

EXXON VALDEZ OIL SPILL SETTLEMENT
Trustee Council

Simpson Building
645 "G" Street
Anchorage, Alaska
February 27, 1992
11:00 o'clock a.m.

IN ATTENDANCE:

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

* * * * *

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

P R O C E E D I N G S

1 MR. BARTON: Let me call this meeting of the Trustee
2 Council to order. We're still missing one representative, the
3 NOAA representative. The rules under which we operate we all
4 six need to be represented in the case of any decisions to be
5 taken, but perhaps there's some procedural mishmash we can get
6 out of the way while Don Collinsworth is coming, he was on the
7 plane with me; I'm not sure what happened between here and the
8 airport. But I apologize for the late start, Alaska Airlines
9 crew needed crew rest and they are well rested at this point.

10 So, with that, let me just identify the representatives
11 present. On my far left is Charles Cole, Attorney General for
12 the State of Alaska; Commissioner John Sandor, Department of
13 Environmental Conservation, Trustee for the State of Alaska; on
14 my immediate right is Carl Rosier, Commissioner of Fish & Game
15 for the State of Alaska, Trustee for the State of Alaska; Curt
16 McVee of the Department of the Interior, the Secretary of
17 Interior's representative on the Trustee Council; and I'm Mike
18 Barton representing the Department of Agriculture on the
19 Trustee Council.

20 Let me ask are there any corrections or changes to the
21 Agenda that anybody wants to make?

22 MR. SANDOR: I move approval of the Agenda.

23 MR. ROSIER: Second.

24 MR. BARTON: It's moved and seconded.

25 MR. GIBBONS: Excuse me, Mr. Chairman.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: Go ahead.

1 MR. GIBBONS: I have a change. Is this on?

2 UNIDENTIFIED VOICE: Yeah.

3 MR. GIBBONS: Okay. Item 3(d), the Trailer Vans and
4 Carcass Disposal will not be discussed today; some recent
5 developments in the last several days requires additional Staff
6 work.

7 MR. BARTON: So we just delete that.

8 MR. GIBBONS: Just delete that.

9 MR. BARTON: Is there any objections to deleting 3(d)?
10 So moved or so done. Any other changes? Any objection to the
11 adoption of the Agenda? The Agenda's adopted.

12 Why don't we begin with the meeting overview, and if we
13 need to we'll call a halt later in the morning to await
14 Commiss- -- or Mr. Collinsworth if we need to. Go ahead, Dave.

15 MR. GIBBONS: Just some quick notes on how the meeting
16 -- we hope the meeting to run. We were aiming for a one-day
17 meeting here, I'm not sure we're going to make that but that's
18 hopefully still our aim. We have reserved tomorrow in case we
19 don't get through the Agenda today and we'll continue. We're
20 going to hopefully take a break around noon for lunch, an hour
21 break, and then reconvene at 1:00. We have a public comments
22 section tonight from 5:00 to 8:00, we'll hook in 13 sites --
23 teleconference sites for comments as well as comments from
24 Anchorage. We'll take an afternoon break, and this one at
25 3:00, probably 15 minutes to stretch our legs.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

And the package -- run through the package which you
 1 have in front of you here so people can follow along. The
 2 first part of the package is the Agenda. The second part of --
 3 the next thing in the package is the financial review material
 4 which will be discussed next on the Agenda. Following that
 5 would be -- is a summary of the proposed 1992 activities,
 6 separated into three blocks; the first block is Dr. Spies and
 7 the Restoration Team combined recommendation to the Trustee
 8 Council. The second section is a block of studies which
 9 Dr. Spies did not comment on but the Restoration Team reviewed
 10 again. And the third block is two studies that need further
 11 discussion; we could not reach agreement, we had a short time
 12 frame to deal with those two studies.

13 The following -- those spreadsheets is a budget summary
 14 sheet that has a summation of the budget, where we are with the
 15 remaining balance of funds from the 36.5 million that's
 16 available this year. Following that, we have a generic charter
 17 for the Public Advisory Group, and we'll be talking about three
 18 options -- possible options for the formation of a Public
 19 Advisory Group. Following that is we have a couple of pages on
 20 some -- the Trustee Council requested that we -- to look in to
 21 holding these meetings at the Court chambers -- Supreme Court
 22 chambers, and we have a couple of pages of discussion on that
 23 item.

24 We have, following that, some operating procedures for
 25 the Restoration Team; this was in the package that was

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
 277-0572 272-7515 272-3022
 FAX 274-8982
 ANCHORAGE, ALASKA 99501

presented last week. We have some additional comments by --
1 we've received additional comments, we've incorporated some of
2 those into the document and this is another version. And the
3 large portion of the package are three-month detailed budget
4 summary sheets; these were requested by the Trustee Council to
5 clearly identify what costs would be incurred in the period
6 from March 1st to May 31st. Those, by the way, are broken into
7 the three tiers as the spreadsheets are so that they match up.
8 They're arranged alphabetical and numerically so you can find
9 it easier that way.

10 MR. BARTON: Any questions of Doc Gibbons? Is the next
11 item a decision item, Dave? At that point, we need to wait for
12 Mr. Collinsworth.

13 MR. COLE: Mr. Chairman.

14 MR. BARTON: Is there other business that we could take
15 up?

16 MR. COLE: Mr. Chairman. As we go through on some of
17 these studies and recommendations of Dr. Spies, you will recall
18 that there was some policy decisions to be made by the Council.
19 I'm wondering whether it might not be advisable limited public
20 comment on these policy issues before decisions are made. I
21 didn't raise any comment on this subject when we adopted the
22 Agenda, but it seems to me that having public comment after
23 critical decisions are made is sort of like -- I don't know --
24 getting the horse in the barn too late. I wonder if we
25 couldn't talk about that just a little bit.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: Surely.

1 MR. COLE: And get views of the other members of the
2 Council. I wouldn't, you know, propose that people have an
3 opportunity to speak for, you know, 20 minutes on some of these
4 things, but if we could just confine it to say no more than
5 three minutes per speaker on some of these policy issues it
6 might be a good idea. I would like to hear what people
7 generally have to say on some of these critical policy
8 decisions before we make the decisions. So

9 MR. BARTON: Curt.

10 MR. McVEE: Mr. Chairman. I think that we're really
11 all interested in public comment, but as I understood it what
12 we would be doing today here would be approval of the '92 work
13 activities to go forward for public comment. I guess I was
14 assuming that we would some time later on, at the end of that
15 comment period, have to reconvene. I guess I don't have any
16 problem with the Attorney General's proposal, but I guess maybe
17 just trying to clarify where we were headed in the next 30 days
18 or so.

19 MR. COLE: Mr. Chairman

20 MR. BARTON: Mr. Cole.

21 MR. COLE: It's sort of a mild rebuttal. If we decide
22 not to submit one of these projects for public comment, then we
23 don't get public comment. And you know, there's just -- I
24 don't know -- four or five issues here where Dr. Spies has
25 asked for policy decisions, and if we make a negative policy

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

7
1 decision on one of those, well then it doesn't go out to public
2 comment. That's what I sort of had in mind, but I don't have
3 strong views, I do solicit the views of other members of the
4 Council.

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: Thank you, Mr. Chairman. Yeah. I
7 certainly concur with the latter statement there that I think
8 when we go forward with the public package, I think we want to
9 be sure that everything that should be included is included.
10 I, for one, would certainly appreciate the input from the
11 public on a couple of those policy calls.

12 MR. BARTON: Let the record show that Mr. Collinsworth
13 has just joined us, and all the Council Members are now here.

14 MR. McVEE: Mr. Chairman.

15 MR. BARTON: Curt.

16 MR. McVEE: I guess maybe kind of thinking ahead to
17 where -- or what we would put out for public comment, just one
18 thought would be to also put out those projects which we had
19 not approved. It may be -- it could be interesting from the
20 public in knowing what was not approved at this time.

21 MR. BARTON: Other comments? Mr. Sandor.

22 MR. SANDOR: I guess just to make sure I understood
23 that last comment, then the suggestion is is that for those
24 projects not approved, those would also go out for public
25 review, is that what you were suggesting?

MR. McVEE: That was the idea.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. SANDOR: Yeah.

1 MR. McVEE: It was just a thought.

2 MR. COLE: It seems like -- Mr. Chairman.

3 MR. BARTON: Mr. Cole.

4 MR. COLE: Well, haven't we decided not to put out for
5 public comment the score or scores of projects which we had
6 decisions not recommended. I mean I think we're sort of past a
7 lot of these. My view, Commissioner Sandor, was that these
8 critical policy decisions where we did not get a firm
9 recommendation from Dr. Spies that we hear today before the
10 decision is made briefly, and I want to briefly hear from
11 interested groups on those issues. And, you know, I'd rather
12 postpone the decisions 'til 5:00 to 8:00 tonight rather than,
13 you know, make critical decisions and then hear people complain
14 about our decisions made six hours earlier. And it just seems
15 to me the policy doesn't quite fit, so I leave it at that.
16 Thank you.

17 MR. BARTON: Is there a motion?

18 MR. SANDOR: I'll stick my neck out. I think the
19 Attorney General makes a good point. And in that segment that
20 Dr. Spies did not deal with because they were primary policy
21 issues as opposed to scientific issues, I believe it would be
22 desirable to have some public input. And so Mr. Chairman, I
23 would move that we not have the public participation during the
24 course of this daytime meeting on all those issues in which
25 Dr. Spies and the Restoration Team agreed to, but in those

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

issues in which the Chief Scientist did not make a
1 recommendation and our policy issues that we provide for public
2 involvement or participation limited either -- during this
3 afternoon's session or whenever we get to that or defer our
4 actions on those until after our public participation session
5 this evening.

6 I'd defer the actual decision of which route to go
7 until we hear Dr. Spies. That's a long motion but I move it.

8 MR. COLE: Would you care to restate that?

9 MR. SANDOR: In other words, we provide for public
10 participation before a decision on those items that Dr. Spies
11 has not made a recommendation on.

12 MR. BARTON: Is there a second?

13 MR. COLE: I'll second.

14 MR. BARTON: Okay. Is there objection?

15 UNIDENTIFIED VOICE: No objection.

16 MR. BARTON: We'll do it that way. Dr. Spies, I don't
17 see him here but I'm sure -- there he is.

18 DR. SPIES: I'm hiding back here, Commissioner.

19 MR. BARTON: Okay. Perhaps, at that time, you could
20 identify for us the specific policy questions which you had
21 outlined in your correspondence that we need to address that
22 we're seeking public comment on.

23 Moving back to the Agenda, Financial Group Review.

24 MR. GENTRY: Mr. Chairman, for the record, my name is
25 David Gentry, I'm with the State Office of Management & Budget

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

10
in Juneau. I'll be presenting today an overview of discussions
1 within the Financial Group that's worked with the Restoration
2 Team, agreement has been reached on these broad outlines.
3 There are two documents that you have at the table here, the
4 audience has just one set. First, before the meeting, I handed
5 out a one page summary with about five points, I'd like to go
6 through those initially; these are the concepts that underlie
7 the detailed process and principles that are laid out in the
8 longer document in the original packet which, again, the
9 audience has.

10 First, these principles and processes that -- I was
11 wondering if I had done something. The -- what we're going to
12 be talking about today is the long-run process and procedures.
13 In the short-run, the next six, nine, twelve months, we're
14 going to fit a round peg into a square hole here. So again, I
15 want to make clear at the outset that this is the long-run
16 process, short-run will, in fact, be somewhat different
17 (indiscernible).

18 First, making a distinction between two types of
19 budgets leading up to a specific point. The distinction is
20 between budgets for standing committees, the Restoration Team,
21 there is representation on the Restoration Team; essentially,
22 those folks are representatives of agencies that the Trustees
23 come from. So, there is a legitimate interest in having,
24 again, representatives of Trustees on these Staff working
25 groups, funds from the settlement passing to the Trustee

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Council can legitimately be used to pick up those costs.

1 The other type of budget is project budget. Some work
2 that needs to be done around the state. And I want to make one
3 thing clear, that we view the body that carries out that work
4 as a contractor. The agency that's best suited for carrying
5 out that work should do the work, and there's no divvying up of
6 the pie for certain types of projects or in certain areas among
7 State and Federal agencies. And the principle here that we've
8 adopted in viewing the organization carrying out these projects
9 as a contractor, it carries through to procedures.

10 The second point, existing agency staff, financial
11 systems and procedures will be used to the maximum extent
12 possible. It's in no one's interest to create a new set of
13 organizations -- set of rules and procedures and staff and so
14 on, we don't want to do that; it's expensive, it's cumbersome
15 and it's not effective. Federal and State agencies will
16 account for, report and audit expenditures in the same budget
17 units that the Trustees approve. In other words, when you
18 folks give your approval to a certain set of expenditures it
19 will be reported in the same block. We want to make it clear
20 that you can match authorized expenditures and the
21 expenditures, in fact, were carried out; we'll make that as
22 easy as possible. And again, we're not going to reinvent the
23 wheel, audit procedures, accounting procedures and so on that
24 already exist in the agencies will be used to the maximum
25 extent possible.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Number 3, methods for calculating budget costs, in particular for administrative costs. This is an awkward issue for everyone as to how to quantify those. That the rules adopted apply to both State and Federal agencies consistently.

Four. The State and Federal governments will adopt whatever review and notification procedures that they feel are necessary when a State agency or a Federal agency is carrying out work for the Trustee Council. The State rules, if there are any adopted, will not apply to Federal agencies and vice-versa. And those are still being discussed now and will be made available to the Trustee Council when they are decided.

Fifth. We'll use the Federal fiscal year to present these budgets and prepare project budgets. State agencies are familiar with the Federal fiscal year. It'll be easier to have State agencies change their normal way of doing things than to have the Federal agencies do that. What we would very much like to do is get away from the so-called oil spill fiscal year, March 1st throughout; that doesn't match with anybody's way of thinking. And what we're trying to do is use existing institutions and ways of doing business as much as possible; it's what the public is used to, it's what we're used to.

That's the overview of the basic principles that lie behind the process. If you come away with anything from this presentation, remember these concepts use the detailed outline that, again, is in the packet as a reference document. When we go to that, briefly I'll just go through it and highlight some

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

of the points that we feel are important. Commissioner.

1 MR. BARTON: Commissioner Sandor.

2 MR. SANDOR: Question. Yeah. Mr. Gentry, the question
3 I had with -- I guess none on these points, but when there were
4 studies or activities that were funded by the regular agency
5 programs, Federal or State, and then these studies, of course,
6 came along. As we're phasing back into -- or closing out
7 studies and phasing into a continuation of studies that have
8 gone on before. And I presume it's fairly easy to keep track
9 of funds that came from the Exxon Settlement Funds, say 30% or
10 50% or 75%, and mingle these with State and Federal funds that
11 came from regular appropriated sources, is -- how do you deal
12 with that?

13 MR. GENTRY: I think it can be dealt with quite easily.
14 And that is both State and Federal agencies can identify today
15 expenditures that they have incurred for a specific project.
16 Any use of Settlement Funds, criminal or civil, that have come
17 to the State or Federal agencies can go into the kitty,
18 essentially, rather than track dollar for dollar, money coming
19 in and tracking one single dollar came from this source and was
20 spent in this project, no. Money comes into a pot, it loses
21 its identity and then it goes out again.

22 So to answer to your question, the civil or criminal
23 portion, depending on how the State and Federal governments
24 decide to use it, would simply go into the general fund on the
25 State side, our chronology (ph), and cover expenditures that

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 have already occurred to date. I don't know if I've been clear
2 on that or not. Think of it again as not tieing dollar for
3 dollar, dollar revenue has been clearly identified as an
4 expenditure. In fact, the dollars would come in, lose their
5 identity in a big pool, like a big checking account, and then
6 going out.

7 Again, have I answered your question?

8 MR. SANDOR: Well, partly, I was thinking more of the
9 future of this in year -- in phasing out and in this year's
10 program. There's no problem is there in setting the

11 MR. GENTRY: That's the short answer, no problem.

12 MR. SANDOR: Yeah. Okay.

13 MR. BARTON: We like short answers.

14 UNIDENTIFIED VOICE: Yeah.

15 MR. COLE: Mr. Chairman.

16 MR. BARTON: Mr. Cole.

17 MR. COLE: I have a question about the second paragraph
18 in Item Number 1 which reads as follows: State and Federal
19 agencies represented on the Trustee Council have the right, but
20 not the obligation, to use Exxon settlement funds to pay the
21 costs associated with executing the responsibilities of the
22 Trustee Council. What does that mean?

23 MR. GENTRY: Well, it wasn't intended to be a legal
24 document, terribly precise. The basic idea was, again, John
25 Sandor, for example, or yourself, you may have staff working
for you as Trustees to help you in your work as Council

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Members, as Trustees. And those people could help you within
1 your own offices, in your own organizational setup; they could
2 be members of the Restoration Council. This are unwilling
3 advisors to Trustees to carry out the work of each and every
4 Trustee.

5 I want to distinguish that again between projects being
6 carried by a State agency. And that Settlement Funds should be
7 used -- can be used to support you in your work as a Council
8 Member. And again, it becomes much more ambiguous as to -- or
9 flexible, if you will, on the projects, who's going to carry
10 out the projects and why.

11 To put it a different way, John Sandor or Commissioner
12 Rosier -- again I'm from the State side so I use State examples
13 here, those departments represented by those two Commissioners
14 can carry out projects. There's no obligation that the Trustee
15 Council has to give those agencies a new project. There is an
16 obligation for the Trustee Council to at least make available
17 funds so that Carl Rosier and John Sandor can carry out their
18 work as Trustees. That's the answer.

19 MR. COLE: I must say I'm still a little unsettled
20 about that. When we say they have the right because I think
21 any right that the State or Federal agencies have has to flow
22 from decisions of the Trustee Council. And when we have this
23 statement that the State and Federal agencies represented on
24 the Trustee Council have the right, that -- you know, that
25 seems to me a fairly blunt statement.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. BARTON: Let me -- I understood this was being
2 submitted for Council action, so in fact, we will be giving
3 ourselves that right, Mr. Cole; is that not correct?

4 MR. GENTRY: You folks would approve budgets for your
5 staff, and they would all be presented before you, at least, on
6 an annual basis.

7 MR. BARTON: Well, but I'm talking about the documents
8 we have in front of us today and not the budget but what you
9 just sat down (ph). Are there further questions?

10 MR. COLE: Someone -- Mr. Chairman. Someone suggested
11 that maybe the use of the work "option" is better suited there
12 than the "right". I don't know. I would like to see the
13 management group -- Financial Management Group take another
14 look at that particular paragraph. To me it's muddy and
15 somewhat distressing. I really just have problems with
16 "right".

17 MR. GENTRY: Perhaps that too strong.

18 MR. BARTON: But the intent that this is permissible
19 not necessarily mandatory, isn't that what you're trying to get
20 across?

21 MR. GENTRY: The more important point here is the
22 leading up to, again, the project side of things. To make the
23 basic point that, again, the State Department of Fish & Game
24 and the State Department of Environmental Conservation don't
25 have a claim on any of the project money coming through.
That's the real point of this Item Number 1.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: Well, that's what we should just simply say,
1 you know, in my view of things.

2 MR. GENTRY: All right.

3 MR. COLE: Let me raise one thing. Also Number 2: To
4 the maximum extent, I mean that just means that probably we
5 won't use any other procedure because the maximum extent would
6 permit that -- State and Federal agencies to be used all the
7 time. That's a little troubling concept, too.

8 MR. GENTRY: All right. Well maybe rather than the
9 maximum extent possible, maximum extent feasible.

10 MR. COLE: That's just nicely done. Thank you.

11 MR. GENTRY: I should have cleared this with your
12 office beforehand.

13 MR. COLE: No. It's just that, you know, one of the
14 problems is I must say is when we get these things so late, you
15 know, I mean like the day before or the night before and we get
16 this mass of reading material, it's a little hard to be
17 adequately prepared I must say. I know everybody's worked hard
18 on these things, but it's just quite burdensome to stay up all
19 night to read it, you know.

20 MR. GENTRY: I sympathize.

21 MR. BARTON: I have a suggestion, if I might, for the
22 second paragraph problem if we're going to sit here and word
23 smith this thing. How about State and Federal members
24 represented -- or State and Federal members of the Trustee
25 Council may use Exxon Settlement Funds? Is that your problem?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: That's much better.

1 MR. BARTON: All right.

2 MR. COLE: Thank you.

3 MR. GENTRY: That was the second paragraph of the first
4 item.

5 MR. BARTON: Yeah. Now, that we've totally derailed
6 your presentation, why don't you continue.

7 MR. GENTRY: Quite all right. If there are any more
8 questions, though, I'd -- okay, we'll go on then to the more
9 detailed document that again was in the packet the audience
10 has. I'm not going to go through it line by line, but again,
11 basically to highlight the concepts throughout so that folks
12 have a sense of what the process will look like.

13 Starting with the first page, they aren't page numbered
14 unfortunately, so I'll use whatever headers are obvious on the
15 pages to help identify. Starting at the top, Financial
16 Management Framework, this is an introduction; these concepts
17 really are covered in the discussion we just had.

18 The Annual Budget, again, to reiterate, will follow the
19 Federal fiscal year; there will be annual budgets. There will
20 be -- although I've made the distinction between two types
21 before, here in fact, we're making three, with the addition
22 here of being a standing administrative office very specific to
23 the Trustees, one that Dave Gibbons right now is the interim
24 direction. And these are budgets then that you will see
25 annually.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

General Administrative Costs. Again, the problem is,
 1 of course, that it's hard to see what those support costs are;
 2 they're slippery to quantify. What we've decided to do and if
 3 agreeable to all parties is, in the middle of the second page,
 4 for projects 15% of staff costs and up to seven percent of any
 5 contracts issued as part of that project; that will be up to
 6 seven percent per contract within that project. And those
 7 relate to project overhead expenditures or administration
 8 overhead expenses. That will simply be a percentage that goes
 9 to that agency and again will disappear in their general
 10 support budget.

11 Restoration Team, again, the standing working group
 12 staff associated with each of the Trustee Council Members.
 13 There will be a five percent administrative cost associated
 14 with, again, agency folks attached to those standing groups.
 15 Similarly with the Administrator Director's Office and what
 16 Dave Gibbons now is seeing a five percent administrative costs
 17 on the staff, using that as a base. These are modest
 18 administrative support costs. We have every intention to make
 19 them lower if we can. We're going to start out with this and
 20 go by experience.

21 Budget Formula Process, third page. There will be two
 22 phases of the process and as a time line for public
 23 participation first to propose projects, second of all to
 24 comment on the projects after a draft plan has been adopted by
 25 the Trustee Council. A short presentation as to how we wanted

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
 277-0572 272-7515 272-3022
 FAX 274-8982

ANCHORAGE, ALASKA 99501

20
to make it clear to match money with the agency implementing a
1 given project.

2 Federal and State Review and Notification at the bottom
3 of that page. I mentioned earlier that, again, the State
4 government and the Federal government each are going to have to
5 work out how to integrate funding from the Trustee Council for
6 work done by State and Federal agencies for the Trustee
7 Council, how to integrate that into their normal processes --
8 their processes, their budget review comment, their accounting
9 procedures and so on.

10 Top of the next page, that'll be Page 4, Transfer of
11 Exxon Settlement Funds from the Court Registry. This is just
12 simply how to deliver the funds from court to the State and
13 Federal government. Again, falling back on the idea of these
14 projects implementers (ph), if you will, the agencies involved
15 in carrying out the projects as contractors, any money that is
16 provided by the court to pay those costs, if that money is
17 provided up front, that that money belongs to the court and the
18 Trustee Council even though it might reside unspent yet in the
19 State Treasury or in the Federal agency account.

20 Accounting and Reporting. It simply reiterates here
21 what I mentioned earlier about using State agency and Federal
22 agency accounting, auditing procedures. We will -- well we
23 propose to report expenditures for approved projects quarterly;
24 it will be provided to the Administrative Director's office for
25 appropriation to the Trustee Council. If a project is carried

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

out jointly by a State and Federal agency, then those
1 expenditures will be consolidated so you folks don't -- just
2 simply as possible for you folks to see them (ph).

3 And the last item relates to audits and using existing
4 procedures for audits. Should the Trustee Council want more
5 oversight, certainly the Trustee Council can do so in terms of
6 hiring an outside audit firm.

7 Appendices, I won't go through all of them. I think
8 the important one is the Appendix C, the flow chart. Really
9 it's Chart A with Page C-1 in the upper right-hand corner,
10 that's the important one for this group at this time. It
11 outlines in very gross, general terms in input from the public
12 coming to the Trustee Council. The far right -- excuse me, far
13 left block News Media and so on, the block at the bottom, the
14 PAG or Public Advisory Group and so on, these are coming
15 together to develop projects and proposals for review by the
16 Trustee Council. And, again, to the far right, the 30-day
17 notice relating to comment after a draft plan has been
18 prepared.

19 That's the conclusion of what I'd like to say, I'll be
20 happy to answer any questions.

21 MR. BARTON: Are there questions? I have one
22 question. Page C-1, on the right side of the diagram, the
23 pitchfork package for State review, package for Federal review;
24 those packages are really one package of projects and budget
25 requirements for those projects for which there's a State need

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

(ph) and similarly for the Federal. They're not the same
1 package?

2 MR. GENTRY: That's right.

3 MR. BARTON: Okay.

4 MR. GENTRY: That's exactly right.

5 MR. BARTON: Other questions? Should we adopt these, I
6 guess that's the question or the intent. How do we want to
7 proceed?

8 MR. COLE: Mr. Chairman.

9 MR. BARTON: Mr. Cole.

10 MR. COLE: I'm not prepared to adopt them because I
11 haven't had an opportunity to read them. I received them, you
12 know, either last night or this morning, and I don't feel
13 comfortable, you know, adopting or voting to approve something
14 I've never read; I did that once and had to make a public
15 apology, I don't want to do it again.

16 MR. COLLINSWORTH: Mr. Chairman.

17 MR. BARTON: Mr. Collinsworth.

18 MR. COLLINSWORTH: On the table you just referred to,
19 C-1, there's a dark arrow, decision there from the RT to the TC
20 in the middle, that might more appropriately be instead of a
21 decision arrow to an input arrow, be not dark but gray.

22 UNIDENTIFIED VOICE: All right.

23 MR. GENTRY: I don't think we were following
24 conventions on flow charts. We did intend as written there
25 that it's a recommendation.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: And it's so identified but the color of
1 the arrow isn't consistent.

MR. GENTRY: I understand. And relating to the
2 Attorney General, one thing I would like to (indiscernible -
3 background coughing) is on the arrow going to the top, the
4 State review, clearly that doesn't imply anything in terms of
5 what the State plans to do.
6

MR. BARTON: Well, how should we proceed to handle this
7 package? Would others want some time to review this package as
8 well as Mr. Cole?
9

MR. SANDOR: Question. Is there any problem in
10 deferring this -- final action on this until the next Trustee
11 Council meeting, giving interim approval but reserving final
12 approval until the next Trustee Council meeting?
13

MR. BARTON: Are you aware of any, Mr. Gentry?
14

MR. GENTRY: I am not aware of any.
15

MR. BARTON: Mr. Gibbons? Are you moving that we do
16 that?
17

MR. SANDOR: Yeah.
18

MR. BARTON: Is that what I heard? Is there a second?
19

MR. McVEE: Second.
20

MR. BARTON: Is there objection? Okay. We'll bring
21 the Financial Management Framework up for decision at the next
22 Trustee Council meeting. In the meantime, then each of us will
23 review the information here and convey that to -- our comments
24 to you, Mr. Gibbons? Okay. We'll do that in time so that we
25

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

can get a finished package to look at at the next meeting.

1 Do you have anything further, Mr. Gentry?

2 MR. GENTRY: No. Thank you, Mr. Chairman.

3 MR. BARTON: Mr. Gibbons, Item 3.

4 MR. GIBBONS: Yes. I'd like to make some opening
5 comments before we dive into the '92 Work Activities and maybe
6 I'll set the stage for them.

7 The last package we presented to you on February 5th
8 and 6th, the package was prepared under the guidance -- under
9 the Restoration Team guidance that if there was an injury to a
10 life stage that constituted injury to the species. We have
11 revisited this package based on another point of view, and that
12 is that there has to be documentation of population injury in
13 that the injury to the life stage does not necessarily lead to
14 a population injury. And that was -- it's a change in
15 philosophy, it led to the package we've got before you today.

16 The priorities in the package today in relation to the
17 previous package are the fir- -- the highest priority the
18 Restoration Team gave for projects was damage assessment
19 closeout. And this is due to the fact that we wanted to see
20 the projects finalized, the material reach the public and
21 provide a basis for a sound restoration program; and that was
22 the basis for that -- putting that Priority Number 1.

23 The second priority that we had that the package is
24 based on is the damage assessment continuation. We don't have
25 a clear picture of what the injury is out there presently, we

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 should do a little bit more work and wrap that up into a
2 package so that's clearly understood what the injury is.

3 And the last priority we gave was of that to providing
4 further insight and information concerning habitat protection
5 for injured species; be it Marbled Murrelets or Harlequin Ducks
6 or whatever it is. We felt we needed more information in this
7 area to provide a basis for sound decision making.

8 The next step we would see in this process would be the
9 package approved here today, or by the Trustee Council, would
10 be prepared into a 1992 Work Plan and this would be presented
11 to the public for review. We would collect and analyze the
12 public comments and prepare a final draft of the 1999 -- 1992
13 Work Plan to the Trustee Council for review and approval on the
14 appropriate parts.

15 Today, it is our recommenda- -- the recommendation of
16 the Restoration Team to the Trustee Council to (1) accept the
17 combined Restoration Team and Dr. Spies' recommendations as a
18 block, and that's -- if you'll turn to your book, that's this
19 title Restoration Team and Chief Scientist Recommendations 1992
20 Project Proposals. And secondly, we'd like to recommend that
21 the Trustee Council accept the next block of studies as a
22 basis, and those are projects that received recommendations
23 from the Trustee Council -- excuse me, from the Restoration
24 Team only, we did not have the Chief Scientist review.

25 We have a third set of -- there's two studies that we
need further discussion on, but we're recommending that the two

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

blocks, the first block combined Dr. Spies and the Restoration
1 Team and the Restoration Team only block, be approved by the
2 Trustee Council.

3 MR. COLLINSWORTH: Question, Mr. Chairman.

4 MR. BARTON: Mr. Collinsworth.

5 MR. COLLINSWORTH: Dave, the first point you made was a
6 change in philosophy in determining what damage -- how you
7 define damage from impact or affect on some life stage versus
8 population. Can you briefly tell me why, what -- I mean what
9 was the reasoning?

10 MR. GIBBONS: It was a basis -- it's a complicated --
11 I'm sure as you're aware, it's a complicated process to
12 identify an injury say to an egg stage of a species that have
13 management complications on top of that, either harvesting or
14 other influences affecting the number of individuals and
15 reaching to adult stage. It's also based on some discussions
16 with Dr. Spies on this point.

17 MR. COLLINSWORTH: Follow-up question. You mentioned,
18 you know, the three categories; is there a category or is it
19 subsumed into one of the categories, taking the damage
20 assessment work that has been carried on for whatever period of
21 time and chronicling the work and doing completion reports, is
22 that part of the process?

23 MR. GIBBONS: Yeah. Yeah. That's the damage
24 assessment closeout. That's closing out the damage assessment
25 study and producing a final report.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLLINSWORTH: And that is going to be done in
1 every case?

2 MR. GIBBONS: Pardon?

3 MR. COLLINSWORTH: That is proposed to be done in every
4 case?

5 MR. GIBBONS: There's one question -- we could run
6 through there -- that we've omitted humpback whales. The work
7 was done in 1989 on that and no further work, we've omitted
8 that one; we have a question on coastal habitat.

9 MR. COLLINSWORTH: Okay. Thank you.

10 MR. BARTON: Other comments or questions?

11 (Pause)

12 MR. BARTON: Is there a motion?

13 MR. McVEE: Mr. Chairman.

14 MR. BARTON: Mr. McVee.

15 MR. McVEE: Yes. I move we give approval to this
16 listing of projects that have the recommendation of the
17 Restoration Team and the Chief Scientist to go forward for
18 public review.

19 MR. BARTON: Is there a second? Is there a second?

20 MR. SANDOR: I wonder if -- Mr. Chairman.

21 MR. BARTON: Mr. Sandor.

22 MR. SANDOR: Has the motion been seconded?

23 MR. BARTON: No.

24 MR. SANDOR: I'll second the motion just for the
25 purpose of discussion, but I'd like to really defer the vote on

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

it until after Dr. Spies' presentation. Is there a problem
1 with that? I guess I'd like to hear what he has to -- I've
2 read his report, it's excellent, but it might be worthwhile
3 actually

4 MR. BARTON: Perhaps it'd be appropriate before we
5 proceed any further to ask Dr. Spies to give us the benefit of
6 any thoughts he might have that would be appropriate and
7 relevant to the motion.

8 (Pause)

9 DR. SPIES: What I've essentially done in my analysis
10 that's contained in this memo, and that'll be available shortly
11 after lunch to the public at large at the meeting, was to
12 review the damage assessment closeout, review the proposed
13 restoration -- most of the proposed restoration projects,
14 except for those which I had a policy question or it dealt with
15 habitat, and make recommendations. Then I met with the
16 Restoration Team for several days last week, and we had further
17 input from the Restoration Team, from the principal (ph)
18 investigators and also have gone back to the peer reviewers in
19 many cases to get some clarification of their points of view in
20 order to try to make a fair and balanced judgment on what I
21 would be recommending to the Trustee Council.

22 In the area of damage assessment closeout studies, the
23 original budget was approximately five million dollars, and
24 we've gone through that, and I've gone through it with the help
25 of the Restoration Team and have asked some questions and

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

polled the PIs into what exactly they had planned and whether -
1 - what sort of resources were needed to finish and what sort of
2 analyses were going to be done.

3 And on the basis of that, I'm recommending the package
4 that's in my memo, with the exception I think that the coastal
5 habitat project because it is so large and complex it needs to
6 be looked at again with the help of the Restoration Team and
7 consulting with the investigators from the University of
8 Alaska. We'd like to get some further options on that because
9 we think there could be some more progress made on those lines.
10 So with that exception, I'm recommending that the package as
11 proposed go forward to you.

12 In the second area, I have a very general philosophy
13 that I have followed relative to recommending proposals in the
14 area of restoration, and it is connected, again, to the damage
15 assessment closeout. I think it's very apparent from the
16 closeout budget that was originally submitted of over five
17 million dollars that we're -- in fact, have been gathering --
18 doing studies and gathering data for litigation for fear of
19 losing the field season. But we've been gathering data at a
20 rate faster than we can analyze it in-depth and evaluate it and
21 come to some conclusions.

22 And my general recommendation would be that we slow
23 down, do a good job of wrapping up damage assessment, take this
24 year to plan further and only go into the field with work that
25 we absolutely have to have. And there's a few studies that I

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

think we need, absolutely have to have fieldwork this coming
1 year. And that we take this year to essentially wrap-up damage
2 assessment and figure out a monitoring program that makes sense
3 in terms of the resources out there. Those are for things that
4 need to be monitored.

5 So that's the philosophy that I have adopted in
6 recommending a package for restoration. And many of the
7 resources that have been proposed to be studied over the next
8 year are for rest- -- are for monitoring the populations to see
9 how well they're recovering. And so we will have a situation,
10 hopefully, where we'll be able to proceed in a little bit more
11 studied and deliberate fashion after having the full benefit of
12 having the damage assessment finished, completed, available
13 then to the public hopefully soon on all the details so that we
14 can get public input to this process.

15 MR. BARTON: Questions for Dr. -- are you finished?
16 I'm sorry. Were you finished?

17 DR. SPIES: I could go into the details of the -- what
18 I am proposing to do in restoration -- what I'm recommending to
19 you for restoration if you wish.

20 MR. COLE: Mr. Chairman.

21 MR. BARTON: Mr. Cole.

22 MR. COLE: Would it not be well to just address these
23 as Dr. Spies goes through them so we don't lose the continuity
24 of his thought. For example, we could decide whether to accept
25 his recommendations in Paragraph A, the damage assessment

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

closeout, at this time if the Council wanted to address those
1 subjects. Is that the motion that's now pending?

2 MR. BARTON: Well the motion that's now pending would
3 adopt the entire package for which there is joint support with
4 the Restoration Team and the Chief Scientist. That's -- what
5 you're suggesting subdivides the motion on the floor.

6 MR. COLE: I would move to amend the motion so that we
7 act upon now Paragraph A damage assessment closeout
8 recommendations with the exception of CH1A, the coastal habitat
9 study to which we deferred until later in the meeting.

10 MR. McVEE: I would second that motion.

11 MR. BARTON: Any discussion on the move to amend the
12 main motion? Is there objection?

13 UNIDENTIFIED VOICE: No objection.

14 MR. BARTON: Hearing none, the motion has now been
15 amended, and we'll deal with these section by section; is that
16 the gist of your motion, Mr. Cole?

17 MR. COLE: Yes, sir.

18 MR. BARTON: So, let us address Group A, Damage
19 Assessment Closeout.

20 DR. SPIES: Do you want to move onto the next category?

21 MR. BARTON: No.

22 DR. SPIES: No.

23 MR. BARTON: Not yet.

24 DR. SPIES: Okay.

25 MR. BARTON: We're still -- as I understand where we

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

are in the process, we're examining now the damage assessment
1 closeout group of studies, Item A.

2 MR. COLLINSWORTH: I move for approval.

3 MR. BARTON: Is there a second.

4 MR. McVEE: Second.

5 MR. COLE: With the exception of, as I said earlier,
6 CH1A, the coastal habitat study by the University of Alaska.

7 MR. BARTON: And I believe that is not -- as I
8 understand it, I believe that's the way of the document -- what
9 the documents reflect now. Is there discussion.

10 MR. COLLINSWORTH: Mr. Chairman.

11 MR. BARTON: Mr. Collinsworth.

12 MR. COLLINSWORTH: What are your plans and procedures
13 for breaking for lunch? The reason I ask is that I would like
14 to have -- before we proceed to a vote, I mean I'm perfectly
15 happy to have discussion, debate on the motion, but before we
16 proceed to a vote, I could certainly benefit from spending a
17 few moments during the lunch recess with Staff. Not having
18 planned to attend this meeting until 4:00 o'clock yesterday
19 afternoon, I have some -- and I didn't plan then, I was told to
20 attend the meeting, I would benefit from having an opportunity
21 to talk with Staff before we vote. So, I'm perfectly happy to
22 continue discussion but

23 MR. BARTON: All right. Is there more discussion on
24 these -- on this sweep (ph) of studies, Group A? In view of --
25 frankly, I have no plans for lunch, to answer your question.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

We could break, I suppose, at this point, and you could caucus
1 with your folks or we could go through and not vote on this
2 motion on, continue on through

3 MR. COLLINSWORTH: That's fine with me, too.

4 MR. BARTON: for discussion purposes, and then
5 come back and vote after -- then break for lunch and come back
6 and vote then. What -- is there any desires one way or the
7 other on the part of the Council. Mr. Cole.

8 MR. COLE: Let me ask a question. Dr. Spies, how far
9 have you commented upon these proposed projects, have you gone
10 through B and C, have you, and D?

11 DR. SPIES: B -- C is in there, I haven't really
12 reviewed C, Restoration Technical Support; D I have, E and F I
13 have not, and G I have not and H I have not.

14 MR. COLE: Well, Mr. Chairman, to get --

15 DR. SPIES: Well some of H. Excuse me, some of H.
16 Yeah.

17 MR. COLE: get this on the floor, I'll move the
18 adoption of the recommendations of the Restoration Team for
19 Items B and D as well.

20 MR. BARTON: That would be A, B and D.

21 MR. COLE: I'm omitted C because Dr. Spies said he did
22 not comment upon that.

23 MR. BARTON: Mr. Gibbons.

24 MR. GIBBONS: Excuse me, Mr. Chair. Bob, I think this
25 is -- we can visit at lunch too, I think this is the combined

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

package that we sat down, and the blanks in the package reflect
1 that you have not commented on them and we've dealt with those
2 in another area.

3 DR. SPIES: Right.

4 MR. GIBBONS: But

5 DR. SPIES: There's a second portion attached that is
6 those that the Restoration Team has commented on but I have not
7 reviewed; they're recommended.

8 MS. RUTHERFORD: I think that there are -- I think some
9 of the Trustee Council might be looking at your document that
10 you set out via fax, Bob, whereas the one in the packet
11 actually is the one that's combined and has -- it's a little
12 clearer I think as to where the Restoration Team and Bob are
13 aligned.

14 DR. SPIES: There were some changes yesterday

15 MS. RUTHERFORD: Right.

16 DR. SPIES: as I was coming up here I think.
17 Um-hum.

18 MS. RUTHERFORD: Yeah. That you guys discussed and
19 agreed to this morning I understand.

20 DR. SPIES: Right.

21 MS. RUTHERFORD: Okay.

22 UNIDENTIFIED VOICE: Mr. Chairman.

23 MR. BARTON: Is there some way of identifying which
24 package is which now that I've mixed them up?

25 DR. SPIES: Attached to my memo is the version that's

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

two days old 'cause I didn't have time yesterday to revise
1 this; it's kind of a moving target here. And the -- in your
2 package that was out on the table, it's the thick one with the
3 Agenda on top, I believe is the second version that the
4 Restoration Team has revised.

5 MR. BARTON: Okay. And that is the version that you're
6 using and discussing at the moment?

7 DR. SPIES: That's that version I should be using.

8 MR. BARTON: That's what I'm asking.

9 MR. BRODERSON: Mr. Chairman.

10 MR. BARTON: Yes.

11 MR. BRODERSON: The way you can identify the difference
12 between packages is the one that now truly represents joint
13 agreement has subtotals in it, and the one that does not have
14 subtotals in it is a couple days old.

15 MR. BARTON: Okay. Now

16 MR. BRODERSON: So look for subtotals.

17 MR. BARTON: Yeah. And the first subtotals can be
18 found on Page 3.

19 MR. MORRIS: Also, the heading says Recommendations of
20 the Restoration Team and the Chief Scientist at the top of each
21 of those pages.

22 MR. BARTON: All right. Thank you.

23 MR. COLE: Mr. Chairman.

24 MR. BARTON: Mr. Cole.

25 MR. COLE: The intent of my motion was to move the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

approval of all actions jointly agreed upon by Dr. Spies and
1 the Restoration Team. So in the block form.

2 MR. BARTON: In the entire package?

3 MR. COLE: Yes.

4 MR. BARTON: Okay. That's

5 MR. COLE: Then if we have that on the floor before
6 lunch we can

7 MR. BARTON: We have a motion on the floor that you're
8 wanting to amend at this point, and as I understand the
9 amendment, the amendment is to endorse or approve for sending
10 out to the public all those projects which have the joint
11 endorsement of the Restoration Team and the Chief Scientist; is
12 that your motion?

13 MR. COLE: Yes.

14 MR. BARTON: Is there a second? Is there a second?

15 MR. McVEE: I'll second it.

16 MR. BARTON: Okay. Now, Mr. Collinsworth does not want
17 to vote until he has a chance to caucus, is that correct?

18 MR. COLLINSWORTH: That's correct.

19 MR. BARTON: And I would suggest we break and you go
20 caucus.

21 MR. COLLINSWORTH: Okay.

22 MR. BARTON: How much time do you think you need to
23 caucus?

24 MR. COLLINSWORTH: Ten minutes.

25 MR. BARTON: Then I'd suggest we recess for 10 minutes,

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

come back and finish this off and then we'll figure out lunch,
1 is that (indiscernible - interrupted)

2 MR. COLLINSWORTH: Thank you for your indulgence.

3 MR. BARTON: We stand recessed for 10 minutes.

4 (Off record)

5 (On record)

6 MR. BARTON: When we recessed, there'd been -- it had
7 been moved and seconded that we would approve for sending out
8 for public review all those projects that had joint support
9 from the Restoration Team and the Chief Scientist. Is there
10 discussion? Mr. Rosier.

11 MR. ROSIER: Mr. Chairman. I had -- just as a point of
12 clarification, it's not clear to me how far we are going, is it
13 the entire package that is now included in the motion?

14 MR. BARTON: It is.

15 MR. ROSIER: Everything through Item H?

16 MR. BARTON: Every -- A, B, C, D, E, F, G and H on the
17 first five pages of

18 MR. ROSIER: Okay.

19 MR. BARTON: the package in our handout, the
20 heading being Restoration Team and Chief Scientist
21 Recommendations for '92 Project Proposals.

22 MR. ROSIER: Mr. Chairman, while I have no problem with
23 how far the Restoration Team and the Chief Scientist have in
24 fact gone on some of these projects, in the case of the --
25 under Item H, the pink salmon project, R60AB and the R73 harbor

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

seals, these are items that I would like to see further
1 discussion on. I have no problem with them going forward at
2 this time for public review, but there are -- we are talking
3 add-ons here, and I would like to find out how we would proceed
4 in terms of those add-ons.

5 MR. BARTON: Are you amending the motion then?

6 MR. ROSIER: That's what I would like to do, but I'm
7 interested in being sure that we do go forward with these
8 projects to the public. But in both cases, I think that we've
9 got additional information that we would certainly like to
10 present to the Council on this. And with your concurrence then
11 I would move that the budgets and the projects and the projects
12 in those two cases be reviewed before the package goes forward
13 to the public.

14 MR. BARTON: All right. So you -- would it be
15 appropriate then to remove those two projects and put them in
16 the package entitled Project Proposals Requiring Additional
17 Consideration?

18 MR. ROSIER: I believe at this time, Mr. Chairman, I
19 would -- again, if we will have the opportunity to review these
20 budgets, you know, I'm prepared to at least let this go forward
21 at the present time.

22 MR. BARTON: Well in that case, there would be no
23 motion -- or no amendment necessary but you just would like an
24 understanding. As I understand it, the entire package will
25 come back to the Council for final approval following public

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

comment, so we would have another opportunity at that point; is
1 that right, Mr. Gibbons?

2 MR. GIBBONS: That's correct.

3 MR. BARTON: Does that

4 MR. ROSIER: Well, that's -- I think that that is part
5 of it, but on the other hand, I believe before we get out of
6 here and out of this meeting that from the standpoint of the
7 dollars that go forward for public review, I would certainly
8 like to see those dollars -- the actual dollar amounts of those
9 projects included when we go forward to the public.

10 MR. BARTON: I see. All right.

11 MR. COLE: Mr. Chairman.

12 MR. BARTON: Mr. Cole.

13 MR. COLE: I would consent to amendment of the motion
14 to placing these two items, Number 60AB and Number 73, into the
15 class of studies requiring additional review by the Trustee
16 Council.

17 MR. BARTON: Is there a second?

18 MR. COLE: And then have those examined later today.

19 MR. BARTON: Does the second agree to that change?

20 Mr. McVee, did you second that?

21 MR. McVEE: Yes.

22 MR. BARTON: Is that satisfactory?

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

24 MR. BARTON: Okay. Further discussion. Is -- are we
25 ready? The motion now before us is to adopt all those projects

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

40
for which there is joint support from the Restoration Team and
1 the Chief Scientist, approve those for all those projects for
2 sending out for public review with the exception of Project
3 R60AB and R73. Is there objection? The motion's adopted.

4 Mr. Gibbons, I guess that brings us to the Restoration
5 Team Recommendations For '92 Without Recommendations From The
6 Chief Scientist.

7 MR. GIBBONS: That's correct.

8 MR. BARTON: The second package consisting of three
9 pages.

10 MR. GIBBONS: I think we need the Chief Scientist to
11 return and maybe discuss, you know, where he sees there --
12 perhaps, some policy questions here or why there was no
13 recommendation in some of these studies.

14 MR. BARTON: Dr. Spies.

15 (Pause)

16 DR. SPIES: There's a variety of issues that came up
17 that I felt were policy issues, and I highlighted some of those
18 in my memo. To give you an example and, perhaps, one of the
19 largest issues for me was the studies being proposed under
20 restoration for salmon studies projects of various
21 descriptions. And the basis of the two largest groups of
22 studies are those that deal with the consequences of the
23 overescapement of red salmon, sockeye salmon to Upper Cook
24 Inlet systems, particularly the Kenai River. And the second
25 group of studies relate to the pink salmon studies that are

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

being proposed to be carried forward.

1 And in the first case, the overescapement Upper Cook
2 Inlet systems, particularly the Kenai River, very briefly, as
3 most of you are probably aware already, but there was -- the
4 escapement goal is about 600,000 fish to the Kenai River. In
5 1987, because of the Glacier Bay spill, there was a closure of
6 the fishery and a large number of fish went up that system. In
7 1988, there was unnaturally high escapement and about 1.5
8 million, if I recall correctly; it's either 1.2 or 1.5; went up
9 the system.

10 The -- when the Exxon Valdez spill occurred in the
11 spring of '89, the fishery was once again closed and another
12 large run went up that system. The result, apparently, has
13 been a very low smolt production from those and other systems;
14 and we have the most information, of course, on the Kenai River
15 system. And there's -- Fish & Game feels that -- justifiably
16 so, that the impact of a low smolt production is going to be a
17 very reduced run of sockeye salmon to that system in '94, '95
18 and perhaps there may be even further repercussions in the
19 population as a result of this low smolt production years.

20 It's very difficult scientifically to dissect out what
21 contribution the Exxon Valdez spill made to the total problem,
22 but there are overescapement years involved here and that's the
23 issue that I'm raising to the Trustee Council policy, whether
24 Settlement Funds should be used to implement all the sockeye
25 salmon studies that are being proposed. I'd say generally the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

peer reviewers have been supportive of most of those studies
1 scientifically.

2 MR. COLE: What numbers?

3 DR. SPIES: The pink -- do you want me to -- I could
4 review the pink salmon one.

5 MR. COLE: Well, what numbers are those studies, could
6 we have that?

7 MR. MONTAGUE: I can tell you that, Attorney General.
8 We're off the first section and we're looking at these
9 remaining three pages. And the ones that would apply here for
10 the Kenai system are R117 and for Kodiak/Red Lake system R114.

11 MR. BARTON: Those are sockeye only, Jerome?

12 MR. MONTAGUE: That's early (ph). And R113 also deals
13 with restoration of Red Lake and Kodiak.

14 MR. COLE: So, it's R13, 14 and 17?

15 MR. MONTAGUE: Correct.

16 MR. McVEE: Mr. Chairman.

17 MR. BARTON: Mr. McVee.

18 MR. McVEE: I thought it was R

19 MR. MONTAGUE: And FS27, excuse me.

20 MR. McVEE: FS27, I thought it was also R53 and 59.

21 MR. BARTON: Well, all right, wait a minute here.
22 FS27.

23 MR. MONTAGUE: That is correct.

24 MR. BARTON: And what were the others?

25 MR. MONTAGUE: Okay. We'll just start from the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

beginning again and go through them; FS27 on the first page, on ⁴³
1 the second page R113, R114, and on the third page R117, R53 and
2 R59.

3 MR. BARTON: And these all relate to the same policy
4 issue that Dr. Spies suggested we address, is that correct?

5 MR. MONTAGUE: Well, first of all, the Kodiak system
6 only had an overescapement in '89. And if we could indulge the
7 Council for a minute, I think it would be worthwhile to have
8 Dana Schmidt give us a little bit more clarity on what exactly
9 happened on the Kenai system. And I'm not sure that -- well,
10 the fashion that it was presented I don't think is truly
11 correct, and I would like Dana Schmidt to address that issue.

12 MR. BARTON: My question was do these relate to this --
13 all the projects relate to this policy question that Dr. Spies
14 has laid before us.

15 MR. MONTAGUE: In my opinion only the Kenai River ones
16 relate to it.

17 MR. BARTON: Okay. And then, could you identify those
18 for us?

19 MR. MONTAGUE: Okay. What I'll do is just tell you
20 which ones apply to Kodiak.

21 MR. BARTON: However we can identify them.

22 MR. MONTAGUE: Okay. R113.

23 MR. BARTON: Is Kodiak?

24 MR. MONTAGUE: Yeah. And R114.

25 MR. BARTON: So -- and then the ones that relate to the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

policy question are FS27, 117, 53 and 59?

1 MR. MONTAGUE: That is correct.

2 MR. BARTON: Is there discussion, more questions or
3 comments?

4 MR. COLE: Where are we at the moment, what are we
5 doing?

6 MR. BARTON: Well, we need to address -- well, we need
7 to decide if we want to address the policy issue that Dr. Spies
8 has laid before us, and if we do, then we need to address it.
9 And I assume this is one of those items, Mr. Cole, that you
10 thought we ought to have the benefit of the public's thoughts
11 on it.

12 MR. COLE: I do. Why don't we do that after lunch.
13 Are there anything -- well, should we go through the rest of
14 these? Are there any other policy questions in this category
15 that Dr. Spies would like to comment upon?

16 MR. BARTON: Dr. Spies.

17 DR. SPIES: Well, yeah, the pink salmon I think also
18 come in as a policy issue. What's been proposed is -- has been
19 carried to a large extent in the last three years is quite a
20 few studies relating to pink salmon, and it's a very complex
21 system and to try to understand whether it may have been a
22 population level affect of the spill on pink salmon, there have
23 been a lot studies that have been carried out. To put it in a
24 nut shell and maybe the Department of Fish & Game might want to
25 have -- you know, present their of view in this as well. But

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

the way I see the problem is that the wild stock pink salmon
1 were declining before the spill, there may be some relationship
2 to hatcheries production there, it's not entirely clear. The
3 spill occurred, we've got some indications of a number of
4 different sorts of damages to pink salmon. The -- whether we
5 have a population level impact in my mind is still uncertain,
6 but we're being asked to continue some of these studies that
7 help better management of pink salmon on the basis of the
8 injuries that we have. And I think the policy the Council
9 needs to decide whether the spill Settlement Funds should be
10 used for this sort of activity.

11 MR. BARTON: And which of these projects relate to that
12 policy question?

13 MR. MONTAGUE: Yes, Mr. Chairman. On Page -- on the
14 first page, FS28, the second project, that's the only one on
15 these three pages.

16 MR. COLLINSWORTH: Mr. Chairman.

17 DR. SPIES: Isn't FS30, the database management?

18 MR. MONTAGUE: FS30 deals with approximately 22
19 projects, it's technical support the same as GIS, Geographic
20 Information Systems, and the Restoration Team has decided it's
21 not a project in its own, it's support for other projects and
22 certainly not just Prince William Sound pink salmon projects.

23 DR. SPIES: Those data are in that database, though?

24 MR. MONTAGUE: Yes.

25 DR. SPIES: Right.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. MONTAGUE: They are.

1 MR. BARTON: I have

2 MR. COLLINSWORTH: Mr. Chairman.

3 MR. BARTON: Mr. Collinsworth.

4 MR. COLLINSWORTH: All of these projects on these pages
5 are without recommendation of the Chief Scientist, and I'd like
6 to kind of systematically get short remarks on the reason why
7 he did not comment, whether it was a policy issue or there was
8 some other reason; and maybe we could do it systematically and
9 just kind of run down the list.

10 MR. BARTON: Dr. Spies.

11 DR. SPIES: All right. On the GIS question, there's a
12 very active subcommittee that I have not really had time to
13 participate, it's reviewing the GIS needs in restoration, and
14 so that was one reason I have not commented on the
15 appropriateness of the budget for the GIS activities; that
16 would be TS3.

17 We've discussed already -- let me back up to Category A
18 there. The archeology studies have been -- have oversight from
19 archeological steering committee, and I have been very
20 marginally involved in those; I'm not an archeologist and it's
21 somewhat out of my purview. So I've not had time -- I've not
22 been requested, I have not had time to get involved in the
23 archeological damage assessment and proposed restoration
24 projects.

25 The run reconstruction, FS28, is we just covered that

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

under pink salmon.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

R & R COURT REPORTERS

810 N STREET	1007 WEST THIRD AVENUE	1135 WEST EIGHTH AVENUE
277-0572	272-7515	272-3022
FAX 274-8982		

ANCHORAGE, ALASKA 99501

Under Part B, GIS mapping, I just covered that; it's
1 been handled by a subcommittee and is still under review.
2 Sockeye policy question.

3 FS30, in my mind, is a policy question still, but I
4 understand the point of view of Fish & Game there.

5 R92, another GIS product, that's under Part C.

6 Part E, the Montague Island chum salmon project is --
7 falls under habitat alteration, doing things on the field. And
8 I haven't -- doing things on the ground for restoration of
9 resources and it's related to the habitat question; I have not,
10 in general, reviewed those sort of proposals. Likewise with
11 the in-stream survey, R105, I haven't been involved in
12 reviewing the habitat portions of the restoration program.

13 The R37 and R41 under Part F, again, are like the chum
14 salmon study -- the chum salmon project, they are on the ground
15 alterations that are being proposed, and I have not generally
16 reviewed those either. The R113 is -- and R114, again, relate
17 to sockeye salmon. R116 to pink salmon. R117 to pink salmon.
18 R47 and R96 to habitat evaluation.

19 R52 is -- in my mind raises a somewhat similar policy
20 question, and my understanding is that the proposal is for the
21 Department of Fish & Game to develop a rockfish management plan
22 mainly for Prince William Sound. There was a change in the
23 fishing activity in Prince William Sound to rockfish in the
24 summer of '89 because of the closure of the pink salmon
25 fishery. Now, there is increasing pressure on rockfish, it's a

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

long-lived species, and Fish & Game feels they need a better
1 management plan to do better management since the spill. And I
2 think this raises a policy question, whether the Council wants
3 to support that sort of activity.

4 R53 and 59 are sockeye salmon. R104 is an
5 archeological study. Again, I haven't reviewed those. Excuse
6 me, 104A and B are both archeological studies. And R106 is
7 similar to the rockfish plan somewhat in it's development of a
8 dolly varden cut-throat trout (ph) management plan for Prince
9 William Sound as a result of their -- somewhat of the affect of
10 the spill and the secondary affect of changing -- restricting
11 and moving the fishing pressure around Prince William Sound to
12 other parts that is a management action that's been taken.
13 And, it's felt by Fish & Game they need to develop a management
14 plan for dolly varden cut-throat trout.

15 And that would cover all of the projects that I have
16 not reviewed and very briefly the reasons I have not reviewed
17 those.

18 MR. BARTON: Thank you, Dr. Spies. Other questions for
19 Dr. Spies? How do we wish to proceed? We could deal with
20 those projects in this package for which there are no policy
21 calls to be made now, or we could break for lunch now or we
22 could do most anything we want I guess. What's the pleasure of
23 the Council?

24 MR. McVEE: Mr. Chairman.

25 MR. BARTON: Mr. McVee.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. McVEE: It seems to me like we should deal with the
2 policy issues, I'm not discounting it might be an opportune
3 time to stop for lunch, but it might be a good -- it might be
4 well to deal with the policy issues because it could affect our
5 decision on some of the others also.

6 MR. BARTON: Okay.

7 MR. McVEE: So we start to approach this from a
8 different perspective.

9 MR. BARTON: Why don't we break for lunch, come back,
10 we'll open the floor for 30 minutes of public comment on those
11 three policy questions. And perhaps, after lunch, Dr. Spies
12 could enumerate those one more time for us so we're all clear
13 on what we want to address. Is that -- somebody move that.

14 MR. ROSIER: I would so move.

15 MR. BARTON: Could somebody second that?

16 MR. SANDOR: Second.

17 MR. BARTON: Let's break for lunch and be back at 1:45.

18 (Off record)

19 (On record)

20 MR. BARTON: come back to order. When we broke
21 for lunch, we were about ready to discuss the policy questions
22 that Dr. Spies laid before us, and entertain public comment on
23 those issues before the Council dealt with them. If I could
24 ask Dr. Spies to articulate those questions again for us.

25 DR. SPIES: I'll do the best I can. Can you hear me?

I'll do the best I can. Can everybody hear me?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

I raised three issues with the salmon -- with the pink salmon and the red -- sockeye salmon. With the pink salmon, there are potentially other causes of problems with wild stocks other than the oil spill. And the question I raised, the perspective I had in this is whether the Settlement Funds should be used to manage that fishery -- as wholly (ph) settlement funds used to develop manage (indiscernible) -- the fishery as a means to the restoration.

With the sockeye salmon, particularly in the Kenai system, and I realize that it's different for the Kodiak system, the Kenai system there were three years in a row of high escapement and it was only the Exxon Valdez that contributed that one last year of high escapement -- overescapement. And so we have other contributing causes besides the Exxon Valdez, probably, due to the problems we see in smolt production (indiscernible - voice lowers).

And the other issue is some secondary affects, for instance, the rockfish management, development of the rockfish management plan. There was a change in fishing pattern as a result of the spill, and there's a need to manage the fishery - the rock fishery much closer since the spill since there's a bigger take of rockfish.

MR. BARTON: Any questions for Dr. Spies from the Council? Okay. At this time, could I get a show of hands of how many in the audience would like to speak to one or all of those issues but only those issues? We'd like to save other

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

comments for the public comment period that will begin at

1 5:00 o'clock. One, two. All right. Why don't we proceed with
2 that. Do you want to go ahead, sir? Please identify yourself.

3 MR. MATTHEWS: Mr. Chairman, my name is Theo Matthews,
4 I'm from Kenai, Alaska; I'm here representing the United Cook
5 Inlet Drift Association, we represent about 350 of the 585
6 drift permit holders in Cook Inlet. And since I assume people
7 off-line, like Cordova, won't be able to comment, I'll take the
8 liberty of talking for

9 MR. BARTON: Those people will be able to comment

10 MR. MATTHEWS: On this issue?

11 MR. BARTON: on -- not on this issue.

12 MR. MATTHEWS: All right.

13 MR. BARTON: No, we're not set up for that. But

14 MR. MATTHEWS: All right. So I think I can safely
15 address the concerns of Prince William Sound also. We clearly
16 feel that the policy calls should be made even though it is not
17 conclusive that every bit of damage was done by the spill, that
18 these monies should be used for these purposes. And it's very
19 clear to us in Cook Inlet that we had a very large escapement
20 in '89, the fry were in the lakes, the smolts did not come out.
21 If we're not allowed to manage and monitor these systems, we
22 risk over harvesting our future resource, and that's -- we're
23 very concerned with that, and we think these dollars are
24 appropriate. And I would say the same thing is equivalent to
25 the Prince William Sound pink problem. So that's my comments,

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

basically.

1 MR. BARTON: Thank you. Any questions from Council?
2 Thank you. Ma'am.

3 MS. MILLER: My name is Pam Miller, I'm with the
4 Wilderness Society here in Alaska. And I will address the same
5 point of Dr. Spies that we're concerned that even if the Exxon
6 Valdez isn't the sole factor that may be resulting in damage
7 and impacts that restoration funds should be used for that
8 purpose. And we don't see it an issue that could potentially
9 just affect these three salmon -- or fish issues in terms of
10 how the restoration funds get spent. So we're very concerned
11 that you do go forward and consider that if there are
12 complicating factors beyond the Exxon Valdez spill that we
13 still can grant restoration funds for those types of projects.

14 I'm also concerned about a policy statement that
15 Dr. Spies made earlier concerning how injury is defined, and
16 that was not brought before the Trustees and the public before.
17 I think it's a major issue that could affect the long-term
18 restoration planning. And if all of these projects were
19 evaluated based on that there were population level affects
20 seen, you're ignoring injury to a life stage or to habitat in
21 preference to what's happening to populations, and I think
22 that's an oversight in the process that should be rectified and
23 we hope doesn't continue throughout the restoration planning
24 process.

25 Finally, in this packet that we're looking at,

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Dr. Spies said he did not review the habitat questions because
1 he was not intimately involved with that. So, it's a policy
2 question in a way because you're looking at a set of documents
3 with Dr. Spies recommendations, the Restoration Team's
4 recommendations. And my question is what does Project
5 Number R96, Habitat Evaluation, refer to; and does this mean if
6 it's unfunded as is currently listed on your plan, that there
7 would be no habitat acquisition monies other than for streams
8 looked at in this year. Thank you.

9 MR. BARTON: Any questions for Ms. Miller.

10 MR. COLE: Yes, I have a question.

11 MR. BARTON: Mr. Cole.

12 MR. COLE: Or comment. You understand now that to the
13 extent that we spend money on these salmon projects, the pink
14 salmon and these others, that that will be less money available
15 for the acquisition of habitat.

16 MS. MILLER: I understand that. And I

17 MR. COLE: I mean it's not me (ph), you know, it's
18 just

19 MS. MILLER: I believe that the level of funding for
20 the fish work may be excessive, but I think there's a critical
21 question that doesn't just address how much funding each of
22 these projects gets this year but what we're doing over the
23 long-term about restoration. And I hate to see both the
24 earlier change in policy about what constitutes injury and does
25 Exxon Valdez have to be the sole factor that you're weighing

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

what projects could go forward.

1 Now, I think there is quite a lot of money,
2 disproportion amount, to those fish projects. And especially
3 when we don't have any money for habitat acquisition, it
4 appears, yes, there may be a problem there, and I hope you'll
5 discuss it.

6 MR. COLE: But let me say to the extent that we make
7 decisions to spend money on salmon restoration studies that we
8 therefore, at the end of the day, have less money for the
9 acquisition of habitat. I mean -- and that's the -- so we --
10 as we go through this, these are the calls and it's not
11 either/or both, it's how much here and how much there; and that
12 is the issue in which I think we need guidance.

13 MS. MILLER: Well, I guess since you're not getting
14 guidance from the Chief Scientist on the habitat acquisition
15 parts, you're not getting that level of peer review on how
16 you're balancing how much to spend on management and how much
17 to spend on preparing to do the actual acquisition. Now, if
18 you can just walk down the street and acquire land tomorrow
19 without spending any money, great.

20 MR. COLE: See, here's what I'm getting at. To the
21 extent we take -- accept Dr. Spies definition of what money
22 should be spent on restoration projects where there is a direct
23 relationship to spill, that means we have more money available
24 for the acquisition of habitat; and you understand that I'm
25 sure.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MS. MILLER: Right. And it's

1 MR. COLE: Just so we know where the calls are and how
2 difficult they are, because we get people who say acquire
3 habitat and then we say well, fold in (ph) studies. So you
4 know, to the extent we limit the broad-ranging studies and
5 require them to have a relationship to injury in the
6 population, we have more money available for habitat. I mean
7 am I right on that?

8 MS. MILLER: Unless your

9 MR. COLE: I think so.

10 MS. MILLER: Unless you're changing the terms upon
11 which you're willing to acquire habitat, and if you're only
12 considering population level affects and not other injury,
13 including habitat injury, then you may run into problems. And
14 so while fish, if you add up all -- there's enough money in the
15 overhead for some of the fish projects to entirely fund some of
16 the acquisition work or the amount that you've already gotten
17 for the work that was done last year.

18 MR. COLE: Thank you.

19 MS. MILLER: So I'll conclude here and speak later.

20 MR. COLE: Thank you.

21 MR. BARTON: Is there anybody else in the audience that
22 wishes to address these three policy questions that are before
23 us? Okay. Thank you. We'll close the public comment period
24 then on those three policy questions. Discussion amongst the
25 Council Members on how we resolve them. Mr. Rosier.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. ROSIER: Thank you, Mr. Chairman. In the case of
 1 both pink salmon and sockeye, these are two species that are
 2 actively managed in both the Prince William Sound area -- in
 3 fact, in all three areas; in Prince William Sound, Cook Inlet
 4 and Kodiak areas. Pink salmon is the same. We've got major
 5 programs within the State program at the present time that
 6 addresses the management needs of these particular species. In
 7 both cases, we do have linkage to damage to these resources
 8 directly attributable to the Exxon Valdez oil spill.

9 We would, perhaps, have responded to these with State
 10 money had we -- you know, had we not had a settlement, but on
 11 the other hand, we do have a settlement. And with that
 12 linkage, in my mind, due to the importance of these particular
 13 species to the economy of the areas, I think that's part of
 14 what the settlement was about was the rebuilding of the
 15 affected services and supporting the economies of the areas
 16 that were impacted by the oil spill. These are two key species
 17 that are involved in the economies of those areas. They are
 18 species that are being actively managed. It's not a case of
 19 just being able to go out and decide that you're going to close
 20 a fishery, there's longstanding fisheries in all of these
 21 areas; it's a matter of, in fact, standing -- trying to manage
 22 to permit people to continue to make a living after the -- in
 23 the face of further adversity, I guess is the best way to put
 24 it, that been brought about as a result of the Exxon Valdez.

25 It just seems illogical to me that we would, in fact,

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
 277-0572 272-7515 272-3022
 FAX 274-8982

ANCHORAGE, ALASKA 99501

1 move away from these species as one of the -- as two of the
2 target species associated with restoration. We know that we've
3 got certain levels of knowledge, certain levels of information
4 about these two species virtually all of the areas. In the
5 long run, when it's all said and done, perhaps, the cheapest
6 restoration that we can come by is the improvement of the
7 information base upon which we, in fact, manage these
8 particular species.

9 I'm not sure what else we could do in terms of these
10 species. Do we can build a hatchery? Do we -- you know, do we
11 do something else other than what's being proposed here? But
12 we heard today that the pink salmon were on the decline in
13 Prince William Sound prior to '89, that's not so. The
14 situation in the Sound was a typical situation as far as pinks
15 were concerned. We had fluctuations in the population there,
16 we had fluctuations in pink salmon populations everywhere. So
17 I think that, you know, don't be mislead as the Council as a
18 result of that type of information.

19 I think in the case of reds, red salmon in Cook Inlet,
20 specifically the Kenai Peninsula, is really the heart of the
21 red salmon fishery in Cook Inlet. If we reach the point where
22 we -- for whatever reason that we cannot, in fact, conduct a
23 fishery in Cook Inlet because of Kenai River failure, then
24 we've got a major, major disaster on our hands, and we simply
25 cannot live with that.

26 We know that -- from the '87 and the '88 that there

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

were large numbers of fish got in there, we don't know exactly
1 what the impacts were or what the affects of those problems
2 were in the Kenai system those years. But at least in the case
3 of the '87 run, despite the fact that we did have a large
4 number of fish in there, we got out a pretty good smolt
5 production, a very large smolt production. In 1988, the same
6 thing; it was declining, I'll grant you that, but we don't know
7 what all of the inter-specific (ph) actions were that, in fact,
8 caused that further decline in 1988. We do know, though, that
9 following '89 when we put those fish in there that we had a
10 major drop in terms of production out of that system, and that
11 we are, in fact, faced with a significant decline in the
12 population as a result of that. How long that's going to
13 continue remains to be seen, but we know at the present time
14 that based on the smolt production out of that '89 parent year
15 that we're looking a major disaster in the Cook Inlet fishery
16 and on the Kenai River. It's not just confined to the
17 commercial fishermen either, those species are, in fact, shared
18 by recreational fishermen basically from all over the state and
19 from out of the state as well and that the need to, in fact,
20 provide for that human use of those resources as a part of this
21 restoration program I think is critical.

22 Move ahead. Whether it's 10%, whether it's 50%,
23 whether it's a hundred percent tied to Exxon Valdez, I think
24 that we need to move ahead with those programs. Thank you.

25 MR. BARTON: Other comments.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. McVEE: Yes.

1 MR. BARTON: Mr. McVee.

2 MR. McVEE: Mr. Chairman. I guess I may have a
3 question to start with. And that is relative to the production
4 -- smolt production of '89, we have data that indicates that
5 that is reduced. But these projects that are proposed would be
6 designed, as I understand it, to just get more data that would
7 be used for management purposes; they would not do anything in
8 terms of -- speaking of the Kenai projects specifically, they
9 would not do anything in terms of trying to increase that
10 recovery.

11 MR. BARTON: Mr. Rosier.

12 MR. ROSIER: Mr. Chairman. The key to managing in the
13 face of those reduced runs, of course, is better information.
14 And of course, the programs that we're talking about here
15 would, in fact, insure the information base or at least improve
16 the information base upon which to better manage those
17 resources. And there will be opportunities from other systems
18 that were not adversely affected to impact (ph) fish, but the
19 heart of it is the Kenai River and how quickly you bring that
20 back on-line. And from our standpoint, the beginning of that
21 is the information base on which we manage within the Inlet.

22 MR. McVEE: Mr. Chairman.

23 MR. BARTON: Mr. McVee.

24 MR. McVEE: I might follow that up I guess. It's a
25 sticky problem and it certainly is -- I guess will be

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

contentious, I realize that. But you know, I guess I feel like⁶¹
1 first, you know, we looked -- we have to look at injured
2 resources and attend to their recovery, and those that have had
3 some direct relationship with the oil spill, were impacted by
4 the oil itself. And if the damage linkage -- and in this case
5 I guess that's what I would see is a linkage as a result of a
6 management decision not as a direct impact, so that then
7 becomes the policy question; do we use the dollars where --
8 restoration dollars where as a result of a management decision
9 as a result of the spill secondary or two step -- or I guess
10 two phase impacts, do we use those dollars, you know, for
11 projects. You know, I might be very conservative in this
12 respect, and -- but I guess that's the problem that I have with
13 the Kenai project.

14 Well, maybe the answer to that -- or maybe one option
15 there is as Carl may have suggested that it's, you know, for
16 partial funding from the spill dollars; however, you don't
17 still get -- you're still talking about what I call secondary
18 impacts.

19 MR. BARTON: Other comments, questions.

20 MR. COLE: Mr. Chairman.

21 MR. BARTON: Mr. Cole.

22 MR. COLE: Is this going to be a multi-year's study
23 proposal or is it just going to be wound up this year?

24 MR. MONTAGUE: Mr. Chairman.

25 MR. BARTON: Mr.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. MONTAGUE: If I could address that. There's a
1 number of projects in here and I'm not exactly sure which ones
2 you refer to. But in terms of those designed to better manage
3 the fishery and, you know, to provide a fishery while
4 protecting the stocks, we envision some funding forum until the
5 Kenai has recovered, and we do not know when that will happen.

MR. COLE: Well, I mean are we talking about -- well,
6 specifically, are we talking about FS27 and 28? I guess that's
7 the two I was questioning. Are those multi-year studies and
8 are we looking at -- let's see -- 650,000 each year for three,
9 four, five years, one or two or what?
10

MR. MONTAGUE: Okay. In the case of FS28, is just the
11 data management of which maybe five percent would be in one or
12 two sockeye projects. But FS27, it's the primary project that
13 tries to determine what exactly -- what were the conditions in
14 the lake prevented the fry from surviving to the smolt stage
15 and also documenting the outflow of smolts. And there's a
16 rather expensive portion of the project that is to measure the
17 outflow of smolts that we think our fry enumeration systems in
18 the lakes within a year or two will suffice so that we can drop
19 the more expensive smolt enumeration portion. So, we would
20 anticipate within a year or two that one dropping by about 40%
21 in its cost.
22

And the reason why that particular project is so
23 necessary, you know, right now we have very low smolt counts
24 from '91 so we know that we're going to have probably very low
25

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

returns in '94. But next year, we're going to be looking at
1 the smolts that are going to return in '95, so next year, if
2 it's also another low year, then we know that we've got a
3 potential collapse of the fishery on our hands. And without
4 that smolt enumeration, we can't -- could not address that.

5 MR. BARTON: Mr. Cole.

6 MR. COLE: Did I get yet an answer about how many years
7 we could look for? Once we start down this road, you know, we
8 shouldn't cut it off, we have to follow through and get the
9 complete project. So, how much -- how long are we really
10 looking at?

11 MR. MONTAGUE: Okay. Well, if '92 showed very good
12 smolt production, then we would be quite a bit more relieved
13 and actually, might not even need to do that project in '93 and
14 beyond. And you know, if '92 shows poor smolt production, then
15 we do have to do it in '93 and so on.

16 MR. COLE: Mr. Chairman, I have another question.

17 MR. BARTON: Mr. Cole.

18 MR. COLE: Did Dr. Spies -- did someone say that one of
19 the causes for this may have been and was (ph) caused by the
20 Glacier Bay accident?

21 MR. BARTON: Is Dr. Spies here?

22 UNIDENTIFIED VOICE: He left the room for a few
23 moments.

24 MR. BARTON: Is that what he said? I don't recall.

25 MR. COLE: Is that what he said? Why don't we use some

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

of the Glacier Bay natural resource recovery monies to fund
1 this program if that's the case?

2 MR. BARTON: It would seem logical. I'm not sure we
3 can spend somebody -- some other Trustee Council's money but
4 I'd be delighted.

5 (Off record comments)

6 MR. MONTAGUE: Mr. Chairman, if I may address the
7 Council further on the comment of the relationship to the '87
8 spill and the overescapement that year. That first of all, we
9 think the factors that contribute to the decline in smolts from
10 overescapement results from lake temperature, nutrient levels,
11 sunshine and a cloud cover for that year, as well as the timing
12 of which certain prey species reached the stage that they are a
13 choice food by the fry and smolts in the lake. And that as an
14 example, Red Lake colla- -- I don't know if collapse is the
15 right word but lost its smolt production in a single
16 overescapement, whereas the '87 overescapement in the Kenai did
17 not cause the same thing that Red Lake had.

18 So, what we're trying to say is that the conditions in
19 the lakes in '89 very likely would have resulted in low smolt
20 production from an overescapement whether there'd been an '87
21 escapement or not. So, we're not saying that there probably
22 isn't some contribution from '87 but we're reasonably
23 comfortable that it's far smaller than the natural conditions
24 in the lake. Thank you.

25 MR. BARTON: This -- whether really how -- the real

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

question in my mind is how directly the injury has to be tied
 1 or needs to be tied to the oil spill. And I don't think
 2 anybody questions the importance of either one of those
 3 fisheries to the economy and to the people that live in the
 4 area. But it really gets back, in my mind, to whether it's an
 5 appropriate use of these monies versus some other source of
 6 monies, perhaps, another oil spill's money, and then how far do
 7 you carry it. You know, there are a lot of things that are
 8 very important to people that live in those areas, some of
 9 which need some attention.

10 And so there's 900 hundred million dollars here to use
 11 to give attention to things. Should we look up on this big pot
 12 of money as an opportunity to fix a lot of different things
 13 that need fixed, or do we need to adhere pretty closely to the
 14 Settlement Agreement and the law, and where do you draw that
 15 line? And I guess that's the policy question that's in front
 16 of us; that it seems to me that if we start down that road,
 17 well you could go quite a long ways, a gymnasium (ph), for
 18 public health.

19 MR. COLLINSWORTH: Mr. Chairman.

20 MR. BARTON: Yeah. Mr. Collinsworth.

21 MR. COLLINSWORTH: I think this is a very interesting
 22 policy issue, and actually it's not a simple policy issue
 23 'cause it's rather complex in nature. But certainly, the law
 24 provides for the opportunity to look at the option of
 25 equivalent value resources, the acquisition of equivalent

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
 277-0572 272-7515 272-3022
 FAX 274-8982

ANCHORAGE, ALASKA 99501

resources; and perhaps, you might expand it to say equivalent value services.

We -- I don't believe this Council has come to grips with the concept of what is the universe of restoration activities that are going to be utilized in making the Sound and the affected regions whole subsequent to the oil spill. And we have -- the reason that it is complex is there's different categories of restoration activities that might be engaged in. I had hoped that this Council a couple years ago would start to develop a restoration methodology plan that more clearly identified by species what the restoration opportunities were, whether they be direct opportunities to restore the species itself by supplementing its ability to reproduce, to deal with habitat, to deal with enhancement activities, receding grasslands, developing hatchery alternatives or whatever.

But it seems to me that we have a couple of different kinds of species that have been affected by the oil spill. We have those species that I think Mr. Rosier referred to as those who are under some kind of active management; and I guess that's another term that is used to define species of animals that are exposed to human use, harvest or consumption. So that generally is our fisheries, and I think that's where we have active management programs where we are controlling removals from population because of some kind of human activity.

Then we have other categories of resources that are not

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

67
harvested. And we do not control the taking of those animals;
1 and perhaps, our options with regard to those animals in terms
2 of restoring their populations or productivity deal mostly with
3 their habitats, trying to alter their habitats or to work with
4 predator/prey species relationships to assure that the
5 populations have an opportunity to have the foods necessary for
6 reproduction and other activities. And then, of course,
7 there's the possibility of some kind of direct enhancement
8 through artificial reproductive activities.

9 So we have those fish -- I mean we have those resources
10 that are actively managed and those that are not actively
11 managed in the category that -- I mean divided up like I
12 expressed. And it seems to me reasonable to look at
13 restoration to include the concept of acquiring information
14 that will allow you greater precision in your management
15 program in order to help restore a population of animals that
16 is actively managed. And I could see that being particularly
17 the case in Cook Inlet and in Prince William Sound as well with
18 pinks. But in Cook Inlet, if you are going to try to manage --
19 intensively manage Kenai Peninsula stock, you're going to have
20 to have information about the status of those stocks and you're
21 going to have to have information that allows you to engage in
22 various kinds of stock separation in the Lower Inlet and -- so
23 that you might manage discreetly to try to allow for harvest of
24 resources that were not affected by the spill and those that
25 were so that you can exploit those resources at the appropriate

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

levels.

1 And so you need that kind of information and -- to have
2 an intensive management program that will restore the resource.
3 And it seems to me that within the proper definition that this
4 Council ought to consider whether or not active -- the
5 enhancement of active management programs is an appropriate
6 restoration activity. I tend to think it is. And I think that
7 it is one of the tools that should fit under this universe of
8 restoration activities.

9 The extent to which you may approve projects, of
10 course, depends on a particular situation. And I think that
11 there needs to be good oversight to assure that we're not going
12 far afield and engaging in general scientific work and stock
13 work that doesn't relate specifically to the resources of
14 concern. But I, nevertheless, think that being able to acquire
15 the information and the technology to allow you to more
16 precisely and intensively manage resources that are under this
17 active management category is a legitimate use of restoration
18 funds.

19 MR. BARTON: Further comments.

20 MR. McVEE: Mr. Chairman.

21 MR. BARTON: Curt. Mr. McVee.

22 MR. McVEE: I think as Dr. Montague mentioned, you
23 know, other factors could have affected the smolt production;
24 and that, you know, therefore, I guess -- maybe I'm not
25 interpreting this right but my logic would say that while we

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 don't know whether it's all a direct relationship with the
2 escapement problem that have years of -- where we've had large
3 escapement, we had a fair or a good smolt production. So other
4 things are built into that. And, you know, therefore, there's
5 a dilemma I guess in trying to keep some purity in the way we
6 spend the funds, the Settlement Funds, that were gained from
7 Exxon through the court settlement.

8 The other -- I guess the other problem is that, you
9 know, we have some species that had direct damages and that we
10 have not got those in the budgets this year because we could
11 defer or postpone, or in some cases I guess we felt like that,
12 you know, maybe -- that was the question, there was enough
13 information on some of those. So, you know, in trying to keep
14 the budget down, there's some of that information that we are
15 not going to collect this year; some that will be lost forever,
16 some of it we can probably recapture in subsequent years,
17 information concerning, you know, the animals' losses
18 themselves to the certain species.

19 And I guess on management programs, then the questions
20 come one -- come down to well, should we supplement or what
21 degree should we supplement agency management programs with
22 spill Settlement Funds. And that opens up, you know, Pandora's
23 Box in my mind, I have great problems with that.

24 MR. BARTON: Any other comments or -- Mr. Sandor.

25 MR. SANDOR: Dr. Spies, in his papers, said
specifically -- he suggested that the Trustees determine

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

whether oil spill Settlement Funds should be the sole support
1 for the development of management tools for pink salmon; while
2 that specific quote (ph) is for that one issue, I think that's
3 one that the Trustees need to address. That was the reason I
4 asked Mr. Gentry if there was any problem in -- from an
5 accounting standpoint of targeting projects for funding from
6 different sources, including the regular agency appropriations
7 or from other funding sources like the Glacier Bay.

8 And I guess with respect to that question, whether or
9 not the Trustees should determine whether or not it should be
10 the sole support, my position is that it shouldn't be the sole
11 support. We should not look just to -- and I guess if we're --
12 I don't know whether there's a consensus on that point or not.

13 The second point that I wanted to make is with respect
14 to the projects under consideration. I wonder if it might not
15 be of benefit to the Trustee Council and the public here if
16 someone on the Restoration Team itself could summarize very
17 quickly the rationale for their conclusion on these projects.
18 Is that possible?

19 MR. BARTON: Sure. It certainly is. Do we want to do
20 that before we deal with the policy issues?

21 MR. SANDOR: Well, I guess we don't have to but at some
22 point I think it would be worthwhile doing. That's all I had
23 this.

24 MR. BARTON: We can do it any time. Mr. Rosier.

25 MR. COLE: Mr. Chairman.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. ROSIER: If I might.

1 MR. BARTON: Mr. Cole.

2 MR. COLE: I'm in favor of FS27, 28, 53 and 59. And on
3 the other hand, I am not in favor of 52, the rockfish, because
4 I think there is a distinction that can reasonably be drawn. I
5 think basically that these studies can come within the
6 definition of replacement or acquisition of equivalent
7 resources as those terms are discussed in 43CFR, Section 11.

8 And I tilt in favor here of the salmon studies because
9 I think it's a very important natural resource for the State of
10 Alaska. It's a historic resource which hundreds if not
11 thousands of people in Alaska have derived a livelihood from
12 them over the years. It provides the State with historic of
13 revenue and a hope for the future given the comments one reads
14 in the paper about the budget. And therefore, given those
15 considerations, and following up without reiterating the
16 comments of Mr. Collinsworth, I would like to see the Council
17 approve these projects which I mentioned.

18 Distinguishing from the rockfish plan, on the other
19 hand, that's simply management of a resource which has not been
20 very well related to the spill itself; it's, I think, a
21 collateral management problem. So, therefore, I intent to
22 support these projects in full. And by the way, there is no
23 money from the Glacier Bay natural resource damage funds
24 because none were I think sought; so we can forget about that.

25 And, you know, I just think that we ought to look to

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

the future of this industry in Alaska and support these
1 proposed projects. Thank you.

2 MR. BARTON: Mr. Rosier.

3 MR. ROSIER: Thank you, Mr. Chairman. I believe
4 Mr. McVee was talking in terms of a hundred percent funding for
5 the management in these cases. I guess I would respond to that
6 by saying that while there may be major expenditure of funds
7 from the civil settlement associated with this, that it's not a
8 hundred percent funding. That the agency, you know, with the
9 responsibility for management here is contributing a fairly
10 substantial amount at the present time. This is really an
11 improvement of the information base. Over time, certainly, we
12 would anticipate that these projects would, in fact, be phased
13 out of Exxon Valdez Oil Spill money was the question that was
14 raised earlier.

15 But these were resources that were damaged and
16 certainly this is the time to move ahead on those resources.
17 So I don't know whether that helps or not, but we are spending
18 a lot of money in both of these areas currently.

19 MR. BARTON: Further comments or questions. Are you --
20 Mr. Cole, let me understand what you're supporting. You're
21 supporting those projects related to red salmon and pink salmon
22 because they're actively managed stocks that are important to
23 the people of Alaska?

24 MR. COLE: Not simple because they were actively
25 managed, but because they could, in my view, properly come

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

within the definition of replacement of damaged natural
1 resources or the acquisition of equivalent resources. Clearly,
2 they may come otherwise within the direct restoration concept.
3 But in any event, if they don't come within the restoration
4 concept, they come within one or the other two, that's
5 Number 1.

6 And then, we have the problem of well, how direct must
7 that be? Well, I think we're past that. And then
8 substantively, should we approve these two projects as a policy
9 matter? It's because of the I think really immense value of
10 the salmon species to the State, both historically and
11 presently, and we should take steps to further those salmon for
12 those reasons. And the rockfish, you see, I think comes on the
13 other side. I mean that's just a management problem and that
14 doesn't require -- in my limited view and limited knowledge of
15 this area, which can be otherwise controlled without a large
16 expenditure of money. And in this area, we have a very basic
17 view (ph) policy issues supporting the decision, plus the
18 likely inability (ph) of acquiring funds to do this work from
19 other sources.

20 MR. COLLINSWORTH: Mr. Chairman.

21 MR. BARTON: Mr. Collinsworth.

22 MR. COLLINSWORTH: I have I guess it's kind of a
23 technical question. The project FS27 under B Damage Assessment
24 Continuation, is this properly listed under continuation of
25 damage assessment or should it really be back here in

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

restoration management action? Is this

1 MR. BARTON: Mr. Gibbons, can you answer that?

2 MR. GIBBONS: What I understand there are two phases of
3 this project; one phase is to look at the adult escapement and
4 one phase is to look into the fry out migration. And this is a
5 continuation of some work that was done last year under the
6 guise of damage assessment and we deducted money; you can
7 correct me but I think that's the case.

8 MR. MONTAGUE: Yes, Mr. Chairman. FS27 is several
9 years old, and it certainly has benefits to management into it,
10 but as far as categorizing it, you know, how much of it would
11 help management and how much of it was finishing up the damage
12 assessment -- rather than cause the confusion of looking like
13 an unchanged project is now classed differently, we left it
14 under Continuation.

15 MR. COLLINSWORTH: So, it really does have aspects of
16 both?

17 MR. GIBBONS: That's correct.

18 MR. COLLINSWORTH: One further comment, Mr. Chairman.
19 Mr. McVee issued some concern about whether or not these
20 restoration monies were going to be the sole source of funding,
21 I think Mr. Rosier answered that question. When I -- earlier,
22 I talked about with appropriate oversight, and I think it's
23 important that we take some care in assuring that we don't end
24 up substituting restoration funds for normal State funding of
25 programs of Federal funding of programs. I really look at this

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

restoration money as being enhancement activity to the ongoing
1 management program. And I know that there might be technically
2 some times when budgets get tight to look at this as a
3 substitute alternative. But I'm sure that with the appropriate
4 oversight that that won't happen.

5 MR. BARTON: Well, we've had a good discussion, what do
6 we want to do with it?

7 MR. COLE: Well, I move we approve FS27, 28, 113 and
8 114, as well as R53 and R59.

9 MR. COLE: Is there a second?

10 MR. ROSIER: Second.

11 MR. BARTON: It's moved and seconded. 27 -- read those
12 again, would you, Mr. Cole?

13 MR. COLE: Well, let's start on Page 1 so we can get
14 it.

15 MR. BARTON: All right.

16 MR. COLE: Paragraph A, FS28.

17 MR. BARTON: 28.

18 MR. COLE: Run reconstruction.

19 MR. BARTON: All right.

20 MR. COLE: Paragraph B, FS27, sockeye overescapement.
21 On Page 2, R113 and R114, Paragraph F. And on Page 3, R53 and
22 R59.

23 MR. BARTON: Moved and seconded. Any further
24 discussion of that?

25 MR. COLLINSWORTH: Yes.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: May I add to that, at funding levels
1 recommended by the Restoration Team.

2 MR. BARTON: Okay. February 27 proposal column (ph).

3 MR. COLE: Hold on. I'm told -- hold on just a second.

4 MR. COLLINSWORTH: We've got a problem with R114 I
5 think.

6 UNIDENTIFIED VOICE: Yeah.

7 MR. COLE: We'll take out R114. But we can address
8 that one later.

9 MR. BARTON: So it's 20- -- FS27, FS28, R113, R53 and
10 R59. Any more discussion?

11 MR. MONTAGUE: Mr. Chairman.

12 MR. BARTON: Mr. Montague.

13 MR. MONTAGUE: May I add something. FS28, the current
14 recommendation is to not do the work but to finish analyzing
15 existing information. I guess I just want some clarification
16 if we're approved to put this project forward as fully doing
17 run reconstruction or just to cut it off where it is?

18 MR. BARTON: As I understand the motion, we're
19 approving the February 27 proposal. Is that everybody else's
20 understanding?

21 MR. COLE: Yes. Except for 114, which is on the shelf
22 currently.

23 MR. COLLINSWORTH: I need clarification, Mr. Chairman.

24 MR. BARTON: Yes.

25 MR. COLLINSWORTH: Are we looking at the February 27

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

proposal column or are we looking at February 27 proposal with
1 overhead? And there are differences. The initial February
2 27th proposal wasn't that

3 MR. BARTON: I thought we were looking at the second
4 column from the left.

5 MR. COLE: Well, didn't we decide this morning to in
6 principle to go along with an overhead factor, as I glance at
7 that 15%, wasn't that in there?

8 MR. BARTON: That's what

9 MR. COLE: I thought so, and I thought we generally
10 approved that subject to -- somebody would at least be reading
11 it (ph).

12 MR. BARTON: Does that help.

13 MR. COLLINSWORTH: Thank you. Yes, thank you.

14 MR. BARTON: Mr. Rosier.

15 MR. ROSIER: Yes. I'm still a little confused on the
16 motion here as related to -- in order to accomplish FS28 -- you
17 won't accomplish FS28 at the February 27th proposal level.

18 MR. COLE: Well, I mean do we just tear this all up?
19 It's my view that the rest-- we adopt the Restoration Team's
20 recommendations for 1992 project proposals listed in A, FS29.
21 Now, is not their recommendation? If it isn't, we need to
22 know.

23 MR. ROSIER: Yeah. My recommendation, Mr. Chairman, on
24 this is that in order to accomplish that program we need the
25 474.6 rather than the 55 that's indicated on the February 27th

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

proposal. That's a closeout -- that is a closeout budget under
1 the February 27th proposal.

2 MR. COLE: My motion remains the same, that we accept
3 the Restoration Team's recommendations. I mean if somebody
4 wants to move to amend it, that's up to them.

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: Mr. Chairman. I would move to amend FS28,
7 replace the 55 recommended by the Restoration Team to 474.6.

8 MR. BARTON: Is there a second? Is there a second?

9 MR. SANDOR: I'll second that for discussion purposes.
10 And at this point, I think I'd like the Restoration Team to
11 give the rationale for the change.

12 MR. BARTON: Mr. Gibbons, could you orchestrate that?

13 MR. GIBBONS: Yeah. I can try to explain that. I have
14 these projects broken out by species and have the listing of --
15 under sockeye. The Restoration Team voted yes on FS27, voted
16 yes on R113. We voted no on R114 because it was a fishery's
17 issue, or at least fish were being -- will be accessed and
18 harvested by the fishermen right at the site, and we had some
19 concerns with that approach. R117 was the replacement for the
20 Kenai sockeye, we had some concerns with that so we voted that
21 one no. We voted yes on R53 and yes on R59.

22 On FS28, the Restoration Team voted to close this study
23 out but would like a final report, so that's what the 55,000
24 reflects, is a final report only and no further work from the
25 rest- --

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. SANDOR: Mr. Chairman, if I might ask.

1 MR. BARTON: Mr. Sandor.

2 MR. SANDOR: What was the rationale for the closeout
3 versus the continuation of the study?

4 MR. GIBBONS: My understanding of it was -- and maybe
5 the Restoration Team can add to this, but we considered that it
6 was an issue between the hatcheries and the wild fish. And
7 this was a modelling (ph) effort to figure out where the wild
8 fish go and where the hatchery fish go. And we -- my
9 recollection was that we thought was a normal agency
10 responsibility.

11 MR. BARTON: So other members of the Restoration Team
12 want to speak to that?

13 MR. MONTAGUE: Yes, Mr. Chairman. I -- how best to
14 express it. I guess the development of the Restoration Team
15 recommendations were based on a voting procedure where only two
16 votes, two no votes, were required to not have a project go
17 ahead. And based upon that -- those operating procedures, that
18 is the Restoration Team's recommendation. I assume that Dave
19 is representing the summary of interpretation of the two no
20 votes.

21 MR. GIBBONS: Let me clarify that. On the voting
22 procedures, when we hit two votes, we stop; if we get two
23 immediately, we stopped at that point, there was no further
24 discussion on it. So, in other words, we had two no votes on
25 this one and so -- but really the voting record is not clear on

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

it but we had two votes so it didn't go forward.

1 MR. BARTON: Further

2 MR. MONTAGUE: Mr. Chairman, if I may add this. The
3 two things this project was supposed to do is it was the final
4 pulling together project of all the pink salmon work. It was
5 the one that essentially made sense out of a dozen odd projects
6 over the years on pink salmon. And further, during the
7 litigation phase, it was to have been the mechanism by which we
8 could hind-cast (ph) to prove population level affects, and
9 since population level affects still seem to be under some
10 question, cutting this project off seems ill-advised.

11 MR. BARTON: Any other comments or discussion?

12 MR. COLLINSWORTH: Just -- yes, Mr. Chairman.

13 MR. BARTON: Mr. Collinsworth.

14 MR. COLLINSWORTH: Just briefly, whoever can summarize
15 the objectives of this project, I'd like to have that. What is
16 it you're going to do for 474.6?

17 MR. MONTAGUE: The primary -- Mr. Chairman, if I may.
18 The primary cost component of this project is the tagging of
19 adult pinks as they enter Prince William Sound and recovering
20 them during the fishery as well as during carcass surveys on
21 streams. And the purpose of that is to in order to develop the
22 run construction model, one of the pieces that we're still
23 missing was a mechanism of -- indicating when fish would arrive
24 in the certain quadrants of the Sound. And an additional cost
25 component of that recommended by the peer reviewers was to not

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

depend entirely upon the commercial fishery and the streams
1 surveys but to actively go out and conduct a test fishery to
2 try to recover some of those tagged fish.

3 And those two things are by far the largest component
4 of it, and the remaining parts of it were -- a lot of it's
5 already done, and that's getting all the information on
6 computer, developing a program to describe run reconstruction
7 in the Sound. Right now, it's done for one quadrant, and it
8 would be expanded to the remaining quadrants of the Sound.

9 MR. COLLINSWORTH: One follow-up, please.

10 MR. BARTON: Mr. Collinsworth.

11 MR. COLLINSWORTH: Is this -- would this be the last
12 year of the project?

13 MR. MONTAGUE: Absolutely.

14 MR. McVEE: Mr. Chairman.

15 MR. BARTON: Mr. McVee.

16 MR. McVEE: As I understand it then, the end objective
17 is to identify the wild stocks versus the hatchery stocks, and
18 where the wild stocks are going and that where the separation
19 is made; and therefore, where -- you know, or how a fishery
20 management program can be constructed in the future to provide
21 access to those stocks when they're separated so that there
22 will be less impact for the proper amount of harvest on the
23 wild stock, they won't be endangered from over-harvest
24 proposition. Is that accurate?

25 MR. MONTAGUE: Mr. Chairman. I believe many components

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

of that are accurate. I think the -- and the question being
1 does this better improve the ability to manage both hatchery
2 and wild fish, is that -- I believe that's correct.

3 MR. BARTON: Mr. Rosier.

4 MR. ROSIER: I had a question on this, I guess it's
5 related to the dollar amount, just to get it out on this. Is
6 the 474.6, does that include the overhead as part of the second
7 question that was raised?

8 MR. MONTAGUE: No, it does not. We have that figure
9 somewhere here, we did prepare it. Usually, it's on the order
10 of about eight percent to ten percent of the project.

11 MR. ROSIER: Okay.

12 MR. BARTON: Well, we have a motion on the table
13 to

14 MR. COLLINSWORTH: Mr. Chairman, one more question,
15 please.

16 MR. BARTON: Mr. Collinsworth.

17 MR. COLLINSWORTH: Would the full funding of the
18 proposal of 474.6 also include the closing out of the project?

19 MR. MONTAGUE: Mr. Chairman. Yes, it would.

20 MR. BARTON: In other words, if we funded this at
21 474.6, consider that (ph)

22 MR. COLLINSWORTH: We wouldn't see something next year
23 for closeout.

24 MR. BARTON: The motion on the floor is did we accept
25 the February 27th proposals for Projects FS27, 28, 113, 53 and

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

59. There's been an amendment offered and seconded that would
1 substitute the February 5th proposal on FS28 for the
2 February 27th proposal. Any more discussion? On the
3 amendment, is there objection to the amendment?

4 MR. McVEE: Objection.

5 MR. BARTON: Okay. Under the rules of which we
6 operate, we have to have a unanimous vote, the amendment fails.
7 On the motion, and the motion now includes the February 27th
8 proposal for FS28. Is there objection to the motion? The
9 motion carries.

10 What do we wish -- have we actually answered the policy
11 question, I guess? And I guess we have sort of by the back
12 door.

13 MR. COLLINSWORTH: Yeah.

14 MR. BARTON: Which is better than not answering it at
15 all, so I won't ask anymore.

16 MR. COLLINSWORTH: Mr. Chairman. I think that,
17 perhaps, by our action, we did give an indication of what the
18 attitude of the Council is towards enhancement of your
19 management precision for actively managed resources and it's
20 appropriate for certain cases. I still think it is an issue
21 that need clear definition as we continue with building the
22 restoration plan so that we really have a good understanding of
23 what the universe of activities that we consider to be
24 acceptable for restoration.

25 MR. BARTON: Well, I think we'll have ample opportunity

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

to do that, and we'll, in fact, have to do that because I think
1 there's a real Pandora's Box out there if we don't.

2 MR. COLE: Well let me say, Mr. Chairman, if I may.
3 There is simply no bright (ph) line.

4 UNIDENTIFIED VOICE: No, there isn't.

5 MR. COLE: And we just have to find that line

6 MR. BARTON: As we go.

7 MR. COLE: by dealing with these proposed
8 projects one by one, and I think we will then find a general,
9 broad policy as we do that. But to try to state it in advance,
10 I just don't think we can do it, it's not capable, you might
11 say, to mathematical precision.

12 MR. BARTON: Okay. Where do we want to go next?

13 MR. COLE: Find an easy way.

14 MR. BARTON: I'm sorry.

15 MR. COLE: Find something easy.

16 MR. COLLINSWORTH: Do we still have

17 MR. BARTON: We still have a number of these projects
18 that are from the Restoration Team recommendations to deal
19 with. We could deal with the remainder now as a group having
20 answered those policy questions or what's the pleasure of the
21 Council?

22 MR. COLLINSWORTH: Mr. Chairman.

23 MR. BARTON: Mr. Collinsworth.

24 MR. COLLINSWORTH: I move that we adopt the
25 recommendation of the Restoration Team for those items that we

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

have no acted upon.

1 MR. SANDOR: I'd second.

2 MR. BARTON: Okay. It's moved and seconded that we
3 adopt the Restoration Team recommendations for the
4 February 27th proposal for the remainder of those projects in
5 the Restoration Team recommendations package without
6 recommendations for the Chief Scientist. Any discussion?

7 (Pause)

8 MR. COLE: May we have a moment, please,

9 MR. BARTON: Yes.

10 MR. COLE: to study these?

11 (Pause)

12 MR. COLE: Mr. Chairman.

13 MR. BARTON: Mr. Cole.

14 MR. COLE: Could we have an explanation of R118,
15 information and education?

16 MR. BARTON: Mr. Gibbons.

17 MR. GIBBONS: Yes, I'll have Pamela Bergmann explain
18 that, that's primarily in her department.

19 MS. BERGMANN: Mr. Chairman. The purpose of R118 is
20 it's a project that's been jointly funded or would be used by
21 the Department of Interior and Forest Service is also part of
22 this project, and it would be to develop information and
23 educational materials to the public for the public to let them
24 have a better understanding of the kinds of injuries that are
25 occurring out in the project area, and also talk about kinds of

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

things that they might do to prevent additional injuries to the
1 affected resources.

2 MR. COLE: You mean additional injuries to the salmon,
3 for example?

4 MS. BERGMANN: Well, for example, when some of the
5 murre colonies that were affected, that if there are people who
6 have tour boats in the area, they need to be aware of the fact
7 that they need to be staying a certain distance away from those
8 colonies so that they don't create disturbance to the colonies
9 and cause additional injury to the birds in those areas. And
10 the same thing would go to -- for marine mammal (indiscernible)
11 areas.

12 MR. BARTON: Do you see that as a continuing program?

13 MS. BERGMANN: Ken.

14 MR. RICE: Mr. Chairman. Most of the costs for this
15 project would be in the design and production of materials to
16 give to the public this year. So any continuing cost would be
17 drastically reduced in the next few years, after this year.

18 MR. BARTON: Mr. Rosier.

19 MR. ROSIER: Question on this. What kind of
20 information is there at the present time surrounding such
21 things as the murre colony, and what's the direct involvement
22 here of the agency in terms of managing those colonies or --
23 I'm having trouble

24 MS. BERGMANN: Well, this would be information
25 developed that would be specific to the spill, especially for

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 areas that were directly affected by the spill, such as the
2 murre colonies and off the Kenai -- in Kenai Fjords National
3 Park, in that area as well as say the Barren Islands in the
4 Gulf of Alaska.

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: Is this going to -- is it general type
7 information and education program or is this something aimed
8 specifically at the guided tours going out there or what are we
9 talking about?

10 MS. BERGMANN: For the general public who are coming up
11 from the outside as well as people here just in Alaska. And
12 this would be in addition to what the agencies would normally
13 be doing as part of their regular agency public education
14 efforts. But this is the part that would be attributable to
15 the spill itself.

16 MR. COLE: Mr. Chairman.

17 MR. BARTON: Yes, Mr. Cole.

18 MR. COLE: I move we delete R118 and transfer the
19 190,000 to FS28.

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

21 MR. SANDOR: I'll second that for discussion purposes.

22 (Off record comments)

23 MR. BARTON: Okay. Discussion? The amendment is that
24 we would delete R118 and add \$180,000.00 to FS28.

25 MR. SANDOR: Run restoration.

MR. BARTON: Run restoration --

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: Yeah, that's the one we chucked.

1 MR. BARTON: run reconstruction.

2 MR. COLE: 474 to 60.

3 MR. SANDOR: Mr. Chairman.

4 MR. BARTON: Yes, Mr. Sandor.

5 MR. SANDOR: Now that that motion's on the table, what
6 does that -- would that do? I guess it'd be addressed to
7 either Jerome or someone with respect to mid-level funding.

8 MR. MONTAGUE: Mr. Chairman. The most expensive
9 portion of that project was finding that one piece of
10 information. And the write-up and final component was the life
11 history model and the run reconstruction which missing that
12 component can be estimated, certainly not with as high a degree
13 of precision, but we could still have usable life history
14 models and run reconstruction models out of it.

15 MR. COLE: You want the 200,000?

16 MR. SANDOR: Mr. Chairman.

17 MR. BARTON: Mr. Sandor.

18 MR. SANDOR: I guess the question was indirectly, and I
19 apologize for not asking it more directly, will that money be
20 able to be used effectively and the questions you were seeking?

21 MR. MONTAGUE: Yes, Mr. Chairman. We had hoped to I
22 guess at a bare minimum be able to complete the life history
23 model and the run reconstruction model minus the more precise
24 quadrant timing that would have been achieved through the adult
25 tagging. In fact, as the project was originally designed, the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

adult tagging wasn't even identified as being necessary. But
1 you know, during the last year of looking at data, through
2 discussion with peer reviewers, they indicated that it would
3 certainly add to the precision of the model.

4 MR. BARTON: Further discussion on the amendment?
5 Mr. Collinsworth.

6 MR. COLLINSWORTH: Well, I have a little trouble I
7 guess, Mr. Chairman. I -- we're going to cut a project in
8 half, and basically what I heard was that we can do what we
9 said we were going to do for 474, but we're going to cut it in-
10 half and do the same work. Why was it at 474 in the first
11 place?

12 MR. COLE: You tag less fish, that would be my thought.

13 MR. MONTAGUE: Mr. Chairman.

14 MR. BARTON: Mr. Montague.

15 MR. MONTAGUE: I could address that. I guess if you're
16 able to -- that all these projects that have been done to-date
17 that would be synthesized into this run reconstruction project,
18 for instance, may increase our management precision by,
19 hypothetically, 20%, and the timing of adding the adult tagging
20 may have increased it to 35%. But nonetheless, even with the
21 run reconstruction and life history without the adult tagging,
22 we're way ahead of where we were at the time of the spill. So,
23 for \$200,000.00 to increase that precision, it seems like a
24 smart move but if the money is not available, then that's why
25 I'm going to this original position.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: More -- other discussion.

1 MR. COLLINSWORTH: Yes, I'd like to follow-up, please.
2 Are we going to completely eliminate any information education
3 program?

4 MR. BARTON: That's the amendment before us. Well, I
5 don't know if there are other -- are there other projects with
6 information education built into them.

7 (Pause)

8 MS. BERGMANN: There are none, Mr. Chairman.

9 MR. BARTON: Okay. Then I (indiscernible - microphone
10 out)

11 MR. COLE: May I address that, Mr. Collinsworth?

12 MR. BARTON: Mr. Cole.

13 MR. COLE: You weren't here, but you know I think we
14 have a fairly substantial appropriations you might say for
15 public information which we've already allocated. We have this
16 -- like, you know, facilities (ph), we have people who answer
17 questions of the public. I saw some report the other day about
18 how many responses we're doing. Maybe Mr. Gibbons can address
19 that.

20 So what I'm saying is I guess more directly in
21 response, I think we already have a reasonably adequate public
22 information project or plan in place, and that's the reason I
23 thought we could just do without this and have the public
24 information come within the existing administrative structure.

25 MR. BARTON: Mr. Gibbons.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. GIBBONS: Yes, maybe I can try to answer that
1 question. Yeah. The Staff that we have on-hand is to handle
2 the public responses and hear the public comments to us and
3 getting information to the public. As I understand it, this
4 project is to prepare material to tell the true story that what
5 went on out there in the oil spill in regards to injury to the
6 resources, those types of activities, in addition, to provide
7 protection to critical habitat areas that may not have -- the
8 halibut fisherman, perhaps, shooting halibut close to a murre
9 colony that's nesting, this type of thing. An information
10 education program to the public, that's what I understand.

11 MR. BARTON: Mr. McVee.

12 MR. McVEE: Yes, Mr. Chairman. I guess certain to that
13 group of people, I guess the recreation users that will be
14 going throughout the area, that reasonably (ph) the only avenue
15 that's available as far as management of those uses will be
16 through an information and education program. And so I guess I
17 would point out or argue that the information we need (ph)
18 developed, brochures and slide programs and some of the
19 information centers and so on like at Seward and at Homer,
20 other locations, these are additional materials that would be
21 available. It would get to that group of people, make them
22 aware of the resources that were damaged and how they should
23 respond as they are using and traveling through those areas, to
24 not interfere or further impact those resources, create
25 additional stress upon -- on bird populations and so on.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: Mr. Chairman.

1 MR. BARTON: Mr. Cole.

2 MR. COLE: Who are these people who would receive this
3 public information that we can't otherwise say put a notice in
4 the newspaper and read the morning paper and get the same type
5 of information?

6 MR. McVEE: I would I guess -- Mr. Chairman. I would
7 visualize then is that the people that go to say the Visitor's
8 Center in Seward that go out with the charter boats, and
9 certainly, you know, it would be targeted towards maybe the
10 charter boat operators or a certain amount of it so that they'd
11 stay away from the murre colonies which were impacted and not
12 impact further nesting there of those populations. But it'd be
13 targeted towards the people that actually go right out on --
14 you know, into the area. And I think we're talking about, you
15 know, basically the tourists.

16 MR. COLE: Mr. Chairman.

17 MR. BARTON: Mr. Cole.

18 MR. COLE: Well, why don't we just ask the tour boat
19 operators to tell these people as part of, you know, the little
20 spiel that they get as they go out there. I mean I just can't
21 see spending (ph) these handout flyers and probably nobody'll
22 read them anyway. And, you know, we can use the money for
23 maybe some better things; I mean you know, I don't know, it
24 just seems to me it's hardly worth it and it's not much bang
25 for the buck. We could get the information out more easily,

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Fish & Game people could tell these people, you know, as
1 they're out; certainly, commercial fisher group -- fishermen
2 groups could put the information out to their people, and ask
3 them just publicly (ph) respond rather than spending
4 \$200,000.00 for this. That's all I'm saying.

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: In this vein, is it currently agency
7 dollars that are going to this? I mean we're four years into
8 the spill here, we're (indiscernible - microphone out). And
9 has there been agency dollars that have directed to this type
10 of thing to-date?

11 MR. RICE: Mr. Chairman.

12 MR. BARTON: Mr. Rice.

13 MR. RICE: I could speak for the Forest Service, and we
14 have produced some materials related to the oil spill that have
15 come out of agency funding, and that would continue to be in
16 the case in this. We have a normal interpretation program that
17 goes on, half a million people go down through Portage Glacier
18 (ph), for example. There could be not just flyers and
19 brochures but at least a whole variety of techniques to get
20 information to the public, whether they're going into Whittier
21 and kayaking out of there, taking the tour boats and going out
22 and halibut fishing, or whatever place -- wherever places where
23 the visitors are going, and there's a whole variety of
24 techniques that you can apply to that. And the attempt here is
25 to supplement agency funding and focus in on assisting in

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

restoring those key resources so that people did not further
1 contribute to the damage that was already out there.

2 MR. BARTON: Further comments? Okay. The amendment
3 before us is to delete Project R118 and move the \$180,000.00
4 associated with that to FS28, Run Reconstruction, which would
5 bring that total to \$235,000.00. Let me ask you, Mr. Cole, did
6 you -- included in that \$235,000.00 is also the final closeout
7 report as is in the \$55,000.00, that we'll not finance this
8 project beyond this year?

9 MR. COLE: Well, we're assured by Dr. Montague that it
10 won't be necessary to spend funds on this next year, so I would
11 assume that they'll wind it up this year for that amount; is
12 that right?

13 MR. MONTAGUE: Mr. Chairman, that is correct.

14 MR. BARTON: Thank you. Okay. Any further discussion
15 on the amendment?

16 MR. McVEE: Mr. Chairman.

17 MR. BARTON: Mr. McVee.

18 MR. McVEE: Yes. Before we vote, I guess I've got to
19 describe the dilemma that I'm in if I vote against the
20 amendment.

21 MR. BARTON: Be my guest.

22 MR. McVEE: I anticipate that there will be a vote
23 against the project, and I wanted to say that before I vote.

24 MR. COLE: I'm not sure I follow you but

25 MR. BARTON: Mr. Collinsworth.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLLINSWORTH: Yes. I find myself in a bit of a
1 dilemma as well because I would've much preferred to have
2 incrementally added to Project R28, which I have sympathy to,
3 in the first instance, without completely eliminating all
4 funding for information education. We may well want to have a
5 reduced level in there. But I do think it's appropriate for
6 fishermen's organizations, charter boat operator organizations,
7 tourism, agency, each of the management agencies to have a
8 public information program to try to educate the public to what
9 appropriate practices are around sensitive areas; and the
10 example that Pamela gave is I think a good one. My agency
11 presently is embarked on an information education program along
12 with the State dealing with threatened stock sea lions. And, I
13 know that there is an importance of that public information,
14 information has to be prepared, it has to be given to those
15 people, and those people in these various organizations can
16 then disseminate it and use it. But in the first instance,
17 they have to have it made available to them.

18 So I have some sympathy to continue that program. I
19 mean have something in education and information, perhaps, not
20 at the current level. I'm not sure then I'm very prepared to
21 take this action and then predetermine what the fate of
22 information education is going to be.

23 MR. BARTON: I think it's important that we remember
24 what we're doing here today, and that's approving these
25 projects to go out for public review.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: Mr. Chairman.

1 MR. BARTON: Mr. Cole.

2 MR. COLE: Before Mr. McVee votes, it might not be
3 inappropriate to say there may be a vote against R118.

4 UNIDENTIFIED VOICE: That's right.

5 MR. BARTON: Before this gets any deeper,

6 MR. COLE: So you know

7 MR. BARTON: is there objection to the amendment?

8 Hearing none, then the amendment to the motion is to move
9 \$180,000.00 from R118 to FS28. The motion before us is to
10 approve for public review all those projects that we had not
11 previously approved, except for that change that we just made.
12 Is that clear? Mr. Sandor.

13 MR. SANDOR: I just wanted to request some information
14 on ARC1, the archeological survey; did the Restoration Team in
15 reviewing that recommendation consider or look at the
16 possibility of shared costs for that activity with other
17 agencies or is this solely to be funded by restoration money?

18 MR. BARTON: Dave.

19 MR. GIBBONS: This is a Department of Natural Resources
20 project. Marty.

21 MS. RUTHERFORD: Mr. Chair.

22 MR. BARTON: Marty.

23 MS. RUTHERFORD: ARC1 is a closeout project, it's --
24 there is another restoration project that does involve multiple
25 agencies, but ARC is primarily DNR and is completing some

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

damage assessment activities that have been ongoing.

1 MR. SANDOR: I guess the question is maybe not only on
2 this but the other archeological work that's to be done, is
3 this to be funded solely from Exxon Valdez restoration money or
4 is the project activity, the survey activity, needs to be
5 shared by other organizations as well?

6 MS. RUTHERFORD: All of the -- both in ARC1 and in the
7 restoration project, it is solely Exxon Valdez Oil Spill
8 Settlement money.

9 MS. BERGMANN: Mr. Chairman. The reason for that is
10 that ARC1 is looking at the injury to the culture resources in
11 the oil impact areas that were a direct result of the Exxon
12 Valdez oil spill; for example, when you have oil contamination
13 on an archeological site, you are no longer able to use radio
14 carbon dating to date the materials in that site, and that does
15 result in an injury to that resource. In addition, as a result
16 of having thousands of workers out in the area cleaning up the
17 oil spill, sometimes the actual work activities themselves
18 damaged archeological sites. And an additional problem that
19 occurred is that people became aware of sites and you actually
20 had vandalism occurring of sites.

21 So there were two kinds of injuries really that
22 occurred to the resources out there. So, ARC1 is trying to
23 just complete the injury assessment that occurred as a result
24 of the spill to those resources, and then the two restoration
25 projects are trying to prevent additional damage to those

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

resources that were basically identified through the oil spill;⁹⁸
1 so they are directly related to the oil spill.

2 MR. BARTON: Let me just clarify one thing. I misspoke
3 what the motion was. The motion is to endorse the Restoration
4 Team's February 27th proposal. Further questions that have to
5 do with the amendment.

6 MR. COLE: Mr. Chairman.

7 MR. BARTON: The amendment failed -- I mean passed.
8 Yeah, the amendment was passed.

9 MR. COLE: Mr. Chairman.

10 MR. BARTON: Maybe we need a break.

11 MR. COLE: Are these archeol- --

12 MR. COLLINSWORTH: I didn't hear you call for the vote
13but that's (indiscernible)

14 MR. BARTON: Well, we haven't voted yet. We voted on
15the amendment.

16 MR. COLE: Are the archeological sites all on State or
17Federal land?

18 MS. BERGMANN: They're on a mixture of lands. I mean
19the oil impacted areas indiscriminately, sites -- we're looking
20at sites. I couldn't tell you exactly what the numbers are,
21but certainly in the Prince William Sound, the majority would
22have to be on Federal lands because that's the majority of the
23area that was affected.

24 MR. COLE: Are

25 MS. BERGMANN: Ernie, you may have more specific

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

information.

1 MR. PIPER: In Kodiak area as well. It was very, very
2 substantial in the Kodiak area. And I can't speak to the
3 quality of the projects so I won't do that, but I just -- from
4 the perspective of response. Just to let you know that one of
5 the I think least known stories from out of the spill was that
6 fact that there was very, very, very significant traffic at
7 very significant archeological sites throughout the Sound; it
8 was a very serious problem, it's not insignificant in any
9 manner.

10 MR. BARTON: Mr. Cole.

11 MR. COLE: Well I thought I was getting at on whose
12 lands are these arch- -- are they all on State and Federal
13 lands or are there some on lands owned by Native corporations?

14 MR. PIPER: Some of these are in upland areas above the
15 tide line, but a lot of them are in the upper inner-tidal area,
16 they're not just private lands, they are State and Federal
17 lands.

18 MR. COLE: Let me ask the question once more 'cause I
19 have

20 MR. PIPER: Yes, sir.

21 MR. COLE: a difficulty. Are any of these
22 archeological sites on lands other than lands to which the
23 title rests in the United States of America or the State of
24 Alaska; that's the question?

25 MR. PIPER: I can't tell about the projects but go

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

ahead, Dave.

1 MR. GIBBONS: Excuse me, Mr. Chairman, I can answer
2 that. No. We have excluded any private plans from this damage
3 assessment analysis.

4 MR. COLE: Thank you.

5 MR. BARTON: Further comments or questions?
6 Mr. Rosier.

7 MR. ROSIER: Question in regard to -- Dave, the
8 Restoration Team had zeroed out R37, R41 and R15, could you
9 give me some insight into why those projects -- what the
10 thinking was on those projects by the Restoration Team?

11 MR. GIBBONS: Yes. Maybe I can give a little bit of
12 input on that, and hopefully the Restoration Team will help me
13 out here. The thought behind the manipulation enhancement by
14 the Restoration Team was to defer these actions until we've had
15 public input from the Restoration Plan on what types of
16 activities the public would like to see out that. And so that
17 was the reasoning behind these projects going down, not being
18 deferred through this year I should say.

19 UNIDENTIFIED VOICE: Mr. Chairman.

20 MR. MORRIS: Mr. Chairman. And I think we felt that
21 they could be postponed and still achieve the same results, it
22 wasn't necessary to do it this year as opposed to next year.

23 MR. BARTON: Okay. Any other comments or questions?
24 Is that true that 115 can be postponed, be deferred without
25 further (indiscernible) -- R115?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. RICE: Mr. Chairman.

1 MR. BARTON: Yes, Mr. Rice.

2 MR. RICE: R115 is the Coghill Lake sockeye salmon
3 project, there is decline in the sockeye salmon returns to that
4 lake that are very dramatic. Not all of the decline is
5 attributable to the oil spill, but in conversations or
6 information I have both from Forest Service biologists and from
7 Fish & Game is that the returns coming back to that lake are so
8 low that they've had to even pull the weirs out of there to not
9 cause harm to any of the smolts going out, there's so few fish
10 coming back in there. And there is a fear that unless some
11 work is done very soon that they could completely lose the fish
12 out of that lake.

13 MR. BARTON: Does that not fall within the philosophy
14 and policy that we addressed earlier in our motion to adopt
15 that?

16 MR. ROSIER: It seems to me that it did, Mr. Chairman,
17 at least in the case of the Coghill situation there. Again, it
18 seems to me that in the case of Coghill that this is an
19 opportunity that would be highly beneficial in the area. And
20 it seems to me that I'd like to see this at least go forward to
21 the public and see what their reaction is to that proposal, for
22 something other than a zero budget dollar attempt (ph).

23 MR. BARTON: Are you making that amendment?

24 MR. ROSIER: I would move to amend the February 27th
25 budget allowance from 00 to 184.1 with overhead.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. BARTON: It hasn't been adopted in the February
2 proposal?

3 MR. ROSIER: Yes.

4 UNIDENTIFIED VOICE: February 5 proposal.

5 MR. SANDOR: I'll second it.

6 MR. McVEE: Mr. Chairman.

7 MR. BARTON: Further discussion? Mr. McVee.

8 MR. McVEE: Yes. I guess while we're looking at the
9 projects that were zeroed out, there was another one that was
10 zeroed out by the Restoration Team, the sea otter project, R6.

11 MR. BARTON: I wonder, would we be better off taking
12 these one at a time or would it be easier to deal with them? I
13 don't -- go ahead.

14 MR. McVEE: I guess that was zeroed out, and as I
15 understand it, we'd probably -- it might be well to have
16 someone explain that in more detail, but that

17 MR. BARTON: Which one is that?

18 MR. McVEE: R6.

19 MR. BARTON: R6, what's the

20 MR. McVEE: It was Recovery Monitoring.

21 MR. GIBBONS: Excuse me, Mr. Chairman. That is in the
22 section where the Restoration Team and Chief Scientist
23 recommendations.

24 MR. BARTON: That's the one we've already dealt with?

25 UNIDENTIFIED VOICE: No.

MR. COLLINSWORTH: No, that's the -- where there was

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

deferral.

1 MR. McVEE: That was deferral?

2 MR. COLLINSWORTH: Yeah.

3 UNIDENTIFIED VOICE: It was the Restoration Team and
4 the Chief Scientist.

5 (Off record comments)

6 MR. McVEE: Okay.

7 MR. BARTON: I don't even have it.

8 MR. GIBBONS: You've already dealt with it.

9 MR. BARTON: We've already dealt with it?

10 MR. GIBBONS: That's correct. What you have in your
11 package is there's the package that you've approved minus the
12 coastal habitat, and which is the joint recommendations of the
13 Restoration Team and Dr. Spies, and that's where R6 is located.
14 It's -- there's another summary sheet in the back of the
15 Trustee Council's documents that just collates all the things
16 that were deferred, no matter where they were; it just collates
17 them all into one -- into three pages there.

18 MR. BARTON: In the interest of getting a string (ph)
19 around these things, can we hold off on that?

20 UNIDENTIFIED VOICE: Defer that (indiscernible -
21 interrupted)

22 MR. BARTON: So, anymore discussion on R115? The
23 amendment to the main motion and the amendment is to adopt the
24 February 5 proposal. Any objection to the amendment?

25 MR. COLE: Could you please say again, please?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. BARTON: The amendment is to adopt the February
2 proposal for R115, \$184,000.00 instead of the February 27
3 proposal which zeroed it out. We would just go ahead with that
4 one for public review.

5 MR. COLLINSWORTH: Mr. Chairman.

6 MR. BARTON: Yes.

7 MR. COLLINSWORTH: Are we not going ahead for public
8 review of all of these projects, whether they're zeroed out or
9 not?

10 MR. BARTON: We've not dealt with that question. We
11 certainly -- you know, we can send out two packages, one has
12 been approved and one has not been approved. We've not dealt
13 with that, but we -- I guess in the interest again of getting a
14 string around this thing, set that one aside for a little while
15 or do you want to go through that now?

16 MR. COLE: Let's set aside.

17 MR. COLLINSWORTH: Well, it makes -- it certainly makes
18 a difference. I mean if we -- if the only way that we can get
19 something before the public to have their comments is that we
20 have to have some dollars in the column, then that's one
21 decision. I mean if we're going to -- if the public is going
22 to have an opportunity to comment on the projects that have
23 been zeroed out, that's another situation. I'd like to know
24 which it is before I vote, because I may well like to have the
25 public comment on R115, but I don't know if they're necessarily
going to approve it (ph) before we get public comment.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: We're not approving it.

1 MR. COLLINSWORTH: I know.

2 MR. BARTON: We are approving them for public review at
3 this point.

4 MR. COLLINSWORTH: I'm trying to find out whether the
5 public's going to have an opportunity to review these projects
6 with or without a dollar amount in 27, a positive dollar amount
7 in the February 27 column.

8 MR. COLE: Mr. Chairman.

9 MR. BARTON: Mr. Cole.

10 MR. COLE: It's my view that once we say that a project
11 is zeroed out then we cannot go forward, we shouldn't send it
12 out for public review. I mean we'll never get anything done,
13 we'll never make any decisions. I mean it's my understanding
14 that when we make this decision, we said we don't want public
15 comment on these because we are not in favor of the projects
16 going forward. That's been the understanding I've been
17 operating under.

18 MR. BARTON: It would seem that we waste a lot of time
19 if we don't (indiscernible - microphone out) -- we could have
20 sent these out the first of January and sent them all out (ph).

21 MR. COLE: What are we doing if we aren't doing that?
22 We should say send them all out and pick up our papers and go
23 home.

24 MR. BARTON: The public will have the opportunity to
25 (indiscernible - background coughing) -- comment on these and

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

provide suggestions to us for others as well (indiscernible voice lowers, microphone out).

MR. MORRIS: Mr. Chairman.

MR. BARTON: Mr. Morris.

MR. MORRIS: Yeah. A procedural point though that there is a distinction there and that we do have interim budgets attached to these projects that would say what some projects need to do during the public review period. And they -- to me, it's implied that you're allowing us to fund those projects, but the ones with zero, of course, wouldn't have any funding approved for the interim.

MR. BARTON: Other comments or should we go back to the amendment and vote?

MR. COLLINSWORTH: One question then. If we were to approve the motion before us, what would be in the three-month budget with overhead? There would be no activity on these projects?

MR. BARTON: Here generally, are you talking about 115?

MR. COLLINSWORTH: 115, that's correct.

MR. BARTON: If

MR. GIBBONS: I think we can find that number in the back. The sheets, the three-month project budget, that should be in.

MR. BARTON: Well, we can answer your question I guess that there would be money -- you know, there is money in a three-month budget if that project were approved, is that

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

right?

1 MR. GIBBONS: That's correct.

2 (Off record comments)

3 MR. BARTON: More comments or discussion?

4 MR. COLLINSWORTH: If there is money in the three-month
5 budget then that starts -- and there will be money committed to
6 this project before we get back to it after public comment,
7 then essentially we're approving this project to go ahead
8 unless we want to incur the loss of stopping the project after
9 we spend three months of the money (ph), is that correct?

10 MR. BARTON: Then we had a lengthy discussion about
11 that at our two previous meetings, and

12 UNIDENTIFIED VOICE: Yes, we have.

13 MR. BARTON: that is not a desirable thing in the
14 real (ph) situation. Further comments, discussion on that
15 point?

16 MR. COLLINSWORTH: Well did we find out whether there
17 would be any activity in the next three months?

18 MR. GIBBONS: Yes.

19 MR. BARTON: Mr. Gibbons.

20 MR. GIBBONS: That figure is about \$93,000.00.

21 UNIDENTIFIED VOICE: No.

22 UNIDENTIFIED VOICE: No.

23 MR. GIBBONS: Yes. Yes. There's -- it's a joint
24 Alaska Department of Fish & Game project and joint Forest
25 Service project, there's two sheets in the back.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: I assume the reason that we have to do
1 that is because of the resource considerations?

2 MR. GIBBONS: Yeah. The way I understand it, and
3 maybe

4 MR. RICE: Mr. Chairman. Yes.

5 MR. BARTON: Mr. Rice.

6 MR. RICE: The major expenditure of this project would
7 be acquiring fertilizer to begin the fertilizing of Coghill
8 Lake.

9 MR. BARTON: And why does that need to be done in the
10 next three months?

11 MR. RICE: They would start the fertilizing fairly
12 early in the spring.

13 MR. BARTON: And that's because of?

14 MR. RICE: Biological considerations but I don't have
15 an answer to that.

16 MR. BARTON: That's the answer I was looking for.

17 MR. McVEE: Mr. Chairman.

18 MR. BARTON: Mr. McVee.

19 MR. McVEE: I guess, you know, this three-month budget
20 problem, you know, and the fact that there we're authorizing
21 the expenditure of funds isn't a great problem, but I think
22 that it's a high-risk -- very high-risk operation, not only
23 from the standpoint that something may happen that we didn't
24 fund and approve (ph) but I think from a legal base it's a real
25 problem.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: But that's certainly true of all agencies
1 (ph) not just this one.

2 MR. McVEE: Not just this one, but just the fact that,
3 you know, of our -- where we stand in terms of our current
4 authorities to expend money.

5 MR. BARTON: About where we were in April of '89.

6 MR. McVEE: Yeah.

7 MR. BARTON: (Indiscernible - microphone out). I don't
8 know what -- what is the answer, though, what do we about it;
9 do we stop it?

10 MR. COLE: Vote on the motion.

11 MR. COLLINSWORTH: Mr. Chairman, before we get ready to
12 vote, I'd like to have the Team tell me why that was zeroed
13 out.

14 MR. BARTON: Mr. Gibbons.

15 MR. GIBBONS: Yes, I could try to explain that. Again,
16 the philosophy of the Team was that we'd go forward to the
17 public with a restoration plan before we do any implementation
18 projects and get the feedback from the public on what they
19 would like to see done. That was the reasoning behind it.

20 MR. BARTON: I'm ready on the amendment. Anymore
21 questions, comments?

22 MR. McVEE: One more point, Mr. Chairman.

23 MR. BARTON: Mr. McVee.

24 MR. McVEE: Some of these projects -- and I don't know
25 whether they've been done or not -- will require, you know, an

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

environmental assessment, there's a new compliance, I point
1 that out before we vote.

2 MR. COLE: How are you going to vote, by the way?

3 MR. BARTON: Why don't we find out. Is there objection
4 to the amendment? The amendment being to adopt the February 5
5 proposal for R115. Is there objection to the amendment?

6 MR. McVEE: Is that with the clarification with the
7 Coghill Lake amendment, is that where we're at?

8 MR. BARTON: That's what we're voting on right now.

9 UNIDENTIFIED VOICE: That's the amendment.

10 MR. McVEE: Okay.

11 MR. BARTON: Is Coghill Lake.

12 MR. McVEE: Okay. I'll object.

13 MR. BARTON: All right. The amendment fails. We're
14 back to the main motion again. Are there other comments or
15 questions on any of the other projects?

16 I have a question myself on R96 and why that was zeroed
17 out, what's the rationale there? Under G, Page 3, R96.

18 MR. RICE: Mr. Chairman.

19 MR. BARTON: Have I hit a bingo yet?

20 MR. RICE: Mr. Chairman.

21 MR. BARTON: Yes.

22 MR. RICE: Yes. R96 was one proposal to identify
23 upland resources as they relate to injured species -- or upland
24 habitats, excuse me, as they relate to injured species. And I
25 think the Team voted it down because they were concerned with

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

the cost and the time frame that it would take to get that
1 information, and felt that there were other ways of gathering
2 that information.

3 MR. BARTON: How does this -- I'm sorry, Mr. Sandor.

4 MR. SANDOR: No, go ahead.

5 MR. BARTON: How does this then relate to what we did a
6 couple meetings back in establishing the Lands and Habitat
7 Group?

8 MR. RICE: Well it, at least, removed this one from a
9 mechanism for making that direct link to injured resources.
10 There may be other ways of approaching it or refinements of
11 this one that the Restoration Team could bring back to the
12 Trustee Council that would give them maybe several options for
13 looking at that upland habitat.

14 MR. BARTON: This then was not a way of that group
15 redeeming its charge, is that what you're saying?

16 MR. RICE: Well it could have done that, what it would
17 have done is looked both from a remote sensing application with
18 field checking to identify habitats. And there were concerns
19 with both the technique and with the time frame and the costs
20 of getting that product out, and that's why the Restoration
21 Team voted it down.

22 MR. BARTON: Mr. Sandor.

23 MR. SANDOR: Well, identification of critical habitat
24 is -- I think as the Chairman pointed out, is an item we
25 discussed before and one that was, I thought, a high priority

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

item. How are we going to identify critical habitat if we
1 don't do it in this project?

2 MR. RICE: We have one other project in there that will
3 -- that is, at least, an attempt to look at some of the lands
4 that have identified as high risk; i.e., those where there may
5 be plans of operation for timber sales that would go in and
6 look at the stream side areas, both looking for salmon and
7 possibly Harlequin ducks. We don't have a proposal to look at
8 those other resources besides those species specific studies
9 that are going on, they will provide some information but that
10 won't -- could not be applied spill area wide or to certain
11 areas unless the study was conducted in that area. So, we
12 don't have a broad project to provide that information.

13 MR. SANDOR: Sort of a follow-up question,
14 Mr. Chairman.

15 MR. BARTON: Mr. Sandor.

16 MR. SANDOR: Then very specifically for the Harlequin
17 duck critical habitat, was that to be identified in this study
18 or this other study?

19 MR. RICE: I think it's R47.

20 MR. MONTAGUE: Yeah.

21 MR. SANDOR: Okay.

22 MR. MONTAGUE: Mr. Chairman.

23 MR. RICE: Which would have provided some of that
24 information for Harlequin ducks because they do appear to nest
25 very close to the stream sides, and R47 would look at salmon

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

stream habitat.

1 MR. BARTON: Other comments or questions?

2 MR. COLE: Mr. Chairman.

3 MR. BARTON: Mr. Cole.

4 MR. COLE: I would like to say that I intend to vote
5 for this motion. I think the Restoration Team has done an
6 outstanding job in the last two or three weeks since they
7 reviewed again these projects. I might not come out the same
8 way as they on each of these, but they've worked hard, I
9 respect, generally their judgment, and I intend to support
10 them. I think that they've devoted a lot of time, a lot of
11 special abilities on these issues, and I think once we get our
12 work done on this, we -- at some juncture, we must have
13 confidence in the Team that we appointed.

14 MR. BARTON: It sounds like we're ready for the vote.
15 Is there any further comments or questions?

16 MR. COLLINSWORTH: Yes, Mr. Chairman.

17 MR. BARTON: Mr. Collinsworth.

18 MR. COLLINSWORTH: I may have had a misunderstanding as
19 we started this process. I thought we had -- we were going to
20 look at three tables. The one where we had both the
21 Restoration Team and Chief Scientist recommendation, and then
22 the Restoration Team and Chief Scientist recommend- -- I mean
23 without the Chief Scientist, then there is this other table
24 that had some deferrals. And I think somebody down the table
25 brought up one issue there on sea otter. Will we be visiting

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

this table?

1 MR. BARTON: Well let me just say I thought we were
2 dealing with three tables, too, but we have a different
3 Table 3.

4 MR. COLLINSWORTH: Well

5 MR. BARTON: Maybe we've got four tables.

6 MR. COLLINSWORTH: When

7 MR. BARTON: Where is this deferral table to be found?

8 MR. GIBBONS: Let me try to explain this. We tried to
9 make it easy for you.

10 MR. BARTON: You weren't counting on me being here.

11 MR. GIBBONS: There are actually four tables in there,
12 we were looking for recommendations. There's -- stop. There's
13 three tables in the public version. This morning, we finally
14 said well, perhaps, the Trustee Council would like to have a
15 summary of all of our deferrals; where they could just look at
16 a table and look right down it and see every project we
17 deferred.

18 So, the Trustee Council has four sets of tables. You
19 have a table that has Dr. Spies and the RT joint
20 recommendations, that includes both the ones that we've moved
21 forward and the ones that we also deferred. The next table is
22 the recommendations of the RT members only, that also contains
23 projects that we recommend to move forward and recommend
24 projects for deferral. The third table is a project proposal
25 requiring additional consideration by the Restoration Team and

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Chief Scientist, that has two studies on it and their coastal
1 habitat. And then the table that the public doesn't have that
2 we thought we'd make easy for you is the fourth table you're
3 looking at, and it's called Restoration Team/Chief Scientist
4 Deferral Recommendations.

5 MR. BARTON: But that

6 MR. GIBBONS: And that's a composite of all three -- of
7 pre- -- yeah, there's no deferrals already on the third one.
8 But the composite of the joint and the RT recommendation
9 deferrals.

10 MR. COLLINSWORTH: Well, Mr. Chairman. Maybe, again,
11 it was the result of my confusion. But there were -- there are
12 two projects that I wish to bring to consideration -- forward
13 for consideration, and that is the killer whale project and the
14 humpback whale closeout. Now, I don't know where the
15 appropriate point is to do that.

16 MR. BARTON: Let me suggest that since neither of those
17 are contained in the group of studies that we're presently
18 dealing with that we finish the action on this group of studies
19 and then come back to that either next or after we finish my
20 third table.

21 MR. COLLINSWORTH: Well

22 MR. BARTON: And they do not relate to this, is that
23 right? At least they're not contained any of these three
24 pages.

25 MR. COLLINSWORTH: Mr. Chairman. I'd like to -- with

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

your guidance, what I'd like to do is to make a motion that
1 will expand the present motion that's under consideration to
2 allow us to take into consideration the issues that I
3 identified and that, perhaps, others have identified in terms
4 of sea otters, and humpback whales and killer whales. I'd like
5 to have it within the package of the motion that we're looking
6 at and not dealt with

7 MR. BARTON: Okay.

8 MR. COLLINSWORTH: individually (ph).

9 MR. BARTON: Do you want to make -- amend then the
10 motion to include those two studies?

11 MR. COLLINSWORTH: I would make that motion, yes.

12 MR. BARTON: Okay. And how do you want them included?
13 See, I don't understand the issue; you want the funding
14 restored -- or you want to adopt the February 5 proposal for
15 sea otters, is that it, or killer whales, whichever one?

16 MR. COLLINSWORTH: I would -- yes, similar to the --
17 yes, I'd like to have those.

18 MR. BARTON: Okay. So now, we have an amendment on the
19 table, is there a second to the amendment?

20 MR. ROSIER: Yes. We should discuss I guess before
21 there's a second.

22 MR. BARTON: I don't know that it makes any difference,
23 go ahead.

24 MR. ROSIER: Okay. I'll second the motion.

25 MR. McVEE: I guess it would be my feeling if we could

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

go -- if we could finish -- and I guess I agree with Don, that
 1 we maybe need to look at all of the projects that were zeroed
 2 out, you know, kind of a second shot at that in case we've got
 3 something there that we want to have second thoughts about.
 4 But it seems like maybe we should go ahead and complete dealing
 5 with Table Number 2 first, and then just agree to take a quick
 6 look at all of those that were zeroed out; if we could agree
 7 upon that, I think that it might be operationally a little
 8 easier to handle.

9 MR. BARTON: Is that satisfactory to you or not?

10 MR. COLLINSWORTH: Well, I'm -- for ease of
 11 administration here, I guess I'll go along with that; I'm not
 12 real excited about doing that because I'd rather have these
 13 things taken up for consideration in the matrix of all of the
 14 other things that we're going to be voting on but as opposed to
 15 individually. But I will go along with the majority's
 16 sentiment.

17 MR. COLE: Well, Mr. Chairman.

18 MR. BARTON: Mr. Cole.

19 MR. COLE: I thought we went through all this at
 20 11:00 o'clock this morning. I mean is everything opened up
 21 again, that we are going to go back and review everything we've
 22 done this morning? I don't even know where we are now, as a
 23 matter of fact. But I thought when we took a vote and we acted
 24 upon these that that was the end of it. Are we going to go
 25 back and revisit these things that we passed upon this morning?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
 277-0572 272-7515 272-3022
 FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. BARTON: Well, I presume that it's within our rules
2 to do so. We can agree not to do so, but I think it's clearly
3 within the rules.

4 MR. COLLINSWORTH: Well, Mr. Chairman.

5 MR. BARTON: Mr. Collinsworth.

6 MR. COLLINSWORTH: I guess there were two things then
7 that I have some responsibility to bring before this body for
8 consideration. And that is the wishes of my agency to finish
9 the humpback whale study for \$15,000.00 to close it out; we
10 have two years of work not one, about a hundred thousand
11 dollars a year. So we've invested a couple hundred thousand in
12 that, and I would like to close that study out for \$15,000.00;
13 a modest amount of money. And then, I would like to have
14 consideration of the killer whale studies, and I had Staff
15 prepared to discuss that.

16 Now, if I erred this morning by thinking I would have
17 an opportunity to bring these issues before the Council, I
18 apologize, but I'd like to have that opportunity at some point.

19 MR. COLE: I have no objection.

20 MR. BARTON: Again, for ease of getting a string around
21 this thing, I would suggest we defer, we can reopen that whole
22 matrix if you want to keep it within the matrix. But we do
23 have an amendment that was seconded, and then did the second
24 withdraw his second?

25 MR. ROSIER: I'll be glad to withdraw my second.

MR. BARTON: Okay. So now we're back to the main

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 motion. The main motion being to adopt the February 27
2 proposal for those items that we have not previously dealt with
3 in the Restoration Team recommendations without the
4 recommendations of the Chief Scientist, with the exception
5 R118, that money got moved to FS28. Is there objection to the
6 motion? Is there objection to the motion? Great. The motion
7 passes. I move we take a break. We'll get back in 10 minutes.

8 (Off record)

9 (On record)

10 MR. BARTON: We've got to break by 4:50 so we can get
11 set up for the teleconference. We need to decide what we're
12 going to do here. The first thing I would like to do is
13 recapitulate --

14 (Off record comments)

15 MR. BARTON: recapitulate what I think the last
16 motion was. And that is that we endorsed the Restoration Team
17 recommendations, the February 27 proposal, for everything that
18 we had not dealt with earlier in this group, and what we dealt
19 with earlier was FS28, FS27, R113, R53 and R59. Then we also
20 deleted the funding for 118 -- R118 and moved that FS28.
21 Everything else we adopted as a Restoration Team February 27
22 proposal. Is that the Council's understanding as well?

23 All right. That brings us to the 1992 Project
24 Proposals Requiring Additional Consideration by the Restoration
25 Team and the Chief Scientist. And we had earlier moved R60A
and B and R73 to this list from the first package we dealt with

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

120
this morning. Mr. Gibbons, do you want provide any insight to
1 what we do with this table?

2 MR. GIBBONS: Yeah, I might provide some. Maybe we can
3 get some discussion from Dr. Spies on the coastal habitat
4 recommendation, and then we can move off from there and deal
5 with coastal habitat first and then deal with R60A and B and
6 R73.

7 MR. BARTON: All right. Dr. Spies.

8 DR. SPIES: As I said in my memo to the Trustee
9 Council, the coastal habitat program is a very complex and
10 geographically comprehensive study that was meant to describe
11 with a great deal of precision and certainty damages to the
12 coastal habitat zone throughout the spill area. And it was
13 really designed with the litigation end in mind, I think, to a
14 large extent and have many, many parts to it. It examined
15 three main geographic areas, as well as different habitats,
16 such as rocky -- exposed rocky shores, protected rocky shores,
17 hollow (ph) beaches, estuaries (ph). It dealt with various
18 (indiscernible) of oiling, it dealt with various kinds of
19 organisms and it had experimental work in it. It's a very
20 large and complex study.

21 And since the -- we are in settlement (indiscernible)
22 now I think that my reading of the sympathy of the Trustee
23 Council is, perhaps, that we don't need this much detail in the
24 study to get to the end point. I think that the problem is
25 something like somebody who wants to do well in the Grand Prix

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

race and they would want to design a very nice car
1 (indiscernible) -- a block engine and designed -- complete the
2 machine from the ground up. And I think there is some
3 questions now as to maybe we could get where we want to go with
4 a Ford Taurus or something of that sort.

5 And it's a problem as to how we can extract the kind of
6 information reviewed in this study in an economical way to
7 understand what the injury was. There has been approximately
8 18 to 20 million dollars spent already, and there's a request
9 for about 3.4 to 2.95 depending on how you interpret the
10 numbers for closing out this study. I have conveyed the --
11 what I (indiscernible) -- the Trustee Council's feelings on
12 this to the people at the University of Alaska that were doing
13 this work, and asked them to provide a number of options in the
14 last several weeks as to how we could complete this study more
15 economically.

16 Plus, we understood, also, that with the needs for
17 litigation -- the litigation schedule that was set up last year
18 before settlement was achieved, the lawyers were pressing us
19 pretty hard as to bring forward the essence of the findings and
20 (indiscernible) would come into the litigation schedule. And
21 last August there was a major caucus or large meeting in
22 Fairbanks, we tried to prioritize, parts of the studies need
23 more attention than others. For instance, we know that there
24 is more damage probably done on the rocky shores, there were
25 (ph) some of the other sandy beaches and so forth and this

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

would be easier to detect in the environment. So, we put
1 priority on that.

2 We knew that there was probably -- we thought there was
3 probably more damage in Prince William Sound because most of
4 the heavily oiled shorelines were -- there was more heavily
5 oiled shoreline in Prince William Sound, and so we put priority
6 in Prince William Sound studies.

7 So, we've tried to set a priority, and we've set
8 schedules and so forth. And, the University of Alaska have
9 been very cooperative in trying to meet the needs under this
10 time. And I think what's being asked now is there a way that
11 we can finish this study in a little more economical factor
12 because that number does stick out, it's very large. But my
13 comments to that, I'm just trying to give the Trustee Council
14 an appreciation of where we're at in this process really (ph).

15 We, in some sense, made a commitment early on, and the
16 question is how are we going to be able to still get something
17 useful out of this and an economical approach as well.

18 The University of Alaska gave me some options, they're
19 in the memo to the Trustee Council, and they go down to about
20 two million dollars. And now, they've prioritized those
21 options and gave us an idea of what would be lost if we did not
22 do certain parts of the study. And most of those options
23 include the leading geographic areas outside of Prince William
24 Sound. It had been suggested by the peer reviewers and some of
25 the Restoration Team that, perhaps, we'd look at another sort

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

of option. It would involve different sampling periods because
1 during each field season there was two visits to most sites.
2 And although, Dr. Hysmith (ph), the project director's initial
3 response to that was that he thought the leading geographic
4 areas might be, in his opinion, a better option than the
5 deleting (ph) of the second round or first round visits. And I
6 think we would need to revisit that issue.

7 There's also in the second part of -- is a restoration
8 proposal for next year, and the question is do we need to do
9 some fieldwork out there. This is one of the few studies we're
10 -- the peer reviewers have prevailed very strongly on me that
11 we need to do something out there in the inner-tidal zone
12 because the zone may be recovering pretty quickly. And there
13 is some other things going on out there that it would be very
14 nice to know about.

15 In particular, there's some secondary things, some
16 upper inner-tidal zone; the deepest (ph) seaweed is not coming
17 back in the upper inner-tidal zone very quickly, and there is
18 some things about the way that the young plants settle. There
19 is apparent secondary affects going on with the inability of
20 limpets to recolonize in the upper inner-tidal zone; in fact,
21 they're being preyed on by shorebirds. And the limpets are
22 probably -- would be surviving better if fucus (ph) was up
23 there.

24 So there's a whole series of things that are just
25 becoming to emerge as affects. And in some sense, at least

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

124
from a scientific point of view, we'll be missing something by
1 not being out in the field. I would propose to add that we do
2 just the experimental work that's been done in Herring Bay,
3 Upper Yukon (ph), in support of the understanding of those
4 secondary affects. And the University of Alaska's preliminary
5 given to me -- and this is very rough, a figure of \$580,000.00
6 (ph) to do that work next year. I think there may be some
7 possibility for achievement of further economies (ph) on that.

8 (Off record comments)

9 MR. BARTON: Do you want to continue, Dr. Spies? I'd
10 ask you to hold any further comments.

11 (Off record comments)

12 MR. BARTON: Is there anything further, Dr. Spies?

13 DR. SPIES: Yeah. I think that it would be -- you
14 know, we've been under a lot of pressure in the last month,
15 we've been doing a lot of different projects, and I'm a little
16 concerned that we be a little bit too hasty here in making
17 decisions about these particular projects. I would like a
18 chance to revisit these now that most of the package has been
19 decided upon, and get back to the University of Alaska with the
20 Restoration Team and bring the peer reviewers back into and see
21 -- I know the field season is pressing upon us and commitments
22 need to be made if things are going to be done. But I would
23 like the opportunity to revisit these two projects and come
24 back to you with some further recommendations.

25 MR. BARTON: So your main message in CH1A is to use --

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

borrow legal terminology, it's not ripe, is that right, yet for
1 a decision.

2 102, it sounded a little like we were trying to
3 contribute to the general body of knowledge rather than work
4 towards restoration with that project. Is that an accurate
5 characterization?

6 DR. SPIES: I'd say in large that's true, but there are
7 some things that have been proposed as restoration measures
8 that we don't know for sure would work, but people have
9 proposed mechanisms of seeding in (ph) by one mechanism or
10 another, the fucus plants that might trigger some recovery of
11 the other species, and upper inner-tidal is one.

12 So, whether -- the peer reviewers are mostly all
13 academic scientists so you appreciate their interests or
14 understanding these injuries. And I have sympathy with that,
15 and at the same time, I think we need to look at the costs in
16 terms of what could be done in terms of restoration. A lot of
17 these (Indiscernible) are likely to fix themselves
18 (indiscernible - away from microphone.

19 MR. BARTON: Comments or questions of Dr. Spies?

20 MR. McVEE: Mr. Chairman.

21 MR. BARTON: Mr. McVee.

22 MR. McVEE: Since what we're doing here is approving
23 projects to go out for public review, could we send this one
24 forward, I guess this would be an option, and during that
25 interim -- of course, it might create some expectations on the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

part of the public but maybe some qualification on it in the
1 public review package would be appropriate. But during the
2 interim, then do some further analysis and see where there may
3 be ways of scaling down the size of this project before we take
4 the final action.

5 MR. BARTON: Other comments, questions? When would you
6 anticipate having these discussions concluded with the
7 University and being able to recommend something?

8 DR. SPIES: Realistically, probably within several
9 weeks, at the pleasure of the Trustee Council to have the
10 option to making that decision later on (ph) (indiscernible).

11 MR. BARTON: Mr. San- -- is there a motion on either of
12 these two or is there just no motion? Thank you for the
13 information, Dr. Spies. Where does that leave us (ph)?

14 MR. GIBBONS: Mr. Chair.

15 MR. BARTON: Mr. Gibbons.

16 MR. GIBBONS: Yes. The Restoration Team I think is
17 recommending that the damage assessment closeout move -- you
18 know, we need -- there was a bunch of people up there at the
19 University of Alaska that are working right now, and the
20 existing contract ends at the end of this month. And so we
21 would like to treat it like Dr. Spies, move it ahead at a
22 level, let us work with Dr. Spies and the University to look
23 where we could get some savings on this and come back.

24 MR. BARTON: Okay. Can you come back by the next
25 meeting?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. GIBBONS: Yes.

1 MR. COLE: Mr. Chairman.

2 MR. BARTON: Mr. Cole.

3 MR. COLE: I move we accept the recommendations of
4 Dr. Spies and Mr. Gibbons.

5 MR. BARTON: Is there a second?

6 MR. SANDOR: Second.

7 MR. BARTON: Any further discussion?

8 MR. COLLINSWORTH: Mr. Chairman, just for -- again for
9 clarification. I can't find my sheet, but it looks to me like
10 in the first three-month budget plus overhead, essentially one-
11 third of the dollars in both of these projects -- well not
12 quite one-third in the first one, but about a third of these
13 two projects will be -- the monies will be committed and that
14 they will be engaged in activities. And how do we know if
15 there is going to be an opportunity to scale it back if they
16 initiate expenditures on projects that -- or portions of the
17 project that might be scaled back?

18 MR. BARTON: Mr. Gibbons?

19 MR. GIBBONS: I would assume that if we reach agreement
20 with the University at a point before the end of the three-
21 month period, we would scale it back to that time and just move
22 forward with the new level that we've reached agreement on.
23 That would be our recommendation.

24 MR. BARTON: Further discussion? Is there objection to
25 the motion? Okay. The motion's adopted. R60A and B and R73.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

(Pause)

1 We moved those to this group from the earlier -- from
2 the first grouping. I don't even know what they were.

3 UNIDENTIFIED VOICE: R60A and B I think -- R73 was
4 harbor seals.

5 MR. BARTON: Harbor seals. Who wishes to speak to
6 those? What action do we want to take on those?

7 MR. COLLINSWORTH: Mr. Chairman.

8 MR. BARTON: Mr. Collinsworth.

9 MR. COLLINSWORTH: For purposes of considering the two
10 items that I brought to your attention before the break, I
11 would move to reconsider our motion of this morning; the
12 package that was approved, Restoration Team and Chief Scientist
13 Recommendations.

14 MR. SANDOR: Question. Is that just those two items
15 only?

16 MR. COLLINSWORTH: Well that's my intent.

17 MR. SANDOR: Yeah. I would second the motion that
18 reconsideration be confined to those two items only.

19 MR. BARTON: So -- all right. Marine mammals, one, and
20 what's the other one, Mr. Collinsworth?

21 MR. MORRIS: R82A.

22 MR. BARTON: Wait a minute.

23 MR. MORRIS: R82A.

24 MR. BARTON: Is the purpose for which we move R60A and
25 B and R73 the same as the purpose for marine mammals one? In

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

other words, can we talk about them as a group now, is that
1 appropriate to meet your needs?

2 MR. COLLINSWORTH: I need to get a second with a
3 caveat. It's all right with me.

4 MR. BARTON: Okay.

5 MR. COLLINSWORTH: I'm doing it for the purposes of to
6 identify (ph).

7 MR. BARTON: Yeah. Okay.

8 UNIDENTIFIED VOICE: Mr. Chairman.

9 MR. COLE: Mr. Chairman.

10 MR. BARTON: Mr. Cole.

11 MR. COLE: Which ones are we reconsidering?

12 MR. BARTON: Marine mammals one which can be found on
13 Page 2. First of all, we're in the package of Restoration Team
14 and Chief Scientist Recommendations.

15 MR. COLE: I'm not that far off.

16 MR. BARTON: Okay. It's on Page 2, marine mammals one.

17 MR. COLE: Okay.

18 MR. BARTON: And where is R82A?

19 MR. MORRIS: Page 4.

20 MR. BARTON: On Page 4, killer whales. And then we
21 have, also, on Page 5 R60AB and R73.

22 MR. McVEE: Mr. Chairman.

23 MR. BARTON: Mr. McVee.

24 MR. McVEE: Yes. As long as we're listing projects for
25 reconsideration, I'd like to include R6, sea otters.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: R6, sea otters.

1 MS. BERGMANN: R6E.

2 MR. BARTON: Found on what page?

3 MS. BERGMANN: Page 4.

4 MR. BARTON: R6.

5 UNIDENTIFIED VOICE: And is a companion project 6E.

6 MS. BERGMANN: Right.

7 MR. BARTON: Where is 6E on Page 4? Okay. Anybody
8 else want to throw something in? We have 20 minutes before we
9 need to break for to set up the teleconference. Does anybody
10 want to speak to any of these?

11 MR. COLLINSWORTH: Mr. Chairman, I'd like to speak to
12 R82A, killer whales. I propose that we adopt the February 5th
13 proposal to go out for public review. I'd like to ask -- if I
14 have a second on that, I'd ask Mr. Morris to address the issue.

15 MR. SANDOR: I'd second that.

16 MR. BARTON: Okay. Mr. Morris. Mr. Morris.

17 MR. MORRIS: I had originally intended to make a
18 somewhat 10 minute or more presentation on killer whales to
19 you. I think it's very important to demonstrate to you the
20 injury that we have documented to this species. And I don't
21 want to be rushed on this either because we have a very
22 compelling story here that needs to be fully told. I really
23 don't -- I guess I don't know how to proceed, I can try but I
24 know our time is short and there are other projects that also
25 want to be considered in this half hour.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. SANDOR: Twenty minutes.

1 MR. MORRIS: Twenty minutes.

2 MR. COLE: Mr. Chairman.

3 MR. BARTON: Yes, Mr. Cole.

4 MR. COLE: You know, out of consideration for everyone,
5 I intent to vote against each one of these reopened projects.
6 I mean I respect the Restoration Team's work, I respect
7 Dr. Spies' work, and it seems to me that I support, as I said
8 earlier, their effort. So I mean

9 MR. BARTON: That would seem to be a fairly definitive
10 statement.

11 MR. COLE: Well, I mean we've asked this Restoration
12 Team to go back and work these projects (indiscernible -
13 background coughing). Dr. Spies has worked, the peer review
14 work, we've had Restoration Team work and it just seems to me
15 that at some juncture we must support the people whom we've
16 asked to make, basically, these decisions for us. And I don't
17 know. If we're not going to generally give them the support
18 which we've given them here today, I mean we ought to sack the
19 team and devise a new basic plan.

20 And I've gone through these things myself. Let me just
21 say a word about the whales. We've done a lot of work in the
22 Department of Law, and I realize that one pod, maybe seven is
23 gone, we don't know where it went, we really don't know what
24 happened to it, and furthermore, what will restore those killer
25 whales. I mean, you know, it's nice to have that data, but I

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

mean I just don't see the restoration work we can do. So I
1 think we ought to just say that's enough and get on with the
2 decisions we have to make. Thank you.

3 MR. BARTON: Mr. Sandor.

4 MR. SANDOR: I certainly wouldn't disagree with the
5 Attorney General.

6 MR. COLE: No, he does all the time.

7 MR. SANDOR: But I think there may be a
8 misunderstanding or at least something that might be cleared up
9 with respect to this. As Mr. Collinsworth pointed out, this
10 one project is a matter of with \$15,000.00 the final report is
11 prepared. And I would want to know from the Restoration Team
12 why they would have voted not to spend the 15,000 simply to
13 write the final report?

14 MR. COLE: Ask Dr. Spies.

15 MR. SANDOR: Anybody.

16 MR. BARTON: Mr. Gibbons, can you help us?

17 MR. GIBBONS: Yeah. I can speak to that. As I
18 understand it and Mr. -- Dr. Morris can correct me, this was
19 more of a life history study than a damage assessment study.
20 And we figured that the final report would be a life history
21 movement of the humpback whales, it wouldn't provide to the
22 damage.

23 MR. MORRIS: That's not exactly correct. The Chief
24 Scientist's recommendation was not to continue with this study
25 and some of the Restoration Team members supported his

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

recommendation. It's happened in several other studies as well.

1 well.
2 The fact is we did study humpback whales for two years;
3 the first year, we found no evidence of injury but there was
4 such disturbance and commotion there that we feared that they
5 would not return in the second year. We got the studied
6 continued, they returned in better numbers than had ever been
7 known to return before. There was no apparent injury other
8 than, perhaps, disturbance to humpback whales. Nevertheless,
9 we did learn a lot about the humpback whales that use Prince
10 William Sound in terms of photo ID work, where they winter,
11 what their other movements are that would be very valuable
12 public information.

13 MR. BARTON: Would this

14 MR. MORRIS: And we feel it's just tidy to allow that
15 information to be produced into a proper form that it can be
16 presented to the public. And also I think in future oil
17 spills, I think this contributes to the literature information
18 on whales versus oil spills. The fact is the whales did not
19 enter the Sound until late May, early June and probably were
20 not exposed to the worst part of the oil is probably why -- may
21 be why they were protected. But nevertheless, there's a flaw
22 with that (ph).

23 MR. BARTON: This kind of falls in then to that area of
24 the general body of knowledge versus restoration oriented.
25 Mr Sandor.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. SANDOR: Well I guess the bottom line is there to
2 be a final report that can be written for 15,000 from somewhere
3 so that the information isn't lost?

4 MR. BARTON: I would ask Mr. Collinsworth.

5 MR. COLLINSWORTH: That's what it's for, yes.

6 MR. SANDOR: Is there an alternative source of doing
7 this 15,000 thing to be sure that this information isn't lost.
8 I guess that's my concern.

9 MR. COLE: Mr. Chairman.

10 MR. BARTON: Mr. Cole.

11 MR. COLE: I'd like to hear Dr. Spies' views on this,
12 if you would, please.

13 MR. BARTON: Dr. Spies.

14 MR. COLE: Having already made up my mind but now I'm
15 not

16 DR. SPIES: We didn't spend a lot of time in this
17 (indiscernible - background coughing). That it looked that we
18 needed to make some cuts, this is a study that had been over
19 for a year, we expected to have seen, perhaps, a final report
20 by this time, it wasn't in (ph) as low as priority listed NOAA
21 (ph) as I understand it. And on that basis we made a cut, so I
22 don't have a real strong feeling on this one (ph).

23 MR. BARTON: Mr. Rosier.

24 DR. SPIES: I'd like to also say that the
25 recommendation against doing (indiscernible) work next year was
26 more of a deferral than it was a recommendation on doing work

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 further to the (ph) proposal. After talking with principal
2 investigators we feel like we absolutely need to be out there
3 next year (ph). So, defer that for a year.

4 MR. BARTON: Mr. Rosier.

5 MR. ROSIER: I was just going to say that in looking at
6 the general budget of 15,000 for closeout, that seems to be the
7 best bargain in town here at the present time. But

8 MR. BARTON: There is one cheaper in there.

9 MR. ROSIER: There is one cheaper but it's still an
10 awfully good bargain as I see it on that. But the -- I'd like
11 to move to the killer whales because I feel that that's the
12 arena where certainly there's going to be a fairly significant
13 amount of public interest. And we're all aware of the concern
14 that's been expressed there on this, and I'm not sure where the
15 121,000 actually leaves us with that particular study, but I'd
16 at least like to hear what that particular project, in fact,
17 offers. Is this a final year on this one or is this

18 MR. MORRIS: No. This could be an ongoing effort
19 depending on what we find this year. I guess I won't waste the
20 public's time and injury (ph) with Mr. Cole's statement, but I
21 hate to play my hold card right away. But this particular pod
22 is severely injured, it went from 36 to 23 animals in two
23 years; it may be still declining, we don't know. It's been
24 socially disrupted. There's evidence of physiological injuries
25 to various animals.

26 The point is this pod could lose it's cohesiveness and

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

disintegrate into individuals animals wandering here and there,
1 and that's a significant injury to a significant resource that
2 we did not expect when we started this work. And we would not
3 know that if we don't continue to follow this pod either to
4 recovery or to final decline.

5 MR. BARTON: Mr. Rosier.

6 MR. ROSIER: Is there a restoration end point to this
7 or is it, again, general information type

8 MR. MORRIS: I think there are several. The first ones
9 that you think of are the terms of public education, perhaps,
10 enforcement to protect the pod. It is a pod that has in the
11 past been involved in fishery interactions and has suffered
12 some level of mortality. We could, in some ways, protect it
13 from that mortality through education and enforcement.

14 We could identify habitats that it uses that could be
15 very important and offer them protection. And as a last
16 resort, if there is -- and this is a real long shot but if this
17 pod does show that it's disintegrating, some potential rescue
18 effort of individuals.

19 MR. McVEE: Mr. Chairman.

20 MR. BARTON: Mr. McVee.

21 MR. McVEE: I guess what I understand of these would be
22 deferrals, so the question would be what would we miss in terms
23 of information if it was deferred until the 66 (indiscernible).

24 MR. MORRIS: Most of our techniques and what we know
25 about how to study killer whales comes from the efforts that

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

137
have taken place in British Columbian waters over the past 20
1 years. And they feel it takes -- I'm talking -- there's two
2 types of killer whale pods, residents and transients;
3 transients tend to come and go and split up, the resident pods
4 seem to always stay together. But if an animal dies, they want
5 to confirm it by two years from being missing for two years.
6 As an example, we had one whale that was reported missing last
7 year, we would not confirm that that was a death until we found
8 that it was missing this year. If we don't go up this year, we
9 wouldn't find that that whale was missing until 1993. Also,
10 any whales that were missing this missing or next year could
11 not be confirmed which year they were missing in and it would
12 take another two years to track their loss. It's those kinds
13 of things that's happening.

14 You can't calculate mortality rates, life history
15 tables for the population if you don't sort of have an annual
16 record of what they're doing.

17 MR. COLE: Mr. Chairman.

18 MR. BARTON: Mr. Cole.

19 MR. COLE: If this information is so valuable and so
20 needed for scientific studies and so forth, then the
21 presentation should be made to the Legislature of the State of
22 Alaska and to Congress and say, you know, this is valuable
23 scientific data, we'd like to have it, we'd like to wind up
24 these studies and let the Legislature make the appropriations.
25 I have no objection to that, but to expect money from this

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

restoration project to be spent on these things after we've
1 gone through this definitive process, it seems to me is
2 improper expenditure from these funds.

3 MR. COLLINSWORTH: Mr. Chairman, I

4 MR. BARTON: Mr. Collinsworth.

5 MR. COLLINSWORTH: Mr. Cole, I don't follow your
6 logic. I have a very difficult time disassociating the changes
7 that we have observed in this pod of killer whales and the fact
8 that we spilled a whole bunch of oil in Prince William Sound.
9 There is a relationship. There is a linkage, this is not a
10 disassociated academic exercise. I certainly respect your
11 prerogative to object to it.

12 I would say, though, that your remarks about relying on
13 the Chief Scientist and the Restoration Team are well-taken;
14 they are very credible, knowledgeable professionals. But I
15 don't intent to abrogate my responsibilities as a Trustee
16 Council member in making determinations on whether or not I
17 agree with them. And it seems to me, you exercise that
18 prerogative earlier in the day when you recommended the motion
19 to change their recommendation and substitute your judgment for
20 theirs with regards to information and education and another
21 project.

22 So I certainly agree with part of what you say but not
23 all of it.

24 MR. BARTON: I'm confused a little. Was there a year's
25 hiatus in the data or in the study already?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. MORRIS: No. We've studied them in '89, since
1 March 31st we were out in the field with that pod and in every
2 year since.

3 MR. BARTON: There is no motion before us.

4 MR. COLLINSWORTH: There is a motion before us. The --
5 I made the motion and it was seconded to -- unless you took
6 Mr. Cole's categorical nos

7 MR. BARTON: No. What was the motion? I don't recall.

8 MR. COLLINSWORTH: The motion was to adopt the killer
9 whale project at the February 5th proposal level, and that was
10 seconded. I had asked Mr. Morris to speak to the motion.

11 MR. COLE: Mr. Chairman.

12 MR. BARTON: Mr. Cole.

13 MR. COLE: Let me say this, you know. If we give on
14 this one as it were, then we just as well say we're going to
15 approve all of the others, you know. I think that's where the
16 cut must be. I mean we either say if we accept this study on
17 the killer whales and these pods, then really this would fall
18 in line and approve every other project which we are
19 reconsidering here or is sought to be reconsidered because we
20 will have the same arguments. And that's why I'm, you know,
21 sort of trying to hold the line, 'cause I realize that if we
22 give on this and all the others will like dominoes fall and
23 that's the end of that.

24 So that's how I see it.

25 MR. BARTON: Any

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 MR. COLE: And once you give on 15,000, we're out (ph)
2 15,000. All the others we'll just as well say we'll approve
3 them and be done with it.

4 MR. COLLINSWORTH: I call for the question.

5 MR. BARTON: Is there objection to an alternate?

6 MR. COLE: Yes.

7 MR. BARTON: The motion fails under the rules with
8 which we operate. We still have not dealt with three other
9 studies -- or five other studies here. Is there a motion to
10 deal with those, R60AB, R73, R6, R6E and MM1.

11 MR. ROSIER: Mr. Chairman, I would move for
12 consideration of the R60AB, before making any final motion on
13 the dollar amount, I would call on Dr. Montague to provide the
14 Council with that.

15 MR. BARTON: Which one is that?

16 MR. ROSIER: R60AB.

17 MR. MONTAGUE: Yes. Mr. Chairman. This is I guess the
18 life blood of our pink salmon damage assessment and restoration
19 work. The pink salmon industry in Prince William Sound is a 20
20 to 40 million dollar industry that employs approximately 6,000
21 people in the affected area. And the proposal that was
22 accepted by the Restoration Team was simply to recover tags
23 that had been applied in the past and not tag any new fish in
24 1992.

25 And this project has provided major methodology in
which we can allow a fishery to go ahead and at the same time

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

protect a number of damaged -- streams damaged by the oil
1 spill. And we believe that a lack of having this information
2 would require the Department to recommend a very conservative
3 approach on the commercial fishery which could put requirements
4 that fish be harvested near their terminal areas in which the
5 value of the product would be quite a bit lower than is
6 desirable and could, potentially, contribute to an already
7 serious problem of lower prices for pink salmon.

8 And we feel that in the end, this is how pink salmon
9 will be restored; it'll be through a very precise management
10 that allows the major industry in this region to continue
11 without essentially dropping that obligation to provide the
12 service and simply protect the damaged streams.

13 MR. BARTON: Present status of that project is, though,
14 that it has been approved? I mean the action we took today
15 included the February 27

16 MR. ROSIER: Yes.

17 MR. BARTON: proposal? Okay. Mr. Rosier.

18 MR. ROSIER: Mr. Chairman, yes. I think the question
19 that's involved here, as I indicated, the entire program, I
20 believe, is -- this was looked at from the standpoint of an
21 issue that we covered earlier this morning in terms of funding
22 from other sources. And it was originally submitted as a three
23 million dollar package to the Restoration Team, ultimately, it
24 was decided that it would be split, a flat (ph) funding on
25 this. We're asking, at the present time, for this to be

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

covered by the restoration funds from the civil suit, the
entire project. And that, we feel, is what's necessary; this
was a resource that was -- which we've indicated is -- there's
a demonstrated damage there, and you've heard the economic
importance of this to the Prince William Sound area. And
certainly from our standpoint, a full program with the
continuation of additional tagging is a necessary step in the
restoration of those pink salmon in Prince William Sound.
That's the full proposal at the present time.

MR. BARTON: But what would be the expectation in the
future years?

MR. ROSIER: Perhaps, Dr. Montague could give us a
helping hand with that stuff.

MR. MONTAGUE: Yes, Mr. Chairman. We believe that the
level of tagging effort can be reduced in the future,
especially after such things as run reconstruction are
finished. Right now, we feel the minimum level is
approximately a million fish to be tagged; it's a big
operation. And we would anticipate, I don't know percentage-
wise, but certainly a very marked reduction in coming years.
And when -- right now, the eggs and fry are showing increased
mortality, an indication that that ceases and we no longer have
an oil spill problem, we would immediately cease all funding of
the project out of the oil spill settlement monies.

MR. BARTON: How would -- what does a marked reduction
translate into in terms of dollars?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. MONTAGUE: What's it translate into in terms of
1 dollars? I'd say 50%.

2 MR. BARTON: So in future years, we could expect an
3 \$800,000.00 request?

4 MR. MONTAGUE: Well, it would be 50% of three million,
5 so it'd be one and a half million.

6 MR. BARTON: But isn't that what you're asking for now
7 is 1.6?

8 MR. MONTAGUE: Mr. Chairman, no, that is not correct.
9 What we're asking for is -- I believe it's just under three
10 million.

11 MR. BARTON: So you're not asking for the February 5
12 proposal, you're going back to the December proposal?

13 MR. ROSIER: To the December proposal, that's correct.

14 (Pause)

15 MR. MONTAGUE: One -- Mr. Chairman, one additional item
16 of information that may be useful for that is that we have
17 approximately 30 years of information indicating quite
18 conclusively that reduction in spawning numbers, and therefore,
19 reduction in the number of eggs translates directly into adult
20 returns; and in fact, that's how a lot of the predictions of
21 the fishery are made. So that we feel that 120% mortalities
22 that we're seeing -- higher mortalities in the oiled areas as
23 opposed to the unoiled areas is directly reflected at a
24 population level and as such, is impacting the fishery.

25 MR. BARTON: We need to set up for the teleconference I

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

think at this point. How do we want to proceed? Do we want to
1 proceed on with this or go to the public comment period and
2 come back to this at some later time? What's the pleasure of
3 the Council?

4 MR. COLE: It might be -- Mr. Chairman.

5 MR. BARTON: Mr. Cole.

6 MR. COLE: It might be wise to defer these until
7 tomorrow.

8 MR. BARTON: Is there a second?

9 MR. COLE: As much as I am repelled by that idea.

10 MR. BARTON: Well, we have a number of other items on
11 the Agenda that we haven't gotten to yet either, hopefully,
12 those will go fairly rapidly. But was there a second to
13 Mr. Cole's motion?

14 MR. McVEE: I'll second it.

15 MR. BARTON: Is there objection? All right. We'll
16 move in to the public comment period, come back to the five
17 remaining projects tomorrow and finish the rest of the Agenda
18 tomorrow. We'll take a break until -- for 10 minutes.

19 MR. COLE: Mr. Chairman, could we fix what time
20 tomorrow in case there are those who do not wish to sit through
21 the public hearing.

22 MR. BARTON: I'd suggest 8:00 o'clock, is that
23 convenient?

24 MR. COLE: I have a 9:00 o'clock commitment as well as
25 a 7:30 commitment, a.m.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. SANDOR: I have an 8:00 o'clock as well as a 9:30.¹⁴⁵

1 MR. BARTON: Is 10:00 o'clock a wonderful time?

2 UNIDENTIFIED VOICE: That sounds pretty good.

3 MR. BARTON: All right. 10:00 o'clock tomorrow we will
4 reconvene the Council. We'll take a 10 minute break and come
5 back for public comment.

6 (Off record)

7 (On record)

8 (Off record comments)

9 MR. BARTON: come in and take a seat. For those
10 of you out on the teleconference sites, I'm Mike Barton with
11 the Department of Agriculture, serving as Chair at today's
12 Council meeting. Curt McVee with the Department of Interior is
13 with us, Commissioner Rosier from the Department of Fish &
14 Game, Deputy Director Don Collinsworth from National Marine
15 Fishery Services representing NOAA, Commission Sander from the
16 Department of Environmental Conservation, and Attorney General
17 Cole is with us today.

18 We'll start the teleconference by asking our Interim
19 Administrative Director of the Restoration Team, Dr. David
20 Gibbons, to summarize what we've done today.

21 MR. GIBBONS: Thank you, Mr. Chairman. The first item
22 of the Agenda was to visit the Agenda this morning, we removed
23 one item from the Agenda; we removed Item 3(d) discussion of
24 the trailer vans and carcass disposal, this will be discussed
25 at a later time.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

BRIDGE OPERATOR: This is the Bridge Operator and
1 you're barely transmitting, no one can hear you well enough.

2 MR. GIBBONS: Let me start again, is this better?

3 BRIDGE OPERATOR: It's slightly better.

4 MR. GIBBONS: Okay. I'll start over again. The first
5 item on the Agenda this morning was to revisit -- to visit the
6 Agenda to see if there was any changes to the Agenda. We had
7 one change to the Agenda, we removed Item 3(d) which was the
8 trailer vans and carcass disposal. Some recent information
9 came to light in the last several days to postpone that
10 discussion.

11 The next item on the Agenda was the finan- -- a
12 discussion of the financial situation or material framework.
13 The Trustee Council reviewed the material and deferred a
14 decision on the financial material or framework until the next
15 Trustee Council meeting.

16 We visited the Restoration Team and Dr. Spies five page
17 spreadsheet on recommendations. The -- it was moved to
18 reconsider Projects R60A and B and Project R73 to a later date.
19 The rest of the package, at that time, was approved.

20 Next, we visited the Restoration Team's recommendation
21 only without recommendations by Dr. Spies. What was approved
22 from that package is the following: Archeological Study 1;
23 Fisheries Study 28 on pink salmon; Technical Services Study 3,
24 GIS; Fisheries Study Number 27 sockeye; Fisheries Study
25 Number 30 database; Restoration Study Number 92, GIS

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

147
restoration; Restoration Project 105, the fish project survey;
1 Restoration Project 113, Red Lake; Restoration Project 47,
2 stream survey; Restoration Project 53, Kenai sockeye;
3 Restoration Project 59, sockeye; Restoration Project R104A,
4 archeological stewardship. And it was moved R- -- Project R118
5 was deleted and the \$180,000.00 was moved to Project FS28.

6 The next suite of studies that was visited were studies
7 requiring additional review by the Trustee Council, Dr. Spies
8 and the Restoration Team. It was moved that Coastal Habitat
9 Project 1A and Coastal Habitat Project R102 move ahead but
10 negotiations with the University of Alaska should occur before
11 the next Trustee Council meeting to reduce the costs.

12 Next, the approval for the five-page spreadsheet for
13 the Restoration Team recommendation along with the --
14 Dr. Spies' recommendation was revisited. Five -- six projects
15 were moved to have reconsideration; these included R60A and B,
16 pink salmon project; Marine Mammals Project 1, humpback whales;
17 Restoration Project R82A, killer whales; Restoration Project
18 73, harbor seals; Restoration Project 6, sea otters; and
19 Restoration Project 6E sea otters.

20 That's where we ended for the day. It was decided that
21 the Trustee Council will reconvene tomorrow morning at 10:00
22 a.m.

23 MR. BARTON: Thank you, Dr. Gibbons. I would encourage
24 all who wish to testify to include any remarks that are
25 pertinent to the part of the Agenda that we did not get to as

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

well as that that we did get to. My intent would be to not
1 have a public comment period in tomorrow's session, so we need
2 all of your comments in this evening's session.

3 For the purposes of this evening's session, I think
4 I'll change the order in which we've done things in the last
5 few meetings; I think we'll take one person from each site,
6 work down the sites, that may be a little more equitable to
7 Valdez and Whittier, and continue that rotation until everyone
8 has spoken that cares to speak. We'll begin in alphabetical
9 order.

10 Is there anyone here in Anchorage that wishes to speak?
11 Go ahead. Please identify yourself and

12 MR. KUSICK: My name is Ron Kusick and I am the
13 assistant to the general manager from Municipal Light & Power,
14 and I representing the Municipality. Several days ago, we
15 found that Project 117 had been removed from the list, we want
16 to support this project, we do support the project and we wish
17 the project to be reconsidered. Thank you.

18 MR. BARTON: Thank you. Any questions from the Council
19 Members? Thank you.

20 Is Chenega on-line, anybody at Chenega? Cordova, is
21 Cordova on-line?

22 CORDOVA: Cordova is on-line, we have five or six
23 people here, but I think at this time that we'll pass, please
24 come back to us next time around.

25 MR. BARTON: All right. Fairbanks?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

UNIDENTIFIED VOICE: You've got a man from Chenega
1 here.

2 MR. BARTON: All right. We have the Chenega
3 representative right here in the room.

4 MR. TOTEMOFF: Excuse me, Mr. Chairman, thank you.
5 Chuck Totemoff with Chenega Corporation. It's more of a
6 question really. There still remains large amounts of oil in
7 Prince William Sound, especially close to my home village in
8 Chenega Bay. I was wondering if the Trustee Council is
9 prepared to deal with this problem before we talk about
10 restoration. And if they are, is it going to be addressed this
11 year?

12 MR. BARTON: Mr. Sandor.

13 MR. SANDOR: Yes. I wanted to ask Ernie Piper who's
14 the State on-scene coordinator for the Exxon Valdez Cleanup
15 Project, who's working closely, of course, with the Federal on-
16 scene coordinator to summarize what action is planned for
17 cleanup this year.

18 MR. PIPER: There are two surveys and a survey and a
19 supplement survey scheduled for this spring, the first is the
20 joint State and Federal survey going to a little over 60 sites,
21 14 of them are on a list that was offered to the Federal on-
22 scene coordinator and the State coordinator by Chenega
23 Corporation. The remaining sites on that list that are of
24 concern to Chenega we're looking at now, and we've offered to
25 have Chuck or whomever from the Village and from the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Corporation come in and sit down with us and go through our
1 database and let's see what we can find on those sites to
2 decide if we need to go back to them again. We're willing to
3 go back and look, and if there's cleanup that's necessary and
4 it meets the criteria for cleanup under State or Federal
5 guidelines, we'll certainly insist that it's done.

6 MR. TOTEMOFF: Okay. Thank you, Ernie. It's always
7 been our position that we'd like to get the oil out of the --
8 totally out of the environment. But we've been going along
9 with the State and Federal guidelines just for the purpose of
10 furthering the cleanup. But since this is probably the last
11 year of the cleanup effort, Chenega Corporation for one would
12 like to see the greatest effort possible into remaining as much
13 (ph) free flowing oil as possible. Thank you.

14 MR. BARTON: Thank you. Fairbanks, is there anyone
15 from Fairbanks on the line that wishes to testify?

16 MS. SAUPE: There's one person from Fairbanks.

17 MR. BARTON: Go ahead, please.

18 MS. SAUPE: My name is Susan Saupe (ph), and I am
19 representing myself as a life-long Alaskan from Kodiak and now
20 working in Fairbanks, and as a member of the scientific
21 community. I have attended most Trustee Council meetings since
22 the first one in December, and I'm aware of the many difficult
23 tasks and decisions set before you. Nevertheless, I am
24 disturbed by some of the decisions that have been made by the
25 Trustee Council concerning expenditure of Settlement Funds.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

I am referring to setting unrealistic limits on
1 research that will likely result in the cutting of regions (ph)
2 outside of Prince William Sound from monitoring programs; and
3 the cutting of monitoring of shown damaged resources such as
4 the subtidal. It was my understanding that one of the top
5 priorities set by the State and Federal Governments in the
6 aftermath of the Exxon Valdez oil spill was to document and
7 understand the damage to the environment due to the oil so that
8 these resources could be restored, and so that a settlement
9 could be obtained with Exxon.

10 Since that settlement has occurred, though, it appears
11 that damaged resources are no longer the main concern.
12 Although, I do support measures that reduce the damage that is
13 done to an eco-system through the clear cutting of timber, I am
14 concerned that the acquisition of timber land will become the
15 major issue of the settlement at the expense of determining the
16 fates of known damaged resources.

17 I am approaching this as a member of the coastal
18 habitat project, which has studied the inner-tidal zone of EVOS
19 impacted areas. Our study has included all regions affected by
20 EVOS, not just Prince William Sound. Injury to the inner-tidal
21 zone has been documented in all of these regions, that is
22 Prince William Sound, Cook Inlet, Kenai, and Kodiak and the
23 Alaska Peninsula. And now, it is important to determine when
24 recovery has occurred.

25 The inner-tidal zone, along with the subtidal is used

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

as forging grounds for many of the injured birds and mammals
1 whose studies are supported by agencies represented by members
2 of you on the Trustee Council. You must recognize then the
3 importance of knowing the status of their major food sources in
4 these areas. The long-term fate of these food sources can only
5 be understood with the support of a recovery monitoring program
6 for all three regions, and I urge you to support such a
7 program.

8 In conclusion, I would like to stress the importance of
9 obtaining a set of long-term baseline data in order to
10 characterize the inner-tidal zone and to understand it's rates
11 of recovery. This may be invaluable data in the aftermath of
12 any future spills.

13 I would like to address Attorney General Cole by
14 reminding him that it is not possible to directly compare the
15 research budget for collecting scientific data from remote
16 coastlines of Alaska to his budget for the Justice Department
17 as he has done in the past. We cannot plan that the next oil
18 spill will occur in a downtown Juneau office building. It is a
19 fact, though, that if oil from a spill reaches shore again, it
20 will hit in the inner-tidal.

21 Thank you for this opportunity to voice my opinion.

22 MR. BARTON: Thank you. Are there any comments or
23 questions of the our members of the Council? If not, Juneau.
24 Is Juneau on-line?

25 JUNEAU: Juneau's on-line, we have no one here to speak

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

at this time.

1 MR. BARTON: Thank you. Homer, are you there, Homer?

2 HOMER: Yes, we have several observers but no one to
3 speak at the moment.

4 MR. BARTON: Thank you. Soldotna. Is Soldotna on-
5 line?

6 SOLDOTNA: Soldotna's on-line, we've got two observers
7 and, perhaps, you could come back to us later.

8 MR. BARTON: All right. Thank you. Kodiak.

9 KODIAK: This is the moderator in Kodiak, we have four
10 to testify and one observer.

11 MR. BARTON: All right. The routine we're using
12 tonight is to ask one person from each location as we work done
13 the list, and then we'll start over at the top of the list, so
14 please have your first person testify.

15 MR. SELBY: Okay. Thank you very much. This is Jerome
16 Selby (ph), Mayor of the Kodiak Island Borough; we appreciate
17 the opportunity to testify. Hopefully, you'll get through the
18 list another three or four times so the rest of the folks will
19 have a shot at it.

20 I just had a few comments. We're pleased to see that
21 the Red Lake project was made -- the funding was today (ph).
22 At the same time, we're somewhat disappointed that the Brown
23 bear study, R5, was not approved, and I would hope you folks
24 would reconsider that.

25 We have some others. I guess I'm not real clear if

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 some of our other high priority projects -- if they are or are
2 not included since some of the titles I can't really tell for
3 sure. But maybe Ernie Piper or someone from the Staff could
4 kind of answer a couple of questions. One we -- that's a high
5 priority is the Katoya (ph) Hatchery, early (ph) marine salmon
6 habitat utilization baseline studies for 45,000. Maybe he
7 could indicate whether that study is included in one of these
8 other salmon studies or not.

9 The other one was the -- whoops, I lost my place here -
10 - but the Uganik (ph) River fish counting weir, I don't see
11 that on here at all, even with a number; and that was a pretty
12 high priority item for us since that side of the island got hit
13 pretty hard with the oil. And it looks like Fish & Wildlife
14 will have to shut that weir down this summer if there isn't
15 some assistance provided. So, we lose the data and lose the
16 baseline on the returning salmon here for the next year or so
17 if nothing's done there. So I would hope something could be
18 done with that one.

19 I'm not sure if the Bald eagle funding -- study funding
20 included the 55,000 that Fish & Wildlife had proposed here on
21 Kodiak or not, but that'd be another question I guess for the
22 Staff. And those were probably our highest priority projects,
23 if there isn't any way to do the mitigation on Red Lake, the
24 restoration's a good start; but of course, we'd like to do --
25 start on some of the mitigation operation as well. So I guess
if someone knows those numbers or I don't know, maybe Ernie

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

will have to call me later, but we sure would like to see a
1 couple of these high priority projects for us included if you
2 guys could figure out a way to do it.

3 MR. BARTON: We'd be pleased to have Mr. Montague
4 address a couple of those questions.

5 MR. MONTAGUE: Yeah. Yes, Mr. Chairman. I believe the
6 project you're referring to is Red Lake and early marine is
7 actually R113 which is the Red Lake restoration study. R114
8 and that one -- excuse me, R113 is currently in the program.
9 R114, Red Lake mitigation fishery is not. And those were the
10 only two Fish & Game projects that he addressed.

11 MR. BARTON: The Bald eagle study, Pam.

12 MS. BERGMANN: Mr. Chairman, I'm not sure if it
13 includes Gulf of Alaska or not but the funding for that was not
14 recommended to go forward. Do you know, Cordell, if it

15 CORDELL: No, not the Gulf of Alaska.

16 MS. BERGMANN: We'd have to check on that.

17 UNIDENTIFIED VOICE: He said it's not Gulf.

18 MS. BERGMANN: Oh, I'm sorry, it's not Gulf of Alaska,
19 it's only Prince William Sound.

20 MR. BARTON: But it was not approved.

21 MS. BERGMANN: But it was not approved.

22 MR. BARTON: Was there another study, Mr. Mayor?

23 MR. SELBY: Yeah. The other one would be the Brown
24 Bear study for the Parks, the R5 Brown Bear Study, we
25 definitely had impact on that Brown Bear population over there

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

on the Shelikof shore of the Katmai Park. We thought it was
1 fairly important that that be underway.

2 MR. BARTON: Yeah. That study was also not approved.
3 We'd be glad to have Mr. Gibbons give you a call tomorrow and
4 discuss this in more detail.

5 MR. SELBY: Okay. I'd appreciate that. Again, we
6 appreciate the opportunity to testify, appreciate the amount of
7 work you folks are putting into these studies, and hopefully a
8 few more of these high priority ones for the Kodiak area can
9 make it in to the funding before you get through with your
10 funding cycle this year. Thanks for the opportunity.

11 MR. BARTON: Thank you, Mr. Mayor. And of course,
12 you'll have another opportunity, these studies -- the package
13 will then come out for public review and public comment some
14 time next month.

15 Seward, is Seward on-line? Tatitlek, anybody in
16 Tatitlek wish to testify?

17 TATITLEK: No, sir, not at this time.

18 MR. BARTON: Okay. Thank you. Valdez.

19 MR. JANKO: Yes. Good evening. My name is Dave Janko
20 (ph), Prince William Sound Conservation Alliance. I had a
21 question and probably a comment. At this point, you're going -
22 - on the meeting I attended in Juneau February 10th, and it was
23 my impression that you had gone through all of these and said
24 yes, we approve them, you know, in concept so that we could
25 pass them on for public comment. And now, I see you're working

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

on cutting some out completely, and then when we do get a
1 public comment document, there will be some of these that'll
2 just totally missing off of them. I have a little concern for
3 that and am I right in how that process is working?

4 MR. BARTON: You are right.

5 MR. JANKO: Okay. Then, I guess my comment is I'm kind
6 of concerned about that, that by the time this gets to public
7 comment, there'll be some of these are missing which are
8 important, such as say the humpback whale, killer whale
9 studies. And I wonder how can -- if the public had -- does not
10 have access to a final damage assessment study such as that you
11 have and Mr. Steve (ph) has, and I wonder if those are finished
12 out enough to even make recommendations for restoration
13 projects; if the closeouts aren't complete, how do we know
14 whether we need to have continuing monitoring or any
15 restoration. So I just am afraid some of these are going to be
16 dropped without any Public Advisory Group or public input, as
17 well as not even having the information of the final closeout.

18 MR. BARTON: Okay. Any comments from members of the
19 Council?

20 MR. GIBBONS: Mr. Chair.

21 MR. BARTON: Mr. Gibbons.

22 MR. GIBBONS: Yes. Let me respond to that. The only
23 damage assessment closeout project that is proposed not to go
24 forward at the present time is the humpback whale. The other
25 ones are going forward to closeout for final reports, so the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

information will be available to the public.

1 MR. JANKO: Okay. Well, with that one project then, I
2 guess the bottom line is that each project has some sort of a
3 finished document. I mean will there be some sort of a
4 document, at least, as far as where things are for the humpback
5 for potential future monitoring, this year, next year, the year
6 after?

7 MR. BARTON: Mr. Gibbons.

8 MR. GIBBONS: The National (ph) Fishery Service might
9 be better served to answer this. But I think that there's
10 progress report on that study, you know, if it was done for two
11 years, we'd have to progress reports available.

12 MR. JANKO: Okay. Like I said (ph) that answers my
13 question, and I appreciate hearing -- that's the only one,
14 although, we do have concern about that, but just so there's
15 some final product of some sort for future evaluation for
16 restoration or monitoring, and come back around, there might be
17 some other comments. Thank you.

18 MR. BARTON: Okay. Thank you. Whittier. Is Whittier
19 on-line? Okay. We'll come back to Anchorage, who here now
20 would like to testify? Mr. Rusher (ph).

21 MR. RUSHER: Yes. My name Jerry Rusher, and I'm with
22 Rusher Services (ph), and I just have a few yes and no
23 questions; I made them pretty simple. I would like to know if
24 the Trustee Council would ask the Chief Scientist to look at
25 the project that I turned in on January 10th for

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

recommendations to go on farther.

1 MR. BARTON: Mr. Gibbons, can you respond to that?

2 MR. GIBBONS: Yeah. I wrote a letter to Mr. Rusher,
3 and the process for dealing with public proposals that we have
4 laid out presently is to solicit public proposals in May and
5 deal with all public proposals at that time, and then move
6 forward with a program in 1993.

7 MR. RUSHER: Okay. Well that takes care of Question 2
8 and 3 that I had. Question 4: Is it true by law if Exxon
9 expenditures are made in 1992, this additional cleanup work
10 will be credited against the next payment owed to the
11 Governments?

12 MR. BARTON: Can anybody here answer that? Any of you.
13 Ernie, Mr. Piper.

14 MR. PIPER: If Exxon is ordered to do any work, and
15 that includes this survey by the Federal on-scene coordinator
16 or the State on-scene coordinator, the expenses will be
17 reviewed in advance by the Federal or State on-scene
18 coordinator, depending on who it is, and then those expenses
19 that they actually make up to that limit, they will be eligible
20 to set those off from that that they will pay the Governments
21 next December, if I'm right on that, Mr. Attorney General.

22 MR. COLE: I believe that's right. I thought -- is
23 there a perspective limit of -- estimate of about three million
24 dollars?

25 MR. PIPER: The three million dollars was the talking

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

estimate that Otto Harrison gave to us about a month ago, but
1 we haven't seen their detailed proposal yet.

2 MR. RUSHER: The last question that I have, is this
3 Council familiar with the statutory responsibilities from the
4 MOA in regards to discharged oil?

5 MR. BARTON: I think you need to be a little more
6 specific.

7 MR. RUSHER: Do you realize the responsibility that you
8 took on from discharge of oil on Prince William Sound at this
9 present time from the shorelines? That is the question.

10 MR. BARTON: Are you referring to oil that's already
11 been spilled and that's seeping back?

12 MR. RUSHER: I'm referring to the oil that's in the
13 shoreline.

14 MR. BARTON: Yeah. Okay. Well I can't speak for all
15 the Council members.

16 MR. PIPER: The Trustee Council is the wrong target on
17 that question. Still, whenever -- if the Federal or State on-
18 scene coordinator based on Federal or State guidelines
19 determines if further cleanup is necessary, then the Coast
20 Guard and/or DEC is responsible as the lead agency to carry out
21 that cleanup.

22 MR. RUSHER: So this Council has no responsibility of
23 the discharged oil?

24 MR. PIPER: This Council does not. The State and
25 Federal Government agencies that continue to handle oil spill

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

response have that responsibility.

1 MR. BARTON: This -- the duties of this Council are
2 related to damage assessment and restoration not cleanup;
3 though, some of us are involved in it, in other words (ph).

4 MR. RUSHER: Yes. I think you need to look at Page 3
5 of the statutory responsibilities.

6 MR. BARTON: We'll do that. Thank you.

7 UNIDENTIFIED VOICE: Okay.

8 MR. BARTON: Chenega, anybody on-line at Chenega that
9 wishes to testify?

10 UNIDENTIFIED VOICE: Mr. Barton.

11 UNIDENTIFIED VOICE: There's a man from Anchorage here.

12 MR. COLE: This gentlemen here.

13 MR. BARTON: Yeah. We're -- I've been rotating through
14 the sites.

15 UNIDENTIFIED VOICE: There's one lady from Chenega back
16 there, I think.

17 UNIDENTIFIED VOICE: From Chenega.

18 MR. BARTON: Is there a lady from Chenega back there?
19 Yeah.

20 MS. EVANOFF: I'm Gail Evanoff (ph) from Chenega Bay.
21 Sitting here this afternoon, I'm very appreciative of the
22 efforts in identifying ways and means to address restoration of
23 the many losses that was suffered in the Prince William Sound,
24 but I also caught something that concerns me, and that is
25 restoration in the interest of the public is something that is

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

a high priority. Chenega Village people are part of the
1 public, but we're also very high subsistence users down there.
2 And a lot of the studies that you've addressed I find omits a
3 lot of what we subsistence on, and we think that's important
4 like you think it's important representing your various
5 agencies and for the public in general.

6 Other subsisting resources such as the decline of
7 octopus, the kelp, clams, gumboots (ph), sea urchins, we want
8 to know why we can't get them anymore. We know by our
9 observation it's due to the large amount of oil on our beaches,
10 but I think it warrants a study, just like the killer whale.
11 The very thing that we live off of, that resource out there, is
12 an attraction to the public at general, and I think we would
13 both benefit tremendously by addressing those other very local
14 concerns that I'm expressing; the things that we eat, that we
15 bring home to feed our families. The small communities in
16 Prince William Sound, you know, our lives have been totally
17 changed by this and we want you to know that, and we want you
18 to address subsistence to a people who are going to be there,
19 we were -- we lived through it. And we think we have something
20 to offer to you in terms of information.

21 We wish that your surveys would include input from the
22 communities. I've heard of millions of dollars going into
23 surveys, and I've not seen a survey team in Chenega Bay. I
24 would invite you to involve our local knowledge because we have
25 a lot. Thank you.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: Thank you. Questions of members of the
1 Council?

2 Cordova. Anybody in Cordova want to testify? I'm
3 sorry, Cordova?

4 MR. WEAVERLING: Can you hear me there in

5 MR. BARTON: Yes, go ahead.

6 MR. WEAVERLING: My name is Mayor Weaverling here in
7 Cordova. And I would first like to inquire if the Trustee
8 Council received the facsimile transmission that I sent today?

9 MR. BARTON: Yes, we did, Mayor.

10 MR. WEAVERLING: I won't bother you then to testify.
11 Thank you very much.

12 MR. BARTON: Thank you. Fairbanks, anybody else in
13 Fairbanks want to testify?

14 FAIRBANKS: No further testify from Fairbanks.

15 MR. BARTON: Thank you. Juneau, anybody in Juneau want
16 to testify? In Homer?

17 HOMER: Yes. We have one participant who would like to
18 speak.

19 MR. BARTON: Thank you, go ahead, please.

20 MS. HILLSTRAND: Yes, good evening, I know you're ready
21 to go home by now. But anyways, this is Nancy Hillstrand (ph).
22 And I'm just wondering if you folks -- I'm sorry I'm not up to
23 speed with everything right now, but I wonder if you have
24 considered any purchasing of any lands, terrestrial (ph) lands
25 that would help the waterfowl populations. Over.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: Mr. Gibbons, do you want to address that?

1 MR. GIBBONS: Yeah. We have no proposals for
2 acquisition at this time. We have proposals to look at the
3 critical habitats that those species need -- that the injured
4 species need, and then move forward in the process to identify
5 those first, but we have no acquisition proposals.

6 MS. HILLSTRAND: Yeah. Okay. I really appreciated
7 that, I hope you do consider that. So thank you very kindly,
8 and I really appreciate all the work you folks are doing.

9 MR. BARTON: Thank you. And we will consider those
10 proposals. Soldotna, anybody in Soldotna wish to testify?

11 MR. FLAGG: Yes, can you hear me?

12 MR. BARTON: Yes, go ahead, please.

13 MR. FLAGG: Yeah. This is Loren Flagg (ph) in
14 Soldotna, and I'm the Executive Director for the Kenai
15 Peninsula Fishermen's Association. And we wanted to lend our
16 support to the damage assessment project on the Kenai River
17 sockeye salmon, that's FS27. Also, the two restoration
18 projects that are proposed for the Upper Cook Inlet, period;
19 R53 which is Kenai River sockeye restoration and R59 the
20 genetic stock proposal.

21 We feel these projects are extremely important so that
22 damage was done to the spawning grounds here on the Kenai
23 River, a number of smolts coming out in '89 escapements are
24 extremely low, and we're looking an extremely poor return in
25 '93 and '94 (indiscernible). If you make sure that we document

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

the affect on spawning areas against fishery (ph).

1 Also, I have a question. I learned today or heard
2 today that part of the projects that were originally proposed
3 for the criminal penalty fund under the State control have been
4 transferred to the Trustee Council, and included in this was
5 some of the enhancement work. Could someone comment on this?

6 MR. COLE: Mr. Chairman.

7 MR. BARTON: Mr. Cole.

8 MR. COLE: I think that's an erroneous report, flatly
9 erroneous.

10 MR. BARTON: Thank you, Mr. Cole. Do you have anything
11 else you wish to say, Soldotna?

12 MR. FLAGG: Yes. Just one other comment. We do
13 support land purchase, and especially on an area -- a critical
14 area which is the Kenai River flat tidelands, it's a very
15 critical habitat area for both fisheries and waterfowl, and we
16 would support that project. Thank you.

17 MR. BARTON: Okay. Thank you. Any further comments or
18 questions from the Council?

19 Kodiak, anyone in Kodiak wish to testify?

20 MR. PATRICK: Thank you. My name is Greg Patrick (ph),
21 and I'm the Conservation Chair for Kodiak Autobahn.

22 MR. BARTON: Go ahead, please.

23 MR. PATRICK: I'd just like to say on the subject of
24 habitat acquisition, it seems like there's one school of
25 thought going towards determining the damage and the recovery

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

of certain species. But this should be limited and tempered by
1 the fact that certain inner-tidal areas and things, there's
2 very little that can be done to -- realistically to restore
3 those. And so, I believe the focus should be on acquisition of
4 habitat for (ph) litigation damage, and I believe there's a
5 great deal of support for that.

6 Timber lands are extremely important. Estuaries, areas
7 like this, it's important not only to protect them from further
8 damage but to restore people's confidence in this evaluation.
9 One thing that's very important is that we need to be
10 identifying willing land sellers because the best scientific
11 evidence may support acquisitions in certain areas, but they
12 may not be available because they're private land.

13 So, I'm disappointed to hear that there's no proposals
14 being put forth at this point. I think as time goes on,
15 sellers go to other commitments for development and you're
16 going to be losing very good position opportunities. And I'd
17 like to see some more effort being made in this area. Okay.

18 MR. BARTON: Okay. Thank you. Seward, anyone in
19 Seward wish to testify?

20 Tatitlek, anybody in Tatitlek wish to testify?

21 TATITLEK: Just that we support the comments made by
22 Mr. Totemoff and Mrs. Evanoff from Chenega Bay.

23 MR. BARTON: All right. Thank you very much.

24 Valdez, anybody in Valdez?

25 MS. LEFCO: Yes. This is Nancy Lefco, I'm speaking on

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

my own behalf. I'd like to thank L.J. Evans for sending down
1 the material so that we had a chance to review them this time,
2 it makes much better for us here to have read through things;
3 it's unfortunate, we would still like very much to hear your
4 discussions during the day but realize that we don't want to
5 spend all the Trustee funds on teleconferencing.

6 The -- I have a few comments. One, your Public
7 Advisory Committee Report. The change to the qualifications
8 for the appointment of members, I think that was a very
9 courageous step, and hopefully, it will lead to that committee
10 being less politically divisive and able to work together
11 better; it'll obviously depend on who's -- the way the
12 appointments go to it, but I thought that was a very good thing
13 from what we had seen in previous drafts and we'd support that.

14 The killer whale proposal, I have some concerns with.
15 The -- as you know, the transient pods of killer whales in
16 Prince William Sound have -- about a half of them have not been
17 photographed now in the last two years. That has, of course,
18 some implications for what's, perhaps, happening to the ecology
19 of Prince William Sound. It also has implications for the
20 recreation and tourism industry in that killer whale sightings,
21 observations are a very important part of our business. So,
22 to, perhaps, lose half the killer whales in Prince William
23 Sound is -- or at least, not having them return to Prince
24 William Sound or be utilizing the area is a significant concern
25 to us.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

And for the restoration of, perhaps, the utilization or
1 the return of the killer whales to Prince William Sound and of
2 the disbursed recreation/tourism industry, this is a project
3 that we would, perhaps, like to see funded and not
4 discontinued. The -- certainly, are very concerned that there
5 might be some restoration project that could come out of this
6 study, such as the identification of the rubbing beaches (ph)
7 and protection of them if they need protection; another is the
8 food chain. There are certainly some -- I believe shown some
9 problems in the food items of the killer whales; one food item
10 that has not been discussed but is important for transient
11 killer whales are dalls (ph) porpoise.

12 Dalls porpoise were never studied as part of the
13 assessment, but those of us who live and work in Prince William
14 Sound on a daily basis know that since 1989, or estimate that
15 since 1989, the killer whale population -- the dalls porpoise
16 population has declined maybe 75 to 80%. In the past, we could
17 guarantee our charter guests see (ph) dalls porpoise almost
18 everyday and at least once a week have them playing around the
19 hull of the boat. In 1989/'90, we saw dalls porpoise six times
20 the entire summer; last summer, we saw them nine times in the
21 entire summer. Pods who without -- have been able to identify
22 through sketches of key members and particular markings on
23 them, I have not seen those pods since 1989. That's an item
24 that is -- if it has disappeared and they are important to the
25 killer whales as a food item, I think this whole area, perhaps,

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

needs more study than it's receiving, and hope that this could
1 be looked at by your scientific advisors.

2 Thank you.

3 MR. BARTON: Thank you, Nancy. Any questions from
4 Council Members?

5 Whittier. No, Whittier is not on-line. Anchorage,
6 there's a gentleman back here who's been trying very hard.

7 MR. STALSTED: Mr. Chairman, Members of the Council, my
8 name is Thor Stalsted (ph). I didn't see any of you people at
9 the Exxon Valdez while she was grounded on Bligh Reef. I was
10 there for 10 days while the Exxon Valdez I believe lost at
11 least 26 million gallons of North Slope crude oil. She was
12 then exported to Outside Bay on Naked Island.

13 I view the settlement in this light. If a family is
14 killed in an auto accident and one survivor sues for damages
15 and wins, five million, then Mr. Cole and the State decide to
16 take the five million and dole it out to lawyers and the
17 Highway Department and others to try to design a fail-safe
18 highway, leaving the survivors 500 for the death of his family.

19 Can this happen in Alaska? You bet it can, it's
20 happening right now. What about the people who live along the
21 coast of Alaska that's been polluted with crude oil? These
22 people live off the marine and wildlife resources of the coast
23 and are now afraid to consume many of these species polluted
24 with crude; that's passing down through the food chain every
25 hour of the day. If the State wanted to be moral, fair and

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 legal, then 950 million settlement wouldn't be enough to settle
2 with Chenega, let alone settle with the rest of us who have
3 been harmed by the oil spill.

4 What happens when cancer and other ailments start
5 showing up in the people from consuming oil polluted fish and
6 wildlife? Where is the medical fund? I see the State has
7 taken care of that, a State Judge just made it illegal to sue
8 the State over the oil spill damage. The State settled with
9 Exxon for \$.10 on the dollar for the damage that has been done.
10 How do you think the people who have really been harmed feel
11 watching you divide up the settlement dollars among the
12 unharmed who will spend this money and five years from now we
13 won't know anymore about oil spills than we do today.

14 Thank you.

15 MR. BARTON: Thank you. Any questions from the Council
16 Members? Okay. Thank you.

17 Chenega, anybody at Chenega? Okay. Cordova, does
18 anybody in Cordova wish to testify?

19 MR. BECKER: Yes. My name is Karl Becker (ph), and I
20 have two questions I'd like to ask the Trustee Council. The
21 first question is do you have any written summary of your
22 reasons for determining whether or not to continue studies or
23 to close them out?

24 MR. BARTON: Mr. Gibbons, do you want to address that?

25 MR. GIBBONS: We have notes that -- on the discussions,
26 yes, we have notes.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: And we have transcripts of this meeting
1 available.

2 MR. GIBBONS: As well (ph).

3 MR. BARTON: Go ahead with your second question.

4 MR. COLE: Mr. Chairman.

5 MR. BARTON: Mr. Cole.

6 MR. COLE: Well, we also have Dr. Spies

7 MR. BECKER: Just to go along with my first question, I
8 wonder if you would be able to summarize that, the process that
9 you went through to evaluate which studies to either continue
10 or to closeout.

11 MR. BARTON: Do you want to address that question,
12 Mr. Gibbons?

13 MR. GIBBONS: Yes. It's really a three-prong. I
14 mentioned the Restoration Team, the Chairman mentioned the
15 meetings of this note (ph), and we also have the meetings --
16 the notes of Dr. Spies' recommendations. So, we have three
17 documents that summarize; two of them bring them to the Trustee
18 Council and then the transcripts would be the mechanism for
19 determining how projects were deferred or approved. You know,
20 you've seen -- can we collate that into one document?

21 MR. BECKER: I guess I'd just like to be able to see
22 what things were weighed as you went through each study in
23 determining which ones to keep on-line and which ones to
24 closeout. Yeah, if you had some summary that was available
25 publicly, that would be real helpful I think.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. BARTON: Can I make that available?

1 MR. COLE: Mr. Chairman.

2 MR. BARTON: Mr. Cole.

3 MR. COLE: Do we not, in addition, have the text
4 evaluation prepared by Dr. Spies as to how he approached as a
5 policy matter each of these studies?

6 MR. GIBBONS: Yes, we do.

7 MR. COLE: We do, yeah.

8 MR. BECKER: And would that be available then just by
9 writing your group?

10 MR. GIBBONS: Yes. You can write me and I will supply
11 that information to you. I'm Dave Gibbons, the Interim
12 Director.

13 MR. BARTON: Why don't you give him the address.

14 MR. GIBBONS: 645 "G" Street, Anchorage, Alaska, 99501.

15 MR. BECKER: Okay, real good. Yeah, thank you very
16 much for that. And I guess -- I don't know, I -- to follow-up
17 on this question. Now that we're in the restoration process,
18 are there still -- are these studies still litigation
19 sensitive?

20 MR. BARTON: Mr. Cole, can you answer that?

21 MR. COLE: I don't think that the question is
22 susceptible to a yes or a no answer. But let me state again
23 the State's position. The State has settled with -- under a
24 class action settlement approved by Judge Shortell with the
25 group that I call the Alaskan Claimants, often called Third-

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Party Claimants, and we have generally deferred to them with
1 respect to the release of that data.

2 I think, broadly speaking, the State itself has no
3 objection to the release of the data, but under the terms of
4 the settlement, the Third-Party Plaintiffs released their
5 claims against the State in exchange for the State's litigation
6 work product and scientific studies. And, I've said before and
7 I continue to say, I think it would be a breach of faith for
8 the State now to make that data public, to turn it over, in
9 essence, to Exxon without the Alaska Claimants suing Exxon,
10 having a reciprocal exchange of Exxon's data. And so that's
11 where the matter lies at the moment.

12 MR. BARTON: Thank you, Mr. Cole. Does that answer the
13 question?

14 MR. BECKER: Yes, it did. Yeah. Thanks. Thank you
15 very much, Mr. Cole. The last question I had is have you made
16 any decisions regarding the funding of habitat acquisition in
17 Prince William Sound and other oiled areas; specifically, how
18 do you propose to respond to recommendations from cities,
19 organizations and individuals supporting logging moratorium in
20 the Prince William Sound and other oiled areas?

21 MR. BARTON: Mr. Gibbons.

22 MR. GIBBONS: Yeah. We're in the process of developing
23 a process to deal with that. We will be developing objectives,
24 criteria that we will apply to the projects when we -- we'll be
25 soliciting to -- from the public willing sellers and proposals

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

from the public that we could take and run through the
1 objectives and the criteria and follow a logical process. And
2 that's -- we're in the initial stages of that right now.

3 MR. BECKER: I see. Thank you very much, I appreciate
4 the chance to testify, and really encourage you to keep up the
5 good work on having an open, public process.

6 MR. BARTON: Thank you. Homer, anybody want to testify
7 in Homer?

8 MR. HIESEN: Yes, sir. I'd like to testify on behalf
9 of the priority project put forth by Rusher Environmental
10 Services; that is to apply a substance (ph) known as
11 Environmental 75 (ph) to the affected areas in the interest of
12 shoreline restoration through enhancing the naturally occurring
13 organisms there. This project is technically feasible. I
14 believe it's cost-effective. It's very well researched. It is
15 broadly supported by affected Alaskans and I think it would
16 recoup a lot of benefits for all parties involved. Thank you.

17 MR. BARTON: Thank you. Could you identify yourself,
18 please?

19 MR. HIESEN: Pardon me, sir. This is Jim Hiesen (ph)
20 of Homer.

21 MR. BARTON: Thank you. Soldotna, is there anybody in
22 Soldotna that wishes to testify?

23 SOLDOTNA: We're still on line, nobody wishes to
24 testify now.

25 MR. BARTON: Thank you. Kodiak, is there anybody

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

further in Kodiak?

1 MR. MALLOY: Mr. Chairman, this is Larry Malloy (ph)
2 with the Kodiak Regional Aquaculture Association. And I guess
3 we'd like to briefly voice our support to -- for the proposed
4 restoration projects identified earlier by the Kodiak Island
5 Borough Mayor Selby and by Mr. Patrick.

6 Also, Mr. Chairman, we'd like to reiterate our strong
7 support for the University of Alaska's seafoes (ph), that is a
8 cooperative fishery and oceanographic studies proposal which
9 would apply to the three major fisheries areas impacted by the
10 spill. I think their proposal, as identified by Mr. -- Dr. Ted
11 Cooney's (ph) written comments to Commissioner Rosier and
12 copied to the Trustee Council would initiate long-term,
13 relatively low funding support for coordinated early (ph)
14 marine salmon studies in the Prince William Sound, for Cook
15 Inlet and Kodiak areas. We wholeheartedly agree with
16 Dr. Cooney's contention that this proposal would provide
17 essential information pertaining to salmon production in that
18 broad geographical area encompassed by the proposal, which
19 again, coincides with the oiled areas from the '89 spill. I
20 guess we're not sure if this proposal is included in Project
21 Number FS4A or exactly what the status of this proposal is at
22 this point.

23 Also, additionally, we strongly support the Department
24 of Fish & Game's proposals which address sockeye overescapement
25 associated with the Red Lake system on Kodiak Island. This is

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

a major sockeye system for which two proposals were provided,
1 Number R113, the restoration study which would help return the
2 stock to pre-spill levels, and also Number R114, which is a
3 mitigation study which would provide for the development of the
4 mitigation fishery for lost production from that system. These
5 are important projects to Kodiak salmon fishermen.

6 And finally, our organization continues to feel very
7 strongly about the acquisition of those lands which have been
8 identified as a significantly important habitat for species of
9 fish and wildlife impacted by the spill. And thus, we support
10 any proposals dealing with habitat acquisition, and in
11 particular, those lands on Afognak Island which are available
12 for acquisition.

13 And, Mr. Chairman, likewise, we appreciate all the
14 effort you folks are putting into this. And I thank you very
15 much for the opportunity to testify here this evening.

16 MR. BARTON: Thank you. Any questions or comments from
17 the Council?

18 Valdez?

19 MR. LOPEZ: This is Tom Lopez of Valdez, a salmon
20 fisherman. And I'd like to propose that you follow the Chenega
21 Bay, Jerry Rusher enterprise of trying to clean the beaches or
22 whatever; the program that they're pushing in Chenega to try to
23 clean some habitat, to get some oil up instead of just studies
24 and you know, to try to get something done with the money, and
25 we appreciate you to consider that proposal as well (ph).

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

And I'd like to see some -- try to get some money to
1 the hatcheries, too, you know, they have taken quite a hit
2 since the 1989 spill, and the value of the fish have fallen and
3 fallen. I'd appreciate if you'd keep the hatcheries in mind
4 since they're going through tough times and -- as money is
5 doled out. Thank you.

6 MR. BARTON: Thank you. Anchorage?

7 MR. NIEBERT: Mr. Chairman, for the record, my name is
8 David Niebert, I'm with the School of Fisheries & Ocean
9 Sciences, University of Alaska - Fairbanks. I've been asked to
10 read a letter from Dean Alexander of the School of Fisheries &
11 Ocean Sciences who was unable to attend. It's addressed to
12 Dr. Gibbons.

13 At the time of the Exxon Valdez oil spill, there was a
14 serious dearth of baseline information about Prince William
15 Sound. As a result of the ensuing need for information, a
16 surge of assessment activity followed, some of which is still
17 continuing. When the currently available samples have been
18 worked up and the results synthesized, there will exist an
19 excellent database, perhaps, unparalleled anywhere else. I
20 urge you to see that the current studies are completed as far
21 as possible.

22 Continuing studies need to be designed using an
23 environmental assessment approach with better coordination and
24 synthesis than is applied at present. Perhaps, this was not
25 feasible during the damage assessment phase because of the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

rapid need for information in support of possible litigation.

1 The situation is very different now, there is an opportunity to
2 design and support first-class studies which will serve the
3 Prince William Sound area specifically, but the results of
4 which could be more widely extrapolated within Alaska's coastal
5 environment.

6 If there is one priority which is important in Alaska,
7 it is its vast marine resources. It is knowledge about our
8 marine environment. I, therefore, strongly recommend that at
9 least some of the restoration money go to support environmental
10 studies, especially those studies which address species and/or
11 habitats which are clearly impacted, but also, some attention
12 to developing a long-term database.

13 With respect to other issues in Prince William Sound, I
14 recognize that the question of timber harvesting and the
15 problem of preserving the coastal forests is of critical
16 importance. This issue extends far out of Prince William
17 Sound, into Katchemak Bay and even Southeast Alaska. Balanced
18 harvesting with optimal preservation of biological habitats and
19 species must be the goal, and it is important that action be
20 taken which balances the conflicting pressures. I certainly
21 share the concern of the residents. Yours sincerely, Vera
22 Alexander.

23 Thank you.

24 MR. BARTON: Thank you. I assume Dr. Gibbons is
25 getting a copy of that?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. NIEBERT: Yes.

1 MR. BARTON: Thank you very much. Cordova, is there
2 anybody in Cordova that wishes to testify?

3 MS. MCBURNEY: This is Mary McBurney representing
4 Cordova District Fishermen United. One of our major concerns
5 is that the Public Advisory Group will never have an
6 opportunity to see many of the projects that never this --
7 what, second or third cut in the recommendations.

8 And it appears that the recommendations for the 1992
9 funding appear to have been made in a vacuum without much
10 benefit of a true objective peer review process. You can't
11 help but feel that the criteria for not recommending certain
12 projects was strictly cost-cutting for cost-cutting stakes
13 (ph). Although, we do appreciate the Council's intent to avoid
14 padding any of the agency budgets with some of the restoration
15 monies, but at this rate, we do question whether the Public
16 Advisory Group is going to have very much to review and offer
17 recommendations on.

18 We are particularly disappointed to see that R58, the
19 herring restoration and monitoring project, has been
20 eliminated. The 1992 herring season will be the first year
21 when population damage will be clearly evident. And CDFU
22 strongly feels that the herring restoration and monitoring
23 project should be restored and funded.

24 Finally, I'd like to express our support for the pink
25 salmon studies included in R60AB. We also appreciate the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

inclusion of the pink salmon tagging projects and the
1 preemergent fry and juvenile pink studies in the damage
2 assessment closeout. Thank you.

3 MR. BARTON: Thank you. Any questions from Council?
4 Homer. Homer, is there anybody in Homer that wishes to
5 testify?

6 HOMER: No, there's no one else to speak at the time.

7 MR. BARTON: Thank you. Kodiak, anybody further?
8 Kodiak? Valdez.

9 UNIDENTIFIED VOICE: (Indiscernible - telephone
10 cutout)

11 MR. BARTON: I'm sorry, could you say it again?

12 MS. LEFCO: This is Nancy Lefco again in Valdez. I had
13 two questions. One, Mr. Sandor had a proposal for an endowment
14 fund, I'm wondering, have you taken any action on that or is
15 there any more information available about it? I picked it up
16 last time at the meeting and haven't been able to pursue that
17 further.

18 MR. BARTON: Dr. Gibbons.

19 MR. GIBBONS: Yes. We're looking into endowment funds
20 in the Restoration Framework document that's in preparation
21 right now and will be available for public review towards the
22 end of March.

23 MS. LEFCO: Thank you very much on that. My second
24 question was at the last meeting, you were talking about the
25 criteria that would be used to evaluate projects. And I

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

understood there was going to be a paper -- draft paper put
1 out, has that been put out yet?

2 MR. GIBBONS: Are you referencing the habitat
3 protection criteria? If you are, we're in the process of
4 developing those presently, and we have an agenda item to
5 discuss on this tomorrow.

6 MS. LEFCO: Fine. When those -- when it is available,
7 are any of this information is available on these reports, is
8 it possible to have them sent down to the Valdez Legislative
9 Office so that we can pick them up and read them here?

10 MR. GIBBONS: All the materials at the meetings here
11 are faxed to the teleconferencing sites, as was done today.
12 When those are developed for public review, you will get those
13 in that package, and yeah, we'll ensure that.

14 MS. LEFCO: Okay. Thanks very much, I appreciate that.
15 There's nothing further.

16 MR. BARTON: Thank you, Nancy. Anchorage. Anchorage,
17 anybody from Anchorage that wish to testify? Go ahead.

18 MR. JEWITT: Mr. Chairman, my name is Steven Jewitt
19 (ph) with the University of Alaska in Fairbanks. I've been
20 operating as a principal investigator of the shallow, subtidal
21 studies; these are damage assessment studies ST2A and
22 monitoring restoration R101.

23 It's been recommended to you, the Trustee's Council, by
24 Dr. Spies that no field activities for the shallow, subtidal
25 studies take place in 1992. This recommendation is contrary to

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

reviews of Dr. Donald Bosh (ph) who stated, and I quote: It
1 seems prudent to continue the subtidal damage assessment
2 studies at some reduced level, perhaps, focusing on the eel
3 (ph) grass beds during 1992. This will, hopefully, enhance
4 the level of understanding both of effects that were
5 experienced and the recovery which has taken place; end of
6 quote. This is also in direct contrast to most other oil spill
7 studies which have been, at least, five years in duration
8 without any break in annual sampling.

9 Let me give you a synopsis of the dynamics of our
10 program. In early 1990, we were approved to sample plants,
11 benthic invertebrates and fishes from five shallow, subtidal
12 habitats in Prince William Sound. After sampling, we were told
13 to process samples from only the two soft bottom habitats;
14 these results are in our latest report. The analysis revealed
15 on all components -- revealed impacts on all components of the
16 shallow, subtidal communities. The most dramatic affects were
17 observed in the eel grass habitat; lesser affects were noted in
18 a kelp community which represents approximately 60 to 70% of
19 the shallow, subtidal habitat in Prince William Sound. Many of
20 the affects observed were on species that are utilized either
21 directly or indirectly by commercial species of fish and
22 invertebrates, birds and mammals.

23 In early 1991, we were approved to sample the same two
24 soft bottom habitats, these benthic samples are being
25 concurrently processed in Fairbanks. I was told earlier this

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

week that monies are only available to finish the eel grass
1 habitat samples, thereby terminating the almost completed kelp
2 habitat sample; the savings of this move is only \$30,000.00. A
3 final report for the 1990/'91 data is anticipated in the fall
4 of this year.

5 Therefore, in the past two years of studying the
6 shallow, subtidal communities in Prince William Sound we've
7 been reduced from five habitats to one. This reduction is
8 amazing in light of two facts; (1) the shallow communities
9 being studied are adjacent to the inner-tidal zone where the
10 greatest devastation from the spill occurred; and (2) only a
11 scant amount of hydrocarbon data has been provided for
12 incorporation into our report. The two reviewers of our 1990
13 results, Doctors Bosh and Peterson, stated regarding the lack
14 of sediment hydrocarbon data, and I quote: These are
15 desperately needed to interpret funnel (ph) patterns and to
16 implicate oiling; end of quote.

17 My recommendations are -- to you are four-fold.
18 (1) Permit us to complete the kelp sampling in 1991, processing
19 those samples; this would give us at least two years' picture
20 of the eel grass in the kelp communities. (2) Insist that all
21 1990/'91 priority sediment hydrocarbon samples be processed for
22 inclusion in our fall report; without this, the report will be
23 meaningless. (3) Permit us to sample the eel grass community a
24 third year in 1992 and archive these benthic samples. This
25 could be done at a cost savings of 20% of the proposed 12-month

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

project. The benthic samples would be processed only if
1 affects are observed in 1991 and/or if monitoring restoration
2 funds are later approved. And, finally, (4) It would naive to
3 think that there will never be another oil spill in Prince
4 William Sound or Alaska. Therefore, I recommend an integrated
5 workshop that synthesizes all findings, hopefully, the results
6 of such an integrated effort could be used when the next oil
7 spill occurs.

8 Thank you.

9 MR. BARTON: Thank you. Any questions from the
10 Council?

11 MR. COLE: What was that number was being referred to,
12 the study?

13 MR. JEWITT: Damage assessment was ST2A and the
14 monitoring restoration was R101.

15 MR. BARTON: More questions, comments? Cordova?

16 MR. COLE: Can we stay there for just a second?

17 MR. BARTON: Sure. Sure.

18 MR. COLE: Didn't we approve ST2A?

19 UNIDENTIFIED VOICE: At a reduced level.

20 UNIDENTIFIED VOICE: At a reduced level.

21 MR. BARTON: Dr. Gibbons.

22 MR. GIBBONS: Yeah. Mr. Chair. We requested 125,000
23 for closeout, we approved 95,000 plus overhead; so what Steve -
24 - Mr. -- Dr. Jewitt or Steven Jewitt was referring to was the
25 reduction of \$30,000.00 out of that study.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. COLE: And then the other one is what?

1 MR. GIBBONS: The other one is R101, it's a combined
2 subtidal study for, I believe -- yeah, \$985,000.00.

3 MR. COLE: And did he say that could be completed or
4 some work could be completed for 20% of that amount?

5 MR. JEWITT: The work that I've been doing -- that I
6 propose under the monitoring restoration was only a part of the
7 900K.

8 MR. MONTAGUE: Mr. Chairman, maybe I could address that
9 somewhat.

10 MR. BARTON: Mr. Montague.

11 MR. MONTAGUE: It was about 500 and something from a
12 NOAA project and about four -- 450 or something for two
13 University of Alaska projects, of which one was Dr. Jewitt's.

14 MR. BARTON: Thank you. Any further questions?
15 Cordova, anybody in Cordova that wants to testify?

16 MS. BIRD: Yes, Mr. Barton, this is Nancy Bird in
17 Cordova testifying on my own behalf. I first would just like
18 to ask if you could summarize, I'm a little lost in the Agenda
19 processes. Have you already discussed the Public Advisory
20 Group and maybe can I get clarified the City of Cordova did
21 receive a long fax today that includes something called the
22 Charter of the Exxon Valdez Oil Spill Public Advisory Group, is
23 that the -- it's about a 10-page document I believe, is that
24 what is currently being considered?

25 MR. BARTON: In answer to your question about the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

Agenda, we are behind schedule; we've just about completed
1 Item 3 on the Agenda. We have not talked about the public
2 participation process, we're reconvening tomorrow at 10:00 to
3 complete our Agenda. In terms of the 10 pages you received,
4 I'd ask Mr. Piper to address that.

5 MR. PIPER: Nancy, it's Ernie Piper. We were asked at
6 the last meeting to, at least, set in motion the process that
7 would comply with the Federal Advisory Committee Act, and to do
8 that, we had to come up with a Charter. So, the Restoration
9 Team and the Public Participation Subgroup took a draft that
10 had originally been put together by the Department of Interior
11 for discussion purposes. We then genericked (ph) it as best we
12 could to leave open the available options for specifics on the
13 Public Advisory Group. The goal here is just to come up with
14 the most basic document that we could, and that's what's going
15 to come up for review tomorrow by the Trustees.

16 MS. BIRD: Okay. Can I ask -- reading through that
17 Draft, it appears that there could be at least nine public
18 members who are not specified, they would just be appointed by
19 the Trustee Council. I've heard some rumors in the last few
20 days that those individuals might be the mayors of communities
21 in the oil impacted area. Is there any truth to that rumor
22 or

23 MR. PIPER: No rumors here. There's a proposal that
24 was discussed and that's one of several options that will be
25 presented for consideration by the Trustees. And nobody has

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

recommended it or considered it to the Restoration Team or to
1 the Trustees as yet.

2 MS. BIRD: Okay. Thank you. I guess I would --
3 reading through the Charter as quickly as I could today, I find
4 a couple of things I would like to add to it. One, the idea
5 that has been proposed I know before that the Trustee Council
6 be asked to respond in writing if any recommendations made by
7 the Public Advisory Group are not followed by the Trustee
8 Council so that there is some kind of response. And as far as
9 the proposal for the mayors, I like the idea in terms of it
10 being public officials who have to account for themselves to
11 somebody; but I, also, would like to see it open-ended to a
12 certain extent.

13 I guess another question I would have is how soon is
14 the Trustee Council hoping to get this Public Advisory Group
15 in-place. And maybe to avoid coming back and forth to me
16 again, a further question is: Where are you in your budget
17 process at this point, since you've already spent, as I
18 understand it, the 54 million to repay the State and Federal
19 Governments? There can't be -- and if there is 17 to 20
20 million being proposed for studies at this point, there isn't a
21 whole lot of additional money, what will the Public Advisory
22 Group be commenting on in the coming year until the next money
23 comes through?

24 MR. BARTON: Do you want to respond to the question
25 regarding the time line on the establishment, Ernie?

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. PIPER: Nancy, the intent that we have for
1 tomorrow's agenda item is to present concise enough options and
2 complete enough options that the Trustees can make a decision
3 about what kind of model that they would like to see; and
4 that's also -- those options, in addition, are based on public
5 comments; so those will be coming up. We hope that if a
6 decision is -- can be made tomorrow, that we can get things up
7 and running within several weeks; as fast as possible under the
8 provisions of the Federal Advisory Committee Act.

9 In terms of what you'd be -- the Public Advisory Group
10 would be commenting on, the Restoration Framework document
11 which is really the meat on the bones of much of the future
12 restoration work is going to be available in the end of March,
13 and I would expect that that's the principal vehicle for
14 review.

15 MR. BARTON: Well and this won't be the last year.

16 MR. PIPER: Right.

17 MR. BARTON: Unfortunately. In response to your second
18 question, you know, the balancing of the funding is the process
19 that we're going through right now. There has been
20 reimbursement accounts set up for the funds that were borrowed
21 from other appropriations and other locations. But this
22 process of balancing the studies against other financial needs,
23 that's exactly what we're trying to do right now, and we'd
24 appreciate any help.

25 MS. BIRD: Maybe could you summarize for those of us on

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

the teleconference line what the latest is from Dave Gibbons
1 and Bob Spies as far as total amounts that would go for
2 research studies, either damage assessment closeout or
3 restoration?

4 MR. BARTON: Well, we haven't completed that work,
5 that's the Item 3 on the Agenda, and we're not completely done
6 with that.

7 MR. COLE: Mr. Chairman.

8 MR. BARTON: Yes, Mr. Cole.

9 MR. COLE: Perhaps, tomorrow morning, before we convene
10 again, Mr. Gibbons and the Restoration Team could just get one
11 of these sheets of paper that contains the listing and mark
12 "approved" or "rejected" so -- and fax those out to the various
13 agencies, and then everyone would know what action has been
14 taken or have a good sense of it in any event.

15 MR. BARTON: That's a good idea. Can you take care of
16 that?

17 MR. GIBBONS: Okay.

18 MR. BARTON: Then you'll have it in-hand, at least, as
19 far as we've gotten.

20 MS. BIRD: Appreciate that a great deal. And I guess
21 that sort of leads to another comment I was going to make
22 regarding the availability of agendas and back-up materials
23 prior to the meeting. I realize that you're probably operating
24 under a lot of deadlines and such, but would hope that in
25 future we can get things a day or two before the meeting

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

instead of just the morning of the meetings.

1 MR. BARTON: We're trying very hard, the Council
2 Members also have some of the same concerns. And the
3 Restoration Team has been really working hard to get the
4 materials pulled together in as timely a fashion as possible;
5 perhaps, we'll be able to do better here in the near future.
6 It's one of the things that, of course, we're concerned with in
7 terms of timing is the field season is fast approaching and we
8 need to work through these pretty rapidly. So -- but we're
9 striving for improvement, we'll get there.

10 MS. BIRD: I'm sure you will. I just have two last,
11 quick things on the Public Advisory Group again. I guess I
12 would like to speak against or would like to have it clarified
13 a little bit more, the section where the Trustee Council can
14 take a member of that group -- remove a member for malfeasance
15 or -- I forget what the other word was. And somehow, I would
16 hope that there'd be a little -- it sounds a little arbitrary
17 to me.

18 And then finally, I would just like to ditto or support
19 Greg Patrick's comments regarding habitat acquisition. Thank
20 you very much for the opportunity to testify.

21 MR. BARTON: Thank you. Valdez, anybody in Valdez?

22 MR. STEVENS: Yes. This is Stan Stevens from Valdez.
23 And Mr. Chairman and Trustee Council Members, I do appreciate
24 the work by the Council Members; you're faced with sorting out
25 a very large variety of opinions and suggestions from a lot of

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

very concerned public.

1 I would like to make sure that -- we have a very large
2 mountain of problems, and we really have a very small anthill
3 of funding to handle them. And I suggest that we try the best
4 we can to stick to the scientific and technical grounds the
5 best we can and not get too political. I think we need to very
6 much look at restoring the Sound to where it was before the
7 spill.

8 I would like to kind of back-up what Nancy had to say
9 about killer whales and porpoise. Those of us who live in the
10 Sound have, for a great deal of -- since the spill have always
11 hoped that we would be -- the scientific information would be
12 released to us so we can make sound and good decisions like you
13 people are trying to make. We do not have this available to
14 us, so we have to make our decisions, what we can see and
15 what's available to us.

16 It's very obvious to many of us that the killer whale
17 population is way down. And I can speak for almost sure (ph)
18 that the porpoise population has to be down, the dall porpoise,
19 at least two-thirds. And I think it's an area that you might
20 want to put in here and look at, because I think it's important
21 to many of us.

22 Most important, I think, the whole operation here is
23 that we have to look at the history of the Sound, and we have
24 to look at the people who have survived through many, many
25 years here in Prince William Sound and the other oiled areas.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 And I think if we were to take a first priority, the Natives
2 from the Prince William Sound and oiled areas should get the
3 first priority. And I would think we should very soundly
4 listen (ph) and do what we can to help those people from
5 Chenega, Tatitlek and the other areas around Kodiak oiled
6 areas.

7 And that's all I have at this time. Again, I unders- -
8 - I know you have a tough job ahead of you, and I appreciate
9 the time and effort you're putting in.

10 MR. BARTON: Thank you. Anchorage, anybody in the
11 audience wish to testify? Yes, sir.

12 MR. PHIPPS: Thank you, Mr. Chairman. My name is Allen
13 Phipps, I'm speaking this evening on behalf of the Alaska
14 Center for the Environment.

15 I have submitted a letter to Mr. Gibbons on -- in
16 regards to the Public Advisory Group. And I did want to make
17 some comments based on what I see in the Draft proposal. I
18 understand the discussion has not occurred yet, but since it's
19 unclear as to whether we'll have opportunity tomorrow after the
20 discussion to testify, I thought I would go ahead and take the
21 opportunity now.

22 I want to emphasize the importance to you all of a
23 legitimate and valid Public Advisory Group; the very validity
24 of this process is based or will be based on the validity and
25 the credibility of that group. And we are very concerned about
the criteria and the process that will be used to select the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

members of that group; especially, as I mentioned in my letter,
1 based on our previous experience with the current State
2 administration in regards to selecting people for advisory
3 groups. And I would urge you to allow, Number 1, that the
4 Public Advisory Group have specified seats for specified
5 interests, and that those interests are allowed to select the
6 people to represent them on the committee.

7 We are also concerned about what appears to be a lack
8 of emphasis in the Draft for the importance of the Public
9 Advisory Group, both in terms of having the Public Advisory
10 Group be allowed to have their own staff, having the Public
11 Advisory Group have representatives sit on the Trustee Council
12 as non-voting members but enabled to participate in the
13 discussion. And we believe that the Trustee Council should be
14 held accountable to the Public Advisory Group, and we've
15 outlined a proposal for that in the letter.

16 Secondly, we're still concerned about the unresolved
17 issue of the State Legislature's role in the appropriation of
18 these monies. And I would hope that the Trustee Council is
19 working with the State Legislature to resolve that problem, and
20 we're eager to, if possible at some point, perhaps tomorrow, to
21 have an update on the status of that resolved issue.

22 In regards to the studies that have been discussed
23 today and the ones that have been deleted, I would encourage
24 you, in whatever document goes out to the public, that you
25 include not only the studies that have been approved but the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 studies that have been deleted so that the public has an
2 opportunity to see the broad spectrum of what the studies were
3 and have the opportunity to comment, certainly not only on the
4 ones who were approved but the ones that have been proposed for
5 deletion.

6 Finally, we oppose the idea of putting the majority of
7 the spill settlement money into an endowment. It may be
8 appropriate to put a small portion of the money into certain
9 endowments for certain purposes, but since the purpose of this
10 money is for restoration, it is difficult to understand how an
11 endowment set up for perpetuity would be able to restore the
12 Sound right now. In other words, it's difficult to understand
13 how we would spend the money on restoration in the year 2100.
14 Hopefully, although we don't know, hopefully, the Sound will
15 have restored itself by then. The money needs to be used up-
16 front, right now for habitat acquisition, and an endowment
17 doesn't pursue that end.

18 Thank you.

19 MR. BARTON: Thank you, Mr. Phipps. Any questions?
20 Thank you.

21 Cordova, anybody in Cordova?

22 CORDOVA: Yes, we have one other person in Cordova.

23 MR. BARTON: Please, go ahead.

24 JEFF: Yes, my name is Jeff (indiscernible), and I
25 speak on my own behalf. It's kind of a comment and a question.
I couldn't help but notice going through the studies that have

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

been funded and cut that they're heavily weighted towards

1 species which are commercially harvested, where Bald eagles,
2 whales, oyster catchers (ph) and otters all seem to get the ax.

3 And I kind of find it hard to believe that nothing but
4 commercially harvested species were affected by the spill. And
5 I was wondering if anybody there could comment on why some of
6 the other studies were funded.

7 MR. BARTON: Mr. -- Dr. Gibbons.

8 MR. GIBBONS: Yeah. I can comment on that. A lot of
9 the studies concerning the non-commercial species were in a
10 category called Recovery Monitoring . And we considered those
11 as to the importance of doing that activity this year, could it
12 be delayed until next year. And we didn't consider, in our
13 analysis, commercial or non-commercial but just the merits of a
14 project.

15 JEFF: Okay. The next question I have for you is what
16 could the general public do as far as trying to get some of
17 these projects restored?

18 MR. BARTON: These -- the projects that do make it
19 through this process will be sent out for public review in
20 March. And proposals from the public will be solicited in
21 conjunction with that process, so that would be the prime
22 opportunity to make any suggestions that you might have.

23 UNIDENTIFIED VOICE: Mr. Gibbons.

24 JEFF: Okay. I guess just one final comment on habitat
25 acquisition. I hope that it doesn't go the same way these

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 projects were funded. Again, I feel like cities like Anchorage
2 and Soldotna that have larger populations are getting more of a
3 say in this process, and the areas that maybe were affected the
4 most by the spill are going to get ignored. And I hope that
5 science plays a much bigger role in determining what gets
6 bought rather than just public opinion.

7 And thank you for your time.

8 MR. BARTON: Thank you. Valdez, anybody left in
9 Valdez?

10 VALDEZ: No, everyone here has spoken. Thank you.

11 MR. BARTON: Thank you. Anchorage? Geoff.

12 MR. PARKER: Thank you, gentlemen. My name is Geoff
13 Parker and I'm speaking on behalf of the Alaska Sport Fishing
14 Association tonight. I think, generally, I'd want to commend
15 you first, because I think the Council has made progress in
16 res- -- but has not yet gone all the way that it should, in
17 basically resisting either the inclinations to follow agency or
18 interest groups or even individual agendas for what should be
19 done, and has made progress in moving towards trying to pursue
20 a process that ties its expenditures to facts related to
21 injuries to resources or to services, and how the restoration
22 options identified in the law, such as restoration, replacement
23 or acquisition, ought to be tailored to that.

24 And also, progress has been made in terms of moving
25 towards complying with the terms of both the MOA, the
26 Memorandum of Agreement, and the Consent Decree. But there are

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

still places where some more, further progress could be made,
1 and that'll be the substance of my comments.

2 I think in putting out -- first a couple of other
3 preliminary points. I think when you put out to the public a
4 document that identifies your proposals for recommendations for
5 which you seek public comment, it would do you all -- do us all
6 very well if you would state as strongly as the Attorney
7 General's Office and the Department of Justice will allow you
8 to the factual rationales for the particular projects that
9 you're proposing. I think a factual statement for each
10 project, not just a project description of what is going to be
11 done, but the rationale in terms of injury to resources or
12 injury to services that the resources provide needs to be
13 stated as clearly as possible so that the public can see why
14 your decision is rational or irrational.

15 I think you've also made progress in focusing on
16 process and getting away from agency or interest group agendas.
17 In that context, I think the Advisory Group comments that
18 Allen Phipps had I would second. You need, in order to have
19 that process work, credibility of all of the interest groups
20 needs to be firmly maintained.

21 I would disagree with Allen, however, on the issue of
22 an endowment. I think we may well face periods in the
23 Trustees' life, or the duration of this group, Council, in
24 which it will -- you won't yet have sufficient data but you may
25 have it in the future to justify your expenditures. And when

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

and if that situation occurs, and I think it'll probably occur
1 in the front-end years more than in the late-end years, money
2 is probably most usefully spent later with good information
3 than foolishly spent in the early stages without such good
4 information.

5 And I think the endowment concept is also a method by
6 which restoration of resources and the services they provide
7 can be more commensurate with what the unpublished economic
8 studies, specifically economic study -- Economic Uses Study
9 Number 7 probably showed in terms of the amount of damages to
10 non- -- damages to resources as measured by non-use value
11 showed.

12 So the endowment principle, I think, is probably the
13 only principle that may get us restoration commensurate with
14 the multi-billion dollar figure that we all know has been
15 mentioned in the press.

16 My -- then now, onto kind of the main point. And that
17 is this will sound arcane, but it is about the terminology that
18 we all use. And I think the deficiencies of the Trustee
19 Council's use of terms leads to deficiencies in how the public
20 responds to you and in how you, also, pursue your decisions.

21 Specifically, there are three areas where I think
22 precise use of words is necessary in order to comply with the
23 law, the Memorandum of Agreement and the Consent Degree. We
24 speak about damage -- closing out damage assessment studies,
25 what really we are -- we have confused damages and injury. And

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

I think Mr. Cole will -- Attorney General Cole will agree with these comments. We confused the concept of damage and injury. We really had injury assessment studies, and that is, in fact, what we're closing out, and we had economic damage calculation studies that put dollar signs on that.

The fact that we start mixing these terms around leads us to several problems. One is we confuse restoration of resources with restoration of services. And the MOA, Memorandum of Agreement, between the United States and the State specifically says we are to restore not only resources but also services. That's the second place where confusion occurs, because we talk consistently about restoring resources. And from that we say -- the public responds with buy habitat to restore resources when, in fact, that desire for buying habitat may well be served very well by buying land that has use value, service value but is also, coincidentally, very high in habitat value. And that high habitat value may be commensurate with the non-use value that was very high in the economics and (ph) intrinsic value study. I think Attorney General Cole probably follows my meaning more than, perhaps, the others do.

Habitat and land acquisition. Again, we confuse again; we confuse hab- -- progress has been made because you're starting to talk about not only acquiring habitat but acquiring land. Those are two different concepts in terms of restoration. Habitat may be relevant to restoring resources;

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

land, which may or may not have habitat value, may be relevant
1 to restoring services.

2 So, again, and I want to try and emphasize, I think if
3 you can increase your precision in how you use the terms, and I
4 would hope you would rely on the Attorney General here who
5 ought to be at your service for that purpose, the result will
6 be some improvement in terms of what the public is recommending
7 you do.

8 That, I think, takes care of it. And I hope the final
9 point wasn't terribly arcane, but I think that you will improve
10 the nature of the public discourse if you improve your own.
11 Thank you.

12 MR. BARTON: Thank you, Mr. Parker. Any questions,
13 comments?

14 MR. PARKER: I'll make one more comment. Sorry.

15 MR. BARTON: I was asking the Council.

16 MR. PARKER: Sure. I apologize. I'm sorry, Mike.
17 I'll just make a prediction because I think it will help you.
18 You will end up buying much more land that may or may not, but
19 probably in most instances will have high habitat value, if you
20 do so on the basis of lost services, including uses and non-use
21 value than you'll ever do by buying land for the relationship
22 of the habitat that is being acquired to the injured natural
23 resource.

24 In other words, what -- and I think Attorney General
25 Cole knows this. What we measured in Intrinsic Value Number 7

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

that led to the -- what according to the press, at least, is a ²⁰¹
1 multi-billion dollar figure and what we're now trying to
2 restore. What we did there is we injur- -- we measured the
3 non-use values, and those came out, according to the press, in
4 very high numbers. Now, theoretical, good restoration would be
5 to be able to restore multi-billion dollars worth of non-use
6 value. And how do you do that?

7 That's not necessarily restoring resources that are
8 injured but it's replacing resources that are injured and the
9 services, the high non-use value that those replacement
10 resources have. If you do that, you can spend rationally and
11 in a legal way that's consistent with the MOA, with the Consent
12 Decree, and consistent with the law and consistent with
13 injuries to resources and services -- more importantly,
14 services, that's what I'm trying to bring forward. There's too
15 much -- we neglect the aspect of injury to services, and that's
16 where the real money came from.

17 MR. COLE: That's right.

18 MR. PARKER: Thank you. I'm glad to see the Attorney
19 General agrees with me.

20 MR. BARTON: Thank you, Mr. Parker.

21 JUNEAU: This is the Juneau Moderator.

22 MR. BARTON: Yes.

23 JUNEAU: We have someone here who would like to speak
24 now.

25 MR. BARTON: That'd be wonderful, put 'em on.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MS. JENNY: (Indiscernible - telephone cutout) and my
1 last name is Jenny (ph) and I'm speaking for myself. I'd like
2 to say that the marine ecosystem was damaged, recovery is not
3 over. And I am concerned that without continued comprehensive
4 studies over time Alaskans will never know the extent of the
5 effect of the 1989 Exxon Valdez oil spill and its cleanup
6 efforts or the effect of any other future oil spills that we
7 may have. Thank you.

8 MR. BARTON: Thank you. Any questions or comments from
9 the Council?

10 Cordova, anybody left in Cordova?

11 MR. BECKER: Yes. My name is Karl Becker, I had
12 another question mainly with respect to what the last speaker
13 was talking about. One, I'm not sure what Intrinsic Value
14 Number 7 -- I guess let me back up a minute.

15 Maybe this idea of things being arcane is more
16 appropriately applied to chronology (ph) and the way the public
17 participates in these teleconferences, come in after the fact
18 and are somewhat lost because of either terminology or -- I'm
19 looking at your mailer that we got by fax, your flow chart,
20 today, and it's full of acronyms that are never defined. And I
21 wonder if in the interest of helping us and the public
22 participate better, (1) that you could maybe put out a
23 dictionary of acronyms or else define them as you go along; and
24 (2) when you use -- when you refer to what has been commented
25 upon by the press, for instance, Intrinsic Value Number 7, that

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

maybe you could just take a moment and explain what you mean by
1 those things.

2 And actually, I would kind of be curious to know what
3 you mean by Intrinsic Value Number 7 and maybe someone could
4 clarify what the last speaker was saying.

5 MR. BARTON: Give him Mr. Parker's number.

6 UNIDENTIFIED VOICE: Well

7 MR. COLE: Excuse me, Mr. Chairman.

8 MR. BARTON: Yes, Mr. Cole.

9 MR. COLE: Let me respond briefly. First with respect
10 to acronyms, down in Juneau, I constantly get this flow of
11 paperwork containing acronyms; finally, I gave up and I said I
12 will not read another piece of paper presented to me by anybody
13 in the Department of Law which contains a single acronym.
14 Because it's absolutely impossible to read these things, that
15 they're spattered with acronyms that are totally meaningless,
16 and I understand that point of view.

17 Look, here is the thing we should be (ph) talking about
18 or Mr. Parker was talking about. When we looked at the large
19 damages in this case, we were of the view that the damage
20 measurement technique which yielded the greatest damage
21 evidence was the contingent valuation studies, which the State
22 undertook and the Federal Government undertook. That was the
23 category of damage which provided the biggest number which we
24 were prepared to present at trial.

25 And how do we get that big number in the contingent

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

valuation study? Well, we talked about it, it's a newly
1 emerging damage measurement process. But you know, it's really
2 keyed to the value of a resource, you might say, in its
3 pristine condition; the intrinsic value of an undamaged Prince
4 William Sound. And I think Mr. Parker was saying look, if you
5 want to be able to acquire land in Prince William Sound, that
6 the mechanism by which you can do that lies in the precise use
7 of the acquisition of the services provided by the land and its
8 intrinsic, pristine condition.

9 And that will allow a greater flexibility in the
10 acquisition of land than simply looking at restoration from the
11 standpoint of how do we acquire land which would led to
12 restoration of a particular damaged resource. That's the
13 concept.

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

15 MR. BECKER: Yes, thank you, Mr. Cole. I really
16 appreciate it, I think that clarifies. In other words, you
17 would look at the restoration process also from the standpoint
18 of contingent valuation, is that correct?

19 MR. COLE: Yes. Not simply the acquisition of land
20 based upon what it provides for the restoration process itself,
21 restoration of a particular damaged resource; that is the
22 concept, I think. Is that right, Mr. Parker?

23 MR. PARKER: I think that's correct, yes.

24 MR. BARTON: Anything further?

25 MR. BECKER: No. I just want to thank you for

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

clarifying that, and I appreciate your comments on acronyms,
1 too; they are pretty frustrating at times. Thank you all very
2 much.

3 MR. BARTON: Thank you. Anchorage, anybody else want
4 to testify? Yes, ma'am.

5 MS. JOHNSON: My name is Myo Johnson (ph). And I
6 appreciate the difficult decisions and the amount of material
7 that you people are having to sort through.

8 My concern is one project, in particular, which has
9 been dropped from the list, and some others which may have been
10 very worthy and people didn't have a chance to speak for. I
11 live in the Anchorage area, but I hunt, I fish, I pick berries;
12 nobody's planting berry patches for me, not too much is being
13 down about hunting, but I appreciate the fish hatcheries.

14 And the project I would like to support is the
15 Anchorage Fish Hatchery Project, it was R117, I believe. We
16 have a fish hatchery here that is not operating at the full
17 capacity that it was meant to when it was first designed
18 because it doesn't have enough water; the wells haven't
19 produced the way they were anticipated. This project would
20 bring water to the hatchery, and it would bring heated water to
21 the hatchery, which the fish grow faster and they can turn them
22 out in about twice the time.

23 These fish are delivered every place from up in the
24 Fairbanks area, we're facing a shortage down on the Kenai River
25 in '93 and '94. And I think one of the intents of this whole

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

1 program is to try and restore Alaska, and to put fish and to
2 rebuild our stocks the way they need to be. And I would urge
3 you to reconsider this project. Thank you.

4 MR. BARTON: Thank you. Any questions from the
5 Council?

6 Cordova, anybody left in Cordova?

7 CORDOVA: We're still here but I think you've gone
8 through everybody who wants to testify. Thank you.

9 MR. BARTON: Okay. Thank you. Back to Anchorage then?
10 Ms. Brody.

11 MS. BRODY: Thank you, Mr. Chairman. I'm Pamela Brody
12 from the Sierra Club. I am going to talk first about the
13 restoration program that you gentlemen have been discussing
14 today, and then talk a little bit about the Public Advisory
15 Committee that you'll be discussing tomorrow. And regarding
16 the restoration program, I have several questions. First of
17 all, I'd like to say that we -- I won't be commenting on
18 individual studies at this time, although, I expect I will in
19 the future, after I can get some more information on what the
20 peer reviewers were saying about these projects.

21 I'm sure that every project has some merit, and it's
22 difficult for me as I'm sure it must be for you gentlemen to
23 make the cuts, but we do appreciate that you are cutting the
24 budget and saving the money for some other purposes. But as
25 you know, we're very concerned about what those other purposes
are going to be, the money that is being saved out of this

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

budget. And so far, there seem to be two options on the table;
1 and one is to use this money for acquiring land and habitat,
2 and particularly at this time, acquiring options; and the other
3 is using it for an endowment for which the earnings would be
4 used for unspecified important programs.

5 My question at this point -- and you know already which
6 I favor. But my question at this point is when -- and maybe
7 you've answered this already, Mr. Gibbons, but I am confused
8 about when in the process these decisions will be made, and
9 will this group be making more budget decisions on that
10 leftover money in any time soon?

11 MR. GIBBONS: I think that's a decision of the Trustee
12 Council. Now, we're trying to set up a process for, you know,
13 habitat protection, and we'll submit that to the Trustee
14 Council when we get that process established. And if it's the
15 wish of the Trustee Council, we will move forward, solicit
16 public proposals. It's -- we're in the process development
17 stage at this time, that's all I can tell you.

18 MS. BRODY: My second question has to do with some
19 testimony from people from Chenega Bay. And that is about
20 subsistence resources. Would that be part of the coastal study
21 that Dr. Spies was talking about how that will be going ahead
22 at a reduced level or is that something that is, in fact, not
23 covered by any existing studies?

24 MR. GIBBONS: The coastal habitat will deal with some
25 subsistence species. There has been some subsistence work done

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

under the auspices of the response, and they have that
1 information; I'm not sure if they're going to be doing any more
2 of that this year, but they have data from the previous years
3 on subsistence. There ar some other studies being done that
4 are not related to the oil spill but that will also provide
5 some information, I believe; by the (indiscernible) Management
6 Service and Alaska Department of Fish & Game.

7 MR. COLE: Mr. Chairman.

8 MR. BARTON: Yes, Mr. Cole.

9 MR. COLE: Isn't it true that the Department of the
10 Interior is making a 400 or \$500,000.00 study of that very
11 specific issue? I thought it was under one of the Settlement
12 Agreements with the Native interests between the State and
13 Federal Governments.

14 MR. McVEE: Mr. Chairman.

15 MR. COLE: That's my recollection.

16 MR. BARTON: Mr. McVee.

17 MR. McVEE: Yes. I can comment on that. That study is
18 being designed at the present time, and I guess that the (ph)
19 Federal Government's part of that will be pulled together, some
20 of the scientific information -- or all the scientific
21 information, and that will be utilized in -- I guess by the
22 Plaintiffs in looking at subsistence. But it isn't completed
23 as far as design, but it's in that process.

24 MS. BRODY: Thank you. My third question is
25 particularly for Attorney General Cole. In the past

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

discussions -- past Trustee Council meetings, people have
1 talked about these -- closing out these damage assessment
2 studies and releasing them to the public. But I am not sure
3 based on what you are saying, Mr. Cole, about whether these
4 damage assessment studies that you have approved, that come to
5 about four million dollars, whether they would be released to
6 the public at the time they're completed or whether they would
7 still be kept secret until this lawsuit is finished.

8 MR. COLE: Let me comment, if I may, Mr. Chairman.
9 First, I reiterate what I said earlier, Number 1. But
10 Number 2, I have every reason to believe that that data will
11 soon become public, and essentially all of it. Is that right,
12 Mr. Swiderski?

13 MR. SWIDERSKI: It will clearly be public by September
14 because it will be gone -- have gone and been made public
15 through the discovery process. I mean that would be the very
16 latest that would become public. And there are many reasons it
17 could become public earlier than that, such as the ones you've
18 addressed.

19 MS. BRODY: Thank you. My fourth question is about the
20 process by which the Restoration Team and Dr. Spies made their
21 decision. I was a little surprised to hear that it was a
22 matter of two people could veto any project. And I wondered if
23 you might explain that a little bit?

24 MR. BARTON: First, let me say Dr. Spies and the
25 Restoration Team made recommendations, the Council made the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

decisions.

1 MS. BRODY: Yes, I'm sorry, of course.

2 MR. GIBBONS: Yes. The voting procedure is to align
3 the Restoration Team more in sequence with the Trustee Council.
4 The Trustee Council must act unanimously, and we were trying
5 to align ourselves more in that mode.

6 MS. BRODY: Thank you.

7 MR. COLE: May I something? I think people should know
8 that this was a two-week process of many bloody battles. I
9 mean this was no easy sort of thing where people simply said
10 well, that's fine and trade here and trade there. There was
11 intense emotional effort that went into the decisions on the
12 Restoration Team. And I admire, you know, like I said earlier,
13 what they've done, and I want to respect it; and that's one of
14 the reasons that I am sort of steadfastly trying to support
15 them, because I think they did really an outstanding job on
16 what they've done, and I really want to support it. It was not
17 something that anyone simply just regarded it as -- you know,
18 some sort of exercise without meaning.

19 MS. BRODY: I do agree, it must have -- that the
20 decisions must be very, very difficult. As I said at the
21 beginning, I'm sure that all of these projects are worthy.

22 One of the things that's concerned me is not only the
23 worthiness of the project but the cost. And I wondered if in
24 the peer review process, if people -- if there were people
25 reviewing the programs that had a good sense of what the costs

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

of these studies -- how they could be done at a minimum cost;
1 was it just a matter of deciding what needed -- what was worthy
2 to do scientifically and what wasn't, or were there people who
3 were evaluating those costs closely?

4 MR. GIBBONS: Both.

5 MS. BRODY: Okay.

6 MR. BARTON: Ms. Brody, if you've got a number of these
7 specific questions, perhaps, for the sake of the other folks
8 who want to testify, I wonder if it might not be more
9 profitable to sit down with Dr. Gibbons and discuss them.

10 MS. BRODY: Okay. Thank you. That's the end of my
11 questions. I'll just say a little about the Public Advisory
12 Committee. Mostly, I agree with what Allen Phipps of Alaska
13 Center for the Environment has said; that is that I agree that
14 the interest groups should be -- should have seats on the
15 Public Advisory Group, that the interest groups should be able
16 to select their own representatives. I would also add that I
17 think that the Public Advisory Group should be able to elect
18 its own officers rather than having them selected by the
19 Trustee Council. And that when the Trustee Council disagrees
20 with the Public Advisory Group that it should submit written
21 findings of fact with reasons for the disagreement.

22 Thank you.

23 MR. BARTON: Thank you. So we can plan out the rest of
24 the evening, could I have a show of hands of those of you that
25 wish yet to testify? One? Two. Anymore than that? We could

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

take a break now or we can continue on.

1 MR. STIENER: Mine's very short.

2 MR. BARTON: All right.

3 MS. MILLER: Mine's short.

4 MR. BARTON: Your's is short. Fine, why don't we
5 continue on then. Mr. Stiener.

6 MR. STIENER: Rick Stiener from Cordova. I just have a
7 quick question about what do you think the time line will be on
8 the habitat acquisition decisions? I know Sharestone and Eyak
9 does have a proposal in to you, and it's a very, very clearly
10 thought out, I think, proposal; it's not an agency submitted
11 proposal. But there's a number of people in Cordova that are
12 kind of anxious to know how soon we could have some sort of an
13 indication from the Council.

14 MR. BARTON: Do you want to handle that one (ph),
15 Dr. Gibbons?

16 MR. GIBBONS: That's really difficult to estimate at
17 this point. Like I've said before, we have to develop the
18 objectives and the criteria for this. We're going to discuss
19 this tomorrow with the Trustee Council. After we have these
20 set, if the Trustee Council wishes to solicit proposals at that
21 time or incorporate the solicitation of proposals with the
22 Restoration Plan, yeah, those decisions have not been made yet.
23 So, that's all -- I'm sorry, that's all I can tell you. We're
24 in the initial stages of this thing, on the process
25 development.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

MR. STIENER: I suppose one last quick comment. This
 1 has been talked about for well over two years; I think, Don,
 2 you -- we talked with you two years ago about it. And much to
 3 the liking of most of the people in the region, you submitted a
 4 budget request for about 40 million dollars; and of course,
 5 then you folks left office. Here we are, a year and a half
 6 later, with not a cent spent on it yet. But anyway, we do
 7 thank you for your interest while you were the Commissioner
 8 there. So, that's all I have.

MR. BARTON: Comments or questions from the Council?
 9
 10 Last but not least.

MS. MILLER: Pam Miller, Wilderness Society. I'd like
 11
 12 to ask again about the agencies reimbursements for the funds
 13 that were already spent with appropriated money, and if we
 14 could get in writing what's happened with that and if it's,
 15 indeed, gone forward, that would be useful. And all this talk
 16 about cutting budgets, that's the biggest chunk of the budget
 17 for this year, and I'd like to see what's actually been done
 18 with that.

MR. BARTON: I think we can get a cast up (ph) to the
 19
 20 best we know it right now. But I want to say again that those
 21 monies that are being reimbursed were taken from other
 22 locations and other appropriations in an emergency manner, and
 23 those folks that have some interest in seeing those programs
 24 restored. But we can sure provide the information.

MS. MILLER: Well, I guess in terms of that, the
 25

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
 277-0572 272-7515 272-3022
 FAX 274-8982

ANCHORAGE, ALASKA 99501

assurance that where the funds were stolen from in the first
1 place, whether they're going to go back there or just get
2 dumped into the Federal Treasury and goes into who knows what.

3 That would be useful to see in writing, what the process is.

4 My other question will be -- concerns the description
5 of these restoration projects that will be submitted to the
6 public for review. And I know you've been hindered by limited
7 information on what these projects entail. I find it
8 surprising there's not even a research question that's
9 identified for what these projects will be looking for. And
10 for the public, that would be quite helpful to know what is a
11 general research question; usually, that's part of a project
12 proposal.

13 As well, the factors in terms of the Committee was
14 addressing whether if there was delay in these projects it
15 would hinder the projects. From what we've gotten so far,
16 there's no indication whether these projects are being written
17 off forever, whether they were considered for delay, what the
18 long-term merits of the information would be and what
19 irretrievable loss of data we're going to have. And that would
20 be useful to have identified in the document that goes out to
21 the public.

22 I don't mean for this to be an onerous document but
23 without it there's -- we can't tell if the reduction in money
24 means the geographic scope of a project has been reduced or
25 just having fewer people go out, less sampling or whatever.

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

It's really impossible to tell what the projects are about.

1 And finally, I will follow-up on what Rick Stiener said
2 about when are we going to see for public review the habitat
3 acquisition criteria? And if it doesn't come into this
4 document that will be out soonest, does that mean that there
5 won't be a process this year at all by which any habitat could
6 be acquired?

7 Thank you.

8 MR. BARTON: Do you want to address any of those
9 questions, Dave?

10 MR. GIBBONS: Yeah, a bunch of them. I lost track
11 towards the end there. But on the public document, we're going
12 to have detailed study plans; and we may overwhelm you with the
13 information that's in them for the damage assessment
14 continuation and restoration program. We have long, detailed
15 study plans that have justification statements that led -- that
16 link injury to the study and

17 MS. MILLER: But that'll only be for the projects that
18 weren't zeroed out by the Trustees, is that correct?

19 MR. GIBBONS: That's correct.

20 MS. MILLER: Okay. Will that information be publicly
21 available in the library here or somewhere so we can see what
22 those justifications were for the projects that were zeroed
23 out?

24 MR. GIBBONS: Well, I think that was referenced earlier
25 in the evening with the decision-making request that the

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501

document by Dr. Spies, the documentation on our decisions that
1 will be available in the Public Information Center that'll tell
2 you what the decision-making -- you know, recommendations --
3 further recommendations to move forward was on those projects.

4 MR. BARTON: Okay. Anything further? Do I hear a
5 motion to recess until 10:00 a.m.? I thought I did. Pardon
6 me?

7 Well, let me ask the teleconference sites, is there
8 anybody out there that wishes to testify that hasn't? Hearing
9 none, again, I thought I heard the motion to recess until
10 10:00 a.m.

11 UNIDENTIFIED VOICE: You did.

12 UNIDENTIFIED VOICE: Second.

13 MR. BARTON: Thank you all for your patience.

14 (Off record)

15 (END OF DAY'S PROCEEDINGS)

16 * * * * *

17
18
19
20
21
22
23
24
25

R & R COURT REPORTERS

810 N STREET 1007 WEST THIRD AVENUE 1135 WEST EIGHTH AVENUE
277-0572 272-7515 272-3022
FAX 274-8982

ANCHORAGE, ALASKA 99501