

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

Continuation Meeting of Trustee Council Meeting
held June 1-2, 1993

VOLUME III

August 6, 1993

1:30 p.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. PAUL GATES (Alternate) Regional Environmental Officer
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 BERGMANN Regional Environmental Assistant, United States Department of the Interior

MARK BRODERSEN Restoration Chief, Alaska Department of Environmental Conservation

FRANK RUE (Substituting for Dr. 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

VERONICA GILBERT (Substituting for 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

PAMELA BRODIE

CHARLES TOTEMOFF

OTHERS who testified in person or via teleconference

KATHY ANDERSON, Eyak Corporation

ART WIENER

KIM SUNDBERG

MARK KUWADA, Alaska Department of Fish & Game

JAMIE LINXWILER, attorney for Eyak Corporation

BRUCE VAN ZEE

CHRISTINE STEELE

DR. RIKKI OTT

CLAUDIA ESCHAVARRIA

CRAIG WILLIAMS

KARL BECKER

DANNY CARPENTER

PAUL SWARTZBARG (ph)

DANA RANNEY

STEVE BODNER
JEFF GUARD
CHARLES MCKEE
TERRI NASH
MARLA ADKINS
PAMELA BRODIE
JIM LABELLE
KEN JONES
RICK STEINER
MARIE SMITH JONES
JESS GRUNBLATT
DAVID GRIMES

P R O C E E D I N G S

(On Record: 1:30 p.m., August 6, 1993)

MR. PENNOYER: I think we'd -- we'd like to go ahead and get started. We've got a full agenda and not a whole lot of time to get through it. This is a continuation meet of the last Trustee Council session, and Mike Barton would normally be chairman, but he's asked me to take his place because of the fact he's going to present a fair part of the Eyak land discussion to the Trustee Council. I'd like to convene this meeting of the Trustee Council, and I'd like to note that present are Mike Barton, the Regional Forester for the Alaska region, representing the United States Department of Agriculture; Paul Gates, Regional Environmental Officer, representing the Department of Interior; Carl Rosier, Commissioner of the Alaska Department of Fish and Game; John Sandor, Commissioner of the Department of Environmental Conservation; Charles Cole, the Attorney General for the State of Alaska, and myself, I'm Steven Pennoyer, Director -- Regional Director for the National Marine Fisheries Service, representing NOAA. We have an agenda that has been passed out. It has three items on it. We have a scheduling problem which I'd like to deal with first and then ask Council members if they have additions to the agenda that we need to go through. I understand that a teleconference has been set up on the Eyak negotiations -- habitat protection question -- for 3:00 o'clock p.m., and the Trustee Council would like to hear that teleconference, obviously, before a decision is reached. That gives us a problem because if we start

Eyak discussions now and waited for the teleconference until 3:00 o'clock, we wouldn't have any time left to complete the other two items on the agenda. So, I'm going to suggest that perhaps we move the item 2, which is content of the draft restoration plan up until this time, take that, put a time limit on it, and at 2:30 go to the discussions of the Eyak -- the Eyak question -- land question, and that would leave us half an hour for the briefing then start the teleconference at 3:00 o'clock. Hopefully, we'll finish item two before that time and then we would hold an executive session at the end, leave enough time before adjournment for an executive session dealing with the hiring -- interviews for the executive director position. Does any council member wish to comment on that proposal? Mr. Barton.

MR. BARTON: Yes, my only concern would be that -- I don't know how long this presentation is designed to take on the Eyak proposal and would ask that we be sure that we start that discussion in time to have it completed by -- the presentation completed by the 3:00 o'clock teleconference.

MR. PENNOYER: Mr. Cole.

MR. COLE: How about starting the Eyak presentation at 2:15, so we would have an opportunity to at least have the proposal before us at the time the teleconference begins?

MR. PENNOYER: That's the intent.

MR. BARTON: Does Dr. Gibbons have some idea of how much time we're going to need.

DR. GIBBONS: I've been -- been informed by the -- by

the presenters that it would be covered within a half hour.

MR. PENNOYER: But there may be time for questions required and so forth.

DR. GIBBONS: Yeah, right.

MR. PENNOYER: We'll let's -- unless somebody has a different plan, let's start on item two and carry that on until 2:15 and start the Eyak discussion, with the conference call to -- or conference -- or teleconference to occur at 3:00 p.m. Anybody have any additions or deletions from the agenda at this point? I hope no additions. Okay, perhaps then we can go ahead with item number two on the agenda, which is the content of the draft restoration plan, and, Dave Gibbons, do you want to lead us into that, since you're the originator of the correspondence that I think got this discussion up into the forefront.

DR. GIBBONS: Yes. On July 28th I sent the Trustee Council a memo outlining some options for the content of the restoration plan. What -- what items should be contained within it. There was three options presented to the Trustee Council and we were asking for their guidance. I've -- I've got copies here that I can -- can pass out.

MR. PENNOYER: Does -- do people need that copy -- those copies? Why don't you pass them around the table for the Trustee Council members? Dave, do you want to go into those, or shall I just proceed on with the other events that have occurred since then?

DR. GIBBONS: I'd -- just -- I think -- just proceed on

the other events.

MR. PENNOYER: Basically, I think what Dr. Gibbons' question on it was around, basically how much detail is going to go into the draft restoration plan. And the options he ordered were from a short policy document, all the way to the other extreme which would be a document that would in great detail specify all the projects and other items that the Trustee Council might undertake. Not quite that far, but in that direction. And, that then sponsored a letter from Mike Barton and myself to the Trustee Council outlining what we thought had been the agreement at the previous Trustee Council meeting of how we would proceed on the restoration plan. Apparently, that was not clear to the Restoration Team, so we've drafted that letter to try and promote discussions within the Trustee Council of -- of our previous instructions, whether they had been adequate or detailed enough. That then prompted a letter, I believe -- memo from Attorney General Cole, I guess -- came after that, requesting that -- that this -- topic be put on the agenda as soon as possible so the Restoration Team could proceed with their work. Because, I believe that Dr. Gibbons' memo indicated that the Restoration Team, in essence, had to halt work on proceeding on the drafting of the restoration plan until they got this type of guidance. So, it is on the agenda for today and, hopefully, using these documents we can arrive at a position to instruct the Restoration Team how to proceed on the drafting of the restoration plan. If you'll recall, at the last meeting we had the -- we had a restoration plan

synopsis that we sent out to public review in a newspaper-type article that framed certain policy questions and discussed what should be in the restoration plan, what guidance the public wanted to give us on that topic. In the meantime, the Restoration Team had gone forward and drafted a more elaborate document, a more lengthy document, that included more background information on such things as habitat acquisition, the budget, examples of direct restoration and so forth. It was the Trustee Council's decision not to send that draft -- full draft -- out to public review, but to rather wait for the results from the synopsis -- newspaper mailing we sent out, to get public comment on that, which was due by today, I think today, August 6th, was the deadline, and then based on that, proceed with the drafting of the restoration plan. The letter that Mike Barton and I send out said that we thought that we had agreed to the plan containing a clear and succinct statement of background, a statement of injuries, a brief statement of objectives as to what we want to do to restore the injuries or to enhance, if so desired, the alternatives for getting us to the desired objectives and the constraints of -- on expenditures as set forth in the MOA, the settlement agreement and law, and some form of measure that we in public know when we are done with restoration. Obviously, each one of those statements sounds simple, but raises the whole series of questions. And -- based on that we had a discussion amongst Interior, Commerce and Agriculture and we did come up with a draft outline in which we attempted to elaborate a little bit on what was meant by these statements that

were in our -- our letter. And, if that might help the discussion along, I think we pass out the draft outline for people to comment on and maybe decide -- try to pin down more specifically what our instructions are to the Restoration Team. Dr. Gibbons, do you have some extra copies of that? (Pause) Thank you. Before starting through it, I think that -- one of the things that is -- is driving this discussion, or our view on it, is the need to come up with a document that I think fairly clearly outlines both the policy direction and perhaps more specifically the background on the various resources that were injured, our objectives in dealing with those. We don't believe that it requires we pin it down in such great detail that future information derived from the conduct of the program as it goes along, public input, and that sort of thing, cannot be used to modify it. But, from a NEPA compliance standpoint, I think we believe we have to have enough detail on the restoration plan to satisfy NEPA, and not get ourselves in a position where we have to go back through NEPA compliance in great detail at EIS level on an annual basis. I don't -- I think what we outlined here does not require, and the Restoration Team may view me wrong, a great deal of additional work -- in fact it's already done. A great deal of the work, in terms of the statement of injuries, what's happened resource by resource, and so forth, has already been accomplished. And, we would hope that this type of a -- a document would not take that long, or that much additional time to prepare from what was already done the first time around. So, Paul or Mike do you want to comment any further on that --

introduction?

MR. BARTON: No, I think you've covered it fine, Steve.

MR. PENNOYER: So, I guess that just going down through this is a -- just to read through what we think might go in there for purposes of our discussion. We come out with an introduction of background, and I think that's already done, basically; a statement of policies and principles, which we have policy questions out to the public, and I presume based on those we would be able to deal with those policy questions that state certain policies that would guide the -- the planning effort and the restoration effort; description of pre-spill environment, I think that's already been developed; summary of injury findings, I think we've had those already presented to us, and I think it's available on a fair amount of detail. There may be some additional information that has come to light since then, but I think there's quite a bit of that. I think the area that there may be -- that Dr. Gibbons was addressing, is basically the proposed actions. And, in discussions last time around with the Department of Justice who were here -- who was here advising us, it's clear, one of the things we hadn't really specified was the objectives we had in dealing with the various resources. I don't mean specific, how many fish you're going to tag or -- or how many murre nesting boxes you're going to build, or anything of that nature, but rather what our objectives are to restore those specific injured resources. And, the last item under proposed actions would be the restoration actions by geographic area over time. Again, not specific

projects, but the type of thing you'd undertake, whether it be fish tagging and management improvement, whether it be habitat acquisition, whatever it happened to be, examples of the type of things that you thought you'd do to benefit these various resources. And lastly, a mechanism for amending it. Obviously, this plan is not going to hold -- in its specificity over a full eight year or ten year period of time. There are going to be things that come to light that have to be changed. I guess, we don't feel this is going to stop us, or hinder the process in any way, in terms of time, but hopefully would allow us to then proceed with annual work plans and not go back through the details of environmental impact statement stage. And, hopefully -- and Dr. Gibbons may correct me -- or the Restoration Team -- most of this information, perhaps except for the specificity of objectives, which we haven't had presented to us and had to deal with, is largely there in the draft that was done already. I think there are some other comments people have had about the desirability to combining the EIS and the restoration plan, and maybe simplifying the whole document, but -- that's -- then sort of our thoughts to stimulate discussion on where we go from here in response to your memorandum. Dr. Gibbons.

DR. GIBBONS: Mr. Chair, you're correct that most of the material that -- that would go into that has -- has been prepared. It's -- it's in various stages that could be -- massaged and put in. The objectives have not yet.

MR. SANDOR: Dave, just -- (Indiscernible - out of

range of microphone) proposals that goes in your memorandum.

DR. GIBBONS: Well, the three proposals in the memorandum are -- are extreme. I think, Dr. Pennoyer -- Steve Pennoyer identified it correctly where you have one -- one end is the policy document with -- you know, the outline of the policy to the other end that has detailed restoration actions on it, but not projects, but -- but actions, and then there's an in between document that identifies the objectives and stops at that point there. It doesn't identify restoration actions. Those formerly were called restoration options, they're -- they're groups of activities, more than projects. The -- the groups of projects.

MR. PENNOYER: Commission Sandor.

MR. SANDOR: I'd just like to ask a couple of questions to put this in the context of the document that went out to the public, which this is titled, draft Exxon Valdez oil spill restoration plan, summary of alternatives for public comment. Paragraph three says this draft -- the draft environmental impact statement, and the full text of the draft restoration plan -- the full text of the draft restoration plan will be ready in June of 1993. This goes on to say the information you provide will be used to prepare a final restoration plan that will be presented to the public this fall. The final plan may contain parts of several of the alternatives presented here, plus new information you provide. Is it -- fair or correct to say that at the time this was prepared, that what we really had in mind was essentially something close to the first alternative of a concise restoration plan?

DR. GIBBONS: Mr. Chair. I -- I think in that brochure, if you look in the last page, it identifies restoration options, which are groups of activities. And, I -- I think what we're asking now -- you know, if -- if that was -- you know, what type of activities would they like to see -- would the public like to see done, and I think that's what -- if I could get one, I could probably identify -- (Pause). On page nine, it lays -- potential activities out by resource group. Harbor seals, implement cooperative programs between fishermen and agencies to provide voluntary method to reduce incidental take, would be an action. Sockeye salmon, intensify management of sockeye salmon on the Kenai River and Red Lake to reduce the risk of over escapement. Those are the types of actions that -- that we were asking the public.

MR. SANDOR: Mr. Chairman, if I may, I guess I am concerned about the bottom line with regard to timing and -- as even with that in mind, the original intention was to have a final restoration plan that could be presented to the public this fall. And, I guess I'm concerned, just looking at the alternatives here, that prompts -- that prompted me to ask this question, that the alternative which allows us to achieve that objective is, in fact, this new draft one, and not that I'm suggesting that we have to led into that if there's a reason to deviate from it, simply that we -- I want to relate what the action that's on the table is what we went out -- to the public.

MR. BARTON: Mr. Chairman. As I recall, we had quite a discussion at the last meeting regarding what are the actions

that we took at that meeting with regard to the plan, and the impact that that might have on the schedule. And, as I recall, we recognized that we -- we could still have a draft plan ready by this fall which then would enter the NEPA process and that a record of decision as the result of the NEPA process probably wouldn't be forthcoming until late spring or early summer next year.

MR. PENNOYER: But I -- I think we also specified that we would not stop our process. That, in fact, the draft that we had, even before it received final approval, would serve as the basis for the '94 work plan, so there would be no halting of action, it would simple be that we'd use the draft as our basis for approval of the '94 work plan. And, so, I don't -- I don't think we -- we wedded ourselves to a particular day, except that the draft environmental be considered the '94 work plan. Mr. Cole, would you put your microphone on?

MR. COLE: I'm waiting for Mr. Rosier.

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Well, I believe the -- the scenario that Mr. Barton just outlined, that's -- that's my recollection of the discussion of the last meeting.

MR. PENNOYER: Could I ask you, Dr. Gibbons, in terms of this outline that we presented. Does that give you some (indiscernible)? I'm not suggesting we agreed on it, we haven't, but I'd -- I'd like to hear the Restoration Team comment on that whether that gives you some guidance as to the direction we would proceed, if that outline was adopted or some modification out of

it.

DR. GIBBONS: Yes. If you -- if you could -- you know, outline an area where you have to go through item six or five or whatever it is the decision was -- that would give us the guidance to mount an EPL, it would be in a draft restoration plan.

MR. PENNOYER: How would come back to us relative to the objective question, and so on? That's the area in here that I don't think we really dealt with in the previous draft. How would you -- how would you come back to us relative to the objective question?

DR. GIBBONS: Meaning -- meaning development of the objectives?

MR. PENNOYER: Yeah, we know we'd have to make -- we'd have to make some decisions in here for you to finalize it, that aren't made. Those I presume come after the policies -- discussions that had occurred, but would it take too much for you to frame those objectives, that we could -- so we could make decisions on them, or how would you do that?

DR. GIBBONS: Yeah, we would have to draft those objectives and come back to you for -- for your review on those. That's -- you know, would be the next step would be to develop those.

MR. PENNOYER: Mr. Cole.

MR. COLE: Wholly unacceptable to me is -- are -- formulating or adopting a restoration plan before next summer or next spring. That's number one. We simply have to conduct our

business, as I've repeatedly said, with more dispatch than that. That's essentially a year away, and that's unacceptable to me, number one. And number two is, I've consistently been of the view that -- this restoration plan should not simply be a rehash of the prior year's work plan, which I have a sense of almost where we're heading, and I think the restoration plan should be much more streamlined than we are now talking about. I don't think we need all this detail to formulate a restoration plan that's envisaged by this outline, and, if we have to come up with some objectives, then we should get busy and come up with some objectives. It's been nearly two years, and I don't know what the delay is. You know -- we just have to get business done. And, it's one of the reasons I asked in my memorandum for this meeting, to see where we were in this restoration plan. It's been nearly what -- sixty days since we've discussed it and where are we? What have we done in the last sixty days. Oh, I don't know, maybe something, but not much that I can see. Maybe that's unfair to the Restoration Team, but largely it's a criticism in some ways, perhaps of us. We have to make these decisions. So -- you know, I'm -- not pleased with where we are at this moment with respect to the restoration plan. And, also I have a lot of trouble with this EIS, I still don't think that we have yet made some decisions about what we're doing with the NEPA compliance. What decisions have we made on that in the last sixty days, if any?

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Thank you, Mr. Chairman. I kind of -- I

kind of agree with Charlie a little bit, but on the hand -- you know, I'm not sure that we gave that direct instructions to the Restoration Team. I think that they've wrestled with this, but there's still been the basic difference of opinion amongst the Trustees is to exactly what that plans in fact include. You've been on one -- I think you've been on one -- one end of the spectrum and I think Interior's been on the other. And, it seems to me that basically they've outlined the options for us here on this in terms of trying to come together and it appears to me that the -- you know, the view number three that's provided for in the document on this, when you look at timing, timing is pretty much on time with what we had originally discussed in terms of having a plan, not before the '94 work plan was out there, but at least a draft plan that would be adopted shortly after the first of the year, that we could at least plan on the '94 work plan from.

MR. COLE: How can I say it? We're right back where we were last spring. A year behind. At least six to eight months behind. We do this every year. I'm really in a good mood today, believe me.

MR. PENNOYER: Mr. Gates, do you want ...

MR. GATES: Just a question. We've got -- it shows here that most of the stuff has already been developed or is available except for the options. In order to put it in a planning document, especially what the outline sets forth, what would be time frame that you think this could be accomplished?

MS. GILBERT: I'd like to address that, I'm on the

planning group. Can you hear me? By early September, what you'll see is the analysis of the public comment which is -- what has -- largely been -- what's gone on this summer. And, I think what would be reasonable would be for you to see the -- you know, a draft policy document that would address the policies that were raised in the brochure, probably within a month or six weeks after that. And, if you're content with stopping at that level, which would be through policy, and where you want the emphasis to be placed, that would be accomplished by then, probably sometime in October. To continue on with objectives would probably take somewhat more time, and I would project that probably by Thanksgiving you could have a document, a draft document, for you to consider that would reflect public comment, that would contain policies and also restoration objectives. To go on to proposed actions requires a number of things, not the least of which would be legal review. There seems to be some substantial debate about which of these options are in fact allowable. And, there are a number of other problems with continuing on with that, including specific actions, that if you choose to add that to the restoration plan, it would take somewhat longer.

MR. COLE: How much?

MS. GILBERT: Could you get -- if you could get the attorneys together -- if assuming by Thanksgiving ...

MR. COLE: They're impossible.

MS. GILBERT: Assuming by Thanksgiving we have some legal guidelines, I would -- I would project by -- by, let's say

the middle of January, that you would have a draft document. Mark Brodersen thinks March, but ...

MR. GATES: (Indiscernible - simultaneous talking)
state by principles -- policy, before the '94 work plan is -- you make a decision on that so you could use to that process and then you could go on with the ...

MS. GILBERT: I would hope so -- I would hope that you could move quickly to that stage as soon as you see the public comment. That was how this was designed. That you maintain that momentum, that's extremely important.

MR. PENNOYER: I -- I guess the thing that bothers me, Mr. Cole is exactly right, we never get it done. And, the problem is we always seem to come up to a point, or there's a lot of detail, or a general idea, or whatever, and at that point somebody steps in and says oh, but wait a minute, maybe we should do something a little bit differently. And, we stop. And, that's in essence what we did the last time. We had a document, we had -- you know, not all of us thought it was the greatest thing since sliced bread, but we had a document, we had a lot of detail in it, and we were ready to go with it, and then somebody probably correctly pointed out that in satisfying EIS we didn't have the objectives in there by resource. Well, that kind of seemed to have stopped us, and I don't know that it had to. We need to stop until we got the results of the public comment on our synopsis paper. But, I -- I sort of have a feeling you just want to go out and kill something, and whether this is detailed or not, I think we can get

the job done in a reasonably period -- short period of time, if we give the instructions, sit back and let it happen. And it goes out as an EIS. I don't know if it flies or it doesn't fly in the final analysis, but then we're at the stage, we've got a draft in front of us, and if something inside we got to tinker with, we can tinker with it, but you've got to get started. Staff has done a lot of work to get this thing started in terms of background. You've got most of these pieces. We haven't dealt with the policies, which are the result of the public comment that we sent out that was due by August 6th. So, I think Veronica is quite correct. We can deal with the policies, get those back, work on those. That doesn't necessarily stop the Restoration Team, now at the same time to start draft -- putting objectives in context, and putting these other pieces so they can flow together. I think if we give them the instructions to go ahead and do it, I don't see why this is going to take that much longer. And I think if you do it, and you have these pieces, you can then use the pieces to draft the '94 work plan. So, I'm not suggesting, Charlie, at all, that we step back and stop this, I'm suggesting we stop stepping back and stop it, but go ahead and put something down, tell them to go for it, bring it back to us and then we can kill if we don't like it, but tell them to go for it and bring it back to us. I'm scared if we go for instructions that say be very general to start with, when it comes back to us, somebody's going to say well to do an EIS, you've got to have this other detail. You've got to have an EIS either now or on each annual work plan. I don't particularly look forward

to doing environmental impact statements for each annual work plan if we can avoid that. I think then each year we're going to be thrown at this same level of confusion of how much detail you've got to present in the annual work plan and I really would just as soon do it once, try and get it over with and then go to the annual work plans and have environmental compliance documents only on each individual project, I hope. Mr. Cole.

MR. COLE: You know, at the rate we're going -- going, I will have been here as a member of this Council for essentially three years and we haven't even come up with a restoration plan, if we're looking at this schedule. And, not only that, but the administrative expense goes on and on. It's chewing up the funds that we have available and we simply have to -- you know as you say, make some decisions. I don't want to get in the -- be accused of saying do something even if it's wrong, but let's do something and do the right thing and get busy and get it done. And, I think that we should establish no later than Thanksgiving that this draft is in essentially final form, and just tell people -- you know, for better for worse if it doesn't -- isn't done there then, we get somebody who will get it done, forthwith. That's pretty heavy medicine, but I think it's come to that point. And, maybe the responsibility is ours and the fault is ours. I'm not saying it's anybody else's other than ours, but maybe we ought to change our ways. We have to get this done. You know.

MR. PENNOYER: Mr. Barton.

MR. BARTON: And I think all of us are frustrated with

the pace at which we're going and -- and I certainly do think that it's the Trustee Council that gets the credit for that. I think the Restoration Planning Group and the Restoration Team work very hard to put something together in the hopes that that's what we want, for lack of clear direction from us. There's this question of NEPA compliance we've been kicking back and forth and back and forth, and I don't know how you get six lawyers to agree, but that's what's got to happen, it seems to me, or four lawyers, I guess, and I don't know what the mechanism is for causing that, but we sure need to find it and cause it. And these policy questions, we go back and forth on those, we make a decision one meeting and then we back off at the next meeting, or back off between the meetings. It's frustrating, you're right.

MR. PENNOYER: We only have a few minutes left before we have to start on the Eyak discussions, but I think -- finally got a -- made the best suggestion. And, is the -- is that a gem of an idea. Can we -- should we go ahead as Cole has said and have a Thanksgiving deadline for us receiving a final draft. We give the Restoration Team the instructions, generally as provided in our outline. Now this then falls back on the August 6th deadline, and Mr. Barton, your right, we may have gone back and forth on things, but we did say that we'd take -- we wanted public input on the policy questions to get back to us by August 6th. That's today. So it could be summarized, and I understand there's twelve hundred of them or something, thirteen hundred comments. There's a number out there....

MS. GILBERT: Thirteen hundred.

MR. PENNOYER: Thirteen hundred comments. So, that's going to take a little while to look at, but in the meantime if the Restoration Team is proceeding, tell us with the background, the injury assessment part is done. A lot of this other background information is done. That can come together quickly. They can proceed at the same time to start to frame the concept of what we would do with the objectives and bring policies and objectives back to us by, let's say Thanksgiving. I think we'd have the draft of the restoration plan right there, and we'd have the pieces that we could then combine and as well. Hopefully, we'd have a draft restoration policy guidance that would enable us to go forward on the '94 work plan. So, I think proceeding in that fashion, not necessarily getting into all the specifics about how far we go between view one and three, but proceeding in the fashion as outlined, our suggestion, in dealing with it in the time frame and the order in which Veronica has suggested would be, I think, an appropriate way to proceed.

MR. COLE: I move we adopt view number two.

MR. PENNOYER: I think that's in essence what was intended, but maybe not as generally drafted as that, but I think that was what was intended. Not the projects. Not the years. Next, question?

MR. BARTON: Seconded.

MR. PENNOYER: (Indiscernible) discussion? I mean Mr. Barton -- Dr. Gibbons?

DR. GIBBONS: Yes. View two includes restoration actions. We can do view one and view three by Thanksgiving. Our estimate of doing view two which has the injury definition recovery restoration objectives and restoration actions, is estimated to be March. On page three you'll ...

MR. COLE: I move to amend my motion and I now move view one.

MR. PENNOYER: Dr. Gibbons.

(Indiscernible - simultaneous talking)

DR. GIBBONS: We -- the restoration planning work group and the Restoration Team can do either view one or view three by Thanksgiving. That would ...

MR. PENNOYER: Do both?

DR. GIBBONS: Well what -- three incorporates view one. By -- by Thanksgiving what we could have was -- is a statement of injury, definition of recovery and restoration objectives, policy statements. That's basically what I'm saying.

MR. PENNOYER: Would you accept a friendly amendment that we instruct them to proceed in that fashion, and when it gets to that point we decide at that point whether we want to add the alternatives.

MR. COLE: Well, here's -- maybe I would accept this amendment, we adopt view one with the blend of view three. Is that all right Mr. Sandor.

MR. PENNOYER: What -- what does that direct in the outline so they've got more specific guidance.

MR. ROSIER: Mr. Chairman.

MR. PENNOYER: Yes.

MR. ROSIER: The outline actually represents view three, I mean that's the way I read this.

MR. COLE: That's why I didn't move three.

MR. ROSIER: But two is more detailed than three.

MR. COLE: So that's why I didn't move three, I moved one with a little blend of view three. You know, with a streamline. Maybe it's a streamline three is what I have in mind. And, if that's alright with Commissioner Sandor.

MR. SANDOR: Mr. Chairman, I get back to what we had laid out for public and I want -- I support staying on that course and, if, come this fall, when we had planned to have, in fact, the final plan, we see that we are short in some way, then at that point in time we make a change. To make a change at this point and say we're not going to be able to do this in the fall, and it's going to have to be done next March or something like that, it seems to me to -- to admit defeat even before we come close to the finish line. So -- and I -- that's why I asked earlier. It seemed to me that view one seemed the closest to what our original commitment was. And, I think we should stick to that, and I say that not only for that commitment to the public, but for the implications of how much money we'll be spending if we deviate from that. We actually put a price tag on these delays going into the spring, the summer, the fall, April 1995. And, we've already spent over \$300,000 on the EIS. We got -- we are actually hemorrhaging

our expenditure -- our expenditures on this administrative process.
And, it greatly bothers me.

MR. PENNOYER: Dr. Gibbons, I thought what you said was that you could get all the way through view three, except for the restoration actions by the timetable that was outlined by Commissioner Sandor and Mr. Cole.

DR. GIBBONS: That -- that's correct. Basically, view two -- you know, is -- is the -- excuse me -- view three would be the one that we could do by Thanksgiving, which is -- includes summary of the injuries, recovery, the policies and the objectives, but not the restoration actions.

MR. PENNOYER: Mr. Cole.

MR. COLE: Yeah, I do not like the recoveries is -- I don't think we yet have enough data on the recoveries to really make some helpful statements about recovery. That's the reason we're conducting these scientific studies to find out what the recovery rate is and continue to assess the injuries, and that's why I think it's a mistake to put that type data in our restoration plan. That we should have that more flexible.

MR. PENNOYER: So, your problem then is with the specific alternatives for actions for different resources?

MR. COLE: Always has been.

MR. PENNOYER: Well, why would it be inappropriate then to take -- do the rest of this up to that point, which gets us to about the timetable outlined by yourself and Commissioner Sandor, and then at that point make the decision if we want to go farther

or not. Then, they're working on something, we've got something in front of us which we can use to base the '94 work plan on and we've got the policies, we've got the injury statements and what we think is the current status of injuries, if we don't know it, we don't know it, and we have a shot of taking our objectives that will guide us in our next work plan. And, at that point if we want to do alternative actions, or if at that point we look at it and say hey, that fits right in with the annual work plan, so let's do it that way. That gives -- allows them to proceed, they're not on hold. They have enough information or instruction, I think, to go ahead and put this type of package together for us by Thanksgiving, or then about, and at that point you would have enough in front of you, we wouldn't talk about what we want to do, we'd have enough in front of us to say do we take the next step now or later.

MR. COLE: If that's acceptable to Commissioner Sandor, it's acceptable to me.

MR. PENNOYER: So, it's a modified alternative to three? I hope, without the alternative actions spelled out in this first draft. Mr. Gates, Mr. Barton, how do you feel about that?

MR. GATES: As far as the outline would be down through 5A, correct?

MR. PENNOYER: That would be through 5A, that's correct.

MR. GATES: That's ripe for discussion purposes, so they've got some guidance we need to deal with what's written.

MR. PENNOYER: Well, I think they're synonymous, but it that provides more detail, it's down through 5A. 5B is left,

although I think some thought can go into 6, and then what we do with the restoration plan, because I think they want the NEPA lawyers talking to each other about how you amend this thing without going back to a full environmental impact statement. But, it's down through 5A, maybe some discussion of 6, and then at -- at that time we would look at it and say, okay, is it appropriate now to go farther with this, can we do an EIS based on what we have, and we'll be advised on that, and then do the balance of the annual work plan, or do we have to continue on from that point. But, we would have something in our hands, we'd have a package. We wouldn't just be talking about putting something together with a bunch of pieces. We have a package. It probably would be sufficient to deal with the '94 work plan.

MR. GATES: I think -- to carry it through that far, but I think you're going to have to have the actions in order to do an EIS -- NEPA compliance to finish the job. But, you could carry it through for the '94 work plan.

MR. PENNOYER: Is that acceptable in this?

MR. COLE: No.

MR. PENNOYER: Okay.

MR. COLE: I just don't want to see us get hung up in getting this restoration plan out dealing with the EIS. I think we have to get a restoration plan out, and, if we, along the way, we can get something done on the EIS, fine. But, here we go again. You know, we can't get the restoration plan in -- out -- because you can't get the EIS out, and we're just bouncing back and forth.

Let us get something done and get on with it.

MR. PENNOYER: So instead of going to 5A, get something done....

MR. COLE: Yes.

MR. PENNOYER: ... At that point you've got a product.

MR. COLE: Yes, yes.

MR. PENNOYER: Mr. Gates is right. That's going to be a back to life when we get there, but we've got a product and at that point we can argue whether we have to go further or whether we take that and run with it.

MR. COLE: I support through 5A.

MR. GATES: Well, that's point I'm making here.

(Indiscernible - talking out of range of microphone)

MR. COLE: But let us not get hung up on an EIS if we get the restoration plan, if we can ...

MR. PENNOYER: I agree.

MR. COLE: ... work jointly, fine.

MR. PENNOYER: And we may be -- what you're saying, is may be legally hung up on it.

MR. GATES: Well, the point is before you can go on and the EIS, you're going to have to -- you know, go through 5B, is my only point, but I think you can carry it through 5 -- 5A and you can have as much of the plan prepared.

MR. PENNOYER: Mr. Barton.

MR. BARTON: I -- aren't we talking about two separate things. We're talking about the plan and then we're talking about

the EIS. And then right now, in front of us is an outline for the plan. Essentially, what we've got on the floor is elimination of 5B? Why don't we deal with that and we have a motion on the floor, let's deal with that and then we can deal with the EIS as -- a little further down the road. I'm pleased to hear, I think that we've determined we'd need an EIS, or we've agreed we'd need a EIS, have we done that? No. Alright. Let's just stick with the plan. Alright. I call for the question.

MR. PENNOYER: Is there any objections to the plan as proposed?

MR. SANDOR: Please restate it.

MR. PENNOYER: The statement was that we would instruct the Restoration Team to proceed on the drafting of the restoration plan as indicated on the outline that we presented here down through 5A, hope we have that done by Thanksgiving. At that time, we will look at it, decide what we're going to send to public review and decide at that point if an EIS would require us to do something else, maybe on a separate track. But, they would proceed with draft -- take -- in other words, the policy guidance that we got from the mail-out we did, that we're getting back by August 6th, it would be incorporated into a draft plan along this outline, that would include a statement of objectives on the various resources.

(Indiscernible - out of range of microphone)

MR. PENNOYER: It also will enable us to proceed with the '94 work plan in a timely fashion. Are there any objections to the

motion? (Pause - no audible response) Okay, thank you. Do you want -- five minutes -- we're not going to teleconference, we're going to do the briefing first, right? Okay. Mr. Brodersen.

MR. BRODERSEN: Mr. Chairman. We've run out of time today, but perhaps we could request you all to spend a few minutes at the August 23rd meeting talking about what objectives mean to each of you individually. This is something that everybody thinks is crystal clear, but I've been going around chatting with various folks at staff level as to what is an objective, what constitutes an objective and folks look at me like I'm crazy. But, I've noticed there's a very wide divergence of opinion as to what constitutes an objective, and if you all could spend a few minutes talking about that at your next meeting, I think that would give us considerable guidance on what is meant by objectives in this context.

MR. PENNOYER: I think that's a fair request, perhaps we could request the Restoration Team to outline in their areas ...

MR. BRODERSEN: I was going to offer that as ...

MR. PENNOYER: (Indiscernible - simultaneous talking) and come back and discuss it.

MR. BRODERSEN: I think it's imperative to allow us to move ahead quickly that you all do have that discussion to give us some guidance as what's meant by that.

MR. PENNOYER: Any problem with that course of action? Thank you. We'll now change topics and go to the Eyak negotiations, Forest Service Habitat Protection Work Group, and the

teleconference will come on at three and I presume you want five to ten minutes to set that up, so we'll take a break about five minutes -- five or ten minutes to three, or as soon as we get the briefing done. Mike, are you conducting the briefing?

MR. BARTON: I think Dr. Gibbons is.

MR. COLE: (Indiscernible - out of range of microphone and coughing).

MR. PENNOYER: Mr. Cole.

MR. COLE: Are copies of this proposal available for those who are here?

MR. PENNOYER: I don't know.

MR. BARTON: The Eyak proposal.

MR. PENNOYER: Yes.

MR. BARTON: I have copies for the Council members and a summary statement.

MR. PENNOYER: What about those who are attending this meeting, as members of the public, do they have copies of it?

MR. BARTON: I would ask if Eyak has any objections to -- to making it available to the general public, as they have requested prior -- before this that it be kept confidential.

MR. COLE: Well, let me say while they're discussing it, how can we discuss this in public and yet not have the public know what we're discussing?

KATHY ANDERSON: I don't have any public -- or (indiscernible) I don't care if you hand it out. Keep in mind though that my board of directors has not seen this in its final

form as this was completed at 12:30 today.

MR. PENNOYER: You're going to have to come up to the microphone, I think, so it gets on the record.

MS. ANDERSON: I said, I don't have any problem with sharing this document with the public, but I would like it kept in mind that my board of directors has not seen this final product, as we didn't finish it until about 12:30.

MR. PENNOYER: Does that ...

MS. ANDERSON: So that means a yes, John.

MR. PENNOYER: I beg your pardon.

MS. ANDERSON: That's a yes.

MR. PENNOYER: You can share it?

MS. ANDERSON: You can share.

MR. PENNOYER: We can share. Thank you.

MR. SANDOR: But the board of directors ...

MS. ANDERSON: Of Eyak has not seen this final proposal.

MR. SANDOR: Thank you.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: I have some problems discussing this if it's not a firm offer and is subject to the Eyak board of directors. I don't -- I'm not saying by that I do not want to discuss it under those terms, but if we discuss it in this vein, and we say yes, then sort of the tactical advantage shifts to Eyak, doesn't it? That's the way I sort of see it. And they say, well - - then their in a position to say well, now that's fine we know

what -- sort of how far the Trustee Council will go, but now we're in a position of making a form of a counteroffer. I don't want to hold this up, but that troubles me. Does anyone else have that same concern?

MR. PENNOYER: Mr. Barton.

MR. BARTON: Yes, distinguish how we handled the Seal Bay, wasn't that also subject to their board of directors?

MR. PENNOYER: Yes.

MR. COLE: Well ...

MR. PENNOYER: I'm not sure we set precedents though, necessarily.

MR. COLE: I guess that's what I'm saying in an oblique fashion.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: What I gather from Kathy Anderson's comments that some minor changes were made up to the last evening at midnight, and I guess I share the concerns that the Attorney General has on this, that really, we're trying to deal with concrete proposals. If -- if you could in your presentation actually outline what in fact the board is really laying on the table, this would be very comforting. Otherwise, we're dealing with -- you know, a ghost, and so that would be helpful.

MR. LINXWILER: Yes, we'll certainly do that.

MR. PENNOYER: Thank you.

DR. GIBBONS: We're going to start with -- it's a two phase presentation. First, would be the biological analysis of the

parcels presented by Kim Sundberg and Art Wiener. This should take about fifteen minutes or so, somewhere in that range, and then that would be followed by the Forest Service and Eyak Corporation concerning the various proposals. So ...

MR. PENNOYER: Gentlemen, do you have some material to pass out or is this ...

DR. GIBBONS: Mr. Chairman.

MR. PENNOYER: Dr. Gibbons.

DR. GIBBONS: There's copies of what the -- (indiscernible) parcels were out on the table available to the public, though I'm not sure if there's any left out there, but there were, I think fifty copies out there.

MR. PENNOYER: Gentlemen.

MR. ART WIENER: Thank you. What we'd like to briefly do is to outline for you what the subgroup has done in evaluating the parcels that are going into the proposals that will ultimately be discussed by you gentlemen. The evaluation method that we used is basically the same evaluation method that we had used prior to this particular parcel or parcels on Seal Bay, Kachemak Bay and the other imminently threatened lands. So, you're dealing here with an evaluation that is consistent with the method that we've used before. The evaluation and ranking criteria that we used are found in your document on pages 14 through 17, and you'll see that they're the same as those that we've used for prior evaluations. In terms of the design of the units for evaluation, what we did was we laid out parcels for evaluation purposes into what we believe

were logical units. The logic is driven primarily by biology, the ecological integrity of the unit, to some extent by ownership, but these are units that we felt were the most logical units to draw boundaries around and evaluate, using our system. The maps that you have in your document, and especially the map that's directly behind the Attorney General, are those that depict the parcel boundaries. The parcels include several areas that have been proposed for timber harvest, but they also include areas adjacent to those areas that have been proposed for timber harvest. Again, the logic is to incorporate within the parcel boundary the unit that makes the most ecological sense. So, that's why you see boundaries that extend beyond what is scheduled for timber harvest.

The individual rankings are found in the document and a parcel ranking summary is to be found on page thirty-two. Page thirty-two, the summary table, is probably a very significant part of this document because within this table you can see the relationship in ranking and score between the different parcels. Based upon this evaluation, which was conducted by the same team that has done all the other parcels, so our judgment is consistent, we hope, and also we had one very significant addition to the team, Ken Holbrook from the Forest Service, made very significant contributions to our effort. He is intimately familiar, both personally and professionally, with the Cordova area and we felt that he was -- made a very significant contribution to the evaluation, and so that's the only staff difference in terms of the evaluation. In any case, based upon this team making the evaluation, again using

the same system we've used before, we feel that the unit that includes both Power Creek and Eyak Lake rank the highest, clearly rank the highest in our opinion. And, that our recommendation based upon that evaluation is that the Trustee Council consider acquisition of full title to the Power Creek parcel and also, one way or the other, either through full protection or some other mechanism, acquire full protection for the area around Eyak Lake. And, when we mean full protection around the lake, we would like to see some kind of an instrument that actually means full protection for the resources and services that we use for evaluating the parcels. And, in our minds it would probably be title acquisition.

We did evaluate several other factors beyond the factors that we were empowered to buy the settlement, the fifteen linked resources and services, and if you like we could discuss those also. But, based on the evaluation of the fifteen resources and services, we feel that the Power Creek-Eyak Lake unit is the unit that you all should be considering for acquisition. What I'd like to do now is to turn the microphone over to Kim Sundberg and he could provide you with some detailed information on a per-unit basis and how we achieve the scores that we did. Kim.

MR. SANDBERG: Any questions at this time?

MR. SANDOR: Yes, one. With respect to ownership on Power Creek, I thought there was a difference in that Power Creek was the -- the power development rights on Power Creek were held by yet a third party. Could you explain that, or at least for the record, and then explain if, in fact, those power development

rights were -- were executed? How -- what would be the impact on the environment and how would it differ from other activities that might take place.

MR. WIENER: I think Mark Kuwada is in the audience and he has done the research on the power proposal. I think we can answer the first part of the question. The second part of your question on what would be the impact of that development, I don't think we can answer because I don't think we have the specificity as part of the proposal, but I think Mark can fill you in on what we do know about the -- about the power project. Mark just issued a preliminary ...

(Indiscernible - out of range of microphone. Recorder asks for identification).

MR. MARK KUWADA: Mark Kuwada with the Alaska Department of Fish & Game. The Federal Energy Regulatory Commission just issued a preliminary license to Whitewater, Inc. for a run-of-the-river hydro project on Eyak Lake -- on Power Creek. The license was issued on the 16th of July, and it's effective for three years. And, all we know at this point is the project is a run-of-the-river project, twenty foot high diversion structure on Power Creek, eight thousand foot long penstock and five megawatt capacity.

MR. SANDOR: Diversion project does not or does involve any (indiscernible - background noise).

MR. KUWADA: It will divert the water from approximately two miles up the creek, somewhere above Omen (ph)

Falls.

MR. SANDOR: Will this -- will this have any adverse impact on the fisheries of that area that were protected, we're trying to protect in the acquisition of the property?

MR. KUWADA: It depends where they discharge the water. If they discharge it above the known reach of a fish distribution in the stream, they'll put all the water back in, and they'll be okay.

MR. SANDOR: Do we have any control? Does the Fish & Game have any control over that?

MR. KUWADA: To our comments to that, I defer to Kim, yes.

MR. SANDOR: I guess, Mr. Chairman, the reason I raise the question is I would hate to see us acquire the -- this title with this encumbrance potential for development that might in fact diminish the very value that we're trying to protect in the acquisition of the property to begin with. So, maybe in the course of your presentation, you can discuss that.

MR. PENNOYER: Mr. Cole.

MR. COLE: What does run of the river mean?

MR. KUWADA: It means that it isn't a dam structure as much as it's just a diversion of the water down through a penstock or pipeline into a powerhouse and then back into the river channel again.

MR. COLE: What percentage of the water will be diverted from the stream through the penstock?

MR. KUWADA: I don't know at this point. I don't know what the discharge at Power Creek is, but it could be all of it, de-water a portion of it.

MR. PENNOYER: This diversion is above the upper limits of salmon spawning and migration.

MR. KUWADA: Yes.

MR. PENNOYER: Thank you. Want to continue with your presentation, please.

MR. SUNDBERG: Thank you, Mr. Chair. Okay. I guess the answer to the biological evaluation of the Power Creek parcel is that we were aware of the power FERC preliminary license -- but we did not -- that did not affect how we evaluated the biological values to this area, so -- and we don't have enough information at this point to really know what the potential impacts of that were -- that project are. Essentially, what Art went through with these maps is that the areas divide up into five major parcels that we looked at, Prince William Sound 02A, 02B and 02C, involved Eyak, Power Creek, Eyak Lake and Eyak River system, watershed. The Prince William Sound 01A is Orca Narrows, and that's down on the second map, and the Prince William Sound 01C is the Rude River parcel, which is on the -- includes the upper part of Nelson Bay and up into the Rude River valley. And, again the logic behind these boundaries were is we tried to encompass more or less some ecological units, watershed boundaries and we drew the lines along the -- the Eyak Corporation's property boundaries.

MR. PENNOYER: Kim, do you have the acreage on each of

those parcels? (Indiscernible - coughing).

MR. SUNDBERG: Yeah, the Prince William -- the Orca Narrows is three thousand five hundred acres, the Rude River is seven thousand three hundred acres, the Eyak River is five thousand one hundred acres, and the Power Creek and Eyak Lake, combined, are thirteen thousand acres. That includes both A -- parcels A and B are thirteen thousand acres. And that leads into one of the reasons that we have combined A and B and looked at those as evaluating those as a whole is because when we got into looking at what the biological values are in that area, that Eyak Lake and Power Creek work as a biological system together. The salmon that spawn in Power Creek are totally dependent upon the lake for rearing and over-wintering, and to divorce one from the other, either -- just -- buying protection of just Eyak Lake without Power Creek or just buying protection of Power Creek without Eyak Lake doesn't do anything in terms of protecting the anadromous fish resource because those systems work -- because they work together as a system, you've got to have one or the other. So, we presented the evaluation of combining both Power Creek and Eyak Lake to show you that when you draw these boundaries, you've got to keep in mind how they work as a system together and how the value can -- the weighted score can go up, when you combine these together as an ecological unit. So, I guess what I'd do right now is briefly go through these five different parcels and sort of walk you through what the relative values are, starting with Eyak Lake-Power Creek parcel. That system is very important for anadromous fish, it has

sockeye salmon, coho salmon, dolly varden, cutthroat trout, and other salmon also use that system, but the primary injured species would be the sockeyes, the dolly vardens and the cutthroat trout. The sockeye run is estimated between fifteen thousand to twenty-five thousand annually, and the coho salmon are estimated between nine thousand and twelve thousand. The lake shore is used as a spawning area for the sockeye salmon. They are spawning around the lake shore and also in the Power Creek system and tributaries, and there's some real important hydrology going on in there, with upwelling around the lake shore that allows these fish to spawn in there, and then the fish are rearing in that lake, and then outmigrating to the sea. So -- you know, Power Creek and Eyak Lake are integral to the anadromous fish population there. Bald eagles -- the area isn't so much important as a nesting area as it is as a feeding area. It's a major fall feeding area for bald eagles. Some people have estimated that about a third of the Prince William Sound population of bald eagles come through this area and feed on the salmon in the fall, and because there's late runs of fish there, they can feed into the -- late into the -- early into the winter, and it's a very important area as a feeding area, and again, the fish are driving this bald eagle use of the area. Some of the other high values there include river otter -- got some pretty high values for river otters, large numbers of river otters use the area, for both feeding, denning and latrine sites. Recreation-tourism is very high. The area is right adjacent to Cordova, it gets a lot of local use, plus people visitor use from

outside for hiking, fishing, boating, hunting, berry picking, bird watching and etc. There's a road that goes to -- along the north lake shore and up to Power Creek, so it's road accessible, and there's also some popular hiking trails that take off from the road and are used extensively. Areas of -- high -- it's high use subsistence area. Local residents use the area for hunting, fishing, plant gathering and berry picking. Overall, using our scoring system, the combined Power Creek-Eyak Lake parcel received a score of thirty, and in comparing that with other parcels that our group has evaluated, it's up in the -- you know, upper ten percent of the number of parcels that we have evaluated so far. As a reference, Seal Bay also received a score of thirty by our scoring system. So, it's a highly ranked parcel, it would provide good restoration benefits and as you'll see that one -- that parcel comes out much higher than some of the other ones. Additional value of the area is for watershed. Again, it's very feasible from the City of Cordova from the highways and also has hydrologic value for -- as a watershed for -- at least a portion of the city water supply, comes out of Eyak Lake. Going down a river, on the Prince William Sound 02C parcel....

MR. SANDOR: May I ask a question?

MR. KUWADA: Sure.

MR. SANDOR: With respect to Eyak -- with respect to Eyak Lake and the putrifaction (ph) that's threatened by the timber harvesting, isn't it true that even if there was no timber harvesting that putrifaction might well take place, if in fact the

parcel at Eyak Lake was subdivided and developed for residential or recreation lots. If, in fact, septic systems, for example, were used.

MR. SUNDBERG: Yeah, the lake is very shallow, I think its normal depth is eight feet. Because it's shallow, it's very susceptible to any kind of additional organic load which would come from septic systems, land clearing, any kind of organic debris that gets into the water, washes into the water, nutrients would -- could cause large algae growth which would use up the oxygen which would kill the fish. And -- so it's -- it's susceptible to that kind of impact, whether from logging or from lake -- intensive lake shore development.

MR. SANDOR: What I want to pinpoint, Mr. Chairman, though is that even with the total absence of timber harvesting with that development of that lake side property for residential or recreation lots, we have the threat of putrifaction.

MR. SUNDBERG: Yes, the threat is definitely there.

MR. SANDOR: And, if putrifaction occurs, what does that do to the salmon runs?

MR. SUNDBERG: Well, it depletes the oxygen in the water so then the fish die.

MR. SANDOR: See, Mr. Chairman, this really strongly advocates -- in fact, I think the only possible way I could vote for this is that we got the property in fee because it isn't just a matter of eliminating the reduction of the problems that might stem from timber harvesting, but the development of the property

itself. And, I guess from a biological standpoint, or from your professional perspective, is that sound reasoning?

MR. WIENER: Well, I'd certainly speak to that and agree, because not only do you have the potential problems of septic waste, you have other kinds of waste that come off residential property of herbicides, pesticides, the trimming and the removal of vegetation over along the shoreline, and most of this would be uncontrolled by existing regulations, so you have a number of problems that could add to the potential putrifaction in addition to septic waste reaching -- you know, the lake shore.

MR. PENNOYER: Art, does that require fee though, or there other (indiscernible - simultaneous talking).

MR. WIENER: In my experience, conservation easements could be designed and crafted to hopefully prevent these sorts of things, but the management of those kinds of conservation easements that would have deed restrictions that would prevent things like using fertilizers and proper disposal of the septic waste would be an enforcement nightmare. It would be very, very difficult for the agencies to regulate those kinds of uses. And, I would certainly concur with Commissioner Sandor that the most efficient way to protect it is to own it, and to totally prevent that kind of development.

MR. COLE: I want to thank Commissioner Sandor for explaining the issue for me.

MR. PENNOYER: Why don't you gentlemen proceed. We don't have a lot of time.

MR. SUNDBERG: Okay, I'll go through this pretty quickly.

Moving down river to Eyak River system, it would be the lower river, part of that river is clear water that comes down out of Eyak Lake and then it's joined with some glacial water that comes out. It's primarily used for anadromous fish as a migration corridor. It's mostly a sand bed river, there's not spawning down there. There is some rearing habitat along there, but it's primarily being used by fish moving through that area going up into the lake and Power Creek to spawn, and other tributaries. It was rated high for bald eagles, because there's some nest sites down in that area, and there is feeding and roosting along the shoreline. The rest of the values down there were moderate to low. It is used moderately by recreation, there's a fair number of people that fish for salmon down there, people use the trail going down there for berry picking, fishing and hunting. There's some duck shacks down there. It gets -- you know, intensive use at certain times of the year, probably not as much use relative to the Eyak Lake and Power Creek area because of the accessibility. Let's see. That pretty much covers the lower Eyak River. It's score came out to be 13.5, which ranked it down towards the lower end of the parcels that we evaluated there.

MR. PENNOYER: Mr. Cole.

MR. COLE: How was the acquisition of any of the six parcels which you just -- well, I guess it's four parcels, which you've mentioned, leads to the restoration, replacement or enhancement of an injured resource as a result of the Exxon Valdez

spill?

MR. SUNDBERG: Well, the species that use that system are species that were injured by the oil spill, and by maintaining those species in an intact condition, you are in fact helping to restore the resource that's in the area because the fish, the mammals and the birds that are using that area are ones that we don't know whether they were using the oil spill area or not for some part of their life history stage. They are definitely using this particular area as habitat and it's important to maintain these high value habitat areas if we're to expect restoration to occur.

MR. COLE: And what species were those?

MR. SUNDBERG: Sockeye salmon, dolly varden, cutthroat trout, bald eagles, river otters.

MR. COLE: Do you have data that is -- Lake and Power Creek is used by dolly varden?

MR. SUNDBERG: Yes. It's a high use area for dolly vardens.

MR. WIENER: One thing I would add to Ken's response, it would certainly prevent additional injury to those resources because harvesting of timber that would destroy their habitat would certainly exacerbate the injury to those resources.

MR. COLE: How about eagles?

MR. WIENER: We cut around or cut the nest down, certainly would harm the eagle.

MR. SUNDBERG: One thing that strikes me with the eagles

is that because their attracted to the area by the fish and a large number of the Prince William Sound eagles use that area for feeding in the fall, if that fish population was damaged in any way, that could have a serious effect on recovery of eagles in a large part of the Sound given the available ...

MR. COLE: What is the data about injury to eagles as the result of the spill?

MR. SUNDBERG: They were -- there was eagles that were killed by oil, there was eagles that were disturbed by clean-up activities. I -- I think that right now the jury's out as to whether those populations have recovered to what their pre-spill area -- numbers were, but I think there were definitely documented injuries to bald eagles during the spill, both direct mortality and breeding failures and disturbances.

MR. COLE: Thank you.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: As a follow up question, with respect to criteria five on depleted, rare, threatened or endangered species, in your evaluation, did you in fact conclude that the parcels -- these parcels contained critical habitat for depleted, rare, threatened or endangered species? If so, which species?

MR. WIENER: I don't believe we did, I don't believe any of these parcels contained species in those categories.

MR. SANDOR: Even the depleted?

MR. WIENER: That's correct.

MR. SANDOR: Thank you.

MR. PENNOYER: You want to proceed?

MR. SUNDBERG: Okay. Moving onto the Orca Narrows and Rude River parcels, that would be 01A or the Orca Narrows. Now, this parcel encompasses essentially the north shore of Orca Bay Narrows, and it's -- is drawn pretty much around the area that was provided in February as the imminent threat parcel, which is proposed logging from Hole in the Wall drainage system on the west side all the way up Orca Bay Narrows and in the vicinity of -- there's an anadromous stream there, I can't remember the name of that stream, but it's most of the north shore of that Orca Bay, and it's drawn pretty much along the watershed boundary. So, everything from that red line south pretty much drains into Orca Bay. That parcel received a score of sixteen, the -- the only high value that we were able to determine there, are that -- there was two high values. One of them was for recreation and tourism. It's real visible along the corridor that you go into Cordova in, and all the boats that go in and out of Cordova essentially pass by this area. Therefore, it's a very highly visible area, it does receive recreational use by local residents. Non-residents, primarily, our understanding is primarily use the area as a viewshed or as an area that they go through, although there are some hiking trails along the Milton Lake area and the Hole in the Wall is a popular anchorage, but that's a little outside of this parcel. The wilderness values were high because there was minimal evidence of existing development on that parcel, it basically is relatively intact. So, it received high value for that. The rest

of the habitat values there, let me back up one more. Marbled murrelets scored high on that parcel because there's large concentrations of murrelets that are feeding in the bay, and based on the habitat characteristics of that parcel, we felt that it was probably a high -- high confidence that nesting occurs there. We don't have any direct data on what marbled murrelet use of that area is. And, the rest of the values tended to be moderate to low for habitat values on anadromous fish. There are two anadromous fish streams on it, but relative to the size of the parcel, that -- using our criteria, would rank low for anadromous fish because there -- most of it's very steep shoreline and doesn't have sufficient fish habitat on it, other than at Milton Lake and upper Hole in the Wall drainage. Bald eagles is moderate because it has ten documented nest sites, and sea otters were rated moderate because there's some concentrations for feeding in the area. That -- (indiscernible) received a score of sixteen which is pretty much in the middle of our ranking system. And, then the last parcel we looked at was the Rude River. That's a block of land on the Rude River, inland from the coastline, or includes the upper part of Nelson Bay and then goes up into the Rude River Valley. I received no high -- they received high value for river otter and for wilderness, and those are the two highs. Moderates were for harlequin duck, anadromous fish. There are five documented anadromous fish streams up there, pink salmon, coho salmon, dolly varden and cutthroat -- and moderate for marbled murrelets. So, in summary the most important biological area was found in Eyak Lake

Power Creek, followed by the Rude River and Orca Narrows, and then finally the lower Eyak River.

MR. PENNOYER: Questions?

Mr. Sandor.

MR. SANDOR: I know it's been the discussion that -- with respect to Eyak Lake and I guess the Power Creek area is -- these areas have experienced prior timber harvest in the early 1900's. What -- what rough percentage by area or by volume was the area actually harvested in the early 1900's?

MR. SUNDBERG: Our -- our information showed that that area was extensively harvested, that a lot of it had been cut in that time period.

MR. SANDOR: Are we dealing with potentially a second growth stand in the Power Creek and Eyak Lake areas?

MR. SUNDBERG: That's my understanding. And, when we looked at it for marbled murrelets, one of the reasons that it didn't score high for marbled murrelets was that the stand hadn't developed, these sort of old growth characteristics that the murrelets seem to use, so it was ranked low for marbled murrelets, as a result. One was a canopy -- more of a closed canopy, not as much mossy trees and that kind of stuff.

MR. SANDOR: It's predominantly then second growth?

MR. SUNDBERG: There's some pretty good sized trees in there, but there definitely is a high percentage of second growth.

MR. SANDOR: And this has implications with respect to the value that -- but that does not apply to the other parcels, or does it?

MR. WIENER: I don't believe the Orca Narrows area (indiscernible - out of range of microphone).

MR. SANDOR: Yeah....

MR. SUNDBERG: Well, it's probably been high grade logged, but not (indiscernible - coughing).

MR. COLE: Could we get a definitive statement on that Commissioner? What has been previously logged?

MR. SANDOR: Is that really -- I think it's relevant from several standpoints, particularly with the proposal that -- that we have -- you know, eighty year moratorium or whatever else, because in effect what we're dealing with is an eighty to ninety year stand that's been in existence. So, indeed, this -- the very values that you deploy here on these two parcels, specifically, suggest that essentially timber harvesting had occurred eighty-ninety years ago, still resulted in the very high values -- the resource values that you describe. So, that's something to keep in mind as we -- you know, the purchase rights. I'm -- I hope we can get into the discussion, and perhaps -- when does the teleconference begin?

MR. PENNOYER: I think there's members of the public who will want to testify to that as well, and we'll take that during the public testimony.

UNKNOWN FROM AUDIENCE: I just wanted to help clarify the second growth (indiscernible).

MR. PENNOYER: If you could perhaps do that during the testimony period, then we'll ... We are not five minutes from the

teleconference. I think unless the Trustee Council wishes to do differently, what we'll do is break for ten minutes, set up the teleconference, let Eyak make their proposal and then take public testimony. Will that be acceptable? Then we can come back and visit with staff further after if we want to after (indiscernible).

So, we'll take a ten minute break. Thank you.

(Off Record - 2:58 p.m.)

(On Record - 3:13 p.m.)

STAFF: And we're on line at this time.

TELECONFERENCE BRIDGE OPERATOR: Valdez, Juneau, Palmer and Cordova.

STAFF: Thank you very much.

TELECONFERENCE BRIDGE OPERATOR: You're welcome.

STAFF: The way we're going to do this meeting today is the Eyak people are going to make a presentation and then when they are done, we will convene this teleconference -- or I mean the public comment portion and that will go from -- for forty-five minutes at that time. And, I would like to remind the people at the teleconference site and let those folks in the audience here in Anchorage know that we're going to request that they keep their testimony to two minutes.

TELECONFERENCE BRIDGE OPERATOR: This is Nancy in Cordova. Is there any way that you can increase the volume from your end (indiscernible).

STAFF: Yes, Nancy, I'll do my best.

TELECONFERENCE BRIDGE OPERATOR: That's better, thank

you.

MR. PENNOYER: Okay, thank you, can we go ahead and get started. For those folks on the teleconference line this is a meeting of the Trustee Council and we've discussed some other issues before we got into the current issue on the Eyak Land acquisition question. We have all the Trustee Council members present here, Commissioner Sandor, Department of Environmental Conservation, Mike Barton from the U.S. Department of Agriculture, Mr. Carl Rosier from the Alaska Department of Fish & Game, Mr. Paul Gates from the Department of Interior, Attorney General Cole, from the Attorney General's Office, and myself, I'm Steve Pennoyer, from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration. We had some presentations from staff.

We're going to move forward now with a presentation from Eyak regarding the land acquisition question and after that we will open it up to public testimony. Again, it's now 3:15, we've got an executive session to get through this afternoon, so our time is very limited, and I'm afraid as you were told earlier, we're going to have to limit the public testimony to two minutes per person. I will start the public testimony after the presentation by Eyak Corporation and the questions of the Trustee Council. So, if you folks would care to proceed.

MS. ANDERSON: Good afternoon. My name is Katherine Anderson, I'm the project coordinator for Eyak Corporation. At this time I'd like to express my gratitude to the Trustee Council for giving us the opportunity to present today the Eyak proposal,

and I'd also like to thank the Forest Service who has been the lead agency for their long hours of discussions while we continued our negotiations in the last few days. I'd also like -- at this time like to introduce our staff -- he's not here, our land manager Lee Wyatt; general manager for Sherestone, Loren Waymueller (ph); our attorney from Guess & Rudd, Jamie Linxwiler, and I'd like to express a deep amount of gratitude for all those that have diligently worked with us in trying to come about with a proposal that meets not only our needs, but the needs of the public that are concerned about protecting critical habitat in Prince William Sound. At this time, I'd like to turn it over -- our presentation -- to Jamie and if you have questions, if you could hold them, let him give his presentation. Thank you.

MR. LINXWILER: Slide this over here, do I need to lean into the microphone? Okay. Thank you, Katherine, members of the Council, let me also express my gratitude on behalf on Eyak for the opportunity to be here today and present this habitat protection proposal on behalf of the Eyak Corporation. I know I speak for all the board of the Eyak Corporation when -- when I do that. Eyak has been pursuing a course of habitat protection in relationship, primarily to two areas of Eyak land, that would be the Eyak Lake area and the Power Creek area. Our July 19th proposal made to this Council focused on those areas, activism in the community has primarily centered on those areas, and that's why we did that. We again offer this proposal, respecting the Eyak Lake and Power Creek areas, with only minor changes as the first of several alternative

proposals that we are making today. Since we made that proposal, there have been a number of events that I think we're all aware of that have driven us to the bargaining table and back here today. In response to these events, a second alternative that we are presenting today, which was only been really fully identified in the last few days, has been to convey not only the Eyak Lake and Power Creek areas, but also an area across Prince William Sound from the City of Cordova called Orca Narrows, along with establishing a timber cutting moratorium, and granting to the Council trade rights to trade out of the Orca Narrows area if you believe there are other higher value lands. We also provide a third alternative, which is really a sort of derivation of the second alternative, which provides access to other Eyak lands and also, in return, provides a guaranty to Eyak that it will derive a full economic benefits in this transaction. The second and third alternatives are specifically intended to respond to recent events.

I should mention with respect to the Power Creek and Eyak Lake proposals that they are primarily different in the amount of money that we request and the rights that we are proposing to convey. The amount has been subject to further, more precise calculation on the basis of updated timber data, particularly recent timber prices. And, I think you'll be happy to clear that the price has come down somewhat. The offering price has come down. But, what we wanted the Council to do was consider this on the basis of real financial information, as updated as we could make. In return, although we understand we're limited to fair market value

considerations, we are most interested in assuring that we get this or something very close to the values that we are offering for this land. I mentioned briefly that we also slightly altered the terms of the interest to be acquired. There's been some comment today about whether the prior proposal easement was adequate for the purpose of habitat protection, and we have given stronger protection, primarily barring residential subdivision development, which is, as I understand it, is one of the major concerns. Before we discuss these proposals, Council ought to understand my authority and the Eyak in making this proposal. The original July 19th proposal was reviewed carefully by the board of directors of the Eyak Corporation. This latest proposal, however, including the Orca Narrows and the moratorium on the Eyak timber operations, has not been formally addressed yet by the board of directors. They will meet tomorrow to do so. Therefore, with respect to those -- particularly with respect to these latter alternatives, the Council needs to understand that my authority today is limited to taking a proposal back to the board. I cannot today commit on behalf of the Eyak Corporation. I would like now to discuss briefly these alternatives. The alternative proposals are available in the back of the room as I understand it. Eyak is willing to accept on the Power Creek and Eyak Lake areas, a very high level of protection for the resources and the habitat on these lands. Eyak shares the concerns of the Cordova community and this Council concerning the protection of these resources and believes that they can be most appropriately protected through an acquisition of habitat's rights.

We initially proposed the acquisition of an easement, and we will go to our shareholders with a proposal to acquire these lands in fee. We can't grant fee without shareholder approval. This is the proposal the Eyak has evaluated to some length, and Eyak feels it is quite comfortable with it. Eyak wishes to grant a perpetual conservation easement with appropriate development restrictions to the United States with respect to these lands. This area contains seven thousand six hundred acres. Excuse me, can I get a glass of water. Thank you. This area contains seven thousand six hundred acres on which stand over fifty-nine million board feet of timber.

With, in our view, approximately twenty-one million dollars at its current level of profitability. This amounts to an average price of about twenty-eight hundred and sixteen dollars per acre. Eyak would reserve a run-of-the-river hydro-power site along the Power Creek area. I should briefly describe for you that a run-of-the-river means that it is in the river and there's water flowing around the pipe. I don't know the precise answers to some of the questions that were asked about this particular proposal, but as I understand it, the entire penstock is located in the river with water around it. The transaction would be for a fair market value, determined by appraisals by the United States, with some participation in the process by Eyak. Payment to Eyak would be at closing, which we perceive to occur in six to nine months. This is a relatively simple and straightforward proposal. Now, I'd like to go onto our second proposal, which is basically Eyak and Power Creek in the manner that I've just discussed, plus the Orca Narrows

area. This proposal is somewhat more complex. Eyak's proposal with respect to Orca Narrows provides for important habitat protection consistent with Eyak's land stewardship responsibilities to its own shareholders. We implement that responsibility through a lesser restriction on Eyak's land use than is present in the Power Creek and Eyak Lake areas. In its proposal, Eyak also proposes a moratorium on further timber operations and timber cutting in the Prince William Sound area, with certain minor exceptions. We're forwarding this proposal today, because this tract is the very next one to be cut by Eyak. As you may know, initial road building and land clearing operations have been conducted over here and have been suspended pending actions on this proposal. The addition of the Orca Narrows area adds a fifty-five million board feet of timber, with an additional twenty point seven million dollars valued in the manner that I previously described. The result is a total of about fifteen thousand seven hundred acres of lands, encompassing a hundred and fourteen plus board feet worth a total of about forty-one point one million dollars. While this isn't a land sale, it does encompass a total of about twenty-six hundred and eleven dollars per acre of value. Along with this offer of lands under this alternative, Eyak also offers a moratorium on its cutting activities on the tendered lands and additionally on all Eyak lands and selections west of the Eyak Lake and the Power Creek areas. The terms of this moratorium extend until December 31, 1994. This proposal also offers the opportunity to exchange the Orca Narrows tract on an equal value basis for

other lands which might be deemed to be more important by the restoration planners, before December 31, 1994, and provides a -- an exchange implementing proposal. The proposal is somewhat more complex because it has to address the financial impact of the timber cutting moratorium on Eyak. Our proposal includes what we believe to be a reasonable approach to resolving this financial impact. As I mentioned earlier, timber cutting operations are being conducted on these lands by Eyak's logging contractor, and this logging contractor owns about twenty-five pieces of heavy equipment financed through banks and has about seventy employees, and he has no alternative cutting contracts. Accepting the transaction proposed here means that this logging contractor and eventually Eyak will quickly incur very heavy costs as a result of the shutdown. While most, or all of these costs, are included in the value of the timber Eyak holds, and thus will be paid in about nine months, it still leaves the problem of immediate cash flow. The immediate cash flow problem is caused by the immediate shut down and the moratorium. The -- this cash flow problem must be addressed in this option. Therefore, we've included in our proposal an earnest money provision to cover the cash flow problems created by this proposal.

MR. COLE: Is that three -- roman numeral 3A?

MR. LINXWILER: That's right. The earnest money presumably would be paid through a cooperative agreement between the Forest Service and a non-profit organization, and it would be fully recoverable out of the purchase price. Charlie, I'm quickly

looking for roman three, I believe that is correct. That is correct. While the earnest money approach is different than what you have done before, with respect to this sort of land, or at least with respect to this sort of habitat protection acquisition, we believe it is reasonable and necessary under these circumstances if Eyak is to consider the Orca Narrows and moratorium aspects of this second alternative proposal. We've made a third proposal as well. Eyak is concerned that it may not derive the full financial benefit it foresees from this transaction if the appraised values are less than it believes is present. Therefore, Eyak proposes that the Council commit forty-one point one million dollars to have at acquisition on Eyak's land and that the difference between the appraised values of the habitat values, if any, and forty-one point one million dollars be expended in further habitat protection acquisition on lands the parties mutually identify. I hope the foregoing has been of assistance to the Council in assisting it in evaluating the proposals that Eyak has made today. As I stated at the beginning, these proposals in part consist of well understood and carefully reviewed habitat protection proposals at the Eyak Lake and Power Creek areas, along with two very new proposals intended to respond to events that have arisen in the last few days. I hope the Council will accept these proposals in the helpful and hopeful spirit in which they are made by the Eyak Corporation's negotiating team. Thank you very much, and of course, I'm happy to answer any questions you might have.

MR. PENNOYER: Are there questions of the Trustee

Council? I limit it to questions for clarification. We are going to have to discuss the issue and what we want to do with it after we hear public testimony, but if people have questions of Eyak as to the content or intent of the proposal.

MR. SANDOR: I have a question.

MR. PENNOYER: Commissioner Sandor, I believe has his hand up.

MR. SANDOR: With respect to the financial impact on Eyak and the value of timber that Eyak holds, it's my understanding that Eyak has much of the timber that -- that we're talking about actually under contract. Is that correct?

MR. LINXWILER: That is correct. Nearly all of it.

MR. SANDOR: Nearly all of it?

MR. LINXWILER: That is correct.

MR. SANDOR: I guess, Mr. Chairman, the concern I have or question I have, and I believe the public really should have some -- some knowledge of this, the literal value then that timber Eyak holds -- that Eyak holds in timber value -- is it fair market value at '93 values or is it the value of the contractual obligation that you have to whoever holds the contract?

MR. LINXWILER: Well, I should explain who it is that holds the rights. A wholly-owned subsidiary of Eyak holds the timber rights, and that wholly-owned subsidiary would also be a party to this conveyance so that you would get all of the interest that exist with respect to the timber and, accordingly, would compensate Eyak for all of the value in the timber.

MR. SANDOR: Is there any extension of any contractual obligations that Eyak has to -- purchase timber that has in fact been logged and is to be logged in the future, and if so, how far into the future?

MR. LINXWILER: Well, either Eyak or Sherestone (ph), its subsidiary, owns all of the timber we're talking about. And so, one or the other of them would hold perpetual rights to the timber and would convey rights necessary to effectuate this transaction to the Trustees Council.

MR. SANDOR: But is there an obligation to sell the timber to any interest?

MR. LINXWILER: Oh, I'm sorry, if that were the question, no, there is no obligation beyond Eyak's and Sherestone's ownership interest, that's right.

MR. PENNOYER: Mr. Cole.

MR. COLE: I'm not certain that I understand the transactions which are before us today as proposed. Are you still proposing the July 19th document?

MR. LINXWILER: Attorney General Cole, the most direct way to answer that is that I think the July 19th document is a formal proposal of the Eyak Corporation to this Council, but that the July 19th proposal has been overtaken by events. As I understand it, one -- even limiting ourselves to the Eyak Lake and Power Creek, parts of that proposal, I understand there have been criticisms of it. We have responded in our latest proposal to those criticisms. So, yes, that is fundamentally the proposal before you, but we

have

slightly modified it in response to criticisms from your agencies.

MR. COLE: Still not sure I quite understand. Is the -- are the options one and two and three contained in the July 19th documents sort of scrapped? Can we just sort of put them aside and say they're no longer before us? I'm specifically referring to, what I guess, that's the fee title to tracts one and two.

MR. LINXWILER: You're talking about fee title to Power Creek, is that correct?

MR. COLE: Power Creek and Eyak, one tract of four thousand two hundred acres, and other tract at three thousand four hundred acres, for a total purchase price of estimated value at thirty-two million. Now, then if we look at the August 5 proposal, the one I'm holding in my hand, that does not mention a fee simple acquisition proposal. So, what I'm asking is do we still have before us a fee simple acquisition proposal?

MR. LINXWILER: Yes. Well, you do in the form of a new proposal. Let me explain.

MR. COLE: Okay, please.

MR. LINXWILER: The shareholders of the Eyak Corporation apparently sometime ago enacted an resolution requiring any sale of corporation assets to go to a shareholder vote. However, the board of directors of the Eyak Corporation believes that the conveyance of a significant restrictive easement does not require a shareholder vote. For the purposes of effectuating this transaction therefore, the initial proposal that we are making now

is a restrictive conservation easement, with, on page two, if you look at roman 2C, it says "fee title is an option subject to shareholder approval." What the board of directors is committing to do is to grant the restrictive easement now and go on to a shareholder vote on fee title. About the easement, I should perhaps speak a little bit more. The original proposal for easements in the July 19th proposal was for a forest canopy-style easement. That has been heavily criticized by the people who would need to administer it as lacking specificity and environmental protection and for its apparent failure to protect all habitat values.

MR. COLE: If we ...

MR. LINXWILER: So, we -- I'm sorry, go ahead. I didn't mean to interrupt you.

MR. COLE: Well, I was going to say, if we look at option one on page two, subsection C, the fee title is an option, are we looking at a fee title acquisition option subject to shareholder approval for the same twenty-one point four million?

MR. LINXWILER: Well, I guess that's up to the appraisers. We would assume that if we conveyed a restrictive easement and then followed that with a shareholder vote and converted to fee title, that the appraisal process would have to follow that process and that we assume that an appraisal of our restrictive easement would be somewhat less than a fee title, and so, the ultimate acquisition price we think would need to follow the -- the estate that tendered to you, and when it gets to fee simple, we just want

to make sure

we get paid for fee simple. That's our expectation.

MR. COLE: So, what I'm getting at the fee title acquisition option is for a sum in excess of twenty-one point four million?

MR. LINXWILER: I'm sorry, no we do not believe it is. We believe that the twenty-one point four million dollars represents the full value of the timber. As I understand what an appraise ...

MR. COLE: Then we should get fee title when summarily reject the -- the special conservation easement, if that's the case.

MR. LINXWILER: Well, I think -- maybe I -- yeah, thank you captain ...

MR. COLE: I'm just trying to get it straight what we're do -- what's before us.

MR. LINXWILER: Let -- let -- perhaps I didn't answer your question in as direct a fashion as I should have. The twenty-one point four is our estimate of what all rights to the land are worth, using timber as the highest and best use. That's the -- basically all the value of timber that we as a landowner will derive from the land. If we give you an easement, the appraiser will value the estate that we give you -- the quantity of rights or the quantum of rights that we give you, and presumably that's going to be less than twenty-one point four million dollars because he'll deduct a value of the retained estate. When we go to fee title, we expect that that number will be at or near twenty-one point four million dollars.

MR. COLE: So, on option one, Eyak Lake and Power Creek, if we were to accept that option, for example, and receive only a perpetual conservation easement with appropriate development restrictions, we would be looking at an expenditure of less than twenty-one point four million dollars.

MR. LINXWILER: Absolutely. What that says is that this is a fair market value transaction. You pay the fair market value, the rights you acquire. That's precisely right.

MR. COLE: And then that same principle would follow as to option number two?

MR. LINXWILER: Precisely correct.

MR. COLE: I'm not -- and essentially to the extent applicable, option number three.

MR. LINXWILER: Precisely correct again.

MR. COLE: Alright.

MR. LINXWILER: As I understand it the federal government cannot obtain land on any basis but a fair value basis.

MR. COLE: Okay, thank you.

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: Page 22 of this booklet says final agreements on proposed habitat protection measures will be subject to the approval and acceptance of the Eyak board of directors and/or the Eyak shareholders. And, you said that option one on page 23, which I presume is the same as this new handout option one on page two, would definitely have to go to the shareholders, but the conservation easement would not?

MR. LINXWILER: That is correct.

MR. PENNOYER: Do you have another question Mr. Sandor?

MR. SANDOR: The -- yeah -- excuse me. The conservation easement as we describe -- as we discussed and the questions that I raised about use of properties, perhaps destroying the lake even though no timber harvesting had occurred, it gives me great concern, so I -- I have a little problem with anything but fee title acquisition and -- and plus this would automatically mean that this would have to go to the Eyak shareholders, if in fact we -- we took that -- took that particular step.

MR. LINXWILER: Could I respond to that, sir. Without delving into the details unduly, if you take a look at the first page of our proposal, and you look at the first paragraph of the first page, we said the property interest that we are offering in Power Creek and Eyak Lake, the second sentence states the perpetual conservation easement, and incidentally, this proposal is for a perpetual easement and not an eighty year easement. That's responsive to another criticism of our proposal made earlier this month. The next sentence states, at a minimum conservation easement restrictions will include no commercial or industrial activities of any sort, including timber harvest, no subdivision, sale, lease or other conveyance of smaller tracts for any purpose, and we're talking about uses of private lands that might harm habitat values, there won't be that sort of use in this area. No subdivision, sale, lease or other conveyance -- I guess I've covered all of that. No non-commercial fitting or clearing of

timber and no spraying of herbicides, insecticides or pesticides. We have attempted to respond directly to the precise concerns that you raise, Commissioner Sandor, in the easement. And, in any event, we would take it to the shareholders for approval of a fee conveyance as well. The intention in proposing this easement is to give as much protection as soon as possible to these lands and to facilitate this transaction.

MR. SANDOR: Well, I'm not going to ask any more questions except to say that I'm not so reassured. In fact, my conclusion is our best protection is fee -- that fee title, and so that question remains. Thank you.

MR. PENNOYER: Mr. Cole.

MR. COLE: I -- as I understand Mr. Linxwiler that these conservation easements restrictions are restrictions upon Eyak.

MR. LINXWILER: That's correct.

MR. COLE: And, what is meant by lease or other conveyances of smaller tracts? Does that mean any tracks, or what's smaller mean in that context?

MR. LINXWILER: Well, I think it is intended to cover this situation of breaking this one large tract of land into smaller tracts and generating multiple ownership and usage of it.

MR. COLE: So there will be no transfer of any interest in these lands by Eyak, if we accept it -- perpetual conservation easement proposal. Is that your correct understanding?

MR. LINXWILER: Yeah, it is my understanding. Perhaps its more precise, and maybe I'm being unduly precise, is that the loan -- the landowner of the entire tract will always own the entire tract. And, while the entire tract, I suppose, could be sold to some other party, it will always be owned by one entity. I think it's ninety-eight percent or likely that that will always be Eyak. I can't image a circumstance in which a sale would happen.

MR. PENNOYER: One question I had is, under option one, you stated that since it's not fee simple, it's the start you'd expect at the appraised value, would come in less than twenty-one point four million. What happens then? I see it has -- the government has the right of sole option to accept the higher figure or reduce the acreage to match the amount in excess. If it comes in lower, what happens?

MR. LINXWILER: Well, I guess if it comes in lower, we make the deal for the lower price. That is the focus of our option three, by the way, which is if it does come in lower, and you've authorized the expenditure of an additional layer of funds, option three would allow you to utilize that additional layer of funds to acquire further Eyak lands, and that would in return guaranty Eyak the opportunity to get the full benefit of the authorized sum. That -- legally, that is an important option for both you and us to have.

MR. PENNOYER: Mr. Cole.

MR. COLE: Well, we've received a letter from Chugach Electric -- Alaska -- Corporation, dated August 5, saying that the

regional corporation, of course, is the owner of the subsurface rights. Have you had any conversations with them about either of these proposals?

MR. LINXWILER: In the last several days in generating these proposals, we have not. We have talked in general terms with the Chugach Corporation about this, I believe the Chairman of Board of the Chugach Corporation is here and rather than try to speak for them, I would prefer to defer to Mr. LaBelle.

MR. COLE: Thanks.

MR. PENNOYER: One additional question that I thought we should ask the staff that's up here, do you know how the seventy-six hundred acres relates to thirteen thousand acres in their analysis for Power Creek and Eyak Lake? Your option one for Eyak Lake and Power Creek is seventy-six hundred acres, the staff presentation was thirteen thousand.

(Pause.)

MR. LINXWILER: I am informed that the seventy-six hundred acres is all of the Eyak holdings in the area, that the thirteen thousand acres relates to the size of the entire study area, which includes other landowners besides Eyak would -- and in fact, may include the United States and the State of Alaska and such.

MR. PENNOYER: Thank you. Are there further questions of Eyak Corporation before we start the public hearing? Mr. Barton.

MR. BARTON: Not a question of Eyak (indiscernible) but a question for (indiscernible). I believe there was one further presentation. Hear me now? I believe (electronic feedback) -- I

think Bruce Van Zee who was the point negotiator for this was going to speak for about five minutes.

MR. PENNOYER: Mr. Van Zee, do you have anything further to add to this at the moment? Of course you would be available for further questions later, I presume.

MR. BRUCE VAN ZEE: I'm Bruce Van Zee, the supervisor for the Chugach National Forest. I've participated in these negotiations since we signed an MOU back in May. I think the Eyak folks have covered the presentation pretty well. If you have any questions, I'll be glad to answer them.

MR. PENNOYER: Okay, no further questions? I think we'll proceed to the public hearing. As was announced previously, we have a very limited time unfortunately, and we're going to have to restrict the public testimony two minutes per person. I'll probably have to restrict the total public hearing to about forty-five minutes. We have, I mentioned before, an executive session later this afternoon. It's on a personnel matter that we have to complete before we adjourn. And of course, at the end of the public testimony we have to preserve time for the Trustee Council to deliberate this issue and decide what course to take. We have still four stations on line in the teleconference, and we have a number of people who have signed up to testify here in Anchorage. To be fair, I think we'll start with one person, rotational to each of these locations, and I will proceed down the Anchorage list in the order that the sign-up occurred. So, I think we'll start here and the first name is Christine Steele. Christine Steele? And

would you state your name and spell it for the record before testifying, please.

MS. CHRISTINE STEELE: C-H-R-I-S-T-I-N-E S-T-E-E-L-E.

MR. PENNOYER: Thank you.

MS. STEELE: Though I think the speech that I prepared is like five minutes long, so I'm going to have to --

MR. PENNOYER: If you can summarize, we would appreciate it.

MS. STEELE: Yeah, that's exactly it. This -- the topic that we are discussing today is a very serious matter in regards to my family and I, and I hope you will consider us in your decision-making process. My husband is currently employed with the local logging company in our town, Sound Development. Prior to that employment he was a commercial fisherman on the waters of Prince William Sound. Due to the oil spill in 1989, he could no longer support our family and about that time he got a job at the logging company. The logging industry has been an asset to the whole community of Cordova. It has provided jobs for local Cordova families, such as us, when jobs were scarce and fishing was insufficient. But, most of all, it has enabled life-long Cordova residents, such as us, to remain in our town that we love. Sound Development employs seventy people and their payroll alone last year was three million dollars. Our town cannot afford for this industry to be taken away by the purchasing of the timber. The Exxon oil spill caused an economic slump, and it's only right that the monies gained from it be used to promote economic growth. The

fact that many will lose their jobs is evident. The question now is whether or not the monies gained will be used for what they were intended for, the restoration of the environment injured by the Sounds. The oil did not spill on the trees of the Sound, it spilled in the waters of the Sound. The monies should be used to help restore the fish -- the resources that were injured by the spill, the fisheries and the marine habitat. The problem with this year's herring fisheries should be of utmost concern to the Trustees Council. I know that I speak for the majority of Cordova when I say that these monies should be spent on fisheries. I have a petition in front of me with two hundred and forty signatures of Cordovan residents, and I want to stress Cordovan residents. This is what the town of Cordova wants. They want the money to be put into the fisheries, not into buying land. The City Council came up with a resolution, this past Wednesday, in opposition to the purchase of the Orca Narrows, and they're in favor of the purchase of Eyak Lake, River and the Power Creek. The question that the tourism industry in Cordova will suffer because of the timber harvesting, I'd like to suggest that the Council might think of appropriating funds to contract the company to come in and clean up the slash and replant. This would help preserve the beauty of our Sound, as well as create more jobs for people of Cordova. Please consider us and families like us before taking away our jobs. The cost to society greatly outweighs and supposed benefit of recovery.

If the buy-out is imminent, then I urge the Council to appropriate funds for the compensation and retraining of those who will be

affected most, the loggers and their families. And, I also suggest that before any purchasing of any lands around the area of Cordova, that there be done an economic impact study on the City of Cordova.

I do not envy any of you in the least. This is a tremendous responsibility that you have been given, the power to either protect people's livelihood or destroy them, and I just pray that God would be with you and guide you in this decision. And, as I close, I would like to read a portion of our State Constitution, Article XIII, Section 1. It is the policy of the state to encourage the settlement of its land and that the development of its resources by making them available for maximum use consistent with the public interest. Thank you.

MR. PENNOYER: Questions? Mr. Cole.

MR. COLE: Ms. Steele, we spoke the other day on the telephone, and during which you essentially told me the same views you expressed here today, you'll recall. As I recall, you said during that conversation that you, personally, or for whom you speak, did not have objections to the Power Creek and the Eyak Lake acquisition. Is my recollection faulty in that, or what is your view on that subject?

MS. STEELE: Yes, that is true, we don't oppose that buy-out because it would not affect our jobs like the purchase of the Orca Narrows and Nelson Bay would. It would eliminate -- the purchase of those areas would eliminate all the logging in the Cordova area.

MR. COLE: Alright, thank you.

MR. PENNOYER: Are there further questions? Thank you very much, Ms. Steele.

MS. STEELE: Who do I give these to anybody?

MR. PENNOYER: Give those -- Dr. Gibbons. If you have copies of your testimony, if it's too long to read, and wish to give them to Dr. Gibbons, too, that would be -- Oh, fine, thank you. Next, I think we'll go the City of Cordova and take the first person in Cordova, please. Cordova.

RIKKI OTT: Yes, this is Cordova. There are only two people that signed up to testify, although there are more observers. Can you hear me alright.

MR. PENNOYER: That's fine. Yes, we can. The first person please.

MS. OTT: Okay, this is Rikki Ott and I'm a commercial fisher, Cordova resident since 1985. I'd like to sincerely thank the Trustees and Eyak negotiating team for their long hours in the accelerated negotiations to reach an agreement for habitat purchase in Prince William Sound. Since the Exxon Valdez oil spill, I have advocated for a balance between purchasing timber rights and for fisheries research. I've always advocated that the primary use of funds be used to purchase habitat, because without habitat protection, you could destroy our fisheries resources which are the cornerstone for the Prince William Sound ecosystem. The fish won't survive on studies alone. The fish need habitat. There is also an obvious need for fisheries research for basic management. However, this is the responsibility of the

state, and the state should commit basic funds for the stewardship of its fisheries resources. The Exxon Valdez oil spill, however, created the need for additional research of long-term impacts of the oil spill needs to be under -- better understood -- and adjustments made in future fish management. I was present at both the Anchorage and the Atlanta, Georgia, presentation of the oil spill science, and as a scientist, I no longer have faith that unbiased science can be conducted in the highly politicized arena of this -- that's presently surrounds the whole spill-impacted area. I therefore urge the Trustee Council to consider the following split of the remaining Exxon Valdez oil spill fund, five percent for administration, ten percent for science, and eighty-five percent for habitat acquisition. I would just like to say that I'm really pleased with the recent progress made in the negotiations. I thank you all for bringing this -- what's been a very painful issue to Cordova community -- helpfully to lay it to rest in the near -- very near future. Thank you very much.

MR. PENNOYER: Thank you, Ms. Ott. Does anybody have any questions, Trustee Council members? Well, thank you very much then. We now go to Juneau, and Juneau, anybody in Juneau wishing to testify.

CLAUDIA ECHAVARRIA: Yes, my name is Claudia Echavarria. I'll spell that for you. It's C-L-A-U-D-I-A, and the last name is E -- as in Edward -- C-H-A-V-A-R-R-I-A. I'm a private citizen and I came here today to let you know that here's one more soul who's still very concerned about what happened in Prince William Sound

and the areas that were affected. I think a very positive first step was taken by the Seal Bay and Kachemak land acquisitions and most hardily applaud your efforts and encourage you, the Trustee Council to continue. I'm a true believer in -- in that the preservation of our natural uplands and forest are the keys to any protection we could possibly have and may have against the disaster -- disasters like the Exxon Valdez. I've been reading a bit about, all I can actually, about what's been done with the Eyak lands, and I strongly urge you for land acquisition, to buy the land outright.

I don't think there's any question that these lands are critical habitat for eagles, harlequins, marbled murrelets, not -- not to talk about the streams for the anadromous fish. And, without the acquisition, eventually sometime in the future, these lands will probably be logged, if not purchased. I also wanted to talk about -- I filled out an application, but I would like to talk about the six million -- six hundred million dollars that are still left to be spent under the trusteeship. I can't think and I haven't heard of anything better than land acquisition for this land. I would very much like my grandchildren in the future to be able to walk the lands in this physical (indiscernible) and see something -- actually see something that helped to restore and will continue to restore the damages. Thank you.

MR. PENNOYER: Thank you very much. Are there any questions from Trustee Council members? If not, thank you. I now go on to Homer, anybody at Homer that wishes to testify?

MODERATOR: Sally Kabish (ph) wanted to testify, but

she had to leave to meet the bus. She was planning on coming back if you have time, maybe you can come back to us. Thank you.

MR. PENNOYER: Okay, we'll go back through the list at least one more time, probably a couple of times, so -- Valdez, please. Anybody in Valdez wish to testify?

MR. CRAIG WILLIAMS: Yes, this is Craig Williams in Valdez. I had a couple of questions I wonder if I could get answers to. They should be pretty quick.

MR. PENNOYER: We'll try, go ahead.

MR. WILLIAMS: Okay, thanks. I guess they're questions to Eyak, Mr. Wyatt (sic) with Eyak, I didn't catch how acres are in the second alternative he presented, the one that includes the Orca Narrows land. I was just wondering how many acres again that involved? And the other questions regards alternative three. I didn't quite understand what that is, so if you could again, Mr. Wyatt (sic), quickly give a brief synopsis of what that alternative is, that would be great. Thank you.

MR. PENNOYER: Yes, please go ahead if you will.

MR. LINXWILER: The answer to your first question is that in the second alternative, there are fifteen thousand seven hundred acres. To describe the three options quickly, the first option is Power Creek and Eyak Lake, the second option is Power Creek and Eyak Lake, as in the first, adding Orca Narrows, adding a timber embargo on cutting and also providing trade rights to the federal government to trade Orca Narrows lands for other more valuable lands. The third alternative, which was specifically you question,

is identical to the second one, except that when the Council authorizes the purchase price of forty-one point one million dollars, if that entire purchase price is not consumed in the land acquisition because the appraisals come in less than forty-one point one million dollars, they would then use that money, that excess money to purchase other Eyak lands that we and the government could together agree.

MR. WILLIAMS: Okay, great. Thank you very much.

MR. PENNOYER: Anything further, Mr. Williams?

MR. WILLIAMS: Not, that's it.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: It -- isn't one of the significant aspects of option number two the fact that there will be a moratorium from the date that the Trustee Council approval until December 31, 1994, in the Eyak Lake and Power Creek study areas and all Eyak lands and selections west of those areas, except the lands lying between Orca Cannery and Shepherd Point. I think that's a very important provision that should be mentioned specifically, because under option two, there will be no logging or other development on essentially all of Eyak's other lands for the next four and one-half months. Do I misread that, or is that correct?

MR. PENNOYER: Sixteen -- seventeen months.

MR. COLE: Oh, yeah, that's seventeen months until '94, so that's a long option and there will be no logging essentially all of the Eyak lands for that year and a half, under

option two. Is that -- that is -- provision is not in either option one or option three, is that right?

MR. LINXWILER: No, it's the same -- it is in option (talking out of range of microphone). I apologize. This document was negotiated extensively. Perhaps it doesn't capture all the intention of a negotiations. T that is in option three, as well. Option three is intended to be identical in every respect to two, plus the addition of the expenditure of the funds.

MR. COLE: Alright, but option three has the forty-one million dollar figure and if the Trustee Council does not pay forty-one million dollars for these interests, Eyak can offer other lands to bring the total price up to forty-one point one million?

MR. LINXWILER: Precisely.

MR. COLE: Thank you.

MR. PENNOYER: Thank you. Can we go ahead and proceed then, we'll come back to Anchorage and Mr. Karl Becker, please.

MR. KARL BECKER: Members of the Trustee Council, ladies and gentlemen, for the record my name is Karl Becker, I'm a sixteen year resident of Cordova, I'm a commercial fisherman and have been living in Alaska since 1971. My wife and I recently purchased the seine permit with the expectation that the fisheries of Prince William Sound will recover. The fisheries of Prince William Sound provide more than two thousand jobs and generate an ex -- vessel value of nearly thirty million dollars. A week ago, I awoke at 4:00 a.m. in the morning to listen to the calls of marbled murrelets in Nelson Bay. When I skipped out to the top of

the bay and shut down the motor to listen to the high pitch calls of the murrelets in the fog, on their dawn flight, I watched pigeon guillemots and sea otters with pups lounging in Orca Narrows, and I thought how amazing it is to be floating here, witnessing events that have been happening effortlessly since the birth of these great forests. The creator of all of this was not constrained by the ledger book and the profit motive, or the awkward technology with which we humans struggle to make our livings. How arrogant we are to presume, with our imperfect understanding, that we can tinker with these systems of a complexity that we are only now beginning to recognize. We cannot leave our damaged fish, wildlife and world class scenery to the certain fate they will face from a voraciously unsustainable timber industry in Prince William Sound.

Gentlemen, the wisdom of the trustees concept, however imperfect, is that you need not be constrained by the profit motive or the whims of politics. Your obligation is to protect and restore injured resources and services. I urge you to be creative and flexible as you exercise your mandate. I ask you to support an agreement with Eyak Corporation to protect Power Creek, Eyak Lake and Eyak River and to negotiate a lease option on all other Eyak land, including Orca Narrows, Nelson Bay, the Rude River, Simpson Bay, Sheep Bay, and Olson Bay. Please do not become unnecessarily bogged down over the issue of fee simple purchases. Properly crafted conservation easements will protect the resources and services entrusted to you. And, I'd like to bring your attention to two things. One, is a -- our -- our -- about two hundred and

seventy petitions that we have gotten supporting this proposal that I've just asked you to support, and the second is two letters from Prince William Sound Communities Organized to Restore the Sound, which is an organization of all the communities of Prince William Sound, and the first letter is letter endorsing the agreement with Eyak Corporation, the second letter is one which strongly endorses the concept of using restoration funds to acquire critical habitat from willing sellers for the purpose of protecting habitat, for the impacted species and services. It goes on to say we strongly urge that a significant portion of the habitat protection acquisition fund be allocated to the attached proposals in the 1993 work plan and beyond. Thank you very much.

MR. PENNOYER: Thank you, questions of Mr. Becker? Thank you, Mr. Becker. I will now go back out to the net and go to Cordova, there was one more person in Cordova that wished to testify, please.

MR. DANNY CARPENTER: Yes, can you hear me okay?

MR. PENNOYER: Yes, we can.

MR. CARPENTER: My name's Danny Carpenter, I'm a commercial fisherman in Cordova. I know it must be difficult for you to understand how, with the current economic crisis in Cordova, anyone could stand in the way of an industry that brings money into the community. But, if you're familiar with Cordova and the Sound, and you've seen the aftermath of the current logging practices, you only need to let your conscience be your guide. Commercial fishing has supported this community for well over sixty years. We've been

very careful to keep this a sustainable industry. The current logging practices, at the rate the trees are being cut, the jobs that -- the sixty or seventy jobs that is supporting may last another two to four years. As commercial fishermen and knowing that the piece of pie for these monies is getting cut smaller and smaller, it's very hard for me to take money away from much needed studies. I'm including in the habitat protection, but I realize that without the habitat all the studies in the world aren't going to do any good. In closing, I just want to say that whatever decision you make today, it's going to be very apparent for a very long time and I -- I just hope that you -- you see it in your hearts to make the right one. Thank you very much.

MR. PENNOYER: Thank you very much, Mr. Carpenter. Are there any questions of Mr. Carpenter? If not, thank you. Juneau, anybody additionally in Juneau? Mr. Cole.

MR. COLE: May I ask a question of Mr. Carpenter?

MR. PENNOYER: Certainly.

MR. COLE: He heard Ms. Ott say that she proposes five percent, I guess for administration, ten percent for science and eighty-five for the acquisition of habitat. And, I don't see anything in that breakdown to support restoration, rehabilitation, of the fisheries, you know, other than through habitat acquisition.

Does Mr. Carpenter agree with that breakdown proposed by Ms. Ott?

MR. CARPENTER: Yes, Mr. Cole, if given the choice, yes, I would support that. There were some studies this spring that I very much would have liked to see supported, coded-wire tags for

the pink salmon and the continued studies on the herring. If you're familiar with our fishery this year, you'll also be familiar that the herring was a flop, and it's looking like the pink salmon is going to be a flop also. But, with -- with interrupted studies the chances of proving that this is directly related to the oil spill is, I think it's going to be pretty hard to prove. At this point, I would be more in support of the habitat and less in support of the restoration science. I just -- I haven't seen anything that's come out since 1989 that really helps our plight at this point.

MR. COLE: Thank you.

MR. PENNOYER: Thank you. Going down to Juneau, anybody additional in Juneau that wishes to testify? Juneau, anybody on line? Okay, going on to Homer then, anybody additional in Homer that wishes to testify.

TELECONFERENCE BRIDGE OPERATOR: No, no one in Homer.

MR. PENNOYER: Valdez, anybody additional in Valdez that wishes to testify?

TELECONFERENCE BRIDGE OPERATOR: No, no one else here.

MR. PENNOYER: Okay, thank you very much. We'll go on then with our Anchorage sign up sheet and Paul Swartzbarg.

MR. PAUL SWARTZBARG (ph): Hello, my name is Paul Swartzbarg, and I'm a resident of Cordova and I've been a commercial fishermen there for twenty years. Until the oil spill occurred, Prince William Sound had an intact ecosystem. The oil spill damaged Prince William Sound in ways that are very difficult

to gauge. For example, people in Cordova are now concerned about skin lesions showing up on our salmon and herring. These fish are a vital part of the ecosystem. Another vital part of the ecosystem is the Coastal Rain Forest. Prince William Sound is the northern limit of this forest. Here, tree line is less than two thousand feet in elevation, and squeezed between the glaciers and the saltwater is a narrow band of old growth forest. It contains salmon streams that feed bears and eagles. Those streams have also provided a living through commercial fishing for residents of Prince William Sound for many years. Large-scale clear-cutting is currently underway in Prince William Sound. Modern forest practices are not being adhered to. In a few short years, the environmental damage of the Exxon Valdez will seem small compared to the devastation done by logging. Our formerly intact ecosystem will fail. Apex predators, like killer whales and brown bear, will simply disappear. Tourism will no longer be a long-term economic option. The Council has a unique opportunity to use the oil spill restoration money to withdraw land from logging. I know that many of the Eyak Native people and virtually all the commercial fisherman and tourism people and literally millions of potential tourists wholeheartedly urge you to do so. Thank you.

MR. PENNOYER: Thank you, Mr. Swartzbarg. Does any of you have any comments or questions? Mr. Cole.

MR. COLE: One quick -- essentially the same question that I asked Mr. Carpenter. I mean, we've heard -- had fishermen here before us and say we were injured by the spill, we need help,

etc., etc. We need herring studies -- you know, coded wire studies and so forth, and -- and I've sort of been taken by that testimony and have had concern for what we're doing for the fishermen and the fish stocks there. And, now we've heard -- you know, this testimony, use most of this money or essentially all of it to buy habitat. And, I don't -- you know, so I want to ask you as a fishermen, what about spending money to help the fishermen out there, so that if the next round of votes comes up in the '94 work plan, we say -- you know, the testimony from fishermen was to buy habitat, and we draw a line through that work plan that has to deal with coded-wire studies. I mean, I just want to feel comfortable if I pick up the pen and start to draw the line that we're not going to incur the wrath of the fishermen. Mr. Pennoyer, he knows more about that than I do, so I want to get it on the record here, so the next time we vote I'm comfortable on this issue. So, how do you feel about that?

MR. SWARTZBARG: Mr. Cole, I understand -- I understand your questions and I am -- I feel that the habitat is the baseline for restoration environment. It's where the fish breed naturally. Without the intact ecosystem, the science won't do any good. So, the bottom line is an intact ecosystem. Now, I think the reason many fishermen are testifying for habitat acquisition is because we feel we have our back up against the wall, and we don't know how much to ask for. I am a herring fishermen and had a disastrous season, and I am very much in favor of those herring studies that the Alaska Department of Fish & Game

are proposing. I am also a salmon fisherman, and I am very concerned about that coded-wire study. I think it's an excellent study. But, there are other studies that I am not familiar with that I can't wholeheartedly support. But, I can support habitat acquisition because I know Mother Nature has done an excellent job of rearing salmon in Prince William Sound for eons. Thank you.

MR. PENNOYER: Next to testify will be Dana Ranney. I don't know if I got that right.

MS. DANA RANNEY: Yeah, my name is Dana Ranney. I'm a commercial fisherman from Prince William Sound. My husband is a pilot there. A little -- a little while ago, Mrs. Steele came up and saying Cordovans want their jobs. This is true, I want to keep my job; my husband wants to keep his. In order to do that, we have to have our forests, and we have to have our fish. That's all.

MR. PENNOYER: Any questions from the Trustee Council. Thank you very much. Next will be Doren Hullkurst (ph).

MS. HULLKURST: It's a mouthful isn't it. With names like that it's a good thing I didn't get a middle name too. I've given my time over to a gentleman named Steve Bodner, if that's okay with you. I think he has more important information to share with you.

MR. PENNOYER: That's fine, thank you.

MR. STEVE BODNER: My name is Steve Bodner. I've been a -- lived in Cordova for about seventeen years and been a commercial fisherman for most of that. And, to be honest with you, I've sort of retired the last few years because the fisheries have been going down. I just had a few corrections today spoken to you

about the -- through the Fish & Game people in the Eyak proposals.

There's two places in this booklet that are not quite right, and I wanted to just be sure that their on the record as corrected. Like on page three of that, if you look down, Orca Narrows, Nelson Bay, it says that this (indiscernible) being low. That's not correct, because area is used extensively for deer hunting by people who live in Cordova. It's a very narrow time of year, there has to be deep snow fall on the mainland that drives the deer down into that area, but that's one. And, on page thirteen, this is a very glaring problem here. It brought to my attention by someone else, but on the Eyak River parcel, where it says cultural resources low, that's the old village site and burial site on Eyak River, so the cultural resources should be very high under that parcel 02-C. So those two -- I brought that to their attention. Another I would like to include too is as the biologist said, if you're going to protect habitat, in the Power Creek-Eyak River watershed, you'd better protect Eyak River. That has to be included as the whole system. If biologically the river is a -- migration corridor for the fish in Eyak River-Power Creek. So, that has to be included, and I don't believe that I heard that proposal. And, then I would just echo most of the fishermen are saying that I believe probably eighty percent or so of the money should be for habitat acquisition because I think the same -- same thing basically, if you don't protect the streams, you're not going to get any fish back. Okay.

Another thing that I've been up to the last few years is I've been working with some forest service folks on a timber regeneration

project, which is basically going out in the woods and looking at old clear cuts and old historical logging sites and seeing what the regrowth rates -- regeneration are in Prince William Sound area. And, this extends all the way from going back to the some of the village sites and some of the Russian occupation sites which would be about a hundred and fifty years ago, to the large scale cutting that was done around Cordova at the turn of the century for the Copper River Railroad. And, my only comment after being out in these old areas is to say, trees don't grow back, or they grow very, very slowly. That in order to maintain a reasonable rotation rate, you're talking about probably a hundred and fifty years for rotation rate in this area, and at that you would need a very intense management. You'd need to do thinning, you'd need to do very intense timber management in order to sustain that sort of rotation cycle. So, those are -- those are my comments. Any questions?

MR. PENNOYER: Any questions. Mr. Rosier.

MR. ROSIER: Thank you, Mr. Chairman. Charlie really started this, and it's something that is becoming very confused in my mind as well and that is what are the priorities that the fishermen are in fact asking for. Charlie and I were in -- in Cordova just a couple of months ago. We held a hearing there -- I mean, it was unanimous in terms of testimony that we received in terms of support from the fisheries resources in the Sound. The City of Cordova has come back, repealed a previous resolution and said we want the money put there, and yet we're hearing a totally

different story here today.

MR. BODNER: I can answer that question.

MR. ROSIER: If you would please ...

MR. BODNER: There's quite a few of us in the City of Cordova that feel we are not represented by the city council presently.

MR. ROSIER: Sorry, I didn't hear that.

MR. BODNER: There are a number of us that live within Cordova that feel we're not represented by our city government, and that's why we're trying other channels at the moment. Does that explain? There's also -- there's also another end to this -- to this too that I just -- just came to mind. When we're talking the moratorium west end of the Sound, the area that we're specifically -- a lot of us are talking about, and I don't think that this has been made clear, it's kind of an afterthought, but Eyak Lake, Eyak River that's red salmon, silver salmon, but one of the main areas that we are interested in is Sheep Bay, Gravina Bay, Simpson Bay, that's where the large pink salmon runs are and on Hawkins Island. And, those -- those salmon runs are returning this year after quite a long absence. But, this year we're getting really good escapement in those areas, so we're really ...

MR. COLE: Are you -- you're talking about Simpson Bay, Sheep Bay and Gravina?

MR. BODNER: Gravina and Hawkins Island. Those are the areas that the fishermen are also very interested in, and that does come under the moratorium in, I believe it's proposal three.

MR. COLE: It does not come under one?

MR. BODNER: It comes under proposal three, doesn't it, under the west moratorium.

MR. COLE: Okay.

MR. PENNOYER: Two and three.

MR. BODNER: Yeah.

MR. PENNOYER: Okay, thank you, any further questions? Alright, thank you very much.

MR. BODNER: Thank you.

MR. PENNOYER: Jeff Guard, please.

MR. JEFF GUARD: My name is Jeff Guard, I'm a commercial fisherman from Cordova. I'd like to thank the Trustee Council for taking time to listen to us here. I'd like to first go on the record as supporting options two or three. Because of some of the earlier proceedings we saw here this afternoon with personal difference between people and the councils, we know -- we know that the process can move very slowly. Without holding our options open, we're fearful of losing the watersheds in Olson Bay, the watersheds in Sheep Bay, the watersheds in Simpson Bay. One of our bigger dog runs -- dog salmon runs -- on this side of the Sound is in Sheep Bay. Olson Bay is important -- pink and dog stream for fisheries on this side of the Sound. So, I think it's important to keep our options open on these. Don't -- let the process move along as quickly as possible. To address another issue that Mr. Cole was talking about whether the fishermen support wholehearted timber acquisition or research work. one of the problems we've been

seeing so far is we've addressed you time and time again here, I know I've come to meetings before and addressed you, and we've had no recourse. To point -- to the point today, I think we've maybe spent two percent of the expended money on fisheries research. We've come and asked you for the herring research problems -- or the herring research money for spawn viability studies. It was documented in your own survey of injury documents that we did have a spawning impairment and herring in Prince William Sound. We've had egg mortality problems in the pink salmon. We've asked you for studies for these -- you know, continually not got what we asked for. I think there are a lot of fishermen that are afraid of not getting anything out of it. I don't know that I can support an eighty-five percent split for timber acquisition. I don't know if anybody can. There's not enough information out there yet to be able to decide where this money should be spent that's -- to recover the damage ecosystem out there, but we do need to keep our options open on some of this and that's what option 2 or option 3 would do for us. It would keep our options open on this. And, I as a fisherman am worried about maintaining my job and my livelihood if we start cutting in places like Olson Bay, Sheep Bay and Olson Bay.

MR. PENNOYER: Any questions? Mr. Cole.

MR. COLE: What view -- as a fishermen you must talk with your fishermen friends out there, presumably, what -- what do your friends think? I mean is this essentially an unanimous view of the Cordova fishermen?

MR. GUARD: I don't think you can -- I mean we're all individuals.

MR. COLE: But, I mean, what's the majority think? I mean, most of your friends think we ought to just (indiscernible - simultaneous talking) big habitat acquisition, or a few of them? Just tell me.

MR. GUARD: I -- I think it goes to a broad spectrum. Whatever the bottom line that runs through the whole thing is that we want to see restoration done, and we've seen very little movement up to this time for fisheries restoration in the Sound, be whether it's timber acquisition, be whether it's studies we wanted, be whether it's physical restoration work on the ground, whether it's restoration in the streams, near tidal zones or oil -- near tidal spawning areas that were oiled. We haven't seen anything for Prince William Sound yet. When you talk about the -- you know, the squabbling that I don't think anybody wants to get into about who is the more impacted by it, but if you look at what areas -- and the whole spill-impacted area, took the worst sublethal and lethal hits as far as the light end of the oil pollution went, Prince William Sound took almost all of it. By the time it got over to Kodiak and around to Cook Inlet and out to the Peninsula, they were left mainly dealing with the -- your heavier mouses and such as this. Almost all the light end ended up -- it ended up in the water column, ended up here in Prince William Sound. And, what little we do know about interaction of oil between herring, salmon and a few other species are that they create a long-term spawning

and growth problems. And, that's about all we know. We haven't done -- we've virtually done nothing for studies since then. I know that the whole process that we have here is very cumbersome, but we need to see some movement and action to start restoration production in the Sound.

MR. PENNOYER: Further questions? Thank you very much.

MR. GUARD: Thank you.

MR. PENNOYER: Charles McKee, please.

MR. CHARLES MCKEE: Thank you. My name is Charles McKee.

The last name is spelled M-C-K-E-E, and I'd like to begin with telling the public that these people in front of me aren't representing me and, of course, the people behind me aren't representing me. I'm a sovereign people. All you people are indentured servants. Although you might refer to yourself -- yourselves as citizens, indentured servants is meaning that you're in debt, and the nation's in debt, the state's in debt, the city's in debt. And, also I might point out that on the privately owned federal reserved note, its corporation, you've all been orisified (ph) -- orisification (ph) -- orisified (ph) is to identify or as - - or as with orasis (ph) -- all seeing eye. It's primarily out of Egypt. I've asked for a hearing through the Alaska Mental Health Board because these people need help. Truly, because when you dig into the concept that they don't have any common sense, they're dealing with very intelligent people, but they don't have any common sense. When you lay down the facts of the oil spill. I'd like to point ...

MR. COLE: (Indiscernible - out of range of microphone) I'm a little confused as to who needs help from API, I missed that.

MR. McKEE: No, I didn't say API, I said Alaska Mental Health Board. I asked for a hearing. You people need help because you've been orisified (ph), through the Masonic Order and everything else. Now, I -- I went out the in door, I have here newspaper article, the State Alaska libeled me less than ten years ago when I tried to do a fund-raiser for the Pioneer Hall, and there it is. Now, I went in the -- I went out the in door when I filed for employment with the VECO. In summary, here's application. I went out the in door because they were going to take all information and you were to sign up with the insurance company and it's simply an embezzlement. Ted Malla (ph) indicated that they -- the State of Alaska embezzled insurance money out of me during my injury when I was commercial fishing in Kodiak, and so the state is nothing more than an embezzlement function, aiding and abetting the insurance industry which is primarily induced by this Egyptian all seeing eye. And, I'd like to say to Babbitt and the President that the word says you're now -- the spell has been broken.

MR. PENNOYER: Thank you, Mr. McKee. Are there any questions? Thank you very much. Jerry Nash, please. I think that was Terri, not Jerry, I apologize.

MS. TERRI NASH: It's Terri Nash. I do not represent a special interest group. I'm a private individual. In Cordova we

had a rally in response for -- in support of resources. We had over one hundred and fifty people show up. We've read restoration plans and support Prince William Sound Aquaculture, the City of Cordova and the fishermen's union there. All of them agree that this habitat acquisition of the Orca Narrows, Nelson Bay is not good. I'm not going to plead any cases, I'm not going to scream and cry one way or the other. Just remember the facts. By your own point system, that area is low to moderate environmental impact. The oil went in the water; it didn't go in the trees. Think about this decision before you do it. It's ripe. It's a long-lasting decision. A moratorium will affect Cordova deeply. Just go with the absolute facts. Any questions?

MR. PENNOYER: Any questions? Thank you very much. Next, Marla Adkins, I believe it is.

MS. MARLA ADKINS: Good afternoon, ladies and gentlemen. My name is Marla Adkins. I'm a thirty-four year resident of Alaska, a twenty-six year resident of the Bush Alaska, twenty-one year resident of Prince William Sound. I'm going to -- I love my state, I love my animals and I love my resources, and nobody has lived closer to them than I have. I would like to ask one question first, and then I will go on to my statement, and I think that Attorney General Cole will be glad to know that after the testimony today I cut my speech down to about a fourth. Has the Council as a whole viewed and read into record my letter as chairman of Reclaimers for Alaska that I faxed to each member on this Council this week? Mr. Chairman.

MR. PENNOYER: Dr. Gibbons.

DR. GIBBONS: Well, I've read several letters (indiscernible - simultaneous talking).

MS. ADKINS: I sent a fax this week to each of you. I sent a letter as chairman for Reclaimers of Alaska. Has that been read by each of you on the Commission and the Restoration Committee and been read into record?

MR. PENNOYER: Dr. Gibbons.

DR. GIBBONS: We'll accept that on the record now if you'd like.

MS. ADKINS: Yes, I want to be sure it is. That can save some time then and I will go on with a summary. I strongly support critical habitat, and critical habitat are the key words. I strongly support buffer zones, buy-outs. I am opposed to the spending of any EVOS funds for massive lands acquisition and total timber lockup. Locking more of Alaska's lands up due to pressure by extreme environmental groups and special interest groups. I am concerned about the make up of this Council and this restoration group. I'm concerned about the pressures going on behind the doors in Washington, D.C. Those people do not always represent the masses of Alaska, and as Mrs. Steele said, Alaska has a constitution and I think everyone here should read it, because you are the keepers right now of our money left over from the oil spill and allocated by the funds. I am against any spending on moratoriums. I think it is nothing more than blackmail. The Cordova City Council in its latest motion and continues support of

fisheries being of the utmost importance, has passed another motion of which I would like to read here today for record. This motion was faxed to me today by a member of the council. The motion by Scott Novak and seconded by Pat Fisher to rescind Resolution 9192 and direct administration to communicate to the Trustees Council and the Eyak board of directors to support the fisheries -- to support the fisheries research and rehabilitation and the possibility of an endowment fund and debt retirement for hatcheries, and any habitat buy-back be limited to the Power Creek, Eyak River and Eyak Lake watershed areas. It was a voice vote, motion carried, council members Anderson (ph) and Bird did not vote due to a conflict of interest. The council voted by the people as a whole, and true, they don't always represent all of the people, they normally represent the mass of the people.

MR. PENNOYER: Ms. Adkins, I'm going to have to ask you to wrap it up if you can. (Indiscernible - out of range of microphone).

MS. ADKINS: Okay. I think others spoke a lot longer than I. Cordova's council, I think the aides involved in the EVOS are dysfunctional, with all due respect, and I know you have a hard row to hoe here. Listening to your Council earlier, I think you have more bureaucratic deadlock. Oil spills don't wait on EIS studies. Our fisheries and our long-term resource in fisheries and research must be handled and funded properly, or you're going to have two economic basis going down the tube here with a massive timber buy-backs that seem imminent in the future if we're not

careful. I urge this commission to continue to work together, to expedite responsibly the goals to restore the fishes that were damaged and the long-term research and restoration. Prince William Sound of Cordova has been logged since the early thirties and I ask each one of you who has not been there to only go out and take a look. It is a renewable resource just like fisheries, but if it is not handled carefully, it won't be an economic growth for the State of Alaska, which is sadly needed. And, in closing this, I would like to ask -- has this commission reach any decision regarding what is critical habitat versus what in both timber and opportunistic parcel buy-outs. And, if you have not, I urge you to consider this in making decisions. I think . . .

MR. PENNOYER: I think we have some questions. Mr. Cole.

MR. COLE: Do you support the acquisition of Power Creek and Eyak Lake?

MS. ADKINS: I do, sir.

MR. COLE: Pardon me?

MS. ADKINS: I do so -- I do so personally and so does Reclaimers of Alaska, which I speak for as chairman.

MR. COLE: Thank you.

MR. PENNOYER: Are there other questions?

MR. COLE: How about Eyak River?

MS. ADKINS: Yes, personally.

MR. COLE: I mean downstream from the lake?

MS. ADKINS: It would depend on how far down. I support critical habitat that has anadromous fish streams, spawning

beds, buffer zones, okay.

MR. PENNOYER: Thank you. Mr. Rosier.

MR. ROSIER: Yes. Marla, you were present at the hearing that Charlie and I attended there in Cordova. In your view was my characterization of that -- what came out of that meeting, incorrect or not?

MS. ADKINS: Exactly. The fishermen, as you know I ran for office and lost by forty-one votes, and many, many people come to me, and surprisingly enough, I've been at issue with the fishermen over the Copper River highway, but I'm surprised at the number of citizens and fishermen who come to me in the last months and weeks and their concerns that the money -- you need the money immediately to be spent -- you guys are boondoggled -- you're sitting in a mess. Nothing is getting done. You're all trying to plan and mean while, problems are ongoing and the fishermen as a whole that I dealt with wish the monies to go into fisheries and critical habitat.

MR. PENNOYER: Thank you. Next will be Pamela Brodie, please. Pam.

MS. BRODIE: Thank you, Mr. Chair. I'm Pamela Brodie, as you know, from Sierra Club. As the Trustee Council knows very well, the members of the Sierra Club strongly support using oil spill funds to protect wildlife habitat. But, I also want to say that we realize that eliminating logging somewhere once it has begun is a difficult choice. No one wants to put people out of work. The Anchorage Times likes to say that there's no such thing

as an unemployed environmentalist, but I have been such a person on numerous occasions and I can feel for people who are afraid for their future. But, I also ask you to bear in mind as you make your choice that logging in the Eyak area would be a very temporary economy in any case. If logging is allowed to proceed, these jobs will be eliminated soon, as I understand it, within a couple of years. When the trees are gone, the fishing and tourism opportunities will suffer for decades to come. The population of damaged old growth species, such as harlequin ducks and marbled murrelets will suffer for more than a century. Please bear in mind also, that logging is occurring in other parts of Prince William Sound. There is heavy logging going on in Tatitlek lands to the north of Cordova, and it is beginning on Montague Island. Protecting Eyak lands, in particular, is a high priority to the fishermen of Prince William Sound, as you know, and to conservationists in Alaska and throughout the nation. We believe it is essential to stop all logging on Eyak lands, including Sheep Bay, Simpson Bay, the Rude River drainage, Hawkins Island. We believe this area should be protected in perpetuity. We ask your help. Thank you.

MR. PENNOYER: Thank you. Mr. Cole.

MR. COLE: Quick question. Do you favor the acquisition of conservation easement or fee simple title?

MS. BRODIE: That's a difficult question. In general, we prefer fee simple title, but we understand that it can cost a great deal more, and so it becomes a judgment call. I think that

the scientists have made a good case that fee simple title acquisition would be good for Power Creek and Eyak Lake. I think that I would love to -- to get fee simple title for all of Eyak lands, but it probably is not an option, or if it were, we'd -- there might be a tremendous sacrifice in other areas because of the costs, so it's hard for me to say without knowing the price of one versus the price of other -- of another.

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Pamela, you say that there's apparently no logging that's acceptable to you, and I can understand that, but we have had logging in other areas of the state, and that's not to say that there has not been impacts associated with that, but -- you know, I guess I would take a -- take real exception to the -- you know, to the -- to the notion that that the fish runs are going to be wiped out. I think that there are safeguards that are implemented in many cases. I think we've seen this demonstrated in Southeastern Alaska, and -- and I just have a hard time -- you know, moving away from a multiple use concept entirely, myself. I -- I guess that's more of a statement than a question, but I just take some exception here to the single purpose use that has to be made on -- on Prince William Sound.

MS. BRODIE: Perhaps I didn't make myself clear. I -- I was trying to say that we recognize that there is logging in Prince William Sound and that it is not all going to be stopped. There's certain areas where -- that we think are priorities for stopping logging, and that includes all of Eyak land. I was not

saying all of the Prince William Sound land.

MR. PENNOYER: Pamela, does that include Orca Narrows? You say certain areas -- that it's important for resource values, just in generally all of ...

MS. BRODIE: Including -- including all of Eyak's land. Yes, yes. No, I recognize that some areas are more critical wildlife habitat than other areas, and according to the testimony from scientists, Orca Narrows is lower, but it is -- that I think is balanced by the importance of that area in terms of recreation and tourism for the town.

MR. PENNOYER: Mr. Cole.

MR. COLE: If that's the case, how do you differentiate all of Eyak lands from all of Tatitlek lands, which are shown in that chart over there on your far right, in the two different colors? That's one of the things that troubles me. I mean, it looks like to me that the Tatitlek lands are every bit as environmentally attractive as the Eyak lands, and there we are, sort of chasing ourselves around the town. That's really troublesome, so tell me how I make that cut when I vote?

MS. BRODIE: It's hard to set these priorities, and what we look at is largely the people who live in the area, what they want, what we hear from local people. We also listen to what the scientists say are the most critical areas for wildlife habitat. And, we also have, a bias perhaps, of protecting areas which have not been logged over being able to protect a small part of an area which has otherwise been clear cut, and that -- that has

to do with recreational use.

MR. COLE: Did I hear an answer?

MS. BRODIE: Would I like to save Tatitlek lands too?

Of course I would.

MR. COLE: Alright, thanks.

MR. PENNOYER: Thank you very much. Mr. Sandor.

MR. SANDOR: Since we've expanded the concept of logging beyond the needed area, the Eyak Corporation lands, we've learned, and I'm going to have a briefing next August 23rd about spruce bark beetle and its infestation, which I understand is now six hundred thousand acres, in a substantial acreage within the oil spill area, including now a substantial infestation into the Kachemak Bay area, and even the Kachemak Bay State Park. So, our habitat people and Nature Conservancy people are going to be looking at habitat restoration of areas that are beetle-killed. One technique is to harvest the beetle-killed timber, which is of course a habitat that's been lost by so-called natural means. Do you favor the support -- the harvest of beetle-killed timber?

MS. BRODIE: No, we would oppose that. There is -- regarding what's in danger of beetle-kill, the scientist seem to be learning as they go along. As recently as a year or two ago, it was thought that that area was pretty safe from the beetles because it's much more wet than most of the Kenai Peninsula, and now, I do go there often and I know it's looking scary, in terms of beetle infestation. We don't know what the climate is going to be like for the next couple of years and has an effect. But, I have also

seen pictures of places that had large scale beetle kill back in the twenties where the trees have regenerated, the new trees growing up around the old trees, and meanwhile the area is not scared by roads that you would get with clear-cutting, and we do feel very strongly that a park is something that must be off limits to logging. I'd also like to add that it appears that activities by humans have greatly exasperated the spruce beetle problem in the Kenai Peninsula, such as building seismic lines, where the trees are cut down and left, and the seismic line runs for miles and then you get beetle kill spreading out from the seismic lines. And, that Bradley Lake power line, unfortunately, is probably going to be another contributor to that, so, when people go in and meddling in a state park area, these are the dangers that they face.

MR. SANDOR: Thank you.

MR. PENNOYER: Thank you (indiscernible) but I think we need to move along. Mr. Barton, you had a question?

MR. BARTON: No, I didn't. Let's move along.

MR. PENNOYER: Thank you very much. Before we go further and at the risk of taking in extra time, I can see we're not going to get through the rest of the agenda, and I would like to know what the Council's druthers are. We've got about another hour and ten minutes, we have about two more people who wish to testify, and how long the discussions going to take. If we don't get there, can we set up -- do the executive session by teleconference on Monday, maybe, or something? We'll have to try and find to get both in because if I do, we're going to have to cut this thing out and stop

now, I'm afraid.

(Indiscernible - out of range of microphone.)

MR. COLE: How many of us can be in Juneau, Monday or Tuesday?

MR. PENNOYER: Monday. Mr. Barton are you available Monday? Could we set it up Monday sometime by teleconference and/or physically present, if we could work it out we would do that. We need five days notification for people, I think, at least to come -- we're scheduled for next Friday, the meeting on the final decision, I believe, on executive director, or not final decision, but the interviews. We'll have to give people some notice. So, if we can do this Monday morning, is that time enough?

MR. SANDOR: Could we meet later tonight?

MR. PENNOYER: Some of us are leaving. It wasn't said -- we were here this morning, but -- it was scheduled then, and I think we've got to finish this discussion. So, Mr. Gibbons can we set that up then for then for sometime Monday morning.

DR. GIBBONS: Sure.

MR. PENNOYER: Okay, let's proceed then, we have, I think, two more people -- three more people to testify. Jim LaBelle, please.

MR. JIM LABELLE: Thanks for allowing me to testify today. For the record, my name is Jim LaBelle, that's L-A, capital B-E-L-L-E. I'd like my testimony -- to -- to reflect support for whatever ongoing negotiations there may be between Eyak and this Council. I -- I certainly don't want to my comments or my concerns

to be interpreted as opposing what their doing. However, I -- I encourage you to recognize that there is a substantial subsurface estate involved with your negotiations with, not only Eyak, but perhaps other village corporations in the region. And, I hope you all got this -- my letter today -- kind of emphasizing and encouraging you to -- to however you wish to -- to proceed further to afford Chugach -- to participate in your negotiations, as you go along. We're -- we're concerned, naturally, that not only is -- is there ongoing negotiations with Eyak, but perhaps some of our -- some of the other villages in our region, where Chugach is also the subsurface owner. And -- and, I know this could be burdensome and cumbersome if we have to go piecemeal by piecemeal through each and every one of these, I'm hoping that perhaps we could have a dialogue whereby we could take care of a lot of these things, at least the -- with respect to the regional interests, in concert with what's going on with the villages. The Council needs to be aware that Chugach has the subsurface ownership estate of Power Creek, and we also have equity interest in the development of that area as a hydroelectric facility for the city. The Council should recognize that withholding timber development through any conservation easement or fee simple purchase will cease revenues to the regional corporation by virtue of gravel extraction on the road construction that we have realized for a number of years. The Council should recognize then, in addition to that, we have our own gravel resources in the area. I can't point them out specifically for you today, but I believe some of them are in the -- in these

three or four systems that are under discussion today. I think the Council needs to be aware that we -- Chugach owns a sawmill in Seward. We have our own timber resources, of course, but the Council should recognize that we like, like any prudent contractor or timber owner, we like to utilize sources from a variety of places, and we recognize this is going to impact that forest.

MR. PENNOYER: Mr. LaBelle, I'm going to have to ask you to wrap it up.

MR. LaBELLE: Okay.

MR. PENNOYER: Whatever else needs to come out in questions, may come during (indiscernible - simultaneous talking).

MR. LaBELLE: Okay, I have another speech to make now.

MR. PENNOYER: Mr. Barton.

MR. LaBELLE: Thank you.

MR. BARTON: I think Mr. LaBelle has come forward with a very constructive suggestion. You know, we're faced here in this situation with the sub -- subsurface estate in different ownership, just as we were at Seal Bay and perhaps Kachemak, I don't know. What I'd do, with the Council's permission, what I would suggest is that Agriculture or agriculture representative from Interior meet us as soon as we can get a mutually agreeable date with Mr. LaBelle and explore further with his suggestions here in his August 5 letter.

MR. PENNOYER: Okay, we can take that up during the time of the -- of discussions, I suppose. Are there any questions of Mr. LaBelle? Thank you very much. Mr. Ken Jones, please.

MR. KEN JONES: My name is Ken Jones. I've been a resident of Alaska since 1975. I'd like to thank Charlie Cole for making most of us without out a tie today feel comfortable. I kind of feel like a pair of brown shoes with a tuxedo sometimes, looking at -- the reason I'm here is that, a lot of people are talking about the Exxon Valdez oil spill disaster as a catastrophe, and the catastrophe was really how it was handled. I had first-hand knowledge of how it was handled being intimately involved with a number of meetings and dealing with Exxon and meetings with National Oceanographic and Atmospheric Administration, Alaska Department of Environmental Conservation, Oil Spill Response Center, a portion of that, in particular, because I was a project manager with a company that was picked for the process to clean up the heavily soiled oil spill areas, such as Sleepy Bay, Knight Island and a few other places like that. Due to the politics of the situation, which we did not understand, and I'm the first to admit that we were a neophyte, we just happen to have an idea that we put forth as a proposal that was accepted by the consortium of - - by the committee that was comprised of National Oceanographic and Atmospheric Administration, the Alaska Department of Environmental Conservation, the Coast Guard and Exxon. They put us through a scientific matrix, we came out to be the first choice. And, after all the shouting was over, we felt like a bastard child, to be honest with you. Now, we were due to be tested -- we were interviewed by two television stations, we had that from Exxon's own people, and that never happened. And, the reason that I'm here

in the public comment section, is that -- you know, the thought occurred to me, Good Lord, if we were picked as number one after spending tens of thousands of dollars to get ready to use common sense to clean up Prince William Sound and the heavily soiled areas with rock washing technique, that was a mechanical means that was even endorsed by the Alaska Department of Environmental Conservation themselves, and as it turned out, we were supposed to be interviewed by several national programs, and I speak of 20/20 and McNeil-Lehrer Report and so forth, that most of you might know, had gotten a call from Governor Steve Cowper's office at that time asking us not to go on that because they wanted to put us out on Knight Island and test us first, and then we could all go forward together and bask in the limelight. Well, we weren't interested in basking in anybody's limelight, we were just interested in trying to clean up the beaches. And, we figured that we could have cleaned up eighty to ninety percent of the heavily soiled beaches with the technique that was nothing more than common sense rock washing. And, although the procedure, from talking with Exxon, promising a contract and then giving it to someone that had no outside expertise or any prototype whatsoever, except, I think, washing down the insides of oil barges. It seemed to me that if, after spending tens of thousands of dollars getting ready to help and we were quashed, then I thought, My God, what about the other people that had good ideas that were -- that didn't have the resources and were not listened to in the manner ...

MR. PENNOYER: Mr. Jones, I'm going to have to ask you to

(indiscernible - out of range of microphone).

MR. JONES: Right. I'll wrap it up here. I just -- I think the big catastrophe is how it was handled and one of the big rubs that we had in doing a little poking around, had to do with the fact that the Alaska Department of Environmental Conservation had several of their employees that had worked with someone else that got passed over in a scientific matrix of deciding what process was going to be used to clean up the heavily soiled areas.

And, as a consequence, because they didn't want some kind of political scandal to come out, they decided to go ahead and drop everyone and turn it over to Exxon and fire the head of their oil spill response center, a man named Alex Fatarie (ph). And, I thought to myself, what can you expect of someone whose -- you know, Alaska Department of Environmental Conservation is being run by an attorney. I mean, for some reason, that seemed to be the response of a bureaucrat instead of someone that really had the interest of the State of Alaska -- you know, at heart.

MR. PENNOYER: Mr. Jones, I'll have to ask you to wrap it up. We have other people ...

MR. JONES: And, I have documentation to support it all. So, I guess what I'm saying is -- is that -- you know, I hope that this Trustee Council doesn't turn out to be another clone of what I have experienced before as project manager for a company that wanted to get the oil cleaned up. And I am looking through your proposal ...

MR. PENNOYER: Testify on Eyak and I think we're going to

have to get back on it. We've got (indiscernible - simultaneous talking).

MR. JONES: Okay, another fifteen seconds. In looking through your proposals here, it seems that nothing has even been mentioned about what the state had proposed to clean it up, it was all -- it seems that this whole area is being used as a big laboratory to study the effects of oil instead of really getting in there and trying to clean it up. You know, it's like Prince William Sound is bleeding from hundred cuts and we only have ten Band-aids. Something's wrong, and that's what I'm here to say. And, I have documentation to support anything that I have, if Mr. Sandor is interested or anyone else.

MR. PENNOYER: Thank you Mr. Jones. Does the Trustee Council members have any questions? Mr. Sandor.

MR. SANDOR: Just one question. Do you support the acquisition of -- of the Power Creek, Eyak Lake, Eyak River and any other lands in the proposal on the table?

MR. JONES: As far as the acquisition of those lands are concerned -- you know, I'm not as in -- as familiar in depth with that particular portion of it as I should be. I think it's a good idea if you protect forested land and -- you know, not clear-cut everything and ruin your streams as all the people that came before me had talked about. I know there has to be some economic balance with -- your biological balance, and so forth, but I -- you know it seems to me that if you leave the oil there, and let it keep working over and over and over -- you know, I felt like we

kept trying -- every time we talked to somebody it was like trying to explain to a blind man what color was.

TELECONFERENCE BRIDGE OPERATOR: Excuse me, this is bridge operator, excuse me, this is the bridge operator and we will need to conclude today's teleconference portion of your meeting.

MR. PENNOYER: That's fine. Thank you operator. We have one more to testify, we'll proceed with that, thank you very much.

TELECONFERENCE BRIDGE OPERATOR: Thank you as I will conclude the teleconference at this time.

MR. PENNOYER: Are there further questions of Mr. Jones.

MR. JONES: I'll be happy to respond to anything anybody has, because apparently no one was interested.

MR. PENNOYER: Thank you. We have one more person to testify specifically on the Eyak question and I think that is Marie Jones -- and Mr. Steiner.

MR. RICK STEINER: Yeah, good afternoon, good evening. I have the -- I'm proud to have the honor to introduce to you Marie Smith Jones. She's one of the -- most wonderful people I know. She probably has more knowledge -- more intimate knowledge of Prince William Sound and particularly Eyak lands and Eyak people than all the rest of us in the room and possibly combined. She is the last living speaker of the Eyak language, she's the tribal leader of the Eyak people and I would ask respectfully that you accord her possibly the weight of her testimony maybe five hundred times the rest of us blue-eyed Arabs would get. So, with all respect, I yield to Marie.

MS. MARIE JONES: Hi.

MR. PENNOYER: Hello.

MS. JONES: Ladies and Gentlemen. I'm not used to speaking in a big place like this so please bear with me. I think on the way into the meeting you all have seen the posters out there that the children have drawn. That shows -- that speaks for itself. Some day, along the way, this could be your children doing this, being hurt by the ugliness that's going on around them. Please don't let that happen. And, another thing is, you are taking the animals' homes away, and they are protesting the only way they know how by coming into town and telling you, you are taking my home away. Now take care of me, house me and feed me. And, the only thing I hear is they're going to shoot them, do away with them. That isn't fair. That isn't fair, ladies and gentlemen. Give them back their home. Give the birds back their trees so that they can be happy up there. I grew up in Cordova, I was born and raised there, and I saw the beauty of Cordova. I never thought when I was young that I would go back there one day and see the ugliness that is happening there. So, please, ladies and gentlemen, put yourself in my place for just a little while and see -- and feel the pain that I am feeling right now and ever since the trees have been falling. Thank you.

MR. PENNOYER: Thank you. Are there questions? Mr. Cole.

MR. COLE: Ms. Smith. What troubles me is who is cutting these lands? Who is cutting this timber. (Mr. Steiner

repeats question for Ms. Smith Jones.)

MS. JONES: The loggers that come in.

MR. COLE: Thank you.

MR. PENNOYER: Thank you very much. Any other questions?

Thank you. That concludes the public hearing and shall we take a five minute break -- not much longer than that.

MR. COLE: Keep going.

MR. PENNOYER: Well, I think maybe you're going to have a few people leave this table for five minutes anyway, so five minute break and then we'll -- but please try to keep it just that.

(Off Record 5:08 p.m.)

(On Record 5:15 p.m)

MR. PENNOYER: Just out of curiosity -- repeat this, I suppose is, Art in the audience somewhere? Would you characterize for me the difference between the Eyak proposal and your thirteen thousand acres. I heard a discussions there were a lot of other parcels and things involved there, and I'm not sure how that mixed, changes the resource values or -- or whether the seventy-six hundred from Eyak, absent any consideration of the rest of the thirteen thousand, greatly diminishes the potential. And, if you taken Eyak around the lake and you get even a fee simple, all of a sudden you discover that about half of it's open to subdivision, then you may have defeated your own purpose. I don't understand the difference between the two proposals.

MR. WIENER: The way we crafted that design of the project was to draw a polygon that what we felt made the most

ecological sense, absent any consideration or most consideration of ownership. So, when you view the polygon, it captured not only the Eyak owned lands, but it also captured lands that are Native allotments, that are lands that may be in public ownership already, and it also captured the actual surface waters of the lake. So that's where some of the difference in the acreage figures comes from. One of the problems that we have with the proposal is that we don't actually know the ownership or status of ownership of some of the in-holdings or the Native allotment portion of the Eyak lands. And, I guess until the title work is completed, we won't know exactly what the acreage figure is on those allotments or where exactly they are. So ...

MR. PENNOYER: So, we can't strictly compare the seventy-six hundred acres with -- with the values you gave us of ranking of thirty for the whole thirteen thousand. We don't have the comparison between those two?

MR. WIENER: Not in terms of ownership, no. No. What we did is we drew the polygon -- what we're comparing are ...

MR. PENNOYER: But the benefits of the proposal can't be evaluated using directly -- using your ...

MR. WIENER: I think (indiscernible). I think they can.

MR. PENNOYER: They can. Okay. So by losing six thousand acres, part of it was lake water and it doesn't count?

MR. WIENER: In terms of the benefit, it counts, but in terms of the cost effectiveness, you have to correct that. We

don't factor in the cost of the proposal, we just look at the biological value.

MR. PENNOYER: Well, we had our public commentary, and I guess, if you have further questions of staff or of Eyak, now would be the time do them. So ...

MR. SANDOR: In regard to this -- I think I'm clear the Eyak Lake and Power Creek tract, but this Eyak River tract, how much is in that and what's the Eyak Corporation ...

MR. WIENER: (Indiscernible) maybe Jess can help us. Jess has done all the mapping work for us, he's with DNR.

MR. JESS GRUNBLATT: What was the question?

MR. SANDOR: I understand the Eyak Lake and Power Creek tract, but Eyak River tract is separate from that, and how much is it and how much is Eyak?

MR. GRUNBLATT: (Indiscernible - out of range of microphone). Jess Grunblatt. The Eyak River acreage figure would be as found on the report.

MR. PENNOYER: What page?

MR. GRUNBLATT: I'm looking for it now, it would be 2C. The parcel acreage is fifty-one hundred. And, just to repeat Art's comments in the Eyak Lake acreage, the surface area of the lake was included and in conversation with Lee Wyatt, their acreage figures do not include any surface area of the lakes, so that would be a large portion of the acreage difference.

MR. PENNOYER: You don't know the portion?

MR. GRUNBLATT: I -- it's roughly ...

MR. PENNOYER: Ten thousand, nine thousand?

MR. GRUNBLATT: It's roughly around seven thousand, it's associated with the -- with a water body, so I think you're getting into ...

MR. PENNOYER: So, it's pretty much consistent then?

MR. GRUNBLATT: Fairly close, although there is an issue of ownership.

MR. PENNOYER: Other questions of staff regarding the Eyak proposal? Are there informational questions? Mr. Rosier.

MR. ROSIER: I still need some clarification here in terms of what we're really talking about in terms of the difference between the thirteen thousand. In the areas outlined in the purple lines up here, Power Creek and Eyak Lake and Eyak River. Is that the thirteen thousand acres that the staff ...?

MR. PENNOYER: Not Eyak River.

MR. WIENER: Okay, you -- the parcels are divided into the Power Creek parcel, the Eyak Lake parcel, Eyak River parcel, and then A and B which includes ...

MR. ROSIER: Is that the area that's outlined by the purple line on the map?

MR. WIENER: Yes, sir.

MR. ROSIER: Okay, and that differs from this map?

MR. WIENER: Slightly different, that's correct.

MR. ROSIER: It looks fairly significantly different.

MR. WIENER: Well, the scale on that one is pretty rough. I mean ours -- I believe that the lines that we've drawn --

that Jess has drawn are a lot more precise than what you've got on those tracts. But, I think it roughly approximates our parcel.

MR. ROSIER: But, the thirteen thousand does not include Eyak River, that's Power Creek and Eyak Lake.

MR. COLE: This Eyak Lake, is that part of the acreage that we're dealing with in this proposal? What I'm getting at here, if this is all land when we talk about the acreage, none of it is water surface.

MR. WIENER: I can't speak to the proposal, I know what we as staff evaluated, but in terms of Eyak proposals, they would have to speak to that question, I believe.

MR. PENNOYER: Dr. Gibbons.

DR. GIBBONS: Yeah, I believe that the lake is owned by the state so it's not -- you know, it's not under consideration in the proposal, but that would be my assumption.

MR. COLE: When we talk about a certain amount of acreage, all of this is land and none of it is covered with water. Is that right?

MR. WIENER: That's right.

MR. PENNOYER: In the proposal?

MR. COLE: Yeah, in the proposal.

MR. PENNOYER: And the evaluation includes the water.

MR. GRUNBLATT: I just got a clarification on the area -- I just got a clarification on the area included by Eyak Corporation in their proposal versus the area that we evaluated in the Eyak River parcel and the area offered under the Eyak proposal is a sub

set smaller area, it's about four, five sections, whereas the larger area was evaluated by the team as referenced as the PWS2C parcel. So, what was evaluated is a larger area than what was offered under the -- the agreement that's before you.

MR. PENNOYER: But, let's go back and try that one more time. What you evaluated included the lake water -- then the acreage, total acreage?

MR. GRUNBLATT: That's -- I'm sorry -- is in Eyak Lake and the Eyak River parcel, we're talking about, a reduced area.

MR. PENNOYER: Okay. Thank you.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: Before we have to decide whether we want to deal with fee simple title or an easement, I think that's the first issue we have to face. Or is it?

MR. PENNOYER: Yeah, I suppose you could break it down that way. We've got three options, they're all somewhat different. You could start on conceptually whether you want to deal with fee simple versus -- versus easements for different parts of the parcel. Mr. Sandor.

MR. SANDOR: To get something on the table, Mr. Chairman, I would move that the Trustee Council take appropriate action to acquire from the Eyak Corporation surface rights and fee simple in the Eyak Lake and Power Creek tracts, period.

MR. COLE: I'll move to amend to include Eyak River area.

MR. SANDOR: I'll second.

MR. BARTON: Mr. Chairman.

MR. PENNOYER: Mr. Barton.

MR. BARTON: I would ... pardon me.

MR. PENNOYER: ... get further discussion?

MR. BARTON: No, I have another amendment.

MR. PENNOYER: Okay.

MR. BARTON: Mr. Chairman, I would like to amend the motion in this manner, that the Trustee Council approve -- a counter proposal, if you will, I guess is the right term -- that for fifty million dollars or the appraised fair market value, whichever is less, Eyak will convey to the government (a) a restrictive perpetual conservation easement to Power Creek and Eyak Lake lands with the same restrictions contained in the Eyak proposal dated August 5 and that we pursue fee simple through a shareholder vote, that is a minimum, get a restrictive -- a restrictive perpetual easement in their proposal; (b) ...

MR. COLE: Excuse me, would you mind repeating that, I'm not sure I understood it.

MR. SANDOR: That we get a restrictive -- that we get at least a restrictive perpetual easement to Power Creek and Eyak Lake parcels and that restrictive easement is defined in their August 5 proposal. But, I would like to go further and ask that they do take the fee simple request or offer to the shareholders. They indicated earlier that the shareholders had to approve any fee simple.

MR. COLE: I missed the fifty million dollars.

MR. BARTON: I'm coming - I'm not done.

MR. COLE: Alright, alright.

MR. BARTON: "B" a less restrictive perpetual easement to all remaining Eyak lands which at a minimum preclude commercial timber harvesting and grant a right of reasonable public access for non-commercial purposes, subject to reasonable restrictions for the purpose of preventing unreasonable interference with commercial users of Eyak Corporation, and that less restrictive easement, I believe is also defined in here. That's my motion.

MR. PENNOYER: Okay, going to back -- off as chairman here. The first motion ...

MR. BARTON: Well, that's my amendment, I apologize.

MR. PENNOYER: The first motion I assume, the first amendment was a friendly amendment, which the second accepted, so we didn't have to vote on it. Your's is a new amendment, which I guess we'd have to vote on.

MR. COLE: Why don't we start all over again. I with -- withdraw my amendment to the main motion, and then -- so we can ...

MR. SANDOR: I do not withdraw my motion, which is to - - to -- Council acquire -- move to acquire Eyak Corporation surface rights and fee simple in the Eyak Lake, Power Creek and Eyak River tracts.

MR. PENNOYER: (Indiscernible - simultaneous talking). You didn't have a price on it.

(Indiscernible - simultaneous talking).

MR. SANDOR: At fair market value.

MR. COLE: Well, I will second that.

MR. PENNOYER: Okay, then that's been moved and seconded -- that's the main motion. Now, the amendment is Mr. Barton's amendment and the amendment is what we have to discuss and vote on.

MR. BARTON: Well, I don't think they're inconsistent and that I would just add to Mr. Sandor's motion my item "B" which is the less restrictive easement with all the remaining lands.

MR. PENNOYER: I'm sorry, so you included Eyak River then in your "A" part. It wasn't on there originally.

MR. BARTON: No, no. Are -- oh, I'm sorry, you have Eyak River? (Indiscernible - simultaneous talking).

MR. SANDOR: I had Eyak River.

MR. BARTON: They are inconsistent.

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: Mr. Chairman, with the motion on the table and seconded and for discussion purposes, I think I would speak in favor of the motion that I strongly favor acquisition in fee for the reasons that we had discussed about other opportunities for -- for perhaps putrifaction and other forms of contamination of Eyak Lake and, quite frankly, want to see unconditional protection of the areas in question. And, I -- I am troubled by the -- the definition of what would be included in conservation easements and is the reason why that isn't included in the motion.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Barton, did you get a second to your motion? Alright. I second for discussion purposes. This is -- Mr. Barton's amendment is what we're really voting on to start with and then we get back to the main motion. When you're speaking of the main motion, I guess you're speaking against Mr. Barton's motion. So, any further comments or questions on Mr. Barton's amendment.

MR. COLE: Yes, Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: My thought, generally, has been for the acquisition of Power Creek, Eyak Lake and Eyak River in fee. I think those prime four area tracts should be acquired in fee. I would like to see us have an option to acquire at least a conservation easement -- option for a limited period of time on all other Eyak lands, but I do not favor the acquisition of -- of such an option for seventeen months because I think that unduly restricts the -- the time in which the logging people and others can decide what to do. Because obviously we can't acquire all these lands out there, that Eyak owns, in fee simple, or perhaps even, I don't know about the any conservation easement, but I think we should be required -- should make up our mind within the next three or four, five months.

MR. BARTON: I'm suggesting we make it up today.

MR. PENNOYER: Mr. Barton would you explain then, in light of what Mr. Cole said, two things. One -- your's actually included a perpetual easement for all of the other Eyak lands under

your fifty million or fair market value, whichever is less. Are you assuming that the less restrictive option is the only one we want in the future on some of these lands or -- I don't know where you proceed from there. That -- that then ties up all the Eyak questions, you don't come back and re-evaluate other parcels for further protection or anything?

MR. BARTON: That's right.

MR. COLE: Mr. Barton, do you -- under your proposal contemplate the acquisition of the three core tracts in fee?

MR. BARTON: I do. Or, I think that should be the primary thrust of what we do. But if the shareholders vote it down, I'd like to be assured that we at least have a fairly restrictive easement in place.

MR. PENNOYER: Mr. Barton what -- this is confusing about the original proposal too. What is the impetus to go back and vote those lands in fee? Once you have this deal it's fifty or which ever is less. What is the impetus to go back and vote this in a fee simple for the -- the shareholders to vote in for to rate for fee simple? I think -- decide ahead of time what -- what is the impetus do.

MR. BARTON: The value that they would receive would be greater.

MR. PENNOYER: Get closer to the fifty million?

MR. BARTON: ... development.

MR. PENNOYER: ... that's which ever is less?

MR. COLE: I have a question.

MR. PENNOYER: Mr. Cole.

MR. COLE: Are we all in accord of acquiring the three core tracts in fee?

MR. BARTON: Power Creek, Eyak Lake and lower Eyak River. Are those the three?

MR. COLE: Yes. For fair market value.

MR. PENNOYER: Friendly amendment to your motion -- Eyak River. "A"?

MR. BARTON: That's fine.

MR. PENNOYER: Okay, it's clear that Eyak has a friendly amendment and include Eyak River (indiscernible).

MR. COLE: We got that far.

MR. PENNOYER: Now we have to vote.

MR. COLE: Sort of -- tentatively. Now the question is what should we do about option on the other lands. Is that sort of what we're working on?

MR. PENNOYER: (Indiscernible - simultaneous talking) ... sums it up. Done discussing, I'll call the question.

MR. COLE: I don't know yet, not quite yet, that's a big gulp.

MR. PENNOYER: Well, I know, just waiting for more questions, or we can just take time out, if you want, for a couple of minutes.

MR. COLE: Yeah, let's take time out.

MR. PENNOYER: Stand at ease for a couple of minutes until somebody thinks of another question.

MR. COLE: Let me say this though, yours would be for fifty million dollars if we get fee simple to the three core tracts and a perpetual easement on all other lands?

MR. PENNOYER: Hold it a second. It's a friendly amendment that you've accepted fee simple in the three core tracts now?

MR. BARTON: Yes, I have.

MR. PENNOYER: As a starting position?

MR. COLE: Pardon me?

MR. PENNOYER: As a starting position.

MR. BARTON: Yes, as a starting position, but I want some assurance that we -- if for some reason fee simple is rejected that we at least have a conservation easement.

MR. PENNOYER: I don't think that's what Mr. Cole said. He wants fee simple as a part of the deal. So you go back to the shareholders, if it doesn't come back fee simple, you don't have a deal.

MR. COLE: Well is that? What ...

MR. PENNOYER: There is no ...

MR. COLE: I understand, but we're just trying to see if we can get some consensus here.

MR. PENNOYER: Sure.

MR. COLE: That's what John Sandor wants, he wants -- you know, fee simple on the three core tracts. That's what I favor too.

MR. ROSIER: Mr. Chairman.

MR. PENNOYER: Mr. Rosier.

MR. ROSIER: Yes, I also am in favor of that.

MS. ANDERSON: See, now we get in this discussion.

MR. PENNOYER: Go on a second. Do we -- we may need to ask questions of Eyak Corporation in a minute or two, but why don't you finish whatever -- your presentation

MR. ROSIER: I -- I agree with the -- with the question you raised Mr. Chairman in regards to what's the incentive. I mean if both -- both things are on the table -- I mean we've heard previously that -- you know, fee simple is not necessarily a real option from Eyak in the past. At this point, we have two sections, as I understand the written proposal that are on the table for potential fee simple, we've gone beyond that now (indiscernible). Does that sound correct?

MR. PENNOYER: That's the current, friendly amended motion.

MR. COLE: I would say my -- Mr. Chairman, if they don't like that, we just say, sorry, guys, and pick up our marbles and go home. I mean -- you know. But, I -- I just think we should insist on fee simple title to the core tracts.

MR. PENNOYER: (Indiscernible - out of range of microphone.)

MR. BARTON: If I might ask a question. As I recall, Eyak has stated that it would take six to twelve months to get shareholder vote?

MR. PENNOYER: I'm sorry, this isn't something you back

by teleconferences as Seal Bay people were trying to do. This is something that takes six months to do. I didn't understand that comment. Could one of you come up and elaborate on this question on fee simple versus ...

MR. COLE: Your opportunity here.

(Indiscernible - simultaneous talking)

MR. PENNOYER: What is the set up to go fee simple, for how long?

MR. LINXWILER: I should -- and I would welcome the opportunity to do so. I -- where to start. I think that the question of fee title ought to be considered in light of how the shareholders react, the board of directors react -- looks at the issue. It's -- this is not from the Eyak perspective a simple wildlife management issue or just how much interest can you get out of us. This -- the relationship of the shareholders of Eyak to their land is intense, emotional, and is very subject to feelings that are far more strong than -- than I probably can describe here.

I know where we started and I know why we started there. We started with a very restrictive conservation easement which addressed specifically all the things I heard discussed previously, and a significantly stricter or more tight limitation on usage. If you insist on only fee title, there -- I think there's a very good likelihood that the deal won't get made. So, where you need to start with is the question of just how important is it for you to protect Eyak Lake, Eyak River and Power Creek. If that's critical, and that's the goal you want to get, as opposed to taking lands

back out of Native hands, and that's frankly how the Native community looks at it, if the protection of the habitat is the compelling interest, I would strongly urge you to start with an easement and go forward from there to fee title, on a vote. If you force the Eyak Corporation shareholders to decide between fee title and money, or nothing, I -- I fear that the answer will be nothing.

MR. PENNOYER: One question. I thought, way back when in my mind, I remember Power Creek that looks -- was fee simple and the others were not, at least in the initial discussions.

MR. LINXWILER: That's right, but I believe ...

MR. PENNOYER: ... going back in other direction?

MR. LINXWILER: I -- no, I think that the conversion -- you know, starting with an easement and going to fee title, we've always had to get a shareholder vote on these conveyances of land interests in these lands.

MR. PENNOYER: I understand that.

MR. LINXWILER: Yeah. And, so the proposal at Power Creek was give you an easement and go to the shareholders and get a vote.

Frankly if -- this is a very complex matter and I guess -- I've just come away from about three days of sixteen hours a day talking about it, and I have to remind myself that we haven't talked about it. There is a complexity here, if you wish to extend out from what Attorney General Cole has called the core lands, one that's significant, motivating forces is Eyak's ongoing timber operation at Orca Narrows. If you want to stop the Orca Narrows stuff, you cannot make it contingent upon us six or nine months turn around

time on the decision from the shareholders because it will get logged in the meantime. On the other side of the coin, if you're willing to take the very precisely constructed mechanism with respect to reaching out to other lands, that we have provided, which is the earnest money, take the easement on those lands, take the easement on the core lands and go for fee title -- it's very carefully constructed -- if you want to do it that way, then -- you know, the likelihood is you'll protect the values you want to protect all across the Sound and possibly in the end get the fee title you're after to start with. If you try to do it the other way around, I think you won't achieve the results you're after. I hope I've been sufficiently clear. It's a very complex matter and I guess I'm trying to identify four or five variables that lead us to the sort of presentation we made earlier today.

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: What I'm hearing, Mr. Chairman, which I hope is not correct, is that what in fact you're saying is that, the July 19 offer conveying fee title is not likely to be approved by the board and/or the shareholders.

MR. LINXWILER: No, I'm not saying that. I'm saying that if it's presented in the way we've presented it to you, which is to start with an easement and go to a vote on conversion, that it has a very good chance -- that maximizes the likelihood that it will be approved. If we go the other way, and say we're not going to do anything with Eyak Lake, Eyak River or Power Creek unless you give us fee title, it -- it sets off a range of emotional responses to

the loss of Native lands that Natives feel they fought fifty years to get and the government comes and takes it back. It's a very emotional response and it's a very -- it creates a very difficult atmosphere in which to make a decision.

MR. SANDOR: I'm -- Mr. Chairman, I'm well aware of that -- but that's why I say, if that in fact is your determination, than -- than that ought to be on the table, but I have real problems, Mr. Chairman, with anything less than fee title acquisition of those tracts, for the very reason that -- you know, we've already discussed, mainly that other than timber harvesting activities, including subdivisions and so forth, can lead to the destruction of the very values that we're trying to protect. So -- I -- and I think -- you know, if we don't really identify what our objective is, we're going to be just going back and forth, and back and forth. And so, that was the basis of the motion, and if in fact we go out with something saying that we're going to, in effect, accept conservation easements, it could completely destroy your basic objective. So, I would oppose the -- the amendment, however friendly it was intended to be.

MR. BARTON: Mr. Chairman.

MR. PENNOYER: Mr. Barton.

MR. BARTON: I think we all share Mr. Sandor's concerns. If I understand Eyak's proposal right though, if Katherine right and you, Jamie, can help -- the restrictive easement on Power Creek and Eyak Lake was designed to address the concerns you're raising. And -- you know, the wording is -- is

pretty specific wording here.

MR. PENNOYER: Mr. Barton, has anybody looked at this wording and -- from our habitat management group and assured us that this is, in effect, restrictive enough to prevent the problems that Mr. Sandor thinks might occur.

MR. BARTON: I can't answer that. No, apparently not.

MR. LINXWILER: Would it be helpful to review that language for the Council's information, or would that be a waste of time, sir?

MR. PENNOYER: Well, I see it here. I was wondering if some of our people who were concerned about fee simple made that point to us early had reviewed it, and whether their concerns were alleviated by the language exhibited here, and if not, why not?

MR. LINXWILER: I can perhaps answer the why not. I'd like simply to say that we're trying to respond to events that have occurred very quickly and trying to prevent future events which will occur in the very near future, or at least to provide the Council the opportunity to do so. We -- perhaps in light of that fact, not a full staff review has been available in the short time we've been working together.

MR. PENNOYER: Mr. Cole.

MR. COLE: A couple of comments, one -- Kachemak Bay we acquired fee simple title, Seal Bay we acquired fee simple title -- you know, and -- not that -- that's a matter of unalterable precedent, but we have sort of taken a stand that in principal areas of habitat protection we have acquired fee simple title, we

wanted fee simple title, and I think that we should strive for that here. Another thing that troubles me a little bit with respect to the easements, is just to sit here today and to say this restrictive easement is adequate for what we're trying to do, makes me a little bit uneasy. You know, that's the sort of thing that I think needs to be looked at carefully, negotiated by people who have -- you know, some experience in this type of easements. Maybe the Nature Conservancy or someone like that who -- you know, had experience in this before, knows what to look for, knows where the pitfalls are, what ought to be done. And, one of the things that troubles me is if we accept this, that part today and then the other non-logging things could -- could go with it, in the Narrows, and then in the negotiations we get hung up and find out that the -- we can't reach agreement on the form of the easement, then we really are in a bit of a mess. And, that's a little bit -- concerns me.

MR. BARTON: Mr. Chairman.

MR. PENNOYER: Mr. Barton.

MR. BARTON: Yes, first of all, I don't think that there's any disagreement on the desirability of fee simple. I mean, that -- I haven't heard anybody knock that. Secondly, in regard to the wording in the easement, this was worked out with the assistance of the Nature Conservancy, and it's been reviewed by our legal counsel. So, I -- as to the adequacy of it, there are apparently many of us who feel that its -- it adequately addresses -- the language adequately addresses what the perceived need is.

MR. LINXWILER: If it would assist in resolving your concerns, at least slightly, it is correct that this language, in fact, I think it was actually drafted by the Nature Conservancy's representative.

MR. COLE: Mr. Chairman.

MR. PENNOYER: Mr. Cole.

MR. COLE: When I look at forty-one million dollar tracts -- essentially in eight lines, something tells me that that's not definitive enough. I've never seen yet a forty-one million dollar transaction getting the essence of an easement or a real estate transaction in about six or eight lines or maybe there's ten or twelve there. If I -- let me tell you -- let me put it this way, if I were doing that -- you know, I would want to up my malpractice insurance -- you know, to about fifty million dollars because I'm just uneasy about that, you know. I wouldn't do it, frankly, but -- maybe somebody else has got malpractice insurance, I don't.

MR. GRIMES: (From audience) I'll get some right now.

MR. COLE: If you want to put it on the line and say it's adequate, we'll have right on your policy, I'll be much more relieved.

MR. LINXWILER: Mr. Cole, if I could comment again. Is that permissible?

MR. COLE: Sure.

MR. PENNOYER: Sure go ahead.

MR. LINXWILER: I -- please don't misunderstand my

continually comments to the argumentative with you. I'm -- I'm trying to fill you in on matters that we've talked about over the last three or four days. Clearly, one of the assumptions in a -- in a somewhat skeletal proposal like this, is that before it's effective and binding on the parties, there would be a completely negotiated transaction that would be subject to the kind of scrutiny that you're talking about.

MR. COLE: I agree with that, but what troubles me is while we're doing that, there's accompanying it is this no logging covenant. You know, and I -- I'll -- I'm thinking about what happens if we have the no logging covenant, we get the lawyers working on this language and so forth, and then we get hung up on the scope of this restrictive easement. That -- that's the sort of thing that I'm talking about. You see, otherwise we could say, okay it didn't work and we all walk about, you know, and it's just one of the things you feel didn't get done. But, when you couple, you know, that negotiating process, trying to get -- the deal done, while at the same time we're asking Eyak no logging, and it falls apart -- you know, then I think we have a bit of a problem, and I'm trying to avoid that and figure out a solution, if you know what I'm saying -- you know.

MR. PENNOYER: One of the problems obviously, this is complex and that we're in a tough position here to evaluate all the pieces of it in a very short time. Then, how we deal with that. A portion -- yes, sir, go ahead.

MR. LINXWILER: I -- I feel intrusive in a sense. With

respect to monies ...

MR. PENNOYER: For fifty million dollars you can intrude.

MR. LINXWILER: With respect to the fifty million dollars, I can intrude. (Laughter) With respect to monies that are fronted to the Eyak Corporation to pay in the near term -- its short-term cash shortages caused as a result of a shutdown, those matters are covered because we secure the repayment if -- if the concern is whether you'll get monies that you've advanced. Those -- those monies are covered by the grant of the security interest in the Power Creek trees. That's in the proposal as it exists now. What I hear Mr. Cole concerned with is the potential liability of the government for damages to the Eyak ...

MR. COLE: No, that's not my concern. My concern is when we ask these loggers to stop logging, you know, and hold up and no equipment, no jobs and so forth, and then we start working out these terms of the agreement, and then we can't get there, then, you know, then how do we -- you know, make up for morass we're in two or three weeks or three months later. That concerns me. But, I'm not saying that that's an insurmountable problem. I mean, maybe we could do it -- you know, get some people to work over the weekend and address this for Monday. I don't want to see it get hung up over that, because I really do strongly favor the acquisition of Power Creek and Eyak Lake and Eyak River and I'm not saying I -- and I would like to blend in what Mr. Barton has been working on with the other lands, but make it -- see if we can't get that done too -- you know. I'm troubled over the -- when we drop

out the acquisition -- see, the thing about getting fee simple title, it's so clean -- you know, it's so final.

MS. ANDERSON: So undo-able.

MR. COLE: Yeah.

MS. ANDERSON: Keep that one in mind.

MR. COLE: Yeah, sure, no problem, it's done, it's clean, and ...

MR. PENNOYER: Mr. Sandor.

MR. SANDOR: Mr. Chairman, I suggest that the other option is undo-able -- there's do-able. And, in other words it can change. You know, we've heard powerful testimony, and actually if there's any consensus I've heard today, it's really from both of the petitions signers in opposition and in favor of these proposals that these three core tracts should really be protected and that protection should be undo-able. And, the only way to provide that protection in an undo-able -- so it won't unravel -- is to get it in fee. And, that's the spirit of the motion.

MR. PENNOYER: Why -- why does it take so long to find out about fee simple?

MR. LINXWILER: Well, it's just the process of going through the shareholder vote, the proxy statements and all of that. It's just the mechanics of having a meeting and getting the vote.

MR. BARTON: That's my concern pursuing only fee simple. What happens in this interim period, between now, if we adopt this and the time that the corporation is able to have a shareholder vote? That's why I wanted to two-step it.

MR. LINXWILER: I -- I can answer that fairly directly and I need to be very careful what I say and the tone that I say it in, so that you won't misunderstand me to be threatening you or making -- making rash promises or anything of that sort. Directly to answer your question -- or the -- the statement of what's going to happen in the meantime with respect to Eyak Lake, Power Creek and the Eyak River tracts, in the near term, in the next six months, probably nothing. With respect to the Orca Narrows tract, it's not really a question of months, but of days before we're back operating there again. It's just an economic necessity. We are bound by economic necessity to continue our operations, and we will continue. That is why we're here -- that is why we're here on such an expedited basis and why you don't have a full staff scrub-down of all of the issues that we discussed today. It's a very difficult and intractable issue, that's correct. Our original proposal, kind of just taking stock of the situation that we found ourselves in, was for the Council to provide funds -- there's two kinds of economic damages that will occur to Eyak. Some are recoverable in the land values, but if you just delay, those delay costs, which is to say the cost of paying for the machinery and paying staff, without logging are not recoverable to Eyak in the land value, so we would be out of pocket, and we've tried to calculate in rough terms what those numbers are. They get into the millions of dollars very, very quickly, in two weeks or less. So, what we initially proposed was that the Council -- you know, if the Council wants to take more time, pay our carrying costs in the

meantime, which are significant, we were -- our -- the response to that was immediate and direct, and, it was that we -- we the Council -- or the Council cannot compensate you for anything but land value, so we pursued instead and -- on an expedited schedule this transaction, over the last several days.

MR. PENNOYER: Mr. Cole.

MR. COLE: We haven't talked today about the fact that Eyak got an expedited conveyance -- you know, for lands so that they could continue logging during this period of negotiations. What's your response to that? Why don't you go log on those lands...?

MS. ANDERSON: We are.

MR. COLE: Well, then you don't have to go the -- the Narrows right away.

MR. LINXWILER: If I could answer the question, precisely.

The conduct of a complicated and large timber operation like that, involving many different kinds of operations is -- is a staged process. Somebody is away preparing the land while somebody is building roads on the tract behind it, while somebody is cutting trees on the third tract. So, it proceeds in phases like that. What we were doing at Orca Narrows was proceeding with the road building. There's not enough land in section twenty-three and twenty-four to occupy the full road building crews, so some of them were working at Orca Narrows as well. We've stopped and brought those guys back, incurred costs as a result of that, trying to hold this option open for the Council. We are conducting operations on

twenty-three and twenty-four, but we've got idle people, and we're incurring the delay costs as a result.

MR. COLE: Well, here's the thing. When you've heard six Trustees unanimously say we're prepared to buy, you know, pay for fair market value, which you've established is not essentially thirty million, and we're to -- added to that the Eyak River stuff, so -- you know, we're talking about whatever thirty, forty million dollars, and -- in which we're all very comfortable with, and maybe some more with an easement -- you know, on these other lands to discuss. And, in fact, the Forest Service has proposed fifty million dollars. And, as I said the other day, in Cordova it doesn't strike me that when somebody's -- you know prepared to hand you a check for, I don't know, thirty or forty million dollars that -- you know, you can't say well he ought to right across Orca Narrows there and haul out the D-9 and chain saws. I mean -- you know, if I can get a fifty million dollar deal or something, say, what does it take -- you know. So, I mean, I'm simply saying that -- you know, I think you should give serious thought to allowing us to work this problem and not, you know, load up the rafts to go across Orca Narrows while we work this out. And, I feel very comfortable about the Trustee Council making that, you know, proposal (indiscernible) to you.

MR. LINXWILER: I -- I guess I can respond to that the same way I did the other day. For the benefit of the rest of the Council -- you've already heard this answer -- and the answer, I guess, is that this isn't a situation that has occurred in the last

forty-eight hours. Eyak has been logging low density timber for a couple of years at significant cost to it. This year they've staged timber cutting operations in a sort of a delay mode and gone very slowly to hold their place in line, to hold this option open.

And, they have incurred significant costs as a result of doing so already. And again, without attempting to sound -- even in the slightest confrontational, the board has made a determination that they can't go on incurring millions of dollars in costs that they're not going to realize back out of this transaction. There's more to it, I guess, than that, and it has to do with -- with other transactions that the corporation has entered into, their ability to satisfy those obligations, without getting too much into the details. We've taken a very hard look at what you propose because we understand -- you know, the appearance of what -- what it is we're about here.

MR. COLE: Well, Mr. Chairman, it's easy for me in that event to suspend negotiations.

MR. PENNOYER: Yes, one further question before we go to last -- vote on the last suggestion, even Mr. Barton's proposal doesn't cover you. His proposal didn't include up front payments or interim payments or any of the other type of things, and I don't know if you were intending to go on to the other aspects of Eyak proposal at some point or not, but it's a flat fifty million or ...

MR. LINXWILER: The complexity -- the complexity is created by the moratorium and by moving out of the Eyak Lake, Eyak River and Power Creek to other areas. And if you treat, you know,

with respect to Mr. Barton, if you separate the two so that you're making two different sorts of proposals, we can keep things, I think, straight here. I think that the Eyak Lake, Eyak River and Power Creek is a very simple, structural transaction to enter into.

When you get into stopping logging operations all across Eyak lands, then economic forces out of our control begin to operate and begin to impinge on our ability to respond, unless we get front monies and things get done in a very -- quickly -- in the manner that we negotiated exhaustively and presented to you in our present proposal. If you can separate the two proposals, or perhaps make one incorporated in the other, but make both available to Eyak, it simplifies matters immeasurably.

MR. COLE: I move we adjourn for a recess until Monday.

MR. PENNOYER: Have another Trustee Council meeting on Monday, then?

MR. COLE: Well, you know we have this meeting set for Monday, I just move we (indiscernible) until Monday.

MR. PENNOYER: To come down to Juneau, Mr. Gates, on Monday? Mr. Barton.

MR. BARTON: I'm not impressed with adjourning just yet. I -- I guess I'd like to ask Eyak to elaborate on your last suggestion and how that would accommodate the need to put a hold on the logging operation.

MR. LINXWILER: Well, if I understand the sense of your proposal, it is to engage in an immediate moratorium on logging at

Orca Narrows and all other areas, starting soon, and my response to that is that if we do that, we'll need something like the earnest money proposal we've made. In fact, that exhaustively negotiated proposal, I would suggest that we stick with it. I think it's a good one. That would shut us down very quickly. That would allow us the economic flexibility to shutdown, and presumably what would occur would be a staged shutdown as these various -- you know, tasks work their way through the system on the section twenty-three and twenty-four where we're currently conducting logging operations. They're still picking up pulp in the woods in a couple of areas and cleaning up here and there in the other place. What you would get, I assume, is the -- the -- you know, assuming that Eyak approved this tomorrow at their board meeting, what you would get would be the moratorium, as we previously proposed it, financed by the earnest money transaction, separating it off from the Eyak River, Power Creek allows that transaction, which I understand is -- that part of this transaction that has substantial consensus behind it, would allow that to go forward, no matter what happened with the rest.

MR. BARTON: In terms of the earnest money alternatives, which one are you referring to now?

MR. LINXWILER: Well, I believe since about lunch time, they've been fundamentally identical, thirty days.

MR. PENNOYER: I'm sorry, which earnest money again?

MR. LINXWILER: Well, I've seen it was -- since about lunch time, I think after the proposal was typed, we agreed to --

to basically, the first alternative is also a thirty-day alternative. It was fourteen days, I believe, we just agreed to extend it to thirty days, so that ...

MR. PENNOYER: That's "A"?

MR. LINXWILER: That's "A." That's right.

MR. PENNOYER: Million dollars within thirty days, five million dollars within forty-five days, and a million and a half within sixty days.

MR. LINXWILER: That's right. It would be "A" -- the fourteen would become thirty, the thirty would become forty-five. That's probably a little bit later than we'll be incurring costs at that level, but I guess we're -- you know, the problem was the Nature Conservancy and the Forest Service ability to respond.

MR. BARTON: What's the mechanism of earnest money in terms of federal procedures -- needed to incorporate some other parties in order to be able to do that. The Nature Conservancy indicated that they would help with part of it, but they didn't feel -- they thought this whole amount was stretching them beyond their capacity, so that the other party to that would have to be the State of Alaska.

MR. LINXWILER: The State of Alaska.

MR. BARTON: And, the Trustee Council -- the state side of the Trustee Council was what I was trying to say (indiscernible).

MR. LINXWILER: That's an observation and a suggestion I hadn't heard before. I mean, that is news to me, so that's fine.

MR. PENNOYER: Further comments? We have a motion on the floor and an amendment to that motion. You need to consider the amendment to the motion -- ordinarily -- what we want to do. And, Mr. Sandor, do you have a suggestion?

MR. SANDOR: Call for the question.

MR. COLE: Restate the question, please.

MR. PENNOYER: The question is whether we approve the amendment suggested by Mr. Barton, to offer fifty million dollars or appraised value, whichever is less, for, and I think this friendly amendment to fee simple acquisition of Power Creek, Eyak - - Eyak Lake and Eyak River parcels, and to call for a moratorium with less restrictive easements, no commercial timber harvesting, reasonable access of -- for recreational purposes, for a balance of a moratorium in all other Eyak held lands. Is that close to what you proposed?

MR. BARTON: Reasonably close.

MR. PENNOYER: All those in favor of the amendment, say aye.

RESPONSE FROM COUNCIL: Aye.

MR. PENNOYER: Opposed.

MR. SANDOR AND MR. COLE: No

MR. PENNOYER: We have then in front of us, unless somebody wants to offer a further amendment to the basic motion, which is to go for -- at fair market value acquisition of the parcels on -- fee simple acquisition of the parcels on Power Creek and Eyak Lake and Eyak River. Is there further discussion or

amendment of that proposal? I have a question. How long would you say to -- for your shareholder development.

MR. GATES: I've got a question. How long did you say it would take for your shareholders to vote?

MS. ANDERSON: (Indiscernible.)

MR. LINXWILER: Yeah, I guess three to six months. We've said nine months to be very conservative, but it could probably be accomplished in somewhere between three and six months.

MR. PENNOYER: It could be expedited then?

MR. GATES: Yeah.

MR. COLE: I, again, make the motion to recess until Monday.

MR. PENNOYER: Mr. Cole, that certainly is something we can consider. I'm not sure -- we have no advertised meeting and what we do and what the implications of that are, so we might have discussion -- we have a motion on the floor. Well, I haven't heard the question called on the motion. This is -- I guess a motion to adjourn or to recess, I'm not sure ...

MR. COLE: Recess.

MR. PENNOYER: ... on parliamentarian. You know, was that -- expressive -- but I'm not sure it's contrary to ...

MR. COLE: I don't care, if you would rather have a vote on this before we address my motion to recess until Monday, that's alright with me.

MR. SANDOR: Mr. Chairman, a motion to table takes precedence over anything.

MR. PENNOYER: Well, this is not a motion to table.

MR. SANDOR: Oh, it isn't, I'm sorry.

MR. PENNOYER: Just a move to recess. I'm not sure of the difference.

MR. COLE: Adjourn for the day and resume Monday -- but if you want to vote on this, that's all right too -- before we address my motion, whatever the Council prefers to do.

MR. PENNOYER: It's frustrating -- the Council clearly wants to respond to the wishes of many people who've come here and said that they wanted to do something regarding the acquisition of these lands, and we don't seem to have any consensus among ourselves as to what that ought to be. We've been offered certain -- I think realities in they're view by people who have the land, and obviously they have the land, and I don't know what to do with this further than to allow people time to continue the discussion. I don't know what -- we do is recess or not.

MR. COLE: I'll call for the question on the motion then.

MR. SANDOR: Questions been called for.

MR. PENNOYER: Okay, all those in favor of the motion to acquire fee simple acquisition -- fair market value of Eyak River, Power Creek and Eyak Lake, say aye.

COUNCIL RESPONDS: Aye.

MR. PENNOYER: Opposed.

MR. COLE: Aye.

MR. PENNOYER: Okay, that one's failed, so then -- free

to -- another motion for further acquisition or a recess? Do you move that we recess until Monday?

MR. COLE: I would like to recess until Monday.

MR. PENNOYER: Can we initiate a meeting on Monday, and if so, where and how?

DR. GIBBONS: Mr. Chairman.

MR. PENNOYER: Dr. Gibbons -- Mr. Sandor.

MR. SANDOR: I have an ironclad commitment in the morning and prefer the meeting commence after lunch on Monday, if possible.

MR. PENNOYER: And, where at?

MR. SANDOR: Juneau.

MR. PENNOYER: Can we do that?

MR. COLE: In the Forest Service offices there Monday, can you be there?

MR. PENNOYER: I can be on teleconference.

MR. COLE: But not be (indiscernible)

MR. GRIMES (from audience): We really appreciate the time that you're taking. This means a lot to us, but the people who are in Cordova have to deal with the reality of what you people are discussing and it's very difficult, and I can't tell you how respectful we are to see you guys get this close. This means a whole lot to us. We would sleep a lot better if you could get just a little bit closer. This is kind of like when -- when the preacher says, I do or not. It's like a marriage, and we're getting really close. I don't think there's anybody in the

audience that's going to stand up and say, don't do it. We really want you to do it. And so -- you know, I'm not coercing you, I'm just saying that, we really appreciate this -- Cordova would love to rest easy tonight. Let's get married, let's have a party.

MR. COLE: Well, maybe the best thing to do in that event is then to take a recess and allow us to reflect over the weekend where we are and to seek the solutions to what we're trying to accomplish. You know, there ar times when it's just best to step back and -- and reflect upon where we are and see what can be done.

MR. JEFF GUARD: Is the next stage of this still going to be a public meeting?

MR. COLE: Sure.

MR. PENNOYER: I think it's clear that the Trustee Council wants to address this issue and we did have a proposal for fifty million and a proposal for acquisition of just fee simple on those parcels which, obviously, you say you can't accommodate. And, I think some of the members are not comfortable with having seen the details of a complicated, very expensive agreement in a short time, and want to sit and look at it. And, this is a lot of money, it is tying up something that other alternatives might be available for, although there certainly seems to be more than we're interested in. And, I don't think there's any doubt about it. I think Mr. Barton's motion reflects it. I think the prior motion reflects its, and I think some people want time to look at. It's a complicated agreement, and down payments, easements and all of

it. And, is there any objection to the motion to recess until Monday afternoon?

MR. COLE: I'd just like to say this for those -- I mean, give us a little time to think about what we're trying to do, talk with these people, the Forest Service, a little more, try to put together all of the various concerns that have been expressed here today. It's a fact you don't always get it done in one day -- you know. It's better to think about this, see where we're going, and address it again Monday. You know, we're not through, and I have every confidence that we will get something worked out. It takes a little more time than we're able to get it done today.

MR. PENNOYER: Further discussion on the motion to meet Monday afternoon? One o'clock in the Forest Service conference room, fourth floor of the federal building -- fifth floor of the federal building, sorry.

AUDIENCE: In Juneau or Anchorage.

MR. PENNOYER: Juneau, that's where everybody is that morning, unless we want to delay it for another two or three days.

MR. GUARD: Are there going to be allowances made for teleconference connections in any of the communities, since we're moving it away from the area here?

MR. PENNOYER: Dr. Gibbons, can we set up some teleconferencing?

DR. GIBBONS: I think we can do that.

MR. PENNOYER: Yes, we'll try to do that.

MR. COLE: Well, we may be can use the state

teleconference facilities if -- if the Forest Service ones aren't adequate. The state ones are not adequate either, but they may be better.

MR. PENNOYER: We will -- we will attempt to do that. I think it's important ...

(Indiscernible - simultaneous talking).

MR. PENNOYER: Alright, we're adjourned, we're recessed -
- excuse me -- until Monday.

(Off Record 6:15 p.m. August 6, 1993)

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