

EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL

RESTORATION OFFICE
645 G Street
Anchorage, Alaska
September 14, 1992
10:00 a.m.

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TRUSTEE COUNCIL MEMBERS:

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| 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
Regional Forester |
| National Oceanic and
Atmospheric Administration | MR. STEVEN PENNOYER
Regional Director
Council Chairman |
| United States Department
of the Interior | MR. CURTIS McVEE
Special Assistant to the
Secretary |

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P R O C E E D I N G S

1 MR. PENNOYER: I think we'd like to go ahead and
2 get started if we could. We have a rather ambitious agenda here
3 and I think we need to go through the whole process.

4 This is a meeting of the Exxon Valdez Oil Spill Trustee
5 Council, and I have here with me our -- my fellow trustees with
6 Carl Rosier, Curt McVee, Mike Barton, John Sandor, myself, and
7 Attorney General Charles Cole. I won't introduce all the members
8 of the Restoration Team that are sitting at the table with me.

9 We're scheduled to meet tomorrow and possibly tomorrow
10 depending on how the agenda works out. As I mentioned, we have a
11 very long agenda process before, and obviously an adequate amount
12 of paperwork to go through.

13 I think maybe -- does anybody wish to make any opening
14 statements or shall we go to Mr. Gibbons and ask him to review
15 the agenda and then comment on that? Mr. Gibbons, would you
16 review the agenda and the state of preparation of these various
17 items and in essence just sort of march through us (sic) and tell
18 us -- through it and tell us what we have to do relative to the
19 time schedule?

20 DR. GIBBONS: Sure. Item number one, the
21 completion of Public Advisory Group nominations. This is a
22 continuation from the August 31st meeting. The Trustee Council
23 requested the Restoration Team to solicit more nominees in three
24 categories. The first category was Recreational Users, the
25 second category is Sport Fishing and Hunting, and the third

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category, Public at Large. This was done immediately following
1 that August 31st meeting. We've received a good response from
2 the public.

3 In the packages out in front and in the Trustee Council
4 packages are a summary sheet of the nominees for each of these
5 three categories, plus a spread sheet of additional information,
6 and the Trustee Council additionally have a copy of all the
7 submissions from the public for their qualifications.

8 And I've got one additional one here that just came in
9 over the weekend from Gary Kompkoff. He's on the list but we had
10 no information on him, and so I'll be passing that out.

11 So the item here would be to complete the selection of
12 the Public Advisory Group nominees.

13 The second item on the

14 MR. PENNOYER: Mr. Gibbons, excuse me?

15 DR. GIBBONS: Sure.

16 MR. PENNOYER: Could I ask a question what we
17 have in front of us?

18 DR. GIBBONS: Sure.

19 MR. PENNOYER: We have a spreadsheet I notice in
20 the first package I got, and I'm not sure which of these books is
21 -- contains what yet, but the first package was a spreadsheet
22 with a lot of blanks in it. Are those blanks basically filled in
23 then in the -- by the -- these are the resumes in the second
24 package we got this morning?

25 DR. GIBBONS: That's correct. Yeah. The second

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sheet on this package that I laid in front of you, the first
1 sheet has the spread of the people by category. The second sheet
2 has a status of the information for each Public Advisory Group
3 nominee. If there's a conflict of interest or in -- in the
4 biography.

5 MR. PENNOYER: Okay. Thank you. Anybody have
6 any other questions on this one agenda item before we move on and
7 get a review of what's in the other packages? Mr. Gibbons, would
8 you proceed?

9 DR. GIBBONS: The second item on the agenda is a
10 habitat protection process. The Trustee Council in -- directed
11 the Restoration Team to go back and develop a grand plan for
12 habitat protection. We've done this. It's in the package here,
13 and today we'd like to talk about the over view of the -- of the
14 process, and then the detailed proposals by Kim Sundburg and then
15 I'll briefly talk about the status of the comments on the
16 Restoration Framework Supplement, which was mailed late July and
17 the public comments have been taken through the end of this
18 month.

19 MR. PENNOYER: And what does the -- what's the
20 action item on that?

21 DR. GIBBONS: The action item is we -- we have
22 some -- there's five proposals in the 1993 package including two
23 on imminent threat analysis and three on the over-all process,
24 and we'd like to get the direction from the Trustee Council on
25 what actions they'd like us to take.

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MR. PENNOYER: Any other questions on that item?

1 Thank you. Would you proceed?

2 DR. GIBBONS: The third item is the 1993 draft
3 work plan, would be a discussion of the process we've used to
4 develop a draft 1993 work plan, including the submission of
5 ideas, the screening of those, the development of three-page
6 project outlines and the analysis of those to reach the package
7 you have in front of you. There's two binders in front of you.
8 One is the package, have the description of all 63 or 64 studies,
9 three-page studies, outlines, and the additional package that we
10 need to request what -- how you would like to handle this, is a
11 detailed budget for the 1993, including administrative director
12 and the staff and the projects.

13 MR. PENNOYER: Mr. Gibbons, what's the time frame
14 on that? It's to go out to public review after the decision, and
15 when do you need it back by? What's our time frame on this?

16 DR. GIBBONS: Well, we'd like to go to the public
17 review as quickly as we can get the approval of the Trustee
18 Council to move forward with it. Basically I'd -- that we'd like
19 to get the package out and get it to the public for comment.

20 MR. SANDOR: What's -- Mr. Chairman?

21 MR. PENNOYER: Yes?

22 MR. SANDOR: Dr. Gibbons, what's the projected
23 period of time for the review by the public of that package when
24 it -- after it does go out?

25 DR. GIBBONS: I believe it's 45 days.

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MR. SANDOR: Uh-huh.

1 MR. PENNOYER: And, Mr. Gibbons, when do you have
2 to have it back to conform to our getting on track with OMB and
3 everybody else? What's our time schedule?

4 DR. GIBBONS: Well, OMB, both of them would like
5 an estimate or the budget as quickly as possible. I think we're
6 a little late even on that process, but they'd like to have those
7 -- the numbers for the 1993 package as quickly as possible.
8 Under the schedule we've got is we're petitioning the Court in
9 December for the funds for the 1993 activities.

10 MR. PENNOYER: Any other questions? Okay. Would
11 you review the -- continue then?

12 DR. GIBBONS: The next item on the agenda is the
13 financial operating procedures. In the package in front of you
14 is another draft of the financial operating procedures. I
15 believe it's pretty close to being final. You've reviewed these
16 in the past and this is another version having input from the
17 Trustee Council.

18 MR. COLE: Yeah, Mr. Chairman?

19 MR. PENNOYER: Mr. Cole?

20 MR. COLE: As I made one last review of the
21 financial operating procedures I found to my chagrin that it
22 contained some provisions which I could not agree with. I should
23 have caught it when I reviewed it earlier. And I have proposed
24 along with Mr. McVee some amendments to the operating procedures,
25 which in general in my view contain some restrictions on overhead

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allocations to state and federal agencies, and I would appreciate
1 the other members of the Trustee Council looking at those
2 proposed changes and I would hope that they would be able to
3 agree with them.

4 MR. PENNOYER: I believe all members have
5 received copies of those changes? Thank you. Any other
6 questions on the financial operating procedure item at the
7 moment? Mr. Gibbons, would you proceed?

8 DR. GIBBONS: Yeah. Item number five on the
9 agenda is a review of the Draft Restoration Plan and progress to
10 date, and the guidance from the Trustee Council on some issues --
11 some statements of issues, and an annotated outline and then some
12 progress we're making on the -- on the development of the Draft
13 Restoration Plan.

14 MR. PENNOYER: Questions on this item? Thank
15 you. Would you go ahead?

16 DR. GIBBONS: Yeah. The last item is a public
17 comment period from five to seven. At the last Trustee Council
18 meeting we tried a public comment period starting the meeting.
19 We had no response from the public on that, so we've gone back to
20 the -- requesting public comment after the first day's -- first
21 day of discussions. So that's from five to seven.

22 MR. PENNOYER: Thank you. You have -- there's an
23 impressive amount of work here that's been accomplished and
24 placed in front of us, and I know that several Trustee Council
25 members have even some concerns about how we're to get through

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1 this particularly today when some of us have not seen all of this
2 package very far in advance of the meeting, but perhaps as we sat
3 down some of it. I know Mr. McVee had written a letter to the
4 other Trustee Council meetings (sic) in that regard, suggesting
5 some concerns of his inability to at this session, or at least at
6 this morning's meeting to accomplish the review of particularly
7 the budget packet for public review, the '93 work plan, but the
8 letter also encompassed concern about agenda items in general.

9 Mr. McVee, would you care to comment?

10 MR. McVEE: Yes, thank you, Mr. Pennoyer. I
11 advised the other members of the Trustee Council that Interior,
12 that we wouldn't -- would not have or did not have opportunity to
13 thoroughly analyze all of the material that's -- that's in the
14 package, and that -- and so that we felt like that I would be in
15 no position to bring to conclusion, to actually vote or to reach
16 consensus on items that are in the agenda that are of major
17 importance, and -- to the future operation. Certainly the '93
18 budget.

19 I feel like that we could proceed with discussions and
20 provide guidance and counsel to the R.T. We could proceed to set
21 a schedule whereby we could reach closure at some future time in
22 the near future on the major items after they have -- after we
23 have had, you know, time to analyze and review.

24 I feel like that if we possibly can, we should deal --
25 that we should deal with the Public Advisory Group and maybe we
can find a way to do that, because we know -- we knew that we

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1 were going to commit ourselves to a very short turn-around,
2 closing nominations on Friday and then meeting on Monday. So I
3 would hope that we could, and I'm prepared to deal with that.

4 But the other items I guess I would not be prepared to
5 deal with in a final way until, you know, I've had adequate to
6 involve some staff and people that I work with on these issues,
7 but I have no problems, you know, in proceeding with discussion
8 and advice and counsel to the R.T.

9 The other problem, excuse me, is that I'm sure this
10 package did not get out to the public so that they have -- they
11 have in turn not have had any time to look at the agenda or the
12 package or any pieces of it, so that they're somewhat
13 inadequately prepared maybe in terms of comment, too, for that
14 period. Thank you.

15 MR. PENNOYER: Mr. Sandor?

16 MR. SANDOR: Yeah, Mr. Chairman, I concur with
17 Curt McVee's suggestion that we essentially make this a working
18 session. I do want to acknowledge that the Restoration Team and
19 the work -- the groups that have been working on this package
20 have really been working overtime on this. I think perhaps our
21 project -- our need to develop and shift to a federal budget and
22 also to develop not only the plan, the Restoration Plan, but the
23 budget along with it was a mammoth task. And I wanted to commend
24 the staff for the work that they've done.

25 However, we really have not had -- I have not had an
adequate amount of time to review this package, but I think it's

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going to be worthwhile to work through it, and if we commit¹⁰
1 ourselves as a working -- to this as a working session as opposed
2 to a decision-making session and then as soon after as this
3 meeting as possible, either by teleconference or another meeting,
4 I think we can reach the decisions, so -- but I'd feel more
5 comfortable regarding this as mostly a working session.

6 MR. PENNOYER: Mr. Cole?

7 MR. COLE: I join with the remarks of Mr. McVee
8 and Mr. Sandor. I mean, it appears, I don't know 250, 300
9 detailed pages, maybe more. I'm not just sure, you know, how
10 many more. I received this Saturday afternoon, and I haven't
11 been able to devote time to studying these pages. They contain
12 detailed proposals for I don't know how many, 100, 200 various
13 projects, and I cannot make intelligent decisions on these
14 projects without having studied this material, and even
15 discussing it in instances which I think I would like more
16 information.

17 I even question how productive a, quote, "working
18 session" would be today, you know, before we've had an
19 opportunity to just review the materials. It sort of harks back
20 to the days in law school when the professor said, "You know, you
21 have to read the cases before you come to class to discuss them."
22 And, you know, it took me a number of years to find out I should
23 have listened to him then, but nevertheless, maybe I've learned
24 something in the ensuing 40 years.

25 But, I mean, to discuss and to take people's time to go

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through these projects, the ones that we can even look at today,
1 it seems not to be very productive to the people who are here and
2 to ourselves and to the members of the Restoration Team who would
3 discuss them. I think that we simply don't have the time to have
4 people talk to us meaningfully about these projects which are
5 recommended on the one hand and those which are proposed for
6 rejection on the other. And the same goes, you know, with the
7 budget and other matters.

8 I don't fault the Restoration Team, but I mean that's
9 where we are today, and that's where I am.

10 MR. PENNOYER: Other comments?

11 I think I do echo some of the remarks, that we've set a
12 very difficult task for people obviously, although we've known
13 about this meeting for a fair amount of time. Things have
14 changed and more demands have been made, and obviously from the
15 thickness of the package there's a lot of work to do.

16 I guess I'm a little a concerned with just sort of how we
17 end up doing business. We -- this meeting was an agonizing thing
18 to set up as I recall. We went over calendars back and forth and
19 up and down and sideways and couldn't find time when all of us
20 could get together and meet, and finally settled on today. With
21 some real consternation about what we did about tomorrow if the
22 meeting stretched into two days.

23 I guess I'm a little concerned as to how we get this
24 thing back together, not that I have an alternative to suggest,
25 because I have some of the same problems with the project review

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in terms of this particular agenda, but in general I don't know
1 how we set this up, whether we decide to go for a rather set
2 timetable each year that has four scheduled meetings that we set
3 aside everything else for and they're on the calendar and we do
4 them. Everybody knows, we can point to them. I mean, there's
5 been a lot of concern about schedules with OMB and schedules with
6 the State process and how we set that up, and I think that's
7 starting to come to gel. We're starting to understand how that
8 should work. At least I think the Restoration Team is.

9 And I'm very concerned as to how we get back together on
10 this. I heard schedules for the next two weeks that look pretty
11 terrible, and Mr. Gibbons needs to get this out fairly soon to
12 get the public review and finalize the '93 work plan.

13 I have no problem with making this a work schedule. I'm
14 a little concerned with Mr. Cole's walking away from here and not
15 at least going through here and outlining pretty discretely by
16 agenda item where some of these things are. I think we could
17 have somebody lead us through the choices to be made at least and
18 the criteria and maybe framework what -- better what we need to
19 be thinking about as we get into some of these items.

20 For example, on the habitat protection process, I know
21 that the have a review here, and perhaps with somebody going
22 through it with us, we'd better be able to, when we come back, to
23 deal with it quickly than we could by simply going away and
24 trying on our own individual intent to go through and understand
25 the process that's proposed.

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But I think we've got a real problem in setting this up.

1 It's very difficult for us to get our schedules together. We
2 all travel an inordinant amount of time, and an inordinant amount
3 of meetings that we have to go to, and I know for the next two
4 weeks it sounded kind of rough. So I think as part of this
5 discussion of where we go from here, we should decide when we're
6 going to come back and try and do this, because I know the next
7 two weeks are nearly impossible for me now. Later this week
8 might have been possible initially, but today was the only day a
9 lot of people this week could get together.

10 So any further discussion and observation on where we go?
11 Do we -- do you think we can proceed down through the agenda and
12 look at it as a work session and maybe cut certain items off
13 early if in fact we don't seem to be able to deal with them, but
14 at least proceed down and take a look at those item by item? And
15 does anybody have any comments on our future meeting? No
16 comments.

17 I do remember -- Mr. Gibbons, would you care to elaborate
18 on scheduling, because it seems to me when we set this meeting
19 up, there were some that could meet any time during this week,
20 and others could only meet on Monday. I know next week is a
21 disaster for some people, so I'm not sure when we're -- when we
22 would -- looking at our schedule, when could we get back together
23 again and deal with this? Not that we'll probably have a choice,
24 but?

25 DR. GIBBONS: Yeah. Well, part of the problem

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with that, when I -- when I was polling the Trustee Council when
1 they were available was several weeks ago, and so I know how the
2 Trustee Council's agendas go and so something that may be
3 available two weeks ago may not be available today, so I guess
4 the only thing I'd request is maybe we can try to set up a
5 meeting date here, a continuation of this and I'm not sure how
6 soon, you know, your schedules will allow that, but

7 MR. PENNOYER: What's your drop-dead in dealing
8 with the budget? I mean, where are we in coming back and if we
9 go through this as a work plan, have a chance to go off and meet
10 with our individual staffs and talk about the projects and review
11 them, when could we -- when is your drop-dead date on getting the
12 budget out?

13 DR. GIBBONS: Well, the drop-dead date basically
14 is on the five-month -- the remaining five-month period on the
15 approved 1992 budget. We have a petition to the Court we're
16 preparing for that time, and that -- that's a real crunch to us
17 right now.

18 We also need to get back to OMB some kind of budgets to
19 put in the Governor's budget -- or whatever the -- how the State
20 wants to handle that, and the federal government. So I know they
21 requested the first of September, and we were hoping, you know,
22 we would give it to them on the 15th of September. It's just --
23 It's a negotiation process, but I think it's on their side, not
24 on ours.

25 MR. PENNOYER: Would you elaborate on that '92

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question again? Which decision do we have to make on the '92
1 Court Registry?

2 DR. GIBBONS: Yeah, the Trustee Council basically
3 approved a budget from March 1st, '92 to February 28th, '93, but
4 we were told to petition the Court for the seven month period
5 from March 1st, '92, to September 30th, '92, then come in line
6 with the federal fiscal year. So the budget spreads in front of
7 you have a five-month period that runs from October 1st, '92 to
8 February 28th, '93, and then an additional '93 portion of seven
9 months from March 1st to the end of September to bring us in line
10 with the federal fiscal year.

11 MR. PENNOYER: I guess my question was the second
12 part is something we'd already signed off on? We originally
13 signed off on 12 months worth of budget, so what decision has to
14 be made on what you need to do to send to the Court Registry?

15 DR. GIBBONS: Well, I think there's a couple of
16 things the Trustee Council needs to do is to come to closure on
17 the Public Advisory Group, and also on financial operating
18 procedures.

19 MR. PENNOYER: Okay. That was my question. So
20 the two items on the agenda were the Public Advisory Group and
21 the financial operating procedures are required then to get done
22 so you can submit -- and when do you have to have this submitted
23 now for the second?

24 DR. GIBBONS: To the Court?

25 MR. PENNOYER: Yeah.

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DR. GIBBONS: Well, a lot of the agencies run out
1 of money come October 1st.

2 MR. PENNOYER: So there's a real urgent need to
3 get those two pieces -- those are the two pieces you're missing
4 in a package that has to go to the Court then?

5 DR. GIBBONS: That's correct. There's a little
6 additional money in the '92 period if the Trustee Council elects
7 to -- well, there's some discussion on the chief scientist that
8 the Trustee Council needs to come to closure with, and also on
9 the habitat protection process. We need to get moving with a
10 data collection system in as quickly as possible, and so that --
11 and the Trustee Council has not authorized that expenditure to
12 date.

13 MR. PENNOYER: That would be part of this
14 request?

15 DR. GIBBONS: That's correct.

16 MR. PENNOYER: Mr. Cole?

17 MR. COLE: I think the problem is really deeper
18 than we're talking about. As I hark back to what Mr. McCutcheon
19 said two or three meetings ago, that in some ways we've almost
20 lost control of this project. I'm not saying we have, but -- I
21 mean, we jus cannot, gentlemen, continue to not get our business
22 done. I mean, we have to make decisions. You know, we're -- and
23 we're not getting our work done timely, and now we're talking
24 here today of putting this off I don't know how long, another
25 two, three weeks, months, two months, three months? And we

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simply have to do something about that. And as far as I'm
1 concerned, I am prepared to drop everything that I do, I think,
2 just about, in order to get this business done. I mean, if we
3 have to meet this weekend or the first of next week, but we
4 simply must get this done. We cannot continue to put this off
5 for three weeks, a month or two months. And properly we're being
6 criticized. So I feel very strongly about that.

7 MR. PENNOYER: Mr. Cole, I fully agree with you
8 and that's why I was bringing up the scheduling. It was not
9 simply as an administrative procedure, but the fact that we're
10 having a hard time figuring out when we can get together and get
11 these things done in concert with getting the information before
12 us.

13 Mr. Sandor?

14 MR. SANDOR: Well, Mr. Chairman, I certainly
15 agree with the comments about the need for time and -- but I
16 would suggest that insofar as items one on the agenda, the Public
17 Advisory Group nominations, the financial operating procedures,
18 and item -- well, that's item four, and even item two, the
19 habitat protection process. We've been dealing with that, those
20 three habits for a substantial amount of time. I think I'd be
21 very disappointed if we didn't -- aren't able to deal with the
22 Public Advisory Group nominations; two, the financial operating
23 procedures. We -- I've reviewed at least two drafts over the
24 last six weeks, and there's been some changes, and I think we're
25 very close to closure on that.

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I think it's very essential that we go through this
 1 habitat protection process. A lot of information is displayed.
 2 I have a lot of questions with regard with the segments in that
 3 agenda item. But the strategy is laid out, the proposals are
 4 there. Some very specific suggestions with respect to potential
 5 contracts to do the kind of work we need, and the Restoration
 6 Team and the public needs to I think -- we need to share with the
 7 public, and I hope during our public comment period this -- late
 8 this afternoon, early this evening, that we can get some reaction
 9 on that, but I'm less concerned I guess about the 1993 Draft Work
 10 Plan and the budget. By saying "less concerned," that doesn't
 11 mean I'm not concerned, but I think those are lower priority
 12 items than those other three, and we've been dealing with these
 13 other three items for two long.

14 There's a proposal, for example, to allocate \$5 million
 15 for habitat restoration -- or habitat protection for imminently
 16 threatened, and I think, you know, we can discuss that, even
 17 though we may not reach a conclusion about it. So my suggestion,
 18 Mr. Chairman, is to proceed with items one, two and four at least
 19 and then plunge into the draft work plan and the budget as time
 20 allows. See how it goes.

21 MR. COLE: Well, Mr. Chairman, are we going
 22 to

23 MR. PENNOYER: Mr. Cole?

24 MR. COLE: work tomorrow? Are we going to
 25 continue this meeting to tomorrow,

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MR. PENNOYER: Well,

1 MR. COLE: and assuming we work today?

2 MR. PENNOYER: Mr. Cole, I would assume that if
3 we're just going to treat this as a work session, we might try
4 and get done today if it looks like we can get through the
5 agenda. If now, however, we're all prepared to be here tomorrow,
6 so if it looks like to accomplish the items that Mr. Sandor has
7 pointed out we need to, then I think it's available to us.

8 MR. COLE: I'm not sure I heard what you said?

9 MR. PENNOYER: I said I think we're prepared to
10 do it. I don't know if we have to yet until we march through the
11 agenda. If we're not going to go through the '93 work plan, I'm
12 not sure how far we need to go and how long it's going to take us
13 to get through the review of the rest of it, is what I said.

14 MR. COLE: Okay. Thank you.

15 MR. PENNOYER: Circularly.

16 MR. COLE: Yeah.

17 MR. McVEE: Mr. Chairman?

18 MR. PENNOYER: Does anybody have any further
19 comments?

20 MR. McVEE: Mr. Chairman?

21 MR. PENNOYER: Mr. McVee?

22 MR. McVEE: Can we I guess -- as I understand it
23 in the '93 work plan, this discussion also contains the
24 components that were of the five-month budget that were approved
25 and understanding, you know, that there is urgency in getting the

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request to the Court for that five-month period, is there a way
1 to deal with just that component, that request to the Court, the
2 previously approved projects for that five-month period plus
3 whatever additions that we need to consider in that budget?

4 MR. PENNOYER: Mr. Gibbons?

5 DR. GIBBONS: Yes, we could -- we could go through
6 and point out the additions to the approved 1992 five-month
7 period. And there's I believe that -- Mark, correct me if I'm
8 wrong, I think there's only several -- a couple of these, a few
9 additions, but

10 MR. PENNOYER: And you would do that under the
11 financial operations procedures on the agenda?

12 DR. GIBBONS: We could do it then, yes.

13 MR. PENNOYER: Okay. Well, I don't think we're
14 going to come to a resolution as to how far we can get on each
15 item until we try it, so perhaps the best thing to do would be to
16 start down the list and see where we get. In some cases some
17 items might benefit from just a short recess or moving them on
18 the agenda to a latter period of time when more information is in
19 front of us, and yet still accomplish them either today or
20 tomorrow.

21 MR. COLE: Mr. Chairman, I move we approve the
22 financial operating procedures as amended.

23 MR. SANDOR: I second that.

24 MR. PENNOYER: Any discussion? Is there any
25 objection? Item one down here.

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MR. COLE: One thing we got done.

1 MR. PENNOYER: The amendment that was sent out by
2 Mr. McVee and by Mr. Cole. Everyone knows which one we're
3 talking about?

4 MR. McVEE: We do.

5 MR. BARTON: Would you share with us which one we
6 just adopted?

7 MR. PENNOYER: For the reference of the record,
8 would you -- for the record so that

9 MR. McVEE: It's not the one that's in the book.

10 MR. PENNOYER: the Restoration Team knows
11 which one we're talking about? Would you reference the items
12 specifically where it is?

13 MR. McVEE: Let's see, I was trying to remember
14 dates.

15 MR. PENNOYER: I know I've read it. I'm not sure
16 which folder it's in. Give us a date on the memo?

17 MR. COLE: Mr. Chairman, while you're looking for
18 it, what it does is it -- it eliminates the provision that an
19 agency may take as overhead expenses \$50,000.00 regardless of the
20 size of the project. That's the substantive change in the
21 financial operation procedures. So that

22 MR. McVEE: I

23 MR. BARTON: In that.

24 MR. COLE: Subsection one just limits it to
25 15%, and it removes the second and third sentences as I recall

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which makes a provision that an agency, that if the total amount
1 of the plans for its projects are less than \$250,000.00 it can
2 take nevertheless \$50,000.00 overhead fee.

3 MR. PENNOYER: Was that the only change as I
4 recall?

5 MR. COLE: Well, then it makes amendments into
6 the following paragraph.

7 MR. PENNOYER: I believe this is a

8 MR. McVEE: There are changes are three pages. I
9 think it was page two and I believe page -- it was either three
10 or four, and page six, having to do with equipment.

11 MR. COLE: This is the one, yeah.

12 MS. BERGMANN: Okay.

13 MR. McVEE: Yeah, that's it I think that you
14 have.

15 MR. PENNOYER: This is enclosed in a memorandum
16 from -- on September 8th from Curt McVee to Charles Cole?

17 MR. McVEE: Yeah.

18 MR. PENNOYER: And that's the one we're
19 referencing?

20 MR. McVEE: That's the one, yes.

21 MR. PENNOYER: And do you have any other
22 comments?

23 MR. McVEE: I'd have no other comments.

24 MR. PENNOYER: Well, as long as we're on it, and
25 that seems to be the number one item to have a time crunch, maybe

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of changing buildings, different methods of hiring staff, et
1 cetera, to see what we can do about getting the bill down, but we
2 have not reached closure on that yet.

3 MR. PENNOYER: Mr. Cole? No questions? This is
4 the administrative underpinnings for what

5 MR. BRODERSON: Yes.

6 MR. PENNOYER: you're accomplishing?

7 MR. BRODERSON: This is our librarians, our
8 administrative staff upstairs, the clerk typist, receptionist, et
9 cetera, administrative assistants, clerical help. It's the
10 people that make this building work.

11 MR. McVEE: Mr. Chairman?

12 DR. GIBBONS: And the building.

13 MR. BRODERSON: And the building.

14 MR. PENNOYER: Mr. McVee?

15 MR. McVEE: Yes, thank you, Mr. Chairman. Since
16 we have previously approved, you know, this budget item, I would
17 support seeing the amount in the request to the Court, but I feel
18 like that this additional five months also gives us some time,
19 hopefully, although it will probably will not be the case, that
20 we'll have less time crunch and more time to look at alternatives
21 in terms of staffing, and also in terms of the building, because
22 as we all know, that there are some problems with the space that
23 need to be addressed, and I would hope in that -- with our
24 approval of this, if that's what we'll go ahead and do, that will
25 give us -- that five months from now we won't be in the same

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position, but we will have had time to take a look at
1 alternatives and the future use of this building or alternatives
2 -- or alternative space.

3 MR. BRODERSON: We are in the process now of
4 doing a space analysis to determine what the actual square
5 footage is supposed to be underneath the state and federal system
6 for an operation like this. It's a rather lengthy process. It
7 looks like it's going to take another month or two.

8 We're negotiating with the owners of the -- or actually
9 that managers of the building over handicapped access
10 requirements. There's some sticky points on that one that we're
11 going to have to resolve.

12 I'm not sure we'll be as far along as Mr. McVee would
13 like us to be. I would like to be there also, but five months is
14 not a very long time. If we do decide to make a move, we need 90
15 to 120 days to make that move. Five months doesn't give you very
16 much time to actually do that in.

17 We're trying to get position descriptions updated for
18 each of the staff positions to make a much more coherent whole
19 out of our staffing needs for this place. Unfortunately the '93
20 work plan got in the way and some staff we had working on our
21 budget change- -- our staffing requirement changes were pulled
22 off to work on the '93 plan to get that out to the public, and so
23 we're trying to have people do dual roles there.

24 We just didn't have enough staff to get this done, but we
25 hopefully will have it done next time, but I'm not going to

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promise. The same problem. We're still working on the '93 one
1 and actually need to start on the '94 one pretty soon so we're
2 not caught in the crunch that we were in '93. So we're utilizing
3 people to the fullest at the present point.

4 MR. PENNOYER: Further discussion on this item?

5 MR. COLE: Mr. Chairman?

6 MR. PENNOYER: Mr. Cole?

7 MR. COLE: I think the time is not far away from
8 that on which we should make decision about how long we want to
9 continue maintaining the level of staffing, whatever, that we're
10 now doing. I think we should review that, because maybe we don't
11 want to continue with this level indefinitely. I don't know.
12 Maybe some other Trustees have some thoughts on that. I think we
13 should take a look at that.

14 MR. PENNOYER: Any other comments?

15 MR. McVEE: Mr. Chairman?

16 MR. PENNOYER: Mr. McVee? Mr. Rosier?

17 MR. McVEE: I would agree. I guess that
18 basically is what I was getting at, suggesting, that there should
19 be some review. As I recall last winter, or February sometime,
20 we looked at staffing requirements, and I don't -- various job
21 descriptions or various job titles, and I don't believe that
22 those may be the actual types of people that we have on board at
23 the present time, so I would like to -- I would think that we
24 should go back and review that whole -- that whole area, the
25 staffing issue at some future time and, and I guess just what I

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was trying to get at is this is something we can do within -- and
1 have it done so we can make decisions in the next five months.

2 We should move ahead with this request to the Court, you
3 know, to basically approve status quo for the time being, but
4 work on trying to get some analysis of staffing and of space.

5 MR. BRODERSON: Mr. Chairman?

6 DR. GIBBONS: Mr. Chairman?

7 MR. PENNOYER: Mr. Gibbons?

8 DR. GIBBONS: I'm just saying I do have a rough
9 draft a work force analysis in my desk that I'm working on
10 diligently. Like Mr. Broderon said, that the '93 got in the
11 way. We just didn't have enough time to do it, but we are -- I
12 am working on that and we'll have actual duties that the people
13 in the building are doing and the amount of time they are
14 spending doing that, so

15 MR. PENNOYER: Mr. Broderon?

16 MR. BRODERSON: As a follow-up to Mr. McVee's
17 statements there, it seems like the natural time to make a
18 transition will come when the Restoration Plan is finished, and
19 that we should be aiming toward a thorough review of what --
20 where we want to go and who we need to do it when we make the
21 transition, which is not too long after this five-month period
22 runs out, so that's what I was saying, that there's a -- they
23 don't quite correspond, but they come pretty close, and it would
24 seem like that's the point in time when we really need to present
25 a package to the Trustee Council of who do we need -- well, you

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need to give us guidance of where we want to go, and then we need
1 to tell you who we need to get it done and you need to approve
2 that. And so that's kind of the -- the schedule that I'd like to
3 see laid out for figuring out the staffing requirements and what
4 we do with it is when the Restoration Plan comes to closure.

5 MR. PENNOYER: Further discussion on this item?

6 MR. COLE: Mr. Chairman?

7 MR. PENNOYER: Mr. Cole?

8 MR. COLE: I think at least two of us are quietly
9 expressing the sentiment that maybe we should consider reducing
10 the level of operation some appropriate time in the future. I
11 mean, I guess that's what I'm saying. I don't know if Mr. Barton
12 joins in that, but I see he's very pensive about the subject.

13 MR. BARTON: Mr. Chairman?

14 MR. PENNOYER: Mr. Barton?

15 MR. BARTON: I think, you know, we need to
16 re-examine our operations and be as efficient as we can. And I
17 think Mr. Broderson has pointed out a very logical time to do
18 that.

19 I would point out though that despite the fact that the
20 staff has worked long and hard, we're sitting saying we can't
21 take action on the '93 program of work because we didn't get it
22 in time. So I agree with an examination. We ought to
23 examine the staffing, but at the same time we need to keep in
24 mind what is it that we want the staff to do.

25 MR. PENNOYER: Yeah, I'm not -- I'm not sure

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whether we need to reduce staff or we need different people
1 perhaps at different times, or -- or how, but certainly we can
2 re-examine it as we go along, but like you, Mr. Barton, I'm
3 certain that there are a lot of time crunches here, and a lot of
4 people working very hard and we're still not getting some of it
5 in time to make decisions that we know need to be made in
6 accordance with the schedule we've got, so

7 Do I hear any objection to proceeding with this, with the
8 door left open to continuing review and expression of the need
9 for that review? Okay.

10 Any other items in that habit- -- the two habitat items
11 we're going to discuss later?

12 DR. GIBBONS: That's the additions to the
13 approved '92 plan.

14 MR. PENNOYER: So this will, except for those two
15 items, that complete the action for the '92 -- balance of the '92
16 work plan?

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

18 MR. PENNOYER: Okay. Where do you want to
19 proceed to next? Shall we try starting on the Public Advisory
20 Group or do you have another item?

21 MR. COLE: Did we approve the financial
22 operating? I don't know if Mr. Barton

23 MR. PENNOYER: I thought we had approved

24 MR. COLE: Did we approve all that?

25 MR. PENNOYER: the financial operating

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procedures. Yes, those are approved. And we approved the
1 extension of the contract on the chief scientist. We've approved
2 the CACI, the expenditure of the funds we had already authorized
3 for the last five months, and we left open the question of the
4 two habitat proposals to fund The Nature Conservancy to expedite
5 acquisition of data for the habitat process until we review the
6 habitat process itself. I think that's all the items we took
7 action on, so

8 Where do we wish to go next? I mean, do we want to go to
9 the Public Advisory Group,

10 MR. BARTON: Right.

11 MR. PENNOYER: and at least get a review of
12 where we are and see if we need to have some further information
13 presented to us before we can take action? Is that acceptable?

14 MR. BARTON: That sounds good.

15 MR. PENNOYER: Okay. Mr. Gibbons, do you want to
16 lead us through the Public Advisory Group process, where we are,
17 what we've already approved, the items that were left outstanding
18 and what you've done in the interim period of time, and what we
19 have in front of us in terms of information?

20 DR. GIBBONS: Yes, on August 31st the Trustee
21 Council approved ten of the 15 members for the Public Advisory
22 Group, and requested that the Restoration Team go out and solicit
23 more nominees for three categories, which were the Recreational
24 Users, the Sport Fishing and Hunting category and the Public at
25 large. On September 2nd we released a request for nominees to

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the newspapers, on the radio, for anybody that wanted to pick one
1 up. The closure on that was September 11th, and as of about 5:00
2 p.m. on Friday I was still putting those together.

3 What you have in the big package is the status as of
4 about 5:15 p.m. on Friday the 11th. What you have, -- you've got
5 an additional package that's -- that have the nominees for the
6 three groups in front of you. It has, like I said for the three
7 groups, it has the status of information for the Public Advisory
8 Group nominees. I have one addition to that that we got over the
9 weekend again. I'll pass that out. It's in front of me here.
10 And then the submissions that we've received from the public are
11 attached to the back of that. So what's required is or it's
12 hoped that was needed would be the selection of the remaining
13 five members to the Public Advisory Group.

14 MR. COLE: Mr. Chairman?

15 MR. PENNOYER: Mr. Cole?

16 MR. COLE: I move we expand the public at large
17 group by two members.

18 MR. PENNOYER: Sir?

19 MR. SANDOR: From what to what?

20 MR. COLE: To five.

21 MR. SANDOR: Oh, to five.

22 MR. COLE: Rather than three. And making quiet
23 (ph) word in support of that, I

24 MR. PENNOYER: Do we have a second to that
25 proposal for purposes of discussion?

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MR. SANDOR: Well, I'll second it.

1 MR. PENNOYER: Mr. Sandor has seconded.
2 Mr. Cole?

3 MR. COLE: I just want to say that I would like
4 -- I think we could use a little more public at large balance. I
5 know certainly at least one member of the public had expressed
6 the view that the Public Advisory Group may be over-loaded with
7 special interests and it occurred to me that a little more
8 balance in the public advisory group would be well. So that's
9 the reason for I make the motion.

10 MR. PENNOYER: Where would that leave us in total
11 then?

12 MR. COLE: Seventeen.

13 MR. SANDOR: Seventeen.

14 MR. PENNOYER: Further discussion on this item?

15 MR. SANDOR: I think the question, Mr. Chairman
16 is -- I was trying to look for my charter of the Public Advisory
17 Group, and

18 MR. McVEE: We'll have to amend the charter.

19 MR. SANDOR: what this would do is I
20 assume, Dr. Gibbons is it would modify the charter to include the
21 group of 17 as opposed to 15, is that what would happen?

22 DR. GIBBONS: That's correct. I think it's
23 section 6(a) of the charter specifically would have to be
24 modified. It's the one that was modified recently to include the
25 way the -- the nominees would be selected by principal interest

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group and public at large.

1 MR. PENNOYER: Further discussion of the motion?
2 The motion is to expand the public at large group from three to
3 five members, and the total from 15 to 17.

4 Mr. Rosier?

5 MR. ROSIER: A question in regards to the budget
6 process. Has there been a budget that's in fact been put
7 together based on the existing number? I mean, are we talking
8 about now changing the budget as well and?

9 DR. GIBBONS: Mr. Chairman? There is a budget
10 projected on 15 members, that's correct, there's support for
11 travel, per diem and then support from the staff in this
12 building.

13 MR. PENNOYER: Mr. Cole, the question I have is
14 haven't appointed one yet, and they haven't really gotten started
15 yet. Would it not be -- you know, we went through our previous
16 deliberations based on 15 people and had balance. Is it time to
17 change it now and to change the operating -- or the operating
18 procedures now, or should we go ahead and make our appointments?
19 We can modify it at any time. I mean, there's no -- depending
20 on how we view the advice coming in or the mix that -- of people
21 we'd want, or if we have some particular specific expertise we
22 think we want there as we go along, we can modify it. Do we need
23 to modify it now?

24 MR. COLE: Well, we don't want the specific
25 expertise, that's the very reason for the proposal, to make it

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five. I want to get somewhat away in my view from, quote,
 1 "specific expertise," and to get some balance in the public
 2 advisory group. And my view is, yes, this is the time to make
 3 that decision, not in my view, I'm tempted to say when we
 4 conclude that we've made a mistake and have too large a composite
 5 of public -- of special interest groups. As was pointed out. I
 6 mean, now do we really distinguish between the classification
 7 conservation and in environment? I mean, you know, it seems to
 8 me we get, you know, two for the price of one there.

9 And I just have the sense that, you know, just what I see
 10 and read in the paper and observe in these many years that we
 11 should strive for balance in these public advisory groups. And I
 12 have in mind balance from Southeastern Alaska, balance from the
 13 Interior, balance from South Central area, that would include
 14 Kodiak. Just get balance. And I think that where we are right
 15 now in my view we don't have the balance that I would like to
 16 see. Now, you know, maybe I'm a singular voice, but I feel
 17 pretty good that -- strongly that that's what we should know, and
 18 furthermore the additional expense is diminimous for one person,
 19 transportation, you know, and these people get modest amounts of
 20 per diem and travel, and I think it would be well worth the
 21 price.

22 MR. PENNOYER: Mr. Rosier?

23 MR. ROSIER: Thank you, Mr. Chairman. I
 24 certainly don't have any problem with balance as far as the
 25 public process is concerned here on this, but it seemed to me

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1 that many of the individuals that we've already appointed were
2 recommended, you know, to cover a number of the individual user
3 groups that we've moved ahead on, that -- and made appointments
4 to here at the present time, so we're -- we're really talking
5 about people that have got multiple, multiple interests. I think
6 we've said right from the very beginning that the people that
7 we've appointed, that we were looking for the best, you know, the
8 balance that was there. I don't have great -- don't take great
9 exception to 17 members, but it seems that that's a pretty large,
10 pretty cumbersome size quite frankly from my perspective.

11 MR. BARTON: Mr. Chairman?

12 MR. PENNOYER: Further comment on this?
13 Mr. Barton?

14 MR. BARTON: I can support the proposal as put
15 forth by Mr. Cole, however I expect that balance is like beauty,
16 in the eye of the beholder, but I think there's more opportunity
17 to achieve that perhaps with more rather than less, although I
18 think that 17 is getting to be a pretty large group to be
19 effective,

20 MR. COLE: It is.

21 MR. BARTON: so

22 MR. PENNOYER: Mr. Barton, I wasn't sure whether
23 you were supporting the motion or talking against it. Seventeen
24 is too large or do you kind of?

25 MR. BARTON: No, I supported the motion, would --
I am concerned about the size of the group.

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MR. PENNOYER: Mr. Sandor?

1 MR. SANDOR: With regard to the question of
2 balance, I guess balance from the standpoint of special interest,
3 also from the balance of distribution of the people who are on
4 that group, I did a summary of at least, and maybe Dr. Gibbons,
5 you could verify this, of those ten that we've picked so far, two
6 are from Cordova, three are from Anchorage, one from Juneau, one
7 from Chenega Bay, one from Valdez, one from Kodiak.

8 So I was quite frankly looking at the public at large,
9 the sport hunting and fishing, recreation user, the individuals
10 that we're to pick, presumably five more, and I was looking at
11 this matter of balance. And the thought did come to mind, you
12 know, are we wanting to confine, concentrate this group to the
13 Spill area, or are we going at the State at large? And I guess I
14 concluded that, you know, it really ought to be the State at
15 large, and, you know, maybe we ought to have some of them from
16 Fairbanks. We don't have one now, and there are candidates from
17 these other communities, Ninilchik, Homer, and -- and so I
18 suspect that what I'd like to see is that we do, when we pick
19 these remaining five or seven, that we give consideration to
20 balance with regard to the geographic distribution of these folks
21 within the State and I guess -- am I off perhaps in the minority
22 in suggesting that, for example, we really should have someone
23 from Fairbanks and areas not impacted by the Spill?

24 MR. COLE: Mr. Chairman?

25 MR. PENNOYER: Mr. Cole?

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MR. COLE: I see my good friend, Commissioner Sandor is so dedicated and so structured, he's worked all this out. I just sort of think about it a little bit, but he expresses well and in detail my views, and that is the reason that I nominated Senator Eliason from

MR. SANDOR: Sitka.

MR. COLE: Sitka, Southeastern, fisherman. I nominated Mr. Gavora from Fairbanks, I thought someone from the Interior would be well to put on. I do think we need the geographic balance of people, because I think that it is while principally a subject of which the people in the Oil Spill area are most concerned, that there should be some statewide views, perspective on it. So I join you, Commissioner Sandor.

MR. PENNOYER: Any further discussion on this item? Mr. McVee?

MR. McVEE: Mr. Chairman, I would have no problem with increasing the public at large membership to five. I think when we do that, that we certainly should look at candidates and I'm sure we will, that have had, you know a broad breadth of experience and interests and can best represent the public at large, if there's such an individual that's available. But I think there's some advantage of considering, you know, people from -- or representation from Southeast or Fairbanks or elsewhere in the State in that, you know, those folks could have a different perspective concerning the program and that perspective may be very useful to the P.A.G. and therefore useful

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to the Trustee Council. So I'd have no problem with increasing
1 it to five.

2 MR. PENNOYER: Further comment on this item?

3 Well, I think I'd add some comment that, however, I had
4 some feeling that I had the same concern Mr. Rosier, but I
5 certainly do agree with the need for balanced representation, and
6 I think it ought to be -- I, too, agree it ought to be statewide
7 not just simply for any one particular area, so I have no problem
8 with that suggestion either.

9 Are there any objections to the proposal? Do you we have
10 to pass a new budget then? Other formal actions we'd have to do
11 if we did this?

12 DR. GIBBONS: Mr. Chairman, I don't think that
13 will be difficult to figure. It will be -- it will be a slight
14 increase, but it, you know, we -- we can just take the 15 and
15 divide it into the budget and just add enough for two more.

16 MR. PENNOYER: So if we did do this then, the
17 operating procedures would be changed automatic, or at least you
18 would type that in and make that change? We're voting on
19 changing operating procedures?

20 DR. GIBBONS: (Nods affirmative)

21 MR. PENNOYER: Okay. Are there any objections to
22 the proposal?

23 DR. GIBBONS: Mr. Chairman, are you referring to
24 the charter, changing the charter?

25 MR. PENNOYER: The charter, yeah, I meant.

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Right. Okay. Then that's accomplished.

1 Do you want to continue on, Mr. Gibbons? What's the
2 first category and who are the -- and how do I find the -- what's
3 the first one we didn't do?

4 DR. GIBBONS: The first

5 MR. BARTON: Recreational users.

6 MR. PENNOYER: Recreational users?

7 DR. GIBBONS: Recreational users.

8 MR. PENNOYER: And do we have again that list in
9 front of us that lists all the people that are -- ? And we're
10 looking at the wrong

11 MR. COLE: Well, Mr. Chairman?

12 MR. PENNOYER: Mr. Cole?

13 MR. COLE: Well, as I recall, we had a
14 recreational user nominated and some comments at the last meeting
15 by Mr. Barton. But if someone could refresh my recollection,
16 that we had one nominee with four first place votes. Isn't that
17 the recreational user category?

18 MR. PENNOYER: I don't know. Oh, I should take
19 one?

20 MR. SANDOR: Take one.

21 MR. PENNOYER: Oh, I just take one. I thought
22 that was the answer to the question.

23 MR. SANDOR: No.

24 MR. PENNOYER: Yes, I believe that was the
25 discussion and I don't have it in front of me, that particular

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list, but I think James Diehl was the number one and I think that, as I recall, there were several who had him as number one and somebody else as number two, and

MR. COLE: Was that Tileston?

MS. BERGMANN: Tileston, yeah.

MR. COLE: Tileston was two.

MR. PENNOYER: Who?

MR. COLE: Tileston. Mr. Tileston.

MR. PENNOYER: Mr. Tileston. Tileston, okay, was number two.

Further comments? Commissioner Sandor?

MR. SANDOR: Yeah. Mr. Chairman, my recollection and the listing I have, if it remains correct, is that for the recreational user group we had -- we did have the nomination of Mr. Diehl, one, two, three, four, five of the Trustees, and Mr. Tileston was second. Actually my recollection is in our vote itself, we came down to a three to three essentially tie on each one of those two with the suggestion by those who had essentially changed their vote on Mr. Diehl was that he could really be considered for the public at large category since we were short in that category, and that was part of, you know, the rationale for that was reasonable, since he was also in that category as well as in recreation user.

And so I guess to make a specific proposal, Mr. Chairman, I would move that Mr. Diehl be the designated recreation user representative for that group.

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MR. PENNOYER: Is there a second? It's been
1 proposed that Mr. Diehl be the recreational user category
2 selection. Is there a second? Is there another motion?

3 MR. McVEE: Mr. Chairman?

4 MR. PENNOYER: Mr. McVee?

5 MR. McVEE: Yes. I guess part of the problem
6 here is that I feel like I need to take a look at those new
7 nominees that we asked people -- we went to the, you know, to go
8 to the effort of submitting all of the information that were
9 requested, and I feel like if we -- if I could take a moment to
10 look at those new nominees and have about the same information in
11 my mind as those that we had considered in the past, that I'll be
12 better equipped, you know, to consider the motion.

13 MR. PENNOYER: Are the biographies on the new
14 nominees in any particular order relative to categories?

15 DR. GIBBONS: Yes, they're organized by category.

16 MR. PENNOYER: So Paul Andrews is the first one
17 I've got? I've got Paul Gavora as the first one in my stack.

18 MR. COLE: Public at large.

19 DR. GIBBONS: The second

20 MR. PENNOYER: That's only public at large?

21 DR. GIBBONS: Excuse me, Mr. Chairman, the second
22 is not. The status of the information is not by category.

23 MR. PENNOYER: So, Mr. McVee, how do you suggest
24 we proceed on that? I agree with your concept. How do we -- how
25 shall we do it? I can't

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MR. McVEE: I'd just like to take a minute to
1 pull those resumes out and take a quick look at them, and

MR. PENNOYER: Okay. You're referring to Paul
2 Andrews, Jon Dunham, Jeff Pasco and Jill Wittenbrader?
3

MR. McVEE: There's five -- five new
4

MR. COLE: And Scott Bothwell, too.
5

MR. McVEE: resumes we need to look.
6

MR. PENNOYER: Uh-huh. Shall we stand at ease
7 for five minutes and take a look
8

MR. BARTON: How about a recess and?
9

DR. GIBBONS: Mr. Chairman?
10

MR. PENNOYER: We'll stand in recess for what,
11 take a short break of ten minutes to look at the applications.
12

DR. GIBBONS: Mr. Chairman? One point, would it
13 help if the -- we went back and spread these by geographic
14 location, too, so you can understand where the new applications,
15 what communities they're representing?
16

MR. COLE: Oh, I think we -- Mr. Chairman, I
17 think we can keep them in mind. There are not that many.
18 There's only five of them.
19

MR. PENNOYER: We're going to do this in each
20 category, however. Is there any staff work we could get between
21 now and after lunch that would help us to get through this? Mr.
22 Gibbons, if we're going to do this for each of these categories,
23 the public at large has like 15 new nominees.
24

DR. GIBBONS: I'm not quite sure, you know, I
25

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thought perhaps the categories might help, you know, a nominee
1 per location, but I think everybody could -- you know, the
2 Trustee Council can look through here and sort them by the -- by
3 the recreational users or for fishing and hunting or public at
4 large.

5 I will make the comment that Gary Kompkoff, that's the
6 additional one that I passed out for public at large. In the
7 unknown category, Gary should move up to the public at large
8 category.

9 MR. PENNOYER: Well, once again these five --
10 five new recreational users are in this stack of resumes that we
11 have here?

12 DR. GIBBONS: That's correct. Now, I will make a
13 point that Tileston, Jules Tileston resubmitted another
14 application, so that's in here also.

15 (Off record)

16 (On record)

17 MR. PENNOYER: Could we come back to order,
18 please? It's been suggested -- we're going to start again if you
19 would, please? Thank you.

20 It's been suggested that we break for lunch, give us a
21 little more time to review these resumes and how they fit into
22 the process and then come back. Anybody want to have some
23 discussion of this before we leave?

24 MR. BARTON: Mr. Chairman, I would suggest that
25 we go ahead and deal with the rec users group and then break for

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lunch.

1 MR. PENNOYER: Okay. Any problems with that
2 approach? Do you have a suggestion, Mr. Barton?

3 MR. BARTON: Yes, I move James Diehl the
4 representative of the recreational users.

5 MR. McVEE: I'll second that motion.

6 MR. PENNOYER: Thank you. Is there any further
7 discussion? Are there any objections? Mr. Diehl has been
8 appointed to the recreational -- well, Mr. Diehl has been
9 appointed to the Public Advisory Group.

10 MR. COLE: Mr. Chairman?

11 MR. PENNOYER: Mr. Cole?

12 MR. COLE: Since that went so rapidly, would it
13 be worth while to address the sport fishing before lunch?

14 MR. PENNOYER: I'm willing to try anything once.

15 MR. COLE: I leave that to the other Trustee
16 members. It's up to them. If anyone has feelings that we ought
17 not, that's fine with me.

18 MR. PENNOYER: Any comments? Are there any
19 nominees for the recreational -- or sport fishing and hunting or
20 do you wish to adjourn to lunch and then come back and do it at
21 one? Do I have a nomination?

22 MR. BARTON: Mr. Chairman?

23 MR. PENNOYER: Mr. Barton?

24 MR. BARTON: I'd nominate Rupe Andrews to
25 represent sport fishing and hunting.

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MR. McVEE: Second.

1 MR. PENNOYER: It's been moved and seconded
2 Mr. Andrews be appointed as sport fishing and hunting. Any
3 comment or any discussion? Mr. Barton?

4 MR. COLE: Well, now I would like a moment
5 to

6 MR. PENNOYER: Mr. Cole wishes a moment to review
7 the

8 MR. ROSIER: He's right at the top of the page.

9 MR. PENNOYER: Would either the maker of the
10 motion or the second care to elaborate on Mr. Andrews'
11 qualifications for this position?

12 MR. COLE: Thank you. I've had an opportunity to
13 look

14 MR. PENNOYER: Had enough opportunity?

15 MR. COLE: at the documents.

16 MR. PENNOYER: Fine. Mr. Rosier?

17 MR. ROSIER: I would just like to say that, you
18 know as indicated in Mr. Andrews' application here that Rupe has
19 been very actively involved in fishing and hunting issues
20 statewide for a good many years, and he just -- he's been an
21 active member of the NRA. He's been active in outdoor council.
22 He was a field person with the Department of Fish and Game prior
23 to statehood, dating back prior to statehood and up through the
24 growth years of the Department and he's been a very active
25 individual that would be I think an excellent appointee to this

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-- to this public advisory group.

1 MR. PENNOYER: Further discussion? Are there any
2 objections to Mr. Andrews being appointed to this group? Thank
3 you.

4 Are we agreed then we'll adjourn for lunch and come back
5 at 1:00 o'clock to do the public at large? Okay. We're
6 adjourned then.

7 (Off record)

8 (On record)

9 MR. PENNOYER: I would like to go ahead and get
10 started if we could? If everybody will take their seats, then we
11 can get back on the track here.

12 Before we adjourned for lunch we had made some decisions
13 on the public at large -- Public Advisory Group, and we're
14 dealing with the public at large category. We had had a series
15 of applications sent to us and we requested the time over lunch
16 hour to go and review those and come back then and try to deal
17 with that particular seat on the Trustee -- on the Public
18 Advisory Group.

19 Over the lunch hour did anybody get any ideas of how we
20 should approach this? Does anybody want to suggest an approach
21 to dealing with this category? Mr. Sandor?

22 MR. SANDOR: Mr. Chairman, in our last meeting we
23 had in preparation for that identified the -- each of us
24 independently identified individuals, one or two, for each
25 category, and then at that meeting -- or in preparation for it,

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then we each were given a summary and we had essentially the
1 nominations or proposals by each Trustee. I would put on the
2 table a proposal that each one of the Trustees identify not less
3 than five and not more than seven or eight individuals for the
4 five public at large positions, that the staff summarize them and
5 then go on to some other agenda items, and then perhaps at 3:00
6 o'clock or later in the afternoon have the display of how -- what
7 individuals had been nominated. Is that reasonable? There's
8 nothing magic about not less than five and not more than seven or
9 eight, but in thinking through I've come up with seven that -- or
10 eight perhaps. Thoughts among?

11 MR. PENNOYER: Mr. Barton?

12 MR. BARTON: Yes, I think there's some merit to
13 that consistent with the process that we used earlier. I do
14 think though that we need to select the number at which we're
15 going to nominate and use that number.

16 MR. SANDOR: The same number?

17 MR. PENNOYER: Mr. Sandor? Anybody else have any
18 comments on the process, either Mr. Sandor's proposal, or Mr.
19 Barton's modification? Mr. McVee?

20 MR. McVEE: Mr. Chairman, I think that would be a
21 way to move it forward. I would suggest that we all come up with
22 the same number.

23 MR. SANDOR: Mr. Chairman, I move we come up with
24 seven.

25 MR. PENNOYER: Anybody second that?

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MR. BARTON: Second.

1 MR. PENNOYER: It's been moved and seconded that
2 we each come up with our nominees to the public at large seat on
3 the advisory group and that we nominate seven each, have the
4 staff, excuse me, compile these, and then at the appropriate
5 point in the agenda come back and -- and deal with that. And I
6 don't know I want to pick a time certain, perhaps whenever the
7 staff's ready, we'll see how the agenda's going. Does anybody
8 have any objection to that procedure? Well, do we then want to
9 take two minutes, three minutes here and each of do that?

10 MR. SANDOR: Ten minutes.

11 MR. PENNOYER: Ten minutes? Ten minutes to do
12 that. One and a half minutes per name, and then, Dave, can
13 somebody go do that compilation while we're working on something
14 else?

15 DR. GIBBONS: Yes.

16 MR. PENNOYER: Thank you. So if we would each
17 nominate seven people to the public at large seat for the
18 advisory group, staff will compile it and we'll come back at 2:30
19 or 3:00 o'clock and get the results of that and then discuss how
20 we proceed on the nominations.

21 (Off record)

22 (On record)

23 MR. PENNOYER: Yes, Mr. Gibbons?

24 DR. GIBBONS: I do have one correction. Under
25 Jules Tileston's new application, he would like to be recognized

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under public at large also, so you might under your
1 considerations add Jules Tileston to the list.

2 MR. PENNOYER: Thank you. Take ten minutes and
3 write our lists.

4 (Off record)

5 (On record)

6 MR. SANDOR: May I suggest that the staff put the
7 city of residence of each of the nominees?

8 MR. PENNOYER: A good suggestion, thank you.
9 Mr. Gibbons, would you do that, please?

10 DR. GIBBONS: Yes.

11 MR. PENNOYER: Have we concluded? Have you got
12 everybody? Okay. Mr. Gibbons, we'll come back to you possibly
13 after the next agenda item and see the results of the
14 nominations.

15 Okay. Can we continue on? The next item on the list,
16 unless somebody wants to take something else up out of order is
17 the habitat protection process. I think this is going to be a
18 fairly lengthy presentation. There are things that we may or may
19 not wish to take a decision on here, but probably we should try
20 and work through that whole process.

21 My objective, if I could get concurrence, if we're not
22 going to do the '93 work plan, it seems to me a full day of our
23 work is going to be taken at another time, and it would be my
24 preference to try and finish this afternoon and this evening if
25 we can, other than to tie up an hour or two tomorrow morning and

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therefore lose another day of work. So if we can get through the
1 balance of this agenda and set up what we want to do on the '93
2 work plan, I would hope we could conclude that this afternoon and
3 this evening. The door's open, of course, if we can't.

4 So perhaps, Mr. Gibbons, do we want to go on with the
5 habitat protection process?

6 DR. GIBBONS: Sure. Yes, Mr. Chairman, we have
7 primarily a dual presentation. The first item on -- under the
8 habitat protection process will be an overview by Walt Sheridan
9 to lay out our thinking on a grand plan that you requested, and
10 then followed by Kim Sundberg, a detailed analysis of the
11 proposals that -- those submitted by the ideas, or by the public
12 ideas and by the Restoration Team, so we'll start off with Walt.

13

14 MR. PENNOYER: Gentlemen, as you make your
15 presentation, would you highlight areas the Trustee Council needs
16 to reach a decision on at this meeting, too?

17 MR. SUNDBERG: Certainly.

18 MR. PENNOYER: Thank you.

19 MR. SHERIDAN: Mr. Chairman, members of the
20 Council, at your last meeting you directed the Restoration Team
21 to do a number of things with respect to the -- to habitat
22 protection. First you asked that they develop a grand strategy
23 for habitat protection, and they have done that and we're now
24 prepared to make some recommendations to you on that.

25 You also asked that the process be accelerated. I think

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that the term that was used was "get on with it," and the
1 Restoration Team heard that and has incorporated that into their
2 recommendations.

3 And finally the direction required that we look at the
4 use of existing data so that we could get on with it without
5 having to be involved in a long, drawn-out process of additional
6 data acquisition.

7 And what we'd like to do this afternoon is give you an
8 overview of what we're calling a comprehensive habitat protection
9 strategy, and I'll provide that for you, and then Mr. Sundberg
10 with -- from the Department of Fish and Game will provide you
11 some of the details of some of the items that we've already
12 started getting on with as well as some additional information,
13 and then finally Dave Gibbons will discuss the Restoration
14 Framework supplement and some of the comments that were included
15 in that relative to habitat protection.

16 In starting out to look at how to fulfill the direction
17 that you were giving us, we first thought it would be good to
18 develop some framework, some sideboards on what would be included
19 in that process. Some of those sideboards were that the strategy
20 needed to be consistent with the restoration planning process,
21 that we do not have two processes going off in separate
22 directions.

23 And we also felt that the accelerated process needed to
24 be limited to habitats facing what is called imminent threat. In
25 other words, habitat that if not protected could result in

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restoration objectives not being able to be fulfilled.

1 It also needed a clear linkage to resources or services
2 that were damaged by the Spill.

3 And we were constrained by time if we wanted to
4 accelerate this thing to the use of existing data, as we
5 mentioned earlier, and we needed some mechanism to rapidly
6 initiate collection of new data where we found that the existing
7 data was inadequate.

8 So within those kind of -- that kind of a framework, we
9 developed this comprehensive strategy. It basically consists of
10 two parts: an imminent threat process and what we're calling the
11 long-term habitat protection process.

12 The main element, the main key point in the imminent
13 threat process is that we believe that by December 1st, 1992, we
14 can provide you with recommendations for specific short-term
15 protection measures for specific parcels.

16 MR. COLE: Excuse me, could you give me that date
17 again by which?

18 MR. SHERIDAN: December 1st of this year.

19 MR. COLE: Okay. Thank you.

20 MR. SHERIDAN: How will we go about doing that?
21 Well, we would do it by a couple of items that we've already
22 initiated. The first one is we developed a questionnaire which
23 we sent out to all the principal investigators asking them to
24 provide preliminary study conclusions on the habitat requirements
25 and the state of recovery of the resources that were injured by

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1 the Spill. We wanted to know what the rate and degree of
2 recovery was and their best information as to what the habitat
3 requirements are. Mr. Sundberg will give you some additional
4 information on that shortly.

5 Second, we conducted a preliminary look at areas that
6 were affected by the Spill which may be facing an imminent threat
7 of habitat loss or degradation. Again, Mr. Sundberg will address
8 that shortly.

9 Now we come to the elements of this where we need your
10 concurrence if we're to move forward. The first of those is we
11 believe that it would be very useful to be able to conduct a
12 series of workshops or a workshop that -- a combination workshop
13 where we would bring in the principal investigators as well as
14 peer reviewers and others with expertise on resources and
15 services that were injured by the Spill and try to further refine
16 and document what the habitat requirements are for those
17 resources.

18 We would like to do that through -- the mechanism to do
19 that would be a cost-share agreement with The Nature Conservancy,
20 and that was mentioned earlier when you were discussing the
21 financial needs that were imminent. If we can get approval on
22 that and move forward with it, we think we can accomplish that by
23 November 1st of this year.

24 The next element of the cost-share agreement that we are
25 looking for with Nature Conservancy is assistance from them in
26 gathering up the existing information. At the last meeting there

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was a considerable amount of discussion about the fact that there probably is a lot of existing data in each of the agencies involved in the restoration and otherwise, and certainly that's correct, there are -- there is a lot of information available, but in a lot of cases we're not sure where it is, what kind of form it's in, whether it's compatible with the existing systems that we're trying to develop in order to do analysis, and what we would be looking for with this element of the accelerated process would be for the Trustee -- for the Nature Conservancy to assist us in identifying where all that information is and developing some catalogs and getting that moved into a system where we can use it to analyze these particular areas of habitat.

Concurrently with all of this that would be going on, the Restoration Team and the Habitat Work Group would be analyzing these parcels that we've identified and developing these recommendations for you by December 1st.

And finally, the accelerated process would include monitoring additional parcels that could come under imminent threat and developing recommendations as needed to you folks prior to completion of the restoration planning process.

The second phase then is the long-term habitat protection process. That would be based on the direction that would be provided in the final restoration plan, and it would, of course, make use of all of the -- all of the tools and information that would be generated in the imminent threat process as well.

The parcels that would be considered in that long-term

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process would, of course, include first those that received
1 short-term protection through the imminent threat process. That
2 would be the obvious one to take a look at first.

3 The second group of parcels would be all of those that
4 were proposed for protection through the '93 work program and I
5 believe there were some 50 parcels, some very, very large ones
6 proposed for acquisition and for different kinds of protection
7 through that process. That would be looked at primarily through
8 the long-term process upon completion of the Restoration Plan.

9 And, third, we'd look at those parcels that would be
10 nominated for protection subsequent to this '93 process, and it
11 may -- we may actually even look at calling for some kind of a
12 special nomination process.

13 Now we'll turn it over to Mr. Sundberg who will talk
14 about some additional details of the habitat protection process
15 and then we'll be glad to answer any questions that you might
16 have, and we also have -- we'd like to go through the '93
17 projects that we'll be asking for you approval on.

18 DR. GIBBONS: Excuse me, Mr. Chairman. I have a
19 handout here from Kim that lays out his presentation, so I'll
20 pass that out.

21 MR. SUNDBERG: Good afternoon. My name is Kim
22 Sundberg. I'm a habitat biologist with the Department of Fish
23 and Game, and what I'd like to do this afternoon is to take you
24 through four different elements of information that we're
25 gathering for the habitat protection process to give you a sense

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and an idea of where we're heading, and I also have a few slides⁶⁰
1 to show after the end of the narrative portion and then we would
2 propose to open it up for questions between Walt and myself.

3 I have four -- the presentation is in four parts, and so
4 I'd ask you for the first part to refer to this table one that's
5 in your packet. It's about a quarter of an inch thick.
6 Everybody finding it?

7 MR. PENNOYER: In some of you packets, table two
8 will be in front of table one.

9 MR. SUNDBERG: That's the accelerated process.

10 MR. PENNOYER: Get right to the conclusion.

11 MR. SUNDBERG: Okay. Hopefully everybody's found
12 it.

13 During this year's solicitation of restoration project
14 ideas, 54 project ideas were received from the public dealing
15 with habitat protection. Thirty-four of those projects were
16 classified as nonspecific by the Habitat Protection Working
17 Group, meaning that they generally advocated buying land, but did
18 not specify where or how much.

19 Seventeen of the projects specifically identified
20 geographic areas or parcels for acquisition. Four of these
21 project ideas were submitted by land owners: Seldovia Native
22 Association, Afognak Native Corporation, Old Harbor Native
23 Corporation and Koniag, Incorporated, and they're indicated as
24 willing sellers on this table one by an asterisk.

25 Fourteen of the proponents provided a cost estimate for

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their project idea. And they range in cost from a high of ⁶¹
1 \$113.5 million to acquire 125,000 acres of Afognak Joint Venture
2 lands on Afognak Island, which works out to about \$900.00 an
3 acre, to a low of \$70,000.00 for a proposed land exchange between
4 the State of Alaska and the Kodiak Island Borough for key
5 recreation sites.

6 The \$22 million cost of acquiring the Katchemak State
7 Park in-holdings from Seldovia Native Association shown on this
8 table was proposed prior to the Governor's veto of the
9 acquisition component of Committee Substitute for Senate Bill
10 483, so that cost was the cost that came in back in July.

11 The total cost derived from all these project ideas is
12 \$412 million, of which \$263 million could be attributed to
13 willing sellers, i.e., the landowners themselves who are offering
14 to sell land.

15 And a more detailed summary of each project idea is
16 appended to this table. Each of the project -- 17 project ideas
17 has an abstract written on what was the major components of each
18 of the -- of each of the proposals, and those are at the back of
19 this table one packet.

20 So in summary table one summarizes all the proposals that
21 came in for this year under 1993 project ideas, all the specific
22 proposals, and summarizes who the proponents are. The proponent
23 would be the person that would have submitted the idea and their
24 estimated costs. These costs are not the estimated costs of the
25 working group. They're simply ones that were provided by the

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proponent.

1 MR. COLE: Can we comment on those now,
2 Mr. Chairman?

3 MR. PENNOYER: I'm not sure what your intent is
4 to -- further explanation you mean? Certainly. Well, you're not
5 proposing that we consider these,

6 MR. SUNDBERG: No.

7 MR. PENNOYER: these are just for
8 background?

9 MR. SUNDBERG: Correct. We're just -- what the
10 purpose of this is to give you a background on what the public
11 proposed during this round of the project proposals.

12 MR. PENNOYER: Yeah. Mr. Cole?

13 MR. COLE: Well, is item number one and two, the
14 Katchemak Bay State Park in-holdings, one's proposed by Seldovia
15 Native Association, the other by Katchemak Bay Citizens
16 Coalition, am I to understand that those are the same? Is that
17 the same

18 MR. SUNDBERG: They were the same

19 MR. COLE: land involved in each?

20 MR. SUNDBERG: Correct. They propose the same
21 identical lands, two different groups proposed that project.

22 MR. COLE: And, let's see, under the Kodiak
23 acquisitions alone, that's 200 million approximately for the
24 Kodiak. That would be numbers what, six through 13, would be
25 200 million. Then the Afognak two acquisitions, one for

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113 million and one for 84 million, essentially another ⁶³
1 200 million, that's 400 million, and if you add the -- I'm a
2 little off, but the Katchemak Bay, that's 22 million, that's 422,
3 425 million. Am I -- have I got those numbers about right?

4 MR. SUNDBERG: Yeah. In the -- in the bottom
5 line on that table my sum was 412 million, but I only counted the
6 22 million once in that,

7 MR. COLE: Yeah.

8 MR. SUNDBERG: because they were the same
9 identical proposal.

10 MR. COLE: Well, mine's just done quickly in my
11 head, but

12 MR. SUNDBERG: I'm not that good at

13 MR. COLE: you know, in response to those
14 signs which I saw at noon, there's about 425 million proposed for
15 these holdings here and I don't know how much is forthcoming from
16 the settlement funds, but if we were to favorably consider this,
17 we -- or these central proposals, we wouldn't have much left,
18 would we?

19 MR. SUNDBERG: Well, this is about a little less
20 than half of the total settlement.

21 MR. COLE: Well, I mean, but how much have we
22 been in the process of expending the last year and this year and
23 the next year and, you know, I just want to point out so we keep
24 this in perspective of some of the tasks facing us. As I recall,
25 let's see, Exxon had about 50 million for -- didn't they for

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clean up? And then we went through another 30, that's 80. ⁶⁴
I
1 mean, I would suppose that the future funds are down to less than
2 700 million now? Less than that, sir? About how much less?

3 MR. BRODERSON: About 625.

4 MR. COLE: About -- just so everybody understands
5 what we're facing I mean, we're looking forward to maybe
6 receiving another 625 million that's unfettered funds. And, you
7 know, if we just look at these alone, I mean, and consider what
8 we're going to be doing with respect to some of the other
9 necessary restoration activities in Prince William Sound, I mean
10 we're going to be operating on a fairly narrow margin. I just
11 mention that so people will get a sense of what these acquisition
12 proposals (sic). If we -- that looks fine to us, let's get it
13 done, we're about done for the next ten years. So -- thank you.

14 MR. SANDOR: Mr. Chairman, I just had a question.

15 MR. PENNOYER: Mr. Sandor.

16 MR. SANDOR: Where there was no cost estimate
17 provided, what did you use? Is that not then included in the
18 412?

19 MR. SUNDBERG: That's correct, it's not reflected
20 in the bottom line, so the additional acquisitions of say Kenai
21 Fjords, Cape Suckling, Olsen Bay watershed and Kodiak Refuge in-
22 holdings, sort of generic, would be in addition to the 412.

23 MR. SANDOR: Any rough idea how much that would
24 be?

25 MR. SUNDBERG: I have no idea. It would be

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MR. COLE: Well, then let's

1 MR. SUNDBERG: hundreds of millions.

2 MR. COLE: Mr. Chairman?

3 MR. PENNOYER: Mr. Cole?

4 MR. COLE: Didn't we -- we knew something about
5 Cape Suckling, didn't we, on House Bill 411? As I recall that
6 was about 30 million along, wasn't it, or 40? I mean, look,
7 let's address number 14, Afognak One, Cape Suckling, Kachemak
8 Bay, Kenai Fjords, Kodiak Refuge and Prince William Sound, all
9 proposed by Alaska Center of the Environment, and there's no cost
10 estimate there provided. I think that's the principal one of
11 three for which there's no cost estimate. But I would hazard to
12 guess that it's in the neighborhood of 100 million. So that
13 takes us up probably to 550 million expenditures for these
14 habitat acquisitions alone out of the 625 we have left.

15 Now, you know, I just want to say, so as the Governor
16 would say, people have a sense of where I'm coming from, if you
17 want us to look at these and not exercise a lot of care and
18 discretion, there's 550 million here, out of 625, we better -- if
19 we were to say, yes, we could put an end to this Trustee Council
20 and our work for the next ten years and say it's done, good-bye.
21 I really doubt if that's what the public would like us to do. So
22 when you look at those signs out there and think about what we're
23 supposed to do in response to them, I would like you to keep in
24 mind where that would lead us, the very end of this function off
25 the Trustee Council, 'cause that will take it all.

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MR. PENNOYER: Hopefully, Mr. Sundberg and
1 Mr. Sheridan are proposing a process whereby we can pick and
2 choose the appropriate ones to take out of their list, so

3 MR. SUNDBERG: We'll be trying to get to that.

4 MR. PENNOYER: Are there further comments at this
5 point or -- further

6 MR. SUNDBERG: That's why we're all here.

7 MR. PENNOYER: comments at this point, or
8 shall they proceed with their

9 MR. McVEE: Yeah, Mr. Chairman. I guess on the
10 -- item four, let's see, I'm not sure what page we're on here.
11 It was part of Walt Sheridan's presentation. The cost-share
12 agreement with Nature Conservancy to assist the Restoration Team
13 in collecting and organizing existing data. I guess I was -- I
14 and the understanding that the Restoration Planning Work Group
15 would also be collecting and organizing data and I hope we don't
16 have duplicate efforts here, that the -- if we approve this,
17 Nature Conservancy could take off from where the Restoration
18 Planning Group is now in terms of data that's on file.

19 MR. PENNOYER: Were you going to get into more
20 detail

21 MR. SUNDBERG: Mr.

22 MR. PENNOYER: on those two proposals
23 later, because

24 MR. SUNDBERG: Mr. Chair, if I

25 MR. PENNOYER: I have some questions as

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well?

1 MR. SUNDBERG: could respond to that, I
2 would just say

3 MR. PENNOYER: Concerns.

4 MR. SUNDBERG: that we were going to deal
5 with those projects later on in our presentation

6 MR. McVEE: Okay. Okay.

7 MR. SUNDBERG: and we'll have an
8 opportunity to talk about in more detail.

9 MR. PENNOYER: I'm interested when you get to it
10 what you mean by "cost sharing," too, so -- okay. Thank you.
11 Could you proceed then, please?

12 MR. SUNDBERG: Certainly. Also attached to table
13 one in the packet is a land value overview. It looks like this.
14 And this was prepared by John Harmony of the Forest Service and
15 Dee Butler of the Fish and Wild Life Service. This analysis is
16 intended to provide you with a general guide to the range of land
17 and timber values found in the Spill area.

18 Fee simple land sales occurring during the 1985 to '91
19 time period and current timber values were analyzed for four
20 geographic regions in the Spill area. As shown, fee simple land
21 values will vary widely throughout the area, which could be
22 expected. Small parcel values range from \$825.00 an acre up to
23 \$53,890.00 per acre. And large parcel sales range from \$625.00
24 per acre up to \$1,125.00 per acre.

25 Timber values also varied widely depending upon volume,

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quality and fixed costs. Timber values are estimated to range
1 from \$9,000.00 to \$42,000.00 per acre with the average cost per
2 acre near the lower end of this range. Merchantable timber
3 values will normally exceed 90% of the total appraised value.
4 Where timber rights have been sold to second parties, acquisition
5 of present and future timber rights would require negotiating
6 with both the property owner and the owner of the timber rights,
7 likely resulting in costs which would exceed the full appraised
8 value of the land. With the present decline in availability of
9 old growth export timber on the West Coast, lower timber prices
10 are unlikely and the market is expected to be increasing --
11 increasingly volatile.

12 The main point of this exercise I think was to just look
13 at past sales in the area and get good idea of what land values
14 are. It wasn't an attempt to appraise land or do anything to
15 come up with any hard numbers, but to give the Trustee Council an
16 idea of what we're talking about in terms of costs.

17 MR. COLE: Mr. Chairman?

18 MR. PENNOYER: Mr. Cole?

19 MR. COLE: That timber value from say 10,000 an
20 acre to \$40,000.00 an acre is pretty wide spread. Do you have a
21 better sense of what we'd be looking at or?

22 MR. SUNDBERG: My impression is that probably the
23 average price we're looking out there is somewhere around 15 to
24 \$20,000.00 an acre for timber. The difference between timber
25 values say on Afognak Island, which some of that would be at the

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high end of the scale versus timber values on areas around the lower Kenai Peninsula, which would probably be at the lower end of the scale.

MR. PENNOYER: Proceed.

MR. SUNDBERG: Okay. I'd like to move on to the next table, and Dave has a replacement table to hand out. The estimated acreages on this replacement table are more accurate and were based on some recent analysis that we did over late last week, being after the packets were mailed out or were completed.

DR. GIBBONS: Some of the -- copies of the new table two are out in the lobby, so the corrected table two.

MR. SUNDBERG: The proposed habitat protection strategy places a high priority on identifying and evaluating so-called imminent threat lands. In the near terms these lands would be evaluated to determine, one, if key habitats thought to be important for restoration of injured resources or services occur there; two, if a land use activity would potentially threaten an essential habitat component or foreclose future restoration options; and, three, if short-term protection of a habitat component is warranted pending a more detailed evaluation and/or implementation of the Restoration Plan.

Of all the anticipated land use activities in the Spill area, timber harvest perhaps has the highest potential to affect habitat components for some of the injured fish and wildlife resources and services. An identification of potential imminent threat lands and a strategy to protect key habitats will need to

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consider areas where timber harvest has occurred and is likely to occur.

Table two and the maps displayed on the wall over here to your left provide a preliminary summary of recent and projected timber harvest activities in the Spill area. The information used in this analysis was obtained from reviewing Forest Practices notifications, incorporating data from timber harvest unit maps provided by the State Division of Forestry, and by consulting with foresters and habitat biologists with specific knowledge of the history and projected timber harvest activities for these areas.

Only harvest activities on private lands are depicted on these maps. Recent harvest activities on state and federal lands are relatively insignificant to the effort that has been on private lands, and potential impacts to recovery on state and federal lands can be addressed through normal agency management actions.

On table two areas which are designated -- are designated harvest if they were known to have been previously harvested or in the -- be in the process of being harvested this year. So up to and including 1992. The total area harvested is estimated at 139,500 acres.

Projected harvest areas on table two are areas where timber harvest is expected to begin in 1993. This does not mean to imply that all the projected area would necessarily be harvested in 1993. It more -- it more correctly shows just areas

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where timber harvest is expected to begin to occur. Projected
1 harvest areas are estimated at 33,000 acres. These lands would
2 be reviewed with others through the imminent threat process in
3 the habitat protection strategy.

4 Turning your attention to these maps over here, and I
5 have some slides later which maybe will show that a little
6 better, for those of you like me who are near-sighted, but the
7 areas in red on those maps are essentially the projected harvest
8 areas and the areas in that rust brown color are the areas that
9 have already been harvested. And these maps were prepared
10 through the able services of Diane Lyles and her staff over at
11 the Department of Natural Resources, and this information is now
12 in our geographic information system and can be used to analyze
13 properties as to what their timber harvest history is.

14 I'd also like to caution that they're preliminary maps
15 and we're continuing to do some verification on some of the
16 acreages and configurations of some of the harvest areas, but at
17 this point they reflect, you know, pretty much most of the
18 information that's out there right now.

19 MR. PENNOYER: Any questions before we proceed?

20 MR. SANDOR: One question.

21 MR. PENNOYER: Mr. Sandor?

22 MR. SANDOR: Is it fair to use that 15 to
23 \$20,000.00 value against say that 33,000 estimated acres of --
24 being -- that's projected for harvest, just to get an indication
25 of how much money we're talking about?

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MR. SUNDBERG: Yes, I think so.

1 MR. SANDOR: So 33,000 acres times 15 to
2 \$20,000.00 per acre would be a fair value for that then? Or is a
3 reasonable one to just project?

4 MR. SUNDBERG: As for just a back of a napkin
5 type approach, yeah.

6 MR. COLE: Somebody help me with the zeros,
7 please?

8 MR. PENNOYER: Five to \$600,000.00 I suppose.

9 MR. COLE: What?

10 MR. PENNOYER: I mean, million dollars, sorry.

11 MR. SANDOR: I got four, somewhere between 450
12 and 500 million. Is that in the ballpark?

13 UNIDENTIFIED: 495 million.

14 MR. SANDOR: 495 million.

15 MR. PENNOYER: At 15,000.

16 UNIDENTIFIED: At 15.

17 MR. COLE: Wouldn't it be 660 million at 20?

18 MR. SUNDBERG: Right.

19 MR. SANDOR: On the upper end.

20 MR. COLE: That's what I figured it at. This
21 little table here of estimated acres projected for harvest, 33
22 million (sic), 20,000, and I'll be 660 million while at 10,000 an
23 acre it would simply be 330 million.

24 MR. SANDOR: That -- and, Mr. Chairman, that was
25 the first part of the question, and I was trying to match that

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1 with the other table which was I think 412 and then that was a
2 total, this is the imminently threatened group category, is that
3 right?

4 MR. SUNDBERG: Correct, although some of these
5 values that are on the timber harvest table may be incorporated
6 into these projected costs

7 MR. SANDOR: I see.

8 MR. SUNDBERG: on the acquisition, but also
9 they are -- there are parcels on the timber harvest table that do
10 not -- are not included in these acquisition proposals.

11 MR. SANDOR: And if I'm reading the paper, the
12 process is set up to in fact evaluate these parcels and there is
13 a method of prioritizing and determining the linkage between
14 resources or services damaged and proposed acquisition?

15 MR. SHERIDAN: Yes, that's correct. What we're
16 talking about here is a screening process.

17 MR. SANDOR: Yeah.

18 MR. SHERIDAN: These areas are the ones where
19 timber harvest is likely to take place, but that's only the first
20 step in the process. You have the -- the big piece that's
21 missing is identifying the critical habitats that are linked to
22 recovery of resources damaged by the Spill, but this is where we
23 would go looking first, around those areas where harvest is
24 anticipated, and that's the accelerated piece of it only.

25 MR. SANDOR: Just an observation, Mr. Chairman.

MR. PENNOYER: Mr. Sandor.

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MR. SANDOR: That is -- I had assumed that
1 perhaps the imminently threatened would be perhaps half of what
2 the total was, and that doesn't turn out that way. It turns out
3 actually that five to 600 million is imminently threatened, so
4 it's a big, big job to do the analysis on these imminently
5 threatened lands. That's the message I get out of that. Is that
6 a valid conclusion?

7 MR. SHERIDAN: Yes.

8 MR. PENNOYER: Further questions? Why don't you
9 continue?

10 MR. SUNDBERG: Okay. Table Three looks like
11 this.

12 Another way of gauging the imminent threat of a proposed
13 land use activity, and thus helping to identify potential areas
14 needing habitat protection, is to examine the various land and
15 water use permit authorizations issued by state and federal
16 agencies. For example, a proposed timber harvest activity may
17 require permits from several agencies including the Army Corps of
18 Engineers, Department of Environmental Conservation, Department
19 of Natural Resources, and Department of Fish and Game.

20 Presumably landowners who have received all the required
21 permits are in a more imminent position to begin their proposed
22 activity than those who are still in the permitting process or
23 who have not yet applied. Moreover, existing permits often have
24 some level of stipulated habitat protection which needs to be
25 examined as to whether it may either directly or indirectly apply

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to protection of injured resources and services.

1 Table three summarizes all the state-reviewed land and
2 water authorizations for private owners in the Spill area during
3 the period from July 1, 1989, through June 12th, 1992. Federal
4 permits that are subject to the State's coordinated coastal
5 consistency review process, which basically encompasses all of
6 the significant activities, are included.

7 A total of 419 permitting records were found for the
8 Spill area during the previous four-year period. These records
9 document authorizations for seven timber operations in Prince
10 William Sound, five operations on the Lower Kenai Peninsula, and
11 four operations on Afognak Island. In contrast, there are no
12 authorizations for timber harvest in Katchemak Bay at this time.

13 This table also helps to identify other land and water
14 use activities in addition to timber harvests that may affect the
15 recovery of injured resources and services.

16 And I apologize, this is a rather lengthy table, but we
17 thought it might be useful for you just to see the various
18 different types of activities that are going on out there, and
19 also to give you an idea of sort of what their geographic scope
20 is and the kinds of permits that are issued. And in addition to
21 timber harvest, there's a lot of other types of activities out
22 there: placer mining, mariculture, water use permits, wetland
23 fills, docks. Just a number of different things in addition to
24 timber harvest.

25 MR. PENNOYER: Mr. Sandor?

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MR. SANDOR: Well, this is a remarkable table. I
 1 really commend the group for actually tracking down these
 2 permits. There's at least six or seven placer mine permits, at
 3 least one hard-rock mining permit, and if they're at the
 4 permitting stage, they must be near imminent operation.

5 MR. SUNDBERG: Yes, these are the actual permits
 6 that have already been issued, so these people would have the
 7 authorizations to go ahead.

8 MR. SANDOR: I guess the question, and maybe
 9 you're going to get into this, to what degree or how are you
 10 going to look at these other -- these kinds of activities, the
 11 placer mining, hard-rock mining, for instance? Is there a
 12 mechanism to also examine that and, this is the question, is a
 13 projection of perhaps acquiring the rights of that? You know,
 14 obviously that is not included in the listing of the timber
 15 acquisitions, so we're talking some additional monies for
 16 potential acquisition of these potentially imminently threatened
 17 or imminently threatened activities in these areas, is that
 18 right?

19 MR. SUNDBERG: Yeah. We're getting a little bit
 20 ahead of ourselves, but I think that the approach that we would
 21 be proposing would be to determine what it is out there that we
 22 need to look at for protection first as just sort of one of the
 23 first steps. We have to be aware of these imminent processes
 24 that are going on, and as key habitat area pop up out of this
 25 evaluation process, we would need to look to see whether there

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was some land use activity that might foreclose a restoration option or potentially threaten that habitat component, but there's a lot of land out there and while not all habitat is created equal, and I think our proposal is to look specifically into what habitats are needed for restoration and approach it from that angle, while being cognizant of the other activities that may cause an impact in the interim.

MR. SANDOR: Thank you.

MR. PENNOYER: Other questions. Please proceed.

MR. SUNDBERG: Okay. The last table to go through is table four. The Habitat Protection Working Group has begun the process of defining the essential habitats for injured species so that they can be identified on lands within the Spill area. This is a critical first step towards establishing a linkage between key habitats and their role in the recovery of injured resources and services.

In July a two-page questionnaire was sent out to all principal investigators working on damage assessment and restoration studies. The questionnaire was designed to obtain preliminary information on, one, the degree and rate of recovery of injured species; two, factors which may be limiting recovery; and, three, key habitat characteristics which are needed to sustain each species and foster its recovery.

The questionnaire has yielded some interesting results. First, for the ten injured species which elicited responses, recovery was rated either inadequate, declining, or unknown.

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Second, upland habitat characteristics were identified as a possible factor limiting recovery for five of the species. They're murrelets, pigeon guillemots, common murre, and pink and sockeye salmon.

MR. COLE: Could you hold on just a second? Would you mind going over those again?

MR. SUNDBERG: Certainly. The five species that were identified as having an upland habitat component or characteristic that might be limiting their recovery were marbled murrelets, pigeon guillemots, common murre, pink salmon and sockeye salmon. In other words, there is some habitat on the uplands that may be critical or crucial to their eventual recovery.

MR. COLE: And how would you define uplands?

MR. SUNDBERG: Above mean high water. And also including all streams and lakes.

MR. SANDOR: Excuse me, why

MR. PENNOYER: Mr. Sandor?

MR. SANDOR: wouldn't the harlequin duck be in that category?

MR. SUNDBERG: Well, that's another interesting thing that came out of this table, and I would also caution that this is very preliminary at this time, but the principal investigator investigating harlequin ducks did not list nesting habitat as a limiting factor at this time, although I don't think that there's really -- the analysis, nest -- you know, that has

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been completed in order to determine whether that is a limiting
1 factor or not.

2 MR. SANDOR: Uh-huh.

3 MR. SUNDBERG: I think the primary concern on
4 harlequins at this time is that there is still contaminated food,
5 i.e., mussels out there that seem to be doing more of a limiting
6 job on harlequins at this point.

7 MR. PENNOYER: Mr. Cole?

8 MR. COLE: Yeah. When you say, you know,
9 "uplands" and so forth, and, you know, how far, for example, on
10 each side of a stream would you want to say is part of the
11 critical habitat for pink salmon and sockeye salmon for example?
12 I'm just trying to get an idea of what we're dealing with here
13 from your presentation.

14 MR. SUNDBERG: Yeah, I don't think that we've
15 defined how far on either side of a stream is needed at this
16 point for pink and sockeye salmon within the specific parcels out
17 here. You know, the Forest Practices Act gives a 66-foot no --
18 or a buffer on either side of the stream of which you can cut 25%
19 of the trees within 25 to 66 feet. The fishery biologists were
20 asking for 100 feet on either side of the stream. Some people
21 were asking for more, some people were asking for less. You
22 know, the sense of it is, is that for fish somewhere in the
23 neighborhood probably of 100 feet, maybe 200 feet is

24 MR. COLE: But certainly less than for a half
25 mile on each side, a quarter of a mile? No more than a quarter

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of a mile on each side would you say?

1 MR. SUNDBERG: Yeah, I don't want to get pinned
2 down, you know, specifically but, yeah, I mean

3 MR. COLE: Yeah, I'm not trying to pin you
4 down,

5 MR. SUNDBERG: Yeah.

6 MR. COLE: I'm just, you know, giving you
7 between 66 feet and, you know, a quarter of a -- 440, I
8 mean,

9 MR. SUNDBERG: I'd say a quarter

10 MR. COLE: that's a pretty good spread.

11 MR. SUNDBERG: mile is on the very large
12 end of that spectrum, and probably it's closer to 100 to 200
13 feet. It's my opinion. Did that answer you question?

14 MR. COLE: Sure.

15 MR. SUNDBERG: Okay. Were there any other
16 questions on this? Should I

17 MR. PENNOYER: Why don't you go ahead?

18 MR. SUNDBERG: just go ahead? Okay.

19 MR. COLE: Excuse me, just let -- I'm trying to
20 still get a sense. We talked about salmon, but how about the
21 marbled murrelet, pigeon and the common murre? Did -- do you
22 have any sense of what's needed there?

23 MR. SUNDBERG: Well, murrelets are an interesting
24 critter, because apparently there's been some seven or eight
25 nests located recently in the State, and I think all of those

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were located in trees. There's some question as to whether some
1 of these murrelets may be nesting on the ground or in rock
2 crevices also, but at least the ones that have been found lately
3 all appear to be in trees, and they seem to have fairly -- they
4 -- they nest up high up in the watersheds a lot of times. And
5 they seem to have some component that they like northwest or
6 west, you know, facing slopes, fairly steep slopes. We're
7 starting to get a sense I think more and more about where these
8 murrelets might be nesting, but they could be anywhere within a
9 watershed, and it appears that they like trees.

10 MR. PENNOYER: Some more?

11 MR. COLE: No, that's all for now.

12 MR. PENNOYER: Okay.

13 MR. COLE: Thank you.

14 MR. PENNOYER: Thank you. Go ahead.

15 MR. SUNDBERG: Okay. Okay. Finally the
16 confidence of the principal investigators varies widely when
17 asked to identify recovery rates, limiting factors and key
18 habitat characteristics for injured species. This is not
19 surprising keeping in mind that very little habitat information
20 was available on many of these species prior to the Spill, and
21 that most of the Spill studies conducted previously were designed
22 to determine injuries or damages rather than focusing on
23 identifying key habitat needs.

24 And the point of that is is that some people say that,
25 well, there's a lot of information out there, and we've done all

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these studies, and there is quite a bit of information, and I
 1 think we're making a start at trying to synthesize it down, but
 2 it's also the kind of questions that have been asked during the
 3 Oil Spill have been mostly related to looking at damages and
 4 population level changes versus what these critters actually need
 5 in terms of habitat. So that -- later on we'll talk about some
 6 of the additional data needs that we think are warranted for the
 7 habitat protection process.

8 The additional column on this table that's labelled "data
 9 layers" identifies the types of information needed in a
 10 geographic information system data base in order to identify the
 11 location of key habitat areas in the Spill area. The need to
 12 further refine the identification of key habitat characteristics
 13 and to construct a geographic information system for use in
 14 identifying strategic lands for habitat protection will be
 15 further covered during the discussion of the proposed habitat
 16 protection projects in the '93 work plan, and we hope to be able
 17 to have the opportunity to discuss those at the end of this
 18 presentation.

19 And what I propose to do next is to show a few slides and
 20 then we could open it up to any questions. But I could take any
 21 questions that you have right now, too.

22 MR. SHERIDAN: One comment before we go to that
 23 might be the way the numbers on table one and the numbers on
 24 table two, to make sure you have a clear understanding of that.
 25 The numbers on table one are numbers that the proponent of those

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1 parcels being purchased or flagged, those are numbers that they
2 provided. Those are not -- they have not been verified in any
3 form and we -- they were just transposing them from the proposals
4 onto this chart.

5 When you start talking about the acreages and the average
6 values from the table two that Attorney General Cole was
7 inquiring about, there's no correlation between the numbers on
8 table two and the numbers on table one, and we've made no effort
9 at all to try to reconcile any differences between the two at
10 this point. We're merely providing those to you for some
11 information at this time.

12 MR. PENNOYER: Thank you.

13 MR. SUNDBERG: Somebody get the lights?

14 This is just an over-view map showing the Spill-affected
15 area, and within that light grey line that's around there is
16 approximately 8.5 million acres of uplands, and approximately 1.6
17 million acres of that area is privately owned, which figures out
18 to about 20% of the uplands in the area.

19 This is a satellite image taken of southern Prince
20 William Sound that was just classified and processed in ground
21 truth (ph) this summer by Dr. Richard Padolski who is under
22 contract to the Restoration Team. And it depicts various upland
23 habitat types found in Prince William Sound, including snow
24 fields which are shown in blue, rocks, alpine areas which are in
25 dark orange, muskegs which are light green, shrub lands which are
light orange, and forests which are dark green. And, incidently,

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most of these islands in this group here are -- the majority of
1 them are in private ownership.

2 This image is in a digital format so that it can be
3 incorporated into our proposed habitat protection, geographic
4 information system, and other systems that are in place in
5 agencies. And the information contained in this kind of remote
6 sensing inform- -- images can be very useful in concert with
7 other information for accurately defining, mapping, analyzing and
8 comparing habitat characteristics across large areas.

9 The point of showing this slide is that this is the kind
10 of information that we would be proposing to use to classify and
11 locate key habitat areas throughout the spill area in concert
12 with other information which I'll talk about.

13 I apologize, this slide is a little dark, but the land
14 surface in the Spill area contains a mosaic of different habitat
15 types with varying degrees of relative importance to the recovery
16 of injured species and services. For example, in this picture
17 the open bog meadow which is depicted in the center of this
18 picture may be important as a flight corridor for these marbled
19 murrelets, but it may have little value as actual nesting area.

20 The accurate identification and mapping of anadromous
21 fish streams and associated riparian lands is critical to
22 determining the habitat protection needs of salmon and other
23 injured species, including harlequin ducks. The small spawning
24 and rearing streams connected to this large stream cannot always
25 be detected on remote sensing images and aerial photos, and it is

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important that field stream surveys be continued so that fish
1 habitat characteristics can be accurately classified and mapped.

2 This is an example of an old growth forest. Forest types
3 and their respective habitat values vary widely within the Spill
4 area and include forest exhibiting old growth characteristics,
5 and forests like this which were previously logged about 40 or 50
6 years ago which show successional growth characteristics.

7 It is critical to define where the key forest habitat
8 characteristics occur, assuming, for example, that marbled
9 murrelets require old growth characteristics for nesting habitat.

10 Again I apologize for the dark slide. Transition areas
11 and high relief forest lands may also be important for some
12 species such as murrelets and harlequin ducks. These are the
13 kind of high elevation areas that have been found to be nesting
14 areas for both murrelets and harlequins.

15 And not to forget that an estimated five to 10% of all
16 the uplands in the Spill area are essentially rock and ice and
17 have little potential habitat value for injured species.

18 Timber harvests and subsequent silvicultural (ph)
19 practices that produce even-aged tree farms as depicted by this
20 operation in Two Moon Bay, will change the habitat
21 characteristics over portions of forested lands in the Spill
22 area.

23 Forests are estimated to cover some 20 to 30% of the
24 uplands throughout the Spill area, but forests cover a higher
25 percentage on private lands.

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In studies on Naked Island, Afognak Island and elsewhere
1 indicate that marbled murrelets are using old-growth spruce trees
2 such as this as nesting habitat.

3 This is -- this map is essentially the same as are on the
4 wall. They're a little different colors because of the way they
5 had to be projected. But this shows eastern Prince William Sound
6 and shows the private lands in yellow and the public lands which
7 are in blue and the previously harvested areas are shown in green
8 on this map and the projected harvest areas are shown in red.
9 And within eastern Prince William Sound, the areas harvested are
10 approximately 8,900 acres and the areas projected for harvest are
11 approximately 8,600 acres. And again that's using the same
12 terminology as I explained before, that projected harvest areas
13 are areas where timber harvest is likely to begin in 1993.

14 MR. SANDOR: A question before

15 MR. PENNOYER: Mr. Cole (ph)?

16 MR. SANDOR: you move -- Mr. Chairman, if I
17 may?

18 MR. PENNOYER: Mr. Sandor?

19 MR. SANDOR: That red is the imminently
20 threatened land or

21 MR. SUNDBERG: Correct. It's the projected
22 harvest areas.

23 MR. SANDOR: Yet

24 MR. SUNDBERG: We don't know whether there's
25 imminent threats in there yet, but there is

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MR. SANDOR: Potentially so?

1 MR. SUNDBERG: Yeah, potentially.

2 MR. SANDOR: Yet the adjacent yellow is also
3 privately owned and presumably would have potential for harvest?

4 MR. SUNDBERG: That's correct. In fact this
5 doesn't show, you know, down the line where timber harvests may
6 occur in the future on some of those other yellow lands,
7 because

8 MR. SANDOR: Just

9 MR. SUNDBERG: we just don't know at this
10 point.

11 MR. SANDOR: Precisely the question that comes to
12 mind, if in fact we protected the imminently threatened areas in
13 red what would preclude that same land owner to move onto yellow
14 areas and -- which may also have habitat that would be
15 potentially adversely impacting to these same species?

16 MR. SUNDBERG: Nothing. That's why what we're
17 proposing is to identify where these habitats are sort of across
18 the scale and so we make sure that we look at the important ones.

19 MR. COLE: Mr. Chairman?

20 MR. PENNOYER: Mr. Cole?

21 MR. COLE: Let me see if I -- I'm not sure I got
22 that. How many acres in red?

23 MR. SUNDBERG: In red there's approximately 8,600
24 acres.

25 MR. COLE: And how many acres in yellow?

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MR. SUNDBERG: Oh, boy.

1 MR. COLE: Well, you know, just about.

2 MR. SUNDBERG: Walt, do you know?

3 MR. COLE: It looks like it ought to be more than
4 ten times greater, doesn't it?

5 MR. SHERIDAN: I believe that it's safe to say
6 it's more than ten times greater, yes.

7 MR. SUNDBERG: If I had a computer here, I could
8 give you

9 MR. SHERIDAN: Yeah.

10 MR. SUNDBERG: an instant answer, but I'd
11 say it's probably 800,000 acres, close to a million acres? No,
12 it's not that much.

13 MS. RUTHERFORD: 80.

14 MR. SUNDBERG: Ten times than the red at 8,900.

15 MR. SHERIDAN: I think it's more like 100,000 or
16 so.

17 MR. SUNDBERG: Yeah, about 100.

18 MR. SHERIDAN: Or 150.

19 MR. SUNDBERG: Yeah. Walt says 150,000, guess.

20 MR. COLE: 150,000?

21 MR. SHERIDAN: Yeah.

22 MR. COLE: And we were dealing with that other
23 imminently threatened on table two of 33,000?

24 MR. SUNDBERG: Correct.

25 MR. COLE: And we calculated that at 20,000 an

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acre to be 660 million.

1 MR. SUNDBERG: Correct.

2 MR. COLE: So this would be five times 660
3 million if the basic numbers remained the same. I mean, tell me
4 if I'm off base, but I'm trying to get a sense of where we are.
5 Five times this would be three billion.

6 MR. SUNDBERG: Within -- yeah, within this area I
7 would sort of venture that the values are probably somewhere
8 around 20,000 an acre.

9 MR. COLE: How much?

10 MR. SUNDBERG: 20,000 for timber value.

11 UNIDENTIFIED: Could I object just for a second?
12 That is an absolutely absurd number. The native corporation
13 themselves have talked about prices lower than \$1,000.00 per
14 acre. And Katchemak Bay along is around \$1,000.00 an acre, fee
15 simple title plus the subsurface rights. So this \$20,000.00 an
16 acre is an (indiscernible) number to be calculating the fact that
17 we don't have the money to do the job.

18 MR. COLE: Well, we haven't gotten to that, but
19 that's what this contract, or this study I think will address,
20 but

21 MR. SUNDBERG: Yeah. I think the important thing
22 is, too, is that we're -- we're zeroing in on timbered lands here
23 versus all lands including muskegs and rock and everything else,
24 and, you know, John Harmony looked at what timber prices were
25 going for within this area to come up with his spread for the

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price per acre, so, you know, I can do the reply is that that's⁹⁰
1 what he found where the prices that -- or what the market was
2 paying for it.

3 MR. SHERIDAN: I think that part of the confusion
4 is that when you start quoting prices of nine or \$10,000.00 an
5 acre for timber, you're talking about fully timbered acres of
6 land. You're not talking about the gross acreage of the parcel.
7 You may be going in and harvesting specific units within an area
8 of say 20,000 acres, and you may not be cutting but about maybe
9 half of that in actual acres of timber, and the figures of nine
10 or 10,000 and up is for those specific acres that are fully
11 timbered.

12 MR. PENNOYER: Well, then but the yellow is not
13 all fully timbered land?

14 MR. SHERIDAN: No, you would not apply

15 MR. PENNOYER: So you couldn't apply

16 MR. SHERIDAN: those kinds of average
17 figures to that whole parcel of land.

18 MR. PENNOYER: And the difference between the
19 33,000 or what we had before or whatever, and this 150 is that
20 this was probably timbered land, and

21 MR. SHERIDAN: Correct.

22 MR. PENNOYER: this here could be a mix of
23 everything.

24 MR. SHERIDAN: That could -- that could be a mix
25 of everything. And I think that the numbers that Kim quoted

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earlier for acreage in general on -- that is being sold in that
1 area range from less than \$1,000.00 an acre to way above, to sev-
2 -- quite a few thousand dollars per acre, so you have to be
3 careful whether you're talking about apples or oranges in this
4 process.

5 MR. COLE: Well, let's do it another way. If you
6 took a tenth of that, you know, take -- start with the three
7 billion, however we got there, you take a tenth of that, you
8 know, that's 330,000. I mean, what I'm saying is that you're
9 dealing a pretty big number just in this little area here in the
10 eastern Sound. I guess

11 MR. SHERIDAN: Well, Mr. Chairman,

12 MR. COLE: that's what I'm saying.

13 MR. SHERIDAN: Well, I think that one of the
14 numbers that was quoted again by Kim earlier was that in the
15 whole Spill-affected area you're looking at something like 1.2
16 million acres of private land. I think that was the number that
17 was quoted. But that includes land of all kinds and
18 descriptions.

19 MR. SUNDBERG: Yeah, one other thing to keep in
20 mind, it's difficult to project on where exactly the cutting
21 units are going to occur until somebody goes out there and lays
22 out the timbered area and submits a Forest Practices
23 Notification, and even in that respect it's sometimes difficult,
24 because some of these Forest Practices Notifications, they just
25 draw a line around a section and say, "We're going to cut timber

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in this area."

1 The green areas on there actually reflect pretty
2 accurately where the cutting units have occurred. The red areas
3 are the best sort of guesstimate as to where the cutting units
4 would be occurring, but they probably over -- the actual cutting
5 within those red units is going to be somewhat -- is going to be
6 somewhat less like Walt said.

7 This map here depicts southern Montague Island, which is
8 the focus of a current road construction project by Koncor and
9 Chugach Alaska Corporation to begin logging out there, and shows
10 about 1,000 acres which would be projected to be cut or start to
11 be cut next year. Eventually they plan on logging all the
12 merchantable timber in the yellow areas.

13 MR. COLE: Could you go back to the other slide
14 so I -- we can get a sense of where this is compared to the
15 other?

16 MR. SUNDBERG: Yeah, it's off the scale to the
17 lower left.

18 MR. COLE: Oh, it's off the -- that's -- okay.
19 It's not on that slide.

20 MR. SUNDBERG: Correct. We had to put it on a
21 different map, because it's in the other end of the Sound.

22 MR. SANDOR: Again, Mr. Chairman, the

23 MR. PENNOYER: Mr. Sandor?

24 MR. SANDOR: you're saying although that
25 area that's in red is what's currently planned for harvest, but

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as much as possible the total area that's in yellow will be
1 harvested?

2 MR. SUNDBERG: Correct.

3 MR. SHERIDAN: That's what's (indiscernible).

4 MR. SUNDBERG: That's the -- I believe that
5 that's their plan.

6 MR. SANDOR: Which conceivably might be as much
7 as 50% of the yellow area or more?

8 MR. SHERIDAN: Yes.

9 MR. SUNDBERG: I've heard figures of something
10 around 12,000 acres out there of timberland, in that
11 neighborhood.

12 Okay. This -- moving on down the coast, this map depicts
13 the southern Kenai Peninsula and Katchemak Bay. And within this
14 area approximately 10,000 acres have already been harvested, and
15 the projected harvest area is 7,900 acres. Most of that is up in
16 the Katchemak Bay area.

17 MR. PENNOYER: Again, the projected is what is
18 now known, not yellow, some part of the yellow would still be
19 available later for logging?

20 MR. SUNDBERG: Correct.

21 MR. McVEE: Mr. Chairman?

22 MR. PENNOYER: Mr. McVee?

23 MR. McVEE: In looking at these maps, we've got
24 it seemed like some opportunity, and I'd really like Walt or Kim
25 to address it, but that we have previously harvested areas. Is

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there any way of establishing the impacts that that harvest has had upon Oil Spill-damaged resources, or maybe another way is the effectiveness of the various permits and the Forest Practices Act to say protect the anadromous streams? It seems like that might be useful, too, since that's a factor or an element of the total formula that we have to work with.

MR. SUNDBERG: There is a low-level of agency monitoring that occurs after timber cutting on these areas. There's fairly active monitoring that goes on while the timber harvests are in operation to enforce the buffer provisions. There are no targeted studies at this point that I know of to, you know, specifically go into some of these cutting units and evaluate what the impacts have been on wildlife habitat.

The Forest Practices Act doesn't really do anything specifically for wildlife. It does provide some level of protection for fish and the buffer areas that are left along the streams provide some benefit to wildlife afterwards, but there really are no targeted studies at this point to evaluate that.

Okay. Last, this is a map of Afognak Island, which is once you get much past this going down the coast there really aren't any more trees, except for the northern part of Kodiak. And this is an area where the most timber harvest activity has taken place. There's approximately 20,800 acres that have been harvested up until and including 1992, and there's a projected harvest area of 15,500 acres.

MR. COLE: Do we know the price of the -- that

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that timber was sold for? That should give us a pretty good
1 number.

2 MR. SUNDBERG: I think we could probably get a
3 pretty good idea. I don't have those figures in front of me, but
4 we do have some data on what the volume classes are on Afognak
5 Island, and there is some access through economic data on what
6 timber prices go for on the West Coast and out of Alaska that
7 John Harmony's pulled together, so I think we could probably come
8 up with, you know, some fairly good estimates as to what it's
9 worth.

10 I put this slide in here to show sort of some of the gee-
11 whiz stuff that's possible. And what I think we would be
12 proposing to do would be to use the geographic information system
13 to model watersheds, using elevation data, anadromous stream
14 data, models on where say murrelets are nesting, harlequin's are
15 nesting, the various different injured species, and come up with
16 some, you know, configurations of habitat and how it relates to
17 the watershed as a whole in terms of identifying where these key
18 areas are.

19 And concurrently, although we'll be focusing on these
20 imminent threat lands, we would also intend to begin evaluating
21 other lands in the Spill-affected area to determine their
22 respective roles in facilitating recovery of injured resources
23 and services. This example here of Chenega Island, which isn't
24 -- there aren't any plans for a timber harvest or other
25 activities on here at this point, but I think we'd want to be

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looking at sort of the whole spectrum of available habitat out in
1 the Spill area in terms of the big picture and grand strategy
2 that we've been talking about.

3 This basically concludes the first part of this
4 presentation, and if there is any questions, Walt and I would be
5 happy to try to answer them.

6 MR. SHERIDAN: I guess I'd like to make just one
7 comment before we open it up for questions, and that is that one
8 point that I'd like to make sure that everyone understands in
9 this thing is that there's an awful lot of private lands out
10 there. There's a lot of activities that are going to be taking
11 place out there, and the point that I think that we would like to
12 make sure that you get is that what we're looking for and
13 proposing is a way to narrow that down, a way to focus in on
14 those areas that truly provide some critical habitats and truly
15 will make a difference in restoring the resources that were
16 damaged by the Spill. And what this serves, as much as anything
17 else is to show you the scope of the problem that we're dealing
18 with in trying to make that kind of cut and those kinds of
19 recommendations.

20 MR. PENNOYER: Thank you. Any -- what is you
21 second part of your presentation, before we ask questions on the
22 first?

23 MR. SHERIDAN: Okay. The second part of the
24 presentation is to go through the projects that consti- -- that
25 we need to get you approval on in order to move forward with

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implementing the strategy. And there are five projects that
1 constitute that. And in fact it might be that they -- presenting
2 some overview of those specific projects might provide an
3 appropriate vehicle to generate the kind of questions that you
4 might have.

5 MR. PENNOYER: Let me ask you one question then.
6 From the context of the questions you've been getting here from
7 everybody, it's obvious we're concerned about the total land out
8 there, proceeding onto the area in yellow on those charts.

9 MR. SHERIDAN: Yeah.

10 MR. PENNOYER: And you imminent threat analysis
11 includes an evaluation of if you do this, what's still left that
12 you'd have to do? I mean, you're going to put it -- the imminent
13 threat has to be put in some specific. There's just a lot out
14 there that could still be impacted, and as Attorney General
15 Cole's pointing out, you spend all your marbles on something that
16 looks like imminent threats and you've got ten times as much
17 threat out there potentially, you have to know that. So you're
18 -- the process will lead us not just an assessment of these
19 short-term projects, but that in context of what may come on
20 later?

21 MR. SHERIDAN: Okay. The imminent threat process
22 right now is designed to respond to the direction of you folks to
23 get on with it. And what we're trying to do is to have something
24 that will get us to the point where you complete your restoration
25 planning, and in that restoration planning process set the over-

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all goals and objectives for the longer term kind of process.

1 I think another point that might be useful is that we're
2 not here talking about acquisition per se. We're looking at a
3 whole toolbox of possible measures that could be applied to
4 protect these areas in the short term pending completion of that
5 restoration plan. That can include different kinds of easements,
6 it can include -- even include some no-cost kind of cooperative
7 agreements, and in some cases it might include the recommendation
8 for acquisition, but I don't think particularly in the imminent
9 threat process, in the short term prior to the completion of the
10 plan that we're looking at wholesale kinds of acquisition
11 proposal in any sense.

12 MR. PENNOYER: Mr. Sandor?

13 MR. SANDOR: Mr. Chairman, isn't it also true
14 that the process by which you evaluate these imminently
15 threatened lands really will be applicable to the long-term plans
16 as well, so that is the criteria and the process that you're --
17 while it seems like part of our concern is about the other lands,
18 we can also make some projections, but I'm jumping ahead to the
19 specific projects, so I will wait.

20 MR. PENNOYER: Any more questions on the first
21 part of the presentation before they go on with their specific
22 project proposals? Mr. Cole?

23 MR. COLE: What -- now that you've completed you
24 first presentation, could you go back and help me again with the
25 dates by which you could have some of this information available?

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I think I would understand it a little more now if you could
1 tell us?

2 MR. SHERIDAN: If we receive approval for the
3 suite of projects that we're suggesting to you today, we can have
4 to you a set of recommendations by December 1st as to some
5 specific parcels and some specific protection measures that
6 should be applied to that. That would be clearly linked to
7 restoration objectives and we could lay that out for you by
8 December 1st.

9 MR. PENNOYER: And that would also put in
10 perspective those versus others that might still be coming down
11 the road?

12 MR. SHERIDAN: I would hope so, yes.

13 MR. PENNOYER: Thank you.

14 MR. SUNDBERG: And then in terms of having this
15 sort of system up to look at all the different lands out there, I
16 think we're talking about next April to have that, all the
17 elements together and have that functioning as an analytical
18 tool, although parts of that as you can see we already -- we have
19 -- we're networking with other systems out there, and I think
20 that we can be providing analytical tools along the line, but the
21 timeline shows about next April to have, you know, the habitat
22 protection system up and running. And then we envision, you
23 know, batching these through on say an annual basis of coming up
24 with recommendations and bringing them before the Trustee
25 Council.

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MR. PENNOYER: Thank you. Further questions at
1 this point? Would you proceed then with part two?

2 MR. COLE: Should we take a recess and

3 MR. PENNOYER: Do you want to take a recess?

4 MR. COLE: Would there be any sentiment to taking
5 a recess and winding the public at large selection?

6 MR. PENNOYER: We could do that, if you wish.

7 MR. COLE: (Indiscernible) had that in mind.

8 MR. PENNOYER: We had it in mind, but we didn't
9 have it scheduled for a particular time. What's the pleasure of
10 the group? Five, ten minute recess? Okay.

11 (Off record)

12 (On record)

13 MR. PENNOYER: Could we start up again, please?
14 It's been suggested that we -- that we take a break from the land
15 acquisition discussion and go back to the Public Advisory Group
16 and discuss the public at large category. And

17 MS. RUTHERFORD: Mr. Chair?

18 MR. PENNOYER: Yes?

19 MS. RUTHERFORD: Dave's not back yet, but we just
20 were handed some additional information from Tom Gallagher. Do
21 you want me to hand to hand it out?

22 MR. PENNOYER: Certainly I guess.

23 MR. BARTON: Sure.

24 MR. PENNOYER: I'm not

25 MR. SANDOR: Yeah, we can see if that changes our

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votes.

1 MR. PENNOYER: We'll take half a second to look
2 at this before we proceed just with the discussion, so that we've
3 had all of these items in front of us.

4 (Pause, looking at document)

5 MR. PENNOYER: Okay. Do we -- are we ready to
6 consider the public at large category and does anybody want to
7 make any nominations? Staff has prepared some work and have --
8 we've been presented a summary of the process that we undertook
9 after lunch, and each Trustee Council member nominating seven
10 people to this group. Staff has compiled those and clearly as
11 you can see they're -- the nominations are -- are ranked by
12 number, and does anybody want to make any nominations? Or
13 comments based on this?

14 MR. ROSIER: Mr. Chairman?

15 MR. PENNOYER: Mr. Rosier?

16 MR. ROSIER: Are you looking to -- for a motion
17 for all five at one fell swoop, or individuals?

18 MR. PENNOYER: Well, we might do that. We could
19 accept amendments to it.

20 MR. ROSIER: Mr. Chairman, I would move then that
21 the five top individuals in the list provided by the staff be
22 appointed to the public at large seats.

23 MR. PENNOYER: Would you read their names,
24 please?

25 MR. ROSIER: James McCloud -- or James Cloud,

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Richard Eliason, Llewellyn Williams, Paul Gavora, and Vern
1 McCorkle.

2 MR. PENNOYER: Do I hear a second?

3 MR. BARTON: Second.

4 MR. PENNOYER: It's been moved and seconded the
5 five names read by Mr. Rosier be appointed to the Public Advisory
6 Group, public at large category. Are there any amendments or
7 discussion? Any objection to those five? Hearing none, the five
8 final names for the Public Advisory Group have been selected and
9 we have a Public Advisory Group.

10 Staff, you can -- you have some work to do in
11 modification of the charter I understand, and you've got a group
12 to work with now, and I presume you'll quickly move to start the
13 public advisory process, Public Advisory Group process. Can you
14 give us any idea generally of how soon a meeting would be
15 convened or when it might happen, Mr. Gibbons?

16 DR. GIBBONS: No idea right now, Mr. Chairman,
17 but we'll move as quickly as we can on it.

18 MR. PENNOYER: Thank you. Further comment by the
19 Trustee Council on the Public Advisory Group? Okay. Thank you
20 very much. I'm glad we completed that and I think it's one of
21 the main items with a couple left to go back to the Court for the
22 substantive part of the '92 budget.

23 We were dealing with the public -- with the land
24 acquisition question, and I believe we were ready for part two of
25 the presentation, and I think Kim probably went to get a cup of

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coffee, because I think he thinks it was going to take us longer.

1 Walt, do you -- are you guys ready to go or do you

2 MR. SHERIDAN: Yes, sir.

3 MR. PENNOYER: need a minute? Oh, there he
4 is, yeah.

5 MR. SHERIDAN: Mr. Chairman, I think what we have
6 left for the second part of this is to give you a brief rundown
7 on the projects that we're proposing and asking for your approval
8 so that we can move forward with the recommended strategy.

9 The first project is numbered 92059 and it's titled
10 imminent threat habitat identification. And what this would do
11 would be to as quickly as possible convene some workshops the
12 purpose of which would be to identify and refine what we know
13 about the critical habitat for the injured resources and
14 services. That would include the peer reviewers, the principal
15 investigators and others who would have some knowledge that they
16 could bring to bear on this.

17 The idea here is to get as good of information as we
18 possibly can on what these critical habitats are as quickly as
19 possible so that we could use that as primary screening for
20 looking at these areas that we've identified as having some
21 activity that might be taking place on them in the near future.

22 We propose to do that through a cost share agreement with
23 the Nature Conservancy. What the Nature Conservancy would bring
24 to this process is they have a tremendous amount of expertise
25 across the country in doing just exactly this kind of thing,

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identifying critical habitats on lands and carrying out these
1 kinds of workshops.

2 The question was raised earlier by Mr. Pennoyer about
3 exactly what a cost-share agreement is. Well, a cost-share
4 agreement is a situation where you have a cooperator, in this
5 case the Nature Conservancy, who has some mutual interests with
6 the agency who is signing the cost-share agreement, in this case
7 the Trustee Council. And so what they bring -- they bring to the
8 table more than what we're paying for is what it amounts to. In
9 this case the cost for this particular item is \$42,300.00 that
10 the Council will be putting into the process. In addition to
11 that, the Nature Conservancy would be contributing about 13 to
12 15% over and above what that cost would be. And the objective
13 here would be to have these completed by November 1st so that we
14 could then utilize that information in screening these area where
15 some activities are going to take place.

16 The next project, which also involves the use of this
17 cost-share agreement with the Nature Conservancy, Kim will give
18 us a briefing on.

19 MR. SUNDBERG: Okay. This is project number
20 93060. It's called accelerated data acquisition. And this
21 project would involve the Nature Conservancy to help the Habitat
22 Protection Working Group assemble all this information that's out
23 there that needs to go into our geographic information system. I
24 think the comments have been made previously that, well, there's
25 a lot of information, this stuff is all -- it's all been done, or

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it's all available. It's true that there is a lot of information
1 available and we're not going to be recreating any information
2 that's already out there, but what we found is that a lot of this
3 information is in various forms, formats. When you're getting
4 into the computer world, you have to deal with whether it's in a
5 compatible format for the hardware that you're using.

6 What we would like Nature Conservancy to do in this
7 project is to assemble a catalog of this information, and we have
8 defined in this project description the kind of data layers that
9 we think we're going to need in this GIS, geographic information
10 system to analyze these lands. The Nature Conservancy is also
11 offering to give us some suggestions on other information that
12 they think is pertinent, because they have previous experience
13 with acquiring lands and analyzing lands for habitat protection
14 and other forms of acquisition.

15 So I think the total cost on this is \$43,900.00. The
16 idea is that this project would spin up very soon. They would be
17 going right to work on this and starting to bring this
18 information back to us and to bear on this project.

19 The other reason for doing this this way is that we
20 didn't want to have to hire on staff within the agencies in order
21 to do this, and any time that you're going out and gathering
22 information, you really have to have somebody that's dedicated to
23 doing that and that can sort of go around to different agencies
24 and know what kind of information to get and get it in a form,
25 and we thought that the most efficient way of doing that would be

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to contract with an organization who has experience doing that
1 kind of thing and also that would provide the best product in the
2 shortest amount of time, and probably for the best price, too.

3 MR. SHERIDAN: The next element of the strategy
4 is called -- is project 93064, which is the imminent threat
5 habitat protection. And what this project does is set aside five
6 -- up to \$5 million for short-term protection measures which will
7 be allocated by the Trustee Council for specific parcels.

8 And the way this would work is that on December 1st after
9 we have provided you with recommended protection measures for
10 specific parcels, then you would be able then to make a decision
11 on whether to utilize this money. Each one of those decisions
12 would then be looked upon as an amendment to this project. It
13 would modify the project and make it more specific, but would
14 provide the funds in a timely fashion for the agency which
15 assigned the responsibility for implementing the specific
16 protection measure to go forward and actually obtain the easement
17 or obtain the fee title if that happened to be what you decision
18 was on that particular parcel.

19 MR. PENNOYER: Well, clearly though that's in the
20 '93 projects, that's what we're going to decide on later, not
21 something you're asking for now?

22 MR. SHERIDAN: No, that's correct on that one.
23 The ones that we need some action from you folks on now are the
24 ones involving the accelerated process. In other words, the two
25 cost-share agreements with the Nature Conservancy. These others

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are part of the over-all

1 MR. PENNOYER: Shall we stop at those two, or do
2 you want to put them in the context of what you're going to
3 present later on?

4 Mr. Sandor?

5 MR. SANDOR: Yeah, Mr. Chairman, I would argue
6 that for planning purposes that it -- and this is with the, I
7 guess, the qualification that it is up to \$5 million for short-
8 term protection measures to be allocated by the Trustee Council
9 for specific parcels of land. It seems to me it would be very
10 helpful to the group that's doing the planning that we are
11 willing in fact to commit up to \$5 million for this protection,
12 particularly since we're going to have the option of an
13 opportunity to pass on each parcel individually, you know, I
14 think this brings in fact each project before us, but I would be
15 very much in favor of committing the Trustee Council even at this
16 stage for planning purposes, that we are willing to commit up to
17 \$5 million for the protection of these imminently threatened
18 lands, and so I'd ask that those -- that the three items at least
19 be placed on the table.

20 MR. COLE: Mr. Chairman?

21 MR. PENNOYER: Mr. Cole?

22 MR. COLE: Mr. McVee had his hand up first.

23 MR. PENNOYER: You were talking. Okay.

24 Mr. McVee?

25 MR. McVEE: Thank you, Mr. Chairman. I guess the

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1 problem that I have with the five million, -- I think we should
 2 move ahead with the 059 and 060, and, you know, I realize the
 3 concept that Mr. Sandor has talked about here, but the problem I
 4 have with that is that I feel like it could go forward in the
 5 normal '93 budget process and we could get public review, you
 6 know, we could take action of that here in the next few days as
 7 part of the '93 budget proposal, and then it could go forward for
 8 public review and we could have that, you know, that number
 9 validated you might say before the general public. And we aren't
 10 -- we won't be delaying the process in any way if we do that, and
 11 fulfill a requirement also of the decree I believe that we have
 12 public input into these projects, particularly where they're a
 13 substantial amount of money.

13 MR. SANDOR: A question.

14 MR. PENNOYER: Mr. Sandor?

15 MR. SANDOR: When might that be if it's not done
 16 now? Is it going to be done this month, or when is it going to
 17 be done? I -- we've gotten a lot of public comments already that
 18 we ought to be getting on with it.

19 MR. PENNOYER: Mr. Sandor, I think we're -- the
 20 intent was provisionally to have been today or tomorrow to have
 21 dealt with the '93 process, including this particular number
 22 you're discussing. My assumption is before we get out of here,
 23 we've got to sit down and say when we're going to reconvene to do
 24 that

25 MR. SANDOR: I see.

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MR. PENNOYER: and we have to do it in the
1 very near future, because we need to get that into the public
2 process so we can get it into the system, and to the Court before
3 we run out of money next March. So we have to do that.

4 I guess my problem with deciding it today is I still
5 don't have any idea what's a reasonable number. I mean, when you
6 say "up to," you're limiting my options before either discuss it
7 or get public reviews, or if we put it into the court process now
8 for '92, I'm not sure what we really should be doing with it.

9 MR. SANDOR: So it's your understanding,
10 Mr. Chairman, that we will deal with this as part of the

11 MR. PENNOYER: It is in the

12 MR. SANDOR: as part of the '93?

13 MR. PENNOYER: '93 budget package now.

14 MR. SANDOR: Uh-huh.

15 MR. PENNOYER: The '93 budget package we didn't
16 act on today has that as a project

17 MR. SANDOR: Okay.

18 MR. PENNOYER: listed and it was certainly
19 one of the things we're going to discuss.

20 Mr. Cole?

21 MR. COLE: I have a problem dealing with it (a)
22 today and (b) as part of the '93 projects. Let me say why.
23 First I think we have no rational basis for arriving at the
24 \$5 million figure. I mean, it could be 10, it could be two, it
25 could be 20. If the information presented to us warrants

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arriving at any specific number. Now, as you said, I think we're
 1 limiting our judgement, and also I think that this information
 2 that we're going to get from 059 and 060 is the information that
 3 we need to figure out or determine whether the figure is five or
 4 two or 20, you see. I don't see how we can say later this week
 5 that, well, one of the projects is 5 million. I think we need
 6 the data from 059 and 060 to make this decision, so therefore I
 7 would not favor, you know, putting this on the project agenda
 8 until we have that information. Maybe I'm missing the point
 9 but

10 MR. PENNOYER: Wasn't there a need to have a
 11 place holder in terms of informing OMB about the general size of
 12 the budget and we couldn't wait until December to do that, so
 13 we're faced with a Catch 22. Either we have something in there
 14 that indicates we're intending to spend some money on this
 15 category, if we want the public to know that, and for OMB to have
 16 some general concept of magnitude, or -- without actually knowing
 17 ahead of time what the projects are going to look like.

18 Mr. Sheridan?

19 MR. SHERIDAN: Mr. Chairman, I'd like to speak to
 20 that for a second. There was some rationale to the development
 21 of that number, and that being that \$5 million is a substantial
 22 sum of money, and we were looking for having a substantial sum
 23 that could be used by the Council in a very timely manner to
 24 respond to the recommendations that will be coming forward on
 25 December 1st.

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The second thing was that it allows the Council to show
1 that it's very serious about the imminent threat process, the
2 protection of critical habitat.

3 Now, whether or not that's the right number or not, a lot
4 of people could argue with, but we also just approved, or you
5 just approved today the financial operating procedures which
6 include in that a mechanism where by if we run into changes where
7 we need to double, triple, quadruple that number, that's possible
8 to do through actually the Council, but that kind of action will
9 require public input again and will slow the process down. If we
10 need to take some action on a specific parcel in a very timely
11 manner, and don't have some funds set up for that, we may lose
12 that opportunity.

13 MR. COLE: Mr. Chairman?

14 MR. PENNOYER: Mr. Cole?

15 MR. COLE: You see, what I'm concerned about is,
16 and I think properly so, those who urge us to make habitat
17 acquisition, et cetera, et cetera, will say, "Well, goodness,
18 they only set aside 5 million for all this problem," and I
19 guarantee you we will be savagely attacked for such -- setting
20 aside such a small number. I just know that. And why not duck,
21 you know? And say positively, affirmatively we're prepared to
22 spend whatever money is necessary to fulfill our
23 responsibilities, you see, and really mean it, instead of just
24 having 5 million out there. Now that's the way I would do it.
25 So there you are, gentlemen.

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MR. PENNOYER: Well, I think there's a procedural
1 problem here, but I agree with Mr. Cole. I can't pick 5 million
2 as the -- first of all, I can't do it today. I'd rather see it
3 in the context of all the projects. Second of all, when we get
4 to it, I'm not going to know anyway to chose that number. You
5 say there was a basis for it, I yet still don't know what that
6 basis would be. So maybe when we discuss the project in more
7 detail I'll have a better idea, but right now I don't know why
8 five or ten or 15. It says up to. It doesn't say I'm going to
9 do it. But why I should limit myself to that particular level,
10 and I'd prefer to do what you're suggesting, but I don't know
11 procedurally exactly how we can accommodate that, and I need some
12 help from the R.T. when we get into it, but I would not be
13 prepared to do it today.

14 MR. SANDOR: Well, Mr. Chairman,

15 MR. PENNOYER: Mr. Sandor?

16 MR. SANDOR: it's clear I'm being
17 outnumbered, but this is partly a commitment of actually placing
18 money for planning purposes for the acquisition or other
19 mechanisms to protect this imminently threatened habitat. As I
20 understand the words "imminently threatened," this means that,
21 you know, that these lands are on the verge of in fact being
22 planned for, permitted for action, and we may want to use one of
23 a number of mechanisms to protect those.

24 I don't believe we need to act on this today, but it
25 would really disappointing for the '93 budget package we would

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send that out for comment with zero identified for acquisition or
1 other protection purposes.

2 So, Mr. Chairman, for the purpose of the actions here
3 today, I move adoption of 93059 and 93060, the agreements with
4 Nature Conservancy, and defer action on 93064.

5 MR. PENNOYER: Do I have a second?

6 MR. BARTON: Second.

7 MR. PENNOYER: It's moved and seconded. Any
8 discussion?

9 MR. COLE: Could I comment

10 MR. PENNOYER: Mr. Cole?

11 MR. COLE: just briefly on 064?

12 MR. PENNOYER: Certainly.

13 MR. COLE: Commissioner, it's not that you're
14 just outnumbered, but I don't think it's a matter of simply
15 putting a zero, in this proposed budget. I think we could put
16 what you might, the accounting CPAs could say contingent, you
17 know, obligations, and put something in there that, you know,
18 describes where we're going with this, and furthermore, maybe we
19 should give some thought to what imminently threatened means. I
20 mean, I'm not under the impression that that means in the next 30
21 days. It would be -- be my view that, you know, we -- but we do
22 have to have something before the next logging season and we
23 should have, no pun intended, our ducks pretty well in order by
24 then.

25 MR. PENNOYER: So if the Restoration Team could

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-- Dave, if you could think of how we might do something like that, I think when we get to that project, we're going to have a very difficult time in picking a number. And I don't know how to deal with that. I think there are folks who aren't going to want to limit our opportunities if those opportunities are presented to us, so I don't know how to do that.

At any rate, is there further discussion on the two projects that were -- it was moved and seconded that we approve as part of the '92 -- balance of the '92 year Court submission?

MR. COLE: Yes, I have a comment, Mr. Chairman. Are we going to have a written contract for that, or is it just sort of

DR. GIBBONS: They'll be written contract.

MR. COLE: Maybe we could appoint somebody to look at the contract in the interim here, Mr. Barton?

MR. BARTON: Be delighted.

MR. PENNOYER: Mr. Barton's going to take a look at the contract. Okay. Further discussion? Any objection to -- Mr. Barton?

MR. BARTON: No discussion on that.

MR. PENNOYER: Any objection to the motion? The motion's passed.

Mr. Barton?

MR. BARTON: I'm a little confused. I thought we attempted to do what Charlie wanted to do in -- with the up to \$5 million in terms of setting aside a number for including in

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the budget. Is there a way to meet the 30-day Congressional notification without doing this at the same time we do the normal program -- or the rest of the program of work?

MR. SHERIDAN: Yeah, I think if you include it in the rest of the program of work with a figure, I don't think that would cause a problem.

MR. BARTON: No, but as I understood it, it's not -- the proposal we were going to wait until we had some specific data before developing the number for 64 is it? Yeah, 64. How would we accomplish the required notification process, Congressional notification process if we took that approach?

MR. SHERIDAN: Well, it will put us out of synch with that process, and I don't know what the results of that will be, but it will certainly put us out of synch. We've been out of synch to date, so -- and we've been able to work through those problems though.

MR. PENNOYER: I think at the time we take up the '93 budget, whenever that's going to be, and before we get out of here, we're going to have to decide that, we'll need as good an answer to that question as we can get.

MR. COLE: Yeah. Well, Mr. Chairman?

MR. PENNOYER: Mr. Cole?

MR. COLE: You know, this is not an instance where the money's expended would go to a federal agency or a state agency directly, so the Office of -- Federal Office of Management and budget I should think should not be quite so

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concerned that some agency's getting money, although we do have
1 to give some thought to who's going to own title to these lands
2 and how they're going to be managed

3 MR. PENNOYER: Uh-huh.

4 MR. COLE: in the future. Would this
5 study, 059 and 060, address that issue?

6 MR. SHERIDAN: The recommendations that we will
7 bring to you on December 1st would include a recommendation of
8 what agency would be managing it, what agency would be
9 responsible for securing whatever short-term rights that we would
10 be asking for. It would include that.

11 MR. COLE: Or long term?

12 MR. SHERIDAN: Or long term.

13 MR. SUNDBERG: Yeah, I was just going to add that
14 this doesn't necessarily mean that this is going to be fee title.
15 This could be a moratoria or, you know, just a

16 MR. PENNOYER: Uh-huh.

17 MR. SUNDBERG: short-term protection action
18 to buy some time.

19 MR. PENNOYER: Mr. Cole, further?

20 MR. COLE: No. No.

21 MR. PENNOYER: Further comment? Do you want to
22 continue your presentation?

23 MR. SHERIDAN: Well, we would like to just
24 briefly have -- yes, there's two more projects that make

25 MR. PENNOYER: Fine.

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MR. SHERIDAN: up this suite -- package
1 suite of projects, and Kim would like to go through those just
2 briefly for you and then you would probably want to consider
3 those as part of you regular work planning process.

4 MR. PENNOYER: Okay. Go ahead.

5 MR. SUNDBERG: Yeah. Project number 93051, and
6 that's a -- that's basically the field side of this project, the
7 habitat protection strategy, and we have a need to continue to
8 acquire some targeted field data on some of these parcels, and
9 the two types of information that we anticipate that we're going
10 to need for next year will be a continuation of locating and
11 documenting and mapping anadromous fish streams.

12 And sort of a corollary to that or in conjunction with
13 that would be stream channel typing. That's a methodology for
14 describing the kinds of stream channels, and it's a method of
15 evaluating sort of its relative value for fish production. Those
16 two projects work together.

17 And the third project would be looking more outside of
18 the Naked Island study area as to where marbled murrelet nesting
19 habitat exists. The PIs have done a pretty good job on Naked
20 Island of defining where marbled murrelets nest on that island,
21 but there's some lack of confidence as to whether we can
22 extrapolate that information to other areas, and Naked Island is
23 not an island -- it's all in public ownership, so it's not -- it
24 would not be acquired or be part of this -- necessarily part of
25 any habitat acquisition process. So the marbled murrelet

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component of this would be to gather some additional information
1 on outside of Prince William Sound on where marbled murrelets are
2 nesting, and develop some additional information that we can use
3 to target on where these key nesting areas are. Total cost

4 MR. PENNOYER: Mr. Sandor?

5 MR. SUNDBERG: Go ahead.

6 MR. PENNOYER: Comment?

7 MR. SANDOR: Yeah, a question. Can you, not
8 here, but as this is sort of fleshed out, illustrate or show
9 under 93051 the cost for component A and component B? That is
10 the

11 MR. SUNDBERG: Yeah, it should be in there, and I
12 believe that the stream habitat assessment part of that which is
13 the anadromous stream surveys is 124.

14 MR. SANDOR: Oh, I see.

15 MR. SUNDBERG: And the channel typing I believe
16 is 234.

17 MR. SHERIDAN: There are subprojects for each of
18 those and we give you the specific numbers.

19 MR. COLE: When will the -- Mr. Chairman?

20 MR. PENNOYER: Go ahead, Mr. Cole?

21 MR. COLE: When will this be -- the study be
22 completed?

23 MR. SUNDBERG: The project would be completed a
24 year from December I believe. The information wouldn't be
25 available until essentially the end of the next field season.

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I would like to point out that we are doing anadromous
1 fish surveys during this current fiscal year and we are getting
2 information in from that this fall, and so the stream, the
3 anadromous fish component of this is essentially a continuation
4 of that same effort that was begun last year.

5 MR. COLE: Mr. Chairman?

6 MR. PENNOYER: Mr. Cole?

7 MR. COLE: I'm a little concerned about this
8 study being completed not until a year from now. I mean, if
9 we're looking forward to the acquisition of pink salmon and
10 sockeye salmon habitat, then we're going to be long delayed, you
11 see. That will not take us up until maybe the year from spring.
12 Is there not some way -- I mean, -- and furthermore, why is it
13 that we so -- why are we so -- don't have this information by
14 now? It's just troubling.

15 MR. SUNDBERG: Because essentially it involves
16 having to go out there and walk every bloody stream on the land
17 and sample it, and this -- what we've found is that we can't get
18 a lot of this information from aerial photos or remote sensing or
19 aerial overflights.

20 But to put the whole thing into context, we do have an
21 anadromous stream catalog that does show where a lot of streams
22 are, but what it doesn't show in areas that haven't been
23 intensively surveyed is where all these little feeder streams and
24 critical rearing areas, and in some cases some major spawning
25 areas have been found within forests that weren't previously

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documented in this catalog that we have, so there's a need to
1 continue to get that kind of information and we have good
2 information now that's coming from Afognak Island on a lot of the
3 properties out there this past summer, so we can start making use
4 of that. But we'll need some more information, you know, coming
5 in next year on some of these other lands that we don't have
6 detailed surveys.

7 We have good information on the Tatitlek Corporation
8 lands. We have fairly good information on Eyak, but there's
9 still some gaps and we have pretty good information on Afognak
10 and the Lower Kenai Peninsula, so where this project would
11 probably be targeted for next year would be on Eyak lands.

12 And to speak to you first point, you have to do these
13 surveys essentially during the summer field season when the fish
14 are there and you can sample them. So we're pretty much locked
15 into the seasonal cycle in terms of getting that information.

16 MR. COLE: Mr. Chairman? Well, one of my
17 concerns is whether we're being too fine, you know, in looking at
18 even the small streams. I'd like to have Commissioner Rosier's
19 thoughts on that. He's the expert.

20 MR. PENNOYER: Mr. Rosier?

21 MR. ROSIER: Well, I think that from the
22 standpoint of selecting critical habitat associated with salmon,
23 that I think that the project as it's being put forth here is in
24 fact probably a necessary project.

25 And I think in respect to your question, Charlie, it's

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one of those situations in which we're continually identifying
1 probably critical habitat. It's not something that you can begin
2 and end. I think that that's the important thing here, that it's
3 going to be a long-term -- probably a longer-term project, that
4 we'll be continuing to do this over time, so we're not going to
5 do all of the project simultaneously here, but I think that the
6 type of detail that they're talking about here, that we can in
7 fact justify what we're in fact doing I think is important.

8 MR. SUNDBERG: One other point I guess I would
9 make is that if we're talking of land acquisition prices in the
10 range of as low as \$1,000.00 an acre, 124,000 buys 124 acres, and
11 I guess I'd want to know whether there was any fish in there
12 before I bought it. And what we find out when we do these
13 surveys is that some areas that we think there were fish, there
14 aren't any fish, and in areas that we didn't think there were
15 fish, we find a lot of fish. So I guess the analogy is if you
16 bought a -- if you buy a house and you can buy it sight unseen on
17 the outside because it looks nice, but most people want to know
18 how many bedrooms it might have within the house, and sometimes
19 you've got to go inside and find them.

20 MR. COLE: Well, let me just respond to that.

21 MR. PENNOYER: Mr. Cole?

22 MR. COLE: You know, it seems to me if you've got
23 some stream going up there, it's not a big jump to say that the
24 fish are going to go just a little farther upstream, you know. I
25 mean, that's my sense, to where they can't go much farther, but I

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1 don't study these things, so I don't know, but I think that's a
2 pretty rightful assumption. But maybe it isn't. Maybe you need
3 to go to the end of the stream to find out if the salmon really
4 go to the end of the stream. I don't know.

5 MR. SUNDBERG: Well, I've done quite a few of
6 these surveys, and (indiscernible) each, you've got to the end of
7 the stream.

8 MR. COLE: You've got to go to the end of the
9 stream?

10 MR. SUNDBERG: Yeah.

11 MR. COLE: Fine. Got to go to the end of the
12 stream.

13 MR. BRODERSON: Mr. Chairman? One other point to
14 make is that 93051 is not gather specifically information for the
15 imminent threat process but for the long-term purchases so the
16 fact that it wouldn't be ready for two years, I don't see quite
17 as much of a problem since it's not really addressing the
18 imminent threat.

19 MR. PENNOYER: Further questions? We're not
20 going to pass on this today, and it's difficult, looking at it,
21 to decide whether the amount of money and the current information
22 base is sufficient relative to what you're going to go out and
23 do. I can't -- we can't decide that looking at it anyway, so
24 hopefully when we get into that project, you'll be prepared to
25 tell us a little bit more about it.

26 There was quite an extensive stream catalog in Prince

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William Sound, of course, and a lot of us walk an awful lot of streams in Prince William Sound from very far down to very far up, but we didn't as you say push on usually beyond the heaviest spawning areas of pink and chums, so -- but there is a lot of data there.

And unfortunately the salmon runs change, too, so sometimes you find fish in a stream in a certain area and five years later you don't. And whether that's a change in the stream or a change in the run patterns is

Anyway, without getting off into a lot of detail, obviously there will be interest in your background on that, so you might be prepared to discuss it.

MR. SUNDBERG: Certainly.

MR. PENNOYER: Further

MR. SHERIDAN: One other.

MR. SUNDBERG: One other project I was going to speak to is this 93061. This project is called new data acquisition. Thank you.

MR. PENNOYER: He didn't like you presentation.

MR. SUNDBERG: Yeah.

MR. PENNOYER: Go ahead.

MR. SUNDBERG: We know that we're going to through these workshops you're going to hold this fall and this data catalog that's going to be put together and assembling this information base, we know that there's going to be some data gaps that are going to crop up, and they may actually be fairly

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critical data gaps. We can't until we go through those processes
 1 identify where all those are, but 93061 allocates \$500,000.00 to
 2 allow for new data acquisition between October of this year and
 3 the following fiscal year where those are identified. And the
 4 proposal would be to bring these back before the Trustee Council
 5 as individual projects for approval when these data gaps are
 6 identified. And so if we have to launch a project this winter to
 7 get some critical piece of information, we would propose to come
 8 back before the T.C. and ask to approve a certain amount of money
 9 below the \$500,000.00 cap to get that critical piece of
 10 information.

11 Also, if there's some field projects that need to be
 12 started next spring or next summer or possibly even in the
 13 wintertime, this would allow some monies to be available there to
 14 do these projects with the Trustee Council approval.

15 So I can't elaborate at this point any more about what
 16 these particular projects are going to be, although I think some
 17 of them will relate to -- to say refining some of this computer
 18 information, maybe doing some digitizing of maps, and some of it
 19 may have to do with some very specific targeted field studies
 20 that would have to get launched into the field before the end of
 21 this fiscal year.

22 MR. PENNOYER: Questions on the project? Further
 23 comments? Further presentation?

24 MR. SHERIDAN: That's it.

25 MR. SUNDBERG: Yeah.

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MR. PENNOYER: Okay. You certainly put together
1 a lot of information in a short period of time. We're looking
2 forward to your (indiscernible).

3 MR. SHERIDAN: Thank you.

4 MR. PENNOYER: Phase two. Thank you.

5 Trustee Council, we've got a public hearing advertised
6 from 5:00 o'clock tonight. We have a couple of things left on
7 the agenda. We need to decide what to do with 1993 draft work
8 plan in terms of any discussion here and where we're going to go
9 with that. When we're going to meet on it and when we're going
10 to be ready to discuss it.

11 We have one other item I think that we hadn't made a
12 decision on whether to complete or not in this agenda, and that's
13 the review of the Draft Restoration Plan and request for Trustee
14 Council guidance, and I don't know what the guidance is, but that
15 may be something that we could do here.

16 Mr. Gibbons, is that something we complete here?

17 DR. GIBBONS: Yes, Mr. Chairman, there's about a
18 five to ten-minute presentation just on the status of where we
19 are in the development of a draft restoration plan. It

20 MR. PENNOYER: Could it

21 DR. GIBBONS: lays out the issues and also
22 an annotated outline.

23 MR. PENNOYER: Would the Trustee Council be
24 interested in moving to that item as something we might complete
25 today and getting the presentation and then deciding what to do

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with it? Any problems with that? Mr. Gibbons, do you want to go ahead and start that then?

DR. GIBBONS: Yes. I'm going to request that Bob Loeffler come up and -- who is a member of the Restoration Planning Work Group and give a status of where they are with it.

MR. PENNOYER: Good afternoon.

MR. LOEFFLER: Thank you, Mr. Chairman. I'm Bob Loeffler, I'm a restoration specialist and regional planner with DEC. I'm standing in for John Strand who is the chairman of the restoration working group, planning working group, and on vacation at the moment.

What I would like to do is spend four to five minutes and just present to you some information which I believe is in you packet and just tell you where we are with respect to the Draft Restoration Plan. And I'd like to do three things: Present to you the issues, which I believe are in you packet; an annotated outline so to give you sort of a vision of what the draft plan will look like when you see a working copy later this fall; and third, just tell you where we are in developing that outline.

So first off, I believe in your packet you'll find 11 issues. Those 11 issues were first presented in slightly different form in the Restoration Framework. They were modified by the working group in response to public comments on the Restoration Framework, and on comments from the Restoration Team.

Now, I wasn't going to go through those issues individually today. I think they're there for your information,

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to tell you where we're going, and they're here presented as a
1 guide to the Restoration Plan.

2 I would make one note, that there will also be issues
3 developed for the Environmental Impact Statement. Those issues
4 will certainly be similar, but may not be identical to those
5 here, and I believe they'll forwarded separately.

6 That's the limit of what I have to say on -- on the
7 issues. I think you can read it at your leisure. I will be
8 willing to answer questions now or at your leisure.

9 The second piece of information that's in your packet is
10 the annotated outline. This, too, was developed by the
11 Restoration Planning Working Group with comments from the
12 Restoration Team. If you read it, again at your leisure, it
13 should give you a sort of a vision of what the draft plan would
14 look like.

15 But I -- one thing that you may not get from it, which
16 I'd like to emphasize is that what we're trying to develop is a
17 stand-alone document that is quite easily accessible to the
18 public that the curious, interested observer without dramatic
19 scientific training or a desire to read through reams of
20 bureaucratic information, can pick out what we're -- what we're
21 trying to do and let us know whether we're on the right track, or
22 whether following an alternative would be good.

23 We're also assuming that this stand-alone, easily
24 accessible document will be accompanied by the Environmental
25 Impact Statement when it's circulated for public review.

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I believe the outline itself is relatively straight
1 forward and while reading it, you can sort of see how the process
2 will be packaged. You'll, of course, get many chances to review
3 it before it becomes a final package.

4 Sort of one note to the long, long term is that I think
5 we expect that the final restoration plan, which is where we're
6 thinking, will be similar, only the draft presents a variety of
7 alternatives for public review and the final is, of course, only
8 one.

9 Again, we're available for questions now or at your
10leisure.

11 The

12 MR. PENNOYER: Mr. Sandor?

13 MR. SANDOR: With respect to the outline on
14spending guidelines, the civil settlement and the criminal
15settlement, -- well, I guess two questions. When will this --
16when would we expect this to be completed, this total planning
17group (ph)?

18 MR. LOEFFLER: We were hoping that we would have
19a working draft of the important parts of this outline to you by
20the 15th of November. That's our target date.

21 The guidelines for civil settlement and criminal
22settlement, it will be very similar to what's in the Restoration
23Framework.

24 MR. SANDOR: Uh-huh. Well, this ought to be very
25helpful.

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MR. COLE: Yes.

1 MR. LOEFFLER: Well, my only other point was that
2 I gave to Mr. Sandor, and that we're hoping for a working draft
3 of the important parts to you by November 15th, and you will
4 probably be seeing as we come to sort of critical points in the
5 process, seeing some further status report and request for
6 guidance.

7 MR. McVEE: Mr. Chairman?

8 MR. PENNOYER: Mr. McVee?

9 MR. McVEE: Yes. I guess I'm interested in the
10 detail that will be in the plan and, of course, for an outline
11 it's difficult to see that, but maybe you could address that a
12 little bit in terms of particularly the preferred alternative.
13 Do you -- and a specific question I guess or focus a little bit
14 better is will that address injuries and proposed action by -- by
15 damaged resources or services? Will it get that specific?

16 MR. LOEFFLER: We'd certainly go by resource and
17 service. The -- we probably won't get down to the project level,
18 so that we probably can't say we'll do a fish pass on this stream
19 here, but we'd certainly say the kinds of things that we would do
20 for pink salmon or for sockeye salmon. So the level of
21 specificity also probably varies by resource. So, for example,
22 some -- some options that we have are quite specific. They're
23 really a project. Some options encompass a couple of projects,
24 and we would -- we would push it probably as far as we can, and
25 hopefully with the help of your employees who are on the

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Restoration Working Group, we would help determine where that is,
1 but in advance of sort of doing it, I can't -- I can't say
2 exactly how far we'd go. But we'd go as far as we can.

3 MR. McVEE: It seems like -- Mr. Chairman, it
4 seems like when we need to take it as far as we can, and if we
5 can get to the point, or it's important to try to get to the
6 point where it's clear what is planned to be done, you know, to
7 restore or enhance and so on each of these resources and
8 services, but it seems like to get that information to the public
9 as part of the draft plan will help focus, certainly focus
10 comments on restoration and provide, you know, better guidance to
11 the restoration program as it proceeds in the future.

12 MR. LOEFFLER: I think that one thing it's
13 probably important that we take as a guiding sort of principle is
14 that there needs to be a certain amount of detail or it -- for
15 the public to understand it and comment. That is, while the
16 public may not necessarily need to know where, on what stream or
17 exactly what we're going to do in what murre colony, if it's too
18 general, the public is ill-informed and can't really give us
19 comments, so we're trying to make it specific enough so that
20 people can see kind of -- can visualize quite easily what we're
21 going to do, and that's our objective, where we're going.

22 MR. McVEE: Maybe just one other

23 MR. PENNOYER: Mr. McVee?

24 MR. McVEE: question. There's been a lot
25 of discussion I guess on endowments. Will that be -- and that

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whole aspect, will that be addressed as part of an alternative or
1 in the alternatives?

2 MR. LOEFFLER: Yes, but let me back up a second.
3 We were imagining say three to five alternatives, enough to give
4 a clear choice to the public, but not so many as to confuse
5 everybody. However, it's useful to know that separable decisions
6 that could easily be applied to any alternative, like an
7 endowment, might be a separate category, so that we could
8 certainly ask questions on an endowment without having to
9 shoehorn it into an alternative if it could apply to either. So
10 the answer is, yes, we would ask questions on the endowment, but
11 it wouldn't necessarily be you have to choose an endowment
12 alternative or a protection alternative. You could -- those
13 questions could be answered separately.

14 MR. PENNOYER: Further questions? What -- the
15 agenda item says "Trustee Council guidance," that was -- that's
16 phase two of this presentation, later on,

17 MR. LOEFFLER: No, no, I think that

18 MR. PENNOYER: farther down in?

19 MR. LOEFFLER: is -- this is really a
20 status report. If there is something in here

21 MR. PENNOYER: Okay.

22 MR. LOEFFLER: that you think requires your
23 guidance, we'd be happy to know it however.

24 MR. PENNOYER: Okay. You didn't have a specific
25 item then on this. Okay.

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Mr. Cole?

1 MR. COLE: Well, Mr. Chairman, I, you know, have
2 had brought to mind when we talk about Trustee guidance, my
3 thought that maybe the Trustee Council has been too isolated from
4 the Restoration Team, that we meet here only once a month or so
5 and we give some, I might say, just scattered advices, thoughts
6 to the Restoration Team, but we've never really sat down with
7 them around the table for a couple hours or half a day and said,
8 "Look, this is what we really want to see or what we have in
9 mind. This is what we would like you to do." I think we've
10 fallen a little short in giving that type of advice to the
11 Restoration Team, and I would like to see that Council give some
12 thought to that thought.

13 MR. PENNOYER: Mr. Cole, I certainly thought that
14 when we discussed the '93 work plan we were going to sit around a
15 table with the Restoration Team and ask considerable questions
16 and maybe give considerable on that aspect, but that's

17 MR. COLE: Well, we sit

18 MR. PENNOYER: just one item.

19 MR. COLE: We sit here in this environment, which
20 is a little

21 MR. PENNOYER: (Indiscernible, simultaneous
22 speech)

23 MR. COLE: bit formal from my standpoint.
24 And I'd just like to see us get in a little closer contact with
25 them and have some interaction between the Restoration Team and

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the Trustee Council and in fact tell them -- have them tell us
1 where they think we're off base so to speak. I mean, I just
2 don't think we're getting the interaction with the Restoration
3 Team that it might be well to have.

4 MR. PENNOYER: Mr. Gibbons' eyes lit up at the
5 last suggestion. Are you ready to do it right now, Mr. Gibbons,
6 or do you want -- would you like to wait and order your thoughts,
7 or are you prepared to go right now?

8 DR. GIBBONS: It's not necessary.

9 UNIDENTIFIED: Give us the first hour, the
10 staff

11 MR. PENNOYER: How long do you want?

12 MR. BRODERSON: We scheduled another day
13 tomorrow.

14 MR. PENNOYER: Well, I think the suggestion is a
15 good one. We probably don't interact very well on just sort of
16 how we're doing business, and we deal with the specific pieces
17 and the questions, but how we're doing business, and such as
18 meeting you problems with you scheduling with our scheduling and
19 how we fit those together, things we don't often get into except
20 when we come to a crunch point where we've got a date and a mass
21 of information and people had to work a lot of overtime to get it
22 done and yet we're still sitting here wondering how we're going
23 to do it, so it's a reasonable discussion. I'm not sure how we
24 get out of it except perhaps as we get into this '93 work plan,
25 we ought to do just that.

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MR. COLE: Yeah. Mr. Chairman, it would
1 obviously have to be a public meeting, you know,

2 MR. PENNOYER: I would assume that's true.

3 MR. COLE: not be a back room meeting, but
4 nevertheless, I just think we need slightly more interaction at
5 this public meeting with the Restoration Team.

6 MR. PENNOYER: I was going to suggest the last
7 item on the agenda having to do with how they got to where they
8 got to in the '93 work plan, and -- interactively, so when we get
9 to it.

10 Other -- further comments on the Restoration Plan at this
11 time?

12 MR. McVEE: I guess, Mr.

13 MR. PENNOYER: Mr. McVee?

14 MR. McVEE: Mr. Chairman, yeah, I guess in
15 terms of guidance, what I was focusing on on my question there,
16 on the preferred alternative was since that's where a lot of
17 attention will be directed, it seemed to me like it might be
18 somewhat useful to expand the outline under that paragraph as to
19 what really will be addressed. And that's a suggestion. I think
20 that would be useful, because basically most people will look at
21 the preferred alternative as a starting point, and I think that's
22 -- that would be

23 MR. LOEFFLER: Well, one thing that might be --
24 the way we think about it is while we're developing alternatives,
25 we don't know what the preferred alternative is until you pick it,

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and so from our point of view, we are developing fully¹³⁵
1 implementable parallel alternatives, and once you choose one, it
2 is the preferred alternative. But until then, from our
3 perspective they're all -- even though some people may want one
4 or may want others, until you've picked it, it's -- they're all
5 fully implementable, and I -- so that's the way we're going about
6 it.

7 In terms of trying to present more detail, I think it
8 might be more useful rather than giving you a further outline, is
9 to sort of get into and for use to get further down the process
10 and work with the R.T. and the Department of Interior folks in
11 just trying to push the detail.

12 MR. McVEE: Okay.

13 MR. LOEFFLER: Is that okay?

14 MR. PENNOYER: Very good. Thank you very much.

15 Question, where do we go from here? We have a 5:00
16 o'clock public meeting, scheduled public comment period
17 scheduled. I thought there might be two things left on the
18 agenda that we need to deal with and then I would suggest that
19 after the public meeting period we probably adjourn to whenever
20 we decide to take up the '93 work plan, which I presume might be
21 a continuation of the same meeting.

22 And that's the topic I am wondering about. How much do
23 we want to hear from the Restoration Team at this point as to how
24 they made their project selections and some background on this
25 package so as we go off and review projects and talk about it, we

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1 have the benefit of that background before we get into that, and
2 that's not discussing individual merits of the individual
3 projects or arguing about them necessarily, but just seeing how
4 the process got us to the stage we're at now.

5 And then the second thing is when are we going to get
6 back and talk about '93 work plan? Leave it up to Mr. Gibbons to
7 schedule our further meeting, or do we have some thoughts on that
8 now? And I think people are concerned about timing and we need
9 to -- probably need to get back at it, but is the Trustee Council
10 amenable to that suggestion, that we have the Restoration Team
11 give us some background on the package so we understand how they
12 made their decisions and how they got to the point they got, and
13 -- without getting into a lot of discussion of the individual
14 projects, and then discuss where we go from here on making the
15 approval process with the '93 work plan.

16 MR. BARTON: I think we ought to take the second
17 subject first, however, so we don't run out of time.

18 MR. PENNOYER: All right. That's probably a good
19 idea.

20 MR. COLE: You mean you think it's going to take
21 us an hour to figure out when our meeting is?

22 MR. PENNOYER: I think you have the other thing
23 in mind.

24 MR. COLE: That's about the pace at we proceed I
25 suppose is rational.

MR. PENNOYER: I think Mr. Barton was suggesting

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the other, that if we started to discuss the project -- or the
1 plan itself, we might end up running out of time. Well, are
2 there suggestions as to when we want to get back together on the
3 '92 work plan? Mr. Gibbons, you have looked at the previous
4 calendars. You've said they might have changed, but are we
5 looking at later this week, looking at next week? When are we
6 going to try to do it?

7 DR. GIBBONS: Yeah, at this point in time,
8 Mr. Chairman, I'm not quite sure how the calendars of the Trustee
9 Council are filled. Like I did emphasize last time, I'd like to
10 see if we could get this done as quickly as possible. It can be
11 done perhaps Friday of this week, or early next week, or -- we're
12 available.

13 MR. PENNOYER: We have alternates, you know.

14 MR. BARTON: I think we need to get on with it.
15 We need to get a budget figure back to OMB as well as just deal
16 with the subject and get on with it.

17 MR. COLE: Mr. Chairman?

18 MR. BARTON: I would suggest we do it
19 Monday and Tuesday.

20 MR. PENNOYER: Next week?

21 MR. BARTON: Yes, next week.

22 MR. COLE: Mr. Chairman?

23 MR. PENNOYER: Yes, Mr. Cole?

24 MR. COLE: I agree with that. It's about the
25 only time I really have enough time to read this material is on

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the weekend, and therefore I would support next Monday and
1 Tuesday.

2 MR. PENNOYER: Anybody else have some feelings on
3 it? For some of us it will have to be an alternate if it's going
4 to be next Monday and Tuesday, if that's okay. That's -- if
5 that's the way it has to be, that's what we'll have to do.

6 MR. COLE: Well, do you have some other time next
7 week? I mean, I

8 MR. PENNOYER: No, I've got

9 MR. COLE: find that the alternates, you
10 know, we don't have sort of an even pattern with alternates. I'm
11 not

12 MR. PENNOYER: I've got

13 MR. COLE: talking about, you know, your
14 alternate.

15 MR. PENNOYER: I assumed you weren't.

16 MR. COLE: Making you a little nervous, right.

17 MR. PENNOYER: I assumed you weren't. I've got
18 eight straight days of North Pacific Council meetings starting
19 next Monday. You know, I'm done. I could do it this Thursday or
20 Friday, but, you know, I couldn't do two days.

21 MR. COLE: I will be available any time, you
22 know. What about you, Commissioners Sandor and Rosier? How does
23 your schedule look?

24 MR. SANDOR: Well, Thursday and Friday I have a
25 meeting with EPA, and Monday and Tuesday of next week is a

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cabinet and budget review with the OMB and the Governor's Office.

1 I'd weigh the opportunities and my alternate has chaired this
2 meeting and has represented the Department very well. I would
3 feel comfortable in Mead Treadwell representing the Department,
4 so any time for these plans.

5 MR. COLE: Well, let me say this: I mean, here
6 we are with the '93 plan. It's probably among the most critical
7 decisions that, you know, we have to make this, you know, whole
8 year, and it seems to me that we should have the first team
9 available to make those decisions.

10 MR. PENNOYER: Well, I don't disagree with you.
11 Unfortunately some of us sit on commissions and councils and
12 can't get out of it. So it's not an easy choice to make, but
13 certainly

14 MR. COLE: How about Saturday?

15 MR. SANDOR: Saturday's fine.

16 MR. COLE: I mean, you know,

17 MR. SANDOR: Sunday. But maybe what we ought to
18 do is give Dave our schedules and

19 MR. COLE: No. We've got to do it now.

20 MR. SANDOR: Okay. Well, as I say, I'm
21 comfortable with my deputy representing me.

22 MR. PENNOYER: I am, too. Could we do it on
23 Monday? Can we do it in one day? If that's a possibility, I
24 might be able to do Monday. Can we do it in one day?

25 MR. BARTON: I hope so.

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MR. PENNOYER: Well, let's -- why don't we trade

1 (ph)

2 UNIDENTIFIED: Let's do it in one day.

3 MR. PENNOYER: with -- if we can do it
4 Monday, let's try that.

5 MR. BARTON: Let's just plan on doing it in one
6 day and figuring how -- how to do it that way.

7 MR. PENNOYER: That's

8 MR. COLE: We could go till midnight or two in
9 the morning, until we get it done, you know.

10 MR. PENNOYER: Let's try for Monday.

11 MR. SANDOR: Monday.

12 MR. PENNOYER: Is that acceptable, to have it
13 Monday?

14 MR. SANDOR: Sounds great.

15 MR. McVEE: Monday.

16 DR. GIBBONS: Mr. Chairman? Can we start that
17 meeting perhaps to give us a little flexibility at 8:30 or
18 something -- such a time like that?

19 MR. PENNOYER: I think we'd probably better if
20 we're going to get it done on Monday. And we go quick on the
21 tape (ph), but then again -- Monday of next week.

22 MR. COLE: 8:30 right here Monday.

23 MR. PENNOYER: Sounds good. Okay. That -- Now,
24 Mr. Barton left having done the one part he's worried about
25 running out of time on.

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MR. COLE: May I -- can I make a statement?

1 MR. PENNOYER: Mr. Cole?

2 MR. COLE: For those who are going to be
3 addressing the Council with you complaints at 5:00 o'clock today,
4 I for one would, you know, appreciate it if, you know, some of
5 you can focus you thoughts on helping us develop a plan for the
6 acquisition of critical habitat. You see the magnitude I would
7 hope of the problem out there before us. It's not -- it's the
8 selection of habitat lands, how much money, who will have the
9 responsibility for maintaining it in the future and things of
10 that, you know. It would be nice to have some constructive help
11 from those who have consistently criticized our decisions and the
12 rate at which we are proceeding. So I look forward to that.

13 MR. PENNOYER: Can we -- we've got 50 minutes
14 left before we're going to start the public. I'd sure like to
15 take about a ten or 15-minute break before that starts, an
16 opportunity to make a phone call or what have you, but perhaps
17 right now we could just ask Mr. Gibbons if he would with the
18 Restoration Team present us with the '93 plan not in all it's
19 detail, but at least in what we've got in front of us so we know
20 what we're looking at, and as we go off to study it, we've got
21 that background to base our considerations on. It might help us
22 get a leg up on next Monday. And so without evaluating the
23 projects, Mr. Gibbons, will you describe to us the process and
24 describe to us what we have here that we're looking at and the
25 various pieces we have to work with?

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DR. GIBBONS: Yes, Mr. Chairman. I'm going to --

1 I think there's two people that probably should help present
2 that. One is Jerome Montague, who is the chair of the 1993 work
3 group, and the second person is Bob Spies, the chief scientist,
4 and we've been trying to work together as a team to come up with
5 the recommendations, so maybe Jerome can run through the process
6 and if Bob has some comments on it, that he can give those at
7 this time and then again maybe perhaps detail next week.

8 DR. MONTAGUE: Thank you, Dave and Mr. Chairman.

9 First of all, I'd really like to thank the people on the '93
10 work plan work group and -- for all the long days and Labor Day
11 weekend and other weekends they've put in on this and especially
12 to our budget guru, Mark Broderson, who's probably out done
13 everyone for -- in terms of time put in on this activity.

14 In front of you you've got three notebooks. You may
15 already be somewhat familiar with them, but I'll just go through
16 them all anyway. One is the detailed budget which covers both
17 the administrative director, the working groups, the Restoration
18 Team and all the projects. Another smaller notebook, the
19 thinnest notebook, is just copies of all of our final decision
20 documents or recommendation documents on each project showing how
21 we voted and our pros and cons and so forth for the projects.

22 And then the thickest notebook has quite a number of
23 things in it, other than the things we've already covered. What
24 it has relative to '93, it starts out with four tables that first
25 list the projects in numerical order and shows their total cost

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and what the vote was on those projects.

1 MR. COLE: Could you show us which one is that
2 in, please?

3 DR. MONTAGUE: Okay. It's in

4 MS. BERGMANN: It's this, the blue one.

5 MR. COLE: The blue one?

6 MS. BERGMANN: Right here. Here.

7 DR. MONTAGUE: This is what the first page to it
8 looks like, the Exxon Valdez Oil Spill, 1993 proposed projects.
9 And again the first table just lists the projects by their
10 numerical order from 93001 through 64. The second table
11 re-categorizes or prioritizes the projects and listing those with
12 five and six votes as one section, those with three and four
13 votes as another section, and those with zero to two votes as
14 another section.

15 MR. COLE: How many votes did you have to have
16 approaching that to get the green light?

17 DR. MONTAGUE: Well, relative to that we -- as
18 you can see, all the projects are in front of you no matter what
19 vote they had. The normal Restoration Team operating procedure
20 is that a recommendation only goes to the Council when there's
21 five or six yes votes.

22 The projects in those first tables are categorized in a
23 couple of different ways further to help you sort of get a vision
24 of the program. One divides the projects up by category, and by
25 that we mean whether it's an enhancement or manipulation action,

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a management action. And then the last of those four tables covers what we've termed type of project, whether it's shellfish, fish, marine mammals, mammals and so on and so forth. So that's what's in the first four tables.

And then after that is the text descriptions to all the projects, and then at the end of the book is six more tables and these, we felt that what happened to this huge number of ideas that came in was real important, and with 400 and some ideas, it's pretty complex, and all those tables from the number of the in-coming idea or the person's name, so and so forth, you can actually find where that idea came from and what happened to it. If it was rejected, why it was rejected. If it was combined with another project.

We have probably two minutes, I'd like for Dr. Sullivan to come up and describe a little bit on how to use those six tables at the end in the event that someone from the public comes to you and wants to know what happened to one of their projects, and we'll keep it very short.

DR. SULLIVAN: Well, if you go to the -- if you go to the last table, that's where you would start with if someone wanted to know what happened to their project, and you would look up their last name first, okay? Every time someone sent in a letter or proposal or any piece of correspondence, it received a document number. Within those documents, the '93 work group then tried to pull out all the different things that they could see as significant suggestions or ideas. We did have an

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idea form that we asked people to submit. But whatever they sent
1 in, if it appeared to be a suggestion to take any sort of action
2 at all, then that was given an extension number.

3 So if you look at the left-hand column under any of these
4 items in the last table, you'll see that there is an
5 identification number. For example, most of them start 92, which
6 is the year, and then there's a code for the date and then a
7 particular number. And then following that long number is a
8 digit that identifies each one of those ideas within a document.

9
10 So you take that number then and you move to the fourth
11 table, which is the list of project ideas or of ideas submitted
12 listed by project identification number. That's what the project
13 identification number is. Those are in numerical order, and that
14 then will tell you what has

15 MR. COLE: Excuse me, could you tell us which one
16 we're looking at?

17 DR. SULLIVAN: I forget what color it is, but
18 it's the fourth in your -- it looks like it would be the yellow
19 set that you're looking at. Okay?

20 MR. COLE: Okay. That's not in numerical order,
21 that's what throwing me.

22 DR. SULLIVAN: Well, let's me see which one.

23 MR. COLE: I don't think it is.

24 MS. BERGMANN: Yeah, it is. It is,
25 (indiscernible).

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MR. COLE: No, it's not. It -- there's 12, 16,¹⁴⁶

1 see?

2 DR. SULLIVAN: That's goldenrod.

3 MR. BARTON: Well, here's yellow.

4 MR. McVEE: Well, that's our problem.

5 DR. SULLIVAN: Right. There's two yellows. One
6 is -- one's a dark yellow that I'm calling goldenrod and a
7 lighter yellow that actually has the project identification.

8 MR. COLE: Which one were you just referring to?

9 DR. SULLIVAN: The one I'm referring to is the
10 light yellow, the lighter yellow.

11 MR. COLE: See, I didn't follow because I
12 couldn't find those in numerical order. That's what -- it skips,
13 like twenty-

14 DR. SULLIVAN: That's right. What you see there,
15 the document number, not including the extension should be in
16 numerical order. They are not entirely sequential, because the
17 first five -- or the first six left-hand digits denote the date,
18 okay? And so your date -- in other words, it's not entirely
19 sequential, but a lower number is -- always precedes a higher
20 number.

21 Also, within a document not all significant items were
22 considered ideas. Some were considered comments. Those don't
23 appear in here. We did consider all the comments. In other
24 words, like "you're doing a good job," or "you're not doing a
25 good job," something like that would be considered a comment, but

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1 it's not a request for action, and that's what this table's
2 about.

3 MR. COLE: What would be the explanation for not
4 -- there not being a number 32, for example?

5 DR. SULLIVAN: Thirty-two may have been simply a
6 letter that says, "You're doing a good job," and so it's just not
7 there.

8 In any event, once you go to that table then, you'll see
9 in the first column you have the document I.D. number, then
10 there's the category, which we've described a little bit here,
11 then project type, and the title of that particular project.
12 Well, most of these projects, a lot of people had a number of
13 very similar ideas. Some people even submitted duplicate ideas
14 of someone else's projects. They might take exactly the same
15 thing and put their name on it, just basically to add support to
16 it.

17 So when you go over to the status column, you have a
18 number of different choices there. If you have a "P" then you
19 have also associated with it project's number. That project
20 number then you would look up in the very first table, which is
21 the project table.

22 If there is a "C" in the status column, that means it was
23 combined with some other project. And whenever we combined
24 projects, we gave one document the lead number. And when you
25 look at the very right hand column, it will say "combined with,"
then you would go to that "combined with" column, find that

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number and proceed with that number to find what actually
1 happened to the project.

2 The combined with numbers will always be a passed -- a
3 "P," and "R," or an "E". A "P" is passed, of course, and that
4 goes into the passed or project table. An "R" is rejected and
5 you can look up that project in the rejected table and find out
6 why it was rejected. An "E" is an endowment, and those have yet
7 to be considered and they're all lumped together in a single page
8 endowment table.

9 So once you find out, for example, let's say take a look
10 at the "P's", you go to the very first table, and on that table,
11 on the left-hand side, you'll see the project number is at the
12 top, and then underneath that, the first -- you'll see a list of
13 documents and extensions. The first document is called -- is the
14 lead document and it may -- the rest may follow in numerical
15 order or not, but we simply chose one document into which we
16 would combine everything else, okay? So, for example, for
17 project number 93-1, there are three documents that were
18 considered when the agencies put together a three-page brief
19 project proposal. So if you want to work backwards from this
20 point then, you can look up the document I.D. numbers on those
21 three things and find out where the things came from, who
22 submitted them, what they originally had in mind and so on.

23 DR. MONTAGUE: And in short, you know, you're
24 probably going to have to spend some time with them to really
25 know how to use them, but it is simpler than 18 inches of

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1 projects to look through. And I think with that, Joe, we sure
2 appreciate -- and Joe kind of masterminded putting these tables
3 together and a lot of other people worked on them, and thank you.

4 I'd like to take about ten minutes now to just explain
5 how we got to where we are here with a short history.

6 In May for the first time since the Oil Spill we went
7 public with the work plan process and solicited ideas, and we
8 received some 460, of which about two-thirds were from agencies
9 and about a third was from the public.

10 In conjunction with this effort of going public, we are
11 attempting to enter onto the federal fiscal year, which would
12 begin October 1st, and as such had to truncate the preparation
13 process from about six month to three and a half months.

14 Of the 460 so original incoming ideas, when we eliminated
15 the duplicates and eliminated those that weren't truly ideas, but
16 more or less a comment, it left us with about 360.

17 And also this year there's I think a necessary and
18 complete paper trail on all the ideas, and there's decision
19 sheets. Just the more it goes through the process, the more
20 decision sheets that are added to it, but there is a good track
21 record of what happened.

22 Of those 360, the working group and the Restoration Team
23 first looked at them on three what we called critical factors.
24 Did it meet the terms of the civil settlement. Was it legal and
25 was it feasible, and if they were not deemed to pass any one of
those, then the idea was rejected. And those that were rejected

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on legal grounds were sent to legal counsel for confirmation, and
1 in a few cases the decisions were changed.

2 The R.T. and the chief scientist then reviewed the
3 remaining projects in terms of, one, whether they were damage
4 assessment, and, two, whether they were restoration projects, and
5 there were criteria that we used, applying a best professional
6 judgment to the various categories of projects. For instance,
7 management actions would have a different set of criteria applied
8 to them than say an enhancement action.

9 But under damage assessment, if the project was supposed
10 to have been closed out in FY 92 then it wasn't considered for
11 funding this year. And new damage assessment projects or
12 continuing damage assessment projects were considered only if
13 there was reason to believe that there was damage and it wasn't
14 sufficiently evaluated at this time for restoration actions.

15 Under the projects that were deemed to be restoration
16 projects, we looked for four things: One, did they have a
17 restoration end point? Were they time critical to be done this
18 year? Was there a lost opportunity if they weren't done this
19 year? And whether there was a long-term commitment or not. And
20 normally long-term commitments were, you know, if it had a long-
21 term commitment, it was rejected unless it was time critical or a
22 lost opportunity, and then it was still considered.

23 After we went through this, there was about 150 ideas
24 left. The R.T. and the chief scientist reviewed this list to see
25 if, you know, these 150 had any major omissions that, you know,

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1 that we thought should be in the restoration -- or in this year's
2 work plan, and also to make an attempt at logical clumping. You
3 know, of these 150, which one of them were essentially the same
4 project, or would logically -- logically go together?

5 And after we had done that, there was about 55 or 60 left
6 that we sent out to have what we term brief project descriptions
7 prepared for, and these are so-called three-pagers, as well as
8 the detailed budget information. Then we received peer review,
9 that was orchestrated by the chief scientist, and there was a
10 number of specific changes to the projects, and we received some
11 advice on priorities.

12 The R.T. then voted on the projects relative to their
13 individual merit. The result of this voting was shared with
14 legal counsel, and they made a number of recommendations, and was
15 also shared with the chief scientist and the finance committee
16 and they also made recommendations of which we have made efforts
17 to try and incorporate.

18 We then re-voted on the projects, not in terms of their
19 individual merit, but in terms of their priority, looking at the
20 total package, the whole picture of restoration needs. We re-
21 voted on them in terms of that priority. And it's that vote that
22 is represented in these first four tables that lead into the
23 brief project descriptions.

24 The Restoration Team also debated somewhat on the --
25 whether the Restoration Team or the lead agencies should make the
26 decision whether a project should be done in-house or contracted

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1 out. That wasn't fully resolved. And if the Trustee Council has
2 any specific guidance on that, we're certainly open to it.

3 We realized that the documents in front of you in these
4 three big notebooks are complex. They were done hurriedly. We
5 know there are some errors. There's going to be tables and
6 numbers that don't match up exactly, and we had contemplated
7 delaying putting this on the agenda, but with the guidance that
8 we had to begin the federal fiscal year this October 1st, we felt
9 that we had to push ahead and go with the best package that we
10 had, and admittedly it's going to be better with a couple of
11 weeks of editing and such which is certainly what we intend to do
12 before it goes out as draft rest- -- or a draft work plan.

13 After the projects are approved for the draft work plan,
14 two things will be done. Well, more than two things. Several
15 things will be done. First, based upon that, that's what we will
16 use to prepare our budgets for the State and Federal Offices of
17 Management and Budget, and also at that time the projects are
18 either going to be developed by the agency into a detailed
19 project plan, which is, you know, maybe 20 or 30 pages as opposed
20 to the three that we have here, or if it's deemed to go out for a
21 competitive bet, a request for proposals will be prepared. So
22 between the draft and the final work plan, there's going to be
23 considerable work, you know, either writing RFPs or developing
24 detailed project plans. And both the RFPs and the detailed
25 project plans will be reviewed by the chief scientist and
appropriate peer reviewers, and in the case of RFPs peer

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reviewers and multi-agency personnel will be represented on the
1 project selection committees.

2 And we'd also originally planned for a 45-day public
3 review to go on during this time period, and a number of -- I
4 don't know how many, I think about three specialized workshops to
5 deal with some specific problems.

6 We had originally hoped to have the draft work plan, or
7 the final work plan in early December, make the request to the
8 Court then. We're about three weeks late right now, and we'll
9 probably be about two more weeks further before we're more or
10 less onto our old schedule, so it's going to be problematic to
11 have the final work plan done in December, and to get the Court
12 request prior to the January 1st start-up of some of the
13 projects, so one thing that you might consider was whether a 30-
14 day public review would be adequate as opposed to 45.

15 Just trying to summarize a huge amount of information,
16 there's -- over lunch, again hurriedly, we put together this
17 table here which I laid in your chairs or gave to you in person,
18 and it more or less lists the summary of the projects on one page
19 by voting order and by their category and by their type, so you
20 can at a glance see whether fish are being covered or whether
21 habitat's being covered.

22 I'd like to point out one error. The totals column for
23 the votes by category, in the six or five column should be 42 and
24 not 32.

25 In terms of public versus private amounts of money that's

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proposed to be spent, depending on whether all the projects are
1 approved or whether just those in the five to six vote category
2 are approved, the range of ratio from public to private is about
3 50% public, 50% agency in the five to six vote category, and
4 about 60% public and 40% agency in the all projects category.
5 And for the most part the

6 MR. COLE: Excuse me. What conclusion did you
7 draw from that? Did you draw any conclusion from that?

8 DR. MONTAGUE: That about half the -- half the
9 money was going to the public or half going to the agencies? No,
10 other than

11 MR. COLE: I would just have the sense that it
12 would show that there was not necessarily favoritism toward the
13 agencies if a greater percentage in the three and four votes were
14 to have gone to governmental agencies. Am I right on that?

15 DR. MONTAGUE: No, I think it's the other way
16 around. The lower the -- at the five to six votes was 50% public
17 moneys and at -- as you drop down to the three votes, I think it
18 was 60% public monies. So the lower the vote, there was a slight
19 increase in the amount of money that was going out to the public.

20 And as far as the survivability of an idea, the original
21 ratios of about two-thirds agency to one-third public pretty much
22 remained, and the projects shown here derive from about one-third
23 public ideas and about two-thirds agency ideas.

24 To avoid these, you know, kind of last minute deliveries,
25 I think that to meet future renditions of this, we're pretty much

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going to have to devote three weeks after the Trustee Council and
1 after the Restoration Team makes any changes to it, that will
2 give the work group two weeks to put together a nice document and
3 a week to get it to you all in advance, so I think we're going to
4 have to consider that time period in here on our decisions, so if
5 we meet next Monday and finalize it then, I think we'd be looking
6 at two to three weeks before we could have a draft done, which
7 would be about I guess the second week -- second week of October.
8 So with a 45-day review with the second week of October, I don't
9 think we could make the final with a 45-day review, and be ready
10 before January 1st.

11 That's all I had if there's any questions.

12 MR. PENNOYER: Dave, do you have something to
13 add?

14 DR. GIBBONS: Mr. Chairman, I'd like to add one
15 other thing, in -- on the '94 package we intend to do it a little
16 bit differently. We intend to structure a package that we
17 perhaps -- the framework for a package that we would like to
18 receive proposals under rather than what we did this year was to
19 open it up for any idea. We'd like to say this is our thoughts
20 on what a '94 package should look like using the Draft
21 Restoration Plan, and therefore get ideas perhaps structured a
22 little bit more.

23 DR. MONTAGUE: Mr. Chairman, further on that, we
24 intend to have more like nine months to prepare it in rather than
25 three and a half, so

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MR. McVEE: Mr. Chairman?

1 MR. PENNOYER: Questions? Mr. McVee.

2 MR. McVEE: It's not a question, but last week in
3 kind of preparation for this meeting, and knowing that we were
4 going to have a package of projects to look at, I went back
5 through some of the records and developed for my own use a set of
6 the -- of a criteria for considering '93 and I thought I might
7 share those and just -- I don't think we need to discuss it, but
8 if it's helpful in

9 MR. PENNOYER: You're not looking for us to sign
10 off on those, Mr. McVee?

11 MR. McVEE: No. They might be helpful is my only
12 thought with people looking at projects.

13 MR. PENNOYER: Okay. Thank you. I had a
14 question, Mr. Montague. You mentioned that one of the criteria
15 that you looked at was a legal review. Do we have any -- can I
16 -- do we have anything in writing or can you elaborate on what
17 that legal review consisted of? Who did it? What

18 DR. MONTAGUE: Mr. Chairman, yes. I mean,
19 there's been several memoranda written. Probably the most useful
20 right now would be the one that was written on the 64 projects
21 that were here now.

22 Dave, do you know if we have that? I mean, it's not in
23 here, but we have it.

24 DR. GIBBONS: Yeah. Mr. Chairman, we have -- I
25 have that, but it's stamped right up on the top "attorney/ client

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product. Not released to public."

1 MR. PENNOYER: But we have copies of it though,
2 the Trustee Council?

3 DR. GIBBONS: You don't in your package, no. I
4 can get you copies of that.

5 MR. PENNOYER: I would appreciate that, thank
6 you.

7 Any further questions of the Restoration Team on this
8 package to help guide us through our review of it and then our
9 discussions on it next Monday? Who? Dave?

10 DR. GIBBONS: Mr. Chairman. Bob, do you have
11 anything that you might like to add or shed some light on?

12 DR. SPIES: No, I think Jerome did a really
13 excellent job of describing the process that we went through, and
14 I think that in the end we're a lot closer than we were last year
15 at this time as to the scope of projects proposed and what the
16 peer reviewers and I thought were justified based on the criteria
17 of injury and so forth that were developed.

18 MR. COLE: Mr. Chair?

19 DR. SPIES: I don't think we're completely
20 matching on our views yet, but -- and I would like to get from
21 the Trustee Council if they have a view as to what kind of input
22 they would like from me on (indiscernible) I could participate in
23 this process so I can at least be prepared at that time to do
24 something that's required.

25 MR. PENNOYER: Is there some indication in this

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package as to which recommendations were made by the chief
1 scientist on these projects?

2 MR. COLE: Yeah, that was my question.

3 MR. PENNOYER: That might be handy to have.

4 MR. COLE: Mr. Chairman?

5 MR. PENNOYER: Mr. Cole?

6 MR. COLE: Well, how many projects that were
7 given a yes vote so to speak, however it's labeled, did the peer
8 reviewers oppose? You know, approximately?

9 DR. SPIES: Well, it -- those votes were taken --
10 what you see, those votes that you see now in the packet were
11 taken after the peer reviewers had had it for three days, and
12 that review was not ideal, because they were essentially handed
13 things as they walked in the door Tuesday, I think it was August
14 -- or the first week in August, and we had three days. We had
15 good input mainly on the technical feasibility of the projects,
16 and, you know, the comments were more like whether this is
17 justified more than this is.

18 MR. COLE: Well, here's what I'm getting at. You
19 know, we have a Restoration Team that makes the final decisions,
20 essentially composed of agency personnel. That's given I think.
21 Now, you see, they would have -- be able to out-vote the
22 recommendations of the peer reviewers and the chief scientist,
23 and so what I'm trying to get a sense of, and I hate to put you
24 on the spot too much, but that's your job so to speak, is do you
25 have the sense that your firm opposition was passed over?

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DR. SPIES: No, I don't think so by and large,
1 that the projects were modified according to the peer review
2 comments.

3 MR. COLE: You're comfortable with the process
4 from your standpoint and those of the peer reviewers?

5 DR. SPIES: Fairly comfortable.

6 MR. PENNOYER: Could you be prepared on Monday to
7 identify any areas of some discomfort and I think you'll receive
8 those kind of questions as we go through these projects.

9 MR. COLE: Yeah, I think what you're saying, the
10 specific projects which you -- the chief scientist and the peer
11 reviewers were at disagreement with the Restoration Team, yes,
12 had a general opposition to or objections to.

13 We need -- and -- I think we need in the public process
14 this mechanism to satisfy ourselves and the public interest that
15 this selection of project process is not solely driven, unduly
16 driven by agency personnel. I don't necessarily think that it
17 is, and I respect their professionalism and their integrity, but
18 nevertheless I think it's incumbent upon us, you know, to look at
19 that, to satisfy ourselves that such is not the case.

20 MR. PENNOYER: Yes,

21 MR. COLE: Mr. Chairman, I have a great

22 MR. PENNOYER: That's exactly what I was saying.

23 MR. COLE: Thank you.

24 MR. PENNOYER: Further comment or further
25 question? Okay. I think what we'll do is we'll stand at recess

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until 5:00 o'clock when we'll start the public comment period.

1 And my intention is then at 7:00 o'clock to recess this meeting
2 until Monday of next week. I guess I'm stuck with the
3 chairmanship again, right? Thank you.

4 (Off record)

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MR. PENNOYER: Are we ready to start the -- Trustee Council members, are we ready to start the public hearing? Are we on line, ready to go to teleconference?

TELEPHONE OPERATOR: Well, yes. You have Kodiak, Homer, Valdez, Seldovia and Juneau on line at this time. We are barely hearing you, so

MS. EVANS: Barbara, is that better?

TELEPHONE OPERATOR: Yes. Please, continue for just five seconds, to make sure.

MS. EVANS: Okay. We'd like to announce to those that might testify here or on-line at the different sites, please, each person who testifies, spell your name so that the court reporter will be able to record your comments and get your name correctly.

Now, how is our sound, Barbara?

UNIDENTIFIED SPEAKER: Not too good, apparently.

SHIRLEY: This is Shirley in Homer. I have to turn my set way up to hear you, but you're not as broken as you were.

MR. PENNOYER: Who do we have on-line now with communities, so I don't run through the whole list every time I start down through it?

TELEPHONE OPERATOR: As of this time, you have Kodiak, Homer, Valdez, Juneau and Seldovia.

MR. PENNOYER: Okay. Would you tell us if any further

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communities come on-line so I don't repeat the list every time I
1 start down

2

3 TELEPHONE OPERATOR: Yes, we sure will.

4 MR. PENNOYER: Yes, we sure will. This is Steve
5 Pennoyer, National Marine Fisheries Service, regional director
6 for Alaska, representing NOAA and Trustee Council convening this
7 Trustee Council Hearing at this time.

8 In the past, the way we've done this is to not show
9 favoritism. We've done one from Anchorage, one held on the
10 conference network, so -- and back and forth, so I'm going to
11 start with Anchorage with a gentleman in the front row, who is
12 anxiously raising his hand, Jerry McCutcheon, and after that
13 we'll go out and start with Kodiak, Homer, Valdez, Juneau,
14 Seldovia, taking one and coming back and doing Anchorage until we
15 have everybody taken care of.

16 So, Mr. McCutcheon, will you spell your name?

17 MR. McCUTCHEON: For the record, my name is
18 Jerry McCutcheon; that's J-e-r-r-y M-c-C-u-t-c-h-e-o-n.

19 You gentlemen have finished the alleged threats to the
20 various parts of Prince William Sound, and that's all very good.
21 Now I just hope that you will set them aside because you have
22 obviously determined you really don't have enough money to run
23 around and take care of everything that somebody points to as
24 another threat.

25 I think you have to go out and say, okay, this is nice,

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but now if we're going to get into land acquisition business,
1 we're going to have to pick out the very best -- pick out the
2 best, not with respect to habitat but just plain best that is
3 most representative. And then after you've got yourself a
4 catalog and a list or prioritized as what's best, then sit down
5 and say what kind of habitat did we get out of that? And then
6 look and see what's after. Somewhere along the line, you're
7 gonna have to decide also how much money is it gonna take to take
8 care of that land. You're gonna have to know.

9 If you take your 600 million that you got left and divide
10 it by two, that gives you 300 million. You put the 300 million
11 aside, and if you put the 300 million aside and you get inflation
12 plus 3%, like the Permanent Fund's goal is, you're only talking
13 about having roughly \$9 million available. And if that's only
14 \$9 million available, then you take a million off for
15 administration, and your administration is already running more
16 than that much, then you've only got 8 million left. And
17 somewhere is that 8 million gonna be enough to take care of
18 spruce beetles and other such things if you're gonna keep this in
19 pristine shape? I think you're gonna have to think about that.

20 After you've made your priorities and you've got your
21 money spent in the rest of the things, do you have a balance?
22 And I think you're gonna have to look at it. Now, I'm saying
23 these things to take care of Charlie Cole's indirect criticisms
24 of all I do is pick on you. I hope that I'm taking the
25 suggestion, at least I'm not sure, and you have to look elsewhere

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to see what it is you're doing.

1 You can't take Prince William Sound as an isolated event
2 in which you got a billion dollars to spend of which a third of
3 it's gone. You need to think about what am I doing elsewhere?

4 For example, in Juneau, you're going to take a pretty
5 little valley and you're gonna make a tanning spot out of it.
6 You're gonna wreck Sheep Creek for its use, its highest and best
7 use for something that's barely marginal. They had to
8 recalculate to find out it went from a \$2 million loser -- I
9 presume that's per year -- to a \$1 million winner each year. But
10 let's suppose that you tow the line. You either have to dump
11 your tailings in the ocean or you don't -- Gastineau Channel, or
12 you don't mine. What would this stream be worth as a fish
13 hatchery? Go across the road there from where the current
14 hatchery is and expand on that plain -- that alluvial plain out
15 there, and put a hatchery in. That would be worth five to
16 \$8 million a year, is commercial fish. That's at the dock.
17 That's not processed, that's not transported and that's nothin'
18 else. Then if you think it in terms of sports fish, how much is
19 it worth? I think you're gonna have to think that way.

20 Oh, I'm gonna drive the Greenies nuts, and I'm first, so
21 they can all pick on me, but this is a typical example.

22 Now, who blew that? You people blew that. You'll say
23 well, I wasn't on the -- wait a minute, who is represented here?
24 You blew it. You know, it's not the only thing you blew. Let's
25 take Paint River, for example. There's another example of

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something. Boy, you put a fish hatchery in. Thank God it
1 doesn't work. You ought to dynamite it. I hope some Greenie
2 goes down and blows it up. There's a higher and better use for
3 that.

4 There's another hatchery site; perched water, couldn't
5 (indiscernible), pristine water up above. And what did you do?
6 You built a -- you blew another hatchery site. What have you
7 got? You've got down a McNeil River for all the purists, a nice
8 bear watching operation, which most Alaskans, if they ever tried
9 to get into that thing to ever watch it, would never get to see
10 it in their lifetime, even if they applied every damn year.

11 Why not plain old crass commercialism. You build a
12 tower, like Wally's small tower down there, a hotel. You got
13 people from all over the world coming in. You can run that thing
14 as long as the bears can stand it. You can manipulate the fish
15 runs, and the University of Washington has shown you can do it.
16 So you can have the fish running from very start when the bears
17 first come up till the time they go into hibernation. And you
18 could have really cleaned up. But you put a fish ladder in.
19 What did you do with the fish ladder? What you did is you
20 introduced disease to the upper stream fish that they've never
21 seen before. What you did is you took the same thing as Columbus
22 did to America and the Natives is what you did to the native fish
23 up there. You blew it. You could have had a good example of
24 that.

25 And the same thing is gonna apply to logging. You're

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gonna take areas and go out to protect 'em in Prince William
1 Sound and these same areas you're gonna have in Southeastern
2 Alaska, and the State and the Feds are gonna say we've got to log
3 this area. But the area you're gonna log is worth a hell of a
4 lot more unlogged than some of the stuff you're gonna be put upon
5 by -- in Prince William Sound.

6 Having said enough, I'll let the Greenies all shoot me.

7 MR. PENNOYER: Please wait. Any questions for
8 Mr. McCutcheon? Thank you, very much.

9 Next we'll go to Kodiak. Anybody in Kodiak wish to
10 testify?

11 MS. AKERS: Yes, there is.

12 MR. PENNOYER: Well, please, go ahead.

13 MS. AKERS: Tracy Akers. T-r-a-c-y, the last name Akers;
14 A-k-e-r-s. Did you get that?

15 MR. GIBBONS: Yes, we did. Thank you.

16 MR. PENNOYER: Yes, we did. Thank you.

17 MS. AKERS: Thank you. I represent the Kodiak
18 Environmental Network.

19 We'd like to see habitat acquisition on an equal basis
20 with all other options as shown in Figure 7, page 9, of the
21 Restoration Framework Supplement. We'd also like to see
22 acquisition as soon as possible, and feel that this is proceeding
23 a little too slowly. We'd also like to see lands judged under
24 Set A, in the Alternative Threshold Criteria. Sets B and C are
25 too narrow and would prove to be unworkable under the terms of

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the settlement. We'd also like to see habitat acquisition throughout all affected areas.

Do you have any questions for me?

MR. PENNOYER: Any questions from the Trustee Council?

Thank you, very much, Ms. Akers.

MS. AKERS: Thank you.

MR. PENNOYER: Next, we'll take another person in Anchorage. Anybody else wish to testify? Yes, sir.

MS. EVANS: I'd like to request that anyone using the microphone here, please, pull the microphone close to your face and speak right into it. That helps the people at the teleconference sites be able to hear better. Thank you.

MR. O'CALLAGHAN: Thank you for the opportunity of addressing you. My name is Mike O'Callaghan; O-'-C-a-l-l-a-g-h-a-n.

This is the second meeting of this group that I have attended. The first one that I attended, I think, was the third meeting of the group. I heard the US Attorney General's Office address this group, and he said to the group, quote: This commission is not a legal entity. It can enter no contracts, it can spend no money. You have no legal basis for existing. How has this legal question been resolved?

MR. PENNOYER: Is that your testimony?

MR. O'CALLAGHAN: That's my question.

MR. PENNOYER: Okay. Mr. Cole, do you wish to respond?

MR. COLE: The view to which you refer, I think, is

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erroneous.

1 MR. O'CALLAGHAN: Then the US Attorney General's Office
2 is incorrect in this statement and your correct in the statement
3 you do have a legal basis for existing, you do have the right to
4 spend money, and you are a legal entity? He was incorrect on all
5 three points?

6 MR. COLE: First, let me say that I do not recall that to
7 have been the opinion of the United States Attorney General
8 William Barr. As I recall, it was a statement made by an
9 attorney for one of the federal agencies, as they say, these
10 days. Having said that, I think that the answer to each of your
11 subsidiary questions is: Yes, we are a legal entity; yes, we
12 have the right to contract; and, yes, we have the right to spend
13 money.

14 MR. PENNOYER: Do you have further testimony?

15 MR. O'CALLAGHAN: No. This is really quite interesting
16 to me. I guess we will have to seek some other form of
17 resolution. I consider this entity to be entirely illegal, and I
18 think it's really quite interesting that you're carrying on as
19 such. But

20 MR. PENNOYER: Thank you. No, we are legal entity.

21 MR. O'CALLAGHAN: whatever you can get away with,
22 right?

23 MR. PENNOYER: No, we are legal bi-steppers.

24 MR. COLE: Let me respond to that, if you don't
25 mind,

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MR. PENNOYER: Mr. Cole.

1 MR. COLE: because, I mean, I think you deserve a
2 straight-forward answer, and one of the things you may wish to
3 do, if you feel that -- when we make application to Judge Holland
4 for money, which is currently in the registry of the court, if
5 you feel that way, you present your views to Judge Holland, and
6 I'm sure he'd be pleased to receive them and to respond. I think
7 that's the proper forum.

8 MR. O'CALLAGHAN: I have presented my views to
9 Judge Holland. I have not received a response from him. I think
10 that I would probably have to intervene in the case in order to
11 get a response from him.

12 MR. COLE: Well, maybe when we file a petition for money,
13 which if you follow these proceedings, as you've done, you can
14 find out when we will present that, and, you know, file an
15 objection there in court. That's what I would suggest you do. I
16 don't fault you for having a contrary view, but I think that's
17 the place to present your view.

18 MR. O'CALLAGHAN: All right. Well, I thought I would let
19 all Alaskans hear my views. Thank you, very much. I appreciate
20 that.

21 MR. COLE: Thank you.

22 MR. PENNOYER: Next, we go to Homer. Is there anybody in
23 Homer that wishes to testify?

24 MS. PITZMAN: Yes, my name is Betsy Pitzman; P-i-t-z-m-a-
25 n, and I'm here representing the Board of Directors of the Pratt

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Museum. Have you folks -- can you hear me?

1 MR. PENNOYER: Yes, we can. Please, proceed,
2 Ms. Pitzman.

3 MS. PITZMAN: Okay. Good evening, gentlemen, and LJ. My
4 testimony concerns the appropriation of funds to assist in the
5 purchase of Seldovia Native Association lands, timber and mineral
6 rights, within Katchemak Bay State Park.

7 In February of 1990, the Board of Directors of the Homer
8 Society of Natural History, the sponsoring organization of the
9 Pratt Museum, passed a resolution in support of the State of
10 Alaska's purchase of SNA lands and timber and mineral rights
11 within Katchemak Bay State Park. The Society operates the museum
12 in Homer. It represents over 800 individual family and business
13 members residing primarily in the Lower Kenai Peninsula, the area
14 most likely to feel the negative impact of logging of SNA lands
15 should reacquisition not occur.

16 We believe that funds received through the settlements
17 with Exxon are best spent to restore and replace habitat that
18 will support recovery of species of animals and birds lost in the
19 Exxon Valdez Oil Spill in 1989.

20 The SNA lands on the south side of Katchemak Bay are
21 critical habitat for many species damaged in the Spill, including
22 the endangered or potentially threatened species such as the bald
23 eagle, the marbled and kipler murrelets and the harlequin duck.
24 In addition, many nesting bird species and terrestrial mammals
25 such as black bear, river otter and mink would lose their habitat

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completely. Logging operations would severely impact many other
1 species on the shoreline and in surrounding waters, including
2 whales, the threatened Stellar sea lion, sea otters, harbor
3 seals, and many species of ducks and shore birds, and several
4 species of sea birds that nest on nearby islands and coasts, and
5 find food in coastal waters that would be contaminated by logging
6 operations. Anadromous fish and marine fish impacted by the Oil
7 Spill would be further damaged by contamination of coastal waters
8 by siltation and pollution as a result of logging.

9 Archaeological sites known to be along the coast
10 throughout the areas to be logged would also be lost.

11 The SNA lands in Katchemak Bay are integral parts of a
12 diverse and rich ecosystem that will be further damaged if the
13 lands are allowed to be logged.

14 You have the opportunity to preserve this habitat and
15 allow some of the species which were severely decimated by the
16 Oil Spill to recover to pre-spill levels by assisting in the
17 purchase of SNA lands and timber and mineral rights in restoring
18 ownership to the State.

19 We request that you allocate the funds necessary to
20 initiate the buy-back before the October deadline presented by
21 SNA. I thank you, very much.

22 MR. PENNOYER: Thank you. Trustee Council members, any
23 questions? Thank you, very much.

24 We'll now proceed to Anchorage again, and the next person
25 in Anchorage that wishes to testify?

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MR. McKEE: Yes, sir. My name is Charles McKee, and
1 during your break attorney Charles E. Cole asked me if I had any
2 sage advice that I could offer you people in lieu of apparently
3 the discussions I've had with you people before.

4 You know, take into historical account, if you can, the
5 fact that other people, in a historical footnote, were laughed at
6 for their looking beyond hate and developing things that you
7 enjoy today that they had perceived to make life easier for us in
8 the current day, and I might name a few: Thomas Edison,
9 Nepotesla (ph), Albert Einstein, just to name a few, but they
10 were all laughed at. They were all chided.

11 And, quite frankly, that's the current state of affairs
12 with our present monetary system that our founding fathers have
13 established. In my struggles, trying to increase the quality of
14 education and quality of living in Alaska, I have been set upon
15 by people in positions of authority and denied me the opportunity
16 to help on an individual basis. And so I was told many times by
17 private individuals, well, you've got the time, they've got the
18 money. And I thought about that, so I started investigating the
19 notary seal of the money. Sure enough, they defaced it.

20 So, now we have in a situation, double digit inflation,
21 and I want to bring another historical footnote. There was a US
22 Federal judge, and his name is Martin T. Manton (ph), and this
23 was in 1939, another period in our history, a historical
24 footnote, that they had double digit inflation. He was sentenced
25 for two years in prison, with a heavy fine, because they found

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out that he was selling court decisions.

1 In this particular situation, at the present, I wrote and
2 made it a matter of court record with Judge Holland that the
3 damage was in excess of \$3 billion. I said 3.5, and I was only
4 \$100 million off, with a ninth grade education, from what Lloyd's
5 of London actually paid out to the Crown of London.

6 So, we're arguing about a small amount of money to
7 purchase restoration -- to deal with restoration in Prince
8 William Sound and habitat purchase. Well, if we had \$3.5
9 billion, we would have the money to purchase the land acquisition
10 as well as deal with underwater oiling that has occurred and
11 still exists.

12 And back to the original treasury seal. It's fraudulent.
13 They have no political authority to alter, i.e., deface the
14 notary of the treasury seal. It was designed and ratified prior
15 to the formation and ratification of the organic act, which is
16 the Constitution and Bill of Rights. So when he -- Judge Holland
17 agreed with a settlement, he was indeed acting on a fraudulent
18 decision, and you are presiding over fraudulent monies. Then I
19 hear that, indeed, you might not be even recognized as a legal
20 authority. There's a lot of people in our society that have a
21 position of authority that should not have it, because they're
22 just, in current terminology, suck-up to the fraudulent entities
23 that promoted this defacing of the original treasury seal.

24 I wish to bring about, and I will bring about, a coupon
25 with the original treasury seal, which I incorporated with the

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map that I have copyrighted and provided for monies for not only
1 just restoration but all public works, because it does have the
2 original treasury seal on it.

3 I might also add that a friend of mine said, well, how
4 you gonna get a judge or other judges to decide -- rule in your
5 favor against another judge, because they're all in it together.

6 Well, that's where I come in and say, like I said last Thursday,
7 at the symposium chaired by Reverend Green -- or Pastor Green on
8 hate crimes. Oppression exists because we hang on to or hold on
9 to it. It feeds on itself. The only way we're gonna deal with
10 environmental degradation, double-digit inflation, is get rid of
11 the people that wish to maintain intimidation, i.e., oppression,
12 and bring back the controls to the people. I mean, that's what I
13 filed this claim -- this complaint in US District Court. I'm
14 followed as an informer of the government, meaning we, the
15 people. And then I hear a snide remark from a friend, saying
16 well, how you gonna get them to rule in your favor when they're
17 just gonna be protecting themselves, indicating that they're in
18 on it altogether. Isn't there any just people in positions of
19 authority -- say the judicial branch, that will invalidate the
20 other rulings, and also invalidate Congress's acts as well as
21 presidential acts if indeed they are against the Constitution of
22 the United States of America?

23 We need \$3.5 billion to deal with this problem that we're
24 all sitting here today discussing, not 900 million. So I end my
25 comment with that.

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Thank you. Have a nice day.

1 MR. PENNOYER: Thank you, Mr. McKee. Any questions?
2 Okay, I think I will go on then to the teleconference network,
3 and anybody from Valdez who wishes to testify tonight?

4 MS. FISCHER: Hello, My name is Donna Fischer. I'm here
5 in Valdez, and also a gentleman from KCHU, and we are just going
6 to be listening in. I'm gonna be representing, I understand,
7 local government on the Exxon Restoration Council, and I just
8 want the Trustees to be aware that I am participating by
9 listening.

10 MR. PENNOYER: Thank you, very much, Ms. Fischer. We
11 appreciate that. We'll move on and start the next testimony in
12 Anchorage. Who wants to go next? Yes, sir.

13 MR. HARUN: Thank you. I'm Kevin Harun; last name is
14 spelled H-a-r-u-n. I'm speaking today as director of the Alaska
15 Center for the Environment. We're based here in Anchorage, but
16 have members throughout the state, and as the name suggests,
17 we're very concerned about the environment.

18 The purpose, I think, as to why we're here, is to discuss
19 how we all can work together to restore and heal the Sound and
20 other areas affected by the Oil Spill, and one of the things I'd
21 like to address today, quite simply, is how well are we doing,
22 and pose that question to the Council.

23 I'd like to make some suggestions that are positive, but
24 I'd also like to make some criticisms. I hope that the
25 criticisms are not taken non-constructively, because I do really

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mean to be constructive in criticisms that I make. I think out
1 of the debate and the discussion of ideas, I think we can have a
2 better framework for addressing these issues.

3 In terms of how well are we doing, I'd like to look at
4 two issues. One is tangible restoration, how well are we doing
5 in that area? And, secondly, how well are we doing in public
6 office?

7 As far as tangible restoration to date, basically, we
8 haven't had very much in the way of tangible results. There's
9 been lots of paperwork, and I was kind of startled to see the
10 mound today that was brought out. No reasonable person -- I
11 spend, you know, my full-time studying things. I couldn't --
12 you'd have to really be a Nasa scientist on a sabbatical to
13 really have the ability to analyze it and the time to get through
14 it. But that's another question of public process I'll get to.

15 But, really, we haven't seen very much to date and I'm
16 real concerned, as I mentioned before, about spending most of our
17 money on bureaucracy and administration and really not getting to
18 the main issue which is restoring the Sound and the damage that
19 occurred.

20 There's been lots of administrative machinations, but
21 there's really been no land that's been protected. And I realize
22 that things do take time, so I'm not, you know, saying that there
23 shouldn't be some studies. And I realize that we have to have
24 some study before we act. But there are certain areas that, I
25 think, we can act on.

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My suggestion -- main suggestion is that we take action
 1 on Katchemak Bay, that we send a message to the public that
 2 really we are concerned about protecting lands that are
 3 threatened, that fit the criteria. The question is really what
 4 kind of legacy are we gonna leave if Katchemak Bay is lost. We
 5 tout ourselves as being Alaskans, at least, that we're able to
 6 manage our resources, and we say we can develop the Arctic
 7 National Wildlife Refuge in an environmentally sound way, but
 8 really this would be a real gruesome symbol to our state and our
 9 country if this state park, one of our treasures, is logged.

10 The question is what kind of a legacy are we gonna leave.
 11 As far as specific suggestions I'd like to make on Katchemak
 12 Bay, I would like to see the Council conceptually approve
 13 negotiating to try and buy that land or the rights or try and
 14 protect it in the interim.

15 Another suggestion I have is that a lot of the
 16 individuals involved in this are very hot right now. One thing
 17 that might help would be to bring in a mediator; someone that
 18 could sit down and independently try and facilitate individuals.
 19 I think often, you know, the legal process and the clash in that
 20 fashion is not necessarily the best way to resolve a conflict,
 21 and I think in this case, you're dealing with people that have
 22 been working -- for instance, on the other side, some of them
 23 have been working for many years, and they're not very willing to
 24 negotiate right now or they're intransigent at this point. On
 25 the other side, I see individuals on the Council that really want

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to make sure that we don't get gouged by a corporation. Whether
1 it be a Native corporation or a non-Native corporation, and I
2 really respect that, and I think that you've got to make sure
3 that in the public interest, we get top dollar for whatever we
4 buy.

5 Finally, I'm trying to include the only -- the other
6 major point I wanted to make is that there's a public process
7 problem. The process is incomprehensible. The flow charts are
8 things that you -- you know, would see in graduate school
9 somewhere and try to analyze and figure it out to make it work.
10 If I were running an agency, I'd be, frankly, embarrassed,
11 because I think we can do a lot better job. I mean just basic
12 things like having information simplified.

13 In the White House, for instance, I know under
14 Ronald Reagan, which might not be a sterling example, but they
15 did require that White House memos be in a one page format. We
16 might want to put a page limit on what we're getting. But I
17 think simplification, that's really what -- 'cause the staff's
18 job should be to capsulize information. 'Cause we and you all
19 don't have the time to go through every square inch of this
20 stuff.

21 The other thing that I want to say, and I want to say it
22 respectfully. I hope it's not taken the wrong way, but with the
23 public members-at-large it was mentioned what we want to do is
24 have disinterested parties involved here to give some balance.
25 But I came back this afternoon -- I had to leave and I came back

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and I saw, for example, two very fine gentlemen, Lou Williams and
1 Paul Gavora, but that really -- Lou Williams is known as one of
2 the leading proponents of logging in the state, through the
3 Ketchikan newspaper, and I've read a number of his columns in the
4 Times, and Paul Gavora, I know Paul Gavora, and Paul is one of
5 the leading developers in Fairbanks. And I know that this is not
6 really -- I've heard about some of these other members. This is
7 not really balance here. And I think it needs to be pointed out
8 that they're not disinterested, and they're gonna take a
9 position, and we pretty well know that.

10 So I think we can all work together, but I think we need
11 some real improvements in the public process, and I think we also
12 need to send the public a message that, yes, we're gonna protect
13 certain lands, such as Katchemak Bay, that state park that's very
14 much threatened right now.

15 Thank you.

16 MR. PENNOYER: Mr. Cole.

17 MR. COLE: Well, I want to focus on Katchemak Bay. Who
18 now owns these lands in Katchemak Bay which you urge us to
19 acquire?

20 MR. HARUN: I understand there's some various parties
21 that have different pieces of it right now.

22 MR. COLE: Are they the Native organizations?

23 MR. HARUN: Yes, and

24 MR. COLE: And how did the Native organizations get this
25 land?

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MR. HARUN: Through selections under the Alaska Native
1 Land Claims.

2 MR. COLE: All right. And -- okay, and what restrictions
3 were placed on the use of those lands by Congress when they
4 passed the Native Claims Settlement Act which allowed the Natives
5 to select those lands?

6 MR. HARUN: Well, I'm not quibbling that

7 MR. COLE: Just hear me out. Let's stay with this.

8 MR. HARUN: Are you saying their intent was to allow them
9 to develop?

10 MR. COLE: Well, of course. Of course they were. We
11 know that. Congress gave the Native corporations the right, and
12 I'm not being critical, but justifiably so, to take these lands,
13 to develop 'em, and to improve their economic life in our society
14 in Alaska. Okay? Now, what restrictions did Congress place on
15 that? Did Congress say you can't log these lands? No. In fact,
16 the purpose underlying it was just the contrary. In many ways,
17 after a period of years.

18 Now, why don't you go to Congress and say you made a
19 mistake, you know, George Miller, and you ought to buy these
20 lands back from them. Why do you come to this group here, who
21 are charged with the restoration of Prince William Sound of the
22 Oil Spill, and say buy these lands and protect them from us all.
23 I mean, that gives me a lot of trouble. I mean, you focus on us
24 and you should be focussing on Congress and those people who
25 allowed this, if you want to call it, as you say, tragedy, to

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1 happen, and then it gets dumped in our lap and say, gosh, you've
2 got to go do something. Come on, you guys. I mean, like they
3 say in the vernacular, give us a break. It's Congress who was
4 responsible for this. I mean, it's Congress who could have
5 prevented this.

6 MR. HARUN: Could I

7 MR. COLE: Yeah, now just give me your answer to that,
8 would you, please? I know winter's coming, and I'll cool off.

9 MR. HARUN: I don't think Congress really envisioned
10 every specific implication of its action, and it's an ongoing
11 process, as we know, with any piece of legislation. And so in
12 many ways these lands are currency, they're bargained for, and in
13 many cases they're going back to Congress to try and get money to
14 buy lands. But what I'm saying is I'm not a bureaucrat, and I
15 just want to make it happen, and I think what the people of this
16 state are saying is you tell us how to make it happen. I mean,
17 we don't need to get into -- you know, if we get into the legal
18 realm and say, well, what's perfectly legal and what exactly was
19 Congress's intent, I don't think we'll ever know that. But I do
20 think that this area, Katchemak Bay, is definitely related to the
21 Oil Spill, and it is something that the people want to acquire,
22 and so why can't we do it?

23 You know, it would be a tragedy if that land is logged,
24 and I think -- you know, Charlie, you've mentioned to me -- you
25 know, at one point you said, well, some day when I'm the low man
with a cane, I don't want to leave behind a legacy that I didn't

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do anything. And I believe you and I trust you, and so I look
1 forward to you and the other counsel members to follow through on
2 that; to leave a legacy for the state. Because if you don't put
3 money into land acquisition, all you're gonna have left is a big
4 pile of paper, only a mile higher than what we already have to
5 date and nothing. And this also ties into the importance of
6 Alaska. Alaska is important. It's unique in the world, it's
7 unique in the country, and I think we have an obligation to
8 protect some of it.

9 MR. COLE: Why don't you go to Congress and ask them to
10 give us a hand?

11 MR. HARUN: If I could do it, I would. Thank you,
12 though.

13 MR. PENNOYER: Mr. Sandor.

14 MR. SANDOR: Kevin, I think you were here when we were
15 talking about the values of the lands and the proposed
16 requisition. Everything from, I think, 300 million to 3.0
17 billion, but many, many lands. But we talked about
18 prioritization process, and I guess the question I wanted to ask
19 -- since you've followed this right closely, to two projects that
20 we did approve today with the Nature Conservancy. It was
21 intended and is intended to bring a systematic and scientifically
22 based process of identifying the criteria, evaluating the
23 criteria, and prioritizing these projects.

24 What's your assessment of those two projects; did we do
25 the right thing today?

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MR. HARUN: I think you did. I think the Nature
1 Conservancy is a great organization. I think they have the
2 skills and the ability to do an evaluation in a way that can
3 simplify things, too. They have a history of working with
4 private parties, and I think -- I think they can come up with
5 real good framework.

6 I guess I'm just concerned, mainly, that there are some
7 areas that we've identified as being important, and I don't want
8 to see that fall through the cracks, 'cause they may not come out
9 with a report until maybe the beginning of next year, right? Is
10 that

11 MR. SANDOR: Well, hopefully, before.

12 MR. HARUN: You know how things go on. Sometimes things
13 don't fit the timetables exactly.

14 MR. PENNOYER: Further questions? Thank you, very much.

15 MR. HARUN: Thanks a lot.

16 MR. PENNOYER: Go on now to the field, to Juneau.
17 Anybody in Juneau wishing to testify tonight?

18 MR. THOMA: Yes. I'm speaking from Juneau. This is
19 Mr. Thoma -- Chip Thoma; C-h-i-p T-h-o-m-a, #2 Marine Way, in
20 Juneau, 99801.

21 Mr. Pennoyer, if you're the chairman, are all the
22 trustees present this evening?

23 MR. PENNOYER: That's correct, Mr. Thoma.

24 MR. THOMA: Have you taken any vote, sir, on the agenda
25 items? That's all that I received today. I was just trying to

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see if votes have been taken on the habitat and the public group
1 advisory nominations and the draft work plan and the rest of the
2 things on the agenda?

3 MR. PENNOYER: Not entirely. We have taken action on the
4 Public Advisory Group and have a Public Advisory Group of all
5 sectors now complete; we have reviewed the habitat protection
6 process; approved two projects, both contracts -- sharing
7 contracts with the Nature Conservancy to speed up data
8 acquisition and selection on eminent threat primarily in the
9 habitat arena; then we approved the Financial Operating
10 Procedures; reviewed the draft Restoration Plan. We did not
11 finalize action on the 1993 draft Work Plan, and when we recess
12 this meeting tonight, we will reconvene next Monday morning here
13 in Anchorage to do that.

14 MR. THOMA: Very good. I appreciate that summary, sir.
15 Are you up to 15 members now on your Public Advisory Group?

16 MR. PENNOYER: We have 17 total.

17 MR. THOMA: 17 total. Very good. So you appointed,
18 what, seven today?

19 MR. PENNOYER: That's correct.

20 MR. THOMA: Could you, very briefly, give me those names?

21 MR. PENNOYER: Mr. Gibbons.

22 MR. GIBBONS: Yes. For the category of Recreational
23 User, James Diehl; for the category of Sports Fishing & Hunting,
24 Paul Andrews; for the nominees of the Public At-Large,
25 James Cloud, Richard Eliason, Lou Williams, Paul Gavora, and

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Vern McCorkle.

1 MR. THOMA: I am extremely disappointed, as someone who
2 has been involved in politics in this state for 20 years, to hear
3 that these people have been appointed as the last seven remaining
4 members of this committee. To me it completely politicizes this
5 committee and puts on a slant to it that's inappropriate, and I
6 will speak -- I will speak to Mr. Andrews and Mr. Eliason and
7 Mr. Williams, all these gentlemen. Mr. Andrews has been a member
8 of the Territorial Sportsman and also the -- was very active in
9 the McDowell settlement, and Mr. Eliason and Mr. Williams, coming
10 from pulp mill towns, have opposed, for the most, I think,
11 progressive thinking as far as the use of the Tongass in their
12 political careers, and I determined that Mr. Williams has,
13 indeed, a political career. Mr. Williams has written extensively
14 on not selecting habitat as part of the settlement, and backing
15 the Governor in his decision completely. I think it's totally
16 inappropriate, and I do plan to complain to Judge Holland and
17 whoever else wants to listen that this selection -- this added
18 selection, for whatever reason, obviously, was to get friends of
19 the Governor's and the Attorney General's on this committee, and
20 I think it's improper. And as much as I love Dick Eliason, and
21 as much as I respect some of the things that Rupe Andrews has
22 done, I think that it's very political and inappropriate.

23 I'll go on. I went today to the US Forest Service and
24 Legislative Affairs offices, looking for a packet of information
25 on this meeting, and they were not there. DHL had not arrived.

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And that should have been done a week ago. But I went there
1 twice. I think something could have been faxed, some kind of
2 summary. I hear it's a very weighty tone (ph) that you have sent
3 out, but I think that it should have been there a week ago. I
4 found it striking that I went to Mr. Barton's office and his
5 secretaries had no knowledge whatsoever of any kind of agenda or
6 packet. And as far as identifying for me who, indeed, works at
7 the Oil Spill Office at the Juneau Headquarters here, they told
8 me it was solely Mr. Gibbons, and I have a real problem
9 understanding when so many people, to my knowledge, working out
10 of Juneau are on the employ of the Forest Service and dedicated
11 directly to the Oil Spill as coordinators or some sort or
12 another, that there was not a packet of information in the
13 Federal Building in Juneau.

14 So, I asked and I asked and I asked, and Mr. Barton, as
15 you know, you have three secretaries in that office, and they had
16 no idea what I was talking about, and they couldn't tell me who
17 works for Mr. Gibbons. I mean, why doesn't Mr. Gibbons, at
18 least, have a secretary in the Oil Spill Office in Juneau? You
19 know, at least for public information services. I mean, why
20 can't we afford some kind of position, you know, to have at least
21 two people that are out front identified with the Oil Spill
22 Office. If we're gonna spend this kind of money on staff, and
23 Mr. Gibbons' office is ostensibly in Juneau, I think it's totally
24 appropriate that we have a staff person in Juneau that is able to
25 dispense information, basically, in a moment's notice that that's

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their job. And especially now that we have Mr. Andrews,
1 Mr. Eliason and Mr. Williams on the panel. Obviously, a very
2 strong southeast influence here, I think it's even more
3 appropriate.

4 My next -- I think I'll just go on to that I think it's
5 -- I did testify about two weeks ago that I think there is a
6 critical need -- and you may have discussed this in your habitat
7 discussion today -- I think there's a critical need throughout
8 the state for the eradication of foxes and rats on islands
9 throughout the state. There are a few -- there's three or four,
10 I believe, in the Gulf of Alaska, and the majority, of course,
11 are in the Aleutians. And I think for the preservation -- and I
12 do mean that word very strongly, the preservation of bird
13 colonies and species, I think that this is a threat that we have
14 in Alaska to migratory waterfowl that these foxes and rats need
15 to be approached directly, and we do have ways to control foxes
16 in this state. I am told that biologists in New Zealand and
17 Iceland have at least begun to pioneer how to take care of rats.
18 They have huge rats on these islands. I think it's absolutely
19 necessary that we concentrate what biology staff that we have
20 available to us through Fish & Wildlife/Department of Interior,
21 through our State Fish & Game, that we coordinate this effort and
22 get on with the program. There are some 400 islands in the state
23 that are overrun -- not overrun, but are controlled -- are
24 predatorized by foxes and rats, and it's not right.

25 The other danger, of course, that is -- that happens

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worldwide is the -- when shipwrecks occur, the release of rats,
1 especially on grain carrying ships of that nature, that this is
2 where these rats solely are released, and I think it's important
3 that we recognize this, just as we recognize oil spills. If we
4 really are going to look at the restoration of bird colonies,
5 then we should look at shipwrecks, the release of rats as being a
6 reasonable, direct problem. And when this occurs, we should have
7 the ability and the dedication to go out and approach these
8 wrecks just as we would an oil spill, and make sure that rats
9 don't get released onto these islands.

10 My next point is I have decided from a meeting this week
11 about this state administration opposing provisions of the House
12 Energy Bill, I've decided that that truly is the way that this is
13 gonna end up working out, and I think it's a sad commentary, of
14 course, on this process, but I think that the House Energy Bill,
15 where the majority of monies -- it directs that the majority of
16 monies from the Exxon settlement be spent for habitat acquisition
17 is the proper course and that this really is the way that this
18 bill and the havoc that it's wrecked (ph) and continues to wreck
19 (ph) even at Cape Suckling (ph) on bird and wild species, has to
20 be done through habitat acquisition.

21 So I am going to identify with that bill -- with that
22 provision of the bill, and see to it that our congressional
23 delegation, if they do oppose those provisions in the bill, are
24 identified for that throughout the coastal communities.

25 I think that if Mr. Young and Mr. Murkowski, in the next

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six weeks or so, decide to take up this banner and try to delete
1 these provisions that we should identify them, since it is a
2 political year. I think it's a very political issue. I think
3 that the -- and to be consistent -- I will be consistent. I
4 think the settlement and the framework involved are highly
5 political and they are manipulated by this decision by unanimity
6 that you gentlemen have where you basically don't take a vote,
7 you know, unless you've got the six votes, and especially on very
8 controversial issues, such as habitat acquisition. I would like
9 to see some of these votes on the record, you know, even if it's
10a three to three or a two to four, I would like to see these
11 votes on the record.

12 So, obviously, I have a lot of problems with this. The
13 settlement and the negotiation of it are a part of the recall on
14 Governor Hickel, and I think it's appropriate, of course, that
15 that be there, that we will continue to identify these problems
16 as being equal to the task of recall, and I think that's the end
17 of my testimony.

18 If you have any questions, I'd be sure happy to answer
19 them.

20 MR. PENNOYER: Thank you, Mr. Thoma. Any questions of
21 the Trustee Council? Comments? Thank you, very much.

22 I think we'll come back to Anchorage now and Mr. Knowles.

23 MR. KNOWLES: Thank you, Mr. Chairman. Members of the
24 Council, my name is Tony Knowles. I'm a resident of Anchorage.
25 Did you want the address? Is that for -- 1146 S

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MR. PENNOYER: You don't have to.

1 MR. KNOWLES: is my home address. I would like to
2 urge the Council, in the very strongest of terms, to make it the
3 highest priority, the habitat acquisition. And I would very
4 respectfully say that I really think it's outrageous that the
5 vast majority, if not all of the monies that have been spent to
6 date, have been compensating the various agencies rather than
7 insuring that the act of the Oil Spill, and to the extent that it
8 was a criminal action was an act and a crime against nature, not
9 against the DEC or Department of Interior or Fish & Game. Yet
10 the first ones to get paid have been -- to the extent that I
11 understand it, some \$55 million has been the agencies. And I
12 would just reflect on the fact that if hurricane Andrew or
13 hurricane Iniki -- if the very first monies had been spent in
14 those situations to re-compensate the agencies rather than to
15 rebuild the communities, there would be a very justified public
16 uproar. And I would say, in this particular case, that the job
17 of habitat acquisition is long overdue, and I would encourage you
18 to -- in the strongest of terms, to apply the monies to that.

19 Thank you, very much.

20 MR. PENNOYER: Thank you, Mr. Knowles. Questions or
21 comments from the Trustee Council?

22 MR. KNOWLES: Thank you.

23 MR. PENNOYER: Thank you, very much. Go out now to
24 Seldovia. Anybody in Seldovia wishing to testify tonight?

25 MR. ELVSAAS: Yes. Are you hearing me all right?

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MR. PENNOYER: You need to identify yourself and spell
1 your name, sir.

2 MR. ELVSAAS: Yes. My name is Fred Elvsaas; it's E-l-v-
3 s-a-a-s. And I would just like to just clarify a couple of
4 things from some earlier comments.

5 The comments on the Katchemak Bay acquisition, there
6 seems to be an inference that the Seldovia Native Association,
7 which I represent, as the land owner, are trying to sell this
8 land to the State of Alaska. The fact of the matter is the state
9 hopes that Seldovia Native Association in (indiscernible) land
10 trades and outright purchase lands. And we worked up an
11 agreement for a purchase price with the price, of a fairly large
12 discount on a cash value basis, and the sale did not go through
13 because the Governor vetoed this plan. I heard Mr. Harun speak
14 to the federal government coming into the picture.

15 The Seldovia Native Association did not make this plan
16 available to the Federal Government; to the State of Alaska only.
17 And I think that that issue must be kept in mind as you go
18 through your deliberations. If you have any questions, I'd be
19 happy to answer them.

20 MR. PENNOYER: Mr. Cole.

21 MR. COLE: I would like to say that I personally favor
22 the acquisition of Katchemak Bay State Park lands, and I have
23 worked in the past and will continue to work to acquire those
24 lands in State ownership. But I am troubled over the approach
25 that so often seems to be made to the Trustees here that we're

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1 somehow remiss or committing a cardinal sin by not acquiring
2 those lands quickly. I think there is broad sentiment among the
3 Trustees to acquire those lands. It's not easy to do within the
4 terms of the consent decree.

5 I think what I would like to see more than almost a
6 strident urging that we acquire those lands that some help in how
7 we can acquire them within the framework of the consent decree,
8 within the framework possibly of legislative action. Those are
9 where we're having some difficulties. I think that the Trustee
10 Council will likely find, if it's not found, that difficulty in
11 spending \$22 million out of this fund itself to acquire Katchemak
12 Bay. And as I told Mr. Harun in the past, that I think that a
13 collective approach to the acquisition of Katchemak Bay, we can
14 get it done, we can get it done relatively soon. It is not an
15 easy assignment. So, again, I urge, you know, probably less in
16 the way of -- I don't want to say demands, but strong urging and
17 help in our getting it done, and I think we can do it. That's my
18 personal view. I don't necessarily speak for the other members
19 of the Council, but

20 I also want to say, and make it very clear, that the
21 Governor has made it extremely clear that he favors the
22 acquisition of Katchemak Bay State Park lands, with no
23 equivocation on his part on that subject. 411 contains some 40
24 to \$45 million plus or minus other expenditures. I think that's
25 somewhere (indiscernible). So, anyway, I just wanted to make
that clear.

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Thank you.

1 MR. PENNOYER: Thank you, Mr. Cole. Further comment or
2 questions? Thank you, very much.

3 I'll come back now to Anchorage and the next person in
4 Anchorage?

5 MS. RODERMAN: Lisa Roderman. I'm now an Anchorage
6 resident. I've spoken to you before. I was principal
7 investigator on damage assessment studies aimed at damage of the
8 Exxon Valdez Oil Spill to sea otter weanlings and hematology
9 studies on adult females and sea otter pups, and collaborated on
10 studies of reproduction and mortality of adult females in Prince
11 William Sound. I've been studying, along with my colleagues, sea
12 otters in Prince William Sound since 1984.

13 My first comment to the Trustees have to do with -- to
14 thank you for your efforts regarding the workshops that you have
15 planned to identify critical habitats. I think that's a great
16 idea, and I think it will take you many steps forward in terms of
17 identifying critical habitats very quickly, rather than going
18 through a more lengthy process. And I particularly applaud some
19 of you who, I do believe, have really been trying to solve the
20 problems.

21 I have some comments which, again, given Mr. Cole's
22 comments, I'll try to keep constructive, as much as possible.
23 I've tried to keep that in mind when talking to the Trustees
24 rather than just complaining to them.

25 The process, as it is right now, in terms of scientific

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research and solicitation of projects, still has a number of
1 problems, in my opinion, and I address my comments and try to
2 make some suggestions to how you can go about remedying those
3 problems.

4 I'll give you some specific written comments within this
5 week on my own particular case, which I think I won't go into
6 now, but exemplifies some of the problems that have occurred
7 rather nicely in terms of conflict of interest and some other
8 issues, which I've raised to the Trustee Council before.

9 But there still is a tremendous amount of conflict of
10 interest problems, I believe, problems with scientific ethics,
11 which have still to be addressed by the Trustee Council, that are
12 ingrained in this process. Suffice it to say, some of the ideas
13 that have been presented to you in your Restoration Plan for
14 1993, as being agency ideas, may not have originated within the
15 agency, and are basically, in some cases -- at least in part,
16 proposals that were originally developed by other people such as
17 myself, and which propose to analyze data taken -- for instance,
18 in the case of myself, over a very long period of time, many
19 years before the Exxon Valdez Oil Spill.

20 This -- let's see. My viewpoint is that you need to
21 remedy the problem that at this time agency personnel are still
22 being allowed to basically insure their own job security and to
23 further their own careers based on the scientific talent and
24 recommendations of other people. And this year you did so rather
25 blatantly, which was kind of strange, by saying that proposals

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came in were non-proprietary.

1 In my own case, proposals had been -- I've been given, at
2 the request of the Restoration Planning Team, proposals in 1990
3 and proposals in 1991, with the agreement that they were
4 proprietary. These proposals now show up -- segments of these
5 proposals now show up in so-called agency proposals, and I
6 question your -- the thought that you can solicit proposals from
7 scientists and say that the ideas are non-proprietary, wherein
8 nearly every other situation, be it NSF, NIH, almost every other
9 funding source, proposals are proprietary, because it's a lot of
10 what scientists have to offer; the data that they've already
11 collected, the insights they have, the knowledge which they bring
12 to bear about a particular problem and their advice on how to
13 solve and address a particular question.

14 So, I make the following suggestion to you that you
15 entirely open the process and solicit proposals which would be as
16 they always are, as I've said, treated and considered in a
17 proprietary manner. In this round, as I say, people were told,
18 and I was told explicitly that this was not the case, and when I
19 asked whether I could be given assurances by the Restoration
20 Planning Team that proposal grabbing would not occur, I was
21 basically told by certain members of the Restoration Planning
22 Team and others closely associated, that they could give no
23 assurances, and some folks said they actually thought this was
24 likely to happen.

25 And this -- so this doesn't result in a very fair

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process. And I emphasize that in no case am I coming to you asking for consideration of my funding requests in general. My feeling is that the Trustees can either fund a project or not fund it, but that if a good proposal comes from someone, the person that should be funded to do the work is the actual scientist that should do the work, the people that came up with the proposal.

I'm not alone in my thoughts about opening up the process, and I would like to read into the public record a letter from Dr. Spies, the chief scientist to the Trustee Council. My copy doesn't have any kind of a date on it, but I think it's important that the public at large know this has been raised, and I just want to read a few excerpts from this.

So, it's to the Exxon Valdez Trustee Council, from Robert Spies, chief scientist: My primary duty, as chief scientist, is to advise you on the scientific information needed for assessment damages and for restoration and enhancement of natural resources in the Spill area. Part of my obligation is to insure that you receive the highest quality information on which to base your decisions.

And skipping down he talks in the next paragraph about the many qualified scientists previously were not able to participate in the process, and it says: This problem continues through the 1993 Work Plan development, where it was made clear that ideas solicited from the public were not to be considered proprietary, and could be appropriated and used by the agencies.

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And I am telling you that this has happened.

1 It seems to me -- then skipping down again: It seems to
2 me, now that the litigation has been settled and we have moved
3 into restoration, that there is an opportunity to potentially
4 increase the quality of some aspects of the work we do through
5 costs and increased public participation. This change would also
6 greatly benefit the agencies as the competition would insure that
7 the greatest emphasis would be placed on competence and quality
8 of the natural resource work being done. Open competition would
9 also greatly encourage the timely completion of reports and
10 publications which have not received the attention they deserve
11 in many instances. Let me say to those of us that have been
12 involved in this process, that's an understatement. To encourage
13 participation by highly qualified individuals and firms, however,
14 that was my insert, just for the public record. That last little
15 editorial was not in Dr. Spies' letter.

16 To continue on in Dr. Spies' letter: To encourage
17 participation by highly qualified individuals and firms, however,
18 independent review of the proposals is essential. Presently, the
19 Restoration Team is voting on which proposals will be recommended
20 to the Trustee Council. The members of the Restoration Team are
21 representing agencies that themselves have proposed projects, and
22 are clearly not without real and perceived conflicts of interest.
23 Several independent investigators have indicated to me they are
24 skeptical about the outcome of the process.

25 And in the last paragraph, Dr. Spies recommends the

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1 following -- he says the following: Many of the peer reviewers
2 and other scientists have told me that the restoration process
3 should be more open to public participation. I have come to the
4 same conclusion. I hope that you will seriously consider this
5 suggestion in your future. There is, in my opinion, time to
6 implement a competitive process for selections and an independent
7 review process for much of the work you may wish to achieve in
8 1993.

9 In the response to Dr. Spies', the Restoration Planning
10 Team says, for instance: We envision an equitable mixture of
11 agency and private activities and talks about how the team is
12 going to address the conflict of interest issues.

13 So, again, I get back to Dr. Spies' recommendation, and
14 I'd like to put Dr. Spies on the spot, actually. I'm sorry I
15 have to put you on the spot but it does come with the job, and
16 ask him to comment on whether he does the following -- would you
17 ask him to comment on the following: Does he think there is
18 still time to implement a totally open process for proposal
19 solicitation for the 1993 work process; whether he thinks the
20 whole process in general would be served by putting -- if not,
21 whether he thinks the process would be served by putting all of
22 the proposed studies that you have before you out to bid. The
23 ones that you decide should go forward, put those out to bid.
24 The agency people -- you said the ideas were not proprietary, and
25 yet in some cases agency personnel have written up the ideas as
their own, put it all out to bid. That would be basically the

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only thing that's left to do that would be equitable. And ask
1 him if he would be willing to characterize -- this is what really
2 puts him on the spot, and maybe he won't want to do this, for the
3 Trustees and for the public, how his recommendations in terms of
4 opening the process have been received, and to ask him to comment
5 in general on whether this whole proposal and idea grabbing issue
6 has been a problem, and if he thinks this negatively affected the
7 process.

8 And then I'd just like to clarify, as I end, one other
9 thing. I would like to clarify what proportion -- well, let me
10 backup a second. Previously today, we were told that there was a
11 significant private sector element. I mean, what's coming from
12 the Restoration Team to the Trustee Council. And I was curious
13 if we could clarify what proportion of the PI's on proposed
14 studies come to you are from the private sector, because -- well,
15 I'd just like to know that: What proportion of the actual PI's.
16 I imagine a lot of boat charters and other things are going to
17 be in the private sector, but in terms of the people that will be
18 leading scientific studies, I would like some clarification as to
19 how it stands right now in terms of your proposed work plan.

20 MR. PENNOYER: Appreciate it. Would you, please, wait
21 for a second to see if there are further questions.

22 We are going to take up the '93 Work Plan, and we've
23 asked the Restoration Team and Dr. Spies to be present and answer
24 questions about the plan, how it was developed by the various
25 project committees in their priority.

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Rather than get into that here, I'm not sure if Dr. Spies
1 is prepared to get into that process at this time. I think I'd
2 entertain questions from the Trustee Council. These questions
3 have been raised, Ms. Roderman, and I think we can deal with them
4 during the '93 Work Plan discussion. But I'll certainly yield to
5 your preferences.

6 MR. GIBBONS: Well, Mr. Chairman, I think it is important
7 these be dealt with. I presume it would be more logical to deal
8 with next Monday. I think Dr. Spies' memo raises some important
9 issues, you've essentially reinforced them, and raised some
10 logical questions. I look forward to that discussion unless
11 someone would want to have that discussed at this time. It think
12 it's probably better handled at the meeting next Monday.

13 MS. RODERMAN: Well, can I ask on Monday will there be a
14 public comment period on Monday? In other words, will we have
15 the same people in line that are on line right now? Because I
16 think that this is an issue that's come up repeatedly, and it's
17 an issue that the public in general really needs to, I think,
18 have clarified for them -- at least the research community needs
19 to have this clarified, if at all possible.

20 MR. PENNOYER: Were we scheduling a public hearing
21 session for Monday?

22 MR. GIBBONS: We can, Mr. Chairman.

23 MR. PENNOYER: Well, I think that might be appropriate
24 then, and your questions are in the record and we will deal with
25 Dr. Spies' letter then. Again, these are projects going out to

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public review, and we'd like the broadest possible understanding
1 of where they came from and how they were developed and what they
2 mean.

3 So, if there are no further questions? Mr. Gibbons.

4 MR. GIBBONS: I'd like to make one comment. She
5 referenced the response letter. I'd like to put that into the --
6 make sure that's in the record. We did respond to Dr. Spies' and
7 we've had some discussions with Dr. Spies since then.

8 MS. RODERMAN: Would it be possible at this time to
9 clarify my last question which had to do with the -- sort of the
10 percentage of PIs that you are now -- in terms of projects -- in
11 terms of the breakdown right now that you're recommending, in
12 terms of private sector/public sector, does anyone have a -- at
13 least a gross idea to what proportion of the principal
14 investigators on theses studies are in the private sector?

15 MR. MONTAGUE: Mr. Chairman.

16 MR. PENNOYER: Mr. Montague.

17 MR. MONTAGUE: I don't know if this is working. I can
18 answer that. First of all, of the 60 or so projects, they're
19 projects not studies, there's a lot of projects that aren't
20 researched and the leaders of 'em wouldn't rightfully be called
21 principal investigators, but of the 60, altogether, 10 would be,
22 you know, headed up by non-agency people, about 20%.

23 MS. RODERMAN: What about the ones that you would
24 consider scientific?

25 MR. MONTAGUE: I'd have to look that up. I'm not sure.

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And then the amount of money to the public is 60%.

1 MR. PENNOYER: Questions have been asked and they're on
2 the record, and we will try and deal with them next Monday. And
3 thank you, very much.

4 MS. RODERMAN: Thank you. And, again, I do appreciate
5 this -- some of the Trustees are working very, very hard, I know,
6 to try to involve the public and try to offer remedies at getting
7 at this whole question of how to protect critical habitats, and I
8 do appreciate that.

9 Thank you.

10 MR. PENNOYER: Thank you. Are there any communities that
11 have come on line since we've started? We had Kodiak, Homer,
12 Valdez, Juneau and Seldovia, or am I starting over again on the
13 list? Start over again, okay. Thank you. Anybody else from
14 Kodiak who wishes to testify tonight?

15 TELEPHONE OPERATOR: Cordova and Soldotna have joined
16 you.

17 MR. PENNOYER: Okay, well, then maybe we'll finish the
18 list first. Cordova, anybody from Cordova who wishes to testify?

19 MS. MCBURNEY: Yes, there is. My name is Mary McBurney;
20 M-a-r-y M-c-B-u-r-n-e-y, Post Office Box 464, Cordova, 99574.

21 And I appreciate the opportunity to at least have these
22 public comment periods at the end of your Council meetings,
23 however, we do kind of work at a deficit at the off-net sites
24 since we don't have the benefit of sitting in on the rest of the
25 proceedings and finding out what the actions are that have been

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taken.

1 So if you will forgive me for asking a few bonehead
2 questions, I would just like to get caught up on what you've done
3 today. First of all, I was wondering who the additional Advisory
4 Group nominees are for the remaining seats that were left open.

5 MR. PENNOYER: Yes. We had a brief review, upon request
6 from one other person, and normally -- and I'm sorry I omitted
7 that when I asked Mr. Gibbons to review the actions taken during
8 the day, we did not do that at this time.

9 And Mr. Gibbons, would you care to respond with the names
10 of the additional nominees?

11 MR. GIBBONS: Sure, Mr. Chairman. For the position of
12 Recreational User, James Diehl; for the position of Sports
13 Fishing and Hunting, Rupert Andrews. It was moved to extend the
14 Public-at-Large group from three to five. The fives names
15 selected from the Public-at-Large group, James Cloud,
16 Richard Eliason, Lou Williams, Paul Gavora, and Vern McCorkle.

17 MR. PENNOYER: In answer to the other questions, we also
18 dealt with habitat protection process and other review of the
19 process, including the eminent threat work that's been done for
20 us, and in that process approved two projects -- cost-share
21 projects with the Nature Conservancy for the acquisition of data
22 on land acquisition. Those will go forward as part of the court
23 requests for the balance of our '92 budget. We also discussed
24 the Financial Operating Procedures, and adopted those. We
25 reviewed the draft Restoration Plan and got an overview of it and

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the timing on it. There were no action items on that. And we
1 also discussed the 1993 draft Work Plan, but only as to how it's
2 developed. We postponed taking action on the '93 draft Work Plan
3 in regards to what's going to be sent out to public review till
4 next Monday, and we will recess this meeting tonight after the
5 public hearing and then reconvene it here in Anchorage next
6 Monday to discuss the '93 draft Work Plan.

7 Dave, did I miss anything?

8 MR. GIBBONS: No, you got it all.

9 MR. PENNOYER: Thank you. Do you wish to go ahead then,
10 Ms. McBurney?

11 MS. MCBURNEY: Yes. Secondly, it's come to my attention
12 that there is -- the Oil Spill Recovery Institute is, I guess, in
13 its formative stages right now, and I know that the Prince
14 William Sound Science Center is quite active in its formulation.
15 And I'm having a difficult time trying to figure out how this
16 Oil Spill Recovery Institute and its mandate under open (ph) 90
17 is going to be interfacing with the Exxon Valdez Oil Spill
18 Trustee Council, and specifically how that organization -- the
19 Recovery Institute is going to be dovetailing with the Public
20 Advisory Group.

21 MR. PENNOYER: I believe this has been discussed by the
22 Restoration Team. I know that the Oil Spill Institute has not
23 had its first meeting of its board of directors but has appointed
24 a board. It was originally scheduled for, I believe, this week,
25 and it's been postponed now for an additional week or two to -- I

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think two weeks before they will meet. So I don't think they
1 have reviewed their charge or discussed their role at this time.

2 I don't have the charter in front of me. The Oil Spill
3 Institute, I think, was created by legislation to deal with
4 partially the restoration monitoring in Prince William Sound. I
5 don't believe we -- the Trustee Council, has taken any position
6 on how that interacts or how that might be funded at this stage.

7 MS. MCBURNEY: Finally, I understand that there has been
8 discussion recently about the disposition of the remaining
9 \$50 million on the federal side for their criminal settlement,
10 and I was just wondering what's it done as far as figuring out
11 how that's going to be divided among the three involved agencies,
12 and what the status of that settlement is and when the monies are
13 going to be made available for various projects.

14 MR. PENNOYER: The question was on the federal side.
15 There have been meetings and discussions. At the present time,
16 we have a working group looking at that, and the three federal
17 agencies are in the process of actually developing an MRA between
18 the agencies to deal with the expenditures of the restitution
19 funds. That planning process has not been completed at this
20 time, so I can't answer your question as to where we stand up.

21 Mr. McVee or Mr. Barton, do you wish to add to that? Any
22 further testimony?

23 MS. MCBURNEY: No, not at this time. Thank you, very
24 much, for your time.

25 MR. PENNOYER: Thank you. I'll come back to Anchorage

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now.

1 MR. SELBY: Thank you, Mr. Chairman, members of the
2 Council. My name is Jerome Selby; that's S-e-l-b-y. I'm the
3 mayor of the Kodiak Island Borough. I'm going to, for the sake
4 of brevity, limit my comments tonight, pretty much, to FY-93 work
5 plan, and then a couple of comments for you on the acquisition.
6 I guess I should bring a longer list to beat up on you with, but
7 I didn't tonight.

8 First of all, we appreciate some of the projects that we
9 submitted that are, in fact, in the '93 Work Plan. And we'd like
10 for you to consider next week some projects that are not in the
11 draft Plan that's in front of you. At the moment, I don't know
12 why they're not there. We have been told now that we will be
13 able to see those review comments concerning the other projects,
14 and those should be mailed out to us Monday or so. But -- or
15 later this week, I guess, Dave was saying. But without that
16 knowledge, we would request that Monday when you meet that you
17 take a serious look at some other projects, and let me give you
18 just a bit of background.

19 We have a pink salmon fishery that's in serious trouble
20 in Kodiak that we just discovered this summer. We had a
21 projection of 12 million -- 12 to 15 million fish return for the
22 commercial fishing industry this summer. They were able to catch
23 something slightly over 3 million fish before they closed the
24 fishery.

25 To me, that's a pretty significant hit on a very

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important fishery in our commercial fishing industry. We don't
1 know why. I certainly can't sit here tonight and tell you that
2 it is in fact a result of the Exxon Valdez Oil Spill. It is
3 significant that, obviously, those adult fish returned in '89,
4 through the Spill, may or may not have been impacted. I do not
5 know.

6 But we do have some other projects -- five projects, in
7 fact, dealing with pink salmon. A total of \$154,000.00 of
8 expenditures for all five projects that we would really like you
9 to take a serious look at next Monday, of adding to your Work
10 Plan.

11 There are two more pink salmon stream projects that add
12 up to \$75,000.00 for the two of 'em. For some reason, two of the
13 four that we had requested are in the Plan, and two are not.
14 Again, I don't know why, but we would like you to look seriously
15 at adding those other two projects in.

16 MR. COLE: Mr. Selby, excuse me, just a minute. I'm able
17 to use this fine work product here that's been provided to us,
18 and under your name are listed two, four, six, eight -- I don't
19 know, about 15 or 16 projects. If you could tell us specifically
20 which ones they are, I think we will then have a good opportunity
21 to take a look specifically at those ones that you want us to
22 look at. Would you like to see this?

23 MR. SELBY: I've seen the list. There's a little
24 problem, Mr. Cole.

25 MR. COLE: Okay.

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MR. SELBY: The list that we submitted in total, from
1 Kodiak Island Borough, included all of the agencies on the
2 Borough. What you have there are not all of the projects that
3 were submitted under my name. The two that I'm referring to,
4 particularly at this moment, are under the Fish & Game request,
5 and it's back earlier in the document, so I'd be glad to give you
6 that reference if it was listed in there, but those two, in
7 particular, aren't.

8 One of 'em is the Horse Marine Pink Salmon project. I
9 just blanked the other stream's name out, but they're all listed
10 under Fish & Game together, the four of them, just straight down
11 the page. So I think you'll be able to find 'em.

12 MR. COLE: Okay.

13 MR. SELBY: Another one, similar, is the Uganik River
14 Fish Weir, and I think that one is listed under my name, for
15 \$28,000.00. There's the Ayakulik Fish Evaluation project for
16 \$6,000.00, a very small project, and there's the Kitoi Bay
17 Hatchery, which is listed, I think, actually under the Kodiak
18 Regional Aquacultural Association project, for \$45,000.00, which
19 has to do with the pink salmon work there at the hatchery at
20 Kitoi.

21 So, again, we'd really appreciate it if you could take a
22 real close look at, perhaps, adding some, if not all five of
23 those projects, for a total of 154,000 to your 1993 Work Plan.
24 And certainly -- you know, I don't know where you sit on the
25 money for '93, I haven't heard that today. I know Mr. Cole

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usually has a running track of that, it seems, as far as what
1 might be available. Certainly, though, all the projects are on
2 the 1993 Work Plan list.

3 I'd put this project well ahead in priority of the 3.7
4 million that's targeted for the hatchery at Fort Richardson's
5 pipeline. If you need to raise additional sockeye salmon, I
6 think there may be some other more prospective alternatives.
7 Particularly, we have a sockeye hatchery at Pillar Creek, in
8 Kodiak, that -- for sockeye salmon, I think, you could put more
9 fish out of that particular hatchery for a whole lot less than
10 \$3.7 million. We haven't got \$3.7 million in the total for that
11 hatchery. And so I think there may be a more prospective way of
12 coming up with some sockeye salmon to put in the Kenai River for
13 the sports fisherman than spending 3.7 million.

14 So let me leave that thought with you, as you look at
15 that list next week also.

16 Also, I understand -- and the weir site acquisition --
17 the acquisition and habitat, I understand and appreciate the care
18 with which you folks are working through that. That is a very
19 significant issue for the state.

20 I would suggest to you, over on your habitat chart --
21 summary chart, though, that you take the \$120 million off the 412
22 that you looked at today, because it's duplicatory on this list,
23 and so you really have something less than 300 million worth of
24 projects that you're looking at here with what you've got listed.

25 Now, I would suggest that you add -- target back

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somewhere around 400 million and put some projects on here from
1 Prince William Sound, because there are none here. And I
2 realize, again, that it's partly because you're more concerned
3 about looking more into those in-depth.

4 I think that a lot of the comments that you're getting on
5 folks on habitat has to do with the fact that the Council -- and
6 I understand your reluctance, it hasn't really given any
7 commitment at habitat acquisition, and basically to me that's a
8 philosophical issue at the moment, more so than to say that
9 you're going to buy a particular habitat acquisition project. I
10 think what the people and the people in this room and the people
11 in Alaska would like to see you folks say is that you're gonna
12 target and decide philosophically what you want to target for
13 habitat acquisition.

14 In my mind, if Mr. Cole's number of 625 million is left
15 to spend that he threw out earlier today is correct, then I'd say
16 400 million out of that for habitat acquisition would be a pretty
17 good target to hit. It doesn't mean that you're gonna spend
18 exactly 400 million, but it would be a signal to folks that
19 you're serious about committing a substantial amount of the
20 remaining funds towards acquisition of the habitat. Granted, we
21 all know that we could bring in two or \$3 million worth of
22 acquisition projects. There's not that many to buy. So you're
23 gonna have to go through and select the best out of what's
24 available and what should be purchased, even with 400 million,
25 but I'd encourage you folks to have that discussion and give it

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the signal so folks know.

1 I think that would also help the people who own the land
2 to know that yeah, this is a serious discussion taking place and
3 they aren't sitting around hoping that this might be an
4 acquisition and at the moment there's no commitment that there
5 would really be any money spent on acquisition.

6 I would -- and there are two other projects that we would
7 like you to consider, and that we were very disappointed did not
8 show up on the '93 Work Plan at all, and that's the Fisheries
9 Industrial Technology Center development in Kodiak and the museum
10 in Kodiak for the artifacts. And let me just comment, briefly,
11 about those and I'll go away and give somebody else a chance.

12 The Fisheries Industrial Technology Center, the expansion
13 of that facility would allow us to do a lot of the analysis
14 that's gonna need to be done on some of these other research
15 projects here in the state of Alaska. At the moment, a lot of
16 that work is gonna get contracted out Outside of the state of
17 Alaska. And I would just ask you folks, while we're doing this
18 research why don't we build something for Alaska that will still
19 be here when we're through doing the research projects on the Oil
20 Spill. We have that opportunity now. We've got a first class
21 facility that could be expanded and be there forever. I
22 mentioned before that it would give us the opportunity, the
23 ability in the future, if there were -- and God forbid another
24 oil spill -- to do a lot of the analysis on fish and other
25 substances, other subsistence food, particularly, that we spent

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all summer during 1989 and never did get an answer till November
1 about whether folks should be eating the salmon or the clams or
2 the other subsistence food. That facility could take care of
3 that.

4 So, we would be building something that could handle a
5 future of that nature. It could do a lot of the analysis or the
6 research projects that are being funded right now out of these
7 projects, and it would be there for other future events. It
8 would also -- it dovetails in with the federal government in
9 terms of what we're trying to get there is the National Marine
10 Fisheries, a new set of labs and work, and that would be in
11 conjunction with this project. That, again, is something that's
12 positive for Alaska way into the future.

13 Now we've got the authorization through Congress and
14 signed by the President for a million dollars a year lease for
15 that part of a facility. So it's a dovetail project that we need
16 the state piece for. It's got all these other pluses to it. So,
17 again, please take a serious look at it, but I really think that
18 we ought to -- instead of making a bunch of laboratories rich
19 down in the Lower 48 with the Exxon Valdez money, why don't we
20 build something that's good for Alaska, past the Exxon Valdez
21 Spill.

22 The other one is the museum. I see that you folks have
23 got a couple \$300,000.00 in the budget for them in the '93
24 proposed plan to patrol and try to do something with the sites
25 that are being pirated on a regular basis right now. And I tell

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you folks that we need to learn something from the drug
1 interdiction program that the United States Government has been
2 spending millions of dollars on. You can patrol those sites till
3 the cows come home and the artifacts are still gonna disappear.
4 We need to find a place in Alaska that we can put some of these
5 things so we will have them for the future generations, because
6 they're continuing to disappear folks. I went by one of those
7 beaches again the other day and there was a fresh hole on the
8 beach. Now, you're not gonna be able to stop it. I support, for
9 the purposes of trying to reduce it, patrolling and doing what we
10 can. But the fact is, we're not gonna be able to protect a lot
11 of those artifacts. And, again, we are urging you to build a
12 place that we can keep a bunch of 'em and have 'em for all future
13 generations of not only Alaskans, but the rest of the Americans
14 from this.

15 So, please, consider that when you discuss your '93 Work
16 Plan.

17 MR. PENNOYER: Thank you, Mr. Selby. Questions from the
18 Trustee Council? Mr. Rosier.

19 MR. ROSIER: Yes, thank you, Mr. Chairman. Mr. Selby,
20 you mentioned five projects. I've only got four. You've got
21 Horse Marine, Uganik River, Ayakulik and Kitoi Bay. What was the
22 fifth?

23 MR. SELBY: The fifth one is another pink salmon project,
24 Mr. Rosier, and I'll go back. I'll slip you the name. It's in
25 the list, but I'm blanking the name out on the stream. It's a

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pink salmon project. There was Pink Creek, Cold Creek, Horse
1 Marine and there was a fourth one that I've blanked out of my
2 mind here, but I'll get that for you.

3 MR. ROSIER: Thank you.

4 MR. PENNOYER: Mr. Selby, I think, certainly at this
5 Trustee Council meeting anyway, I think some of us taking the
6 actions that we did to hurry up the process and two projects of
7 the Nature Conservancy and approving this by December, getting a
8 readout on eminent threat are, I think, trying to deal with what
9 you are talking about. And when you said there's 400 million,
10 there may be, what where do you spend it, what do you spend it
11 on. There's obviously a lot of land out there that we could buy,
12 and I think the Trustee Council is trying to send the message out
13 that that's part of our restoration process and part of our kit.
14 And I know some of those diagrams and things, perhaps, too
15 confusing for people. We've heard that tonight, but I think
16 we're trying to proceed in a very complex area to make decisions,
17 and, hopefully, we'll be able to show you the fruit of that
18 before very long.

19 MR. SELBY: Well, we appreciate your pursuing it with all
20 due speed. I'm sure most folks in the state do.

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

22 MR. COLE: Mr. Selby, on the archaeological items, would
23 you support or could you accept putting those in the University
24 of Alaska Fairbanks? For example, to see if we could then go to
25 the University of Alaska in Fairbanks where they may have some

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space and see if they wouldn't be willing to accept those
1 artifacts.

2 MR. SELBY: Mr. Cole, there have been a number of Kodiak
3 artifacts in that collection. I think what we were suggesting,
4 and what we thought would be appropriate is that those are Kodiak
5 Island artifacts

6 MR. COLE: I understand it.

7 MR. SELBY: Folks that come to Kodiak Island or whether
8 they're tourists or people who live there, they're an important
9 part of the culture of the people who live on Kodiak Island.
10 They've been trying to get back and have an agreement now from
11 the Smithsonian as well to bring home some of the stuff that's in
12 -- been back in Washington, D.C. for the last 200 years. They've
13 agreements with even the folks in Russia to bring some of the
14 stuff back that the Russians took over back in the Czar's days to
15 Kodiak, if we have a place to put them. And to us, it's more
16 appropriate -- those folks' culture is tied to that. So we would
17 appreciate it if we could have 'em displayed in Kodiak where they
18 can make it a part of their culture and part of their pride and
19 their history. It's been kind of stolen from them, and we'd like
20 to put it back.

21 MR. COLE: Well, I -- you know, I understand that, and
22 that's why I asked that question. If, you know, we could -- if
23 we don't have the money, for example, if the money has a higher
24 priority someplace else is determined by this process, I mean,
25 what about Fairbanks as an alternative of less sort? I mean, I

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don't expect you to answer that question today, but

1 MR. SELBY: We'll answer it from the perspective that if
2 that's the best we can do and it means that we can preserve some
3 of these artifacts and the rich archaeology that is there, then
4 we better do that. Let's at least do that. If we can't do any
5 better than that, then let's at least do that, 'cause otherwise
6 they're leaving the beaches.

7 MR. COLE: It may be something we could do quickly, even
8 temporarily put them in Fairbanks, you know, and preserve them
9 temporarily until a longer solution can be reached.

10 MR. PENNOYER: Any further questions of the Trustee
11 Council? I'd like to go back then to the net to Seldovia.
12 Anybody in Seldovia wishing to testify? Okay, fine. Kodiak,
13 again, anybody from Kodiak wishing to testify?

14 MR. PATRICK: Yes, there is. Can you hear me okay?

15 MR. PENNOYER: That's fine. Go ahead.

16 MR. PETRICH: Yes, my name is Greg Petrich, and the
17 Conservation chair for Kodiak Audubon. First of all, I'd like to
18 comment on -- the last name is P-e-t-r-i-c-h. First, I'd like to
19 comment on the July 1992 Restoration Framework Supplement, and
20 under the Habitat Protection Acquisition Process, I'd like to see
21 the entire hierarchal chart on Figure 7 adopted. This would
22 place habitat acquisition on equal footing with all other
23 restoration options. I believe that this is appropriate to
24 achieve the terms of the settlement.

25 Also in the same document you list Alternative Threshold

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Criteria. Under this, I'd like to see Set A adopted. B and C
1 produce criteria that are progressively more stringent and would
2 make -- given the fact that there's a lot of -- there's a lack of
3 pre-existing data in some areas on the Sound, I believe that the
4 process would be unworkable, and so as a bottom line, I'd like to
5 see Set A adopted. It's the only one that will produce a good
6 product that will meet the terms of the settlement.

7 Now, Mr. Cole has brought up some subjects tonight, and
8 I'd just like to say that this is a public comment forum and not
9 a political forum. He commented on the transfer of the lands to
10 the Native corporations in ANCSA as if there was some directive
11 to develop these in some manner. There isn't. These people own
12 these lands, they can do whatever they want with them. If they
13 choose to sell them for conservation purposes or just sell the
14 rights -- the timber rights, they have the perfect right to.
15 There is no Congressional directive. So, I find that he's using
16 this as a political forum -- it's just not the purpose that this
17 meeting was intended for, and I think we can let that go at that
18 point. In the future, if you just keep it simple, this is public
19 comment.

20 Now, I'd like to address the letter which Mr. Cole sent
21 the Governor. It's an advisory letter on HB 411. These projects
22 that are included in this bill are from the public, and I see a
23 list of so many of these land areas and projects that Mr. Cole
24 recommended as not lawful. Now, these lands, I know -- I mean,
25 given the instances on Afognak Island that they're a tremendous

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1 murrelet habitat on the northeastern corner of the island, and I
2 believe there are some federal studies that will show that to be
3 true. And they definitely need the terms of the settlement under
4 the acquisition of equivalent resources.

5 Now, Mr. Cole had demonstrated his biases tonight through
6 his comments, and I'm just not sure how to proceed at this point
7 other than to say if there's some ideological problem in adopting
8 land acquisition proposals from the public, then excuse yourself
9 from the Trustee Committee, and let someone else judge these
10 criteria. This is public comment.

11 I'd like to hear a response from Mr. Cole. Thank you.

12 MR. PENNOYER: Have you completed your testimony then?

13 MR. PETRICH: No, I haven't. I have more comment for the
14 federal trustees.

15 MR. PENNOYER: Any questions or comments from the Trustee
16 Council? Thank you, very much.

17 MR. PETRICH: Now, the next area I want to comment on is
18 -- this will be addressed to the Department of Interior's
19 representative Curtis McVee.

20 I'm aware of the fact that the federal trustees have all
21 received Freedom of Information Act requests for information
22 relating to the Federal Criminal Settlement. Now, in previous
23 meetings, there's -- very little information has been given out
24 on the subject. Questions have been more or less dodged and
25 people were given the impression that there's very little work
26 being done in this area. In this FOIA letter, he's denied an

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individual from Cordova, a Professor Steiner, 27 documents that
1 were withheld under the auspices that they were either
2 pre-decisional or that they're attorney/client privilege. Now,
3 all of these documents show communications between the federal
4 trustee agencies on the subject of the Criminal Settlement.

5 I'd like to ask Mr. McVee how these can be withheld and
6 still stay within the terms of the settlement which say this has
7 to be a public process. Mr. McVee?

8 MR. McVEE: Mr. Chairman?

9 MR. PENNOYER: Mr. McVee.

10 MR. McVEE: I can respond to that that documents under
11 the Freedom of Information Act, you know, documents can be
12 withheld if they are pre-decisional documents, and I believe that
13 reached the point where we've got, you know, draft documents -- a
14 draft plan or a draft proposal or reached that point, and
15 Mr. Pennoyer talked about that a few moments ago, that at that
16 point, we will ask for public involvement. I expect that our
17 draft plan will include a public participation phase or portion
18 of a plan, but, you know, we just started those discussions --
19 start to develop something that we can go forward to the public
20 with. I guess the other option we have is, you know, go public
21 and ask for their comments before we have something for them to
22 shoot at. But I think it's more worthwhile and time would be
23 better spent if we can give them a product to address.

24 MR. PENNOYER: Thank you. Mr. Petrich, does that
25 complete your testimony?

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MR. PETRICH: No, sir. I'd like to go back to this same
1 subject. We're looking at pre-decisional documents here, draft
2 interagency agreements, faxes from the Governor's office for
3 inquiries from the Department of the Interior, these give clues
4 as to how this process is working. We see decisions made all the
5 time for the roster of projects that go forward that during 1992,
6 but little reflection of public requested projects. Now, these
7 go all the way back to October 1991, and go month by month
8 showing that there's been extensive discussions between the
9 agencies.

10 Now, I'm going to ask Mr. McVee again, do you believe
11 that the public process is best served by withholding these
12 documents, and if you're challenged legally, do you feel strongly
13 enough that you would still withhold them? Go ahead.

14 MR. PENNOYER: Again, as we come -- I'll let Mr. McVee
15 comment on it. I know of no decisions that have been made for
16 the federal restitution funds at this time, so I -- Mr. Barton.

17 MR. BARTON: I was just wondering if he was going to
18 testify, Mr. Petrich. Is Mr. Petrich going to testify or is he
19 going to ask us -- interrogate the Trustee Council?

20 MR. PENNOYER: I think we are approaching 6:50. We're
21 going to have to talk about how late we want to go here. I
22 haven't even gone around the net one time yet.

23 Mr. McVee, do you wish to comment or just proceed?

24 MR. McVEE: The comment was that he had -- we have our
25 solicitors -- our legal people review the documents and the

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process we're going through.

1 MR. PENNOYER: Mr. Petrich, do you have anything
2 additional?

3 MR. PETRICH: No, sir. I'm gonna request these documents
4 through another means, and I expect them to be released. It's
5 part of the public process to understand what the agencies are
6 saying, and I'll just leave it at that. Thank you.

7 MR. PENNOYER: Thank you. I understand that I skipped or
8 wasn't informed that Soldotna was on the line. Is there anyone
9 in Soldotna that wishes to testify?

10 MS. WILSON: Yes, we are here. Thank you. My name is
11 Narda Wilson, and Soldotna did not get a lot of the information
12 that's been under discussion tonight, and one of the primary
13 interests that I have is the Katchemak Bay State Park State
14 buy-back. I got a letter from Steve Gibbons stating that it
15 would be under discussion as a component of the 1993 Eminent
16 Threat Analysis project. Can you tell me if -- in what way, if
17 any, was Katchemak Bay State Park buy-back discussed by the
18 Council today?

19 MR. PENNOYER: Except to identify it as a possible
20 project in a list that has been sent us by the public process, it
21 has not been discussed specifically whether to put money into it.
22 Mr. Cole indicated at one point that he personally favored it,
23 and that the Governor favored some form of Katchemak Bay State
24 Park land buy-back as well. But we took no action on it -- we
25 took no action on the '93 draft Work Plan at this time, which has

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some dollars set aside in the draft we've received for a possible
1 land purchase for eminent threat.

2 We did take action to review the habitat protection
3 process, and the request we've made to the Restoration Team to
4 find a way to expedite review, particularly of lands that might
5 be classified as the subject to eminent threat.

6 We did fund two proposals of the Nature Conservancy to
7 speed up the acquisition of data on such lands, and have been
8 informed that we will have a report and recommendations some time
9 in early December.

10 And other than that, we took no specific action on land
11 acquisition.

12 MS. WILSON: Okay, thank you. I'm here to express
13 support for the buy-back as, you know, you probably are already
14 aware. I found a couple things rather disturbing tonight that
15 came out. One of 'em is the reluctance on the part of the
16 Council to fully embrace the concept of how that acquisition is
17 part of the replacement and enhancement criteria that was set
18 forth in the agreement.

19 Another thing that I found disturbing was Mr. Cole's
20 comment that someone needs to come up with a way to fund these
21 projects. That seems to me that that should be the job of the
22 Legislature and the Council. We are simply citizens attempting
23 to participate in a public process. Last year during the
24 Legislative session it was an extremely frustrating process for
25 those of us to try to see the project through. We thought we'd

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come up with a plan and something that was feasible and agreeable
1 to all parties, and then we get into some sort of legalese, under
2 Mr. Cole's interpretation, that this wouldn't be allowed for one
3 reason or another. Well, like I come back to, our job as
4 ordinary citizens of the public is not to try and figure out
5 what's gonna fly and what's not gonna fly legally. I think that
6 that's unfair of the Council to expect us -- us, meaning the
7 public, to come up with a way to acquire these lands.

8 Another thing that -- and I don't mean to complain, but I
9 do think that there are ways around this, such as Seldovia's
10 Native Association request that a 10% down payment be made in
11 good faith by October 1st in order to secure future negotiations
12 for these lands. I don't think that's unreasonable. And I do
13 think that SNA and Timber Trading Company have attempted to
14 negotiate in good faith with the State. However, I'm beginning
15 to question the good faith on the part of the State. It seems
16 like they're just stringing this thing along and hoping that
17 maybe one day it will die for lack of action. But, hopefully,
18 that won't happen.

19 And the reason that we are appealing to the Council at
20 this point is because we have been shot out of the water by
21 Governor Hickel, by Charlie Cole, and by the attempts of the
22 Republican Party during the legislative session. So the reason
23 that we are so strongly appealing to the Trustee Council at this
24 point is you're like our last hope.

25 I do think that habitat acquisition falls under the

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enhancement and replacement criteria that was outlined in the
1 agreement. Katchemak Bay State Park was heavily oiled, although
2 not in the specific area that is under consideration for
3 purchase.

4 Just one more technical detail, as far as the decision
5 making process of the Council goes, I don't understand how a body
6 of more than three people would hope to approve projects on the
7 basis of unanimous consent rather than a majority. It just seems
8 like it would be really difficult to get anything done, and I
9 question how that came about.

10 Can I get a response to that?

11 MR. PENNOYER: Before we continue, we only have the
12 teleconference net through 7:00 p.m. It's now about three
13 minutes to 7:00. I don't know the Trustee Council's desires
14 here, and ask the moderator if we can continue past 7:00 and then
15 inform the network as to how long we want to continue. Do you
16 have a feeling from the Trustee Council members?

17 MR. BARTON: Mr. McVee and I have a subsistence board
18 meeting this evening.

19 MR. PENNOYER: Okay. So how late do you wish to go then?

20 MR. BARTON: Not very much longer.

21 MR. PENNOYER: Shall we try and keep the net until 7:30
22 then? Is that very much longer in your criteria, too, or is very
23 much longer five minutes from now?

24 MR. McVEE: That will be fine.

25 MR. PENNOYER: Moderator of the teleconference network,

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can we continue through 7:30?

1 TELEPHONE OPERATOR: Yes, that's fine.

2 MR. PENNOYER: Fine. Thank you. Anybody want to respond
3 to Ms. Wilson's question? Would you care to continue your
4 testimony?

5 MS. WILSON: Really, that practically concludes my
6 testimony, but I would like the Council to reconsider their
7 position on trying to get a unanimous consent on getting these
8 projects through because it just seems like a very -- it's a
9 cumbersome enough process to begin with, as far as public
10 participation and diversified interests and what should be
11 priority, what the money should be spent on. I'd like them to
12 reconsider that policy.

13 And, again, is there some sort of a legal reason that
14 this was adopted or was this simply a matter of preference as far
15 as the Council members go. Can anybody answer that question for
16 me?

17 MR. PENNOYER: Mr. Cole, would you care to answer where
18 the unanimous consent came from?

19 MR. COLE: No.

20 MR. PENNOYER: Thank you. We've certainly heard your
21 testimony, we've listened to the remarks in regard, particularly,
22 to the land acquisition, and I think that is a topic for our
23 discussion next Monday in terms of the '93 process, and I think
24 continuing in regard to the eminent threat and other processes.
25 So, I think this Council has not taken a position on exactly how

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we want to approach that, except that I think we have agreed it
1 is certainly in our kit of restoration tools.

2 Do you have further remarks, Mr. Rosier?

3 MR. ROSIER: Yes. Mr. Chairman, I didn't get the name of
4 the last individual that testified.

5 MS. WILSON: My name is Narda Wilson. I'm a resident of
6 Soldotna. I'm P.O. Box 3206, Soldotna. I've written letters to
7 the Trustee Council and I'll be in further touch in the future.
8 Thank you for the opportunity to speak tonight.

9 MR. PENNOYER: Thank you. Just for notice, I've been
10 around the net once. Kodiak has had two opportunities. I'm
11 probably not going to have time to do that more than one more
12 time. I think I'll take one from Anchorage and then try and go
13 around the net completely. Yes, sir.

14 MS. MILLER: I'll make this brief. I'm pleased that the
15 Trustee Council approved the two projects for the Nature
16 Conservancy's work to assist the Trustees in this cumbersome
17 habitat acquisition process. I'm pleased there.

18 In terms of looking at what the Trustees were faced with,
19 these reams of paper, I think the thing that is lost in the reams
20 of paper is the voice of the people, which I'm pleased you're
21 able to hear, especially from the outlying communities tonight.
22 The reasons why people care so much about seeing habitat
23 acquisition, the rationale for why it makes sense, some of that
24 is in there, and I think it gets translated into a series of
25 tables and machinated this way and that way by the computer, and

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the human element of the public interacting with the Trustees is
1 lost.

2 I would like to say that 90% of the just plain comments
3 from the public related to habitat acquisition, and that over
4 \$2 million worth of projects were proposed by both agencies, I
5 assume, and the public for habitat acquisition. There are
6 tremendous opportunities that we have not seen for the region
7 that unfortunately was affected by the Oil Spill, and that the
8 species that were injured stand to benefit over the long-run by
9 having habitat available to them.

10 I guess I'm concerned because of the bureaucratic process
11 of OMB's involvement and the Trustees needing -- at least on the
12 federal side -- needing to get a list to them by a certain date
13 and if indeed what will be decided on Monday is what's going to
14 go to OMB, then the fact that there's only the \$5 million
15 proposal for habitat acquisition which is not enough, we believe,
16 would be a start to do eminent threat analysis, may not even get
17 on there is quite disturbing. What's more disturbing is the
18 chart has little asterisks for the fact that habitat acquisition
19 projects are just not listed. So instead of having price holder
20 on a proposed budget to OMB for 200 -- well, it can't be
21 \$200 million. You only have \$100 million this year, but you need
22 to have a place holder up about 50% of your total product money
23 for habitat acquisition.

24 Now, you may not be able to spend that in this time
25 period, and that will be fine. You can go back and say we did

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not spend that, we've got it for something else for the next
1 year, but if it's not in that place holder in your budget, we've
2 already ruled out what we might spend money on next October or
3 December or whenever the fiscal year ends.

4 So I urge you to seriously look forward for what
5 opportunities you may have to do restoration work. And I realize
6 that Trustee Council doesn't want to speak back to the public.
7 It's our opportunity to present some things to you. I will
8 present a proposal by the public for a proclamation that the
9 people in the outlying areas may not have the benefit of seeing.
10 I will give a copy of it to the public record so that it will go
11 in, but it's something we thought would be tangible steps that
12 Trustees could take to show that they are committed to habitat
13 acquisition as a part of the restoration process, that there are
14 concrete opportunities we can take now.

15 Finally, I'll say our society and all the people in this
16 room share many values. We share concern about the environment,
17 we share that American trait that money talks, money has value,
18 and what the Restoration Plan is to me right now is that is that
19 Trustees do not value habitat acquisition if there's no money
20 shown for it.

21 Thank you.

22 MR. PENNOYER: Would you, please, state your name for the
23 record?

24 MS. MILLER: Oh, I'm Pamela A. Miller. I'm representing
25 the Wilderness Society in Alaska.

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MR. PENNOYER: Mr. Cole.

1 MR. COLE: I'd like to say that we had some concerns
2 about federal OMB's involvement in the process, and as we did
3 State appropriation process through the legislature, budget and
4 audit committee. But we satisfied ourselves that we could work
5 through the federal OMB process. Frankly, I guess, there was no
6 way around it. But I think that it will work out right.

7 Isn't that about where we were with the gentleman? I
8 think so. We did address that carefully, 'cause we did not want
9 OMB or the State OMB, for that matter, to be in the position of
10 being able to approve or reject with finality our proposals and
11 our decisions. So, you know, -- and like you say, it's little
12 solace to you, but nevertheless, we've seen some of these issues
13 and we've looked at them very carefully.

14 MS. MILLER: Well, I appreciate that, and hope you'll put
15 the place holder in there for habitat acquisition.

16 MR. PENNOYER: Thank you. Next, I'll go back out to
17 Homer. Anybody else from Homer wishing to testify?

18 MS. WIELAND: Yes. As a matter of fact, there have been
19 14 people here, and there's several of here still left. This is
20 Anne Wieland; and that's A-n-n-e W-i-e-l-a-n-d. And I would like
21 to thank the Trustee Council for this opportunity to address you.

22 My testimony today is about the need to purchase habitat
23 eminently threatened by logging. Perhaps, the most highly
24 visible and of greatest concern to the public are the private
25 lands within and adjacent to Katchemak Bay State Park. Private

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lands within this park are eminently threatened by logging by
1 Timber Trading Company. This is pristine land of great value to
2 wildlife injured in the Oil Spill, as well as to humans.

3 The coastline on both sides of Katchemak Bay was oiled in
4 1989. The Center for Disaster Assistance in Homer documented the
5 arrival and impact of the Exxon Valdez oil in as far as Bear
6 Cove, which is way up at the head of the bay, and daily bulletins
7 from May until June. Many species of wildlife were injured by
8 the oil in Katchemak Bay, including quite a number that are
9 outlined in your three green volumes.

10 Murrelets, in particular, would be injured again if
11 private in-holdings were not acquired and logging were permitted
12 on Seldovia Native Association land. Marbled and kipler
13 murrelets congregate at the mouth of Shady Cove, in Neptune Bay,
14 at the mouth of Wosnesenski River, off Glacier Spit, as well as
15 elsewhere in Katchemak Bay. It's not surprising that no nests
16 have been found in Katchemak Bay uplands in all those trees, as
17 there's only been about 30 nests ever found in the entire region
18 from Northern California to the Gulf of Alaska in the last 18
19 years. But juvenile marbled murrelets are seen in Katchemak Bay
20 every year, and they undoubtedly nest in both private and park
21 uplands. As Prince William Sound populations were damaged
22 considerably, Katchemak Bay uplands can serve as an excellent
23 equivalent habitat for maintaining sufficient numbers of
24 murrelets in the Gulf of Alaska while Prince William Sound
25 populations slowly recover. I guess they only have one egg a

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year, at the best.

1 Archaeological resources were damaged elsewhere in the
2 Spill area. Katchemak Bay archaeological resources are numerous
3 and contain evidence important to the records for all of the Gulf
4 of Alaska pre-history. Some of these resources are threatened by
5 inundation. Others would surely be harmed by associated
6 activities if logging were to occur on the south side of
7 Katchemak Bay where the great concentration of known and yet
8 undiscovered sites occur.

9 Recreational interests were damaged in the Oil Spill.
10 For example, the Center for Alaskan Coastal studies had to cancel
11 its entire summer's program in 1989 because of a lack of
12 transportation to its field station. Above all, the heart and
13 soul of Homer was damaged by the Oil Spill. Many here spent the
14 summer of 1989 concentrating on trying to heal the damage done to
15 Katchemak Bay State Park, Katchemak Bay State Wilderness Park and
16 surrounding areas by the Oil Spill.

17 We and other volunteers collected oiled, dead and living
18 sea birds and otters from the beaches of Katchemak Bay, from
19 Bishop's Beach to Diamond Creek and elsewhere. We collected
20 plastic bags full of oil and oiled debris from Homer Spit, Mud
21 Bay, Neptune and China Poot bays and other beaches. Some of us
22 experienced first-hand a task involved in cleaning up 100% oiled
23 beach and volunteer work at Mars Cove in Port Dick within
24 Katchemak Bay State Wilderness Park. Many of us were left with a
25 deep sense of violation and despair.

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Now, here is a means at hand to make at least a partial restoration for the damage that was done, and that is, of course, the Exxon Valdez civil penalty money. Our backs are to the wall. Private owners of the land and timber rights within Katchemak Bay State Park may no longer be willing sellers after October 1, 1992. Timber Trading Company is aggressively pushing forward to obtain permits to log on private lands within the Park in direct line of sight from Homer, and they were in Seldovia working on the layout of logging roads just two weeks ago. The time to negotiate with them is now, not after they have their permits in hand, perhaps as early as this winter. And why would they want to sell their timber rights after they have gone through all the time and expense of obtaining permits? Surely that extra work would cause them and other logging companies around the whole spill region to want to sell to for a higher price is at all. Waiting until the permits are issued is playing a dangerous game of chicken. One where the stakes are too high. It's like waiting till rigor mortis has set in before administering CPR. We must have funding now to keep the option of purchasing the land, timber and subsurface rights and preserving the integrity of this habitat for the future.

Scientific studies are fine, but we're concerned that there will be no more habitat and wildlife left to study if the current trends continue. Logging in Katchemak Bay State Park will be like a second oil spill to many of us whose hearts were broken in 1989.

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Please, help us. Don't turn us away. The purchase of private uplands, timber and subsurface rights in their entirety within Katchemak Bay State Park are exactly the kind of project that the penalty money was intended to fund. Future generations of Alaska will appreciate your wisdom in funding this project, and the wildlife injured in the Oil Spill will be given a new lease on life instead of a new death sentence.

Thank you.

MR. PENNOYER: Thank you. Any comments and questions from the Trustee Council? Thank you, very much. I'll come back now to Anchorage.

MS. HOLSER: My name is Karin Holser; K-a-r-i-n H-o-l-s-e-r, and I'm just a concerned citizen, representing myself. I'm going to make it real brief because I know you're running out of time. I would like to go down the budget items, 'cause I know you were gonna do budget. I won't do that. Instead, I will throw out a quick comment. The American Heritage Dictionary defines a trustee as a person, agent holding title or property for the beneficiary. Looking at your budget, your beneficiary are your agencies, and I don't think that's right. I think the beneficiary is Prince William Sound. And Prince William Sound includes Natives. I don't see them represented here. It includes all wildlife, includes water. It includes the people of the villages and the areas of fishermen that were affected. And I see this whole budget pretty much as a funding process for your agencies, and I don't really think that's what a trustee is meant

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to do, to fund their own agencies. Every single one of 'em that
1 I looked at, I didn't have time to write it all down, but your
2 agencies are all representative here, and I think -- I think the
3 public deserves a little bit more than that.

4 MR. PENNOYER: Questions, comments from Trustee Council?
5 Thank you, very much. Go back out to, I think, Valdez had
6 nobody the last time. Juneau, any further testimony from Juneau
7 tonight?

8 MR. THOMA: One last comment, Mr. Chairman. This is
9 Mr. Thoma. Just a quick question. Has the Public Advisory Group
10 met yet, and have they adopted a rules of order?

11 MR. PENNOYER: They've still not been up to -- we're not
12 going to get around the net anyhow to -- other people haven't
13 testified yet. The answer to your question is no, there's a
14 charter; they have not met yet.

15 MR. THOMA: Very good. Thanks for your time.

16 MR. PENNOYER: Anybody else from Juneau that wants to
17 testify?

18 UNIDENTIFIED SPEAKER: No, that's it for Juneau.

19 MR. PENNOYER: Okay, thank you. Seldovia, anybody else
20 from Seldovia? Cordova, anybody else from Cordova? Coming back
21 to Anchorage. Anybody else from Anchorage? Yes, sir.

22 MR. COX: My name is Bill Cox; C-o-x. I'm a resident of
23 Anchorage here. I'm a radiologist over at the Alaska Native
24 Medical Center. I'm here just for myself. I just want to make
25 some general comments.

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I supported House Bill 411. It was not a perfect bill,
1 but I think it was a consensus bill that went through the entire
2 political process with a lot of citizen input, and I was -- I
3 just want to say I was disappointed in the Governor's veto of
4 that bill. I just want to let you know I support using the
5 majority of these funds for habitat acquisition, including the
6 buy-back of timber rights, and I think this should go a long way
7 towards protecting fishing streams, wildlife, and also enhancing
8 recreation.

9 I would urge you to confine most of your repurchasing and
10 efforts to Prince William Sound area, which is where the spill
11 occurred, and that would also include Kodiak as well.

12 Identify critical areas for repurchase as quickly and as
13 carefully as possible, and then go ahead and complete the
14 purchasing as quickly as possible. I think Katchemak Bay
15 buy-back should be your first priority. This this has been
16 lingering now for over 10 years. It seems to have defied all
17 attempts at resolution. I think Koncor Forest Products and the
18 Native Association have been more than patient, and I think it's
19 about time to get this thing taken care of. And you have -- as I
20 understand it, the power to do that. I would urge you to make
21 that your first project.

22 Governor Hickel wrote a book a while back. I think it
23 was called, "Who Owns America?" And in there, he criticized the
24 US Congress for first authorizing to purchase land which would
25 then drive the price up, and then the appropriations process

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would take in with the money. I think that could very well be something for you to think about here as being on example of Katchemak Bay. As time goes by and as the political constituency for protecting Katchemak Bay increases, we're gonna see the price tag on that go up, as it already has. I would just urge you to keep that in mind.

I just want to -- I don't really support the idea of an endowment. I think that would just drag things out. Waiting for it to accumulate sufficient funds, you would have inflation, administrative costs working against you. Also, during that time, land prices would be going up, and it would also create another bureaucracy.

And to just summarize real briefly here, as we're running out of time, I would just say, please, be careful of doing too much research, and furling away money into administrative costs, if possible. And I would say spend this money that's available as wisely as humanly possible. And then, you know, put yourself out of business. That's all I have to say.

MR. PENNOYER: Thank you, Mr. Cox. Any questions or comments from the Trustee Council? Thank you, very much.

I'll go back to Soldotna. Is there anyone in Soldotna wishing to testify?

MS. MULLEN: Yes. My name is Peggy Mullen; M-u-l-l-e-n. I'm a Soldotna resident, and I just have a quick comment.

I got here late, and as I was driving over I heard the comments of Attorney General Cole on the radio, and so I thought

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why am I even bothering to come here, this is just a farce. I
 1 get here and I'm wondering if we're all not wasting our time. I
 2 was surprised when I got here to hear that there wasn't any
 3 acquisition of habitat in any major way on your list of projects
 4 you're now considering, and I would just comment that when we
 5 look at the independent relationship between the air, the land,
 6 and the water, we're just beginning to know how the health and
 7 productivity of one is dependent on the other in ways we're only
 8 remotely beginning to understand. So ignoring acquisition of
 9 land around the affected areas makes no sense to me.

10 Thanks.

11 MR. PENNOYER: Thank you. Questions or comments from the
 12 Trustee Council? Thank you, very much.

13 MR. COLE: I'd like to explain to this listener what we
 14 have decided to date to do with respect to acquisition.

15 MR. PENNOYER: Ms. Mullen, did you hear the review of
 16 what we did do today?

17 MS. MULLEN: (Pause - no audible response)

18 MR. PENNOYER: I guess not. Well, again, I will repeat
 19 that we did review habitat acquisition process -- protection
 20 process today. We heard a detailed review. We have decided to
 21 proceed with two cooperative projects with the Nature Conservancy
 22 to hurry up the acquisition of data regarding a property out
 23 there and that it might be available and threats to that
 24 property. It is our intent to have that report back sometime
 25 early in December and proceed in the process of where we go from

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there.

1 We had it pointed out to us there is a very large amount
2 of habitat out there that is potentially available to
3 development, and the choice of which parcels to buy to get the
4 most bang for the bucks is not yet clear to us.

5 We also have the question, the '93 Work Plan, where we
6 haven't taken action yet to purchase property, but the -- a
7 project is listed there as a place holder to provide funding for
8 such acquisition of property that might be subject to eminent
9 threat. We have not yet decided on the amount of that place
10holder or exactly how we're going to -- whether we're going to
11adopt it or how we're going to advance it. That will be decided
12next Monday.

13 So, could we continue with Anchorage -- anybody else in
14Anchorage? Yes, sir.

15 MR. : Excuse me. I haven't been following today, I've
16been pretty busy, but I would like to say

17 MR. PENNOYER: Your name, please?

18 MR. SPARLIN: My name is Drew Sparlin. I'm a commercial
19fisherman and 15-year resident in the Cook Inlet area.

20 MR. PENNOYER: You need to spell the last name, please.

21 MR. SPARLIN: Sparlin; S-p-a-r-l-i-n. With regards to
22your last explanation, I think that stands pretty prudent that
23you would investigate the property before you go buy 'em. I'm
24not against acquisition, but I definitely think that the wise and
25slow manner taken in purchasing property without spending all the

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money we got.

1 What I'm here to explain real quick, we've had, in the
2 fisheries, -- basically, that's what I know, of future
3 forecasting. I'm sure Mr. Rosier is aware of it. It is due to
4 an over-escapement problem, and we're gonna -- also, it's
5 actually in the Inlet, and in-river problems keep going up to the
6 Northern District -- but what I'm trying to get at is that due to
7 the Oil Spill we have a future set of cycle that's died in a
8 declining manner, and it needs to have -- I'm not saying it. I
9 think we had it laid out before of the appropriate funds for
10 research, but we're looking for some sort of coverage for the
11 Department of Fish & Game so we can get some data figures on how
12 to -- and I know that this is what they want in their process,
13 but we could get this declining return rate under some sort of
14 knowledge. Nobody really has a good handle on why. We think
15 it's over-escapement, but it also -- who knows what. We've got a
16 declining rate of 500,000 to 250,000 -- this is in the next three
17 years, and then possibly under 200,000 return in the Cook Inlet,
18 or as far as the Kenai River system. And that's somethin' I have
19 never seen before, and I've been fishing there for 15 years.
20 It's somethin' we have to watch out for. We had a fair season
21 this year -- I mean, it's one of those things, but I'm hoping
22 that some of your funds are played towards the bio-stock. But,
23 basically, some sort of data research so we can start figuring
24 this thing out.

25 That's about it. As far as the land appropriations, I

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know there's a lot of people all over the countryside that want
1 this piece and that piece to be purchased, and it's gonna be a
2 hard time to ever get anybody happy, but definitely make the best
3 investments.

4 Thank you.

5 MR. PENNOYER: Thank you. Any questions? Thank you,
6 very much.

7 I'll go back out to Kodiak. Anybody further from Kodiak
8 who wishes to testify? Kodiak?

9 UNIDENTIFIED SPEAKER: Kodiak has no further testimony.

10 MR. PENNOYER: Okay. Thank you, very much. Homer,
11 anybody further from Homer?

12 MS. HIGHLAND: Yes. My name is Roberta Highland; and
13 R-o-b-e-r-t-a H-i-g-h-l-a-n-d, and I'm representing myself and
14 the Katchemak Bay Conservation Society.

15 And once, again, we urge you to give priority to funding
16 land acquisition in spill affected areas in danger of
17 clear-cutting or loss through other development. And the subject
18 has been brought up a lot, and I think all has been covered. So
19 we just want to go on record supporting that, and urging careful
20 and responsible use of the Exxon funds.

21 Thank you.

22 MR. PENNOYER: Thank you, very much. Comments from the
23 Trustee Council? Thank you. Anybody else from Anchorage? Yes,
24 sir.

25 MR. DEBUSMAN: My name is Richard Debusman; D-e-b-u-s-m-

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a-n. And as Richard Debusman sits here tonight, he wonders who
1 the greater fool is, and, perhaps, it's me. 'Cause last night I
2 spent two hours writing up a article to you gentlemen on which
3 habitat I felt you ought to buy. But now as I look at the
4 budget, project number 93-058, habitat protection has no number
5 there at all. And you gentleman refer to it as a place holder.
6 Well, I have a suggestion. If you don't know what number to put
7 in there, put it all in there, because without habitat, you don't
8 have anything else at all.

9 Thank you.

10 MR. PENNOYER: Questions? Thank you, very much. Homer,
11 one last try?

12 MS. HILLSTRAND: Yes, this is Homer. Can you hear me
13 okay?

14 MR. PENNOYER: Yes, we can.

15 MS. HILLSTRAND: Yeah, this is Nancy Hillstrand; H-i-l-l-
16 s-t-r-a-n-d. And we really -- we need to think on a large scale
17 what will do the most good for the longest periods of time to
18 enhance the diversity of as many of injured species. The obvious
19 choice is acquiring essential habitat and ecosystems. But if
20 resource agencies have faulty mandates, regulations or motives or
21 if they do not work together to keep in mind all of the
22 cumulative effects of decisions or lack of decisions, we end up
23 with a toxic, fragmented environment which alienates fish and
24 wildlife, regardless of what we do to restore, rehabilitate or
25 enhance.

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One thing we have to remember is that we're nowhere close
1 to being immune to future oil spills which can once again degrade
2 our ecosystem. So restorative activities may be short-lived. We
3 must begin to think in terms of ecosystems, river systems,
4 watersheds, peninsulas, continents. We have to start thinking
5 large. Systems which work together as a whole to provide a
6 living community of unfragmented working order, which we are a
7 part of, not a part from. Ecosystems are like a helicopter.
8 Tiny cotter pins hold all the bolts in place from shaking loose.
9 If one of these essential components are taken away, the entire
10 system may crash. The more components lost, the more likelihood
11 the system will, for certain, crash.

12 Resource management has evolved through the years
13 tripping over mistakes and learning the hard way at a tremendous
14 loss. Alaska is in the unique situation to revolutionize our
15 methods of resource management ahead of crisis management
16 situations.

17 Do we have the knowledge and wisdom to take the lead and
18 pioneer a new sustainable direction while our ecosystems are
19 still relatively intact in Alaska? I have faith that we do.

20 Mr. Cole, you were wondering why the people are asking
21 for land acquisition such as in Katchemak Bay State Park. Upland
22 areas are some of the most important areas we have. It's a
23 trickle-down effect, and it has -- we have to have the ability to
24 develop a broader landscape context; precise, specific forest
25 practices to shape the future health of our ecosystems.

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The upland areas act as a reservoir, storing surplus runoff and dampening discharge fluctuations. The associated vegetation has a profound effect on the physical makeup of the stream habitat as well as a biological communities who utilize these areas. This helps maintain perennial flows during dry periods. Low flows reduce the availability and quality of stream -- in-stream habitat for fish and wildlife populations.

Can you see the connection here? The two areas which I think should be set aside is one on Afognak Island. This is an essential ecosystem which embraces a multitude of wildlife and fish. It's sustains life in a balanced design of precise detailed integrity. Please, consider this north Pacific rain forest which was heavily impacted by the Exxon Valdez Oil Spill as a choice of quality habitat acquisition. And, please, contact me if you need any additional information on this area, 'cause I've spent the last 14 years observing this tremendous living ecosystem.

Also, the other place is the Katchemak Bay State Park. This land will be fragmented if logging is allowed. This translates to the fragmentation of an ecosystem not only utilized by wildlife, waterfowl and fish species affected by the Oil Spill, but also by this ecosystem as a living testimony to we humans so deeply, deeply affected by the Spill here in Homer.

I really cannot explain how deeply we were affected. I hope you are listening to us, as we are the public, and we are trying to get to you and try to explain to you how we are

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feeling, and the overall judgment of the people right now is that
1 we feel that habitat is the best way to go. So, please, do
2 listen.

3 And I think you, very kindly, for all this time you're
4 spending listening to us. Good-bye.

5 MR. PENNOYER: Thank you, very much. We're running out
6 of time on the network. I'll take one more from Soldotna, and
7 then we'll come back to Anchorage. I would say we have already
8 agreed to a public hearing on next Monday as well, so for those
9 of you who haven't had a chance to testify, hopefully, you will
10 then. Soldotna, do you have anybody else?

11 UNIDENTIFIED SPEAKER: No, we have no one else at this
12 time. Thank you.

13 MR. PENNOYER: That's fine. I'll take one more from
14 Anchorage then.

15 MR. GIBBONS: See if there's anyone else on the line.

16 MR. PENNOYER: Yes. The question was is there anybody
17 else on the line before we go off? That's fine. I circled all
18 of the communities. Yes, ma'am.

19 MS. McBRIDE: Thank you, Trustee Council members. I'm
20 Diane McBride, a resident of Homer. I wish to thank you for
21 considering my name for a nomination to serve on the Advisory
22 Council. I was disappointed to see that of the 17 members
23 serving on the Advisory Board, only two are women. I think -- I
24 do not feel that this is totally representative of our population
25 in Alaska, and I would like to encourage you to consider

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replacements, when they come in. I was distressed that three of
1 the public at-large selections today were nominated or endorsed
2 by Attorney General Cole or Mr. McVee.

3 It was an incredible shock to many Alaskans when Governor
4 Hickel vetoed House Bill 411 last July. He had stated he
5 supported Katchemak Bay State Park buy-back, but it appears
6 that's only through his endowment plan. It indeed is the end of
7 the road for Katchemak Bay. It's becoming a logging road in '93.

8 Katchemak Bay wasn't documented as oil spill affected,
9 and the habitat is critical to wildlife and fisheries, and
10 deserves protection before logging permits are issued, which
11 could be as early as this winter. If December 1st is the date
12 that Fish & Game will submit their list of eminently threatened
13 areas, then we really are short on action time for protecting
14 Katchemak Bay.

15 I urge you to put Katchemak Bay State Park buy-back at
16 the top of your '93 Work Plan, and let Katchemak Bay have the
17 first dollar spent on restoration. But let's see more than
18 \$5 million spent on habitat acquisition, and right now it appears
19 to be closer to zero dollars funded.

20 Please, begin communications with private land owners
21 and, please, promote restoration through habitat acquisition.
22 Thank you.

23 MR. PENNOYER: Any questions? Mr. Gibbons.

24 MR. GIBBONS: Just a correction. The December decision
25 will come from the Restoration Team, not the Alaska Department of

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1 Fish & Game. So it will be by the trustee agencies on the
2 eminent threat processes.

3 MS. McBRIDE: And I'll accept that correction. Thank
4 you.

5 MR. PENNOYER: Thank you, very much. It's now 7:30.
6 What are your wishes?

7 MR. COLE: I think we should hear out everyone who is
8 here, even if they're off the line. I would like to do that.

9 MR. PENNOYER: How many more wish to testify here? Okay,
10 fine. Goodness. Yes, sir.

11 MR. BURKHOLDER: My name is Jim Burkholder; B-u-r-k-h-o-
12 l-d-e-r. I'm a resident of Anchorage. I've lived in Alaska my
13 entire life.

14 After listening to Mr. Cole's comments earlier and the
15 evidence of the budget with lack of money, and I would have to
16 say unfortunate will on the part of the Trustees for land
17 acquisition, I think it's a sad case. It takes land to have a
18 habitat. Once old growth forests, as in a case that we have in
19 Katchemak Bay State Park or Afognak Island, or any place, once
20 that's gone, it's gone, period. Your lifetime, your son's
21 lifetime, your grandson's lifetime, and maybe even their
22 great-grandson's lifetime, that's it. They're not gonna see that
23 again. And I would especially urge you to try to see your way to
24 saving some of these habitats. And I have always had a
25 philosophy of doing something for the greater good for the
26 greater number. And I think of Katchemak Bay State Park, it is

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the end of the road where people see it, perhaps, from any other
1 area that we're talking about, as far as impact on the Spill, and
2 I would hate to see a sign at the top of the road, coming into
3 Homer, that would say: This has been renamed. It's the
4 Walter J. Hickel clear-cut. And I think that's a sad testimony.
5 The Governor, Mr. Cole has stated they're in favor for it.
6 Well, fine. Let's have more than just be in favor for it. Let's
7 see you work and do something about it. It may be the last
8 chance we have, because once the trees are cut, they're gone.

9 Thank you, very much.

10 MR. PENNOYER: Questions? Thank you. Who's is next? Go
11 ahead, ma'am.

12 MS. TAYLOR: I'm Connie Taylor, and I'd like to address,
13 briefly, the land acquisition and timber buy-backs. I see
14 something missing from the whole equation that I hear discussed,
15 and I've been watching the Trustee Council since it was
16 disappointed, and that is the jobs that are going to be lost as a
17 result of this land acquisition and buy-back. These jobs are
18 going to be lost, essentially, forever, and yet I hear no talk
19 about any method of replacing jobs for the people who are going
20 to be displaced. Once the land is removed from the potential of
21 development, no one has an opportunity to work, and those logging
22 jobs -- the other jobs that might be available as a result of
23 that land. I think timber certainly is a renewable resource, and
24 we need to consider it as such.

25 Thank you.

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MR. PENNOYER: Thank you. Yes, sir.

1 MR. GRAHAMS: Hi. My name is John Grahams, and I was
2 born and raised around here, and I was curious why you didn't
3 entertain public taking in eminent domain. And I have a letter
4 here to you that you should consider that as an alternative, and
5 particularly like in the Katchemak Bay State Park that would be a
6 fair and equitable means of acquiring that property.

7 The property right across the street, the Municipal
8 parking lot, was acquired by Mayor Tony Knowles from
9 Chancy Croft. The big advantage to the seller is that they don't
10 have to pay taxes on that money, which is a tremendous advantage.
11 So they're usually happy.

12 Now, when I was -- I lost property on Fourth Avenue after
13 the Earthquake, and they took our property by eminent domain to
14 build a buttress there between E and C Street. The only problem
15 with that was that they used post-Earthquake prices. So in case
16 there's -- the values are down after the Oil Spill, then I would
17 recommend that you take pre-Oil Spill prices as well as present
18 comparable sales in order to get a fair market value, and here's
19 my letter.

20 Thank you.

21 MR. PENNOYER: Thank you. Next? Yes, ma'am.

22 MS. POST: My name is Sue Post; P-o-s-t. I grew up in
23 Homer, so I've spent quite a bit of time down there. I know the
24 area very well, and I don't believe that logging is the answer.
25 I think there's a lot more than can be gained with the tourism

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and the education aspect of it. I currently am the director of
1 Trailside Discovery Camp, an environmental education camp based
2 here in Anchorage. And we have used Katchemak Bay, and most
3 recently Prince William Sound quite a bit this summer, probably
4 one-fourth to one-fifth of our camp residents spent their time
5 down in Katchemak Bay.

6 I can't explain the joy to you that seeing those
7 children's faces after a week of kayaking and also camping out in
8 the Katchemak Bay area, also in the Prince William Sound area.
9 The children are like flowers that blossom in their week down
10 there, and when they get back up to Anchorage, they're a whole
11 new person. They've found a whole sense of joy and peacefulness
12 within. I also have spent a lot of time in the public schools --
13 teaching in the public schools up here in Anchorage, and don't
14 see that same joy. The kids need to get outside, they need to
15 see that. We spend a lot of time at our camp trying to teach 'em
16 about habitat, teaching them about how everything is all tied in
17 together. The plants are all tied into the people which are all
18 tied into the water which are all tied in to the Earth. It's
19 really hard -- it was -- I talked about the joy I saw on these
20 kids' faces after a week. At the same time it was really hard to
21 describe the disappointment I saw in their faces when we told
22 them that this area might possibly be logged here in the future.
23 I am an educator, and I do believe that the children are our
24 future, but I don't think that it's fair for us not give them a
25 future to look forward to.

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Thank you.

1 MR. PENNOYER: Any questions? Thank you, very much. I'm
2 told that through some miracle of modern technology, Homer is
3 still on the line. Is there anyone from Homer that wants to
4 testify?

5 UNIDENTIFIED SPEAKER: Everyone from here now has
6 testified. There were several others, but I did fax their
7 testimony to your office, and they have left at the present time.

8 MR. PENNOYER: Thank you, very much. Appreciate that.
9 Who is next from Anchorage?

10 MR. COUMBE: My name is Mike Coumbe; it's C-o-u-m-b-e.
11 And I just wanted to say that if you want to do something to show
12 that you're interested in getting this repurchase of lands within
13 the state park at Katchemak Bay going, put something -- when you
14 meet on Monday, put something in the budget. Make a statement.
15 I mean, put -- put some money in for a negotiator to meet with
16 the parties to come up with the proper price for the land, the
17 land of timber and subsurface rights. Let them know that you
18 actually do want to get this process going.

19 That's all I have to say.

20 MR. PENNOYER: Mr. Cole.

21 MR. COLE: Let me say that the process has not been
22 allowed to lie fallow. The Governor's former chief of staff and
23 senior counselor, Max Hodel, has been meeting with people from
24 the owner groups, and I'm sure he's continuing to do that. I
25 don't know where it is right this date. The last I knew about it

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was a week or 10 days ago, but I do know that efforts are
1 continuing.

2 MR. COUMBE: I applaud that. Thank you.

3 MR. PENNOYER: Thank you. Any other questions? Thank
4 you, very much. Other testimony? Yes, ma'am.

5 MS. DAWSON: My name is Belle Dawson; D-a-w-s-o-n. I've
6 been an Anchorage resident for 20 years, and I continue to be
7 frustrated and I just feel like it's a waste of time talking to
8 people who are really not interested in enhancing the environment
9 or in preserving the habitat or anything. They are totally
10 interested in their own greed, as it were. I really am just very
11 frustrated about it. It's very magnanimous of Mr. Cole to listen
12 to us, getting past the time, but I find it appalling that you've
13 been working on this for a number of months and -- how long has
14 it been now -- over a year, and nothing, apparently, has
15 happened. Has it? I can't see that. You say it's being
16 negotiated, but I don't see anything happening. I certainly urge
17 you, as everybody else has, to fund what needs to be funded and
18 seriously consider the buy-back of Katchemak Bay. I just feel
19 what somebody else said, without habitat there is nothing,
20 because wildlife needs a place to live, and here you have an
21 opportunity to do something concrete that would show the people
22 of Alaska, many of whom you have heard representatives today, and
23 I'm sure it has gone in one ear and out the other. I watched
24 Mr. Cole twitching and squirming, but I don't think any of it
25 really sunk in. And I just -- I just feel very frustrated about

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it, and I would love to have you prove me wrong. I would love to
1 see some serious -- you know, some serious action to acquiring
2 critical habitat and making a difference. I know the government
3 and the Governor doesn't want to do that, but he -- you know, in
4 the political process, he should be able to get around that. I
5 don't think we can look for any help from Mr. Cole. Prove me
6 wrong.

7 Thank you for listening, if you are, indeed, listening.
8 If you have any questions, I don't imagine what they would be,
9 but if you have any questions, please ask them.

10 MR. COLE: Do you think you've helped the process by your
11 remarks this evening?

12 MS. DAWSON: I hope so, but I doubt it very seriously.

13 MR. COLE: I would suggest that you might be right.

14 MS. DAWSON: Yeah, I doubt it. Because I have come from
15 similar meetings and I always have the same impression, that
16 people are conducting the meetings are doing it because it's a
17 requirement and that they're required to have public input, and
18 they just go on and do what they were going to do any way. So,
19 well, I probably haven't helped, but I -- I don't know. What
20 would help, Mr. Cole? Well?

21 MR. PENNOYER: Thank you, very much.

22 MS. DAWSON: Well, what would? You tell me,
23 Mr. Pennoyer.

24 MR. PENNOYER: Well, I think that we certainly have --
25 although we didn't buy anything today, I think we certainly

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initiated some projects and some steps, and I don't think it's --
1 I know we certainly have a lot of public input as to property
2 they want to see bought. We also have maps shown to us that have
3 a lot of other property that could be bought that also will be
4 subject to potential development at some point down the line.

5 MS. DAWSON: Good, well,

6 MR. PENNOYER: We still need bang for the bucks in terms
7 of restoration, and I hope that we will show you it within the
8 next few months that we have the will to do what information
9 shows us we should do.

10 MS. DAWSON: I know, but the time is so short. You know,
11 it's practically October 1st, and, you know, the summer is not
12 around the corner, and here it appears, you know, you're still
13 dragging your feet, trying to decided amounts and this and that.

14 MR. PENNOYER: I think the recognition of a rather
15 massive amount of information out there on the various types of
16 lands that are available, what they may be subject to, is some
17 indication that you can't just go out and look over your shoulder
18 and write a check.

19 MS. DAWSON: Well, is it possible then to extend the
20 deadlines?

21 MR. PENNOYER: Well, that's been suggested tonight, the
22 question of whether in fact what the time angle is for some of
23 these developments and what we might to do about it. There have
24 been suggestions of various types of moratoria that have been
25 brought up and

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MS. DAWSON: Yes, well, you can do something about that.

1 MR. PENNOYER: Thank you. Well, thank you.

2 MS. DAWSON: Thank you.

3 MR. PENNOYER: Any other questions? Mr. Sandor.

4 MR. SANDOR: Yes. You mentioned time, and the settlement
5 actually was made late last year. The settlement itself, I
6 think, was a step in the right direction to

7 MS. DAWSON: I don't think it was merely enough, but
8 that's my opinion.

9 MR. SANDOR: Well, the reason I asked the question was
10 because the Amoco Cadiz, which spilled six times as much oil off
11 the coast of France 14 years ago was in litigation for 14 years,
12 and it was just settled, and settled for only something less than
13 \$280 million.

14 MS. DAWSON: That's a point that I don't think they -- I
15 don't think you can really make a comparison because this is a
16 totally different kind of situation.

17 MR. SANDOR: Well, I guess, the question though is it
18 seems that that was a theft, and I share your frustration that
19 when you put that in perspective, the Governor and Attorney
20 General negotiated this settlement in a remarkably short time,
21 and the alternative of that dragging on for years in litigation
22 must be some sort of consolation to all of us, and that's, I
23 guess, the question: Isn't that an accomplishment that we can
24 put some hope in?

25 MS. DAWSON: Well, I think if the motivation had been

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there, it could have been a much better settlement. I really do. ²⁵⁵

1 I think there was a lot of conflict of interest and that kind of
2 thing, and I really think we could have gotten a much better
3 settlement by being a little more firm about it. But, of course,
4 when the litigants on both sides are oil men and, you know, they
5 all have the same orientation, that's -- you know, we got the
6 best we could expect, which wasn't nearly as good as it could
7 have been.

8 MR. SANDOR: Well, thank you, but, please, do consider
9 the Amoco Cadiz. It was really quite a

10 MS. DAWSON: The Amoco Cadiz, you know, was not in that
11 kind of a pristine critical area. It was not the same thing at
12 all. It didn't destroy the whole fishery for hundreds of miles
13 around. It was just very sad and unfortunate and terrible.

14 MR. SANDOR: Up to 14 years of litigation and \$280
15 million.

16 MS. DAWSON: Yes, but it doesn't have to be like that.

17 MR. SANDOR: I'm just -- thank you. I'm sorry,
18 Mr. Chairman.

19 MS. DAWSON: Well, thank you, very much. I appreciate
20 your taking this much time to listen to me. And I hope you will
21 really -- I know we'll see some action instead of a lot of talk.

22 MR. PENNOYER: Thank you.

23 MS. DAWSON: Thank you.

24 MR. PENNOYER: Next from Anchorage? Yes, sir.

25 MR. MAHAFFEY: My name is Jim Mahaffey. I'm a resident

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of Anchorage. The spelling on that last name is M-a-h-a-f-f-e-y.

1 Most -- practically every point that I would make tonight
2 has already been covered and covered very well, and so I don't
3 intend to take any more of your time to go into that.

4 There is one point that I -- one exception that I would
5 make, that being that if you look at logging as an alternative to
6 jobs and economics, that's true, but it's true only in a very,
7 very short run. What are we talking about, four, five, six,
8 seven years on logging?

9 Conversely to that, there's one point that I would bring
10 up and make, and that concerns tourism. Tourism, too, is a
11 viable industry, and I haven't heard that spoken to tonight, and
12 I'm not in the tourism business. It's inconceivable to me, in
13 terms of common sense, maybe not in terms of political machinery
14 and mechanics, but certainly in terms of common sense, it's
15 inconceivable to me that the administration -- the present
16 administration which has been -- and I don't have figures in the
17 millions of dollars, but I know it's more than one, on promotion
18 by television ads in the Lower 48 to promote tourism in Alaska.
19 And then on the other hand, turn around and consider and allow
20 clear-cutting in one of the most beautiful, pristine areas that
21 is readily accessible to tourists who are not on tour ships, who
22 don't have to take a state ferry to get there, they can drive
23 there, if that's the only means that they have, and with a short
24 water taxi that costs 25 or \$30.00, not hundreds of dollars, can
25 be in one of the most pristine, clean environments that we have

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in the state of Alaska. I haven't hear that spoken to tonight.

1 Cutting it off short, the man from Anchorage, I didn't
2 get his name, who admonished you to do something -- do something,
3 even if it's a 25 cent allocation, do something to indicate to
4 Seldovia Natives and Timber Trading that the State is in good
5 faith and is proceeding forward with some sort of procedure. I
6 have to go by whatever means of information is available to the
7 average citizen, which is a newspaper and a news release, and if
8 I hear correctly, October 1st is the deadline. If those guys are
9 serious, you better do something.

10 And I would close by saying that you are the trustees,
11 you folks do have the power to do something, and I would admonish
12 you to do so.

13 MR. PENNOYER: Thank you. Questions of the Trustee
14 Council? Thank you, very much. Anybody else from Anchorage
15 tonight? Yes, sir.

16 MR. LEVINE: Hello. My name is Jim Levine. I'll say I
17 just wish to speak to -- add my own weight to the testimony that
18 I've heard tonight regarding acquisition of habitat; be it Prince
19 William Sound, Katchemak Bay or Kodiak, and any of the other
20 areas that were affected by the Spill. I personally spent time
21 in (indiscernible) Cove, which is Katchemak Bay State Wilderness
22 Park, as everyone spoke to, and -- well, I lost a lot of
23 heartfelt times down there. And I'd like to see some of this
24 money -- quite a bit of this money, I should say, spent on that
25 acquisition types of proposals.

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Thank you for listening to us.

1 MR. PENNOYER: Any questions? Thank you, very much.
2 Anybody else? Yes.

3 MS. BRODIE: I'm Pamela Brodie; that's B-r-o-d-i-e,
4 representing the Sierra Club.

5 I'd like to thank you very much for appointing me to the
6 Public Advisory Committee. When I first submitted my name, I did
7 not expect that. I would also like to thank you for staying so
8 long to listen to us, and particularly to thank Attorney General
9 Cole, who consistently protects the public's ability to comment.
10 I think, perhaps, Mr. Cole has been unfairly attacked this
11 evening.

12 But I would like to speak to some things that Mr. Cole
13 has said that I disagree with, and one is a matter of Congress's
14 intent in passing the Native Claims Settlement Act. I believe
15 Congress passed that act to compensate the Native people of
16 Alaska for their legitimate claims to land. I don't believe that
17 Congress had an intent for the land to be either protected or
18 logged, that that was to be left to the owners. Since then,
19 Congress has, on some occasions, shown some intent to protect
20 some of that land, including by buying some of it in Southeast
21 Alaska, and recently the House of Representatives certainly has
22 shown an intent to protect some land with the Energy Bill, and it
23 remains to be seen whether the Senate will agree with them.

24 Mr. Cole also mentioned the fact that -- he said that
25 Governor Hickle is very much in favor of protecting Katchemak

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Bay, but that my understanding -- my inference is that he did not
 1 do that because he didn't agree with some other things in House
 2 Bill 411, and, therefore, vetoed it. But the Governor did have
 3 -- does have line item veto power in capital budgets, and he
 4 could have vetoed some parts of those appropriations and not
 5 other parts, including keeping the full 11 million or some part
 6 of that for Katchemak Bay.

7 Going on to other things regarding what has happened
 8 today, I was very disappointed that the agencies do not -- are
 9 not, in their proposal, supporting the proposals for habitat
 10 acquisition, except for threatened lands, and I do think that
 11 \$5 million for threatened land is completely inadequate. But I
 12 also think that it's a very bad precedent to spend money only on
 13 land which has an eminent threat, because I think then the
 14 message to the owners is you will get action only if you warm up
 15 your chain saws.

16 I would like to see the Trustee Council this winter spend
 17 some money to acquire habitat, some of it that is threatened and
 18 some of it that it is not eminently threatened. I think that --
 19 and this is very, very important -- I think that the Trustees do
 20 not have to go through the entire process of prioritizing the
 21 land before they buy some.

22 I do applaud your actions in funding the Nature
 23 Conservancy's projects. I think that that workshop that will get
 24 together, the experts, they will be able to agree on some habitat
 25 that's very valuable and that the Trustees can go ahead and

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acquire some habitat in each of the regions that was affected by
1 the Oil Spill -- the actual areas of the Prince William Sound,
2 the Kenai Peninsula, including Katchemak Bay, and the Kodiak
3 area.

4 It's okay to go ahead and buy some good habitat even if
5 it isn't necessarily the very best that you will find in your
6 ultimate process. I also think that it's important -- very
7 important to start talking to all of the land owners and get the
8 process moving before you decide which is the best land to buy.
9 I think that the flow chart that the agencies have submitted
10 which has talking -- beginning negotiations with the land owners,
11 very far down in the process. It's a very bad idea because what
12 will happen is you choose the land that's the best habitat, but
13 that particular land will become very expensive, whereas, I
14 think, if you talk -- if the agencies are talking to land owners
15 and asking them for prices, and also for conditions under which
16 they will sell their land or development rights, that we can get
17 some prices out on the table before certain areas are selected as
18 being extremely valuable for habitat.

19 When I talk about the parameters, I mean, for example,
20 some corporations will say "we will not sell fee simple title, we
21 sell developing rights." It would be helpful to know that right
22 away. It would also be helpful to know which owners are not
23 willing to sell portions of their properties, they will sell only
24 an entire parcel and not portions of it. There's no use for the
25 agencies spending money to find out exactly the best acre on the

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parcel.

1 Another problem with the process that the agencies are
2 proposing is, for one thing, I think the list of species that
3 were -- that use uplands was inadequate, not including harlequin
4 ducks, as Mr. Sandor pointed out, or bald eagles. Also did not
5 include shell fish in estuaries which will be affected if there
6 is logging and erosion, and also, therefore, the animals that
7 live off shell fish, like sea otters, as well as, of course, the
8 humans who use these resources for subsistence and commercial and
9 sport.

10 The damage services seem to have been forgotten by the
11 agencies. They talk about animals, wildlife that has been lost,
12 but they are not proposing studies of the damaged services or
13 compensation, and that would include subsistence and recreational
14 use as well as sport fishing and recreation and tourism that was
15 mentioned in some testimony.

16 I think Mr. Cole's suggestion for a more informal
17 dialogue with the staff is excellent, and I would hope that the
18 Trustees would give the staff directions -- as has been said by
19 some other people to simplify what they give the Trustees,
20 because when you come in to find two inches of pieces of paper of
21 lists and lists of things, it certainly becomes very difficult to
22 make a decision, and I think that the staff could be more helpful
23 in putting forward different choices that you can make.

24 Oh, regarding the land values. I would respectfully
25 disagree with the gentlemen who were speculating on the prices

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that forest lands will command. After all, the prices that have
1 been negotiated on Katchemak Bay and the prices that are being
2 asked on Afognak average about \$1,000.00 an acre less, and yet
3 the gentleman who testified suggested \$1,000.00 an acre was at
4 the lowest end of the price range, and I think it's unlikely that
5 the price that Afognak would be asking in the Katchemak is
6 negotiated at the low end. There is no reason to think that this
7 would not be average prices or more. If we base these -- our
8 ideas of what these lands are gonna cost on timber that has been
9 sold already, remember that the corporations are likely to have
10 logged their most valuable -- most profitable areas first, and
11 that that should not at all be considered average of what forest
12 land will cost.

13 Also, I think Montague Island would be -- would raise the
14 value of -- the price at the high end of the scale, but it is
15 not, according to its owner, even for sale. So that should not
16 be considered as part of the average prices. And certainly the
17 prices that should be considered in determining lands, should be
18 the net profits the companies would make from logging their
19 lands, and some companies have been logging lands and ending up
20 with net losses. And so, in those cases, timber lands ought to
21 be pretty cheap.

22 Finally, in Mr. Montague's presentation, he said that of
23 the proposals, 50% of the money that was being proposed would be
24 for public and 50% for private proposals. And maybe I'm not
25 following that very well, but it seemed to me strange the way

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1 that that was being determined. If my understanding is that any
2 money was going outside of an agency that that then was
3 considered a public expenditure, but the most popular proposals
4 that have been coming from the public are getting so far no
5 funding for acquisition, and I'm glad there is a place holder,
6 but it certainly is not -- the sort of numbers that have been
7 talked about are not anywhere near 50% of the money, and we
8 support more than 50% of the settlement going to habitat
9 acquisition.

9 Thank you.

10 MR. COLE: Mr. Chairman.

11 MR. PENNOYER: Mr. Cole.

12 MR. COLE: I may have missed something here in the day's
13 discussions because in light of much of the public comment, I
14 seem to -- my understanding was that with respect to the money
15 available in the forthcoming year for the acquisition of habitat,
16 no matter what process we employ, was that there was to be no
17 number put in there, that there was to be a provision in the
18 budget in the form of sort of a contingency plan of undetermined
19 amount so that we would essentially have no limit, that the
20 discussion was that \$5 million may be regarded as inadequate by
21 many people, might be regarded as inadequate by the Trustees, and
22 a decision was, as I understood it, was to have that amount
23 unlimited.

24 Now, did I misunderstand what we did?

25 MR. PENNOYER: Mr. Cole, I think we did not take an

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action. You certainly made that proposal. I discussed the fact
 1 that I couldn't go along with 5 million because I had no idea how
 2 that approach -- what the study might show us was required. The
 3 staff was instructed to deal with a catch-22 we've got presenting
 4 something to OMB, to put a blind number in there and how that was
 5 going to foul up our process, and come back next Monday and give
 6 us that type of report. At that point we'd make our judgment on
 7 whether five, 10, 15 or an open door was the way we wanted to go.
 8 We did not make that decision.

9 MR. COLE: That it was not to be zero. It was not to be
 10 5 million, but it was to be such a number as after we got some
 11 preliminary information we could come up with a number that
 12 seemed appropriate. So I think everybody should -- I would like
 13 them to have an understanding. That was my understanding.

14 MR. PENNOYER: We did not adopt that proposal at this
 15 stage. It's on the schedule for next Monday.

16 MR. COLE: It's an open, sort of, issue right now.

17 MR. PENNOYER: It's an open issue right now, that's
 18 correct. The testimony is germane.

19 MR. COLE: We're not boxed in at zero or five or anything
 20 else, it's still an open. And, you know, as I recall, let's talk
 21 about the public and the private, those expenditures. As I
 22 recall, during the last legislative session when we got this
 23 approval of the process through the State Legislature that the
 24 legislature insisted that all contracting, except for
 25 administrative expenses, be through state and federal agencies.

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It was not, I think, well received by members of the Trustee Council, but that was a legislative requirement.

Am I not right on that? I think so. So that was sort of foist dishonest by the Legislature. And it was, as I recall my testimony, we wanted to write the contract, you know, outside the state and federal agencies where it might be appropriate and didn't get that. So -- and that the decision was well, if it didn't work well during this year, we might go back to the Legislature next year and try to be freed of that restraint. That's item two.

Item three is, with respect to this habitat or land acquisition. In a broader sense, it's been my thought that we should try to be creative with respect to habitat acquisition and seek various types of agreements with owners so as to enable us to get a broader bang for the buck. I mean, you know what's troubled me is you look at these lands, Sheet (ph) A and so forth, where we saw on the slides there would be three red -- you know, for threatened acquisition. If we go in and we buy that, you know, then the land owner the next year, I'm sure, will go to the next bay over and say, well, I'm going to log it this year, and then the next year, and we'll be chasing that respective logging area, you know, interminably. So, it's long been my thought, and I've expressed it here, that we've got to look maybe even in some checker boarding. I'm not sure that's a solution. More than simply seize this particular tract of habitat and have everything else, you know, alongside it six months later or the

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1 next year, subject to the chain saw. I mean, we just have to be
2 very, very careful of how we go about the acquisition process.
3 Not only the selection of lands themselves but the selection
4 process.

5 You, in part, touched upon it, but we don't want to get
6 trapped into, you know, paying highest dollar value for some. We
7 have to proceed very carefully if we're going to be able to
8 require the greatest amount of habitat, and it troubles me, and,
9 frankly, I'll say this as we talk about habitat along streams,
10 are we only going to go out -- you know, are we only going to go
11 out -- I mentioned a half-mile or quarter-mile on each side? So
12 that what we have is some strip of greenery along streams and the
13 rest clear cut? I mean, you know, I just -- we just can't do
14 that, in my view.

15 So, I would like people, generally, to know that the
16 acquisition process has to be very carefully done. In my view,
17 we need guidance from experts as to how to do that. What
18 planning should be done so when, in my view, we only identify
19 this habitat, et cetera, et cetera, as how long ago is about the
20 acquisition process. I think we need expert counsel, because
21 we're -- we need people who do this, as I've said before, for a
22 living to help us formulate what I still call a grand plan.

23 So that's what I will be talking about when we get to
24 that next time, when we get to there in November or something.

25 MS. BRODIE: May I say

MR. PENNOYER: Yes, go ahead.

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MS. BRODIE: I did understand that the Trustees have not
1 yet decided how much money to put into land acquisition, and I
2 was saying I was disappointed in the agency's proposals, that the
3 amount was that limited, and I hope that the Trustees will
4 allocate much more than that.

5 MR. COLE: Excuse me. The reason I mentioned it, I think
6 some of the other people who spoke earlier expressed the view
7 that there was zero there was not enough money aside, but that's
8 an open issue.

9 MS. BRODIE: I've also been disappointed that agencies'
10 proposals, in terms of process, have been, I think, so
11 complicated, and make it difficult, but that's in my written
12 comments.

13 I can't remember what else I was going to say.

14 MR. PENNOYER: I'll give you another shot in time next
15 Monday, I think.

16 MS. BRODIE: I won't be able to be here.

17 MR. PENNOYER: Oh, okay. I will.

18 MS. BRODIE: Thank you.

19 MR. PENNOYER: Yes, thank you, very much. Anybody else
20 here who wishes to testify? Mr. Parker.

21 MR. PARKER: Good evening, gentlemen. My name is
22 Jeff Parker. I think most of you probably know me by now as a
23 frequent spokesperson before the Council. I have just walked in
24 late, but I did catch the end of Attorney General Cole's remarks,
25 and I would like to simply reiterate a point that I think I've

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made at various times in prior testimony before the Council, and
1 that is, I think, if you are focussed on acquisition, as I think
2 in substantial measure you will be and should be, there are two
3 questions involved:

4 There's acquisition of lands, where? Habitat bears some
5 relationship to the resources that are injured, and there is
6 acquisition to land -- of lands where the services from the
7 resources that are acquired bear some relationship to the
8 resources or the services that are injured. Because most of the
9 injuries are below the high tide line, it is very difficult to
10 acquire privately owned resources. In fact, there are probably
11 none to replace lost or injured resources, and similarly, even
12 above the -- I'm sorry?

13 MR. COLE: I missed that last sentence. Would you
14 restate that?

15 MR. PARKER: Okay. Because

16 MR. COLE: It's difficult to acquire

17 MR. PARKER: It's very -- lands below the ordinary high
18 water mark are public lands -- all that?

19 MR. COLE: Okay.

20 MR. PARKER: Are subject to public trust. You don't have
21 lands out there to acquire below the high tide line -- the
22 ordinary high tide line. There are uplands that bear some
23 relationship to resources that are injured, such as fish or some
24 bird species such as harlequins and, perhaps, murrees -- excuse
25 me, marbled murrelets, but the resource -- the habitats there to

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acquire are probably fairly narrow. And I think you will do much
1 better to focus on acquiring upland lands where those -- the
2 resources upon those lands bear some relationship to the services
3 that were injured and the consent decree accommodates that.
4 Otherwise, you'll be in a position where you will not really
5 effectively be able to spend \$900 million. In other words, I
6 think it's very difficult to buy \$900 million worth of lands or
7 conservation easements on privately owned lands that bears some
8 relationship to the injuries to resources, but it's very easy to
9 buy \$900 million worth of lands that bear some relationship to
10 the injuries to services that the injured resources provide.

11 That's my sole point. I think we all understand the
12 concepts of services and baseline, and we're storing services to
13 baseline condition. If we don't, I'd be pleased to try and
14 explain it further.

15 MR. PENNOYER: Thank you, Mr. Parker. Questions from
16 Trustee Council? Thank you, very much.

17 MR. PARKER: Thanks.

18 MR. PENNOYER: Anybody else tonight?

19 MR. COLE: Well put. Thank you.

20 MR. PENNOYER: Thank you, very much. We'll see some of
21 you back here next month, I presume, 8:30 in the morning.
22 Trustee Council, any further observations before we quit --
23 recess? Mr. Sandor.

24 MR. SANDOR: Yes, I have a mandatory in Juneau Tuesday
25 morning, and I would trust that the public comment period would

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be scheduled at a time in which I could at least catch the last
1 plane to Juneau.

2 MR. PENNOYER: I would hope so, too. I have a mandatory
3 meeting here Tuesday morning, and I don't know how long it's
4 going to take us to go through the '93 Work Plan, but we sort of
5 have to do that first. We will do our best.

6 Thank you all. Good night.

7 (Off record)

8 (END OF PROCEEDINGS)

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1 UNITED STATES OF AMERICA)
2) ss.
3 STATE OF ALASKA)

4 I, Rebecca Nelms, Notary Public in and for the State of
5 Alaska, residing at Anchorage, Alaska, and Reporter for R & R
6 Court Reporters, Inc., do hereby certify:

7 THAT the annexed and foregoing is a Transcript of the
8 Teleconference Meeting of the Exxon Valdez Oil Spill Settlement
9 Trustee Council, taken on the 14th day of September, 1992,
10 commencing at the hour of 8:30 o'clock a.m., at the Simpson
11 Building, 645 G Street Building, Anchorage, Alaska;

12 THAT this Transcript, as heretofore annexed, is a true
13 and correct transcription of the proceedings, taken by Meredith
14 Downing and thereafter transcribed by Laurel L. Kehler.

15 IN WITNESS WHEREOF, I have hereunto set my hand and
16 affixed my seal this 17th day of September, 1992.

17 REBECCA NELMS
18 Notary in and for Alaska.
19 My commission expires: 10/10/94
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C E R T I F I C A T E

1 UNITED STATES OF AMERICA)
2) ss.
3 STATE OF ALASKA)

4 I, Mary E. Miller, Notary Public in and for the State of
5 Alaska and Reporter for R & R Court Reporters, Inc., do hereby
6 certify:

7 THAT the foregoing pages numbered 02 through contain
8 a full, true and correct Transcript of the Exxon Valdez Oil Spill
9 Settlement Trustee Council meeting taken electronically by
10 Meredith L. Downing on the 14th day of September, 1992, beginning
11 at the hour of 10:00 o'clock a.m. at the offices of the Oil Spill
12 Public Information Center, 645 G Street, Anchorage, Alaska;

13 THAT the transcript is a true and correct transcript
14 requested to be transcribed and thereafter transcribed by
15 Meredith L. Downing and Laurel Keller to the best of their
16 knowledge and ability;

17 THAT I am not an employee, attorney, or party interested
18 in any way in this action.

19 DATED at Anchorage, Alaska, this 17th day of September,
20 1992.

21 _____
22 Notary Public in and for Alaska
23 My Commission Expires: 06/23/94

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