

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

December 11, 1992
8:00 a.m.

TRUSTEE COUNCIL MEMBERS in attendance:

State of Alaska	MR. CHARLES COLE Attorney General
State of Alaska Department of Environmental Conservation	MR. JOHN SANDOR Commissioner
United States Department of the Interior	MR. CURTIS McVEE Special Assistant to the Secretary
State Department of Fish and Game	MR. CARL ROSIER Commissioner
United States Department of Agriculture - Forest Service	MR. MIKE BARTON Regional Forester
United States Department of Commerce - NOAA	MR. STEVE PENNOYER Director, Alaska Region

RESTORATION TEAM in attendance

DAVE GIBBONS	Interim Administrative Director, Trustees Council
PAMELA BERGMAN	Regional Environmental Assistant, United States Department of the Interior
MARK BRODERSEN	Restoration Chief, Alaska Department of Environmental Conservation
JEROME MONTAGUE	Director, Oil Spill Impact Assessment & Restoration Division, Alaska Department of Fish and Game
BYRON MORRIS	Chief, Office of Oil Spill Damage Assessment and Restoration, United States Department of Commerce - NOAA

KEN RICE Deputy Natural Resource Manager, United States
Department of Agriculture - Forest Service

MARTY RUTHERFORD Assistant Commissioner of EVOS, Alaska
Department of Natural Resources

PUBLIC ADVISORY GROUP MEMBERS in attendance:

DOUGLAS MUTTER Department of the Interior
Designated Federal Officer

BRAD PHILLIPS Chairman

PAMELA BRODIE

KIM BENTON (substituting for JOHN STURGEON)

CHARLES TOTEMOFF

OTHERS IN ATTENDANCE

COMMANDER DENNIS MCGUIRE, United States Coast Guard

DR. SULLIVAN

JOHN STRAND

VIRGINIA GILBERT

ARTHUR WEINER, Ph.D.

ALAN H. MEINERS

MARIA LISOWSKI, Junior Counsel, U.S. Department of Agriculture

RICK STEINER

ANNE WIELAND

CHIP TREINEN

PHILLIP BRUDIE

MARY McBURNEY

JEROME SELBY

JIM BURKHOLDER

PAM MILLER

VIA TELECONFERENCE

KARL BECKER

JEANNINE BULLER

CHIP THOMA

ROBERT ARCHIBALD

NANCY HILLSTRAND

LARRY MALLOY

CRAIG PETRICH

EVELYN BIGGS

JEFF GUARD

P R O C E E D I N G S

(On record: 8:10 a.m.)

MR. SANDOR: Good morning ladies and gentlemen. I understand the recorders are in place, and I formally open this agenda of the Exxon Valdez Oil Spill Settlement Trustee Council. I'm John Sandor of the Department of Environmental Conservation, as Commissioner. The trustees on the far right are Carl Rosier, Commissioner for the Department of Fish and Game; Curtis McVee, Special Assistant to the Secretary, U.S. Department of the Interior; Mike Barton, Regional Forester, U.S. Forest Service, Department of Agriculture. On my left, Steve Pennoyer, Director of the Alaska Region, National Marine Fisheries Service, and Attorney General Charles Cole. The meeting today -- agendas have been provided -- they have been revised from an earlier draft, and at this time I would ask are there any additions proposed for the agenda as outlined? Any suggestions or additions to the agenda? I would as chair -- yes, Mr. Pennoyer?

MR. PENNOYER: ... the agenda -- I anticipate a few different twists as we get into it, but I wouldn't propose any additions at this time.

MR. SANDOR: As chair, I would propose that a summary of the Alyeska settlement, inasmuch as some of the settlement provisions impact activities of the Trustee Council -- is there any objection to that? (No audible response.) We'll add that to the agenda -- perhaps, after the coffee break, so that whoever can provide a summary of that may perhaps have copies duplicated so

that the Trustee Council and the members of the public could have that. So, let's add that as item, right after four.

UNIDENTIFIED VOICE: (Inaudible.)

MR. SANDOR: Okay. Any other proposed changes to the agenda? (No audible response.) Without objection then, the agenda is approved.

I guess I'd ask at this time, Dr. Gibbons, if you have any preliminary remarks you'd want to make on items that might carry over before we begin the formal items of the agenda. Any comments you want to make?

DR. GIBBONS: Not at this time.

MR. SANDOR: Let's proceed then with item number one, the Coast Guard report on the Exxon response costs. Commander Dennis McGuire is going to be giving this report. Good morning.

CDR. MCGUIRE: Good morning. We really appreciate the opportunity to be here. We're starting to find that there's a number of issues that the FOSC and the Trustee Council occasionally find ourselves both jointly interested in, and the major one, to date, has been our financial review. And, we are very careful to use the term "financial review" that we did of Exxon so as not to impinge on the Trustee Council or the government to do -- to conduct an audit of the terms of the settlement agreement. Initially, when we came up with our financial management plan, with the first settlement agreement, the question of audit was somewhat more ambiguous than in the second settlement agreement. So, what we did as soon as the first settlement agreement came out was the

Coast Guard structured a comprehensive financial management plan (inaudible -- extraneous noise) heavily on a couple of people with advanced degrees in business and finance, as well as our legal counsel, including the Department of Transportation, to put together the structure that would evaluate not only the relative value of the work to be done but (inaudible) now that the work has to provide an environmental incentive, but we brought then into this point a cost benefit. In terms of summary, what we came up with to the -- Exxon, what we approved, it came in at \$39,913,000 and change. This figure reflects a shift in Exxon's calculation of x by over \$1.16 million. In other words, Exxon envisions a larger x. We conducted the financial review, and x was recalculated. One of the major areas of disagreement, where Exxon took exception, was the \$225,000 charge for insurance. In essence, Exxon self-insures, and they went on an estimated cost of the insurance instead of (inaudible). This \$225,000 is what it would cost us to otherwise insure. In conducting the financial review, we did not see that as an expenditure under the terms of the settlement agreement and disallowed it. It's an interesting one -- is that all we could say is that we considered it disallowed for our purposes, but it was the Department of Justice and the state Attorney General's Office in its direction to Exxon that said that the -- on behalf of the Trustee Council that the governments considered the \$225,000 disallowed. Anyway, what I've got in the handout, the first one, I just basically want to really convey that this was a very comprehensive program that the Coast Guard conducted. The first

one in the handout really does give you an overview of the entire process. The first portion from the field assessment team to the TAG, which is the technical advisory group -- the whole function of this end of the paper flow was to determine what work was environmentally beneficial. Then we get into a process of taking in the (inaudible) of land managers -- what are their views on the proposed work to be done. We also had an extensive loop that included Exxon, and there's another diagram to explain that, and how we now implemented this cost benefit loop that we got into as a result of the settlement agreement. The Coast Guard had to pre-approve all expenditures of Exxon, and we still had our traditional role of dealing with all the other federal government agencies. And, so, all of this was brought into the FOSC decision-making process before any work went on. The second diagram is a more detailed display of how we, in the federal on-scene coordinator's office, flowed the proposals -- the evaluation process, and -- not to bore you with details, but on the third one -- it gives you an idea of the decision-making process and the loops that we brought every proposal through within the Coast Guard, so that we could assure ourselves that it was not only was it environmentally needed, but it was classified official, and that -- the important one was coming up with methods of limiting expenditures to assure that cost did not go beyond the pre-approved ceiling. So that meant, in terms of, like, a government agency -- the Fish & Wildlife Service did a study for us on an eagle nest survey -- when we got that, we would sit down with them and say, how much

helicopter time do you need, how many man-hours do you need, and other expenditures? And it would be pre-approved at that level. We would then go to Exxon and say, okay, this project has so many hours of helicopter time. When that time has been reached, the helicopter stops moving, and you have to come back to the FOSC. We implemented these types of cost controls and cost-containment measures to assure ourselves that the limits that we set were, you know, were abided by. The fourth one shows you Exxon's process for evaluating the work requested. Clean-up work request was the official document used between the Coast Guard and Exxon for work was to be done, what was the ceiling to be imposed, and other special conditions that we decided to use.

After we would pre-approve it, after the clean-up work request was signed -- and some of these were fairly large -- the one from Maysap (ph), last's year's true line assessment, was in the order of \$22 million. Exxon's accounting system is a real-time system. In other words, money that's not yet posted until the invoice comes in, but we'd be spending money much faster than invoices would be coming in. So, we worked out cost-sensitive indicators. What's out there that we can monitor to tell us right now if we look like we're going to be ahead of schedule, behind schedule -- more importantly behind schedule, because usually behind schedule would either mean more money or more time to get the job done. A good example is the fifth one, which was the baseline assessment program. Every week we would get this feedback from Exxon, and we've had joint meetings of the state on-scene coordinator and the

federal on-scene coordinator and Exxon's general manager, and these are the things that we would discuss. Exxon would bring this in. As you can see, we would go along with the actual and the planned.

We had the planned laid out. Everything was tied to the expense, so we could see where we were and where we were supposed to be. On 5B, you can see it's a chart. The solid line shows the plan. The solid line, here, shows you the plan where we were supposed to be, then the different lines, the one on top, is where we were at that point in time. It's usually not -- at that point, we were ahead of schedule. Ahead of schedule because we controlled the resources available -- would say that we're probably under budget. The plan was if we were under the line, that would mean that we would either have to add additional resources to finish on schedule or stretch out, both of which would mean more money, which would tell us let's go back to Exxon and say what's going on, why are there problems, and are we in a situation where it's going to cost more funds? Additionally, the Coast Guard was not just monitoring Exxon, but we intended to be in a position to independently verify certain expenditures, so we independently of Exxon monitored other factors.

We have documentation -- high expense items, helicopter time. We verified all manifests, who was going on, independently verify whether the trip was directly related to the response effort or not, and we kept this so that when we had to check, we would have an independent series of recommendations or fact base to go against Exxon's figures. When we finally sat down and finished up the actual clean-up effort, the financial review -- and, again, it

really is -- we did a financial review, not an audit, because an audit is the purview under the settlement agreement of governments, not the FOSC, but our approach was that it's good business practice. We were in the business of pre-approving expenditures, we had estimates, and now we're going in to check the estimates against the actuals, and the protocols -- this is the protocol that was used. It was a very extensive financial review. We sent to each of -- each member of the Trustee Council, the attorney -- state Attorney General's Office, got comments back -- you know, we implemented the ones that were appropriate because those that were -- we really didn't do a heavy, detailed -- into Exxon's practices. We were more interested in the results, the actual invoices, and as a result of having conducted the review, we have the figures that we thought comprised the figure that was used by the governments in determining x. So, that's the financial management plan, financial review, and we feel it's an extremely comprehensive, and open to any questions anybody may have on that.

MR. SANDOR: Are there any questions of?

MR. COLE: Mr. Chairman? Commander?

MR. SANDOR: They think that the -- you have opinion, so let me phrase another -- deftly. Would you care to express an opinion as to whether the Trustee Council should initiate an audit of these expenditures?

CDR. McGUIRE: I do not believe that if an audit was conducted that the savings that could possibly be found would even begin to approach the cost of conducting an audit.

MR. SANDOR: Thank you -- one more question, in your view was the method of conducting the remaining clean-up as provided in the settlement agreement as sound decision.

CDR. McGUIRE: Absolutely.

MR. SANDOR: Would you care to state the reasons for your opinion?

CDR. McGUIRE: Yeah. In fact, it's interesting. The -- I've been involved in the clean-up since '89, and the efficiency and effectiveness of the settlement agreement in placing a lot of the fiscal controls with the FOSC allowed for us to get into detail, review, establish controls that, I think, made for a more efficient and effective use of the resources and a much better accountability.

MR. SANDOR: In your view, based upon your experience with the clean-up since 1989, was it more efficient to have Exxon wind up, if you will, the clean-up?

CDR. McGUIRE: Absolutely. What we failed to realize occasionally, we just -- we internally look at it when the settlement agreement was first signed. We said, can we do this better without Exxon? And what we ended up with is, you know, things that you don't see, but the permitting process to conduct these surveys is very, very extensive. Exxon -- Exxon was able to bring in one person in '91 to do all the survey work because he had a computer disk and a file that says, okay, here's everybody that I have to conduct, here's their requirements, and if I was -- as FOSC -- to start that all over again, I'd have to start at square

one. Additionally, Exxon had a lot of the resources already in place that had been paid for. A lot of the assets that we were using, Exxon had already paid for, and we had the access to them. Interesting, on waste disposal, when we were looking at it, we got an query on how much is the cost clean-up was going to be when Exxon had estimated it at maybe \$35 million. We went to the Air Force and said how much do you pay for waste disposal? In essence, the Air Force should go to Exxon to handle their waste disposal because Exxon was handling it -- doing it cheaper than the Air Force was paying for. So, there were never bid period that we found that Exxon had the infrastructure in place, already had a lot of the fundamentals that we would have to reinvent, also federal and state procurement rules usually do not allow for a fast, timely acquisition of resources and contracting, and Exxon had that capability. So, I just might strongline (ph) that, you know, it was appropriate to have Exxon finish the work. It's also, we have x pass the people that really knew what was going on from Exxon's side of things, and we had a balance. And the important balance was always among the people in the field and in the technical advisory group -- those two decision-making bodies. The people collecting the information and the experts analyzing it -- we really did benefit by having a diversity of opinion. So, you had, you know, land manager out there, State Department of Environmental Conservation, NOAA, and Exxon, plus the Coast Guard. So, it was -- actually there was this very important interplay of ideas so you were getting a mix. I think we got a better input into the

decision-making process.

MR. SANDOR: Thank you, Commander. Any other questions?

MR. BARTON: Mr. Chairman? Yes, this is a -- I have another area, I guess, but it's kind of -- what -- what will happen in the future, for example, if -- well, we know that there's still oil in some of the beach sand of Valdez -- but how, you know, if a future clean-up is needed, how is that handled? Who does? How's paid for, and so on?

CDR. McGUIRE: Okay. Future clean-up -- the Coast Guard has basically ended our involvement. The response dates, or the clean-up date, is complete. We are now in the restoration phase. If there's more work to be done out there, it falls upon the Trustee Council in the restoration process. The -- we have, and there's one of your projects, is to do an assessment next year. I'm not in a position to make a pitch for it, but we've denoted every year almost an order of magnitude improvement. But, as we've -- we have methods of classifying oil and conditions -- things that we found in '91 -- you know, we'd dig a ditch and would say this has heavy oily residue. Well, the next order of magnitude down is medium, and then low, and then none. You know, we've been finding since '91, this order of magnitude drop, so the natural cleansing process that's going in nature is going on. One more survey -- one confirms that you -- that this is a continuing trend. If there's a change in trend, it's not continuing. There were a number of sites that we went out there and said, yeah, there's oil still

present here, subsurface oil, but from the rules that the Coast Guard uses -- environmental benefit, economic benefit -- we were satisfied that on the tools available to us, that we've done as much as we should do. That doesn't mean that the oil's all gone. It's still there. So, taking a look at it another time, gathering this information, you're in a position of saying -- because as the Trustee Council, you have a group of other tools available to you that you can take that we can't -- we are satisfied with what was done -- very pleased, in fact. So, it's the responsibility of the Trustee Council should more work be done. The Coast Guard, you know, the planning of this, we -- we obviously have a lot of experience, including the shoreline assessments. After four of them, you get really good at it. We are more than willing to assist the Trustee Council in planning of this.

MS. BERGMAN: Commander McGuire?

CDR. MCGUIRE: Yes.

MS. BERGMAN: Over here. Pamela Bergman. One question might be, what happens if the Coast Guard, through your normal reporting processes, hear of reports of sheening or oil off Knight (ph) Island, for example, in Prince William Sound? What happens then?

CDR. MCGUIRE: Okay. What we've got, in fact -- we have, you know, last year when we were winding down, that was an important element. We had an agreement between us and the 17th District saying, if we've got a report of oiling, regardless of who gets it in the Coast Guard, we have sent out to each of the

offices, primarily Valdez and Anchorage Coast Guard offices, detailed maps saying here is where Exxon Valdez oil ended up, and we've got it for every year. If one of the beaches that shows an oily concentration is where you're getting report of oiling, you call the FOSC, we'll do the detailed research -- we've got comprehensive files, and we can say, pretty clearly, whether or not there's a high probability of it's Exxon Valdez oil or not, and if it is Exxon Valdez oil, and it is sheening, we get together with the Department of Environmental Conservation and the appropriate Coast Guard office, and they jointly make a decision on how to proceed with it. So, we do have a procedure in place should there be, you know, ongoing reports.

MS. BERGMAN: And, the follow-up question would be where the funding would come to deal with that if, in fact, that needs to occur?

CDR. MCGUIRE: That's why we get together with the Department of Environmental Conservation because the Coast Guard has determined that the clean-up is complete, so it would in all probability fall upon the Trustee Council to determine what action it wanted to -- you know, that this group wants to take with respect to that oiling condition.

MR. SANDOR: It might be worthwhile to take the additional time to have Mark Brodersen to cover the points that was covered in the briefing that we had several weeks ago on that bridging of the gap from the -- as all of us realize, both the federal and state standards, the clean-up work was completed at the

conclusion of the field activity last summer. That was not to say or suggest that there wasn't oil remaining in different conditions.

A process is in place, in fact, to -- to have these same sites reviewed and a process in place. Can you just very briefly summarize what our discussions were and -- and Commander McGuire pledged at that time, and consistently or insistence of the Coast Guard in that process? Mark Brodersen?

MR. BRODERSEN: I believe you are referring to project number 38, shoreline assessment, that we've been putting together with the cooperation of the agencies and the Coast Guard. Essentially, it's a repeat of the shoreline assessment -- (cough) excuse me. The shoreline assessment that was done last year is a joint effort by the agencies, the Coast Guard, and Exxon. With the addition of a few sites, deletion of a few sites that's to be determined through a coordinated effort of all the agencies, Coast Guard, land managers, interested parties, etc., this spring, and then carried out this summer to actually look at the potential segments that may or may not still have oil them to just determine whether winter storms have exposed oil that we are not aware of, and, more than anything, as Commander McGuire was saying, to verify that there is this continuing reduction in oil out there so that we have a handle on just what it is that needs to be restored and what doesn't. That -- that's a quick summary. I can elaborate a lot longer -- probably not necessary.

MR. SANDOR: The point is, is that the process is place to continue this process of -- when the definition of clean-up and

restoration passes from the phase of this year and into next year, and it's very orderly, and although the Coast Guard does not have a formal role in that process, their cooperating and providing their advice in that process. Any further questions of Commander McGuire at this time? (No audible response.)

Commander, we thank you very much for an excellent presentation. The book is excellent, and we, again, are very pleased with the fine work that you -- that the Coast Guard has done and you, personally, have done over the past three years.

CDR. MCGUIRE: Thank you very much.

MR. SANDOR: Moving on to item two of the agenda, the Public Advisory Group report. Brad Phillips is to be making this report.

DR. GIBBONS: Mr. Chairman?

MR. SANDOR: Yes.

DR. GIBBONS: Before we bring Brad up, section 2E of their draft operating procedures states that the Public Advisory Group shall have a chairperson and vice chairperson who shall be elected annually from the voting membership -- a majority of the -- vote of the majority of the membership and approved by the Trustee Council. So, before perhaps Brad comes up and talks about resolutions one, two and three, perhaps the Trustee Council could act on resolution four, which is the election of officers. They elected Brad Phillips as the chair and Donna Fischer as the vice chair. So, that might be a suggestion.

MR. PENNOYER: So moved.

MR. COLE: Second.

MR. SANDOR: It's been moved and seconded that the officers be appointed as recommended. Any objection?

MR. COLE: Is it?

MR. SANDOR: Any discussion?

MR. COLE: Mr. Chairman? The terminology, what -- may I ask Mr. Gibbons whether we are to appoint him or are we just approving the election?

DR. GIBBONS: Yes. It states that the Trustee Council will approve with a consultation of the Public Advisory Group members, the -- the election.

MR. COLE: I think just to sharpen the issue a little bit that the motion is to approve the election of officers made by the Public Advisory Group.

MR. SANDOR: It has been moved and seconded that the Trustee Council approve the election of officers made by the Public Advisory Group. Is there any discussion on this motion? (No audible response.) Any objection? (No audible response.) Without objection, the election of officers by the Public Advisory Group are -- are approved, and Brad Phillips, as chair, is to make his report at this time. Anything further, Dave Gibbons?

MR. GIBBONS: No.

MR. SANDOR: Mr. Phillips.

MR. PHILLIPS: Thank you, Mr. Chairman, and ladies and gentlemen of the Trustee Council. I must say first that I think that I'm really pleased to have been appointed to this committee.

However, I think it's turned into a second career. Today, there are a few members of the PAG in the audience, and they'll be here, and before I touch these things I would like to ask if I -- if it would be proper for me to be excused after this. I know that are people taking notes, and the committee will be apprised. Mr. Gibbons is going to tell us at our next meeting what happened, but I have a little crisis management of my own in the office this morning. We are bidding on a major contract, and it has to be completed today, and I have to catch an airplane. So, with your permission, I would present this and then ask to be excused.

There are four resolutions, one of which you have just approved, and there are three others that were sent to you shortly after our meeting, and I would just like to comment on those. Probably the one that got --

MR. PENNOYER: Do we have copies of those resolutions? Are they in some of the mailing or do we have....?

DR. GIBBONS: Yes. They were hand carried. You should have gotten one.

MR. SANDOR: have some extra ones for those who do not have them.

MR. PENNOYER: I don't have it in front of me anyway. If you have an extra copy? I don't think -- probably four. Three or four. I believe, Mr. Chairman, I believe Mr. Phillips can proceed without them rather than hold him up.

MR. PHILLIPS: I can just tell you what they are, and they are really simple. One had more discussion than the others,

but -- the procedure -- there were a couple of suggested changes in the procedure of the advisory group, and one of them, I think the main one, was that we would change the requirement of a -- a -- the numbers of people to be there to vote on anything from nine to twelve, trying -- in an effort to be sure that we had everybody there, as close we possibly could.

Were there other changes in these procedures besides that one that you can remember?

DR. GIBBONS: Umm -- there

MR. PHILLIPS: They're not lined in the resolution. They're almost insignificant, but that was the major one to -- be sure that we

MR. COLE: Would it be appropriate at this time to have a motion to make that change? (Inaudible)

MR. SANDOR: Brad, is it

MR. PHILLIPS: It's required that you approve our per

MR. SANDOR: essentially your changing that -- your proposing is the quorum?

MR. PHILLIPS: Yeah.

MR. SANDOR: The quorum be changed from nine to twelve?

MR. PHILLIPS: That's correct, so we can encourage people to be there so we don't have to come up with opinions from small groups.

MR. SANDOR: Is there a motion for that specific change?

MR. BARTON: Mr. Chairman?

MR. SANDOR: Mike Barton?

MR. BARTON: I would suggest that we wait and see what all the changes are. I don't think we've taken any action yet to actually approve the operating procedures, and there are other aspects that maybe worth

MR. PHILLIPS: It's a long document -- the operating procedures, but that's the only thing that we -- were prescribed for us, and that's what we suggested as a change.

MR. BARTON: I'd rather not deal with it piecemeal.

MR. PHILLIPS: Okay. Resolution number two probably got the most discussion of any of them, and it was submitted by the Chenega group, and it says, I think -- all the whereases explain it, but I think that the resolve clause probably tells the whole story, and it says that "Therefore be it resolved by the Public Advisory Group to advise that the Trustee Council direct the Restoration Team and agencies to work with Native landowners and other residents of the oil spill-impacted area to be certain that the 1993 work projects utilize the services of these people whenever feasible." The discussion was that the people who live there and are on the spot could be a real asset on any of the projects where they have the ability to carry out these projects because they're there, the costs would be less, the understand the country, and they would hate to see somebody coming in from Oklahoma to do it when they are capable and on the spot to do it. And that's the general theme of this resolution to bring to your

attention our desire to see that Alaskans are employed in any of these activities as much as possible. That's resolution number two. You may want to read all the whereases, but

MR. SANDOR: What we'll do, with the agreement of the council, is to defer actions on these specific items until we, in fact, have -- have been totally presented and have them before us, so that each one of us has a complete record of the resolutions that were passed. Can you proceed?

MR. PHILLIPS: Yes. The last one, resolution number three, is probably the most difficult one because -- let me give you a little background -- because the Public Advisory Group was, for whatever reasons, delayed in the appointment, and because some of the information that we received to evaluate to advise you on was given to us at a very late time, some of it within 24 hours of our meeting, we felt that in order to give you an intelligent assessment as has been requested from us on the 1993 work plan, that we needed time to absorb and discuss these things, and it was physically impossible to get it done in order for us to give you a complete recommendation at this meeting. So, we have arbitrarily set another meeting for ourselves on January 6th and 7th, and resolve clause on resolution number three, says "Therefore be it resolved by the Public Advisory Group to respectfully request that the Trustee Council withhold final approval of 1993 projects and budgets until after the January 6th and 7th, 1993 meeting of the Public Advisory Group to review the 1993 programs in depth and make recommendations to the Trustee Council. Now, we know that you can

make these decisions anytime you want, but we want you to know that this group is here to advise and be helpful, and the only way we can do it is to get -- be given enough time to absorb this. You know, I've never been buried in so much paper in my life on any project anywhere, and I -- even at law school it wasn't as bad as this in reading all this stuff and understanding it. At least in law school I had a Black's Law Dictionary that I could refer to some of the words to know what they meant. But what we are asking for is enough time to advise you, and if you can put off some of the final decisions, we think in particular the analysis of the public comments which were given to us within 24 hours of our last meeting -- I'm taking this on the airplane to read, in depth, and if they don't me charge me excess baggage for it, and by this meeting in January we hope to get this information to you.

If I may just digress a moment, I remember when I was much younger and before I had any children, I had a philosophy of education where you would advise your children not to accept on face value everything that's told to them in the schools and to always question and to have their own opinions, and I did this, I followed this with my daughter, and I found out that I created my own monster because she rarely agreed with me on those things which I thought were pretty important to believe. You may have created your own monster with the public advisory committee because there are fifteen completely different people with different ideas, and I hope as a parent group you will have some of the consideration and tolerance of what you're going to get out of this group,

because I've found already in two meetings that they are not bashful at all in their opinions, and we are going to try to get consensus for you, and that's my job as chairman to try to make that run into some kind of a logical theme, which I am going to do my best to do. If there are any other questions, I'll be glad to try to answer them, but

MR. SANDOR: Yes. Mr. Phillips, let me assure you that I'm confident that the Trustee Council will be as tolerant with the advisory group as you -- as you were with your daughter. (Laughter) Is there any questions?

MR. McVEE: I attended part of the PAG meeting, and I guess I was impressed with the -- the quality of the people. I think that -- that we have on the PAG, and the direction of their discussions and deliberations, and I appreciate the point that they make in terms of the amount of material they've had to review. I guess there's one question -- was it recognition, in drafting this resolution -- was there some recognition that there maybe a few projects that -- I would think very few -- that the timing is such that we may have to do some approvals on that cannot wait through the January process

MR. PHILLIPS: Yes. That was discussed, and everybody recognizes it and understands that, you know, the time is vital to get things done, and we fully expect that those things that you have to do, you should by all means do, and those things that can be put off on final decision until we've given you our evaluation - - it's just really a request, and we understand what your load is,

and you've got a lot on your plate, so we don't want to hold it up either. We just want to be valuable in advising.

MR. SANDOR: Okay. Any other questions of Mr. Phillips at this time? Yes? Steve Pennoyer?

MR. PENNOYER: This is not a question -- a comment. The package we've got appears to have one resolution and not four, and I don't know if -- (inaudible - coughing) a copy, or you have it in your records, but we probably need the other three.

MR. PHILLIPS: Here they are. I -- why don't I leave them with you because I have them in my office.

MR. PENNOYER: Thank you very much.

MR. SANDOR: Any other questions of I guess I would suggest that the Trustee Council -- that we can act on the resolutions either at this time or later when we deal with other procedural matters of the Trustee Council. What is your pleasure?

MR. BARTON: I'm not concerned about dealing with the three resolutions other than the operating procedures. I think that (inaudible). It's the operating procedures of the whole that I think we want to look at as a package.

MR. SANDOR: Okay. Thank you, Mr. Yes? Carl Rosier.

MR. ROSIER: Mr. Chairman, if I might -- I was not here for that PAG meeting, and I was wondering if it would be possible for the chairman to, in fact, introduce the members of the PAG that are here today.

MR. SANDOR: Mr. Phillips?

MR. ROSIER: Or identify them, anyway?

MR. PHILLIPS: I would appreciate that opportunity very much. Why don't you stand and identify yourself, your affiliation, category

MS. BRODIE: Pam Brodie, environmentalist.

MR. TOTEMOFF: Chuck Totemoff, Native landowners' representative.

MS. BENTON: Kim Benton, resident alternate for the forest products industry.

MR. PHILLIPS: Those are the three that I saw here today. There may be others before the day is over.

MR. ROSIER: Thank you very much.

MR. SANDOR: Curt McVee, you had a question or comment?

MR. McVEE: Yes. Not on the chairman's report, but that -- whether this is the appropriate place or it should be handled later, I don't know, but that -- that the PAG asked to schedule a meeting for the 6th and 7th, and are proceeding with that, with the notice and the development of the preparation of travel authorizations -- they'd also proposed to organize three work groups as I understand it, and we're -- the problem is that we're still operating on the forms that were approved for the '92 operations of the PAG, and -- that's about \$30,000, and I think the balance that's left is about \$7,800, which enough, we think, because all costs aren't in on their last two meetings, to fund their 6th and 7th meeting, but probably not to handle the work group meetings. So, we've got a bit of a funding problem there.

Now, there was, I guess, the RT (ph) did explore the possibility of funds being reprogrammed from other projects, from other parts of the operation, yesterday -- the administrative budget or whatever, and as I understand it that -- that there were no -- everything was -- had reached its limit -- we just about drained the bank dry. So we have been notifying the PAG members that we have this difficulty and suggest that -- that these work groups try to do their work through teleconference arrangement versus actually getting together because of a large funding problem.

MR. PHILLIPS: Mr. Chairman, it's my understanding that they'll be no cost to the -- to the project at all for the work group meetings between now and the next meeting, and we will deal with that if it's necessary in the budget proposal. So, you don't have to worry about that at all. We're doing that on our own, and they will report to us. So, there are no unusual expenses that I can foresee at all between now and then.

MR. SANDOR: Are there any other questions or comments?

MR. COLE: Mr. Chairman, can we assure Mr. Phillips before he leaves that it is the sense of the Trustee Council to defer action today on these projects until we've received a report of the Public Advisory Groups (sic), except as might developed today that are time-critical projects.

MR. PHILLIPS: As a courtesy, if we could be told the ones you've already disposed of, then we won't waste any time on them -- and go to the rest of them

MR. COLE: Let me ask this question. Does anyone

here know of any projects which for reasons of time we must deal with today.

MR. McVEE: Mr. Chairman?

MR. SANDOR: Yes.

MR. McVEE: We have one which work would start in March on it. We do need to deal -- move forward.

MR. COLE: Could it wait till January?

MR. McVEE: Pam, you know more on that?

MS. BERGMAN: Yes. We're talking about project 93045, which (inaudible - electronic static) surveys of marine (inaudible - electronic static) in March and August, and so there just wouldn't be enough time to get the contract (inaudible) and everything out to do that March survey. So, we would lose that, but we could still do the August survey. We did lose the opportunity last year to do these surveys as well because we didn't have approval to do them in a timely manner.

MR. SANDOR: Mr. Pennoyer?

MR. PENNOYER: Mr. Chairman, I think I'm well aware -- understand the need to agree to that concept in principle. I'm not yet ready to say which projects entirely we're going to put in what category. I haven't yet heard a rescheduling from the RT or from anybody as to what this delay in approval would cost us in terms of getting the money from the fund and actually starting the papers. We have, I think, a March 1 deadline, not just on surveys, but there are going to be other aspects of the program that have to go forward at that date. So, with that proviso, I agree with the

concept, but I would like to hear a little more deliberation on how the projects wind up, the time frame for approval, and what we actually will be looking at if we wait until January 6th and then whenever the Trustee Council can meet -- I haven't heard that. Maybe we couldn't meet until -- I don't know when -- and then you've got the approval. At that point, then you've got to go to the court. I don't know what the delay -- time we're talking about is, so I don't know which projects will be affected. But, I agree in principle, that's what we ought to do.

MR. PHILLIPS: It's a judgment you all have to make. We will live with that.

MR. SANDOR: Mr. Phillips, we can assure you that the number of projects that will be approved will be limited to only those that require immediate action and will inform you of the actions that were taken on them so that you, and the other members of the advisory people, have that information. Any other questions or comments (inaudible).

MR. McVEE: Mr. Chairman, just procedurally, I think that you can plan on it -- that -- whether the procedure calls for it or not, but that we should provide a written response to the advisory group on the (inaudible - coughing).

MR. SANDOR: Without objection, then following this meeting then, Dr. Gibbons will formally convey to the Public Advisory Group the (inaudible) the recommended to the Public Advisory Group. Any further questions or comments of Mr. Phillips? Ms. Brodie.

MS. BRODIE: I would just like to say that there was another resolution passed which was to set up three working groups in the Kodiak area, Kenai Peninsula, Prince William Sound (inaudible - coughing).

MR. SANDOR: Has that been given (inaudible)

MR. PHILLIPS: That one was not included in the package. As I remember, we did set them up, but it was -- I don't remember that it was in resolution form. We discussed that earlier and those groups are working, and it isn't going to cost you anything to get any benefit out of it. There were three different appointed.

MR. SANDOR: We'll act on these. If there are other items which we were to deal them, please present them, and

MR. PHILLIPS: I'm not aware of a resolution form for that one. I could be wrong, but I don't think so.

DR. GIBBONS: I don't think so.

MR. SANDOR: Any further questions or comments of...? Mr. Phillips, we appreciate your acceptance of this leadership position. We wish you well on your trip then. We appreciate the tremendous amount of material that you will have to read.

MR. PHILLIPS: Thank you. Thank you very much.

MR. SANDOR: I've asked the Trustee Council members that -- if there are any additional comments on the Public Advisory Group report? Is there any other comments on the Public Advisory Group...? Let's move on then to the next item on the agenda, but I would say we would like to -- upon the conclusion of this meeting

get -- Dr. Gibbons to -- to be able to respond completely to the Public Advisory Group report (inaudible -- coughing, simultaneous talking).

MR. PENNOYER: Mr. Chairman, (inaudible) report, individually look at these resolutions and decide

MR. SANDOR: The questions has been raised, do we need to deal with these resolutions?

MR. BARTON: Do you want us to speak to it, or do you want to defer it until (inaudible - coughing).

DR. GIBBONS: Do we need to act on any other resolutions?

MR. BARTON: Mr. Chairman?

MR. SANDOR: Mr. Barton.

MR. BARTON: Mr. Chairman, I move that we adopt resolutions two and three, or approve resolutions two and three. What do we do with these? Do we approve them or adopt them? Or whatever the operating procedures say?

DR. GIBBONS: I think the Trustee Council approves them.

MR. BARTON: Then I move we approve two and three. We've already approved four. I further move that we table resolution number one until we've had an opportunity to review in detail -- it's fairly lengthy, and I think it's fairly critical -- document.

MR. SANDOR: Mr. Barton wants to handle these individually. It's been moved that -- tabled -- that resolution one be tabled. Is there any objection to tabling that resolution?

(No audible response.) The motion is tabled -- the resolution.

MR. COLE: I have a question on it. When -- I mean, not that I mind tabling it, but when do we think we're bring it up again? In January or earliest date? It makes no difference to me.

MR. BARTON: The intent of my motion was that it would be brought up again January following the -- the meeting following the PAG. (Inaudible) final disposition on the '93 program work. My intent was not to research it today.

MR. SANDOR: Any objection to that tabling of resolution number one?

MR. PENNOYER: Mr. Chairman, if it doesn't in any way impede the ability of the PAG to carry out its duties, I have no objection.

MR. SANDOR: Any indication that there would be a problem?

MR. COLE: Conceivably, it could, but the chances are probably slim, so let's go ahead. I was here during part of that discussion, and the idea was that if a quorum was only nine members, that five of the group could adopt a resolution, and that might mean a very narrow group out of the seventeen. And the thought was that if the quorum were twelve, it would require a broader consensus among the various special interests, if that's the term, in the group to adopt -- to make recommendations about a project.

MR. SANDOR: Mr. Barton?

MR. BARTON: Yes. Mr. Pennoyer, concerning all of the

merits of that particular piece of proposal, but it's rather -- wanting the opportunity to review the entire operating procedures.

PAG can perhaps suggest some changes.

MR. COLE: I agree with that.

MR. BARTON: But, in fact, I think the whole package needs to be approved by the Trustee Council in some formal action.

MR. SANDOR: Any further discussion on this question of tabling? (No audible response.) The action on resolution number one then is tabled.

Resolution number two -- we have a motion for approval by Mr. Barton.

MR. COLE: I move to table number two.

MR. SANDOR: Table -- whether or not the -- resolution number two is "Therefore be it resolved by the Public Advisory Group to advise that the Trustee Council direct the Restoration Team and agencies to work with Native landowners and other residents of the oil spill-impacted area to be certain that the 1993 work projects utilizes the services of these people whenever feasible." We have a motion that the action on this be tabled. Is there an objection to that motion?

MR. COLE: Let me just state the reasons why. I think we need to look at this a little more carefully. I agree with the purpose and intent of the resolution before us. We shouldn't be employing people from Southern California to perform the work and projects in the sound, but what I think we should get some advice from the various agencies to make certain that if this

resolution is adopted, we can feasibly and substantively carry it out. I know there's this -- in my view, one fortunate provision in law -- that all of these projects must be carried by state agencies. I just want to see how this resolution would impact on that. Maybe we would prevail upon the legislature to delete that requirement. I think, if you read the public comments, there's much criticism of all the

MR. SANDOR: Yes ...

MR. COLE: One of the problems that I see in this resolution, so everybody understands what's troubling me about it, if the agencies have to carry out these projects and we adopt this resolution, does that mean that the employees whis

officers, a chair and chairperson (sic). That motion has already been and passed. This is simply a reaffirmation of that. Is there any further action that's necessary on the Public Advisory Group recommendations or resolutions at this time? (No audible response.)

Let's move on then to item number three on the agenda -- the 1993 work plan. Dave Gibbons and -- we'll take a break at ten o'clock if -- about that time, if that's fine? Dr. Gibbons? Will you introduce this topic?

DR. GIBBONS: Yes. The little -- a little background -- everybody's I'm sure aware of what's transpired to date, but the 1993 work plan was released to the public in October -- on October 20th, with a 30-day comment period that closed -- October 20th, excuse me, that closed on November 20th. Comments were received through November 27th. The package that has been distributed to the 14 library sites, the teleconference sites, given also to the Public Advisory Group members, and also to the Trustee Council Restoration Team, was distributed on December 2nd, and that's where we stand now. There were 217 comments concerning the 1993 work plan, and -- just to comment before we get into a proposal I have for the Trustee Council -- is that the lead agency for each project is acting as an agent for the Trustee Council and not for itself. Some people -- I need to make that clear that, you know, the project is a project of the Trustee Council and not a project of the agency. I have a document which is presently being reviewed by the Restoration Team that displays the funding levels for each

agency for projects and for -- it compares agency funding versus professional and non-professional contracting, and we should have that done next week and distributed for information.

The proposal I have to the Trustee Council today is a four-step process. First, is to remove any projects that the Trustee Council cannot support or does not meet the restoration criteria. Under that step, I propose to you to consider two things. One is to poll each member of the Trustee Council concerning the projects that it has lead for, and secondly, poll the Trustee Council in general on support of projects. The second item, NEPA compliance, there has been a letter released, dated November 25th, to the Trustee Council concerning NEPA. There's been several -- there's been an opinion by the federal attorneys on NEPA compliance, and my proposal here would be to approve funding for NEPA compliance work on projects that has not satisfied NEPA compliance to date. There's -- I believe, about ten of those, and there's a handout prepared on that. The third -- the third step would be to tentatively approve a 1993 work plan, pending comments from the Public Advisory Group after their January 7th, 1993, meeting, and then identify time-critical projects that need to move forward before that discussion with the Public Advisory Group. The comment here is that we need to still prepare detailed study plans and request for proposals. Each agency has to decide on its own if they want to initiate the preparation of these documents, either the detailed study plan or the RFP, without Trustee Council approval to date, to try to make some dates that we have coming up.

That's -- that's a consideration the Trustee Council has to make also. But that's -- that's my proposal.

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Mr. Gibbons, before we launch down that process, can you -- maybe it'd be appropriate for you now to give me some time frame on how you view the approval of the '93 work plan would proceed, given the resolution we've just adopted and the fact that we want to wait for the Public Advisory Group comments. Do you have an idea of how we would proceed on finally going to the court and when we actually would be receiving money?

DR. GIBBONS: Yeah. The proposal I would have - it -- would be to have a continuation meeting in January and schedule it after the 7th, but give sufficient time so the Trustee Council can review the actions of the Public Advisory -- recommendations of the Public Advisory Group to them, and then approve a final '93 plan at that time. The petition to the court should not be a lengthy process. The other one was passed on yesterday -- each one of the Restoration Team members to pass along to the Trustee Council members for review. Comments are due back the 16th of this month, and we intend to, perhaps, go to court that week. Having done that, the next week -- I don't see the petition the following month to take -- be that lengthy. That would be my only concern -- comment there. And, then, Judge Holland has been pretty speedy in his action on the petitions, and within a week he's been acting, so who knows, perhaps within a week he could act on that petition for

the '93 work plan, and then the money could be dispersed to the federal, into our account, and into the state account.

MR. PENNOYER: Mr. Chairman.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: I understand the general idea, but I didn't understand the time frames exactly. If we've met in January sometime, a time that's yet still uncertain, and approved a '93 work plan, how long would it take then to prepare the document to go to the court?

DR. GIBBONS: Well

MR. PENNOYER: Is that a short time or is that ...?

DR. GIBBONS: I -- I would have to say within a week we could have that document prepared.

MR. PENNOYER: So if we approve something -- Mr. Chairman, if we approve something in January, we could have something to the court in mid February or that nature?

DR. GIBBONS: Yeah. It depends on when you meet in January. If you met, say, the 20th of January -- around there -- we could have it out by the end of the month.

MR. PENNOYER: We might, Mr. Chairman, we might have the money actually disbursed then, before the start of the March 1st time (inaudible -- coughing). It will be interesting. Okay.

MR. SANDOR: Mr. Cole?

MR. COLE: Mr. Gibbons, did I -- I'm not sure I followed the -- the general idea. Were you proposing that we take those actions today?

DR. GIBBONS: Some of the actions today, yeah. Yeah, the ones I laid out, I think we can run through, yes. That's what I'm proposing. The removal of projects, funding NEPA compliance, where appropriate, and then some time-critical projects.

MR. COLE: Mr. Chairman?

MR. SANDOR: Mr. Cole.

MR. COLE: I don't think I'm willing to agree to the removal of any projects until or before receiving the Public Advisory Group's recommendations. I just think that before any project is removed, we should get the Public Advisory Group's recommendations. I guess that's all I want to say.

MR. SANDOR: Mr. McVee?

MR. McVEE: Yes. I have the same concern also. A second concern is, if you'll bear with me, I guess, I have some notes here I'd like to read from on the NEPA compliance, and it'll just take a minute to be sure that we have a common understanding of what the federal lawyers and the compliance working group have told us concerning the National Environmental Policy Act. First, "NEPA applies to decisions to made by the federal members of the Trustee Council. It does not limit the decisions of state members, per se. Unanimous requirements of the Trustee Council action do result in preventing the council from approving projects for implementation pending there has been compliance with NEPA. Second, the working group has proposed that for each project the lead federal agency be identified for NEPA purposes only." This has been a good effort, I think. "In the case of projects for

which a state agency is the lead agency, a federal lead agency will be identified. Other than for NEPA-compliance purposes, the state agency remains the lead for the project." Environmental compliance working group memo, November 19th, signed by Ken Rice, addressed the projects, which by preliminary review needed documentation of NEPA compliance. This was followed up on by a November 25th memo signed by Dave to the Trustee Council requesting concurrence with recommended lead federal agency for NEPA compliance with state projects. I think that has generally been accepted. The way this operates, as I understand it, the state agency on state projects would prepare the necessary NEPA -- NEPA documentation in cooperation with the identified federal agency and culminate in the lead federal agency signing off the NEPA documentation. Third, the Trustee Council should approve funding for NEPA compliance for these projects the council concludes merit additional consideration. We've talked a little bit about that already. And DOI is prepared to act on funding for such NEPA compliance work. The practical approach to this is for the lead agency to prepare proposed NEPA compliance budgets for each project if those costs were not included in the original budget, and we recommend that additional funds be provided for preparation of environmental assessments and EIS's, but not for the categorical exclusions, since though are generally such a minor item. Since the members of the environmental compliance work group were most familiar with the NEPA process, these proposed budgets should be reviewed by them prior to presentation to the Trustee Council. Fourth, once the

necessary NEPA compliance has been performed, the federal members can then, as we understand it from our lawyers' advice, only then, legally make a decision on whether to approve the funding to implement each particular project. In other words, the federal members of the council are not legally liable -- not legally able to approve any projects for funding 'till there's been NEPA compliance. This was my understanding of what we had been asked to prove and the basis upon which we are prepared to -- DOI is prepared to move forward. If -- if we all -- I guess, if each of us understands, agrees to this approach, I don't see that we have any problem. I think that this process will be a lot simpler once we have the final restoration plan and EIS, and while further NEPA compliance may be necessary before recommendation of projects at that point, that programmatic EIS should facilitate that requirement. Well, I guess I would have problems in doing a tentative approval. I don't know what that really means. I have a problem with that aspect of what we're considering as well as Mr. - - the same concerns Mr. Cole had.

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: I have the same concerns Mr. Cole has in terms of removing or adding or doing anything else to this list if we're going to wait until after the PAG comments. I would -- I'd like to have Mr. Gibbons elaborate on what he meant by that, 'cause I think he understands that concern. I'm not sure whether you meant there are some things we shouldn't proceed on NEPA because of

-- in a screening, or exactly what you meant by dropping some off?

DR. GIBBONS: There are some projects in the list that didn't get a whole lot of public support. It was pretty obvious that the public was not in favor of the project, and several of those projects are requiring NEPA compliance. NEPA compliance has not been completed, and there's some money associated with developing NEPA compliance, doing NEPA, and then if the project's not going to go forward, there could be some wasted money. That was -- that was my concern.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: From your presentation, you sort of made that two different items. One was disapproving some projects, and another was approving NEPA money. So, I -- if all we're dealing with then is the decision whether to approve a project for NEPA funding, then, perhaps, we should deal with that here, but if we're doing -- not doing a project at all, and even then we might not want to make that decision. We might simply want to delay the decision on NEPA funding for that project until such time as we get advice from the PAG. So, you know, you don't have to eliminate it, you just don't go forward with the NEPA funding at this time on that

DR. GIBBONS: Yeah. That was my concern of sort of expending money for NEPA compliance perhaps when the project that's

MR. PENNOYER: rather than separate those two items, maybe you should take them together, the NEPA compliance funding

and the question of whether we really want to do it on some of those projects.

MR. SANDOR: Mr. Rosier?

MR. ROSIER: Thank you, Mr. Chairman. I'm having a little bit of trouble here on this. We've got a lot of subjects on the table here, but we also have apparently a listing, as I understand it, new projects and re -- reestablishment of projects that were -- did not survive the original scrutiny of the Restoration Team, that's come to us as part of the public -- the public letter process. I guess I -- I'm not sure how we deal with -- with the -- that listing -- with what the public comments have in fact provided -- provided us with. Is the PAG going to be the final word on those subjects as well? Are we going to make a decision in regards to how we want to deal with new suggestions that were submitted or reestablishment of the projects that were dropped and recommended by them?

MR. SANDOR: Mr. Rosier's point is well taken, and of course, it's been reiterated several times by members of the Trustee Council. I'd like the Trustee Council's permission to deal with these one at a time and perhaps to clarify both for the Trustees as well as the public -- members of the public that are here. The first proposal, as I understand it, is that we would during the processes or today or following the January 6th and 7th meeting, and could you clarify this, the first one was to remove projects not meeting restoration plan criteria? That's the first segment of your proposal?

DR. GIBBONS: Yes. After the discussions here at the table, I would defer that 'till the January meeting

MR. SANDOR: Okay.

DR. GIBBONS: when we deal with the projects not meeting NEPA compliance to date.

MR. SANDOR: Okay. Now let's move to as I understand the second element of this. I just want to be certain that we understand and the public understand what's involved here. Could you restate those projects that either are not or do meet -- obviously none meet NEPA compliance -- what is it -- what is the specific action, and when would you expect us to take it, and when were you requesting action on the Trustee Council? Could you restate item number two and when you propose that the Trustees would act on it?

DR. GIBBONS: Item number two, there's a handout. A one-page handout dated December 10th, 1992, and it's titled "Projects Still Requiring NEPA Compliance." And at the request, at my request, the Restoration Team went through an analysis. We've gone through the environmental compliance work group, who's reviewed the projects. We've come up with an estimate of funding needed to complete either an environmental assessment or a environmental impact statement for a listing of ten projects. This was run -- the money was run back through the environmental compliance work group, and they felt comfortable with the numbers. So, the one-page handout here is a listing of the projects from the 1993 package that have not, to date, met NEPA compliance.

MR. SANDOR: And what, Dr. Gibbons, are you specifically asking the Trustee Council to take action on this, and when....?

DR. GIBBONS: We're

MR. SANDOR: ten items?

DR. GIBBONS: Yes. Excuse me, Mr. Chair. I -- I'm requesting that the Trustee Council review each one of these projects and approve funding for NEPA compliance where they feel comfortable with the project moving forward.

MR. SANDOR: At what time would you propose that?

DR. GIBBONS: At this meeting.

MR. SANDOR: Okay. That clarifies the issues. It also identifies some problems. Any comments on this proposal? Mr. Pennoyer.

MR. PENNOYER: Mr. Chairman, I -- I think it still is fair to say that any of these that aren't time-critical, that we might want to delay the decision even on the NEPA compliance if we understood what that did relative to the project's final approval.

So while some of these might do something that you have to -- are going to be in our time-critical phase, and we need to get started now. Some might be some that are going to become time-critical immediately -- at the January meeting, you'd like to have the NEPA document in hand. Some might just be delayed, and relative to our previous resolution adoption, I would suggest that wherever we can even delay expenditure of those funds, we may wish to consider that, but I think we need to do them one at a time.

MR. SANDOR: Dr. Gibbons, are -- these ten projects on this listing, are any time-critical?

DR. GIBBONS: Yes. Dr. Montague

MR. SANDOR: Can you identify them?

DR. GIBBONS: Yeah. Dr. Montague, do you want to speak to those?

DR. MONTAGUE: Yes. Thank you, Mr. Chairman. When you consider the time required to do the NEPA compliance, the seven projects listed here that are going to require either environmental assessments or environmental impact statements, with the added time of the NEPA requirements, would all be considered time-critical.

MR. SANDOR: All the projects?

UNIDENTIFIED VOICE: Mr. Chairman?

DR. MONTAGUE: I said of those that required -- excuse me -- of those that required environment assessments or EIS's.

MR. SANDOR: (Simultaneous talking) Three have no funding, but -- yes? Mr. Cole.

MR. COLE: Well I -- I see if you look at them, two have \$5,000 worth of EIS funding required, one has \$3,000, another one -- Red Lake restoration -- has \$8,000. It can't be too critical to do \$5,000 worth of work for an EIS. If you ask me, at the rate we seem to go through money, I can't imagine that a \$5,000 EIS is going take very long, but maybe I don't understand the process. The whole thing's frustrating when you try to get something done, and you get these projects underway, and now we find out we have NEPA compliance requirements, it almost seems as

though we can't ever get over the hump in this whole business. I tell you, it's very depressing.

MR. SANDOR: Mr. Barton?

MR. BARTON: Yes. I think it's important to remember the difference between our environmental assessment and environmental impact statement -- number one. Number two, project 26, if we're going to have to do an EIS on that, it doesn't seem to me to make a lot of difference whether we start that tomorrow or start it after the January meeting in terms of bringing that project on line should it ever ultimately be approved. The third thing I'd like to respond to in the interest of clarifying certain things, at least Mr. McVee's understanding of NEPA compliance, the process that was laid out by the legal team, as I understand it, is not necessarily that that is common to all the federal agencies involved at least, and that some federal agencies believe that there is a more efficient way to consider NEPA as we go forward, but what we do have before us is a document that lays out a process that does meet all the agencies' requirements, some being more stringent than others. Is that correct, counselor?

UNIDENTIFIED AUDIENCE VOICE: That's what we could all agree upon.

MR. BARTON: Yeah. Okay.

MR. SANDOR: Any further -- yes? Mr. Pennoyer.

MR. PENNOYER: Well, I -- I understand Mr. Cole's comment. I don't understand the time-critical nature of some of these -- a project that's in time-critical -- in terms of our

approving it at this meeting instead of waiting 'til January to a feel. Additionally, I might say that some of those, I might be more willing to approve a minor expenditure to go ahead and get something done to have it in hand, but when it gets to a major expenditure for this organization, then may I'd like to hear the final comment and whether we really are going to include it as an appropriate restoration project. So, if we go through this one at a time, I think we can deal with that.

MR. SANDOR: Yeah, okay. Fine. Mr. Cole?

MR. COLE: I got to say, the one that really -- sure gives us pause is project number 26. That's the Fort Richardson water hatchery pipeline -- to be proposed either 84 or 240,000. That's the one that -- I just wonder if you people are maybe following this -- this discussion. It gives us a little problem, I think, about tying into that expenditure right now.

MR. SANDOR: Any further comments or questions? Mr. McVee.

MR. McVEE: Mr. Chairman, the dilemma we're in, and I appreciate, you know, the fact that we're concerned about expenditure of funds for NEPA compliance, and then in January of -- of -- deciding not to go forward with a project, but I guess my own comment would be that the NEPA process is part of the decision process, at least for the federal community, and that it's not unusual that we might -- we might go through and expend money -- monies for NEPA work, and the project never mature. So that does happen on occasion.

MR. PENNOYER: I don't think that's correct. In terms of discussion among the legal team of the federal agencies, part of the agreement was that we would have a two-step process. One might be to approve a project as qualifying under restoration to go forward for NEPA -- further NEPA work if needed, and then the second phase would be to approve it after the NEPA work was completed. I don't think we made a decision on whether these projects qualified under restoration. So if there is a significant expenditure attached to it and it's not time-critical, I'm going to have trouble approving a project at this stage for a significant amount of monies to even start the NEPA compliance.

MR. McVEE: Yes, Mr. Chairman, our interpretation of how we have to respond to the -- to NEPA, at least in Interior, is a little bit different.

MR. SANDOR: Not surprising. (Laughter) Mr. Rosier?

MR. ROSIER: Perhaps we could get a little more clarifying information here on this. I'd like to know, you know, on the basis of the immediacy that was attached to each of these projects -- I think -- let's get that on -- let's deal with one issue at a time here, and find out what the immediacy was associated with each of these.

MR. RICE: Mr. Chairman?

MR. SANDOR: Mr. Rice has a comment.

MR. RICE: I'd like to respond to that -- I'd like to respond to that. I think that the problem with not giving some indication as to whether these projects should be funded for NEPA

or not until January puts us in a time-critical nature because of the further decisions that need to be made. If you decide in January to fund the project, it takes -- some of the projects might have the NEPA compliance work done in two or three weeks. Some of them might take a couple of months. To do that, then it's at least February or March before the Trustee Council can then make a decision to go with a project and secure the funding for it, detailed study plans would then have to be prepared or RFPs, if they were going contract, which puts us into April, May or June, and basically the ability to even do the project for this year gets compromised by delaying too much longer.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Mr. Chairman, I fully understood that. I guess, we can discuss the generalities for -- all morning, but I think we probably ought to go back and go through them one at a time, and, again, a project such as 26 that had 17 public comments against and 1 for, I'm not sure I'm not going to commit \$84,000 at this time until I hear from the PAG group and make a decision as to whether it would like to proceed with it. That may apply to the Chugach mariculture one as well. So, I think we have to go down one at a time and reach those decisions based on your comments and others we've heard here.

MR. SANDOR: Okay, gentlemen.

MR. COLE: I'd like to say preliminarily, I just get the sense that we have to impress upon people the absolute need to get things done. You know, it just takes weeks and weeks and weeks

to get anything done. You know, we have to make decisions faster, and people have to get these assessments done. We can't be -- accept, you know, three months or two months to get a \$5,000 environmental assessment. People have got to do that stuff faster.

The whole thing is breaking down because we're not getting decisions made, and I'm getting, frankly, very frustrated about the whole process. I mean, if we can't move faster, I mean, we're going to have to make some basic changes in the whole organization in my view. Nothing ever gets done.

MR. SANDOR: Thank you, Mr. Cole. Let's -- as Mr. Pennoyer suggests, for these projects still requiring NEPA compliance -- Dr. Gibbons, can you or any member of the Trustee Council identify on a one-by-one basis those projects which are time-critical and which need action? Can we just go down the list? There's ten projects here. 93024, Coghill Lake, is that time-critical?

DR. GIBBONS: There's no funding request for that.

MR. SANDOR: Okay. 93016?

DR. MONTAGUE: Mr. Chairman

MR. SANDOR: Chenega Bay, chinook and silver salmon. Needs ADF&G. \$5,000.

DR. MONTAGUE: Mr. Chairman, when I first indicated that all seven of that require NEPA compliance were time-critical, I cross-indexed my chart here, and 93016 did not need to begin until May, and therefore would not be time-critical for passage today. 93032 is scheduled to begin on the 31st of March. Assuming a

decision was made in late January, and then some two weeks -- so probably February 1st before funds were actually available to begin the project, then the environmental compliance work could conceivably be done within a month, say, from March 1st. So that would leave 31 days for the preparation of detailed project descriptions, being peer-reviewed by the chief scientists of the peer review team, and to have -- and if it's decided to use an RFP process, then it would require even more time than just the detailed project description process. To be done correctly, with the adequate review, it would be compromised.

MR. SANDOR: So your point is that that is time-critical and need action -- needs action at this time, and that the benefits of whatever Public Advisory Group comments are made are offset by that time delay?

DR. MONTAGUE: Yes, sir.

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: I was wondering in this time-critical if you're not building in a dose (ph) factor in here, and that is when you -- after the PAG group meets, if we don't have the EA -- and Mr. McVee and I may not agree on all NEPA requirement items, but in this case I think we're in complete agreement -- that the federal members could not take action on it until the EA was completed. So you'll also have to have a subsequent meeting after the January meeting to make final approval, and then the process we're talking an about would continue. I would guess that May probably would not

be a factor, but definitely something in March or even April probably would be impacted by that double process and then having to go back to the court a second time. So, if you can give us the dates for the (inaudible - coughing), we have to factor that into our decision.

MR. SANDOR: Well, okay. 93032 -- Pink and Cold Creek salmon restoration. \$5,000. Is there an action proposed by any member of the Trustee Council?

MR. COLE: I have a question.

MR. SANDOR: Yes. Dr. Montague can help Mr. Cole?

MR. COLE: Why does that project need to start on that date. I mean, this is to build some concrete structures in a couple of creeks, isn't that right?

DR. MONTAGUE: Yes.

MR. COLE: I mean, can't we just push the starting date back 45 days?

DR. MONTAGUE: Well, the equipment purchasing and Title 16 permits need to be issued or the equipment available by May 15th.

MR. COLE: It just seems to me, you might be able to set this back 45 days to avoid the problem if I look at the whole project anyway.

MR. SANDOR: Is there any motion on 93 -- 93032?

MR. PENNOYER: Yes, Mr. Chairman, I'd like to ask, these very small amounts of money -- now some of these, like Coghill

Lake, needs an EA and no money was requested. Others, like these where a very small amount is requested, is there some reason some of these have gotten done even without special action, and others are requiring additional funding albeit very small amounts.

DR. MONTAGUE: Mr. Chairman, since all the projects here that are requesting money are Fish and Game projects, and using Coghill Lake as an example -- is a non-Fish and Game project, the Forest Service, I think, has initiated NEPA compliance work -- I don't know, maybe Ken should address that, but -- long before even the '93 work plan was approved.

MR. SANDOR: Mr. Rice.

MR. RICE: Yes, Mr. Chairman, the Coghill project, 93024, the NEPA compliance was initiated sometime ago. The EA is in process. I don't have a completion date, but the agency is basically funding that out of its normal agency management. The other projects that at least the Forest Service is the lead agency on for NEPA compliance, the money would go to the Fish and Game to do the analysis. The Forest Service would review the project or review the NEPA compliance for adequacy.

MR. COLE: Mr. Chairman?

MR. SANDOR: Mr. Cole.

MR. COLE: Which raises another point. Why can't this agency just do this \$5,000 work out of its normal funding? And why do you need \$5,000 to do the environmental assessment? I mean, who is going to do it, and why is it -- do we need more money to do this project? Some of these things, it seems to me, like we

do them at the Department of Law. We do all this stuff. We don't ask for any money. We just do it, you know, and it just seems to me that we're just making too much fuss over this, and we ought to just get this done out of the normal budget and get on with it.

MR. SANDOR: Mr. Rosier?

MR. ROSIER: Thank you, Mr. Chairman. Not to take umbrage with Mr. Cole's statements here regarding -- to agencies asking for money, but I do know a few -- more than a few hundred thousand dollars that's been transferred to the Department of Law from the Department of Fish and Game to get the regulations out on time and a few things like that. (Laughter)

MR. COLE: He doesn't say how much we bring into his coffers by these clients that we recover. I'll tell you that. (Laughter)

MR. ROSIER: Projected income, Mr. Cole. Thank you. (Laughter) But all this, I think that in terms of state programs, we are looking at generally declining budgets in all categories on this, and so, \$5,000 may not seem like a lot, but when you start talking in terms of all of the dollars put together here on this, that -- that does have an impact on the Fish and Game budget. So, I see nothing at all wrong with the -- the oil spill funding here helping to pay for these, whether it's our agency or any other agency. I think that's a legitimate cost of doing business here, frankly.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Well, these two projects initially, '16

and '32, both received some public support. They weren't overwhelmingly against, and there's not much money involved. I'm a little concerned that if we don't allow those environmental assessments to proceed, we put ourselves in a position the federal people has to meet twice on them. I'm not in any way presuming that -- one more question to address if I might, Mr. Montague -- 032, is that going to be something that's time-critical to the point the Trustee Council has to approve it now or wait for the PAG, or is only the environmental assessment time-critical?

DR. MONTAGUE: Mr. Chairman, it's just the environmental assessment.

MR. PENNOYER: Okay. But that would be time-critical. I'd be inclined to go ahead and approve that \$5,000 expenditure to make sure that he's got enough information in hand to

MR. SANDOR: Is there a motion to that effect? To approve the expenditure of \$5,000 on 93032 for the environmental assessment.

MR. PENNOYER: I move that.

MR. SANDOR: It's been moved by Mr. Pennoyer, seconded by Rosier.

MR. COLE: Mr. Chairman? 032 did not receive broad public comment. As a matter of fact, there were -- all were objections -- the comments on that project that I saw were against it. (Simultaneous talking)21, 25042, 25159, and 27... were all against it.

MR. PENNOYER: Excuse me, Mr. Chairman.

MR. COLE: There's substantial public opposition to this project. So, be that as it may, I have no objection to going ahead with the request.

MR. SANDOR: Is there any further discussion on the approval of the \$5,000 for the environmental assessment on 93032, Pink and Cold Creek salmon restoration?

DR. MONTAGUE: Mr. Chairman?

MR. SANDOR: Yes.

DR. MONTAGUE: I would like to make one comment which may -- may enter into your decision and that is, in the '92 work plan, there were two projects under Fish and Game administration that -- these projects subtitled 5 and subtitle ST2V, and those were projects that we'd made decisions at the Restoration Team and chief scientist level not to continue. As a result, there's, I believe, approximately \$140,000 in our '92 budget which could be used for this purpose. Otherwise, it would just be turned back to the council. So, it doesn't require, at least up to about \$140,000 -- doesn't require a request to the court.

MR. BARTON: Mr. Chairman?

MR. SANDOR: Now, I -- I want to make certain -- now, 93032 is the project that's before us. Now, is there any opposition to the motion before the floor to approve the \$5,000.

MR. BARTON: And that's all it is. It's not a motion to approve the project.

MR. SANDOR: That's right. It's for the environmental assessment. Without objection, that's approved.

Let's continue on down this list to identify just those projects that are time-critical which requires a NEPA assessments - - NEPA compliance. 93019. Is it time-critical?

DR. MONTAGUE: Yes, Mr. Chairman. It begins the 1st of March '92, and again, only the NEPA-compliance portion is time-critical. Decision on the project could be made in January.

MR. SANDOR: And this requires an expenditure of \$30,000 to complete the -- the NEPA compliance requirements?

DR. MONTAGUE: Yes, sir.

MR. SANDOR: Mr. Pennoyer?

MR. PENNOYER: Mr. Chairman, I -- as I recollect, this has very overwhelming public support, but I also recollect that we got some document from the legal field saying they didn't know if this type of expenditure was appropriate under the restoration fund. Now -- a little bit of a dilemma on this one, and also not sure -- time-critical? Does that mean the opportunity goes away? I mean, the idea is to start a process whereby we encourage the development of an oyster-rearing industry in Prince William Sound and other areas of the Gulf and some of the communities there, and I think -- I like the idea, but I'm not sure exactly why starting the idea is time-critical in the sense that something goes away if we don't start it at this point. I'm not sure that one can't wait until January. I'm a little concerned about the legal comment that this might not be an appropriate expenditure. To go out and spend \$30,000 on that basis right now gives me some pause.

MR. BARTON: Mr. Chairman?

MR. SANDOR: Mr. Barton.

MR. BARTON: Yes. I have a hard time understanding why it's time-critical also, and I do believe the legal review is a little more definitive than Mr. Pennoyer has

MR. PENNOYER: I like the project (Laughter) but I'm not a lawyer.

MR. SANDOR: Is there a motion to approve the NEPA funding requirement -- requirements -- NEPA funding required.

MR. PENNOYER: I move that we table that determination under the January meeting.

MR. BARTON: Second.

MR. SANDOR: It's been moved and seconded to table.

DR. MONTAGUE: Mr. Chairman?

MR. SANDOR: Yes.

DR. MONTAGUE: My comment

MR. SANDOR: Mr. Montague.

DR. MONTAGUE: The people in the department indicate that this project would be delayed by one year if it couldn't begin by March 1st. Is there any -- is that incorrect. I'm referring to Dr. Sullivan, our fisheries program manager.

DR. SULLIVAN (from audience): Basically, March is typically the time of year that spat (ph) is obtained from sources outside the state. We don't have an oyster hatchery or shellfish hatchery in the state. That's typically the time when people plant oysters, and I think that's why there'd be a delay in moving this project on.

MR. SANDOR: It's been moved and seconded that this project be tabled because of the discussion on legal -- for legal and other reasons. Any objection to tabling? -- Motion -- the -- proposed funding of -- for NEPA compliance on 93019, the Chugach mariculture project, is tabled.

Is project 93030, Red Lake restoration, time-critical?

DR. MONTAGUE: This project would require the purchasing of incubators and raceways and their installation, beginning the 31st of March, and as a result, at least the NEPA-compliance portion would be time-critical.

MR. SANDOR: This project would require funding of \$8,000 to meet NEPA requirements. Dr. Montague notes that the procurement of the supplies, equipment, would make this time-critical. Is there a motion to approve the funding of \$8,000 to meet NEPA requirements? This is not, again, approval of the project, simply assessment. (Whispering) Yes. But Dr. Montague noted that this would require acquisition of supplies, materials. If there's no motion to approve, let's move on to 93031, Red Lake mitigation for red salmon fishery. This needs an environmental assessment and a funding of \$15,000 to meet that NEPA requirement. Is there -- is this time-critical? Dr. Montague.

DR. MONTAGUE: Mr. Chairman, this project will require obtaining fish transport permits and Title 16 permits beginning March 1st '92 -- '93.

UNIDENTIFIED VOICE: Who issues those Title 16 permits?

DR. MONTAGUE: The department. Fish and Game.

MR. PENNOYER: Mr. Chairman, I -- I note this one had -- and, again, I'm not sure how it plays in this process relative to our wait for PAG recommendations, but it has quite a few more comments against than for -- a lot more, and I don't -- I'm not evaluating that at this time as we're not evaluating the project from a restoration standpoint, but maybe we could have a little further discussion of the needs and the \$15,000 at this time?

MR. SANDOR: Is there a motion to approve the expenditure of \$15,000 for an environmental assessment, not approval of the project itself, just the environmental assessment? Mr. Rosier?

MR. ROSIER: Thank you, Mr. Chairman. Jerome, is there a linkage between '30 and '31 on this -- are they totally independent or ...?

DR. MONTAGUE: Mr. Chairman, yes. They are independent.

MR. ROSIER: They are totally independent? Okay.

MR. SANDOR: The Chair would entertain a motion for any action on 93031, Red Lake mitigation for red salmon fishery. It needs an environmental assessment of \$15,000.

MR. ROSIER: Mr. Chairman, I would move approval of the EA funding requested.

MR. SANDOR: Rosier moves. Is there a second? Lacking the -- yes?

MR. PENNOYER: You -- don't get a second so I can't discuss, so -- going to ask a question .

MR. SANDOR: Motion fails for lack of a second. So, no

action on 93031 at this time.

93038, shoreline assessment, needs some -- more money needed.
Any ...?

MR. PENNOYER: Mr. Chairman, has -- the Department of Environmental Conservation has already done that EA on its own (inaudible)?

MR. SANDOR: Is there any comments on this 93038? Time-critical?

MR. BRODERSEN: It is time-critical. We believe we've identified enough out-of-project funding to be able to take care of that EA in time for the next -- for your next January meeting.

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Steve?

MR. PENNOYER: Was it out of the project funding?

MR. BRODERSEN: It's not Exxon Valdez money.

MR. PENNOYER: Thank you.

MR. SANDOR: Following the Department of Law's and DEC's (inaudible -- laughter), we just RSA (ph) to Department of Law and other organizations, but we also get funds. So, anyway, 93038 is taken care of.

93046, harbor seals -- needs assess -- environmental assessment, \$3,000. Is this time-critical?

DR. MONTAGUE: Mr. Chairman, this project is time-critical both for project approval as well as NEPA compliance. It requires the ordering and thus the commitment of funds for satellite tags on the 1st of February.

MR. SANDOR: Is there a motion to approve the funding of \$3,000 for an environmental assessment of this project.

MR. PENNOYER: Mr. Chairman, I don't think that has too much public objection. There's a fairly large amount of support. It's not a lot of money, and it's time-critical, and that is -- the story to that was basically a project to continue the monitoring and habitat protection-part of the program?

DR. MONTAGUE: Yes, Mr. Chairman.

MR. PENNOYER: Sort of a continuation of work that's been going to monitor harbor seals and protect their critical habitat?

DR. MONTAGUE: Mr. Chairman, I don't know if continuation would necessarily be correct. It wasn't funded in '92. It's similar to the work that

DR. PENNOYER: It builds on the work that was done before.

DR. MONTAGUE: Yes. Correct.

MR. PENNOYER: Mr. Chairman, harbor seals in Prince William Sound are one of the two areas of decline of harbor seals in Alaska that we have identified -- that and the Kodiak area, and I think that the studies are important to continue in terms of the possible impacts of the oil spill -- how we might mitigate those, so I would not delay that one, and have the documents in front of us of by January so the federal side could take a decision on those. I would propose that we -- I move we approve this expenditure.

MR. BARTON: I'll second that, Mr. Chairman, but I have

a question. Perhaps Dr. Montague can tell us what the consequences of not ordering by February 1st are.

DR. MONTAGUE: Mr. Chairman, as I understand it, there's some -- you know, these aren't off-the-shelf tags. They need to be ordered and -- and constructed, and for them to be available for the opening of the field seasons when they intend to be applied, February 1st is as late as they can make their order to the electronics company that produces them.

MR. SANDOR: It's been moved and seconded that project 93046, harbor seals environmental assessment of \$3,000, be funded. Is there any objection? (No audible response.) There being no objection, then that is approved.

93011 project, develop harvest guidelines to aid restoration of river otters and harlequin ducks -- that's -- no funding required. I presume that cost of doing any environmental assessment work will be absorbed by the agency involved, and no action is necessary by this Trustee Council?

DR. MONTAGUE: Correct.

MR. SANDOR: 93026, Fort Richardson hatchery water pipeline. Is that time-critical?

DR. MONTAGUE: Mr. Chairman, thank you for the opportunity to address this one. This is a major construction project that needs to begin as soon as I assume the grounds are thawed sufficiently to start, and we've indicated it's going to require at a minimum a substantial environmental assessment and potentially an environmental impact statement, and the

uncertainties of exactly how long that would take are -- well, there are uncertainties, and to be comfortable that you would, indeed, be ready to, you know, have contracts issued so work could begin during the thaw period, you know, I think we're close, even now, to have that done and to have contracts issued and the work potentially begin during break-up.

MR. SANDOR: I note, Dr. Montague, \$70,000 EF&G, \$14,000 Fish & Wildlife for environmental assessment only, \$200,000 ADF&G, \$40,000 Fish & Wildlife for EIS. So, the proposal is an environmental assessment of \$84,000 and an environmental impact of two forty. Is that the way this is interpreted?

DR. MONTAGUE: No, Mr. Chairman, I believe the way to interpret that is that if an environmental assessment is all that is required, it would just be the \$84,000 and

MR. SANDOR: That's what I meant. Okay. Is there a motion to approve any funding for either the environment assessment or environmental impact statement, which, of course, would grow out of the environmental assessment? Is there any motion to approve this funding to meet the NEPA compliance?

MR. McVEE: Yes. Mr. Chairman?

MR. SANDOR: Mr. McVee.

MR. McVEE: Yes. It's not a motion at this point in time -- it seems to me like we're looking at the \$4,000 environmental assessment as being able to get that done at that level -- that magnitude -- before our January meeting would be almost impossible by anybody. (Inaudible -- electronic static)

.... major, I guess, environmental assessment, much less take (inaudible -- electronic static) table action on this.

MR. PENNOYER: Second.

MR. SANDOR: It's been moved and seconded. Moved by McVee, tabled -- seconded by Pennoyer, that this action on 93026 be tabled? Any objection?

MR. ROSIER: I object.

MR. SANDOR: You have an objection?

MR. ROSIER: Yes, I do, Mr. Chairman. I think on this particular project (inaudible -- electronic interference) ... rather interesting that on this particular, the ones ... (inaudible electronic interference) ... purchasing of habitat, and that's the basis of the objection (inaudible - electronic interference), ... I think that there's timeliness issue that's involved here with this particular project. It's no secret in terms of what we're anticipating, the returns of reds -- red salmon -- to the Kenai River in '94, '95, and quite possibly beyond. Having problems with the returns down there. We're talking about a lot of people from this whole Cook Inlet bowl area that participate in the recreational fisheries down there, and that particular group has basically been denied any access to restoration -- to restoration of services for this group that enjoyed recreational fishing down there, and from all appearances will, in fact, not have that opportunity in '94 and '95. For that very reason, I think we should look seriously at this moving ahead on the project. This would -- if we don't do it now, that particular group is not going

to have opportunities in '94 and '95 to, in fact, participate in recreational fisheries. They will be disbursing to other areas, impacting other residents as a result of this, if we move ahead now, certainly we could have increased opportunities for those people to, in fact, replace the -- the service and enjoyment that they've had on the Kenai River in '94 and '95. Thank you, Mr. Chairman.

MR. SANDOR: Are there any other comments on this motion to table?

DR. MONTAGUE: Mr. Chairman?

MR. SANDOR: Yes.

DR. MONTAGUE: May I add something?

MR. SANDOR: Dr. Montague.

DR. MONTAGUE: I think that one point that's important to make about this a little bit further is that public comments or -- I don't know if seasonal in nature is the way to describe it, but I think it's important to note that of the 460 ideas to conduct 1993 projects, 51 of those ideas were to do this Fort Rich pipeline.

MR. SANDOR: Any other comments...?

MR. BARTON: Mr. Chairman.

MR. SANDOR: Mr. Barton.

MR. BARTON: Yes. I've heard about the Fort Rich pipeline it seems like forever. Could somebody -- does this predate the oil spill -- this proposal? And wasn't this proposal considered by the legislature at some point in time? Could

somebody share with us the history of the Fort Rich hatchery?

MR. SANDOR: If it's a brief history..... (Laughter).

UNIDENTIFIED VOICE: Mr. Chairman, I'd ask that that be responded to after your promised ten o'clock break.

MR. SANDOR: Seriously, does it predate -- may we have a comprehensive two minute history?

DR. MONTAGUE: Do you want me ...?

MR. SANDOR: Go ahead.

DR. MONTAGUE: The facility itself at the Fort Richardson hatchery was originally designed to have a certain volume of water to be at full production, and -- I'll probably have to ask somebody here in the audience to see if that exact pipeline was the original proposed source or whether there was another source of water that originally proposed. Dr. Sullivan, could you

DR. SULLIVAN (from audience): What happened was

MR. SANDOR: Please come forward -- yes. Dr. Sullivan.

DR. SULLIVAN: When Fort Richardson -- when Fort Richardson was renovated in the early '80's, the initial estimate of ground water supplies was essentially twice what was eventually wound up with. So, they build raceways and incubators, and so forth, based on the projected amount of water that we would have there. At that time and since that time on an occasional basis, we've gone through environmental -- or EA's and CE's -- based on predictions of what we would have there, but the water never materialized. Okay? So, we have, in fact, sought a pipeline in the past. The city is quite -- with the Eklutna water supplies, is

quite willing to do -- get involved in this. They've got plenty of excess. It's a very short trip from the -- water treatment facility to Fort Richardson because -- because Fort Richardson is exclusively a sports fish hatchery, we have in the past had to go through the NEPA process. Just a few years ago, they got a categorical exclusion from the Fish & Wildlife Service for our statewide stocking plan which included Fort Richardson. The biggest problem that I see as far as environmental presently is the fact that we're going to have to run a pipeline for probably half a mile or something like that from the power plant to the hatchery, and we're gonna inconvenience some moose for a short period of time until you get the pipe dug and put -- from the water supply to the hatchery. I don't really see that there's going to be a big problem. I think an EIS is a worst case scenario. On the basis of what we have had in the past, which are, like I said, categorical exclusions and environmental assessments, it doesn't appear to me that an EIS would actually be necessary, but I think the 84 or however much we set for an EA is basically what we're looking at. But, yes, the idea for a pipeline predated the oil spill because we did not come up with as much water as we thought we would have there.

MR. BARTON: And has the legislature previously considered this project?

DR. SULLIVAN: I believe they have, but I don't -- if anything, they considered it last year. We were trying to get some funding from the Trustee Council, some funding from the

legislature, and some funding from the \$50 million. None of it ever came together, but we have tried, yes.

MR. COLE: What is the costs of this project if approved by the Trustee Council?

DR. SULLIVAN: Then we're looking at around three and a half -- or \$3.4 million is how much the pipeline will cost.

MR. SANDOR: Any further questions? Thank you, Dr. Sullivan. Any further comments on the motion to table? Yes, Mr. Rosier.

MR. ROSIER: Yes. Mr. Chairman, in particular the comments that were made, I was -- there were some concerns expressed in the public letters relating to disease. There was comments relating to -- to genetic -- genetics. These were frequently comments that are, in fact, heard in association with facilities -- hatchery facilities, but in that regard I am quite comfortable with the pathological screening capability of the department and certainly the genetics policies and implementation of those policies by the department to assure that we're not, in fact, getting ourselves into problems there with -- with either disease or genetic -- genetics. So, I think with that, I would close.

MR. SANDOR: Thank you, Mr. Rosier. Mr. Pennoyer?

MR. PENNOYER: Mr. Chair -- Mr. Chairman, I'm certainly not arguing with Mr. Rosier about the project's viability or do-ability or safety, and I don't think I'm trying to judge the public comment adequacy from the standpoint of original proposals

submitted during the current public comment period. I -- it's -- this is one of those that's fairly expensive and fairly high profile, and I think the PAG is going to give us some advice on this. It's rather clearly one of those that -- that we would seek the advice of the PAG on. And my problem is the amount of money that's necessary to dedicate to doing the environmental assessment before I've any idea how we're going to choose this, either relative to its merits or to its qualifications as a restoration project. We've not made those decisions, and my motion to table had nothing to do with the fact that ultimately we might decide to approve or disapprove this project. It's -- it's just a very large expenditure for something that we haven't even started to think about how we're going to take action on it.

MR. ROSIER: Mr. Chairman?

MR. SANDOR: Mr. Rosier.

MR. ROSIER: Yes, if I might -- I guess on that -- my -- I understand we're -- we're -- where Mr. Pennoyer is coming from, and again, the time frames that we're in fact looking for here on this is to ensure that we've got, you know, opportunities in place in '94 and '95. So, that's where I'm coming from on this.

If we decide to move ahead with the project -- I realize it's a -- you know, it's a significant amount of money associated with this, but perhaps we need to, you know, deal with the project at this point in time.

MR. COLE: Mr. Chairman?

MR. SANDOR: Mr. Cole.

MR. COLE: First, underscoring my prior comments, we've got into this sort of trap last year, if you will recall, when we had to approve projects because they were, in quote "time-critical," then we asked for public comment, and after we'd been spending money and things like that. So, we here are again. You can -- we can believe it -- almost doing the same thing twelve months later, it certainly is depressing. But let's -- I think it's important at this time to get a sense of what the public said about this project. First -- the first comment I read is this is a category three project. That means, one, being the most attractive. Then the next comment was, quote "What next, a pipeline to California? No way." The next comment was, quote "a poor project." The next comment was, quote "frivolous and ill-directed." The next comment was "should not fund -- unrelated to the spill." The Kodiak Borough said "great exception taken here. Delete. Little merit and little to do with the oil spill." The next gentlemen, quote "a less essential project." The next comment, someone from Homer, said "glad to see this project dropped. It's beyond the realm of common sense" -- a gentleman from Homer. Alaska Wilderness & Recreational people said "not in the spill area -- could inversely impact wild stocks and negatively impact sport fishing." The next comment was "too much money being spent on a political-popular projects such as this one" and takes off on its usual theme about bureaucrats. The next was the Sierra Club's -- comment was "most deserving of elimination of all the projects," agrees with Dr. Spies. And one who writes to me other

occasions, from Anchorage, says "this is a waste of money and time -- don't threaten the Anchorage water supply." That's -- that's the twelve or thirteen comments -- I've finished nearly all of them -- that I've recorded, and that's what they say. And, you know, my -- my observation of the comments which are in this book here that Mr. Pennoyer has is a lot of work and thought has gone into these projects by a lot of people. It's really quite apparent that a lot of thought, effort has gone into them. I think we should listen to them. Otherwise, you know, there's no use sending them out and asking these people to do these things if we're not going to heed what the public is saying. That doesn't mean that because we have twenty adverse comments that we ought to say, well, drop it, because we still have to exercise judgment, but that's just a summary of the comments on this project, and for those two reasons I have a lot of hesitation about going ahead at this time and spending money.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Yeah, I note also that this was not recommended by the Restoration Team originally, and I didn't -- we were not necessarily going to consider, but it gives me some pause to spend \$80,000 on it up front before we actually get into the nitty-gritty of how we're going to do it.

MR. SANDOR: Any other comments? Mr. Rosier.

MR. ROSIER: One final comment, Mr. Chairman. Yes. I think the points are well made here on this. I think in regards to Attorney General Cole's statements, however, I think that you have

to go further than just the comments, but in terms of justification for that decision -- but that idea -- in reading -- in reading these and by summary, as I say, I was invariably associated with the purchase of additional real estate, so

DR. MONTAGUE: Mr. Chairman?

MR. SANDOR: Do you have any further comments?

DR. MONTAGUE: Yes, Mr. Chairman.

MR. SANDOR: Dr. Montague.

DR. MONTAGUE: If I may? I think professionally it's important that you know all we know about this particular problem.

As Carl has indicated, we anticipate probably a closure of the sport fishery of sockeye salmon on the Kenai River in '94 or '95. And that fishery supports 100,000 fishermen days per year, and -- whether that amount to 50 or 75,000 actual people, I think we're looking at, you know, as an example, 75,000 people that most of them here in Anchorage that will not be able to do something, so that they're prevented entirely from doing, you know, what -- what they've chosen to do, and the same people that would have fished -- not entirely, but there's a large overlap -- the same of the people of this 75,000 people that would have fished sockeye salmon on the Kenai River, will be able to take advantage of the results of this hatchery effort, and -- you know, the council and we rarely have the opportunity to know that we have an impending problem two or three years in advance, and to be ready to have anything for '94, this is the last year to make it -- make a decision. So, basically, this is it for this project.

MR. COLE: Where's one sports fishing group that supports this project in the public comments? That's what troubles me. You say that this is so great for the sports fishermen. I don't see one sports fishing group who's had this -- these projects, support it. I mean, that's a -- it's very troubling to me.

DR. MONTAGUE: Mr. Chair, if I could address that? Perhaps, you all who have fished for sockeyes on the Kenai could understand this, but for the most part -- you know, there's no study to show this -- but it's our feeling that people that fish for sockeyes on the Kenai, probably for the most part do not belong to organized groups, and that's why they're not represented here.

MR. SANDOR: The Chair asks if there are any further comments by members of the Trustee Council? The motion on the floor is to table action, not on the project, but on the funding for NEPA compliance, and I call for the question. All those in favor of tabling this motion, raise their hand please. Opposed? The motion is tabled.

UNIDENTIFIED VOICE: I abstain.

MR. SANDOR: The motion is tabled then. We will break until a quarter to eleven, at which time Dr. Gibbons will continue his coverage of this item. Thank you.

(Off record: 10:25 a.m.)

(On record: 10:55 a.m.)

MR. SANDOR: The group is reconvening. On the last motion that was made to table action on NEPA compliance funding for

93026 -- was a motion for tabling, and actions by the Trustee Council requires unanimous action. The converse decision was, of course, was to provide funding which couldn't be obtained, so, however you cut it, that decision was tabled.

We have continuing item three on the agenda, 1993 work plan, and Dr. Gibbons had identified four areas of action that he wanted to deal with. Dr. Gibbons could you continue with the proposals regarding the 1993 work plan.

DR. GIBBONS: Yes, Mr. Chairman. The -- a final item would be identification of time-critical projects that have NEPA compliance presently fulfilled, and I think that the example that was earlier today was the boat survey by the U.S. Fish & Wildlife Service. So, that would be the final topic on this. I guess, we could perhaps could around to the Restoration Team members and ask them if there are any projects that are time-critical that have fulfilled NEPA. That would be my recommendation.

MR. SANDOR: Do we have -- do all the Trustees have a listing of those projects that are time-critical for consideration at this time?

DR. GIBBONS: No they don't.

MR. SANDOR: Are there any that are critical? Yes? --
Curt McVee?

MR. McVEE: I'll think about that. Let me address the boat survey project and explain what happens there as I understand it. The survey work that was actually done was small boats, and during the early survey, which is the March survey, that contract

we let for larger boats was to be used as -- as a base of operations.

UNIDENTIFIED VOICE: Mr. Chairman, which project are we discussing?

MS. BERGMAN: 93045.

UNIDENTIFIED VOICE: '045.

MR. McVEE: The contract would be let for the larger boats which we'd use as a base of operations for the crew doing this March survey. The later survey in August would be shore-based. Because of weather and so on, they have to do it from a boat. It's -- going to be necessary to -- in order to get the contract for that boat for the base of operations out -- to start that contract process -- can be advertised -- it can't be advertised or can't be approved by the contracts officer until there's money in the bank, so to speak, and the other element of it is that this work is done by seasonal employees, and I guess maybe as a side comment on that, I hope that we will look at global hire option there in terms of the resolution, but it takes sometime to go through the process of hiring and training those seasonal employees before the March date -- the kickoff for the boat survey.

MR. SANDOR: I'd like to clarify a point of -- I guess operation -- discussion. How many projects, Dr. Gibbons, are we talking about as being time-critical at this point?

DR. GIBBONS: I'm not quite sure on that. I did feel -- there's probably less than three.

MR. McVEE: Interior just has the one.

MR. SANDOR: Okay. This is Interior's project, 93045, contracting small boat work, and -- but NEPA compliance work has already been done, and your proposal is that this is time-critical and requires approval -- to what degree? Final approval or tentative approval?

MR. McVEE: I guess it would require final approval of the project, so that we could go to the court and ask for help, along with the NEPA -- advanced NEPA funds.

MR. SANDOR: Totally funding is blocking this project?

UNIDENTIFIED VOICE: 262.

UNIDENTIFIED VOICE: 262.4.

MR. SANDOR: 262.4. Any -- in other words, what I'd like to do if there's going to be two here -- two or three projects -- can I interpret your proposal as a motion that project 93045, because it is time-critical, be approved by the Trustee Council? It's a contract for small boat work at 262.4. Is there a second to the motion that this be approved?

MR. PENNOYER: Second, for purposes of discussion.

MR. SANDOR: It's been seconded by Mr. Pennoyer for discussion purposes. Are there any questions? Mr. Pennoyer.

MR. PENNOYER: One procedural question, and I don't -- again, I don't have a problem with this project, and probably if we'd voted in January, would have voted to support it anyway. Given the action we took with the PAG, are we going to totally approve the projects or are we going to ask for enough seed money to get them through the initial part, or -- what is our?

UNIDENTIFIED VOICE: The

MR. PENNOYER: I have no problem with this project. I think I can vote for it right now -- would have, probably today, if we'd taken action on all the projects, but I don't know what -- also as regards this study, are you going to vote for the total thing to go to the court? or take the money in phases? or how do we make this conform to our resolution?

MR. SANDOR: Well, yes. That's essentially the question that I asked, is this tentative approval or final approval? We are obligated to inform the Public Advisory Group of actions we've taken that, you know, that -- so that they're not dealing with any issues on this. I presume this is final approval?

MR. McVEE: Yes. That would be the intent of the motion made -- for final approval, but that was the reason for my question to the chairman of the PAG was that -- you know, earlier - - was that recognition of the fact that there may be a few projects in this category, and based upon his discussions with the PAG, if that was going to create problems or not. And I guess you heard his response that they realize that there may a few actions that would have to -- that have to be taken.

MR. SANDOR: Mr. Cole, you have a comment or question?

MR. COLE: We should not, in my view, put in seed money because then we're just trapped. We ought to either just approve it, finally, right now, or defer it, but not half way. Otherwise, we're committed anyway, and we're left with a contract that's been let, and then say, well, we're going to just approve the project.

We ought to either do it finally right now or not at all.

MR. SANDOR: Mr. Pennoyer, do you have a question or comment?

MR. PENNOYER: No. I think I was going to basically say about the same thing. I do have one question of Mr. McVee. Under NEPA compliance, we've made an issue of NEPA compliance having to be obtained before the federal Trustees vote on item. Is it satisfactory for us just to ask there was, and you don't look at the document or make any (inaudible) approval of what was done.

MS. BERGMAN: Mr. Chairman?

MR. SANDOR: Pam Bergman.

MS. BERGMAN: Mr. Chairman, we do have NEPA compliance completed. It only required a categorical exclusion, and we do -- I have a copy of a memorandum, which we have submitted to Dave Gibbons, specifying that the appropriate documentation under Interior's regulations have -- have been completed for this project, and I'd be happy to get a copy to you.

MR. SANDOR: Any other questions? Mr. Barton.

MR. BARTON: A comment -- I agree with Charlie Cole that either approve it or kill it, and not seed it. Secondly, it's important, I think, that we all understand that implicit in our approval of this is the determination that this project does meet the restoration criteria, which we've not really addressed as a subject unto itself.

MR. SANDOR: Any question about this project meeting the criteria? Dr. Gibbons? Restoration Team members? Anyone?

DR. GIBBONS: There was none from the Restoration Team.

MR. SANDOR: Any further discussion or comments? Pam Bergman.

MS. BERGMAN: Mr. Chair, I might just say that we've been talking here among the Trustee Council about that this is for boat contracting work. It's a larger project than that. The purpose of the project is to do -- conduct surveys to monitor marine birds and sea otters within Prince William Sound, but in the oiled area and outside of the area that was oiled. This is the best mechanism that we have to monitor the recovery of large numbers of different kinds species of marine birds in the Sound, as well as one of our mechanisms for helping to monitor the recovery of sea otters. It was not funded in 1991 -- I'm sorry -- 1992, although it has been done in March and in July, as we are proposing here, in 1989, '90, and '91. I might just add that the chief scientists gave this a level two, which was the highest level that he awarded any project, and the Restoration Team did vote six to zero to support, and as far as I know I did not see any public comments against the project.

MR. SANDOR: Any further comments or questions?

MR. BARTON: Mr. Chairman?

MR. SANDOR: Mr. Barton.

MR. BARTON: Yes. As I recall the discussion of this project in the ninety -- whatever the last work plan was -- it was -- the reason we didn't fund it was not because of the merits but because whether we needed to do it every year or not -- whether

it's right for the rationale -- we discussed

MS. BERGMAN: Mr. Chair?

MR. SANDOR: Yes, Ms. Bergman.

MS. BERGMAN: Yeah, we lost the window of opportunity for the March survey last year, but that was also an additional part of the discussion -- was whether or not we needed -- needed to do it every year, and the chief scientist, I believe -- I can check with Bob -- but I think his recommendation was to go ahead and put it off for one year, not fund it in '92, and fund it again in 1993.

MR. BARTON: Was there a survey in last August or not?

MS. BERGMAN: No.

MR. BARTON: Thank you.

MR. SANDOR: Any further comments or questions?

MR. COLE: Mr. Chairman?

MR. SANDOR: Mr. Cole.

MR. COLE: Is this -- this public comment requires me to ask, is this a multi-year project or is this to be done in one year?

MS. BERGMAN: Mr. Chair, this project will be proposed in future years, but because it's funded this year doesn't mean that it has to be funded at every single year. That's something that we will be looking at when we're developing a monitoring program, to ask the question, do we need to do this on an annual basis or every other year or every three years. By funding it this year, it does not tie you in to having to do the work again next year. It'll be part of that larger monitoring program.

MR. SANDOR: Mr. ...?

MR. BARTON: Add to that, also, is that -- I think you need to look at the results of the survey to see whether we've -- we could adequately project or predict trends. When we reach that point, then we certainly don't need

MR. COLE: I just want to say that the Chugach -- the Forest Service -- the Chugach National Forest opposes this project.

MR. SANDOR: Opposes it?

UNIDENTIFIED VOICE: Opposes it.

UNIDENTIFIED VOICE:opposes it.

MR. SANDOR: Any other comments or questions, observations? Yes.

MR. McVEE: Mr. Chairman, Chugach National Forest can be overridden by the Regional Forestry Commission. (Laughter)

MR. SANDOR: Any other comments or questions? This is in response to the motion to approve. This is in final form. 93045.

UNIDENTIFIED VOICE: What's that total amount of this project?

MR. SANDOR: For 262.4. Any objection for approval of this process? (No audible response) The project is approved. Is there any additional projects among your number of two or three that requires action at this time? Any other critical projects? I feel like an auctioneer.

DR. MONTAGUE: Mr. Chairman, there was....

MR. SANDOR: Dr. Montague.

DR. MONTAGUE: The harbor seal project and the satellite tags that needed something by the 1st of February. If we feel that we can make the decision prior to the 1st of February, we're okay, and actually have the funds freed up, but otherwise that one would be a problem -- should have attention today.

MR. PENNOYER: I'm sorry, which project is that?

UNIDENTIFIED VOICE: 46.

MR. PENNOYER: We don't have an environmental impact statement yet, anyway.

DR. MONTAGUE: Okay.

MR. PENNOYER: So we can't take action on it 'til January anyway.

MR. SANDOR: Apparently, there are no other time-critical projects to be considered at this time. (Inaudible -- electronic interference).

UNIDENTIFIED VOICE: Not at this time.

MR. SANDOR: Moving on to item four of the agenda -- restoration plan, John Strand.

MR. McVEE: Mr. Chairman?

MR. SANDOR: Yes.

MR. McVEE: While they're getting set up, I might just talk to you briefing about the '93 draft work plan. We've made a series of comments concerning the draft work plan -- is that the problem with the detailed information being available until after the public comment period was over, and I don't know what kind of demand there had been for that information. I think there's a

couple other problems with it. I say this for the benefit of -- of the future, I guess, at this stage or at this time, but detailed budget -- there was no reference in it, except on page 13 of the first draft -- which was on page 13 of the detailed plan. Another problem, I guess, in the '93 plan is that you can't tell which projects continue on into the out years. In the summary budget information -- there may be information in the narrative part, but I think in the future that we should show columns in the summary budget information for the out years, the '94, '95, and so on. So, I think, you know, people having just the draft plan is somewhat misleading in that they could look at a project that maybe '94 was \$700,000, and in the detailed budget, in the out year would total - - make that project worth \$2½ million. I didn't see that kind of information, so I think we ought to put the information out to the public and should show them the whole picture.

MR. SANDOR: That point's well taken. Are you ready for the presentation?

MR. ROSIER: Mr. Chairman, I have another comment.

MR. SANDOR: Yes, a comment from

MR. COLE: Mr. Rosier -- Commissioner Rosier had a comment.

MR. ROSIER: That's okay.

DR. GIBBONS: Some of the -- one of the criteria we used in the '93 plan was that if the work was done in 1993 and not funded in '94, that that work would not be lost, that it would be useful. So, that was a criteria that we used so it wasn't, in a

sense, you know, perpetuating the project into the future.

MR. COLE: I had a -- an overall comment on the '93 work plan in light of some public comment, and I saw broad comment that we do have a -- you know -- unified program for the study for the Prince William Sound ecology or environment, unifying things. That comment came largely from, I think, from academicians, but -- and from scientists. Now, I'm just wondering whether the '93 work plan for that reason misses something. Is there any other council member have any reaction to those comments? They say that we've just got sort of isolated, discrete projects, and that we don't have some project with -- you know, an overall theme, and that these projects may affect other segments of the Prince William Sound ecology, etc., etc., and I don't know if there's any to that, whether it's comment that we should heed and have advice on or not, but it's certainly re-occurred a number of times.

MR. SANDOR: I wondered if the proposed restoration plan itself might not help solve that, but it is a point. Any comments? Mr. Rosier.

MR. ROSIER: Yes. I guess, I've kind of looked at this from the standpoint of -- of, you know, the projects that we're talking about now were those projects that were kind of fill-in type projects under such time as we did have a restoration plan in place, and at that time we were going to be looking at this things in terms of a total program. I kind of agree that -- with some of the comments that were put forth by the university system here on this in regards to an overall program, but I'm not sure that the

direction that we gave associated with the '93 work plan at this point, lacking a restoration plan, necessarily missed the mark.

MR. SANDOR: Mr. Barton.

MR. BARTON: Yes. Yes -- I think the restoration plan, one of the purposes of that is to provide for that umbrella and framework, and I guess I don't think we ought to be surprised that the '93 program misses the mark, since, as I recall our philosophy was to delay any restoration projects that could be delayed until completion of the restoration plan itself, which we're going to take up later. That's what John's sitting there waiting patiently for, I guess, but -- you know, I don't think it should be a surprise to us that there is perhaps a disjointedness. On the other hand, I do think we ought to do whatever we can to correct that deficiency through the work of the council and Restoration Team as we finalize the '93 program of work.

MR. MORRIS: Mr. Chairman.

MR. SANDOR: Okay.

MR. MORRIS: I just want to point out, there is a project in the '93 plan that would develop a long-term plan. 93041, I believe.

MR. SANDOR: If there's -- is there further discussion before we ask John Strand to begin his presentation?

DR. MONTAGUE: Mr. Chairman?

MR. SANDOR: Yes.

DR. MONTAGUE: I think it is important to mention that Dr. Spies may have some comment on this as well -- is that we gave

considerable thought to an integrated, ecosystem-wide research program and, for two reasons, did not put it forward this year. One, you know, the accuracy of the cost estimate, I guess, could be a question, but we envision that there's probably more expensive than any project proposed in this work plan, other than land acquisition. That was one reason, and another one, the '93 work plan process began in May with a draft due at the end August, and that was reviewed insufficient to develop -- insufficient time to develop an integrated, ecosystem-wide program.

MR. SANDOR: Any other comments? Let's proceed then with item four on the agenda -- restoration plan, Mr. John Strand.

MR. STRAND: Thank you, Mr. Chairman, members of the Trustee Council. I think we'll do without the view graphs. We do handouts in the packet that was sent to you on December 4th. Technology is wonderful. What are the chances of both bulbs burning out at one time in those new projectors.

We appreciate very much the opportunity to talk with you today regarding the planning group's progress. We look forward to presenting to you the approach and direction that we've taken thus far in developing the draft restoration plan. We think by reviewing the detailed outline for the restoration plan and entering into a discussion of the alternatives that will be presented in the plan that will give you a better understanding of the direction that we've taken and the concepts that we embrace in the development of the plan. I've asked Veronica Gilbert to help me today. She will lead the discussion on the alternative themes

-- the differences among the alternatives that we recommend presenting in the draft restoration plan, and I would invite any other member of the restoration planning work group to enter into the discussion as they feel necessary as we obviously develop some dialogue through the presentation.

In addition to talking about the detailed outline and our ideas about alternatives, we also intend to talk about schedule. I have a handout that I'll send around. I think there's enough copies for both the Restoration Team members as well as the Trustee Council members. I'll talk about the schedule between now and March, at which time it's our intent to have the draft restoration plan ready for publication. David will then address the schedule post March, for the rest of 1993. But, we'll get into that after the first two presentations on the detailed outline and the alternatives. If you would, perhaps we could turn now to the handout that I sent to you on the detailed outline. I think it was probably the second handout in the package that was sent along. It has a date on it of December 4th. And what I thought we would do - - we really want your comments and ultimately your approval on the outline so that we can begin the task of filling out the outline and completing writing of the drafting of the plan, but before I get into that, maybe I can go through each section, give you the highlights of section one, section two, section three, and I can get your comments on a particular section before moving on to the next section. That's one way I thought that we might approach getting some feedback from you all. Is that an appropriate way to

do it.

MR. SANDOR: Does everybody have a copy of this December 4 memorandum referred to? I do not have an extra. Okay. Needing two copies.

MR. PENNOYER: There are two December 4th memos from you on the Restoration Plan Working Group. We're talking about the second one or the ...?

MR. STRAND: The second one that deals with the draft detailed outline draft restoration plan.

MR. PENNOYER: Thank you.

MR. SANDOR: Okay. Why don't you proceed?

MR. STRAND: Alright. I wanted to indicate that you'll note that a fair number of people are tasked the - the plan, -- members of the Restoration Team, Restoration Planning Working Group, other work groups -- the chief scientist is asked to bear a hand in presenting a draft to us for inclusion in the plan, as well as the public information officer, and, of course, we've hired an editor to help us in trying to draft this plan so that it's in one voice. The plan is -- has undergone a significant amount of revision -- the draft outline has been reviewed and revised by the Restoration Planning Work Group and the Restoration Team before you then receive it. This is not to say that there isn't room for improvement. We would want your comments on this, and I think we can effect the changes very quickly. I am hopeful that you'll find that even the last set of comments that Department of Interior provided me on the 3rd of December, those have been entered. There

may be one point that we will want to discuss in terms of a concept, but clearly I think we tried to accommodate those final comments received on the 3rd of December.

Turning to the first page, the outline and the plan itself will be constructed to address a number of what I feel are very basic questions, and these include what was injured during the spill, how is it recovering, what can we do to restore the injury to either the resource or the service, how much money should be spent and over what duration, and where should restoration be implemented geographically. I think if we keep those questions as we go through the outline, the outline itself can be evaluated in terms of how adequately the outline and the plan will address those questions. I think those are the basic need and scope of the document. What we have to do with this document. In section one, this is the introduction. It deals with the - the why of the plan, addressing these questions that I just mentioned. It is intended to include the historical background for the spill, the magnitude of the spill, the cleanup, the NRDA program, our organization, and the activities that the Trustees have undertaken to date. It reviews the level of public involvement that we enjoy at this point in time, and it provides a detailed accounting, what the provisions are for both the criminal and civil settlements, and finally in that section we deal with the relationship to the National Environmental Policy Act, the compliance with that Act, and the need for a probamatic (ph) and environmental impact statement that is to parallel the restoration plan. Are there any points that you

would care to make regarding the introductory section of the plan as we envision it to being developed at this point in time?

MR. PENNOYER: This is going to be a big document.

MR. STRAND: I believe this will be a big document. I -- my vision would include and the vision of the rest of the members of the planning group probably 350 pages. Certainly, the outline may change slightly as we actually write the document. This is often the case as we get into preparing large documents, but I'm interested in any comment or feedback that you would have.

MR. SANDOR: Are there any comments or questions with respect to the introduction section or segment ...?

MR. COLE: I have this question because I -- I'd like to know, what is the general purpose of the restoration plan -- period?

MR. STRAND: I think it goes back to those five questions. The plan will address what is injured, how it's recovering, and what we can do to restore those injured resources and services. It will include costs and where to now.

MR. COLE: Is it a plan that provides for the restoration generally for the next -- remaining ten years, or is it just going to be focused on one or two years? That's what I've been getting at. I mean, what is the difference, I guess, between the restoration plan and the '94 work plan?

MR. STRAND: I believe -- my answer is that the annual work plans are the means by which the plan is implemented on a project-specific basis. The plan itself -- what we're talking

about now -- provides the general guidance -- what kind of restoration can you effect meaningfully, but it will be up to the restoration annual work plans to deal with on a more detailed basis -- site A, and this is the particular project developing a fish pass for a particular river or stream that has had blockage or somehow impacted by the spill. Does that answer your question?

MR. COLE: I think so.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Yes, sir. John, just as follow-up, it's important to decide how you actually go about killing something instead of just talking the concepts, and I think as you go through the plan chapter by chapter, we need to understand the relationship in a time line, actually, in getting something done. And this provides us some guidance, but how much guidance? How does that get you to a '94 work plan? How does it get you to a '95 work plan? So, as you go through the chapters and address that, I think it will be helpful.

MR. STRAND: I'll try to. And, yes, the rest of the RPWG, the Restoration Planning Work Group has -- help me if I'm not addressing that adequately. Okay. I'll try to do that.

MR. SANDOR: Questions on the introduction?

MR. STRAND: Section two, this was at the suggestion of the Department of Interior, and we have provided in the outline, and we will provide in the plan for a description of the pre-spill existing environment. You often see this in an environmental impact statement, and we would hope to fulfill this requirement by

summarizing the information that maybe found in the draft environmental impact statement in this regard, and by a description of the pre-existing impact area, the pre-spill area, we would describe it in terms of natural resources that are found there -- the socio-economic and subsistence uses and needs -- and the cultural and anthropological resources. This might set the stage for understanding in total the resources and services that were there to start with. This might be useful in framing replacement and acquisition of equivalent resource opportunities.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Mr. -- thank you. In that regard -- and the having been on the North Pacific Council looking at EIS's and EA's and social economic allocation issues, you can either do that descriptively or you can go out and do independent studies. I mean, what is your view or the view of Interior in chapter, and how much background we've got to do? Is it available, is it -- both in this and EIS, we are going to have to go back and research all the socio-economic structure of (inaudible) communities, or how much depth do you plan to go into in this?

MR. STRAND: That's a good question. My assumption is that the EIS team will be gathering that information for the environmental impact statement. We will use only the summary of that information, relying upon the EIS team to provide that information. I do not know the exact depth of that. Maybe Mr. McVee or Mr. Rice can provide more detail in the answer.

MR. PENNOYER: Mr. Chairman, we may have to get an EIS

discussion a little later. I didn't really intend to do that. You intend to do an independent background?

MR. STRAND: We are not, no. The idea was to take information that was provided by the EIS team, summarize for use in this sense. I mean, that's how I interpreted the suggestion by the Department of Interior.

MR. SANDOR: Mr. McVee?

MR. McVEE: It's my understanding that it would be utilizing existing information -- and -- they'll probably be gaps, like there will be all through the plan with the existing information, but the reason for doing it is that, you know, the first priority, I think, is to restore the resources and services -- and that's difficult -- to pre-spill conditions. If you don't describe what those were in some way, then how do you have a plan? How can you meet that goal or objective in the plan? So, it seemed critical to us to have that discussion in there and to the extent that we can develop it.

MR. SANDOR: Mr. Pennoyer?

MR. PENNOYER: Mr. -- I agree with the concept. I'm just hoping we're not building another trap that, to fill it, we're going to find ourselves somewhere in April or May with somebody saying, oh, you don't have enough -- a thick enough document here. Because this could be a whale of a project, and if you're going to do these descriptions adequately, you could have a lot of field research, you can have a lot of library -- I mean, you could extend it quite a ways.

MR. SANDOR: Mr. Cole?

MR. COLE: Have you formulated any estimate of the cost of this restoration plan?

MR. STRAND: Yes. We have produced draft numbers. We just did that this past week. That's being reviewed and revised. Boy, I don't like ...

MR. COLE: So what'd you come up with?

UNIDENTIFIED VOICE: next question ...

MR. STRAND: Okay. We can give you a number, but clearly, it's a preliminary number, and I could attach a whole host of caveats

MR. SANDOR: We can brace ourselves for it. (Laughter)

MS. GILBERT: I could discuss how we are approaching cost

MR. COLE: Well, we think it's a wise thing to tell what (laughter) You know, sorry

MR. SANDOR: A ball park estimate?

MS. GILBERT: It's somewhere around a billion dollars, I guess, is the best -- you know. The cost -- the way we approached cost was largely on the basis of advice that was given to us by the peer review. In October we had -- we had a peer review of the restoration planning process, and in that process the peer reviewers strongly recommended that we include -- and we actually quantify the concept of uncertainty. In other words -- and we did that in estimating cost. Of course, there's always the temptation to say, oh, it could go on forever, we have no idea what

this is going to cost, and they really urged us to specify -- to specify a range. The dollar figures that we had requested, and this was entirely in-house, was for each group of options, group of planning actions, to specify an expected value of the cost and a lower and an upper range. Or it could be somewhere between 200 and 300,000, while the expected value would be 250,000. We did, likewise, on duration. As you've begun to notice, you're seldom in it for just one year. A lot of these things tend to continue on. You have a number of policy issues -- will you just construct facilities, will you also be maintaining them -- are you only going to be doing the first year, will you have continuation? So, we have estimates on the expected value, lower range, upper range of - - lower range, upper range on cost; expected value, lower range, upper range on duration; and then total costs that come out, we do not have estimates for everything. For example, most notably, there is a proposal for visitors' centers. Visitors' centers would be built various places. We still need to have that proposal together. Where? Would -- we'd be looking at new construction. We have no estimates for that kind of an activity. Also, we made the decision to -- and this at an early stage, okay -- this may all change. We made the decision to express these dollar values in 1993 dollars. Consequently, if you're looking at these figures, you'd have to be thinking in terms of the settlement value of closer to 600 million than a billion. If you prefer to express it real dollars, we would need to add an inflation value and also, most importantly, estimate when the project's going to start, so

you'd be able to have an accurate one.

Marty? Before I get -- I'd like to ask my boss, should I just give them the figures that we've come up with at this stage? (Ms. Rutherford gestures in the affirmative -- laughter.) Okay. I want that on the affirmative because these have a number of assumptions built into them, one of which by the way

MR. SANDOR: Excuse me, please. Mr. Pennoyer?

MR. PENNOYER: I'm not -- I don't -- from your description, I don't know if you're going to tell us what the total it's going to cost to do all the work -- I think Attorney General Cole was trying to get at the cost of preparing the plan

MS. GILBERT. Oh

MR. PENNOYER: when you start talking about a billion dollars to prepare the thing, then

MS. GILBERT: know how much the whole thing was going to cost.

MR. PENNOYER: Well, we're sure it's going to cost \$600 million or a billion dollars -- \$900 million. That's what the whole thing is going to cost when you get done after ten years.

MS. GILBERT: I'm sorry. That was -- I have not done a cost estimate of developing....

MR. STRAND: I don't have a firm figure in my mind of what it's going to take to complete the plan. Clearly, at this point in time, the budget is calling for the Restoration Planning Working Group to be together one more year, I think. And so, that would be a salary for those folks. There are subcontracts for an

editor, \$150,000. Excuse me?

MR. COLE: How much are the wages for this group for a year? We could get close a little bit.

MR. STRAND: I think it's the entire year for the entire group -- the Restoration Planning Working Group.

MR. COLE: And that number is approximately?

MR. STRAND: There is a -- \$675,000.

MS. GILBERT: The summary in the work plan for 1993 for the restoration planning work team, I believe, is \$670,000.

MR. COLE: So it's going to cost us about a million dollars to prepare this plan? Is that what you're telling ...?

MR. STRAND: That's probably a safe estimate, including the monitoring planning exercise which is a '92 -- or a '93 work plan project, and that has to be factored in, and the editor and publication costs. I think that that's a fair estimate.

MR. SANDOR: Mr. Strand, does that also include the cost in environmental impact statement?

MR. STRAND: It does not.

MR. SANDOR: I was afraid of that.

MR. STRAND: It does not. That's

MR. SANDOR: Dr. Gibbons, do you have any comments?

DR. GIBBONS: That's \$316,000.

MR. SANDOR: I beg your pardon?

DR. GIBBONS: \$316,000.

MR. SANDOR: For?

DR. GIBBONS: For the NEPA EIS.

MR. SANDOR: Okay. Any other comments or questions at this point? I -- I've got to raise -- and I don't know at what point in time we're starting to discuss alternatives, options, and so forth, and then I was looking last evening at the timetable for the production of the draft restoration plan -- December, Jan -- February -- and the more startling thing, the environmental impact statement costs -- and, I guess laying this out up front for members of the Trustee and the Restoration Team and those working on this effort, I'm wondering -- well, one schedule I have actually has this -- it says the -- by March of 1993 the published draft restoration plan with alternatives will be -- the target date is March 1993.

MR. STRAND: That's correct.

MR. SANDOR: But then the environmental impact statement process follows this and actually commences -- well, the March 24, 1993, is the draft restoration plan with alternatives are published without the environmental impact statement, and separately the environmental impact statement process gets under way, and the end result of this is that the final decision is February 1994 before we and the public have a restoration plan. And, I tell you, this disrupted my sleep that entire evening, and I think is really unacceptable. We've got to look at some alternatives of integrating these things together. And I guess the question with respect to development of alternatives in the restoration planning process, why can't we not integrate these things so that the alternatives that are developed in the plan

actually meet the requirements for the NEPA process and display these in the environmental impact statements, so we're not having a separate item that costs \$600,000 here, and then \$350,000 here, and then gets us the product in February 1994. I should really relinquish the chairmanship of this -- getting into this sermon, but anyway, it's unacceptable, and I (laughter).

MR. McVEE: Mr. Chairman?

MR. SANDOR: Mr. McVee.

MR. McVEE: Yeah. We have a solution to that, and I know that it's one of the proposals John mentioned that -- that he expected us to bring this up, so I won't deny him -- but we think that there should be a -- either -- whatever you want to call it -- a preferred alternative or a proposed action in the plan. But you have to have that within the EIS. That's mandatory -- a legal requirement. And -- and (inaudible -- electronic interference) ... the public in March

(From here to going off record at page 108, portions of the taped transcript are inaudible because of electronic interference from camera and electronic recording equipment of a television/press camera crew.)

MR. STRAND: Certainly, the concept that (inaudible -- electronic interference) want to present the public their comments on (inaudible -- electronic interference) ... without the designation of a preferred alternative. And that's what we did,

and we were then -- that assumption leads you the requirement that (inaudible -- electronic interference). That was our concept (inaudible -- electronic interference) ... more meaningful the public input in the process, but clearly there is this other way as well.

MR. SANDOR: In follow up to Mr. McVee's question. Is it possible that the Public Advisory Group for its January 6-7 meeting be given the alternative of having a restoration plan environmental impact statement process being developed, as this one alternative does with -- through February 1994, and to the alternative approach that Mr. McVee outlined, and perhaps there's other more -- other places to doing this? And then, with that, identify the total costs associated with doing this -- these two tasks, and then the question of timeliness. It seems to me, the Public Advisory Group and the Trustee Council, which is not scheduled to approve this in final form until February -- it seems to me that -- that would be helpful. Isn't that the intent or what is -- what is the -- how are we going to resolve is, and is this the best way to do this -- these two jobs? I guess that's the question.

MR. STRAND: Well, if understand you correctly, we certainly could pose that delay -- issue to the Public Advisory Group and solicit their opinion, but I think this has had a lot of discussion both at the level of the Restoration Planning Working Group and the Restoration Team, and it may be at a point where this is correct form for this discussion, and we're seeking guidance.

MR. SANDOR: Mr. Cole.

MR. COLE: If you look at the footnote next to that February '94 date, I think the footnote says that there may be a delay in meeting this date. Doesn't it say that there?

DR. STRAND: Yes.

MR. COLE: Well, if you think about that, and then there is a little delay, then the '94 work plan is going to get jammed up because we said, well, you know, we really don't have the restoration plan done, we can't have the '94 work plan done because you don't have a restoration plan, and you go through all this again. I mean, you know, and we're going to be saying just like we're saying here, gee, we've a an EIS -- you know. I just say this is unacceptable, and to say that we have to get this done -- you know, the public is demanding action. I mean, the public -- you know, it's nice to (inaudible -- electronic interference).

UNIDENTIFIED VOICE: EIS

DR. STRAND: (Inaudible -- electronic interference).

DR. GIBBONS: (Inaudible -- electronic interference).

MR. BARTON: (Inaudible -- electronic interference).

DR. GIBBONS: (Inaudible -- electronic interference).

MR. BARTON: (Inaudible -- electronic interference) ...

time.

MR. McVEE: (Electronic interference) ... I would support that by way (inaudible) ... desirable that you could accomplish both in (inaudible -- electronic interference)
... gets an opportunity to either comment on the environmental

implications that -- it isn't another document that you have to put out, it's just recognizing that that's part of the -- part of the process, part of the meetings, and so on, that -- that we need another requirement that's included in the schedule.

MR. SANDOR: Dr. Gibbons, do you have a comment? Then Mr. Rice.

DR. GIBBONS: Yeah. I can defer to Mr. Rice in a minute here. I haven't -- there's a couple of other options here that can reduce months off this schedule also. One is that you release the draft plan in March as -- and then release the draft environmental statement after that, but not release the draft plan again. So, you cut two months off the public comments section there, and then you could have the EIS and the plan released at the same time, you know, in late summer -- that's one option. One option is to (inaudible -- electronic interference) ... on the alternatives, then meet (inaudible) ... in early June, and one.

MR. RICE: (Inaudible -- electronic interference) ... focus up until now in getting a document out by March, which would be the most opportune time to get meaningful public involvement. If we delay release of the document into -- much passed May or so, then we get into the fishing season, people are not available, and the opportunity to get meaningful involvement is further delayed. RPWG had promised a draft plan by March, and they intend to meet that, but what I hear the Trustee Council say is it's not when you get the draft out that's important, it's when you get the final out and we finish this process -- that's important -- and that's what

Dave was leading up to as a mechanism for speeding the process up.

The EIS, once they receive the alternatives and sufficient information to start the analysis of those alternatives and what the environmental effects of those are, the last schedule that I received from the contractor was that we could have a draft ready to go out to the public by June. So how do we get the two documents in sync? Do we want to provide an informational package in March and get the two documents in sync so that they go out together, however, that would mean going out during the summer. To have a final (inaudible -- electronic interference) ... documentation ... to go out in draft ... after that ... impossible to get ...

MR. SANDOR: (Inaudible -- electronic interference)

MR. BARTON: (Inaudible -- electronic interference)

MR. SANDOR: (Inaudible -- electronic interference)

MR. PENNOYER: (Inaudible -- electronic interference) ...

anyway, the staff get together over the noon hour, revise this ... go with preparation of final ... don't want to be doing a restoration in '95 ... restoration plan ... detailed presentation.

MR. SANDOR: The Chair would also suggest that you make some kind of (inaudible -- electronic interference) ... until two o'clock ... (inaudible).

MR. COLE: (Inaudible -- electronic interference).

MR. SANDOR: (Inaudible -- electronic interference) ...

Dr. Gibbons ... break for lunch and return at 1:15 with a very positive habitat protection work group.

(Off record at 12:00 noon)

(On record at 1:20 p.m.)

MR. SANDOR: Good afternoon. Good afternoon, this is a resumption of the meeting of the Exxon Valdez Oil Spill Settlement Trustee Council meeting, and we are going to resume our agenda as noted just before our break for lunch -- with Habitat Protection Work Group status report, but we're going to first of all have a brief summary of the Alyeska settlement that also touches on the habitat question, and after that, then the Habitat Protection Work Group status report, and then we'll return to the restoration plan, as noted before the lunch break.

Attorney General Cole, can you summarize the information related to the Alyeska settlement.

MR. COLE: Thank you, Commissioner Sandor. You will recall that the state's natural resource damage claim against Exxon Corporation and others was settled by virtue of a \$900 million settlement which was approved by Judge Holland in early October of 1991. That litigation did not settle the state's claim against Alyeska Pipeline Service Company and its constituent members. However, as I've mentioned, all of the state's claims for natural resource damages were settled by virtue of the Exxon settlement, and a fundamental reason for that was that Exxon did not want to be liable, over, for additional natural resources damages in the event that the governments pursued further claims of that type against Alyeska. In addition, the Exxon settlement provided that if the governments recovered any monies from Alyeska, that 20.34 percent

of that recovery would be paid back over to Exxon. The reason for that was, was that that was the amount which Exxon owned of the Transalaska Pipeline project, and Exxon did not want to pay twice in connection with the settlement.

Now, the next issue is what remained for the state's claims against Alyeska. Well, frankly, we had some economic claims which, in the view of counsel, were -- let's say -- thin, and so, as a result of extended negotiations between the federal government, the Department of Justice, the State of Alaska, a settlement was reached with Alyeska and its constituent members. Under the terms of that settlement, \$2 million was agreed to be paid by Alyeska to the federal government, and the 20.34 percent of that \$2 million I pre -- was to be paid over to Exxon, leaving a net check of a million six or something like that. I imagine it was simply a net check, but I'm not familiar with that -- details of how that settlement was carried out. In addition, to that the state recovered \$29,700,000 against Alyeska, comprised of the following generally: \$7,250,000 was to be used for the construction of docks and related storage facilities at Chenega Bay. Would you mind pointing it out -- down at Chenega -- at \$7.25 million. In addition to that, another dock in the amount \$7.25 million is to have funds at Tatitlek. See that? And the state felt that those docks would serve purposes in support of spill response should another spill occur. In addition, it would provide general docking facilities for the people of Chenega and those operating vessels in the Sound. It had the related benefit of providing employment in

those areas. In addition to that, \$6 million was to be used for the construction of a road, essentially from -- you might say -- downtown Cordova to Shepherd (ph) Point, which is approximately six mill -- six miles down the way from Cordova, to a deep water port area. The port's not been constructed yet. We've got to figure out the money to construct the port, but at least, we have the access there. In addition to that, Alyeska committed to build a response facility in Valdez -- the approximate cost of \$14 million. That \$14 million is not counted as part of the settlement. Alyeska had planned to build that facility in the terminal area and, however, the people of Valdez wanted that facility constructed in Valdez, not across the way, so we obtained a commitment from Alyeska to construct that facility in Valdez. In addition to that, Alyeska agreed to pay \$200,000 for communications facilities to the state and federal governments for installation in the response facility. In addition to that, those payments, Alyeska committed \$7½ million to use for the acquisition of lands in the Kachemak Bay State Park area. Those payments are really to be paid in installments in 1993 and 1994, but Alyeska agreed that in the event we need monies immediately for any one of those projects, that that money would be available. I think that largely summarizes the terms of that settlement. Oh, I wanted to say one other thing. Two things are important in connection with that settlement, and let me assure you they were hard-bargained elements -- one, the provision that Exxon would recover 20.34 percent of the \$29.7 million was, let's say, vacated -- will not be enforced. That

really would account -- you can do a little math, but a fifth of 30,000,000 is, I guess, what -- \$6 million? So, in addition to what normally you would consider the \$30 million settlement, in some ways, you'd have to add another 6,000,000 in order to account for the money which we persuaded Exxon not to enforce under the terms of the initial agreement last year. In addition to that, and I assure that another hard-bargained element was the fact that this thirty-two million approximately will not be permitted as an expense in Alyeska's pipeline tariff. As you know, in that pipeline tariff, the state pays about 20 percent -- 25 percent of that, so, frankly, we just told Alyeska that it would not be acceptable to have the state pay 25 percent of its settlement. So, that was -- hung up the settlement for about six weeks in order eliminate that tariff provision. So, I think that summarizes generally the terms of that settlement.

MR. SANDOR: Thank you for that summary, and that provides some -- some helpful information in all of our activities, and -- any questions? Are there any Trustee Council members -- regarding that? If not, we'll move on to

MR. COLE: Mr. Chairman, I have another matter

MR. SANDOR: Yes, Mr. Cole.

MR. COLE: I move that the Trustee Council appropriate the sum of \$7.5 million for restoration and enhancement of injured natural resources and services to be used to purchase approximately 7,500 acres of imminently threatened habitat in Kachemak Bay State Park in-holdings.

MR. SANDOR: Is there a second to that motion?

The motion's been made and seconded that we purchase -- to allocate the \$7.5 million for the purchase and acquisition of the imminently threatened habitat within Kachemak Bay State Park and

MR. COLE: Mr. Chairman, may I speak in support of that motion?

MR. SANDOR: Yes, Mr. Cole.

MR. COLE: I have here a map, a topographical map, of the Kachemak Bay State Park and area -- and the other places in the immediate area. See, Homer is here. The lands which this motion contemplates in general acquiring, are those lands which are contained in the cross-section area within the state park area, excluding the tracts which are marked with a crossed section, and this little area here which is also to be excluded from the proposed acquisition in this area. Now, I want to -- I have another map which I would like to utilize here to show This is a map showing the timber harvest areas within the Kachemay (sic) -- Kachemak Bay State Park area, and these areas which is in red here is those areas for which timber harvest permits have been applied for, and you can see that in this area here is the general -- and I want to emphasize the general area -- which this motion is -- addresses. We'll have to do some, you might say, negotiating and finding out the exact parameters of the lands which are proposed to be acquired, but you can see that this area in red is - - first, it's timber, prime timber; second, it's imminently

threatened with the pending applications for timber harvest in it.

Now, along the right-hand margin here, we have five small maps, and the top one is labelled marbled murrelet, the next one is pigeons, the next one is ducks, the next one's river otter, and the last one is recreation, cultural and tourism. And this shaded area in each of these little maps, green here -- I guess that's green or grey -- well, I'm colorblind, sorry, I just have a little trouble, but I can tell that's red (laughter) -- shows what's observed habitat of each of these species and the tourism and coastal resource sections. And as you look at these maps -- I hope you can see them well -- but you'll notice that each of the murrelets, the pigeons, and the ducks all have observed habitat, critical habitat, within the area which this motion proposes to acquire. In addition, you have these maps with -- show the -- visibility analysis of Kachemak Bay, as seen from 3,000 feet essentially above or in the Homer area, and if you look at these wavy lines out there, this will show the landscape and one would see -- see what I refer to as the escarpment above Homer. And, in addition that, we have this data showing the scientifically observed species in this area. Do we have that down here to hand out? Well, let me just comment briefly on that.

As shown from this memorandum which we compared, this habitat -- protection of this site is rated as high to moderate potential to benefit the following species and services in an area affected by the oil spill. We have high potential as the bald eagle -- or maybe high potential, but I want to say that the studies do not

show the bald eagle much damaged by the spill, furthermore, it appears to be recovering, but with that caveat I mention that. It has intertidal and subtidal viata (ph), it has obviously high recreation and tourism, and also was high potential habitat for the marbled murrelet. It has moderate potential for the river otter, for anatomous (ph) fish -- you can see there's these streams which come right up here and originate in the upper lake -- and for subsistence then, the harlequin duck. We also have supporting data in the graph which has been handed for anatomous fish, bald eagle, black oyster catcher, common murre, the harbor seal, harlequin duck -- this is on the third page in -- the intertidal and subtidal viata, and also the species which I put along the right-hand margin of the second map. Then, in the third page over, we have habitat protection and acquisition partial summary -- the partial CIK01 -- in the China Poot Bay area, which is this area which is just beneath the boundary of the acquisition, and we have data there showing the injured species and service, the potential for benefit of each of these species and services, and comment in the right-hand column. That concludes my remarks in support of the motion.

MR. SANDOR: Thank you, Mr. Cole. Are there any -- are there questions or comments from other Trustees? Mr. Pennoyer.

MR. PENNOYER: I've thought all along we needed to consider imminent threat habitat and take some action to try and, in the short term, ensure that we didn't lose opportunities to -- to restore or to benefit the restoration of injured services or resources or even to enhance them. I don't have a problem with

that. I guess my question, as we just took action on a whole series of projects for '93 by not taking action, but rather putting it off until a PAG group had looked at it and we have reconsidered some of those actions and completed, in some cases, the appropriate NEPA documents. Is it the intent that we take action here and now to approve this as a project? For '93?

MR. COLE: Yes. Yes, and let me say why because I'd like to add a couple of other remarks. First, we know, after having read the - the comments of the public generally with respect to the restoration plan that the acquisition of habitat is the very highest priority, I think, of any project or any action which the Trustee Council can take in support of restoration. We furthermore know, from having read -- read those comments and having listened to the public comments in meeting after meeting, that the acquisition of these imminently threatened lands in Kachemak Bay State Park are the very highest acquisition project in the entire state. I think probably the ratio is about ten to one. And, lastly, I think that this motion is nicely complemented by the Alyeska settlement. We know, of course, that further lands in Kachemak Bay State Park, which are not acquired by the intent of this motion, but we have available now \$7½ million from the Alyeska settlement to purchase lands which are not necessarily threatened habitat in the park. That's why this motion is keyed to the acquisition principally that imminently threatened habitat in the area is sought to be acquired. The Alyeska monies can be used to acquire lands within the park where we do not have solid scientific

data, as we have here, in support of restoration and enhancement of injured species and services. So, those are the reasons, and frankly I think the council was -- has been repeatedly criticized, as we know so well, for failing to take action. It's generated the perception that we really don't want to acquire habitat; that there's something oozing up inside of us which requires us to not buy habitat. It's really some sort of plot or conspiracy against the acquisition of habitat, and I think the time has come to just do it, and -- and to heed the -- the interests of the public, and to do away with once and for all this pervasive thought that we're just not going to acquire habitat. I see no reason to delay it further. Time has come for action.

MR. SANDOR: Any further comments or questions? Mr. McVee.

MR. McVEE: I guess -- say, one question, and then I've got some comments. Is this a fee title acquisition?

MR. COLE: Yes. Yes, we have a proposed motion which we would acquire this land in fee, with the timber rights being extinguished, and that the state would be the owner in fee. Furthermore, that this purchase be completed no later than December of 1993, and that if these funds are not used for that purpose by that date, that the funds go back into what I'll call the general fund.

MR. McVEE: A follow-up comment -- (inaudible) would agree that we need to bite the bullet and move forward and that there is -- obviously, you've established linkage here -- and, I

guess I've been thinking for some time that Kachemak Bay might very well be the best choice for us to initiate the acquisition of process, and one of those reasons, of course, is the public support that this has, has had, over -- over the last year from very -- from day one as far as my attendance at Trustee Council meeting. I guess I think that if the motion were framed in -- in -- as a proposal to initiate the process of acquisition, then that would get me by this -- this NEPA problem that I have. The fact that I have to vote on an expenditure -- you know, an obligation of money -- without that compliance. But if we were to -- to frame it in such a way that we start the process which will lead us towards acquisition, which means, you know, some analysis, negotiation, of the NEPA compliance, whatever that will amount to, I would be very favorable to go ahead and vote with -- for the motion.

MR. COLE: I think that we should commit the funds -- commit the funds, here and now, and then get underway with the process. I don't think that this -- committing the funds is violative of the NEPA requirements. We should commit the funds, and then we can go to the owners and -- and negotiate. But every time you go, and you don't have money in your pocket or in your checkbook, and you're at the top, and the guy says, well, show me your money, and then you say, well, you know, we're working on it, and that's what's been going on for the last ten years, I guess, or certainly years. You know, I think we've got to get the money in the checking account, and then we can go to these people and start the process, but you have to have the financial commitment in order

to go to these people, because these people say, well, you know, I've heard this for years, and we're not going to delay our timber projects any longer waiting for you people to show us your money. And that's why I think we should do it.

MR. SANDOR: Mr. Cole, the process though would, of course, be in accord with the NEPA requirements.

MR. COLE: Well, if there's NEPA requirements to buy some land. It's pretty hard to imagine that there is, but I'm surprised every day.

MR. SANDOR: Mr. Pennoyer?

MR. PENNOYER: I -- I thought for the last couple of meetings that we ought to do something, and I thought in the case of Kachemak Bay's park it might have been something to go ahead and at least start the negotiations, make our interest clear that we're interested in getting more information, and you have assembled a large body of information. I think there are ties. I think enhancement is viable thing. I guess I'm having a little trouble squaring a vote now with what happened in the last two meetings when we went from everywhere from spruce bark beetles to the need to do a restoration plan before we actually acquired any property.

I think this probably is a high priority. I'm not -- I'm just having a problem right at this minute shifting gears from what I thought was the perception I was getting at the last two meetings to an acquisition right now. I would like to hear the imminent threat presentation too, by the way, and what other opportunities there are we may have to deal with before we finalize it. Again,

are the spruce bark beetles here that are eating up the park like we saw there was -- we had a problem with the discussion last meeting? Are we buying -- is that concern beyond us? Do we not ...?

MR. COLE: Yes.

MR. PENNOYER: ... is this beyond us?

MR. COLE: I'd say it's beyond me. (Laughter)

MR. PENNOYER: It was well beyond me before too, but I'm not

MR. COLE: I mean -- I mean, if we don't want to do it, there's all sorts of reasons why people can say let's not do it. Spruce bark beetle, we can say that. We can say, really we should talk about trading, you know, lands, and you know, and those things go on interminably, and like I say, nothing ever gets done. That's one of my consistent complaints, as you know. We just have to make some decisions. And, if we put this off, well, you know -- you know, we're subject to more criticism that we really don't want to buy habitat. Lord, if there's ever habitat that this Trustee Council ought to buy, this is it. You know -- and the governor has supported it, we know that, unqualifiably, and -- who's objecting to it?

MR. SANDOR: Any other questions or comments (laughter) from members of the Trustees Council? Mr. Barton.

MR. BARTON: Yes, Mr. Chairman. I share one of those sentiments that have been expressed earlier about the need to get on with things, particularly the habitat acquisition and habitat

identification and habitat protection. I'm somewhat curious if these permits have not already been approved. Is there not some possibility of some protection in the permitting process? We've talked about that at some length in earlier meetings. The other thing that frankly distresses me is that, looking at the potential impact of injured resources and services from timber harvest, would not reflect well on the state Forest Practices Act, if this were all to be true. So, that -- that troubles me as well. The package that you have provided for us, Charlie, is a good package, and it would be helpful if we had an opportunity to digest it a little before we move ahead so rapidly, but I understand your concern.

MR. SANDOR: Any other questions or comments. I guess a follow-up to the question that Mr. Pennoyer raised earlier about the basis and with his suggestion that the habitat protection examination work by the Restoration Team may be support of (inaudible), is it not true as well that the Nature Conservancy in the two projects that were funded by the Trustee Council earlier this year, that -- that findings of that Nature Conservancy report either provided a part or much of the basis for the information that's been outlined here. Is that the case?

DR. WEINER (from audience): I can answer that. The shaded areas that you see depicted on this portion of the map represent the information that was gleaned from the Nature Conservancy workshop. The workshop assembled a group of what we considered to be the recognized experts in their fields regarding these resources and a number of the other resources, and the

analysis of their information indicated that this was the habitat that was identified in this particular area. For instance, in the case of the marbled murrelet, the gray-shaded area you can see here represents areas that are known as feeding habitat for these birds.

In the uplands, the area encompassed by the red, being imminent-threat lands, is an area which we presume to be nesting habitat for the marbled murrelet. The experts agree that although we don't have any hard data in hand documenting the existence of the nest, it's highly likely that the birds do nest in this area. The information is a similar -- accordingly right down the line for these resources. The assembled group of experts concluded basically that these resources occur in these shaded areas. So, that's how we used that information. Ancillary information in addition to the Nature Conservancy, data that we used to determine the relationship or linkage of the affected resources to this parcel of land, came from eagle nests, atlases, and address stream catalogs, all sorts of resources from all of your agencies. So, this represented the anecdotal information from the Nature Conservancy catalog. It was supplemented by what we like to call harder data sources from other scientific studies.

MR. SANDOR: One follow-up question, and that is, my understanding as well that the information from these various sources included observations that the spruce bark beetle, although in the general vicinity of the Kachemak Bay Park, that there were no significant outbreaks of -- of spruce bark beetle within the park itself. Is that true?

DR. WEINER: I can't answer that, but Al Meiners and Neil Johanson (ph) are in the back of the room. I'm sure they know.

MR. MEINERS (from audience): Yes. The Division of Forestry looked at that question about a year ago, and there are bark beetles. The population's generally endemic rather than epidemic. Because of the areas of Sitka spruce as opposed to white spruce, the beetles are just not moving very much. There are little pockets in Mallard (ph) Bay and some small areas, but not a significant problem.

MR. SANDOR: Not presently a significant problem, but their mere presence may be perhaps a deterrent to any consideration of escalating the price of the (inaudible) property in acquisition.

MR. MEINERS: We have -- forestry outside Southcentral Alaska have populations of bark beetles (inaudible -- out of microphone range). So, it's just a question of when that population gets too big. If there are problems, the beetles start to

MR. SANDOR: I think that the question that Mr. Pennoyer raised earlier about bark beetles is relevant, and it is my understanding that -- from the -- Mayor Don Gilman -- that there's something in excess of 500,000 acres of -- of timberland that has been infested to where the timber is being killed, and that constitutes a -- actually a much greater threat for the destruction of a forest than any amount of acreage that's actually planned for harvest. But insofar as this area's concerned, that

question, I think, has been resolved. Someone else? Did you have an additional question?

MR. PENNOYER: Yeah. I had an additional commentary as well as a question. I, again, I think I agree with Mr. Cole, it is time to get on with on with some things, and I thought that in previous meetings, and I guess rather than looking at the reasons not to do something, I was getting the impression the council was stating reasons not to do something -- concerns with waiting for the imminent threat and waiting for the proposed study from the Nature Conservancy, waiting for the restoration plan before we did things like land purchase. I think -- I think we probably at the last meeting should have issued at least some discussions with landowners in areas like this, and at least indicated our interest, yet alone specifically the general dollar amount. I have a little trouble shifting off of that, and I guess my preference would be to hear the imminent threat discussion, and something along this restoration schedule, and then come back to this, rather than deciding on it right this minute.

MR. SANDOR: Is there -- I guess Marty Rutherford is on the agenda to -- to deal with this question of habitat protection. Is it appropriate at this time -- as referred to -- to make a presentation and, perhaps, that could be supplemented by anyone from the Nature Conservancy that may be here that could add to your comments?

MS. RUTHERFORD: Okay, Mr. Chair, this will just be a brief report on the status of some of Habitat Protection Work

Group's activities during the past nine weeks, and more specifically, what you can expect from us during the next six weeks. At the end of September, you approved moving ahead with several of the '93 work plan projects. One of those projects was 93059, which was titled habitat identification workshop, and it allowed the Forest Service to modify an existing cost-share agreement with the Nature Conservancy, so that the Nature Conservancy could quickly -- and it was quickly, eight weeks from beginning to end -- provide specific short-term information gathering assistance to the Habitat Protection Work Group. Through a tremendous amount of commitment and hard work by the Nature Conservancy, some of the Habitat Protection Work Group, and more specifically the participants in the project, this project was completed very successfully, and we now have in hand all the products. The products that resulted from the cost-share agreement are the result of, as are indicated earlier, a questionnaire and an interview. The questionnaire, which was developed by the Nature Conservancy and the work group, was sent to individuals who were identified as having significant knowledge about the injured species and services, and these were both site-specific knowledge and habitat-characteristic knowledge. Forty-five questionnaires were sent out, and 27 of those were received, and since this was somewhat of a daunting questionnaire, that's a pretty good return. We also feel that was a pretty good indication of the commitment of the participants, because when I say daunting, I do mean daunting. The interviews occurred in early November, over a three-

day period,

and included individuals as having significant site-specific knowledge about the injured resources and services. Twenty-three interviews were conducted. Out of those 23, 14 of those participants had also filled out questionnaires. The products of the work group received from the Nature Conservancy interviews were approximately 230 mapped sites that are important to injured services and species. The process used to identify these sites are considered a -- sort of a coarse-filter approach, since it is primarily based upon the best professional judgment of the project participants. In many cases, some additional fine-filter work will be necessary to determine the site-specific relationship to the injured resources and services. The site information was then compiled into 11 areas that merit special attention. These 11 larger areas are sometimes referred to as polygons, contain multiple benefits to the injured species and services, and they encompass a very large part of the oil spill-affected area. Of the 230 sites mapped, 137 of those sites fall within sev -- 11 larger polygons, and 92 of them fall outside of it -- outside of them. We also received an excellent start on a data base to use in analyzing parcels, again, as a coarse filter, and hopefully this data base will be the beginning of the ability to do a finer analysis as we gather more information from the projects and from other -- and from agencies. And we also received 50 sets of excellent information from the project participants. I want to add here that the information received from this project is -- is mostly, as Art indicated also, qualitative information, but oftentimes the

individual's best professional judgment was backed up by specific quantitative information or data. We do have copies of the project's executive summary, which I can hand out here. The product itself is -- is large. It's very large. We only currently have one copy. It's upstairs. Everyone's -- we'd love to show it to you if you're interested. We will eventually be able to reproduce parts of it for the public and for anybody else who -- on the Trustee Council -- who would like a copy.

One other issue I want to note here is that the information that was gathered as part of this project was done so with the understanding and agreement by all the parties that it would be applied only if there is willing landowner-participant, or in other words, a willing seller. We don't want any misunderstandings on this point, neither did the project participants. So, where -- where does that leave us now? The Nature Conservancy workshop information, along with a tremendous amount of other work involving existing agency data, is allowing the Habitat Protection Work Group to analyze this data. As we indicated to you back in August or September, I don't remember which month, we were going to analyze approximately 30,000 acres of imminent-threat lands. These are -- imminent-threat lands occur in Prince William Sound, on Afognak Island, and in Kachemak. By the end of January -- actually, by the middle of January, we will mail it out to you -- hopefully, you'll set a meeting for the end of January -- we hope to present to you verbally as well as map and a -- coarse-filter, qualitative analysis of each parcel of this imminent-threat lands. The

analysis will include the acreages, an indication of which, if any, injured species and services are linked to that parcel, how significant that linkage is, what the adjacent public land management is, what the imminent threat is, and what, perhaps, the protection objectives are. We also hope -- hope -- to have for you by January, some analysis of the lands adjacent to these imminent threat lands, as well as some analysis of the lands Chenega and Akiak. These two villages have indicated an interest in participating in this process to us, and as these lands are not currently imminent-threat lands, however, we are extremely appreciative of their willing to participate, and we want to encourage them and other landowners to offer to work with us prior to imposing imminent threats to us on their lands, and it also makes, you know -- hopefully, it will keep down the costs of eventual protection should we choose to do so.

In January, when we present this information, we will be looking to you for approval to begin discussions -- I want to emphasize that -- begin discussions with the landowners, so we can determine if they are willing participants, and, if so, the degree of that participation interest. If so, we may then have direct access onto their lands and to their land information, which will greatly facilitate our analyzing lands using the finer-filter, quantitative information. I hope that gave you some basic information. Yes?

MR. SANDOR: Any questions? Mr. Pennoyer.

MR. PENNOYER: Thank you, Mr. Chairman. This proposal

that's been presented us today, how -- have you -- is this part of the work you've done? Have you seen this? How does this fit in with your process.

MS. RUTHERFORD: The work -- I want to make clear -- the work that we're doing in all the different areas on the imminent-threat lands is ongoing, and we have done quite a lot of this work. This work -- this particular area was -- we focused on this initially. It has not gone back through the Habitat Protection Work Group, but we hope to be doing that next week, but we are relatively comfortable with it, it's primarily the result of hard data from the agencies, and is qualitative data from the Nature Conservancy.

MR. SANDOR: Any other questions?

MR. COLE: Do you find imminent-threat in Kachemak Bay lands within the area sought to be acquired?

MS. RUTHERFORD: Yes, we definitely did.

MR. COLE: And what imminent threat did you there find? (Laughter) I have to pull it out -- know what I mean? (Laughter)

MS. RUTHERFORD: The areas in red are in -- are going to be logged areas, they are in the process of being logged, or are going to be logged in 1993. Some of the adjacent areas, also, there are -- the -- the timber rights have been purchased, so we expect the logging shortly thereafter -- on the areas not indicated in red. This document that was sent around to you does indicate those species and services that would benefit from protection on

this. Obviously, there's a link to these damaged species and services. Also, there's a very strong linkage to services -- I mean, this is -- this is the highest use area in the state in terms of recreational activities.

MR. COLE: Is this one of the areas that your group thought had high habitat protection interest.

MS. RUTHERFORD: Yes. Absolutely. We've gotten overwhelming indication that there's -- the public would like us to protect this particular

MR. COLE: Was there any one higher?

MS. RUTHERFORD: No. There was none higher.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: Are these the appropriate parcels that we're talking about purchasing here. Yes. In our initial analysis of the -- the lands, and again, these -- none of these lands have -- are in final, but you know -- the project we're doing for you in January is a little more comprehensive than what you've got in front of you right now, but in our initial analysis of this, those parcels that are currently addressed in Attorney General Cole's resolution rated high and high -- moderate high -- and everything else was below that.

MR. PENNOYER: One more question.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: ... we've discussed -- and again, I think -- we've heard the testimony on this, I've always thought this was something we ought to be working with, but having trouble

envisioning how we do this. Can I -- if we voted for this, how would the actual purchase selection proceed? Through our process? Through some other process? How would we do it?

MS. RUTHERFORD: Could I not address the Kachemak -- could I back off for a second and just talk about this process. One of the things we hope to give you in January is an indication of our recommendations on how you might choose to begin negotiations, and how you might begin to look at land management. We're working very hard and fast on those issues. Now, this has been separated a little bit, so I think at this point in time I would ask Attorney General Cole to comment on what -- how he would foresee this particular resolution being dealt with.

MR. SANDOR: Mr. Cole.

MR. COLE: One of the conditions in the motion is that the total purchase for all the Kachemak Bay in-holdings not exceed \$22 million, not that that's the total amount, but it not exceed \$22 million. That's a major subject for negotiation, and actually my thought is -- not yet brought to fruition, obviously -- is, if we have a commitment to go from this Trustee Council, is then to go the owners of the interests sought to be acquired and to representatives of the Trustee Council, state and federal representatives, if you will, to negotiate with the owners for a definitive contract of acquisition. Like I say, at that time when we have money in our checkbook that we can address that. Furthermore, to the extent, if any, additional funds are required, then we have the state -- I call it the ill-fated 411 Fund money --

which I'm confident, (inaudible) the legislature, but reasonably confident, I might say, that they would see fit to appropriate from those \$50 million state criminal funds the requisite money to complete the purchase -- if, perhaps, even by the addition of money from the general fund. But I think before we go to the land owners that we have to have, you know, a commitment that these funds will be available. Otherwise, I imagine they'll say, well, you still want to talk -- you know -- we've been this before. We have spoken to those people. There's been extensive negotiations over the last, maybe, six months, but nobody of the acquirers -- the state or the Trustee Council -- simply, you know, can't write a check or have no money, and so it's sort of what comes first, the chicken or the egg, and I think we need this commitment for \$7½ million to be able to go to them and begin negotiation of a definitive agreement for the purchase of their interest, you know, subject to the availability of the remaining funds. Does that answer your question?

MR. PENNOYER: Very near.

MR. SANDOR: Any further questions? Mr. Barton.

MR. BARTON: Mr. Cole, I didn't find in the write-up any discussion of using the permitting process to protect this habitat. Can you share with us the discussions surrounding that?

MR. COLE: I don't have any thoughts on that. I mean, it didn't occur to me that that was, you know, as they say, the way to go. I mean, you know

DR. WEINER (from audience): Mr. Attorney General, I

could take a crack at it.

MR. COLE: Okay, please do.

DR. WEINER: I'm not bashful.

MR. COLE: I've not been accused of that myself.

(Laughter)

MS. RUTHERFORD: Nobody would accuse you of that.

(Laughter)

DR. WEINER: The context within which we'll be working in here, at least the way that staff sees it, is different from the context for which the permit -- permit process was developed and passed into ordinance. What we are attempting to do here is to provide the protection over and above that which is afforded by the regulatory matrix that's in place today. It's our feeling that the added benefit that habitat protection/acquisition would provide to these resources is needed over and above that -- that is in place for the existing regulations. I could provide you with examples, but that is essentially the conceptual framework within which we're working. Otherwise we would be able to say, we feel comfortable that the existing regulatory matrix will protect these resources. We don't. Quite the contrary. We feel we have a need to facilitate recovery, and that habitat protection does exactly that over and above existing regulations.

MR. COLE: I think we're dealing with services here in addition to simply these resources and the habitat of the species. I mean, we're dealing with the services, and I think of all the land in the spill-affected area, this is probably the area

with the highest service benefits of any, and I think in many ways this -- that distinguishes essentially all of the other habitat lands in the spill-affected area, and it's very important. I think also very important here is that we don't get hung up with the difficulties of negotiating habitat acquisition where we sort of, as I say, chase ourself around the Sound or this bay, and then we buy that, and then the next year it's this bay, and the next year it's this bay, as you, you know, hopscotch across the Sound, because here, you see, we can just acquire this area without having to working about being in the state park boundaries, without having to worry about someone saying, well, we're going to log -- plans next door, and then we have to go buy that. I think this differentiates this, along with the services, from the other habitat areas that we've been looking at.

MR. PENNOYER: I find myself in a position of you trying to talk me into something I think I've wanted to do all along, (Laughter) ... and was sort of getting talked out of it by some of the people making the proposal, in terms of waiting to do very things and getting procedures down pat, restoration plans, and decisions on whether we're going fee simple or lease, or what we were going to do. I happen to believe in fee simple, so I've got - - I got a distinct feeling from the Trustee Council we haven't made some of those basic decisions on how we were going to approach this, even as far as delaying action until certain things happen on projects that are fairly logical to go forward with. Now, there's \$7½ million here, and I don't -- and procedurally, I even have a

couple of questions. For example, Mr. McVee, can you vote on this in a final fashion at this meeting?

MR. SANDOR: Mr. McVee.

MR. McVEE: I figured I would be asked that pretty quick, but

MR. PENNOYER: Sorry it took so long. (Laughter)

MR. McVEE: Yeah. The -- I guess I have a problem about voting on something that -- that's, you know, favorably on a motion that -- that's -- that I'm supportive of because my legal counsel says I can't -- you know, can't commit at this point in time. Now, I was thinking that there may be ways around this, and sitting here thinking about some language that would allow -- allow to go ahead and get by the NEPA problem that -- that my legal counsel has said that I'm obligated to comply with. Here's a thought that we'd authorize the state to proceed with land acquisition processes for land in Kachemak Bay State Park owned by Seldovia Native Association, and the Trustee Council is willing to commit up to \$7.5 million for this -- for this purpose. Final action by the Trustee Council will be based on negotiations and compliance with other legal requirements. And then at this meeting, you know, actually make a commitment of funds for some of the pre-purchase work. I don't know if that will fly by my legal people, but I think it's a -- maybe a good stab at it.

MR. SANDOR: In follow up -- in follow up to that comment -- observation, I guess I'll address this to Dr. Gibbons or Ms. Rutherford. In our previous approval of funding up to \$20

million for protection of critical -- acquisition of protection of critical habitat, is this \$7½ million a part of that fund?

MS. RUTHERFORD: There is no reason that it could not be.

MR. SANDOR: I think we already have on the books -- excuse me -- on the transcripts -- action by the Trustee Council, and nothing at all with regard to the \$20 million?

MS. RUTHERFORD: You did not pass it.

MR. SANDOR: That did not pass?

MS. RUTHERFORD: It was not passed early with the other projects.

MR. PENNOYER: What was the question, Mr. Chairman?

MR. SANDOR: The question was -- earlier discussion, a meeting or two ago with respect to the proposal to have up to \$20 million for the acquisition of critical habitat, was not passed in final form.

MR. PENNOYER: As far as our January -- now January -- hopefully at this meeting, but now January, work plan approval.

MR. SANDOR: Any further questions? I guess, Mr. Cole, any comments the point that the suggested money which Curt McVee is suggesting?

MR. COLE: It seems a little fuzzy on the commitment of the \$7½ million. I think that's the bottom line, is the commitment of \$7½ million. You know, it's on conditions, it's not saying, you know, that we're going to pay this much, as your father would say, irregardless. You know, it's a conditional commitment

-- the final price is agreeable and satisfactory, and all the terms are satisfactory, and subsequently the final contract and acquisition has to be subject to the approval of the Trustee Council. What I'm saying is -- frankly, I'm not prepared to continue with the effort short of a commitment of money from this Trustee Council. I mean, I think that's the bottom line. If we get that commitment, then we can move on with the process. Until we do that, we're just kidding ourselves and everybody else.

MR. SANDOR: Ms. Bergman, you may -- have a point to make.

MS. BERGMAN: Excuse me, yes. I think it might be helpful to get some advice here from some NEPA folks on if this would require -- if it could be categorically excluded, or if it would require an EA or and EIS, because I think from the position here that -- that the federal folks are in are very similar to the projects that we talked about this morning, that once NEPA compliance is completed, then you can -- you can take the action to spend the money, but until NEPA compliance is completed, you can't take the action. So, I'd like to hear from some NEPA folks on what would be required on this action.

MR. SANDOR: I guess in follow up to Ms. Bergman's, here, comment, the motion, as I understood, was that -- that the process was to have -- was to be completed by -- was it November or December of ...?

MR. COLE: '93, yes.

MR. SANDOR: of '93, and does the question suggest

that the NEPA process might not even be completed by that time?

MS. BERGMAN: Well, I just -- I think it would be useful for everyone here to get a feeling from some folks on what NEPA requirements would be in this particular case.

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: completing the NEPA requirements -- is the stuff we talked about earlier, and we supposedly can't vote on a project, according to the Interior, unless we have the NEPA documents in hand, and the NEPA has been done. Now, I'm having a little trouble trying to figure out why it requires a NEPA document to purchase and protect land, but (Laughter) -- and I'm not saying it doesn't because I've been surprised before too, like the Attorney General, but aside from that, it's not the question of completing the NEPA compliance that you have to do at the time you actually purchase the land, it's a question of completing it prior to voting on it.

MS. BERGMAN: Right.

MR. PENNOYER: And that -- we probably do need an answer to that.

MR. COLE: Before we get done, we're going to need a NEPA statement before we can go to the restroom. (Laughter)

MR. PENNOYER: Speaking thereof (Laughter) Are you getting close? (Laughter) I'll give you an EA if you want. (Laughter)

MR. SANDOR: My alarm goes off at five to three. Is there anyone -- Dr. Gibbons, Mr. Brodersen, Rice or anyone --

wanting to make an observation on NEPA.

MS. LISOWSKI (from audience): I guess I will.

MR. SANDOR: Please come down ...

MR. PENNOYER: Somebody brave enough in the

MR. SANDOR: ... and have a chair.

MS. LISOWSKI: My name's Maria Lisowski, and I'm with the office of -- junior counsel for the Department of Agriculture. I think the statement by Pam Bergman is essentially correct. As far as the federal agencies are concerned, because the funds require -- it requires the federal Trustees to take some action in order to be able to commit the funds -- that is -- can be perceived as a major federal action that would be irretrievably committing funds to the state to purchase property. That being the case, depending on which of the federal agencies become the lead federal agency for this project, there may be a need to have complete NEPA compliance prior to committing the complete amount of the funds, the \$7.5 million that's been requested. Now, that may mean that your NEPA work may not require an EIS. It may not end up requiring an EA. It just depends on which agency's regulations are being used, and that's something that there needs to be a lead federal agency designated for that.

MR. SANDOR: Mr. Cole.

MR. COLE: We're not irretrievably committing funds because ...

MS. LISOWSKI: You're committing

MR. COLE: ... these funds are not going to be

expended unless the final contract documents receive approval. So, it's not an irretrievable commitment. It's a conditional commitment.

MR. SANDOR: Any other comments or ...

MS. LISOWSKI: You

MR. SANDOR: ... observations?

MR. PENNOYER: Also, whether land in general can we settle now? -- if it gets a categorical exception or requires an EA. If it's a categorical exemption, in general, then maybe all these questions now on go away. Is there a way of telling that?

MS. LISOWSKI: Not without looking at whatever the lead federal agency's regulations are. We've ended up running into this problem on all -- each of the federal projects. All the projects that the state wanted to see in the '93 work plan, there had to be some federal agency that would take the lead for making sure that there would be NEPA compliance.

MR. PENNOYER: So we need to find the one with the least restrictive compliance....? (Laughter)

UNIDENTIFIED VOICE: You got it. (Laughter)

MR. PENNOYER: It sounds like we're volunteering

MS. LISOWSKI: What you have -- what the Attorney General has outlined is not -- at least some of the federal agencies have considered that. The bottom line is that, on the federal side, there was not complete agreement on the federal legal side what procedure and what you could commit to, and the opinion that came out on -- from the federal legal team to the federal Trustee

Council is a more conservative approach, making sure that at the time you are making your decision to commit funds that you have NEPA compliance. The object in the mandate of NEPA is that you have, at the time that you're making your decision, you have effects analysis of how that decision is going to affect the environment.

MR. COLE: I mean -- Can I resist saying that virtually every environmentalist in the world supports this acquisition. (Applause)

MS. LISOWSKI: I don't disagree with that. It's a matter of complying with the law.

MR. SANDOR: Any further comments or questions. Yes, Mr. Pennoyer.

MR. PENNOYER: I think probably there's some exceptions in exactly how it's configured and carried out, and which pieces are purchased, and so forth, because I don't think all that is entirely clear to me yet. But, probably, we could get consensus in this group that this -- some part of this -- some approach to this is a viable thing to do. As I said before, some of us might have committed to that a couple of meetings ago -- to the process -- and getting started on it. Is there any way that we can commit here today to a process, something along the line Mr. McVee said, of agreeing to this concept, and fleshing it out better, including the NEPA requirements, to come back at the January meeting and approve it. In other words, this -- we -- in January, we're probably going to approve the checkbook -- we haven't decided that yet, it's got

\$20 million in it, more than \$7½ million, \$20 million in it -- and we'll want to have identified the projects and we'll have a checkbook with a bunch of money in it once the court gives it back to us, of course, and -- the impression here is that the signal we'd like to send is stronger than just in January we're going to take the \$20 million and consider a bunch of different projects. I really think something in here, maybe all of it, maybe part of it -- I don't know how it's going to end -- has a high priority, and we would like to -- I don't know if we would here -- how it's going to turn out, but I think we'd like to commit to that type of concept here, more than just saying, well, it sounds like a good idea, let's take it up in January. What can we, under legal requirements, do here?

MS. LISOWSKI: It would be the same approach that we've suggested by used for any of the other projects

MR. PENNOYER: ... (inaudible interruption)

MS. LISOWSKI: Initially look at, see if it meets your restoration criteria. If it does, then you can go forward and fund whatever portion you need to do the NEPA compliance work. Once the NEPA compliance work is done, come back and fund the full project.

MR. PENNOYER: Would you have an estimate of what type of NEPA compliance funding we'd even do for a project like this?

MR. RICE: Mr. Chairman?

MR. SANDOR: Mr. Rice.

MR. RICE: Department of Agriculture regulations allow for categorical exclusions for small tracts and exchanges

between agencies. I don't think our regulations would allow -- I don't know if our regulations would allow for a categorical exclusion for something of this size. That's something I'd have -- we'd have to look into a little more. I would suspect it would an EA at the most for this action, and based on just my understanding of what some of the issues might be, I don't suspect it would be a large document or take a tremendous amount of time.

MS. LISOWSKI: Or funding.

MR. RICE: Or funding.

MR. PENNOYER: If you gave us an estimate and we committed funding to it -- I'm not sure Mr. Cole's going along without the committed funding to it -- if -- at least we would have made a specific representation, more than just saying we'll take it up in January.

MS. LISOWSKI: You've definitely given the signal that the project meets your restoration criteria and that you're committed to pursuing the action, assuming there is no environmental effect.

MR. COLE: Per se, there is an environmental effect.

MS. LISOWSKI: No significant negative effect.

MR. PENNOYER: If I have to do an environmental assessment, I promise you I'll do it, but if it's

MR. SANDOR: The Chair had a question, but are there any other questions or comments? It's always been my experience that with some points of law it was helpful sometime to have opinions of different attorneys (Laughter) and somewhere there

was usually room for difference of opinion. You yourself acknowledge that -- that the position you describe as the most conservative?

MS. LISOWSKI: I do indeed, and I guess I can state for the record that this was not necessarily the way the Department of Agriculture saw this, but based on my colleagues on the other federal agencies, this is the more -- the recommended course of action.

MR. SANDOR: Can we, just as a point of clarification, have an understanding on the motion, which I thought had many qualifications within it, that really provided the kinds of answers to the questions the conservative legal opinions have raised, namely that one, this was a commitment of the Trustee Council to allocate \$7.5 million out of the settlement funds for the acquisition in fee of imminently threatened critical habitat that met the requirements of restoration of damage of resources and services. So that the whole question of -- of allocating monies other than imminently threatened or critical-damage resources and services, you know, isn't an issue, but that this process also took place over a period of up to December of 1993. It was to have applied in part with the funds allocated from the Alyeska settlement of \$7.5 million, and the total amount of money of \$22 million for the estimated value of the in-holdings, with the balance of the \$15 (million) to be acquired -- sought from the \$50 million criminal settlement funds covered in part by HB411, and possibly from the general fund, in part. I guess the motion was

with this qualification that these monies are allocated for the purpose of beginning that process. And with all those qualifications, and I'm thinking as I was listening to the requirements that the conservative legal points that have been raised, that those were accommodated. But, it's your professional judgment that -- that this does not meet this test? I guess I -- I'm just really seriously troubled at this, because partly it is a matter of the chick -- chicken before the egg or the check before the whatever (Laughter). Maybe if I keep going, who responds -- Mr. Barton might respond.

MR. BARTON: Yes, Mr. Chairman, let me just give Maria an opportunity to collect her thoughts here and remind you of a remark -- the remark I made this morning, and that is that the process that has been recommended to the federal Trustees in regards to the funding of projects and their relationship to NEPA and NEPA compliance, is not necessarily -- is not one that is common to all three federal Trustee agencies. In fact, the three have different policies in that regard. What we had recommended to us is a process that meets all three, so -- that there is difference between the three federal departments and their policies in this matter. But the policy that was recommended was one that meets the policy of all three, of course.

MR. SANDOR: I see. So then -- in effect then that -- the counsels for the different departments have -- might reach different conclusions on this very question on the table.

MR. BARTON: If those counsels were looking at this

strictly from their department's viewpoint, yes. That would be what I would expect. I understood that this was also discussed with state counsel, so -- perhaps I'm in error, but that was my impression.

MR. PENNOYER: Mr. Chairman, Mr. Barton, even though it differed between the three agencies though, if one federal member couldn't vote because of that restriction, you couldn't pass the motion, so I'm not clear it makes any difference that there are three different.

MR. SANDOR: On the other hand though, that was Interior -- but that the qualification that you have made -- you've -- I understood -- could overcome that hurdle.

MR. McVEE: I was hoping it could, yes. I -- I haven't had an opportunity and I was sort of suggesting that I might do that if we had a break here before we have to vote.

MR. PENNOYER: somebody else say that.

MR. SANDOR: I guess I must confess that in order to keep the pressure on but (Laughter) but I have -- do you have any further comments before we break?

MS. LISOWSKI: Well, the question was raised whether we informed the state of our collective opinion, and, in fact, we did, and to my knowledge we received no negative sentiment on the part of the state.

MR. PENNOYER: How would the state argue with you. I mean -- if you say the requirement of a federal agency is to do thus and such, what would the state have to that ...?

MR. COLE: You want it now? (Laughter)

MS. LISOWSKI: I think we've heard the negative.

MR. BARTON: ... to the various agencies (inaudible)
... as witnessed some (inaudible) that were served in this forum
... (Laughter).

MR. SANDOR: Any further comments?

MS. LISOWSKI: None.

MR. SANDOR: Well, we thank you for your opinion.
Attorney General Cole, you want to make any comment before we break
for a variety of purposes? No disrespect to the state, 'cause as I
-- my talk with Craig Tillery and other members of your staff, it
was within the framework and met both federal and state
requirements, and -- I don't know whether Alex or Craig has any
other -- right now -- but in any case, are there any comments
anyone wants to make before the break? We will break at quarter to
-- five minutes. I just want to be sure we're going out for
discussion without everything on the table.

We'll reconvene then at 3:15.

(Off record: 2:40 p.m.)

(On record: 3:40 p.m.)

MR. SANDOR: The Exxon Valdez Oil Spill Settlement
Trustee Council will reconvene at this time. I apologize for the
delay. We had a teleconference that was scheduled from 3:00 to
3:30, and I wasn't really trying to keep the pressure on when I
kept delaying -- but rather to try to accommodate that
teleconference on a different subject.

The issue before the floor -- on the floor -- on the table -- is a motion to have the Trustee Council commit the expenditure of \$7.5 million for the acquisition of critical habitat within Kachemak Bay State Park that's imminently threatened that meets all of the restoration enhancement provisions of the settlement agreement, and that are in -- complete requirements of the National Environmental Policy Act over time, and that this expenditure be approved for allocation through -- up to December of 1993, in association with expenditures -- monies allocated from the Alyeska settlement and from funds anticipated from the criminal settlement monies and, perhaps, the general fund. So that's -- the motion on the floor. Is there any further questions or comments on the motion before the floor? Mr. -- Curt McVee.

MR. SANDOR: Yes. Thank you, Mr. Chairman. You know over that long recess I found very little relief (Laughter) from the legal position, I might say, that we had to take. I'm going to have to vote against the motion, and I'm going to offer up an alternative that I think would accomplish some of the things we're trying to do here. I -- I could do that now for discussion purposes

MR. PENNOYER: If you have an amendment to offer, you can move to amend the motion. If you want to vote against the motion

MR. COLE: Mr. Chairman?

MR. SANDOR: Yes.

MR. COLE: I'll make a suggestion, if I may.

MR. SANDOR: Mr. Cole.

MR. COLE: In order to -- if we can reach unanimity here, I will at this time withdraw the motion with the consent of the second.

MR. SANDOR: Mr. Rosier? who seconded.

MR. ROSIER: I agree.

MR. SANDOR: If I may, Mr. Chairman, then, offer up this motion. I move that the Trustee Council agrees that the acquisition of approximately seventy-five hundred acres of the imminent -- imminently threatened lands in Kachemak Bay State Park meets our restoration criteria. The Trustee Council approves the expenditure of up to seventy-five hundred -- seventy-five thousand dollars (\$75,000) for the completion of NEPA documentation for spending \$7½ million to acquire the approximately seventy-five hundred acres of imminently threatened land in Kachemak Bay State Park. The Trustee Council approves the designation of the U.S. Forest Service as the lead agency for ensuring that appropriate NEPA documentation is completed. The Trustee Council requests that appropriate NEPA compliance be completed as soon as practicable so the Trustee Council may then take final action.

MR. COLE: I'll second that motion.

MR. SANDOR: You have heard the motion, and it's seconded by Attorney General Cole. Is there any discussion of the motion? Mr. Pennoyer.

MR. PENNOYER: Just one question, Mr. Chairman. Mr. McVee, in terms of the ability to vote the package relative to NEPA

compliance then, through you that the NEPA compliance will come before us at the January meeting, and the final vote will be taken at that time?

MR. McVEE: I would hope that we would reach that point, yes -- that we would have it by that time.

MR. SANDOR: Any other comments or questions by any members of the Trustee Council?

MR. COLE: Mr. Chairman, I would like to say I think that the motion probably is in order and maybe we got a little ahead of our process, but I'm satisfied with the proposal offered by Mr. McVee.

MR. SANDOR: Mr. Barton, you have a comment or a question?

MR. BARTON: I have a question in regards to being designated. (Laughter) I really truly do appreciate the vote of confidence, but I think it needs to be clear that the Forest Service designation is simply that of ensuring the compliance with NEPA, not actually doing the NEPA documentation. As I understand our procedures, the proposing agency would actually do the NEPA work. The federal agency, in this case the Forest Service, would certify then that it had -- it was an adequate document and that the project was in compliance with NEPA. With that understanding, Mr. Chairman, I would agree to the motion.

MR. SANDOR: Are there any further questions or comments regarding this motion? Since the motion is written, how about re-reading it, just to make certain that we understand it?

Mr. McVee.

MR. McVEE: I move that the Trustee Council agrees that the acquisition -- acquisition of approximately seventy-five hundred acres of the imminently threatened lands in Kachemak Bay State Park meets our restoration criteria. The Trustee Council approves the expenditure of up to seventy-five thousand dollars for the completion of NEPA documentation for spending \$7.5 million to acquire the approximately seventy-five hundred acres of imminently threatened lands in Kachemak Bay State Park. The Trustee Council approves the designation of the U.S. Forest Service as the lead agency for ensuring that appropriate NEPA documentation is completed. The Trustee Council requests that appropriate NEPA compliance be completed as soon as practicable so that the Trustee Council may then take final action.

MR. SANDOR: Is there any final comments or questions on the motion? Mr. Cole.

MR. COLE: Could we fix that a date, but no later than, so we don't find this drifting off into oblivion. I should think -- I -- therefore, I move that we add to the motion that the NEPA compliance be completed no later than January 5, 1993. They (inaudible) least -- more than a hundred days to get this done, let me tell you. And, therefore, one of the reasons for fixing that date, obviously, is that we'll then be in a position to submit the project to the Public Advisory Group for further blessing.

MR. SANDOR: Is the -- this is a suggested change, not a formal amendment. Mr. Barton has a question or comment.

MR. BARTON: The Forest Service is so intimately involved in this thing, I'd like to give my counsel an opportunity to say something. She's squirming back there.

MR. SANDOR: Please step forward, please, and speak into the microphone.

MS. LISOWSKI: Well, there's certain public notice requirements that would come into effect here with NEPA, which may not make it possible to meet that deadline by January 5th. Believe -- we at least have to have 30 days' public notice -- informing the public of the proposed action and certain scoping requirements.

MR. BARTON: We'd be pleased to pass that notice right along as soon as we got it from the agency that's the proponent.

MR. SANDOR: Mr. Pennoyer.

MR. SANDOR: Does that make it unlikely then that we could vote on it -- on the final action at the end of January? It would have to be done before December -- before Christmas, wouldn't it?

MS. LISOWSKI: It depends on how quickly the state acts to get its NEPA documentation together.

MR. COLE: When is the next meeting, by the way?

MR. PENNOYER: We haven't decided that.

MR. COLE: Right after the ... (Laughter)

MR. SANDOR: The Public Advisory Group meeting is May -
- January 6th, 7th, and ...?

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Yes. Mr. Pennoyer.

MR. PENNOYER: I'm not sure that you'll have to have the NEPA documents done before you send to the PAG. They can still review the proposals on the 6th, and then we can come back and consider it with their recommendation, plus the NEPA compliance when it's finished.

MS. LISOWSKI: Well, they could certainly get the information just as everyone else does through the scoping process.

MR. SANDOR: Would the maker of the motion, Curt McVee, and the second, Attorney General Cole, agree to simply add the phrase "as soon as practicable" or some specific date -- some specific date like the end of January or February 1 or our meeting date? Or our next meeting date, we could accomplish two things. One, essentially not have our next meeting until this thing is nailed down, or have something that expresses the sense of the Trustee Council completing this as soon as possible, as soon as we can meet these NEPA requirements. Mr. Pennoyer.

MR. PENNOYER: Mr. Chairman, from both those standpoints, I'm still not clear on how long it's going to take, either in terms of deciding when the next meeting might be or we get it to the PAG.

I think -- the PAG can just get the proposal. They don't need the NEPA documents. I understand the 30-day notice -- scoping is part of that? Or has to occur before that, and how much scoping? Scoping in the sense we're sending it out or....?

MS. LISOWSKI: Informing the public of the proposed action, and scoping serves the purpose of coming with what the issues are that are involved in the proposed action. It's -- it's

simply a matter of a means of getting public information on what they think should be done with the proposed action.

MR. PENNOYER: Mr. Chairman, does that require holding a series of hearings, sending out a notice in the paper? I mean, we generally know, I think, the reaction in -- in many ways to this project. We've got a lot of public testimony on it. But we do, I think, need to know what the total costs -- the state has to know when they might get it done by. We have to know how long it's going to take on top of that and -- Mr. Rice is going to tell me.

MR. SANDOR: Mr. Barton.

MR. BARTON: Mr. Chairman, I think it's difficult to sit here in this room today and predict when we're going to be done or pick a date when we're going to be done. I think that the proposing agency needs to look at the necessary procedures -- required procedures -- and determine how long it's going to take to comply with those procedures, and then at the end of that, there's got to be a small amount of time for the time to go through some sort of certification process in terms of its adequacy in meeting the requirements of NEPA. That doesn't need to take very long, but it does need to be some time to have been for that. So, I don't know what to say in terms of when it's going to be done, but I think we -- all of us understand our intent in getting on with this thing, with due diligence, and if we have to pick a date, I suppose we could pick one, but I think it's pretty tough to do that without some discussions occurring between the proposing agency and the certifying agency.

MR. SANDOR: The motion, as stated, does not have a time target on it, and unless there's an amendment to the motion, we will call for the question on the basic motion. Is there a call for the question? All those in favor of the motion that was stated, signify by saying aye.

COLLECTIVE VOICES: Aye.

MR. SANDOR: Is there any opposition ?

MR. COLE: I'm abstaining.

MR. SANDOR: The motion passes without objection. Any further comment on this subject or the process. I think we'll be able to deal with the obvious frailties, deficiencies, and whatnot, in organization, etc., etc., etc., later. Let's move back to the -
- anything more on habitat protection?

Okay. We move back then to item four on the agenda, the restoration plan, the report of John Strand, and the progress report on the action taken during the -- and since the noon hour.

DR. GIBBONS: Mr. Chair?

MR. SANDOR: Yes.

DR. GIBBONS: We're going to have to recess before 4:15 to hook up the teleconferencing sites, so I've got a suggestion for the Trustee Council -- for them to take a quick look at the revised schedule for getting a final plan, and that it's going to take longer than ten or fifteen minutes to run through this outline. If -- if I can send that out under a cover letter to you folks for comment back by mid week -- next week, and then finalize it that way, it might streamline the process some.

MR. SANDOR: Except, Dr. Gibbons and fellow Trustees, judging from the comments made when the subject was discussed prior to the -- to noon -- can we have for the record the absolute assurance that the proposal to not complete the restoration plan and the accompanying environmental impact statement as projected to February 1994 is unacceptable, period?

DR. GIBBONS: Yes, yes. We have a revised schedule we'd like to pass out.

MR. RICE: Mr. Chairman?

MR. SANDOR: Yes.

MR. RICE: Do you want me to briefly go through this and give you the underlying assumptions on this.

MR. SANDOR: Please do. This is a revised schedule for the restoration plan and environmental impact statement. Are there copies for others?

MR. RICE: There should be. There was an earlier draft that had one typographical error, and I'll point that out for people who picked up an earlier copy.

MR. SANDOR: Please proceed and summarize as quickly as you can.

MR. RICE: Basically, this timeline gets us to a completed restoration plan and environmental impact statement by the end of calendar year 1993. It requires -- in the bolded headings that you have in there are basically Trustee Council decision points. Late February, Trustee Council revises and

approves the alternatives. That presupposes that we would have those to you by January. In May, the Trustee Council would approve the draft restoration plan and draft environmental impact statement. It would then be published and distributed for 60-day public comment period. We do have a date prior to that where we have on March 24 an alternative information package. Basically, what we would do is have available to the public the alternatives, let them know where we're at, at least with the development of the restoration plan, with the realization that any comments to that package would not be able to be incorporated until the final restoration plan. We would go out for a 60-day comment period on the draft restoration plan, revise it in November, the Trustee Council would approve the final environmental impact statement and restoration plan. That would then be published and distributed and noticed -- a Federal Register notice is required on that. There's a 30-day notification period that required by NEPA before any final adoption of a plan of action can take place, so even though you may be able to approve the plan, you couldn't finally adopt it and start implementing it until 30 days after the plan is published and noticed in the Federal Register. The assumptions that we made on this schedule -- one, that the volume one restoration framework document constitutes the scoping document for compliance with NEPA.

The second assumption is if the EIS team will receive alternatives prior to Trustee Council approval of the those alternatives. That we would get those alternatives to the -- to the EIS team in January so that they could start their analysis. The March 24

information package and associated public involvement -- again, as I said, they would not be able to incorporate any changes or suggestions that we receive from the public on that until the comment period closed on the draft restoration and draft EIS, and the last assumption is that the Trustee Council can take a vacation between Christmas and New Year's of next year.

MR. BARTON: Mr. Chairman?

MR. SANDOR: Is there any questions or comments on this? Mr. Barton.

MR. BARTON: Yes. It's -- it's not clear to me what the alternatives information package is and what it's supposed to do, and what impact it has on the timeline. Could you clarify that?

MR. RICE: We would hope that the information package would not have a signi -- any effect on the ability to complete the restoration plan or EIS. Basically, it would be a package we send out to the public with the alternatives as we them developed to the point that the Trustee Council has approved them. And we distribute them to the public, basically, saying here's where we're at with the process, without providing us the opportunity to fully analyze those comments as they come back in and make any significant changes before the draft restoration plan came out.

MR. BARTON: Mr. Chairman?

MR. SANDOR: Mr. Barton.

MR. BARTON: If that were eliminated, would that shorten this timeline?

MR. RICE: I don't really think so, and I think it's the consensus of the Restoration Planning Work Group and most of us that worked on this schedule, that it would not signi -- it would not really change the schedule. We -- we took out the -- basically, we saved a lot of time by not going into a formal analysis of comments received on -- where this date had the first draft of the restoration plan going out and a very -- very formal public involvement period with analysis of comments, and we took that out of the schedule. So, we would take the comments as they came in, and basically use those to revise the draft, but it would give some public involvement before the start of the fishing season.

MR. SANDOR: Any further comments or questions?

MR. COLE: Mr. Chairman?

MR. SANDOR: Yes, Mr. Cole.

MR. COLE: What are we doing with this today? Are you saying we're just looking at it or are we supposed to take action?

MR. SANDOR: The expectation of the -- Dr. Gibbons and the Restoration Team is what? What action are you anticipating?

DR. GIBBONS: This is -- this is an informational schedule that you can hold us to.

MR. SANDOR: Well, does that answer your question ...?

MR. McVEE: Mr. Chairman?

MR. SANDOR: Yes.

MR. McVEE: Couldn't we provide comments back if we

have some comments back by the middle of next week on this also? Is that appropriate?

MR. COLE: Mr. Chairman, did you have a comment?

MR. SANDOR: With the time moving on, I have a comment -- yes, I do, Mr. Cole and fellow Trustees. I guess in all candor, this is not much of an improvement in my judgment over the previous proposal, although it does shorten by two months the process. But I guess as demonstrated not only in this continuing schedule of ongoing planning and -- and use of the environmental impact statement process, to meet NEPA compliance, that I see constant signs of opportunities to improve the processes and the way in which we're dealing with issues, and I guess I'm reluctant to -- just as a Trustee not as chair of this meeting tonight -- to give anything that suggests an endorsement to this -- this process. I was hoping, and I do hope that the Public Advisory Group and perhaps someone in this audience or someone who may get this information later, can find a more productive and effective way in which this Trustee Council can do this and other business. It's -- it's a great deal of frustration and in my earlier reference to this that I saw this last evening, and I'm not taking much more confidence here. I guess, however, as a Trustee, I would be satisfied and concur with the actions to comment on this, but I guess if -- if we go onto the next item of opportunity for strengthening organization and process, I hope we can incorporate this as well. So Mr. Barton?

MR. BARTON: Yes, Mr. Chairman, I would hope that we

wouldn't entertain any comments that would lengthen this time in terms of what might be provided for next week -- mid-week next week

MR. SANDOR: Well

MR. BARTON: and then I have one further comment.

Apparently, there's been some confusion or some question as to which sort of NEPA procedures we are following with this, and I thought we had agreed a long time ago that we would use the NEPA procedures of the lead agency, and that whatever NEPA work that was being done and associated with specific projects, and in this case -- and I'm asking -- but in this case, it's my understanding that we are using Agriculture's NEPA procedures since Agriculture is the lead agency. If that is not correct, we need to get that straightened out right now.

MR. SANDOR: Is there any dispute on that understanding that the lead agency will follow its NEPA process, so to speak? Then we are to provide any comments that we want on this -- this is also to be reviewed by the Public Advisory Group for their suggestions. Any more on this particular item?

MR. COLE: Are we going to get to number six before we adjourn?

MR. SANDOR: Yes. Number six. We've moved up to that subject on the agenda. Now, opportunities for strengthening the organization process of this Trustee Council. And we are at about a year anniversary of -- and had good experience -- and -- and that's one of the reasons why this is on the agenda. Any -- any

comments by members of the Trustees, by members of any of the Restoration Team members, or Dr. Gibbons, on the desirability of critiquing the process by which this Trustee Council has been functioning, and to identify opportunities for improvement of the organization and process. Dr. Gibbons, any comments or suggestions?

DR. GIBBONS: Yeah. I -- I've got some notes here on some of my observations on the process. I'm not going to touch on NEPA. I -- we've hit NEPA very hard today, and it is very difficult to deal with. Every time we turn around, we -- we've got a NEPA requirement of some kind that tends to slow the process down, but -- some of my thoughts on strengthening the process is -- I've got four items here that -- the first item, I -- I would suggest that each agency really take a hard look at its role in this process. Look at the people involved with it, look at their role and how they're operating in the process, and I think that might be a real help to -- to the restoration process. A next step too is some more authority should be given to the administrative/executive director. Examples of this would be authority to release information that is not policy in nature to the public and Trustee Council without, perhaps, Restoration Team review. All policies issues must -- should be run through the Restoration Team, but these - this would be non-policy related issues. Perhaps more authority to solve the problems at a staff level than I have now. Rather than picking everything up to the Trustee Council, perhaps some level -- some authority to do that at this level. I think --

I know this isn't going to be welcome, but the administrative director or executive director, I think an assistant position would be extremely helpful. Things tend to build up -- there's a lot of work load at this position, and I think that would help greatly. I think a -- a, perhaps, a budget specialist to help the financial committee, and also the quarterly reports and annual reports that'll be coming up to the Trustee Council, might -- might help. And, lastly, the establishment of some scheduled Trustee Council meetings. Quarterly -- I know Steve Pennoyer is -- has approached me on this, and I think it's a great idea to try to -- after we get the issues and policies ironed out a little bit -- is to have regularly scheduled meetings that the public knows and that you can deal with issues like budgets to OMB and approval of the annual work plans and those types of things. But, those are some of my thoughts on strengthening the process.

MR. SANDOR: Any other comments or questions by members of the Trustees?

MR. McVEE: Yes.

MR. SANDOR: Mr. McVee.

MR. McVEE: Yes. Mr. Chairman. I guess -- giving this some thought over the last several months and kind of watched where we've succeeded and where we've failed, I guess my comments are somewhat similar to -- to Dr. Gibbons -- that I think we should increase the authority and the responsibility of the executive (sic) -- executive director, and play -- the individual would play a very strong coordinating role -- contact with Trustee Council

members themselves, and so on, and that -- provide a deputy that takes care of -- of more of the detail -- maintaining schedule -- developing and maintaining schedules, probably an administrative officer, probably a budget officer, and maybe even additional staff. I think that some of our earlier decisions, while very honorable, I guess, in terms of trying to -- to keep costs down, we may have, in excess, shot ourselves in the foot to some extent by doing that. I would change the role of the RT to one of a more liaison and coordination role versus one of actually like they are doing a great deal of the staff work, and that -- free them up to provide support to their Trustee Council member and to do liaison and coordination. I think that -- but I don't know what additional staff would be needed. I think that might be something that the executive director would have to develop that -- a recommendation or a proposal for us to look at, but I think that we do need some, you know, some fairly substantial changes there that -- that will - - will give us quicker response and facilitate the coordination.

MR. SANDOR: Any other comments at this time. I'm going to say that the Chair, with the agreement of the Trustees, will solicit comments not only as an individual Trustees, the members of the Restoration Team, others that are on staff, Public Advisory Group, the public at large on ways in which the organization process and other operations of the Trustee Council may be improved, and to have those available, given either to the Public Advisory Group or to -- and to the Trustees by the next meeting. Mr. Pennoyer?

MR. PENNOYER: Mr. Gibbons mentioned one thing I have considered and sort of peripherally proposed earlier, and I think we ought to deal with sooner rather than later, we are getting to the stage of maturity now and understanding of the schedules relative to the annual work plans and budgets that I think we should start to schedule quarterly or three times a year meetings.

Now, I know there's going to be other meetings that are needed, but our problem isn't -- continually the fact that we have to schedule around six busy people, and these meetings don't take precedence because the other meetings are set up already by the time we get to the point of meeting. I think if you went ahead and scheduled a year in advance, three or four meetings, put them on the calendar, then everybody here would have to look when somebody else came rushing in and said let's do a conference, let's do this or that, you'll say, I'm sorry I've got a Trustee Council meeting that week. Instead, it's the other way around now. They come in say we need a Trustee Council meeting -- I'm sorry I've got a negotiation, I've got North Pacific Council, I've got something else, and I think this process -- excuse me -- ought to take precedence in the schedule to the point of setting up those meetings ahead of time, and I'd rather do that sooner than later, even though we take -- take more time to develop other aspects of this organization.

MR. SANDOR: Any other comments or observations at this time?

MR. COLE: Mr. Chairman, where are we with the

executive director?

MR. SANDOR: With regard to the executive director, the position description for that has been classified by federal agency, Mr. Barton?

MR. BARTON: Yes. We volunteered to take that on and it has been -- the agreed upon job description, the one that we agreed upon -- I forget exactly when that was -- but last August, has been classified in the federal classification process. The three federal Trustee agencies, as I understand it, jointly classified -- which is probably a first in government -- the federal government anyway. Now, subsequent to that, there's been some changes suggested, both from some of the state Trustees as well as other federal Trustees, and we've examined the changes suggested by the state Trustees and have been told it does not need to go back through the classification for those. I do not have a reading yet on the changes proposed some of the other federal Trustees. And where it is on the state side, I leave to you.

MR. SANDOR: I think Mr. Rosier can report on the state side.

MR. ROSIER: Thank you, Mr. Chairman. Yes. We should have approved at the present time the -- the position description as an exempt position within the state system based on the original position description. So we are at least on track with the federal -- with where the federals are at the present time. I think, you know, in terms of strengthening the organization, it's getting on with a recruitment and getting a -- getting an executive director -- this is certainly no reflection on Mr. Gibbons when I

say this, but we should have had this resolved several months back, but I think we're in a position to move ahead at whatever direction that the council wants to put forth here on advertising at this time, within the state system.

MR. SANDOR: What are the requirements with respect to advertising for the state and for the federal government?

MR. ROSIER: Well, I can't speak for the federal government, but speaking for the state on this, we can -- we can do the advertising either in state or we can do it on a national basis. We've got a network in place to, in fact, to proceed with those procedures.

MR. SANDOR: And the federal side, Mr. Barton?

MR. BARTON: I -- I'm not positive on the federal side. We have talked about a 30-day advertisement originally with this position, and I've just assumed that that's continued to be what we want to do, and I know 30 days is within the parameters of the federal side, but if you wanted to make it one way or another, then I need to check the (inaudible).

MR. SANDOR: The chair would entertain a motion that the federal and state agencies involved, namely Department of Fish and Game, and Department of Agriculture, Forest Service, coordinate the development of a -- an announcement for application of executive director position, and that that be published for it -- for at least the minimum amount of periods of time required by both federal and state regulations and procedures.

MR. PENNOYER: Mr. Chairman, I'm fully in agreement with

that. I'm not exactly sure what we're sending out. I heard Mr. Barton say there were several different descriptions floating around, and -- do we have a common one finally that we've agreed on, or is the state sending out one and the federal government sending out another or what?

MR. SANDOR: Better coordination, Mr. Pennoyer, was the intent of the Chair's request for a -- for a motion -- and in fact that be the same that -- that be sent out. And, indeed, in anticipation of -- of opportunities for strengthening the organization process and perhaps even the role of the executive director, the announcement itself ought to, it seems to me, identify the possibility that the position description would incorporate changes that might manifest themselves in the analysis of how to improve the organization, but it's imperative that the process be the same, and that the announcement be the same, and that would be coordinated between Fish and Game and the Forest Service, with the input from the -- Dr. Gibbons and the staff.

MR. PENNOYER: Mr. Chairman, is that -- imply that we are at sometime during this discussion of organization going to change this and agree upon a new one, or are we going to go back to what we had in August and get it and get going, and then come back and change the duties as we think appropriate?

MR. SANDOR: It was my understanding, Mr. Pennoyer, that in fact suggestions that were circulated and solicited and that, insofar as the classification of the position from the federal standpoint, the position description that was provided for

us in August, and even the changes that were proposed, does not modify the -- the classification of that position. Is that true?

MR. BARTON: The changes that were proposed by the state Trustees do not. I don't know about those that were proposed by the federal Trustees.

MR. SANDOR: I see.

MR. BARTON: I would suggest, Mr. Chairman -- I move that the council license Mr. Rosier and myself to work out this problem, and we'll get on with it.

MR. SANDOR: Is there a second?

MR. PENNOYER: Second.

MR. SANDOR: Is there any discussion on that motion? Any opposition to that motion? (No audible response.) Then the motion passes.

We have now reached the time for public comment period, but we'd like to set the date of the next meeting -- and is this to be a new meeting or a continuation of this meeting?

MR. PENNOYER: Mr. Chairman,

MR. SANDOR: Dr. Gibbons, what's your recommendation?

MR. PENNOYER: ... continuation of this meeting

DR. GIBBONS: My suggestion would be a continuation meeting -- then to deal with the '92 (sic) plan. If you're going to deal with the imminent-threat analysis and the '93 plan in late January or early February, then it could be another meeting.

MR. SANDOR: Do you want to identify a time?

DR. GIBBONS: Well, the timeframe -- the one timeframe

we can't meet is the first week of February. That's the oil spill symposium here in Anchorage, al -- although you could meet February 1st. The last week of January is available, the second week in February -- if that's for the imminent threat. If you would like to meet on the continuation meeting before that to deal with the '93 work plan only, you could also do that.

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Mr. Pennoyer.

MR. PENNOYER: What are the specific dates of the symposium?

DR. GIBBONS: The symposium -- are February 2nd through 5th.

MR. SANDOR: Is there any objection to selecting the last week of January as the target date for a continuation of this meeting?

MR. PENNOYER: Mr. Chairman, if it makes any difference, the last three weeks in January I'm going to be gone, but that's -- I -- I can provide an alternate -- we can discuss it. I can't be here any of the last three weeks of January.

MR. McVEE: Mr. Chairman, I think we have a problem the last week of January.

MR. SANDOR: Identification -- we need a tentative date -- the first week of -- of

MR. COLE: Mr. Chairman?

MR. SANDOR: Yes.

MR. COLE: I -- I think that Mr. McVee, having served

on this council for -- since its inception and having spent a lot of time -- devoted much time to the projects which are before us for the 1993 work plan, I would like to see a -- him participate in -- in the decisions with respect to the adoption or rejection of that 1993 work plan projects. So, therefore, I request that the meeting be held during the second week of January.

MR. SANDOR: This is the week of January 11th?

MR. COLE: Yes.

MR. SANDOR: Any objection to this meeting be held the week of January 11th?

MR. PENNOYER: Mr. Chairman, once again I won't be there, but I do have an alternate.

MR. ROSIER: When could you be there? Could you be there on the 8th of January?

MR. PENNOYER: I -- I could be there on the 7th and 8th, yes. I can't -- the last -- from January 11th, I am told, at least to the 30th.

MR. SANDOR: Yes, Mr. Rosier?

MR. ROSIER: Yeah, I -- Mr. Chairman, I can't -- I can't speak specifically for -- I've got to look at two schedules because -- and I know my schedule will not permit me to be here the first eighteen days of January approximately. My alternate is going to be involved, I believe, in (inaudible) at the same time -- without his schedule, I can't tell you when we can participate at this time.

MR. COLE: Is there any procedure here for the

appointment of a second alternate?

MR. SANDOR: The Chair would entertain a motion that -- that under the circumstance under which the first alternate is not available as well as the designee -- the designated Trustee -- a second alternate be authorized and approved. Is there a motion to that effect?

MR. McVEE: So moved.

MR. SANDOR: It's been moved and seconded by Pennoyer. Any objection?

MR. PENNOYER: We have discussion. The original discussion of alternates was that we wanted to have some feeling and knowledge of who people were and how it was going to work, and they would be identified ahead of time, so it wasn't sort of a rotating process, and we knew -- became familiar with a fellow Trustees. I would say in the process if we feel it's necessary, we should identify that second alternate as much ahead of time as possible.

MR. SANDOR: Is that understanding clear with that motion? Any further discussion?

MR. BARTON: Is this for the purposes of this upcoming meeting or is this going to be in perpetuity...?

MR. SANDOR: For this and any other purposes until rescinded by the Trustees.

MR. COLE: In the sense of the motion, Mr. Chairman, it's if the first alternate is unavailable?

MR. SANDOR: Yes. Yes. Any further comments or

questions on this motion, which is that the Trustees are -- the Trustees are authorized to designate a second alternate for participation in the Trustee Council meetings where the first alternate is not available -- and expected to be in extraordinary circumstance? Any further discussion or comments? Any objection to that motion? (No audible response.) The motion is passed.

Can we -- given that provision -- identify the week of January 11 as the -- the target date for our next meeting, and you'll inform and work with the individuals Trustees in picking that date.

Any further business to come before the

MR. PENNOYER: Mr. Chairman? Yes. Mr. Cole proposed perhaps

MR. COLE: I was thinking here that if we did it on the 7th or the 8th, Mr. Pennoyer could be there, and I believe Mr. Rosier -- is unavailable the first eighteen days, is it? The Public Advisory Group will act on the 6th and 7th, so we should have their response by the 8th. Wouldn't that enable us ...?

MR. SANDOR: The 8th would be -- I will be in Washington, D.C. the 7th and 8th

UNIDENTIFIED VOICE: You will?

MR. SANDOR: ... but I'll have a first alternate available.

MR. COLE: (Inaudible -- laughter and simultaneous talking.)

MR. PENNOYER: I think it speaks to the need for Mr. Gibbons -- Mr. Gibbons to get together a schedule that we can agree

to a year in advance, as it were. We're in '93 already, and we still can't find a meeting date. I think you're going to have a problem. I'm going to be gone that week too.

MR. COLE: Well, let's keep trying.

(Musical interruption)

MR. COLE: Let's get a date, no matter what. If we don't get one before we adjourn, I mean, we'll never

MR. SANDOR: Well, we must meet, obviously, after the 7th because the Public Advisory Group is providing the information on the 6th and 7th.

MR. PENNOYER: Mr. Chairman, I hate the idea of delay, but how about the week of -- what do we lose in terms of the court process in getting the money in time for our March-April period, and if you're reviewing the environmental assessments, we did it the week of February 8th.

MR. COLE: Well, the reason is -- is because I think that Mr. McVee

MR. PENNOYER: I gotcha.

MR. SANDOR: The Chair will entertain a motion for designation of date between January 8th and the 20th for continuation of this meeting of the Trustee Council.

MR. PENNOYER: I guess you go by week and find out when you're going to have the least number of alternates and most principals here. I'm gone all those weeks, so you're going to have to deal with the fact that you'll have one alternate anytime from the 11th on -- and the 8th's out.

UNIDENTIFIED VOICE: The 11th on?

MR. PENNOYER: The 11th on, I'm gone. I've got negotiations -- Washington, D.C., the week of the 11th; I've got North Pacific Council meeting, the week of the 18th; I've a meeting in Vancouver of the Halibut Commission, the week of the 25th. I -- I take that back, I could do it the -- on January 22nd. That's (inaudible). I'm sorry. Can't do it (inaudible). Just go by -- week by week and decide when you are going to have the fewest number of alternates around (inaudible) discussion -- but one alternate, no matter what you do.

MR. COLE: But we know Commissioner Sandor, you're out on the 8th and 9th?

MR. SANDOR: Yes.

MR. COLE: And Commissioner Rosier is out on the 8th and 9th, so those two aren't very good.

MR. PENNOYER: On the 11th, you've got (inaudible) and I both gone. How about the 19th?

MR. COLE: How about the 18th. That's Martin Luther King's birthday. That's a holiday. Could we all get together that day.

UNIDENTIFIED VOICE: I won't be back from the week of the 11th yet.

MR. PENNOYER: I'll be in a North Pacific Council meeting then. They work over the holiday.

(Unidentified inaudible comment -- laughter)

UNIDENTIFIED VOICE: I bet you might not want to be there.

MR. PENNOYER: How about the 19th? Did you decide that wasn't amenable?

MR. SANDOR: The 19th is fine.

MR. PENNOYER: I won't be here, but that's ...

MR. SANDOR: We have one individual who cannot -- you cannot be here on the 19th? There's one person unable to be here. It appears that the best

MR. PENNOYER: Mr. Chairman?

MR. SANDOR: Yes.

MR. PENNOYER: I will be at the North Pacific Council meeting here in Anchorage, like I was this time, and as this time, maybe if I can make

MR. SANDOR: Okay. Is there any objection to the -- January 19th -- continuation of this meeting? This will be continued on January 19th.

MR. PENNOYER: Mr. Chairman

MR. SANDOR: Further ...

MR. PENNOYER: One additional motion

MR. SANDOR: Yes.

MR. PENNOYER: I move that we ask Mr. Gibbons to draft for us a schedule of when he thinks the milestone meetings ought to be in a year, circulate that to us, and each of us before the 19th look at that calendar and find a timespan within whatever the month he thinks are the appropriate times for the quarterly meetings, or whatever, to set these up for the balance of '93 and early '94.

MR. SANDOR: Can you accommodate that Dr. Gibbons?

DR. GIBBONS: Yes, I can.

MR. SANDOR: Any further business to be brought before the -- before we begin the public comment period of this meeting? No further busi -- yes?

DR. GIBBONS: What time would you like to start the meeting on?

MR. SANDOR: As soon as possible. Oh, umm (Laughter). The public comment, how long is it going to take to get cranked up.

DR. GIBBONS: Five minutes.

MR. SANDOR: Okay. Five minutes delay. I anticipated the wrong question. Eight o'clock. Eight o'clock on the 19th

MR. McVEE: Start the meeting at 8 a.m.?

MR. SANDOR: 8 a.m. Okay.

Okay. A meeting on the 19th of January, continuation of this, beginning at 8 a.m. in this room. And we'll take a five minute recess and begin the public comment period at that time. Thank you very much.

(Off record 4:35 p.m.)

(On record 4:45 p.m.)

MR. SANDOR: Dr. Gibbons, would you summarize the actions taken at today's Trustee Council meeting. Dr. Gibbons.

DR. GIBBONS: Yes. The first motion passed by the Trustee Council was to approve the election of the Public Advisory Group officers made at the December 2nd. This is resolution number four. That was approved by the Trustee Council. They directed the

administrative director to convey to the Public Advisory Group

members actions of the Trustee Council concerning all resolutions, and their actions include, one, tabled resolution number one, which is the operating procedures of the Public Advisory Group members. They tabled resolution number two until the next Trustee Council meeting. This deals with working with landowners in the oil spill-affected area. They passed resolution number three which was to delay the approval of the 1993 work plan until after their review - - or after their comment, and they passed resolution number four, the selection of officers. The Trustee Council next dealt with projects that needed NEPA compliance, and they approved funding for two projects. The first project, 93032, which is a Pink and Cold Creek

UNIDENTIFIED VOICE (TELECONFERENCE): We can't hear you in Juneau.

UNIDENTIFIED VOICE (TELECONFERENCE): We can't hear in Cordova, either.

DR. GIBBONS: Can you hear now? Can you hear me at all?
(No audible response)

MR. SANDOR: Inasmuch as the mike on which Dr. Gibbons is functioning may not be operating, can we ...

DR. GIBBONS: It's working.

MR. SANDOR: Is it working?

DR. GIBBONS: Oh, yeah.

MR. SANDOR: Juneau, can you hear the following? Dr. Gibbons?

DR. GIBBONS: Juneau, can you hear me now?

UNIDENTIFIED VOICE (TELECONFERENCE): We can hear you now.

DR. GIBBONS: Okay. Perhaps I should start over on the resolutions...

MR. SANDOR: Why don't you start over.

DR. GIBBONS: the motions passed by the Trustee Council.

UNIDENTIFIED VOICE (TELECONFERENCE): Yes, we'd appreciate if you'd explain those resolutions.

DR. GIBBONS: Okay. The first motion passed by the Trustee Council was to approve the election of the officers elected by the Public Advisory Group members. This is resolution number four. The Trustee Council then directed the administrative -- interim administrative director to convey to the Public Advisory Group members actions of the Trustee Council concerning the four resolutions they submitted. The first resolution was tabled until the next Trustee Council meeting. This had to do with the operating procedures of the Public Advisory Group. They tabled resolution number two until the next Trustee Council meeting dealing with working with landowners in the oil spill-affected area. They passed resolution number three, which is to delay action on the 1993 work plan until the Public Advisory Group had additional time to review and discuss this at their January 6th-7th meeting, and they passed resolution number four as previously described. The next motion -- action that the Trustee Council took was to approve two projects -- funding of NEPA compliance only for

two projects. The first project, 93032, which is the Pink and Cold Creek fish ladder, they approved \$5,000 for NEPA work only, and the second project, 93046, they approved \$3,000 for preparation of an EA for harbor seals. They took one additional action on the '93 work plan when they approve project 93045, the boat surveys for sea ducks and sea otters. They approved that project for a figure \$262,400. The Trustee Council next approved the following resolution: The Trustee Council agrees that the acquisition of approximately seventy-five hundred acres of imminently threatened lands in the Kachemak Bay State Park meets our restoration criteria. The Trustee Council approves the expenditure of up to \$75,000 for the completion of NEPA documentation for spending \$7.5 million to acquire approximately seventy-five hundred acres of imminently threatened lands in Kachemak Bay State Park. The Trustee Council approves the designation of the U.S. Forest Service as the lead agency for ensuring that appropriate NEPA documentation is completed. The Trustee Council requests that appropriate NEPA compliance be completed as soon as practicable so that the Trustee Council may then take final action. The Trustee Council approved the distribution of the restoration outline for review and comment. They also approved distribution of a revised timeline for the completion of a draft -- or completion of a restoration plan and a final environmental impact statement -- for comments. The Trustee Council approved a motion that Mr. Barton and Mr. Rosier coordinate the announcement of an application for -- coordinate the announcement for application of an executive director, using

applicable state and federal guidelines. They approved the continuation of this meeting to be January 19th, starting at 8 a.m. in Anchorage. They approved a motion that under the circumstance that the first alternate to the Trustee Council member and the Trustee Council are not available for a meeting, that the Trustee Council can appoint a second alternate. They passed the motion -- for the interim administrative director to draft a milestone meeting calendar for Trustee Council meetings scheduled for 1993 and 1994. That's the actions of the Trustee Council.

MR. SANDOR: Any additions by any of the Trustee Council members -- actions taken? Any questions -- that individuals on line may have may be queried as we go through the individual communities. We will now then now go through the teleconference sites on line, asking that two individuals be -- testify, and then go through the cycle, ending with Anchorage, and then repeating the cycle.

No one on line at Chenega Bay? At Cordova, anyone on the line?

UNIDENTIFIED VOICE (TELECONFERENCE): Yes. Cordova is on line.

MR. SANDOR: Can you have two individuals, and if they would identify themselves individually as they begin, please.

UNIDENTIFIED VOICE (TELECONFERENCE): Okay. Just one moment please.

MR. BECKER: Yes, my name is Karl Becker. Box 1185, Cordova. Can you hear me okay?

MR. SANDOR: Yes. You're coming in loud and clear.

MS. EVANS: Would you spell your name, please, for us.

MR. BECKER: K-A-R-L B-E-C-K-E-R.

MS. EVANS: Thank you very much.

MR. SANDOR: Please continue with your statement.

MR. BECKER: Thank you. Yes, I'd like to restate that

I -- I strongly urge the Trustee Council to minimize the amount of money that will be spent on administrative duties, hopefully by combining administrative processes in different projects. And I realize that you've tabled the 1993 work plan until your January meeting, but since I won't be here at that time, I'd just like to point that out right now. And I guess I have some questions as to what the rationale was for the funding of it -- that you have done -- for the projects that you mentioned, specifically the NEPA portions and the sea otter projects. Could you explain those to us, please?

MR. SANDOR: Dr. Gibbons, will you respond to the question.

DR. GIBBONS: Yes. The action taken on those three projects, they were time-critical. If the action did not occur within the next month or so, that the project could not proceed as planned in the 1993 work plan.

MR. SANDOR: Any further questions? or comments?

MR. BECKER: Was that also -- also the case with Kachemak Bay, and if so, what is the remainder of the funding for that particular project? Where will that money be coming from?

MR. SANDOR: Mr. Becker, the Kachemak Bay action, the authority to begin the process of completing the NEPA requirements is one to lead to the authorization of \$7.5 million for acquisition of critical habitat imminently threatened within Chenega (sic) Bay State Park, and that the -- the -- excuse me -- Kachemak Bay State Bay, and that the \$7.5 million that was approved in the Alyeska settlement, coupled with the \$7.5 million approved -- the process which was underway here, will be added to or projected to be added to funding from the \$50 million criminal settlement monies, and possibly from the general fund. The target date for completion of the acquisition of -- of lands within Kachemak Bay State Park is by December of 1993. Any more explanations to be added to that? Is that understood?

MR. BECKER: That's understood. Does that mean then that the area of eastern Prince William Sound where logging is actually underway is not considered a time-critical area to have habitat acquisition right now?

MR. SANDOR: This means that because of the -- the study processes that were completed by the Restoration Team, which identified this as critical habitat -- by the Trustee Council -- that this was at the highest priority for protection purposes. The -- the process underway, it is just for Kachemak Bay State Park. The imminently threatened habitat in other areas is under review by the Restoration Team, the Nature Conservancy, and will follow in accord with the work plan for 1993. The thing that made this imminently threatened here was that timber cutting permits were --

were already applied for -- Kachemak Bay State Park -- and this is restricted to that. Mr. Cole?

MR. COLE: I would like to say the answer to that question is, obviously not.

MR. SANDOR: Any other questions on this allocation -- agreement on the -- the Kachemak State Park.

MR. BECKER: Yes. Could you explain what that remark was? Obviously not what? And also I'd to know the criteria by which the council decided that one area was more critical than another area.

MR. SANDOR: Dr. Gibbons, it might be helpful to outline the process by which all of critical habitat is being reviewed. Marty Rutherford is not here. We need to explain that, but perhaps you can do that.

DR. GIBBONS: Yes. The process that we're under right now is to have for the meeting in early February or mid-February, for the Trustee Council, an analysis of the all imminently threatened lands within the oil spill-affected area. We've dealt with Kachemak State Park first. We're dealing with properties in Afognak and Kodiak, also Chenega area, and other parts of Prince William Sound. So, at the February Trustee Council meeting, we will have a anal -- imminently threatened lands analysis for the Trustee Council to deal with. But that's the process we're under right now.

MR. SANDOR: Any further questions, Mr. Becker?

MR. BECKER: Yes. Could you explain why the Nature

Conservancy is only being allowed to -- to examine injured resources?

MR. SANDOR: Dr. Gibbons, it might be helpful to outline the process by which the Nature Conservancy is provided the information through the Forest Service for the initial study last, and the framework of the two studies that were approved by the Trustee Council at earlier meetings.

DR. GIBBONS: Yes. Last year, the Trustee Council approved the development of a habitat protection handbook, so to speak, that was developed by the Trustee Council, that laid out options for potential habitat protection. That's been released to the public and it's readily available. The Trustee Council earlier approved two projects for the Nature Conservancy. One is a collection of best -- collection of information from experts in the area on information concerning the injured resources and services. This includes -- I mentioned services -- they also did, you know, they surveyed people for their knowledge of the area, they produced a document that will be released soon that summarizes that. The second study that was funded is a -- initiation of a collection of a data base, and that's targeted for completion in the spring, and that's basically what the Nature Conservancy is doing. They -- they were not limited to the injured -- the injured speci -- resources only.

MR. SANDOR: Any further questions, Mr. Becker?

MR. BECKER: Yes. Could you give me a breakdown -- a percentage -- as to how much of the Trustees' funds to date have

been spent on administrative purposes versus restoration purposes.

MR. SANDOR: We probably cannot provide that at this teleconference this evening. You should know, Mr. Becker, that the -- in the item that was approved by the Trustee Council to identify ways of strengthening the organization process and other functions of the Trustee Council, that we are going to be looking at that precise item. David, unless you have that information, I presume it will come out of the -- in that review. We do have for the current work plan the -- an allocation of approved funding for the administrative work this. Can you give that?

DR. GIBBONS: Well -- Mr. Becker, if you -- you -- if you get a copy of the 1993 work plan, that is detailed in here in spread sheets right at the front, and you can total up the projects and then total up the administrative portion of the budget, and you can determine that. It's -- it's roughly ten percent.

MR. BECKER: Is that ten percent, to date, or ten percent projected budget for the 1993 work plan

DR. GIBBONS: That's from the 1993 work plan.

MR. BECKER: Can you give me some estimate as to how much has been spent to date on that?

MR. SANDOR: Mr. Becker, I do not believe it will be possible to give a running compilation of that breakdown, to date, but that's one of the items that will be examined in the process of our critique of the work to date. Do you have any additional ...?

MR. BECKER: Okay. I'll be calling Mr. Gibbons and getting that information, if I could. I think there's other people

here who would like to testify right now.

DR. GIBBONS: One quick point on that -- there are detailed budgets at the teleconferencing sites -- probably thicker than you want to see, but there are detailed budgets in -- in Cordova.

MR. BECKER: We haven't received any of those budgets at all, and I also would like to ask that in the future that the teleconference be started during the deliberations of the Trustee Council, rather than at the very end.

MR. SANDOR: Your suggestion will be considered by the Trustees. Any other comments? If not, can we have the second person at Cordova -- and because we have a limited amount of time, try to keep your comments under five minutes.

MS. BULLER: My name is Jeanine Buller. I am Acting President of Cordova District Fishermen United and also chairperson of the pound division. I am concerned about four different projects that are time-critical. Two of them -- am I coming in clear enough.

MS. EVANS: Yes, you are, but Jeannie would you please spell your name for us. Thank you.

MS. BULLER: Yes. My spelling is J-E-A-N-N-I-N-E
B-U-L-L-E-R.

MR. SANDOR: Please proceed with your statement. Thank you.

MS. BULLER: Thank you. Yes. My four projects that I'm concerned is -- they were all four left out of your 1993 work

plan, and we would like to see them put back in. All four of them are time-critical projects. Two of them are herring spawn deposition -- studies that need to be done, and it has been stated in all of the injury studies that these are two critical years, 1992 and '93, are critical years to be studied to find out the injuries to the Pacific herring. The other two projects are salmon-tagging projects that were deleted. One is project 93003, pink salmon egg to pre-emergent fry survival in Prince William Sound, and project 93004, documentation, enumeration, and preservation of genetically discrete wild populations of pink salmon impacted by the EVOS in Prince William Sound. I would like to know why these were dropped from the 1993 work project and would like to see them reinstated.

MR. SANDOR: Your request that they be reinstated will be considered, not only by the Trustees and the Restoration Team, but the Public Advisory Group, which meets January 6th and 7th, will also have your recommendation.

MS. BULLER: Okay. I'm sure the council is aware how time-critical these studies are, particularly the herring -- the Pacific herring projects. We're coming up on the season here real quick, so if action's going to be taken, it better be soon. Thank you for your time.

MR. SANDOR: Thank you very much. Moving on to Fairbanks. Do we have two individuals there that would like to testify? Would you please state your name and spell it please? Anybody on line? No one. How about Juneau? Anyone on line there

that would like to speak, please state your name, spell your name, and we would like to have two people testify if they are available at that point.

MR. THOMA: Mr. Sandor, there is one person here in Juneau. My name is Chip -- C-H-I-P -- Thoma -- T-H-O-M-A. I have a -- I think I'll put my comments as far as these specific projects on paper. There's no sense in going through all these now, since you folks have probably properly postponed deliberations on this work plan til the restoration plan is somewhat in shape. I had good news today from the Clinton transition team that Mr. Christopher has taken some direct personal interest in the actions of the Trustee Council and the hiring of permanent, and I urge Mr. Rosier and Mr. Barton to make sure to let the transition team and Mr. Christopher's office in Washington and in Little Rock know about your deliberations and your advertising for a permanent staff position. I think it's real important that the new administration be aware of what you folks are up to. I think my only comment will be the recent settlement with the state and Alyeska, and I'm very concerned that the settlement was far too low. I think it's about a half a billion dollars too low as far as the liabilities of Alyeska as far as the oil spill, and I made a lot of calls this last week to DOT, to the engineering division and also to the commissioner, asking if they aware of the projects that have been detailed in the settlement, and with the exception of Shepherd (ph) Point outside of Cordova, neither DOT or DEC's oil spill response group were aware of the plans for Chenega and Tatitlek. There was

concern within DOT because they have a flagship ferry on paper that they're proceeding to construct that's going to be used as an oil spill response vessel should this occur again, that there should be some coordination that these docks are going to have to meet up to the ferries, and things are going to have to be done by spec, and I'm a little concerned, at least as far as some of the editorials go, that there's protected state fund that's being set up, and all this is being done in lieu of any kind of -- at least as far as I know -- in lieu of any kind of legislative oversight, and I think I'll end my comments there. If Mr. Cole's got any comments on that settlement with Alyeska, I'd appreciate hearing them.

MR. SANDOR: Thank you, Mr. Thoma.

MR. COLE: Yes, Mr. Thoma, I would like to respond in this fashion. You know about -- about as much of the settlement value of the state's claims against Alyeska as I know about the hydrogen bomb.

MR. THOMA: I think that's a very flippant remark, and I -- I expect it from you, Mr. Cole.

MR. SANDOR: Any other comment from Juneau? I guess that completes the -- the public comments from Juneau. May we go on to Homer. If anyone is available for testifying there, please state your name and spell it, please.

MR. ARCHIBALD: Excuse me, this is Homer. This is Robert Archibald speaking. R-O-B-E-R-T A-R-C-H-I-B-A-L-D. I'm the co-chairperson of the Kachemak Bay Citizens' Coalition, and for those of you who may not be familiar with this group, we were

formed five years ago when the imminent threat of logging Kachemak Bay State Park arose. Since that time, we have probably disseminated over a hundred thousand leaflets of information, trying to get this state park buy-back done. I certainly applaud what the Trustees have done as far as making this a reality. I'd like to know what this National Environmental Public (sic) Act bring into the picture here, and I'm wondering if somebody could described that for me?

MR. SANDOR: Thank you, Mr. Archibald, for that question which probably would be echoed by a number of people, but Dr. Gibbons, why don't you (Laughter) ... summarize that please -- not the whole Act. In 1970, the National Environmental Policy Act was passed requiring environmental assessment or environmental impact -- formal environmental impact statements, and the Act proscribes a very specific process by which this assessment is made, and if it's a major federal action or a major action that impacts the environment, the -- or is controversial, then a formal environmental impact statement must be made. That's a layperson's thumbnail sketch. Do you want to add anything, Dr. Gibbons? Anyway, this has been a significant issue to deal with here because there's some variations between interpretations of requirements between the third federal agencies represented on the Trustee Council. The state, of course -- of Alaska -- have to be in compliance. I will say that unless the process of meeting NEPA requirements is correct, both procedurally as well as substantively, it's subject to legal challenge. So, it's a matter

not to be taken lightly, and as a consequence, the -- the Restoration Team and the Trustee Council and the Public Advisory Group is going to want to look at this issue very seriously, and so the whole purpose of the discussion and our action here today with regard to beginning the process of -- of acquiring Kachemak Bay State Park in-holdings -- to be in compliance and to meet both the process as well as the substantive requirements of that Act. Any further comments or questions from -- from Homer, Mr. Archibald?

MR. ARCHIBALD: I guess the timeline you were looking at on this was December '93, is that correct?

MR. SANDOR: Yes. Our expectation is that this \$7½ million, coupled with the \$7½ million from the Alyeska settlement, coupled with monies from the -- the criminal settlement monies, plus the general fund would be within the \$22 million that the land has been valued. Mr. Cole, do you have anything to add to that?

MR. COLE: Yes. I would like to say that one of the reasons that date was selected is because if it becomes necessary to seek a legislative appropriation from the state \$50 million criminal settlement monies, the legislature might not enact such legislation until June, and maybe it's another 60 days before that appropriation becomes effective. So, we were really looking at September in that event. That's the reason we selected that date.

That's not necessarily intended to be the date by which we intend to complete the acquisition, if we're able to do it. It's simply an outside date for the completion because we wanted to put some limitation on the availability of those funds. Thank you.

MR. SANDOR: Any further comments, Mr. Archibald?

MR. ARCHIBALD: Our coalition is certainly happy to see this coming to pass, and it certainly makes no other threatened habitat less important. However, this issue has been going on for almost twenty years. We, in Homer, we certainly like to see it wrapped in the -- thank you very much.

MR. SANDOR: Your comments are appreciated. Are there -- is there anyone else at Homer that wishes to make a statement at this time?

MS. HILLSTRAND: Yes. This is Nancy Hillstrand. H-I-L-L-S-T-R-A-N-D. And I also would like to thank you very kindly for the money to purchase this land in Kachemak Bay State Park. I'm also very happy to hear that you plan to look at Prince William Sound, Kodiak and Afognak islands for habitat acquisition -- if I heard you right, I think, in February -- is that right?

MR. SANDOR: That's correct. All threatened -- all -- all habitat that's proposed or considered to be threatened.

MS. HILLSTRAND: Yeah, okay. I'm -- I'm really glad to hear that because I do still feel that the habitat acquisition is the highest form of protection we can get here. And one thing I do not appreciate is some of these projects listed which will spawn low returns on the money that's put out, and there seems to be a lot of pork barrel, if you mind me saying so, in this -- this 1993 book. A lot of them seem to be conducted by the agencies, and I wonder whether some of them are just put in place to enhance the agencies or to enhance the things were in trouble because of the

Exxon Valdez. I wonder, with the studies, whether they are scientific or not, shouldn't they be -- shouldn't they go out for competitive bid?

MR. SANDOR: That question has been raised before Ms. Hillebrand (sic), and I under consideration by not only the Trustees, the Restoration Team, but by Public Advisory Group, and the option of -- of looking at competitive opportunities for doing studies is being considered.

MS. HILLSTRAND: Yeah. Okay. Well, thank you very much. I appreciate that. Can I write my comments 'cos I do have a lot of different comments on the different projects, and I know you don't have time right now, 'cos I imagine you folks are pretty numb by now after a long day.

MR. SANDOR: Those comments would be appreciated. It would be helpful if they were received before January 6th, so that copies could go to the Public Advisory Group that is going to be looking at these things in great detail.

MR. SANDOR: We will move to the Kenai Peninsula, Soldotna -- and no one there. So at Kodiak, anyone there?

MR. MALLOY: Thank you, Mr. Chairman. My name is Larry Malloy. I'm with the Kodiak Regional Aquaculture Association. My name is spelled M-A-L-L-O-Y, and our address is Box 3407 in Kodiak. We're a salmon fishermen's organization, comprised of over -- about 600 members, and would like to point out that we're very active in rehabilitation of depleted or depressed salmon stocks and also active with the development of supplemental salmon production

throughout the Kodiak area, and especially on Afognak Island. And I guess, Mr. Chairman, at this point, we would like to reiterate our whole-hearted support for the following list of proposed projects recommended by the Restoration Team, and with the special emphasis, Mr. Chairman, on the Red Lake salmon restoration and mitigation proposals, namely projects 93030 and 93031, respectively. The --the Red Lake sockeye salmon stock is of major importance to -- major importance to Kodiak's commercial salmon fishermen and has becoming more so for the rapidly expanding sport fisheries that we're seeing on this system. The projected potential for lost sockeye production from this system due to the heavy over-escapement experienced in 1989, when Kodiak's salmon industry was shut down, would result, we feel, in very significant economic hardships for all the users of this system. And additionally, the Red Lake sockeye salmon stock is of major, major importance to the very large bear and eagle populations which inhabit the Red Lake drainage in the Kodiak National Wildlife Refuge. Also, Mr. Chairman, project number 93002, sockeye salmon overescapement, is another project we support very strongly because of the overescapement experienced in other Kodiak salmon systems in 1989. We also support project number 93032, which is the Cold Creek pink salmon restoration on several of Afognak Island's systems. One other thing, Mr. Chairman, proposed project number 93051, the stream habitat assessment, is very -- very -- is being supported on the basis of habitat protection. From our standpoint, our association, again, has been investing in salmon rehabilitation

and enhancement projects at several locations on Afognak Island for several years, and we're definitely concerned about protection for the salmon spawning, and particularly salmon-rearing habitat found in those coastal, mature spruce-forested areas and grassland areas of Afognak Island, and we'd like to emphasize that habitat protection for Afognak Island is, in our minds, time-critical. And, finally, Mr. Chairman, we very, very strongly -- would like to support project number 93064, which could -- excuse me, which would encompass those situations that the Trustee Council has determined represent imminently threatened habitat, and particularly -- in particular those tasks which provide for the acquisition of fish weir sites. We feel very strongly that these sites are crucial for continuing of monitoring of salmon trout and char stock status on those major system directly impacted by the EVOS. Mr. Chairman, our organization wishes to thank -- thank the council for this opportunity to really convey our thoughts on these proposed projects, and we will be providing written comments prior to the January 6th date. Thank you very much.

MR. SANDOR: Thank you, Mr. Malloy, and we do appreciate the specificity of your comments. We would like to have them in writing, and anyone else on conference lines, so these can be transmitted to the Public Advisory Group, which meets January 6th and 7th. Mr. Cole?

MR. COLE: Mr. Malloy, there have been objections to those projects on the grounds that disease from these -- what -- hatchery stocks, I guess, could adversely affect the wild stocks in

Red Lake. There were two comments to that effect in connection with 30 and 31, would you mind expressing your views on that?

MR. MALLOY: Yes, Mr. Chairman, I'd be more than glad to. While I suppose you are aware, the State of Alaska has some very explicit and, the way I understand it, maybe some of the strongest fish pathology requirements in the United States in terms of hatchery outstockings, and, currently, our organization is conducting egg takes in a depressed sockeye system on Afognak, namely Malina -- Malina (ph) Lake system, and we're doing egg takes in that system, we're hauling the eggs into a hatchery, we're using the very specific state guidelines for incubating those hatcheries, including isolation, through modulation -- modulization of the hatchery, and the latest -- the latest hatchery husbandry techniques to ensure complete compliance with state pathological guidelines, and then we'll -- following hatching, outstocking those juveniles back into the lake, and in conjunction with that we're fertilizing the lake to broaden and -- and enhance the food base to jump-start the -- that nature stock back into -- into production. We're doing that over a five year basis, and the state feels -- well, the way I understand it -- they feel strongly that's a legitimate and proper activity. We're also contemplating doing that on a couple of other stocks. We felt that the -- the proposed project for Red Lake was consistent with our current activities there, Mr. Chairman.

MR. SANDOR: Thank you. Is there any other questions from the members of the Trustee Council or comments? Is there a

second person that would wish to testify at -- or provide comments at Kodiak?

MR. PETRICH: Yes, there is. Can you hear me okay?

MR. SANDOR: Yes. You're coming in loud and clear. Please spell your name.

MR. PETRICH: My name is Craig Petrich, and the last name is P-E-T-R-I-C-H, and I represent Kodiak Audubon. I am their conservation chairman. I -- I've submitted written comments so it's really stay brief. I think it would be redundant for me - for me to restate them. I would like to compliment you on taking action on Kachemak. It's something I'm glad to see. I would also like you to concentrate on the Seal Bay area and Paul's (ph) Lake on northeastern Afognak. I believe that those would meet anyone's criteria for threatened habitat and also areas which have high recreational value. Other than that, I'd like to restate a comment that I've made many times before, and that's that I'd like to see the -- all of the public comment, written comment, compiled and made available to anyone who wants to see it. I've seen summaries of my comments, which the Restoration Team has responded to, and they don't resemble half my (inaudible) or the summaries just didn't seem to be of the same material I was speaking about. So, one of the things I've been told the expense of this was -- just simple photocopies would be perfectly acceptable -- and I've also heard the comment that some of this material was of such a technical nature, that it would be too expensive to have compiled for the public, and I would ask that if that is the case, then we

could simply summarize and footnote it, and say it is available, so that people know the nature of that comment and could approach the Trustee Council for that information if they thought it was necessary. As with my written comments, where I cover (inaudible) projects and in specific detail, and I'd sure like to see the comments of other folks. Thank you.

MR. SANDOR: Thank you, Mr. Petrich. There is a verbatim transcript made of each of the meetings, including the public comment period, and summaries are made, but your point on -- summaries of the past not being completely reflective of your position is noted and we'll try doing a better job of that. We'll move on to Seward.

DR. GIBBONS: Mr. Chairman?

MR. SANDOR: Yes.

DR. GIBBONS: I've got one point ...

MR. SANDOR: ... Dr. Gibbons.

DR. GIBBONS: A complete copy of all the public comments received on the 1993 package have been delivered to fifteen libraries across the state and the teleconferencing sites, so there should a copy in Kodiak of all the comments.

MR. PETRICH: Of all written comments?

DR. GIBBONS: All written comment.

MR. PETRICH: Okay. Thank you very much.

MR. SANDOR: Thank you, Dr. Gibbons, for clarifying that -- moving on. Is there anyone on line at Seward? No one at Seward? No one at Tatitlek? No one -- Valdez? No one --

Whittier? Okay. Well, then, may I ask a question of our technical staff. Will the -- the teleconference be on line beyond 5:45.

MS. EVANS: That's up to the operator. Operator, is the line still free for a bit longer? (No audible response) She may not be paying attention.

CONFERENCE OPERATOR: This is Becky in Juneau. Yes, we are available. Do you -- do you for about how long?

MR. SANDOR: Okay. We -- this was originally set for 5:45 termination, which is fifteen minutes. We have comments -- a number of people. Could those wanting to make comments here, raise their hands. We have one, two, three, four, five, six, seven, eight, nine. What we can do is finish the teleconference sites because we're running out of time there. If there's anyone who must make their comments here before six o'clock, if you'll raise your hands. Okay -- we just have one person -- I guess what we'll do Pamela is have you make your comments, and then complete the teleconferencing. So, would you make your comments now, and then we'll go back on teleconference line.

MS. BRODIE: Mr. Chairman, I'm Pamela Brodie. That's B-R-O-D-I-E, representing the Sierra Club. Thank you for the opportunity to testify out of order. I would like to extend and invitation to all members of the Trustee Council, as well as the other people in this room, at the conclusion of this meeting to come to the Sierra Club Christmas party which is at Fifth Avenue and Cordova, above Action Locksmith, and that is -- that's, in fact, why I wanted to testify early is because I'm supposed to be

there now. And, we are very encouraged and pleased at the action taken today by the Trustee Council regarding Kachemak Bay. It will certainly mean a merrier Christmas to many Alaskans, and we are also encouraged that and hopeful that there will be similar progress made towards acquiring habitat in other parts of the Alaska, in Prince William Sound, and in the Kodiak area, and other parts of the Kenai Peninsula. I also appreciate what Attorney General Cole said that habitat acquisition is the highest priority of the settlement. I have just one other comment I will make tonight, and that is regarding the habi -- the restoration plan -- one of the things that has been distributed is the matrix of the draft alternative themes, and I have puzzled over this matrix and do not understand it, but I will talk more to staff people to try to understand it better, and then get to you with comments. One thing I do want to say now is the geographic constraint number four on this matrix is -- some of the alternatives say that within -- the restoration should be within the EVOS area only, and others say may include areas outside of EVOS, and I want to point out that that is a very vague term -- the oil spill area -- because it is different depending on what resource or what service you're talking about. There's, of course, the area that was hit by the oil, but the populations of people and wildlife which were injured, also move in and out of that particular oil spill area, and I don't -- it seems to me arbitrary that some of these alternatives are limited to the EVOS area and some are not. Thank you very much.

MR. SANDOR: Thank you, Ms. Brodie, and on behalf of

the Trustees we extend best holiday greetings to the Sierra Club and your associates at this party. Some of us are going to have to catch the 7:10 plane to -- south and miss that opportunity. We look forward to your comments from the 6th and 7th January meeting as well.

MR. COLE: The Department of Law's having a Christmas party starting at six o'clock.

MR. SANDOR: Moving back on teleconference line, and we'll finish the teleconference now. I think Chenega Bay, Cordova, Fairbanks, Juneau are blank -- Homer? Any participants at Homer.

CONFERENCE OPERATOR: Cordova does have two additional people who would like to testify briefly.

MR. SANDOR: Please complete that, if you will, spelling your names.

MS. BIGGS: Yes. This is Evelyn Biggs in Cordova. Can you hear me?

MR. SANDOR: Loud and clear.

MS. BIGGS: Okay. The spelling is E-V-E-L-Y-N Biggs B-I-G-G-S. I'm the principal investigator for the injury of Prince William Sound herring, NRD study number 11, and I just wanted to make a point of clarification. I was asked to be here by the CDFU director. She -- they have written some documents in support of two of the studies that we had proposed, and one thing I just wanted to clarify for the Trustees is the time-critical nature of these is true, and also your being agency folks realize the kind of time constraints that are involved with putting projects in the

water -- keeping within procedural guidelines. We believe at Fish and Game, if we do not have an answer by January 15 on the spawn deposition survey, we will not be able to put that in the water in 1993. So, if you have not made a decision by then, it will not be feasible or possible for us, so we would ask that if a decision cannot be made by January 15, that we not be given funds to run that project in 1993 -- we would hope that you would then resurrect it in 1994. However, I would like to back up a comment made by Nancy Hillstrand from Homer. She was mentioning the lack of RFP's and non-agency folks involved with the research process, we have a project that I believe will be impacted by the lack of involvement of the third-party contractors. In particular, we measured a reproductive impairment problem that is a potential injury in the 1988 year class. The 1988 year class of herring is currently dominating the population, and if those herring are impacted reproductively, it will affect the population. We did a pilot, we observed a difference, we're not sure -- we're not sure of the actual difference -- the difference is -- is -- the damage is greater in the oiled areas, and we propose to have a third party person research that. There has been no entertainment by the Trustees of research by third parties, and so, therefore, the -- the most important possible project in this program is not even getting a chance to exist. So that particular project would not take much lead time, being that it is not an agency project, and I would encourage the Trustees to go ahead and look toward funding that as is supported by some other commenters tonight and today --

to clear up the damage that was done to the Prince William Sound population.

MR. SANDOR: Thank you for your comments, Ms. Biggs. I believe Dr. Gibbons has a comment.

DR. GIBBONS: One quick comment. There are -- there are -- many of the studies in the 1993 work plan that are entertaining third-party contracts, so -- I wanted to put that on the record.

MR. SANDOR: And we hope any comments you have Ms. Biggs will be submitted in writing to be considered by the Public Advisory Group. May we have the second person -- the remaining person at Homer testify? Excuse me?

MR. GUARD: Yes. This is Cordova. Is it Cordova you wanted?

MR. SANDOR: Yes.

MR. GUARD: Yeah. My name's Jeff Guard. J-E-F-F G-U-A-R-D, and I wanted to talk to -- what we understood to be some of the problems with killing the four projects we're interested in -- reintroduced -- and why those projects weren't given the consideration we thought they needed. It seems to be that, at least from reading Dr. Spies' comments, that most of these species here that are used for commercial value, sport value or subsistence value were considered a static entity of their own, with no other action with anything else -- (inaudible) sport fishermen, commercial fishermen, or the subsistence fishermen, and -- Dr. Spies was real specific about direct restoration values -- I don't know how much more direct restoration can get than through

management. If we don't do these studies to find out exactly how impacted these stocks we use for commercial, sport or subsistence, there's no way we can manage for it, and if we can't manage for it, we could be way back in the same kind of crisis management we already are with the sealions now. I don't think that's where any of use want to see this end up as. If those are the things we need to find out so we can adequately manage these impacted species, we sure need to get on the ball to do it. Thank you.

MR. SANDOR: Thank you for your comments. Now we'll move on to Homer -- and as I understand it, there's a -- two people available for presenting comments at that location. Can you step forward and -- and spell your names -- and provide your testimony.

UNIDENTIFIED VOICE (TELECONFERENCE): Were you speaking to Homer?

MR. SANDOR: Yes. We are trying to take two people at each location, cyclic, and if there's anyone else at Cordova, we will return.

UNIDENTIFIED VOICE (TELECONFERENCE): Yes. The people at Homer have testified already.

MR. SANDOR: Oh, okay. I'm sorry. Kodiak is next on line. Anyone remaining to testify at Kodiak?

UNIDENTIFIED VOICE (TELECONFERENCE): No one else at Kodiak. Thank you very much.

MR. SANDOR: Going back along the line -- Cordova? Is there anyone remaining at Cordova to provide comments?

UNIDENTIFIED VOICE (TELECONFERENCE): That's negative.

There's nobody in Cordova.

MR. SANDOR: My notes indicate no one remaining on line to provide public comment. If there's anyone that's joined the system since the -- we began, would you please identify yourself.

UNIDENTIFIED VOICE (TELECONFERENCE): This is Soldotna, but we just have someone to listen, not to testify.

MR. SANDOR: Okay. We appreciate that. Therefore, there is no one on line, and we appreciate the participation of those that have taken the time to go to the teleconference sites, and -- if those that have not made verbal comments want to submit them oral -- submit them in writing, we'd very much appreciate that and would extend best wishes of the holiday season to those on line, and move on to Anchorage for testimony here. And, I think Mr. Totemoff indicated he had a statement he would want to make. Charles Totemoff.

MR. TOTEMOFF: Thank you, Mr. Chairman, members of the Trustee Council. My name is Chuck Totemoff. T-O-T-E-M-O-F-F. I'd like to make a statement on behalf of the Pacific Rim Villages Coalition. Chenega Corporation, Native Village of Chenega Bay, English Bay Corporation, Vanwilik (ph) Traditional Council, Port Graham Corporation, the Native Village of Port Graham, Tatitlek Corporation, and the Native Village of Tatitlek have submitted a proposal to the Trustee Council to contract portions of work projects proposed of the 1993 draft work plan. The four villages believe that restoration of services injured on account of the Exxon Valdez oil spill is essential to the existence of their

communities and shareholders, and that direct involvement in such restoration of services is essential to their overall purpose and responsibility. Indeed, the four village entities, since the Exxon Valdez oil spill, have reserved their rights to consultation and participation in all oil response and restoration activities affecting their communities and lands. The proposal continues this process of restoration. Representatives of the village entities have planned the process of directly contracting for restoration projects and planning for such contracting. The plans include an identification of specific projects which the village entities intend to pursue as direct contracts. Further the village coalition believes that it has a strong management structure, including technical and management expertise. We do want to work with you and we seek your support with regard to contracts for projects work. In order to meaningfully participate, however, we will need further information from the agencies. We would like to begin consulting with the agencies soon in order to assist in the development of draft work plans, detailing with more specificity requirements for several contracts which ideal for our group. We are especially interested in subsistence restoration, shoreline assessment, archeological restoration, stewardship, and site patrolling, and at Chenega, chinook and coho salmon release program. The work plans proposed are not sufficiently specific to allow for decisions on contracting -- service requirements can then be developed and contracts negotiated. You may have some concern that the villages may have bitten off more than we can chew. Let

me explain briefly our proposal. We want to lay out a program for involvement of the villages in the restoration process -- our proposal's response to the programs that most directly impact our communities. We know and recognize it is not feasible to contract all parts of the work project. The Pacific Rim Villages Coalition, PRVC, proposal identifies 23 work projects which it supports. The PRVC proposal states those goals direct contracting from agencies of such projects of work as is feasible from that body of projects.

The concept then is to contract projects where feasible to the PRVC. The PRVC proposal is not intended to obtain each and every work project listed, but rather seeks contract opportunities where feasible with the agencies. It is our common goal to work closely together in order to further the goals of restoration. The PRVC is a vehicle to encourage implementation of the specific projects, including projects that further the goals of restoration. The PRVC is a vehicle to encourage implementation of specific projects, including projects requiring community involvement, such as a subsistence restoration project -- work project number 93017 -- and a spring shoreline assessment project -- work project number 93038.

For instance, under work project number 93038, the DEC proposes to issue work orders to the community, and under the PRVC an entity would already be created to receive such work orders for implementation purposes. You also have a proposal from Chugach Alaska Corporation, the Chugach Resource Management Agency -- CRMA.

CAC and the villages are in the process of forming the CRMA. CRMA is a program intended to assist the agencies in logistics. It is

also a worthy project proposal. The village groups endorse the CRMA proposal as a method to assist the region's residents in gaining an understanding of the restoration projects. The CRMA and PRVC proposals compliment each other. We seek your approval of each proposal. We request that the Trustees direct agency management to work with the PRVC and CRMA to be certain that each has a significant role in the work projects and restoration goals of the Exxon Valdez Oil Spill Trustee Council.

MR. SANDOR: Thank you. Thank you, Mr. Totemoff, for the statement. As a member of the Public Advisory Group, you, no doubt, will have an opportunity to discuss this. Are there any questions that any Trustees would have at this time? We look forward then to the Public Advisory Group's comments on this and any other proposals.

MR. TOTEMOFF: Thank you, Mr. Chairman.

MR. SANDOR: Thank you. Next, please.

MR. STEINER: My name's Rick Steiner. S-T-E-I-N-E-R. And, someone at RCAC, the Regional Citizens' Advisory Council, asked because they couldn't be here -- they're in meetings -- that I read into the record a very brief resolution that they passed yesterday. Resolution 92-06 -- whereas, Prince William Sound Regional RCAC supports the concept of long-term, responsible, and unbiased research being carried out in the EVOS region; and whereas, state Senator Arliss Sturgulewski has proposed a Exxon Valdez Marine Science Endowment, which members of the Scientific Advisory Committee have reviewed and approved; now, therefore, be

it resolved that the Prince William Sound RCAC recommend to the Oil Spill Trustees Council that their restoration plan include a long-term research endowment, as proposed by Senator Sturgulewski; further -- this is the last be-it-resolved -- that in particular the Prince William Sound Regional Citizens' Advisory Council recommends that the Exxon Valdez Oil Spill Trustees Council fund research solely on the basis of its scientific merit and encourage the development of an independent peer review process, which would lessen the possibility that partisan funding of research projects can occur. That's December 10th, and I'll leave this with you.

Two other quick comments. First of all, I'd like to thank the council for some positive -- very positive today on habitat acquisition. I think a -- leadership (inaudible) of all of you. Secondly, one other comment on reimbursements, I didn't hear -- I was out part of the day -- but I don't know if you discussed reimbursements to the governments today, at all, but one point I'd like to make on that is the federal government has already made probably four or five hundred million dollars off of this oil spill, just from personal and corporate taxes paid by those people that responded on the clean-up -- the fishermen, the corporations that worked on the clean-up. So, I think it's a little unreasonable to think that the federal government deserves any more money out of this restoration fund. So, I'd just like the federal government to consider very carefully not asking for any more out of the fund and leaving it in -- at least the feds. It would be nice if the state did the same, too, but I supposed that would be

a different matter. And, lastly, on the Alyeska settlement, I, too, as Chip Thoma, know nothing about the state's claims, nor do I know anything about hydrogen bombs. As a matter of fact, I probably know more about hydrogen bombs than the state's claims. But I do not what Alyeska had promised the people of the United States and the people of Alaska before this pipeline was allowed to be built here, and I also know something about what they did or rather did not do in response to the spill, and I think everybody here know something about that as well. We also all know very well what sort of damage was caused by that failed response, and I think everybody has a sense of what is just and what is not. \$32 million is the value of oil that goes through the pipeline every single day, and for us to think that the seven major influential corporations of the United States, that this is an adequate, just resolution -- now, if that's the only legal recourse, which I'm certain it was, then we ought to do is all of us consider very carefully going back and changing the laws so that we have more legal recourse next time. If OPA 90 doesn't do it, if state law doesn't do it, then something's really wrong. So -- that's the only comment I have to make on that. Thanks.

MR. COLE: Well, let me respond

MR. STEINER: Certainly.

MR. SANDOR: Mr. Cole.

MR. COLE: so you know. The settlement was not just the product of my musings. It was the product of a team of lawyers who have been working on this case for three years now, and

carefully evaluating the amount of money on every theory of recovery which we thought we could obtain if we went to court. I mean, that's the only way we can evaluate these settlements. We can't evaluate them on the basis of emotion, we can't evaluate them on the basis of how much at fault we thought they were, we just have to be very dispassionate about how much money we thought we could recover based upon assessments of problems of proof. And I want to assure you and Mr. Thoma that that settlement - got to be a little careful what I say -- was highly satisfactory settlement based upon our analysis. I mean, it exceeded, as a matter of fact, what we thought we could get if we went to court and were successful on every one of our claims, and also, in addition, we were running expenses from the state around \$750,000 a month in the prosecuting -- prosecution of that case, and one gets to the point where one must make a very realistic judgment. I mean, am I spending on behalf of the state taxpayers' and these citizens' -- these monies wisely. I mean, that's the final judgment that's committed to me, and I have to account, you know, to the administration, to the legislature, and ultimately to the people in making that decision, and we sat down, and as I say, negotiated very hardly -- hard with Alyeska and reached that settlement, and - - I feel very comfortable about it. If I didn't feel comfortable, if I didn't have the unanimous support of every lawyer who worked on that case for the state of -- in the Department of Law and elsewhere outside of the department -- I would say -- I wouldn't have done it, but with that support -- that's the reason for the

decision. You know, it's just pure unemotional, and I too would like to have recovered more, but I'm very comfortable with the settlement, I want to you know that.

MR. STEINER: In deference to the folks that are here, I -- I'll leave with one last question. Do you think we have adequate laws in place to recover in a just sort of way from -- from a similar sort of wilful negligence in the future? Because obviously, indeed, we don't. If this is all we can get out of Alyeska -- one day's worth of through-put -- after they willfully didn't do what the what the state and federal government asked them to, then something's wrong.

MR. COLE: You've got to look at what we got from Exxon. I mean, you can't just look at these damage claims in isolation. Certainly, if we had not these recovered natural resource damages against Exxon and were our sole claims against Alyeska, our recovery then would have been, perhaps, vastly different, but, I mean, you know, we only have so much damage

MR. STEINER: With them laughing all the way to bank, I'm sure right now, but

MR. COLE: I doubt it.

MR. SANDOR: Thank you, Mr. Steiner. Are there any other comments by members of the Trustees.

MR. McVEE: Mr. Chairman, I'd like to comment on the -- Mr. Steiner's comments on the reimbursement. That under the terms of the agreement as I understand it, that the federal government could have taken all of the reimbursements at the very

beginning -- at the time the first payment was made -- but there was a decision made to spread out those payments and those reimbursements over a period of time, so that there would be sufficient dollars to -- to start the restoration process. That -- the dollars that are being reimbursed were dollars that were taken from the various agencies. For example, refuge management, waterfowl restoration, wetlands, national park programs, and so on -- taken from those ongoing programs -- money appropriated for those -- to put into that work that was ongoing on the oil spill, the program-type activities, so now we're reimbursing those agencies so they can -- can go back and do that work that they postponed.

MR. SANDOR: Thank you very much. Any other comments by Trustees? Although we've passed the scheduled time of public participation, I'm going to continue for a limited period. How many would like to testify? One, two, three, four, five, six. Can we continue? Please provide the written comments, summarize them if you will. If you can begin. Identify yourself.

MS. WIELAND. My name is Anne Wieland, and that's A-N-N-E. W-I-E-L-A-N-D. I'd just like to thank the Trustees Council for the intention of beginning to acquire habitat. That means a great deal -- specifically the Kachemak portion of it, and I'd like to ask that the NEPA process be expedited as fast as possible, and I hope -- and I don't know whether that's going to have to happen for all the other acquisitions that are hoping to happen elsewhere in the region, that perhaps this process will have to be repeated

elsewhere -- that Kachemak going through it will expedite that. Maybe you can tell me if it's going to have to happen in the rest of the region? Is that the case?

MR. SANDOR: We cannot answer that question at this point. That -- that is one of the troubling problems of how to comply with the NEPA which is being examined. Any one want to com -- respond to that?

MR. PENNOYER: One comment, I think, that the restoration plan we've talked about earlier and the EIS, which is the NEPA compliance with that plan, should help us substantially as we have to deal with all projects after -- or in the future after that plan is completed.

MS. WIELAND: Alright. Thank you.

MR. SANDOR: Thank you very much. Next please?

MR. TREINEN: My name is Chip Treinen. I'm a Kodiak-area salmon seiner. I'm also on the board of directors of Area K Seiners Association. That's -- area K -- is the Kodiak area. And -- so my comments will reflect both my -- my own interests, as well as the interests of area K seiners. I just want to point out that there's not a whole lot of Kodiak-specific projects that I've seen on the list of projects for '93, and I think that doesn't -- there's probably a lot more projects that could be done, but these are probably the best ones, and so I hope that these are all considered in '93, and that they're looked at serious projects that have already passed considerable muster. I -- on that note, I'm -- I guess I'm glad to see that the Cold Creek pink salmon NEPA money

was approved. Guess there's a little bit disappointed that the 030 and the 031 money for Red Lake projects, that wasn't -- not approved. It wasn't very much money, and it -- I guess it kind of increases the uncertainty on those projects and doesn't help anyone to continue. So I hope that on the next meeting that those will be looked at -- at a little bit more seriously, and that -- that the negative comments can be balanced with positive aspects of these projects. On another -- you know, I'll keep this real short because I'd simply be reiterating a lot of things that were said from the Kodiak group, from Larry Malloy, but on the imminent-threat habitat protection, I think one of the things that I think is very critical for us is acquisition of Kodiak weir sites. This affects management of the fishery critically. Right now, I believe that money just comes out of the commercial fish management budget, and we need to have some pretty -- we need to have more money into management, considering that we do have some problems with the returns of fish coming back to places like Red Lake and other areas that had overescapement of salmon. So, I think that it's critical to have enough money for the Department of Fish and Game to manage.

They can have more money if they don't have to pay for leases of weir sites that they now have to pay for. So, on that -- I -- I'd also like to just reiterate the fact that we also are in favor of acquisitions of habitat on Afognak Island. So, I thank you very much for the opportunity to speak, and I'll try to get the written comments in also.

MR. SANDOR: Thank you very much for your comments.

Next?

MR. COLE: It would be nice to get the written comments because we could put them in the -- you know, the magic book, and then we have the record.

MR. SANDOR: Yes, please. Some of the Trustees are going to have to be leaving. Who's catching the 7:10 flight. Okay. Okay. Go ahead.

MR. BRUDIE: I'll try to make this fairly brief. My name is Phillip Brudie. The last name -- B-R-U-D-I-E. I'm currently the vice president of Cook Inlet Seiners Association. We represent the 80 lower-inlet seine permit holders. We're probably the most Alaskan of the state's major fisheries. Only two of the permits are held by out-of-state residents. I'm here because I feel that at this point I feel that our area has been completely overlooked by the restoration process. If you look at the map on the front of this packet, you'll see that approximately 60 percent of the affected area is in the lower Cook Inlet seine district. That includes the outer Kenai Peninsula coast, basically from Day (ph) Harbor, all the way across to Kamishak Bay, Barren Islands, and Kachemak Bay is in our seine district. As you probably know, outside of the Sound itself, the outer Kenai Peninsula coast was the most highly oil-impacted area in the state. Our salmon fisheries out there crashed. As an example, Fort Dick (ph), which twice in the last fifteen years had harvests of over a million pink salmon, had a commercial harvest of 26 pink salmon this summer. We haven't even been meeting our escapement goals in our streams out

there, let alone having a commercial fishery on it. Our group's members are suffering extreme economic hardship. We've had three disastrous seasons in a row, and yet in this '93 book, there's absolutely nothing dealing with this out there. I guess we've been remiss in thinking that Fish and Game was going to be the lead agency, but nothing really has come forth to try alleviate our situation. While we lament the lack of attention to our plight in the '93 projects, we certainly look forward to working with the Trustee Council in the future, trying to identify some projects that will bring our fishery back to a healthy state because we're down the tubes the way it is now. Thanks. I guess that's

MR. SANDOR: Please be certain you have written comments if you can. The Public Advisory Group is meeting the 6th and 7th, and they would also be interested in those observations. Mr. Cole?

MR. COLE: Do you have any projects that you think we should consider?

MR. BRUDIE: Well, I can throw a shotgun attempt out at you.

MR. COLE: Take time and put it in writing, and we will forward it to the Public Advisory Group, give it to Commissioner Rosier, and, you know, we'll look at it.

MR. BRUDIE: Great. We'll certainly have somebody at that public advisory meeting, but I did want to bring to your attention what we feel is our pretty sorry plight at the moment.

MR. McVEE: The decline in population, was that due to

oil spill activities or something associated with it?

MR. BRUDIE: Well, all I can tell you, since 1989 our population's crashed, and there are no studies in here to even attempt to figure out whether it's -- there's other factors in play, or whether it's strictly the oil impact. But I can definitely state that all the fisheries and species out there have crashed.

MR. SANDOR: Thank you very much. And you will then identify some specific ideas that can be conveyed.

MR. BRUDIE: We'll send a letter to your group and also to the other group. Hopefully, it will be something within the parameters that we can live with. We will also be talking to the local Fish and Game office, the regional Fish and Game office. Hopefully, we can come up with something that meets your parameters. Thank you very much.

MR. SANDOR: Thank you. Any? Yes.

MS. McBURNEY: For the record, my name is Mary McBurney. M-C-B-U-R-N-E-Y. And I'm executive director for Cordova District Fishermen United. Before you finalize the 1993 restoration work plan, CDFU urges you to add two time-critical restoration projects for Prince William Sound. As we stated in our initial work plan comments, CDFU is particularly concerned that the 1993 work plan does not include any restoration projects related to Pacific herring. The summary of injury in appendix A of the work plan states that herring resources were impacted by the oil spill, and it goes on to describe abnormalities observed in the embryonic

larval and adult life stages. This summary of injury also states that quote "whether the adult population had been affected by these larval injuries and lesions will not be determined until the 1989 and '90 cohorts return to spawn in 1992 and 1993. Considering the time-critical factor, it's extremely disappointing that the 1993 draft work plan does not include a herring injury study of any sort. This summary outlines the documented damage sustained by many marine species, including marine mammals, seabirds and shellfish, and of all the marine animals demonstrating oil-related injuries, Pacific herring and rockfish are the only species not represented by at least one project in the 1993 work plan. Pacific herring represents and \$11.7 million fishery in Prince William Sound, but it's also a critical food source for stellar sealions, seals, killer whales, sea ducks, gulls, and certain migratory shorebirds. During this past field season, Fish and Game biologists noted that the '89 year class returning as age three first-time adult spawners were at the lowest level measured since 1967. This is particularly disturbing when noting that there were the offspring of the largest spawning population in Prince William Sound since the early 1970's. The University of Washington biologists working with Fish and Game found that the 1988 year class demonstrated significantly reduced reproductive capabilities. 1992 was the first available opportunity to observe reproductive success in an adult and juvenile herring affected by this spill, and we feel that these facts should be a wake-up call to the Restoration Team that there may be some big problems with Pacific

herring in Prince William Sound. It's apparent that the low numbers of fish in the 1989 year class, coupled with the potential damage in the reproductive capabilities of the '88 year class, create a situation demanding specific management strategies, and precise stock assessment is needed to form -- formulate long-range restoration plans that protect the resource and manage human use. This process, however, cannot take place in a vacuum, as Fish and Game must have the data to make informed decisions regarding herring management. Therefore, we urge you to fund two vital studies that were proposed for the 1993 work plan but were subsequently disregarded. Those were document 960615297.3, entitled "Prince William Sound Herring Spawn Deposition Survey" and document number 920611234, entitled "Herring Embryo Viability Evaluation, Natural and Catastrophic Effects." We urge you to approve and fund these two projects and to correct what we see as a grievous oversight in planning the recovery of resources damaged by the Exxon Valdez Oil Spill. We also request that the Trustee Council consider funding two coded wire tag projects for pink salmon that were proposed but not included in the '93 work plan. Again, according to the summary of injury, wild pink salmon suffered the greatest impact due to the Exxon Valdez oil spill. The work plan currently includes two studies supported by CDFU which relate to pink salmon -- project 93003, which is pink salmon egg to pre-emergent fry survival in Prince William Sound, and project 93004, documentation, enumeration and preservation of genetically discrete wild population. Both of these projects will

provide valuable information to identify physical and genetic damage to wild stocks, but they do not provide a mechanism to help resource managers protect distressed pink salmon populations. We feel that there's a real need and -- for coded wire tagging project for pink salmon to identify in-season returns of wild stocks within the larger mixed stock fishery. Without this information, it's extremely difficult for resource managers to -- to adjust management strategies to ensure adequate escapement for damaged wild stocks. CDFU requests the Trustee Council to fund the following two projects which were proposed, but again not included in the '93 work plan. Those were coded wire tagging of wild pink salmon for wild stock identification, and coded wire tag recoveries for commercial catches in Prince William Sound of pink salmon fisheries. Funding of these projects will bridge a critical gap for effective pink salmon management, and it will also provide a complete resource picture for wild stock management at all life stages. And I thank you very much for your time.

MR. SANDOR: I guess you will have to leave. Hopefully, we will be shortly. Mayor Selby, did you have a statement to make?

MR. SELBY: Thank you, Mr. Chairman and members of the council. I know you need to go, so I'll be real brief. I've given you some written comments, but we would like to reiterate on the habitat purchases that the weir sites -- I'd like to request that at the January meeting, if you could move the NEPA money to actually do the NEPA studies on those sites, because I'm assuming

that they're going to have to go through that same process that we talked about today. We also have some pink salmon projects that I'd again like to bring, and I mentioned them in my cover -- in my letter -- but we talked about them a couple of meetings back, of course, Marine Lagoon (ph), the project by KRAA at the hatchery in Katoyie (ph) Bay are still high priority projects, particularly given the crash of the pink salmon stock, and the fact that, for some reason, pretty much throughout a lot of the pink salmon area in the State of Alaska last summer, we didn't get nearly the returns back that we had anticipated, and I think that -- that there probably ought to be some priority given to the pink salmon question given what happened last summer. We would like to also suggest that on the ground refuge in-holdings that the critical habitat assessment move forward on that. What's happening with that is that last month about 70 acres of the habitat within the bear refuge was reclassified so that it can have hotels, lodges, and other high density uses put into it. We've got four more of those applications in front of us at the Kodiak Island Borough. We have no basis to deny those applications. We have a rush -- land rush in effect going on into this critical habitat land that we're talking about trying to acquire back from the Native corporations inside the bear refuge. So, we're going to try to put a -- a six month moratorium on -- in processing any more of those applications here for the short term, but, you know, it is becoming pretty critical, and I'd just like to relay that to the council. The other thing that I'd request that you seriously consider FY93

funding again \$1 million for the design work on the fish tech center. I've brought this up before. This is a multiple weir project, and it's a long-term project. You've cut some new ground today moving into acquisitions. I'd like to urge you to cut some additional new ground in your 1993 work program and move into some long-term projects such as the fish tech center and the museum project in Kodiak. Again, these are projects that are going to pay off for Alaska for years to come, and most of the projects that are in this '93 program are short-term studies, things that are important but they don't have a long-term return or impact necessarily for us in the state of Alaska. This one does. We have now gotten an additional \$100,000 through Congress from the National Marine Fisheries Services. This is again a joint project between the University of Alaska and the National Marine Fisheries Service.

MR. COLE: (Inaudible)

MR. SELBY: It's the Fisheries Technology Industrial Center expansion. It's in my letter. Yes. It's in the letter. So, again, I don't want to take up a lot of your time here. The one other comment I did want to relate to you is I think that your restoration plan, your item six here, is seriously flawed from the prospective -- I think that -- as far as I'm concerned, the only alternative to be considered is comprehensive restoration, which is six, but six also has into it that you're going to use the funds outside of the spill area, and I'm adamantly opposed to that. I think what you need is a preferred alternative that does

comprehensive restoration within the spill area. To me, that's what the settlement was all about, and that ought to be in here as an option. It's not here. If you get comprehensive restoration, you also have to spend the money outside the spill area, according to this, and I don't think that's right. I think the focus should be on restoration within the spill area of the damage that was done to the people and the resources in those areas, and which

MR. COLE: Would you say that Cordova is in spill area? So we get a sense of what you're saying.

MR. SELBY: Yes. Cordova had some spill impact -- to their fishery resource. I don't think there's any question about that. So I'm talking about inside the Sound, the Kenai Peninsula, including, you know, the Lower Cook Inlet area, the fisheries impact there, and the Kodiak region is -- what -- if you look at the map -- is the spill area.

MR. COLE: But what about east of Cordova?

MR. SELBY: Outside of Cordova? Outside the Sound?

MR. COLE: Yes.

MR. SELBY: I would say no.

MS. EVANS: Mr. Chairman?

MR. SANDOR: Yes.

MS. EVANS: I understand from our bridge operator in Juneau that the teleconference network needs to close down, and I would like to suggest, if that's alright with you at this time, that we shut off the teleconference and continue with the testimony in Anchorage as long as you'd like to continue that.

MR. SANDOR: Yes. Please do inform the teleconference operator that the system can be terminated. Thank you.

MS. EVANS: Thank you. Thank you, teleconference operator.

MR. SANDOR: Any other comments, Mr. Selby?

MR. SELBY: Just -- just to close, Mr. Chairman, again -- and I've mentioned this before, and I think a couple of projects, again -- I'll come back to the fish tech center and the museum, not to hang on you too hard, but are projects that are also people-impact projects that let the people in the spill area get something back from the restoration effort. Not that the resources and the focus on the animals and whatnot isn't important, but these products would also do that, but in these two projects it let's the people, some of whom had some real severe problems that they will never recover from -- from the oil spill. It puts something back for them too, as well, and I think we need to keep them in mind and not forget them.

MR. SANDOR: Thank you. How many other people need to testify or wish to testify? Just one? State your testimony, please.

MR. BURKHOLDER: Yes. My name is Jim Burkholder. B-U-R-K-H-O-L-D-E-R. And I've only got a couple of brief questions and a comment, I guess. I'd like to congratulate the Trustees for the decision on Kachemak Bay. After ten plus years of negotiations by the state legislature, this is the first body that has ever really moved in a positive way. It looks like it may be at least

end to the tunnel, and maybe a light in it. The second part of the question I would have here is -- it seems that you have appropriated Trustee money -- one-third of what the former owners wanted for the land, and the other two-thirds coming from within what might be called questionable money -- questionable because the State of Alaska Legislature has control, and perhaps some argument in the settlement of legal cases as to the disbursement of that. Does this \$7½ million mean this is all that the Trustees -- can be looked at for purchase in Kachemak Bay or are -- if the state legislature does not come forward with the other funding?

MR. COLE: It's like never say never. We will continue to use our efforts on all fronts, as the governor has said, to acquire Kachemak State Park 23,000 acres. I can't guarantee anything other than we're going to continue those efforts. And I think we'll be successful.

MR. BURKHOLDER: If that other funding doesn't come from the State of Alaska, would the Trustees look down the road at further funding for that purchase?

MR. COLE: I would hope so.

MR. BURKHOLDER: On the hand of that, there's other habitat purchase. Is that going to require matching funds as well, so -- shall we say -- from other sources, State of Alaska, in this case -- Kodiak Island and Prince William Sound habitat.

MR. COLE: I don't know.

MR. BURKHOLDER: So, you're saying you haven't set a precedent by only funding, let's say one-third of the cost?

MR. COLE: I think there are no precedents in this area. I think everything is -- you know, independent proposition. That's what I told Mr. Becker from Cordova. I mean, there's no precedents in any of this. Each issue in my view is treated independently and separately, depending on what the scientific data show, depending on how much money is available, depending on whether the respective selling price is fair and reasonable. All those things certainly have to be taken into consideration -- work every case the best we can.

MR. BURKHOLDER: Thank you very much.

MR. COLE: I hope that meets your hopes and expectations.

MR. BURKHOLDER: It does for some of the questions, thank you.

MS. MILLER: Hello, I'm Pam Miller. Is that okay? I'm Pam Miller with the Wilderness Society, and I do want to commend the Trustees for taking forward action on Kachemak Bay. That's good sign, and as far as the restoration plan goes, I submitted written comments, and those are there and out for you to see. I did want to emphasize my major point concerning the habitat protection project number 93064, and that it currently states in the plan that it is for a maximum of 200 million, and in light of the fact that the public proposed over \$500 million worth of projects, it seems that the \$20 million price tag is rather low, and we also urge that the project be not just for imminently threatened parcels, and a determination of that, but that there is

the project to go forward with other lands, and perhaps if that;s -
- if it's seen that you don't want to mix the two together in one
project, then we definitely need another project, in addition to
Kachemak Bay, of course. Also, I would make the pitch that habitat
protection should generally occur on a broad scale, because
biologists have found that continuous suitable habitats supports
more individuals of species than does fragmented habitat, and we
have a great opportunity unlike almost anywhere else in the world
to try to keep that situation here. I'll speak in support of the
bald eagle habitat identification project. I believe because of
the great immediate loss to bald eagles and some serious questions
by the biologists about how severe (inaudible) ... make
recommendations for other sorts of projects that will be more
effective, and I urge you to look into that issue. Finally, I'd
like to address the question of projects proposed for forest
recovery and projects on Montague Island. Recently the Forest
Service permitted a road to be built which is temp -- for which
construction's temporarily suspended because of severe erosion
problems, saltation (ph) of salmon streams and other problems.
There are projects by the Restoration Team which are supposed to
restore wetlands and chum salmon streams on Montague Island. It
seems like the Forest Service should be looking into proper
management of lands on Montague and protection of old growth forest
there, instead of these other manipulation projects that they're
proposing. Another Forest Service project is second growth
management of old clear cuts from the '70's, and they think they're

going to accelerate management to the old growth. If they do want to do that -- that's a regular agency function they could do, but for this case, we think just protecting old growth habitat makes a lot more sense. Thank you for your consideration on this Friday night. Maybe you'll make it to your party.

MR. COLE: It's too bad Mr. Barton wasn't here, but we'll convey to him your remarks.

MR. McVEE: Is there anybody else who had testimony for this evening? I guess that concludes. Mr. Cole, if you are agreeable, I guess you and I can agree with adjourning.

MR. COLE: Twelve continuous hours on this today. That's a long, tough day.

(Off record at 6:25 p.m.)

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

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

That the foregoing pages numbered ____ through _____ contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by Anita Mowery, PLS, and me on the 11th day of December, 1992, commencing at the hour of _____ a.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 17th day of December, 1992.

Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/93