: I'm simply saying I consent to the proposed  
10 amendment.

11 MR. BARTON: Okay.

12 MR. McVEE: Mr. Chairman.

13 MR. PENNOYER: To consider a friendly amendment, if the  
14 second agrees.

15 MR. BARTON: Mr. McVee.

16 MR. McVEE: Mr. Chairman. With that acceptance then  
17 there is a place in the proposed motion that where we could put  
18 that language, and I guess it's down about -- I'm not sure of  
19 my punctuation, but third or fourth sentence where Mr. Cole was  
20 saying that the Trustees publicly solicit nominees from each of  
21 the principal interests in Paragraph 3. And, this would be the  
22 additional language, and the public. And following receipt --  
23 and go on then, following receipt of nominees, so on and so on.

24 MR. BARTON: The second agrees.

25 MR. COLE: That's acceptable. I meant to punctuate

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1 that motion by a comma preceding each that which is contained  
2 in the motion.

3 MR. BARTON: The second agrees to that too, whatever it  
4 was. Further discussion?

5 MR. SANDOR: Mr. Chairman. I speak in favor of the  
6 motion with a point of clarification. And this was raised  
7 originally with the definition of environment and conservation  
8 groups, and I think Mr. Piper pointed out that one such group  
9 was the Southeast Alaska Conservation Council, which in its  
10 name would suggest that it's a conservation group, which it  
11 professes to be but it also professes to be a coalition of the  
12 environmental groups in Southeast and points to the problem of  
13 definition of those two terms. And I think that's going to be  
14 a point of possible confusion. I think this can be dealt with,  
15 with my understanding that simply the Trustee Council will have  
16 the opportunity, when it gets all of these nominations, to come  
17 up with a fairly balanced list. And I, therefore, speak in  
18 favor of the motion.

19 MR. BARTON: Further discussion of the motion?

20 MR. SANDOR: Call for the question.

21 MR. BARTON: Okay. Any objection to the motion?

22 Hearing none, the motion's adopted. Further discussion of  
23 Public Advisory Group.

24 MR. COLE: Mr. Chairman.

25 MR. BARTON: Mr. Cole.

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1 MR. COLE: I move that one member each of the Alaska  
2 House of Representatives and of the Alaska Senate be appointed  
3 as ex-officio members of the Public Advisory Group.

4 MR. SANDOR: I second that motion.

5 MR. PENNOYER: Mr. Chairman. Could you define ex-  
6 officio? They don't participate in the votes?

7 MR. COLE: I'll have to go look that up in Black's Law  
8 Dictionary, but I have a sense that if they can't be there, as  
9 a matter of law according to Mr. McVee, that we could have them  
10 get -- receive notice of the meetings, participate in the  
11 discussions of the meeting, and not vote. I think that's what  
12 I would view as an ex-officio member, but I'm not schooled in  
13 this type of thing so I really don't .....

14 MR. PENNOYER: Mr. Chairman. I was more interested in  
15 the maker of the motion's intent. I don't care what ex-officio  
16 means unless it was -- the intent was .....

17 MR. COLE: Well, that was my intent. I think they  
18 should have, you know, a voice in this process.

19 MR. PENNOYER: Thank you.

20 MR. BARTON: Any further discussion of the motion?

21 MR. PENNOYER: Mr. Chairman, one other question came  
22 up.

23 MR. BARTON: Mr. Pennoyer.

24 MR. PENNOYER: Would these ex-officio members be  
25 selected by the Trustees like everybody else, have lists

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1 presented or .....

2 MR. COLE: Well, I would have in mind -- thank you for  
3 calling that to my attention -- to be selected by the President  
4 of the Senate and by the Speaker of the House.

5 MR. PENNOYER: Thank you.

6 MR. COLE: I mean that's just my thought.

7 MR. PENNOYER: Thank you.

8 MR. BARTON: Is that an amendment?

9 MR. COLE: I'm not going to say another word 'cause  
10 I'll get in trouble if I do.

11 MR. PENNOYER: I wasn't trying to get you in trouble,  
12 Mr. Cole.

13 MR. BARTON: The motion now reads that we'll add as ex-  
14 officio members one member of the Alaska State Senate and one  
15 member of the Alaska State House to be selected by the  
16 President of the Senate and the Speaker of the House.

17 Further discussion? Any objection to the motion?  
18 Hearing none, the motion's adopted. Further discussion of  
19 Item 3?

20 DR. GIBBONS: Mr. Chairman.

21 MR. BARTON: Yes.

22 DR. GIBBONS: This is Dave Gibbons, I just need a point  
23 of clarification to the Trustee Council on this. What was  
24 approved here today will -- for the Public Advisory Group will  
25 be reflected in the Framework document that will be going to

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1 the public at the end of the month. So we just want to make  
2 that clear to the Trustee Council.

3 MR. BARTON: Further discussion of Item 3, the Public  
4 Advisory Group?

5 MR. PENNOYER: Mr. Chairman, Dr. Gibbons. When do we  
6 actually start the request for nomination process and look (ph)  
7 for names?

8 DR. GIBBONS: We've been collecting names through the  
9 public scoping sessions along. The formal request, we haven't  
10 done that yet, the formal request.

11 MR. PENNOYER: Would that happen before we get all the  
12 Frameworks back from the public and the comments on the  
13 Restoration Plan and everything else? I mean this is a  
14 separate action that will occur quicker -- more quickly, better  
15 term (ph). What was your intent?

16 DR. GIBBONS: The Restoration Team hasn't discussed  
17 this yet. I would think it would be helpful, you know, if we  
18 include these comments in there, that we can solicit, perhaps,  
19 at the same time.

20 MR. PENNOYER: So when you send out the request for  
21 comments, you would send out a request for nominations?

22 DR. GIBBONS: Yes.

23 MR. PENNOYER: And not wait until we get all the  
24 comments back. Thank you.

25 MR. BARTON: Further discussion of Item 3? Well, my

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1 compliments, Mr. Piper, I only found one acronym and no  
2 abbreviations.

3 Are we ready for Item 4 of the Agenda, the Restoration  
4 Team Operating Procedures?

5 DR. GIBBONS: Mr. Chairman.

6 MR. BARTON: Dr. Gibbons.

7 DR. GIBBONS: Let me preface my comments to say that  
8 the Restoration Team is still functioning.

9 MR. COLE: That's good to know.

10 MR. BARTON: Yeah. We're heartened.

11 DR. GIBBONS: This was first presented to the Trustee  
12 Council on February 5th -- the February 5th and 6th meeting.  
13 At that meeting, it was requested that the Trustee Council  
14 supply any written comments to me by the next meeting. I  
15 received comments from the Department of Interior concerning  
16 the operating procedures. The Restoration Team reviewed those  
17 and incorporated -- agreed with some of them and disagreed with  
18 others, and has provided another draft of this document at the  
19 28th meeting. And basically, the document has not been changed  
20 since the draft that was presented to you at that meeting.

21 MR. BARTON: And the date of that draft is what?

22 DR. GIBBONS: That draft is dated February 25th, 1992.

23 MR. BARTON: Thank you. Comments or discussion on the  
24 Restoration Team operating procedures?

25 MR. PENNOYER: We're getting a copy.

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1 MR. BARTON: Mr. Pennoyer.

2 MR. PENNOYER: I said we're just getting a copy,  
3 Mr. Chairman, it just got handed to us.

4 MR. BARTON: All right.

5 MR. COLE: Could -- Mr. Chairman.

6 MR. BARTON: Yes. Mr. Cole.

7 MR. COLE: Are there any issues in this operating  
8 procedures which -- or about which there is substantial  
9 dispute?

10 MR. BARTON: Does any member have substantial dispute  
11 with the February 25th operating procedures.

12 MR. McVEE: Mr. Chairman.

13 MR. BARTON: Mr. McVee.

14 MR. McVEE: I guess -- and I don't have a copy of that  
15 right in front of me at that time, but one thing that I have  
16 felt pretty strongly about is that the Trustee Council should,  
17 you know, certify or confirm or whatever the right word is the  
18 appointment to the subgroups. And I guess I've spoken about  
19 this in the past, the reason is that we want to get, you know,  
20 the best talent possible, and this would be a way of kind of  
21 having a second look at those appointments and seeing that  
22 within our respective organizations that we have tapped the  
23 right person for those subgroups.

24 So, I guess with that, I would move that the RT  
25 identify, recommend to the Trustee Councils the necessary

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1 subgroups and chairmanship and membership; and that the Council  
2 will, you know, approve the membership of the subgroups.

3 MR. BARTON: Is there a second to the motion?

4 MR. COLE: Second.

5 MR. BARTON: Mr. Cole seconds the motion. Discussion?

6 MR. PENNOYER: Mr. Chairman. Mr. McVee, can you tell  
7 me what the intent is? In other words, we're going to vote on  
8 the people, different agencies that say they're going -- let's  
9 say the RT proposes a particular subgroup, plans, planning or  
10 whatever, we're going to then have to sign off on who -- the  
11 agencies that will be on. Are we going to sign off as a group  
12 then by unanimous consent on each individual appointment of the  
13 people that go in those subgroups; is that your intent?

14 MR. McVEE: Mr. Chairman.

15 MR. BARTON: Mr. McVee.

16 MR. McVEE: I guess it would be my intent that we would  
17 have an opportunity to review, you know, the appointments so  
18 that we could be assured that we have the best talent possible.  
19 I believe that -- you know, that's what we've talked about in  
20 the past, that there be one representative from each of the  
21 Trustee agencies on the subgroups, generally; sometimes that  
22 might get split between, you know, two people within an agency  
23 or within subdivisions that that might happen. But that the  
24 Trustee Council, itself, should have some interest, my feeling,  
25 in, you know, basically who's being appointed to the subgroups;

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1 and this would be one way to keep track of those assignments.

2 MR. BARTON: Further discussion?

3 DR. GIBBONS: Mr. Chairman.

4 MR. BARTON: Yes. Dr. Gibbons.

5 DR. GIBBONS: Under Number 8, work assignments on  
6 Page 2, Mr. McVee, are you recommending then a change of the  
7 wording to the second to the last sentence? Let me read it.  
8 There's an acronym right off the bat. The RT shall, at the  
9 discretion of the Trustee Council, assign work group members  
10 with subsequent -- we have notification. You would like to  
11 change the wording approval of the Trustee Council, would that  
12 meet the intent of .....

13 MR. COLE: Well, Mr. Chairman.

14 MR. BARTON: Mr. Cole. And let -- why don't we get  
15 Mr. McVee to answer the question first, and then you can speak.

16 MR. COLE: Yes.

17 MR. McVEE: Mr. Chairman. Yes. I believe the word  
18 "approval" at that point would do it.

19 MR. BARTON: Mr. Cole.

20 MR. COLE: I'm sorry, where are we looking at?

21 MR. BARTON: Page 2.

22 MR. COLE: You mean you want (ph) to change subsequent  
23 notification to approval?

24 MR. BARTON: Yes, I believe that's the intent of  
25 Mr. McVee's motion, is it?

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1 MR. McVEE: Yes.

2 MR. BARTON: Yes.

3 MR. McVEE: That's true.

4 MR. BARTON: Further discussion of the motion?

5 MR. COLE: Well, could we just think about that for a  
6 minute, please?

7 MR. BARTON: Certainly.

8 MR. SANDOR: Mr. Chairman.

9 MR. BARTON: Mr. Sandor.

10 MR. SANDOR: In thinking about that and the impact of  
11 that is just to say that if the Restoration Team if they were  
12 working on an activity and decided a working group was  
13 appropriate, they would have to seek the agreement of the  
14 Trustee Council before that group could be convened or  
15 identified, is that what's intended?

16 MR. BARTON: Mr. McVee?

17 MR. McVEE: I guess my feeling is that, you know, that  
18 if they had been given direction -- if the RT had been given  
19 direction to form a subgroup, that they could proceed with that  
20 and function on an interim basis, but then at the earliest or  
21 next Trustee Council meeting, they would identify and ask for  
22 approval of the membership on that list.

23 MR. COLE: Mr. Chairman.

24 MR. BARTON: Mr. Cole.

25 MR. COLE: I think what we should do is sort of put a

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1 period after assign working group members. And then say: Ea  
2 member of the working group must be approved by the Trustee  
3 Council at its next regular meeting.

4 MR. BARTON: Does the maker accept that?

5 MR. McVEE: That's acceptable.

6 MR. BARTON: Does the second accept that? Who seconded  
7 that motion?

8 REGINA: Mr. Cole.

9 MR. BARTON: Oh, Mr. Cole seconded it. I assume that's  
10 acceptable then. All right. Any further discussion of the  
11 motion?

12 MR. PENNOYER: Mr. Chairman, just one question.

13 MR. BARTON: Mr. Pennoyer.

14 MR. PENNOYER: There are two separate thoughts here;  
15 one is who forms working groups and the other is who assigns  
16 the members. And I assume that we're not saying -- we're  
17 leaving in here the thought that working groups will be  
18 basically approved by the Trustee Council as well as the  
19 members, so there's no formation of working groups by RT; that  
20 both the working group itself and its membership are both  
21 approved by the Trustee Council at the next available meeting,  
22 is that correct, Mr. McVee?

23 MR. McVEE: Yes, that's correct.

24 MR. PENNOYER: The wording is a little bit  
25 (indiscernible - interrupted) .....

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1 MR. COLE: Mr. Chairman.

2 MR. BARTON: Mr. Cole.

3 MR. COLE: The RT shall at the discretion of the  
4 Trustee Council assign working group members. One could do a  
5 little better, say assign members of each working group. But I  
6 think it's clear from the language if once we put a period  
7 after members that the Restoration Team will assign members to  
8 the working group. That's clear.

9 MR. BARTON: I think it is. I understood  
10 Mr. Pennoyer's question to be, though, who authorized the  
11 formation of the working group in the first place; who  
12 identified the need for a working group. Is that your  
13 question, Mr. Pennoyer?

14 MR. PENNOYER: Yeah. I thought it was more critical to  
15 us that we didn't want working groups that will proliferate,  
16 and we definitely wanted any new working group to be cleared  
17 with the Trustee Council. And my second thought was did we  
18 also want to approve the members that different agencies  
19 assigned to them, that was the subsequent question I thought.  
20 And the wording ought to reflect both if we want both to be  
21 true.

22 MR. BARTON: Yeah.

23 MR. PENNOYER: And I certainly want it clear that we're  
24 not authorizing working groups to be formed and start work and  
25 be funded unless we've actually talked about it.

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1 MR. BARTON: And at the present time, .....

2 MR. PENNOYER: I think .....

3 MR. BARTON: ..... the motion just deals with the  
4 second question.

5 MR. PENNOYER: Well, I think the intent is here.  
6 Dave -- Dr. Gibbons is nodding his head at me. The intent was  
7 never here to have the RT form its own working groups; and  
8 obviously, if you have to approve membership, you really going  
9 to approve the working group, too. It just needs to be a  
10 little better worded, I think.

11 MR. COLE: Mr. Chairman.

12 MR. BARTON: Yes, Mr. Cole.

13 MR. COLE: May I restate the motion again?

14 MR. BARTON: You certainly may. If we have time.

15 MR. COLE: Yeah. Well, thanks. Well, I'm trying to do  
16 something but I'll do it quickly. Each working group and each  
17 member of each working group must be approved by the Trustee  
18 Council at its next regular meeting.

19 MR. BARTON: Does the maker accept that?

20 MR. McVEE: Yes, that language is acceptable.

21 MR. BARTON: Okay. The second offered it. Any further  
22 discussion?

23 MR. COLE: I could do better if I had more time, but  
24 thank you.

25 MR. McVEE: You were cut short, yeah.

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1 MR. PENNOYER: The intent is clear, the wording could  
2 be changed later.

3 MR. BARTON: Any further discussion? Any objection to  
4 the motion? Hearing none, the motion's adopted. Any other  
5 Council Member have further concern?

6 MR. ROSIER: .....

7 MR. PENNOYER: I have one .....

8 MR. ROSIER: Go ahead.

9 MR. PENNOYER: Mr. Chairman, Mr. Rosier -- Commission  
10 Rosier yielded the floor to me. I have one additional question  
11 on the action rules of voting. And we have here that -- and I  
12 guess you acted on this last time, that it required five of six  
13 RT members to bring a recommendation to the Trustee Council.  
14 Then down below, it says: Dissenting views shall be included  
15 if requested by an RT member. I guess this is a recommending  
16 body and we're the decision body, and I have a little trouble  
17 for a 4/2 vote not being brought to my attention if it's that  
18 dominant, 2 to 1, in essence, for approval or something. I  
19 don't mind working with this, but I guess I'm a little  
20 concerned that I never did like the old thing of 3/3 and the  
21 one guy breaking the tie, I think that's too close. But 4/2,  
22 it still strikes me as I'd like some record of it. So, I'd  
23 like to know there was that level of disagreement so I could at  
24 least ask a question.

25 So, I think I'd prefer to have that dissenting views --

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1 something to the effect that if a vote is 4/2, the matter will  
2 be, at least, brought to the attention of the Trustee Council  
3 or something like that.

4 MR. BARTON: Second to the motion?

5 MR. ROSIER: Mr. Chairman, I think Mr. Pennoyer has hit  
6 on the same issue that I was going to speak to on this. My  
7 preference, of course, was for a quorum before we conduct  
8 business. It seems like the 5/6 votes (ph) that we're talking  
9 about here on this is quite a departure from the norm  
10 associated with conducting business in such a group. And from  
11 my standpoint, I would very much like to hear views but it  
12 seems to me that a minority view should really be more than two  
13 people in my estimation. We should always be striving for  
14 consensus here, but it certainly be my view that a simple  
15 quorum is a better way to do business.

16 MR. PENNOYER: Mr. Chairman.

17 MR. BARTON: Mr. Pennoyer.

18 MR. PENNOYER: Commissioner Rosier, I'm not sure I  
19 understood what you said entirely. A simple quorum is the best  
20 way, you mean in terms of a positive vote or just .....

21 MR. ROSIER: Yes. A Positive vote.

22 MR. PENNOYER: ..... conduct -- so you're talking about  
23 4/2 being still positive?

24 MR. ROSIER: That's correct.

25 MR. PENNOYER: Believe me, Mr. Chairman, I'm not trying

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1 to get killer whales back, .....

2 MR. BARTON: We're comforted.

3 MR. PENNOYER: ..... even though I know that the  
4 Restoration Framework goes on at great length about how they  
5 were damaged -- potentially damaged by the spill.

6 MR. BARTON: That was before the review.

7 MR. PENNOYER: I haven't heard a second to either one  
8 of the two motions so do we have -- are these separate motions?  
9 Certainly, your motion, Commissioner Rosier, wasn't the same as  
10 mine.

11 MR. ROSIER: No, that's correct.

12 MR. PENNOYER: You're saying to bring any vote 4/2  
13 forward, and I simply said that if it gets 4/2 I want to make  
14 sure that it's brought to my attention so we make the decision  
15 not the RT; there's that level of disagreement.

16 MR. BARTON: Can we deal with Mr. Pennoyer's motion  
17 first? Is there a second to Mr. Pennoyer's motion? The  
18 motion dies for lack of a second. Mr. Rosier's motion, is  
19 there a second to Mr. Rosier's motion.

20 MR. SANDOR: Could the motion be restated? I'm not  
21 sure I understand the motion.

22 MR. BARTON: Mr. Rosier.

23 MR. PENNOYER: There are two motions made with  
24 one .....

25 MR. SANDOR: The second motion.

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1 MR. ROSIER: The second motion was .....

2 MR. BARTON: We're having a difficult time .....

3 MR. ROSIER: ..... a quorum.

4 MR. BARTON: ..... hearing you, Mr. Rosier.

5 MR. ROSIER: I say the motion was that a simple quorum  
6 be provided for the conducting of business within the RT. And  
7 that would actually -- voting, it would take a positive vote of  
8 a minimum of four to, in effect, carry the business of the  
9 Restoration Team.

10 MR. COLE: Didn't we vote -- Mr. Chairman.

11 MR. BARTON: Mr. Cole.

12 MR. COLE: Didn't we already -- the second part of that  
13 failed for lack of a second, wasn't that Mr. Pennoyer's motion?

14 MR. PENNOYER: No. The difference between the two  
15 motions was mine a vote of approval would still require five of  
16 six, but that if it was 4/2, it would at least be brought to  
17 the attention of the Trustee Council so we could ask questions  
18 if we wanted to. Mr. Rosier's motion is that a 4/2 vote  
19 actually passes the motion.

20 MR. BARTON: Is there a second to Mr. Rosier's motion?  
21 The motion dies for lack of a second. Further discussion of  
22 the February 25 operating procedures.

23 MR. McVEE: Mr. Chairman.

24 MR. BARTON: Mr. McVee.

25 MR. McVEE: A couple thoughts, and I don't know whether

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1 these need to be in the procedures. But I guess that in most  
2 cases it will be helpful for me to have the minutes of the RT  
3 meetings; you know, particularly those that just precede the  
4 Trustee Council meetings, because from that I feel like I can  
5 get a sense of what the minority positions are and some of the  
6 positions. So, you know, I'm going to request from Pam  
7 Bergmann that she get me copies of those, and one possibility I  
8 guess would be just making those available for the various  
9 Trustee Council Members if they have similar interests, if not,  
10 I can deal with that.

11 The other one is that I think we should set a goal or  
12 kind of the RT should set a goal for getting agenda items and  
13 materials out in advance. And I certainly appreciate why, you  
14 know, there was a problem this week in getting items out very  
15 far in advance because the meeting was of very short notice.  
16 But I think we should, you know, try to establish some type of  
17 goal there that we can shoot for in the long run, of maybe  
18 having materials in-hand, you know, seven days in advance or  
19 something like that.

20 MR. BARTON: Further discussion. Further -- any  
21 motions?

22 MR. COLE: I would like to comment, Mr. Chairman.

23 MR. BARTON: Mr. Cole.

24 MR. COLE: I'd just like to say if we could at least  
25 have them over a weekend, that's about the only time I think I

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1 find that I have an opportunity to review this type of  
2 material; and I have no doubt that each of the other Council  
3 Members are in the same situation. So, irregardless, as my  
4 father would say, of whether we get them seven days in advance,  
5 if we could at least get them the weekend in advance, that  
6 would be very helpful.

7 MR. BARTON: Is that a .....

8 UNIDENTIFIED VOICE: Second.

9 MR. BARTON: ..... motion to add that to the duties of  
10 the Administrative Director? Is there a second?

11 MR. PENNOYER: Second. Administrative Director second.

12 MR. BARTON: Any further discussion? Any objection to  
13 the motion? Dr. Gibbons.

14 MR. COLE: Well, I would simply say I don't think we  
15 real- -- I didn't have in mind styling it as a mandate, it's  
16 just simply a request to try to deal with it, if possible. So  
17 whatever.

18 MR. BARTON: Is that an objection?

19 MR. PENNOYER: Mr. Chairman.

20 MR. BARTON: Yes.

21 MR. PENNOYER: Mr. McVee a question?

22 MR. BARTON: Sure.

23 MR. PENNOYER: What you said you were going to do with  
24 your RT members is perilously (ph) close to what my motion  
25 said, which was simply that I wanted it brought to my

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1 attention. Now, you're going to have it unofficially brought  
2 to your attention, I guess each one of us can do the same; is  
3 that basically sort of what you're saying?

4 MR. McVEE: That's basically what I was saying. That I  
5 think it would be useful for me to see the RT minutes.

6 MR. PENNOYER: Well, let me ask a question then. Would  
7 the RT minutes contain dissenting views which it says shall be  
8 included if requested by an RT member?

9 DR. GIBBONS: The -- Mr. Chairman.

10 MR. BARTON: Dr. Gibbons.

11 DR. GIBBONS: Right now, the RT minutes are -- records  
12 all motions, records the voting and then the final action of  
13 that vote; we don't take verbatim transcripts.

14 MR. PENNOYER: No. But .....

15 DR. GIBBONS: And it will be there. That information  
16 will be there.

17 MR. ROSIER: Mr. Chairman.

18 MR. BARTON: Yes. Mr. Rosier.

19 MR. ROSIER: Yes. In terms of the minutes, do they  
20 reflect the votes by agency?

21 DR. GIBBONS: We can do that. To date, they've  
22 reflected a general -- you know, a total vote, but if it's the  
23 pleasure of the Trustee Council, we can record by agency.

24 MR. BARTON: Mr. Rosier.

25 MR. ROSIER: Yes. I would certainly request that.

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1 MR. BARTON: Is there agreement? Is there objection?

2 MR. COLE: I move we adjourn.

3 MR. BARTON: Is there a second?

4 MR. PENNOYER: Second that (ph).

5 MR. BARTON: Are we ready to do anything with these  
6 operating procedures? The Chair would entertain a motion to  
7 adopt them as we've amended them.

8 MR. PENNOYER: So moved.

9 MR. COLE: Second.

10 MR. BARTON: Any further discussion? Any objection to  
11 the motion? Okay. The operating procedures dated February 25  
12 are adopted as we've amended them here today.

13 Item Number 5 on the Agenda. Dr. Gibbons.

14 DR. GIBBONS: Yes. Very, very short item. I put this  
15 on at the request of Mr. Pennoyer, and I think it's timely.  
16 What I'd propose that the Restoration Team do is to pull the  
17 records from the Trustee Council meetings on approval for the  
18 budgets of this year together by agency and initiate the  
19 process to petition money from the courts, allowing for the  
20 appropriate notification in the paper and OMB and the various  
21 stipulations.

22 MR. PENNOYER: This sort of -- Mr. Chairman.

23 MR. BARTON: Mr. Pennoyer.

24 MR. PENNOYER: Sort of following the budget operating  
25 procedures you looked at last time with the diagrams and so

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1   forth in it? Yeah.

2           MR. COLE: Mr. Chairman.

3           MR. BARTON: Mr. Cole.

4           MR. COLE: Are we going to get a bank account for this  
5   Trustee Council?

6           MR. BARTON: I think we need to refer to the Financial  
7   Management Team's report on that question. I don't know  
8   whether it's a bank account or what is proposed there at this  
9   point.

10          MR. PENNOYER: Mr. Chairman, that's why I had monitored  
11   (ph) the agenda items, it says process for and initiation (ph),  
12   so I'm not clear we have actually -- I'm sorry, I missed your  
13   discussion at the last session, but I'm not sure we totally  
14   understand what we're doing here yet. And I had more in mind  
15   more somebody that's actually getting this ready and might  
16   bring it back to us on the 17th or something to take a look at,  
17   but I want to know if somebody is actually preceding with  
18   definitively looking at that process and the manner in which we  
19   get the request. 'Cause I suspect there's some folks out  
20   there, you know, (indiscernible - telephone cutout).

21          MR. BARTON: The Financial Management Team is looking  
22   into that matter, if I understand what they're doing correctly,  
23   along with the whole procedure and process that needs to be  
24   gone through in terms of actually accessing the money and  
25   getting the necessary approvals or notifications, at least on

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1 the Federal side and I understand on the State side that's a  
2 little unclear at this point, so I don't know that we can  
3 resolve it. Is that an accurate representation of the  
4 situation on the State side?

5 MR. PENNOYER: Well, Mr. Chairman, we don't have to  
6 resolve this here today, I just wanted to make it an item and  
7 get it definitively scheduled so whoever -- I'm not sure who it  
8 is out there that's working on it -- they know they're supposed  
9 to come back to us in the near future and tell us where we are.

10 MR. BARTON: And I believe that's on their .....

11 MR. PENNOYER: Maybe reschedule it for the next meeting  
12 and send this request to whoever is working on it out there.

13 MR. BARTON: That .....

14 MR. PENNOYER: (Indiscernible - interrupted) .....

15 MR. BARTON: I believe that's underway, Mr. Pennoyer.

16 MR. PENNOYER: Okay. Fine.

17 MR. BARTON: The Financial Management Team, which  
18 consisted of State representatives as well as Federal  
19 representatives.

20 MR. PENNOYER: I guess the question (ph) -- I'm not  
21 sure what their time schedule is, I haven't seen a report from  
22 them on how they're proceeding, I don't know when it's going to  
23 be done. I just would like some feeling for the timeliness and  
24 relative to the needs of the system.

25 MR. BARTON: There was a NOAA representative on that.

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1 MR. PENNOYER: Oh, that's good. But I still would like  
2 the group as a whole to understand where the timing is on it,  
3 and from the feedback I got I'm not sure they had a scheduled  
4 one. So, I think if we schedule something for the next meeting  
5 and give us a progress report, a definitive idea of where they  
6 are of where we are, that should be adequate, and then at least  
7 we can comment relative to what's happening.

8 MR. BARTON: We'll schedule it.

9 MR. PENNOYER: Thank you.

10 MR. BARTON: Any further discussion on that item? Is  
11 that it then?

12 MR. COLE: Move we adjourn.

13 MR. PENNOYER: Second. How about the last item on the  
14 agenda?

15 MR. BARTON: It's moved and seconded that we adjourn.  
16 There's one item left on the agenda about the next meeting, is  
17 there objection to the motion to adjourn?

18 MR. SANDOR: I would like to know when we're meeting.  
19 Are we meeting on March 17, Mr. Chairman? If so, that's fine  
20 with me. But I do have a Senate (ph) Committee meeting in the  
21 evening, 7:00 to 9:00, so -- and I have a Cabinet meeting is in  
22 the morning. So, the time that would be really good for me  
23 would be some time between 1:00 and 5:00.

24 MR. COLE: Other than being on the 17th of March, when  
25 is that?

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1 MR. SANDOR: That's a Tuesday.

2 MR. COLE: Next Tuesday?

3 MR. SANDOR: No, no.

4 MR. PENNOYER: Yeah.

5 MR. BARTON: Yes. Dr. Gibbons, do you want to  
6 enlighten us on the need for this meeting at this point? One  
7 of the .....

8 DR. GIBBONS: Yes. Hopefully, it'll be a short  
9 meeting. We want to present to you the 1992 Work Plan that you  
10 approved at the February 27th and 28th Trustee Council meeting.  
11 Present the revised Restoration Framework Plan to you. And I  
12 just picked up the third item on the agenda would be the  
13 joint -- release of the joint Settlement funds; that would be  
14 the three topics.

15 UNIDENTIFIED VOICE: That is did they approve the plan  
16 for the Framework.

17 MR. BARTON: All right.

18 MR. McVEE: Mr. Chairman.

19 MR. BARTON: Mr. McVee.

20 MR. McVEE: I'll be in Washington, but my alternate  
21 would be available, I believe, for that date.

22 MR. BARTON: Yeah. I'll be unavailable on the 17th and  
23 the 18th, otherwise, I'm free; but I have a very competent  
24 alternate also.

25 MR. COLE: Well, Mr. Chairman.

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1 MR. BARTON: Mr. Cole.

2 MR. COLE: Do we need to have a meeting to receive  
3 this? Why can't it just be, you know, delivered to us and  
4 that's it, you know.

5 MR. BARTON: Dr. Gibbons.

6 DR. GIBBONS: That's acceptable with the Restoration  
7 Team unless I hear anything different.

8 MR. BARTON: Well, and as I understood it, you weren't  
9 proposing a sit-down meeting necessarily but a teleconference?

10 DR. GIBBONS: That's correct, Mr. Chairman.

11 MR. SANDOR: Well, then the only other thing,  
12 Mr. Chairman, to resolve is whether there's a meeting in April.

13 MR. BARTON: All right. Let's deal with April.  
14 Dr. Gibbons, help us deal with April.

15 DR. GIBBONS: We propose a meeting date of April 10th,  
16 and there was some scheduling conflicts, and that was one of  
17 the topics that needed to be brought up today is when we could  
18 probably get together with the Trustee Council on a face-to  
19 face meeting. Suggested sometime in the week of April 6th or  
20 after.

21 MR. COLE: Commissioner Rosier looks as troubled as I  
22 feel.

23 MR. BARTON: That's what I'm trying to hurry through,  
24 I'm also troubled.

25 MR. PENNOYER: I'm gone the week of April 6th, 13th and

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1 20th and the 1st.

2 MR. SANDOR: Well, to make it unanimous, I'm troubled  
3 as well.

4 MR. BARTON: I suggest we adjourn this meeting and let  
5 the Restoration Team try to find a commonly suitable date for  
6 an April meeting.

7 MR. COLE: I agree.

8 MR. SANDOR: Great (ph).

9 MR. BARTON: Would somebody move that?

10 MR. PENNOYER: So moved.

11 MR. McVEE: I'll so move.

12 MR. COLE: Second.

13 MR. BARTON: Any objection to the motion?

14 UNIDENTIFIED VOICE: None.

15 MR. BARTON: This meeting's adjourned.

16 (END OF DAY'S PROCEEDINGS)

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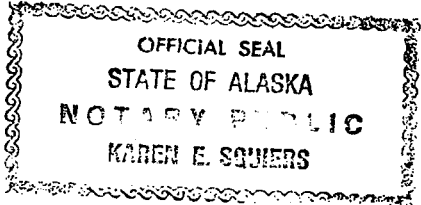
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