

**EXXON VALDEZ OIL SPILL SETTLEMENT  
TRUSTEE COUNCIL**

RESTORATION OFFICE  
Simpson Building  
645 G Street  
Anchorage, Alaska

**Trustee Council Teleconference from Juneau  
April 11, 1994  
1:00 p.m.**

**TRUSTEE COUNCIL MEMBERS in attendance, all via teleconference:**

State of Alaska

**MR. CRAIG TILLERY**  
Alternate for Attorney  
General BRUCE BOTELHO

United States Department  
of the Interior

**MR. GEORGE FRAMPTON, JR.**  
Assistant Secretary  
(**MS. DEBORAH WILLIAMS,**  
Alternate)

State of Alaska Department  
of Environmental Conservation

**MR. JOHN SANDOR**  
Commissioner  
(**MR. MARK BRODERSON,** Alternate)

State Department of Fish  
and Game

**MR. CHUCK MEACHAM,** Alternate for  
CARL ROSIER, Commissioner

United States Department of

**MR. JAMES WOLFE,** Alternate for  
Agriculture - Forest Service  
**MIKE BARTON,** Regional  
Forester

United States Department of  
Commerce - NOAA

**MR. STEVE PENNOYER**  
Director, Alaska Region

**EVOS TRUSTEE COUNCIL STAFF**

**Via teleconference from Juneau:**

JIM AYERS

Executive Director

MOLLY MCCAMMON

Director of Operations

**In person in Anchorage office:**

L.J. EVANS

Public Information Officer (in  
person in Anchorage)

ERIC MYERS

**OTHERS IN ATTENDANCE:**

**Via teleconference:**

DR. TED COONEY, Associate Professor, University of Alaska  
Fairbanks, Institute of Marine Science

DR. BRIAN ROGERS, University of Alaska Fairbanks

DR. ROBERT SPIES, Chief Scientist to the Trustees Council

**In person in Anchorage:**

ROD KUHN

P R O C E E D I N G S

(Reporter's note: The audio quality of the teleconference network was extremely poor at times during this meeting and some individuals were difficult and at some times impossible to hear and transcribe from the recording.)

(On Record at 1:00 p.m.)

MR. WOLFE: I believe we have everyone on the line, and Anchorage there. (Inaudible -- poor teleconference transmission). With us here in Juneau is John Sandor, Commissioner of Department of Environmental Conservation; Chuck Meacham, acting as the alternate for Carl Rosier, Alaska Department of Fish and Game; Craig Tillery, alternate for the Attorney General's Office, Alaska Department of Law; and -- George, are you on?

MR. FRAMPTON: Yes. This is George Frampton. I'm on, but I'm going to have to run upstairs and see the Secretary in about ten minutes, and I don't know how long I'll be gone.

MR. WOLFE: George, is your alternate on?

MR. FRAMPTON: We're trying to get Deborah.

MR. WOLFE: Okay. Will you let us know when you leave, if Deborah is on, so that we can continue through the decision-making.

MR. FRAMPTON: All right. If Deborah does not get on and I have to leave, then I will appoint (inaudible) as my alternate. He is here and will sit through the entire meeting.

MR. WOLFE: Okay. Thank you, George. Okay. Then we have Steve Pennoyer from National Marine Fisheries as the

representative for NOAA; and the Executive Director Jim Ayers. And we also have the Chief Scientist Bob Spies. Bob, are you on the line?

DR. SPIES: I am, Jim.

MR. WOLFE: Okay. Thank you. I think at this time we can let Jim run briefly through the agenda for the day, and if there's any changes we can make those at this time.

MR. AYERS: Under the Executive Director's Report, I want to get back to the Council on the various activities that we are engaged in to implement, the actions that have been taken, including moving forward with the restoration plan. Under the item of Financial Report, I (inaudible) we tried to get out to you two new pages with regard to the financial report. I hope you have all received those, substituted those that were sent. Back items will cover that as well. Under the '94 work plan, certainly the most significant item on the agenda in terms of details and complexity is item A, detailed budgets of 94320. There is an increment for projects '191 and '199. We also have a report on the status of NEPA compliance for 1994 projects. Then under New Business, there are two items: project 94428, Subsistence Restoration Planning, and the project 94427, which is the Harlequin Duck Boat Survey and Methodology, and both of those projects have to do with information that we've been working on and an approach that we think will help both areas and would like to bring before the Council today. I expect, Mr. Chairman, that we will be able to move through these fairly rapidly, giving the details as we get into the

recommendations.

MR. WOLFE: Any additions or recommended changes?

(Aside comments -- no audible changes) Let's go ahead then. Jim, do you want to start with your Executive Director's Report then?

MR. AYERS: Yes. Thank you, Mr. Chairman. We are moving forward with a comprehensive balanced approach, that was the direction of the policy and the policy of the Trustee Council. One of the items that we are trying to move forward rapidly -- we have been ordered to get it incorporated into the EIS of the restoration plan, is the implementation strategies. (Inaudible) that is in your packet, and is the organizational structure. The piece that you've received before that's not in your (inaudible) is laying goals and objectives and mission statement which we talked about at the January 31st meeting. This particular aspect of that implementation is that which is related to science, planning and management, monitoring and research. It is described in a sort of a one-page description in the packet under the executive director's report. The focus is to develop a science approach that is ecosystem based and uses an interdisciplinary work process for implementation. The chart, perhaps, is the best way to describe that, and let me say that this chart is like many other charts of the Trustee Council's business, everyone has their own view and (inaudible) about circles and squares, and every other feasible difference that could be contrived with regard to its structure. But, I think generally people agree. We've had two working sessions to discuss an organized, adaptive, management approach,

and in this particular 1A, Figure 1A, is organizational structure that actually reflects, I think, the general thinking of -- I don't want to say general thinking -- I don't believe there is such a thing anymore -- I'm not sure -- this has become pretty specific, and this has been a matter of a lot of discussion. The idea is that there would be interdisciplinary work groups which are also to provide, on the previous page, of fish, birds, mammals, nearshore organisms and sediments, and archaeology. Those interdisciplinary working groups would also have representatives that serve on a coordinating committee to work directly with the Chief Scientist and the Executive Director in discussing hypothesis in the program for the coming work year. The focus here is to have an ecosystem-based approach. The difference between Figure 1A and 1B is that there's been a great deal of conversation about the ecosystem itself. What are the major systems within the ecosystem that we're talking about. There was originally agreement, discussion, of the (inaudible) or ocean system, the upland system and the nearshore system. There are human uses that are involved in each of those. IB takes upland and nearshore and combines them and talks about the sea and land interface and the pelagic (ph) ecosystem and human services, and frankly, I think that we'll get on with it. Ultimately, it looks to me it will be 1A (inaudible) -- there's not been a consensus or informal consensus of trying to integrate upland and nearshore into one system. The opinions, again, of the various scientists of the agencies and the universities, and the Chief Scientist, as well as the -- there was a peer reviewer --

scientists. We're meeting again on the 13th, 14th, and 15th -- in fact the end of this week, we'll all be back together. We are proceeding in developing an ecosystem-based approach, and moving as rapidly as we can so we will have a basis for going forward with the '95 work plan. One of the aspects of this particular effort that will eventually come back before you is the development formation of the science review board. The idea there is that the Chief Scientist would share a group of three or four additional scientists -- would be a review board. That particular review board would be responsible for annually coordinating the synthesizing of the various studies and research that has -- comes before it -- again, looking at the adaptive management chart, which is the chart that is a circle or cycle -- that we would move through an adaptive management cycle process. We would go forward with projects -- actually, at this stage what we would do is we would have the synthesizing of what we know today, what have we learned from the various studies and the money that we've invested to date in the monitoring, what are some initial or additional strategies for an ecosystem approach, developed by (inaudible), and proceed in a comprehensive ecosystem approach method to coordinating committee or the interdisciplinary work group, we'd formulate the work plans, with review of the Trustee Council. The Science Review Board would be interacting with the coordinating committee, the Executive Director, and the Trustee Council, providing advice. Ultimately, you cannot do all of the things that people are (inaudible -- extraneous noise) dreaming up to do. In

the end, we will have to establish agency guidelines. That is what we're trying to do with the implementation structure, guiding principles, goals and objectives, and a science plan. Ultimately, the Science Review Board will give us advice on what do we know today and what's the most prudent approach -- including monitoring, I might add, which has become an item of debate that you probably heard about -- how frequently should we do monitoring on the various species, what is it we hope to learn. Once we have that information back, are we utilizing that information before we make additional investments in research and monitoring. That's the basis of the adaptive management approach is that you utilize the information you're gathering to make decisions about what's the most prudent thing to do next. The habitat acquisition and protection -- I'll move right into that items unless anyone has any questions about the (inaudible -- coughing) --

MR. WOLFE: Any decisions on alternate approaches (inaudible).?

MR. AYERS: No, Mr. Chairman. All of these items are simply items of report, and none of these actually require -- they're items I just wanted to bring the Trustee Council up to date on the implementation effort and work that we're doing with the scientists to prepare for the '95 work plan.

MR. WOLFE: Any other questions?

MR. MEACHAM: Mr. Chairman?

MR. WOLFE: Mr. Meacham.

MR. MEACHAM: I've got a question for you here, Jim. On

the adaptive management-type, will that -- that you handle (inaudible -- extraneous noise)?

MR. AYERS: I think that there were three significant differences, okay? One is that -- and somebody may correct me -- I think that it's safe to say, number one, there's not any formal synthesizing structure in place where before we moved to the next year we actually have a review and discussion with a group of scientists, including a science review board, about what do we know, what do we think the most important thing to do next is, where are the gaps. I think, secondly, a major difference is the Science Review Board itself, establishing a four or five member, independent board of scientists that would sit with the Chief Scientist, the Trustee Council, the Executive Director and review what we know to date, make recommendations on science in the future. The first thing, I think, Chuck, that is different is the -- although it has been discussed -- is actually the idea that we would go out, once we know what it is we're looking for, that we would proceed with an RFP approach.

UNIDENTIFIED VOICE: And lastly, in terms of conducting workshops, what would be the nature of those?

MR. AYERS: The annual workshops would be to do two things. One, to have workshops where we actually have the synthesizing interaction going on with the various interdisciplinary work groups, fish, mammals, etc., and that interaction with the scientists discussing what have we learned, what do we know, where are we. And second, maybe a workshop would

be an expanded version of the forum that we just did where we would actually bring the public in and have an interaction with the public about what we have learned and where we are going.

MR. WOLFE: Any other questions?

MR. AYERS: Under habitat protection and acquisition, there three items listed here, Mr. Chairman, but let me -- before I get those specific ones, let me give a brief overview. I have been working on proceeding within the parameters established in the resolution passed at the January 31st meeting regarding habitat protection. The objective at this point is to create a suite of habitat protection packages throughout the spill area (inaudible) level of restoration that would benefit the nineteen injured resources and services. We are in the process of accomplishing that as outlined in the specific resolution of January 31st. The comprehensive protection process is moving forward. As you know, the Prince William -- there's actually some 850,000 acres that were evaluated and ranked in the three general areas: Prince William Sound, Kenai Peninsula, and the Kodiak-Afognak Archipelago. In the Prince William Sound area, there's approximately 30 parcels that will be totaling 184,000 acres. The landowners include Eyak, Chenega, Tatitlek, and Chugach. Now the U.S. Forest Service and -- representing the federal side and has the lead -- and the Department of Law has met with the Habitat Working Group. One of the other things we said we would do is do a benefit analysis, working each of the areas to develop a package that is affordable which doesn't prohibit or (inaudible) the additional parts of the

comprehensive approach, general restoration and monitoring research. We have worked with the Habitat Working Group in the Prince William Sound area. That is evaluating the various protection options. The package currently is composed of an effort looking at the Chenega Corporation lands, and discussions have been proceeding with them. The Kenai -- the other landowners have either indicated that they are not interested in discussing with us or we're waiting at least their invitation for discussion, and we will be prepared to move forward when we receive contact, as we receive contact, from them. The Kenai Peninsula or the outer Kenai Peninsula, the comprehensive process evaluated 24 parcels, some 237,000 acres. The two high ranked parcels are located in the east arm of Tuka Bay (ph). The landowners, as you know, are Port Graham, English Bay, actually Chugach Alaska Corporation, but Port Graham and English Bay have been in conversation with National Parks Service. National Parks Service has been working with the Habitat Working Group to put together a packet and a look at those particular properties owned by Port Graham and English Bay. We're waiting to hear from the National Parks Service whether they're interested in participating in our appraisal process and so forth. We've not heard official communication from them at this point, but we did go forward, the Habitat Working Group and I talked -- the Habitat Working Group is looking at how the package of Kenai lands (inaudible -- extraneous noise) efficient and effective way.

MR. PENNOYER: Excuse me?

MR. AYERS: Yes.

MR. PENNOYER: I didn't understand the remark.

MR. AYERS: Which one?

MR. PENNOYER: We were -- there was some indication that the National Park Service -- process but not (inaudible) -- I'm not sure I understand that word you used.

MR. AYERS: I said appraisal process. It is my understanding that there is an appraisal at this time that would need to be reviewed -- it has been reviewed, it was not acceptable.

It could either be redone or there would be a brand new appraisal implemented. We have not received an official request yet. Once we receive an official request from the National Parks Service, we will go forward with an appraisal, but they simply -- unless they decide to redo the appraisal they have (inaudible).

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

MR. AYERS: If they simply -- my understanding, particularly since their visit with the Habitat Working Group, that they want to participate in the civil trust funds that maybe available to the Trustee Council, yes. (Pause) The National Park Service and, again, I think on the state side, the Department of Law have met, they met on March 31st to discuss the package reconfigurations of the Kenai Fjords area. The team would like to incorporate and certainly this is indication of many that the emphasis of discussions that take place with the sellers, that the sellers obviously are not interested in selling only a limited portions of their high value properties (inaudible). They are interested, however, in packaging that with moderate and low

parcels, and in some cases that's actually to our benefit. It allows us then to package in that particular area to protect the species and ultimately lower the price. The National Parks Service package currently includes lands, as I said, primarily lands in English Bay and Port Graham. We anticipate a request for appraisal, but we have not received that request. In the Kodiak-Afognak area, there were 27 parcels that have been evaluated and ranked. Those total 241,000 acres. Nine of those parcels or some 180,000 acres are rated high. One of the parcels is located on Shuyiak Island, two are located on Afognak, and six are within the southern Kodiak area. The landowners are Kodiak Island Borough, Afognak Joint Venture, and Koniag, and the Ahkiok-Kiguiok (ph) operation. Fish & Wildlife Service and the Department of Law negotiating team met with the Habitat Working Group twice. They are still working on packaging or trying to develop a strategic package for the southern Kodiak area. The negotiating team is attempting to incorporate certain low and moderate valued parcels in order to get the maximum protection at the most affordable price. The Habitat Working Group is currently reviewing that proposed package, and because it is so complex -- there's Old Harbor and Koniag and Ahkiok-Kaguiok (ph) Corporation and we all -- as you look at the map, our Parks Department map, it's a very diverse packaging or grouping of parcels. It does not easily fit into one package. It looks like three packages when you look at the various landowners and where the large parcels are out of that (inaudible). We are, however, continuing to work with Fish &

Wildlife Service, Department of the Interior, and the Department of Law in developing both an integrated negotiation package and an integrated funding package, using a variety of the funds that may be available in order to accomplish -- which would allow us to fund the amount of dollars that would ultimately be required of the civil trust to protect the highest values. Afognak and Shuyiak -- the Department of Law and the Department of the Interior have met with the Habitat Working Group three times. They met in December. They were one of the first to discuss various protection options. They have reconfigured the various parcels on Afognak, and in particular the high value -- for those of you who have looked at Afognak, obviously there's far more there than at this point, given the value, the estimated value of timber, that could be accomplished within the guidelines that you've given to me regarding packaging at an affordable price that doesn't also eliminate or prohibit other uses and goals, like habitat protection -- additional habitat protection, monitoring, research. Therefore, northern Afognak, we have (inaudible) that land, we have completed that land in a way that looks like it's possible to get the maximum benefit for protection yet something that's affordable. Shuyiak Island parcels have not been reevaluated at this point, and it appears that it will be negotiated within the boundaries that have been applied in the comprehensive habitat protection -- which is high values. The protection packages include lands owned Afognak Joint Venture, Kodiak Island Borough, I think. I guess I'll stop there, just to say that that's an overview of those three areas.

The next step will be -- we have received requests regarding the appraisal for Shuyiak and northern Afognak. We will be proceeding with those (inaudible -- extraneous noise) moving forward, and we're waiting to hear from the National Parks Service. The Habitat Working Group is continuing to work with the Department of Law and the Department of the Interior, and we anticipate that getting completed, although it's going to take another couple of weeks to actually do a good analysis of the southern Kodiak area, and then we'll move forward with a request for appraisal of that area.

MR. PENNOYER: It comes back to us from there?  
(Inaudible -- out of microphone range)

MR. AYERS: What we're trying to do is based on generally the analysis that the Habitat Working Group is doing. What I am trying to do is develop the packages in each of the three areas as the resolution requires, then put together the package of protection (inaudible) the package of protection out to the spill area without -- with consideration of those other two areas, general restoration and monitoring (inaudible). The package as I see it now will be a Prince William Sound package, a Kenai package, and the Kodiak-Afognak. We need to do an appraisal, we've transit, so to speak, in each of those areas so that we think we have a (inaudible -- extraneous noise) on how to get maximum protection, but also to allow negotiation to take place so that the sellers (inaudible) sit down and talk to us about something that they can live with. We need to then do the appraisal -- we will start moving on appraisals next week. That appraisal information is

going to come back and actually give the information that we need in order to see if we've gone far enough, you see, in the packaging of each of those three areas -- can we afford it. At that time, once we get the appraisals back in, I will come back to the Council, which I -- I'm unclear -- I think the appraisers are unclear at this point about whether that's going to be July or August, maybe even early September before they are able to accomplish that effort. I'll come back at that point and report what we've found out and what we (inaudible) to accomplish that task. Now, if we have the information early in June, I would be reporting back on an ongoing basis, saying this is what -- but right now, it will be July or August before we have appraisal information and I come back with a report that this is the appraisal of these various packages, this is what protections throughout the spill area looks like at this point, and this is how much that costs, or this is what two or three of your choices will be.

MR. WOLFE: Questions?

MR. AYERS: At that point, at the point I can get to those recommendations, we will need to establish a time when the Council then will make a decision whether to move forward to give the negotiators authority as we outlined earlier to proceed with actual procurement agreements subject to then NEPA compliance. The final EIS would have to be reviewed by (inaudible -- out of microphone range). I'll mention one other thing that has come up that we (inaudible) and perhaps under our financial reports, but

the (inaudible) to the sellers that ultimately in order to put a strategic package together throughout the spill area will take a payment program, an amortization effort -- it will have to be designed once we know what the package looks like. It will take a down payment and annual payments. That is something else the Trustee Council will have to look at. There will be two or three options there. That's another thing that we wanted to make clear with all the sellers. I wanted to remind you -- Jim is working on three or four different options of what that might look like. The most significant, or most significant discussions that have been going on with the sellers is the discussion of appraisal. It requires that we develop a standardized appraisal process. We have worked with various appraisers and federal regulations did a graph of a process working with the Forest Service in the lead, circulated that to the sellers, and the sellers came back with specific comment, I might add. There is a -- there is a feeling, I guess, more than documented situation, that fair market value is established through an appraisal process. The issue of what to do if you don't agree with that appraisal is the essence of the debate. Should there be more than one appraisal. We are working with the sellers now. We've received their comments. I have not responded -- as a matter of fact they just got there final comments in on Friday, I guess, Thursday or Friday, and that was because we finally put a deadline and said, look, we really need to know what you think. There are two issues. One is -- we can get into it if you'd to, but I think we're working it out with the sellers, and

I'll get back with each of you as we move forward with the appraisal process. If there is a second appraisal -- if they do their own appraisal, how would we deal with that? And currently there is not -- they have submitted proposals on how they would like to see a second appraisal dealt with and negotiated. However, federal standards and requirements certainly specify that there will be a review process, a formal review process. So the issue would be how would the sellers submit their comments, information or even second appraisals into that review process. We're working with the federal review appraisers at this time, and we'll be going back and talking to the sellers about here's the way, do you have pertinent information, including an appraisal, that is relevant, important information that perhaps has been overlooked, here's the way to get that information before the process -- we've not established what that process will be. That is probably the most significant issue to the sellers right now is that discussion. The small parcel -- I'll stop here for a second. Is there anybody -- I anticipate that we'll be proceeding with appraisals within the next two weeks.

MR. WOLFE: I do have one question. It is has to do with if you go out and do appraisals, and the appraisals are significantly more than what we have funding more, it could raise a lot of expectations on the part of the owners out there. Are we doing something to balance that or forewarn them?

MR. AYERS: We have -- we have done two things. I hope to do that, and I think that's why they're staying -- they're

paying close attention. One is, we've said that if the limited package that the resolution that you passed on January 31st, that habitat acquisition is not going to obviate the potential of this Council to engage in long-term monitoring, research, or even general restoration. Generally, we -- you know, everyone knows there's limit to the expenditure, that it's not going to be even -- well, I'm not going to get into the percentage discussion really, but we have established with the sellers that I am bound to put together a package, and that that's the reason the Habitat Working Group is moving these packages down. The second thing is that we're telling them is that we need to get that all put together, so that you can see the whole pie at the same time, and that's the reason that you can't (inaudible) one of these too quickly in front of all the others because it will be very difficult to tell. I think the expectations far exceed the capability, and I don't know what else you'd tell them about that. But, you're exactly right, Mr. Chairman, there certainly is expectation beyond capability.

MR. WOLFE: Mr. Sandor.

MR. SANDOR: With regard to the appraisal process, am I to understand there's proposal to use a different standard than fair market value?

MR. AYERS: No. But there's a debate about fair market value. Commissioner Sandor, Mr. Chairman, there is a great debate among attorneys, and I may need the help and wisdom of our Department of Law here, but the attorneys from the sellers' point of view have a debate about the interpretation of fair market value

determination, and by that they mean government comparable -- what is a government comparable that may be used to determine fair market value? And I guess the essence of that question is, for example, Seal Bay. If you were to use Seal Bay, you would use Kachemak Bay -- are those acquisitions going to be viewed as comparable to be looked at of what's going on in the market place.

Is there a private market out there for the type of acquisition that we're doing that can be utilized, and if not we should use one of those two things to establish what the value of land is. There's quite a bit of debate about that -- what land should you use.

MR. WOLFE: Mr. Sandor.

MR. SANDOR: At an early date, I hope the Trustee Council can put that one on the table (inaudible -- out of microphone range).

MR. WOLFE: Commissioner Sandor, do we need to pursue that today or some time later?

MR. SANDOR: Return to it (inaudible -- out of microphone range) I think at our next meeting ((inaudible -- out of microphone range)).

MR. AYERS: I think where there will be convergence of the two theories -- of the debate -- will be when we go ahead with our appraisal -- we're going to do that, we're going to get our appraisal, and if they want to have a different opinion or a different appraisal, how to establish what the process is so they can bring it in for the reviewers, and then we will know what the

discussion is. I think then and only then are we able to tell. I don't know. Dave, if you have a different -- or Craig? I don't know how you could -- they don't have an express difference, and I'm not sure we're going to find out what the express difference is until we have the individual appraisals.

MR. PENNOYER: No, but I see what the concept is, does oil spill restoration land have some inherent value as opposed to beach front property everywhere else. Is that what they're bringing into oil restoration lands, in terms of what they are in some (inaudible) our appraisal, parcel by parcel?

MR. AYERS: Yes. Yes. And that there are federal guidelines -- that we are proceeding through the federal contract and through the federal guidelines and saying let the appraiser, let a certified appraiser go look at that and do a finding about acquisitions and make a determination, a business finding of whether that's an appropriate appraisal to be considered or not. We go through those. Now, that then will come back to you, and that very well may be the very question or legal discussion that you talked about.

MR. PENNOYER: Uh-huh.

MR. AYERS: It will be on an individual basis, I suspect in some cases it will be acceptable and in other cases the individual attorney or individual seller may want to have a (inaudible) . . .

MR. SANDOR: Mr. Chairman, it's always my (inaudible -- out of microphone range) informed of the nature of this debate and

that (inaudible) . . .

MR. WOLFE: Very good.

MR. AYERS: Follow to the motion on the private landowner habitat, the second option -- there was a motion at the last meeting that follows also the resolution regarding habitat acquisition and protection. I have met with Mr. Sturgeon, president of Koncor Corporation, I've also actually talked to a couple of other people, and then asked the Habitat Working Group members who had worked in that area to also talk with Mr. Sturgeon about his ideas. There are a number of options that are available to private landowners that would probably assist -- that would assist in the restoration of injured resources. We're currently reviewing three general classes of options. The first area would be modification of development plans to provide better protection for the injured resource. If there's a private landowner, if they have proposals for activities, they could submit those to us through the various respective agencies, we would review and comment on harvest schedules, road alignment, logging or mining locations that relate or may relate to our information on the injured resource. Secondly, direct restoration of injured resources through habitat modification and enhancement. That is working with private landowners like egg incubation boxes, spawning channels, fish ladders, in-stream improvements or even bird nest boxes in some areas. The third area would be rehabilitation of habitat that has been impacted by previous forms of development or some other activity, like an earthquake, for example, which is one

of the items -- one of the particular examples that Mr. Sturgeon (inaudible). Rehabilitation of habitat would be (inaudible) assisting and revegetation, culvert removable, landscape recontouring, erosion control, or second growth management comments if it were beneficial to the injured resource. Now, if that -- we are doing -- we went back to check and see once we put those three categories together, working with them, we went back to see if that was consistent with the court decree and the efforts of the Trustee Council, either under monitoring and research or general restoration. This year we are involved in building ladders on Afognak Island, one in particular is the little (inaudible) Creek that -- we're engaged in and have quite a bit of support. There is in-stream habitat improvement we're doing this year on Chenega lands, and we are surveying private lands for habitat (inaudible) for marbled murrelets, harlequin ducks, typing and channel typing in a couple of projects. So we actually are doing some of these three categories already, and it actually would help, I think, both private landowners and restoration for us to formalize these three general categories and then work with the private landowners further as directed by the Trustee Council in these three general categories. We would propose to further develop them and bring them back to you as proceed to develop the FY95 work plan. That's along the lines that people were thinking that there's additional -- maybe we could work on it. That's kind of where we're gone with that. We've got those three categories and we're working out and developing specifics in each of those categories. So restoration

- was there any additional questions though on the habitat acquisition protection effort?

MR. WOLFE: Not a question, but I (inaudible) your ideas about this.

MR. AYERS: There are some things that have been proposed that we're going to do some research with the individual agencies on, but I think generally it was a good meeting with Mr. Sturgeon, and I think there are some basic -- and other private landowners -- that (inaudible) . . .

MR. WOLFE: Right.

MR. AYERS: The next item, Mr. Chairman, under the Executive Director's Report is the restoration reserve, and perhaps I could ask -- I didn't get a chance to talk to you about this beforehand, Mr. Tillery, but if you could assist me in this report, I would appreciate it.

MR. TILLERY: The restoration reserve was in the last court request, the first time it was signed. It was removed when it became apparent that we needed to tell the court what we were doing with the money and we didn't know yet. The concept of reserve -- there is no problem with that. The problem is where the money is going to reside. Basically, it's what bank are you going to use. And the concern is that the U.S. Department of the Treasury may not -- if they find that we can't take the money and put it either outside of the U.S. Treasury or the court registry. This issue was visited back in 1991, when we first set up the trust fund, and at that time the Department of Justice, Office of Legal

Counsel, and the Department of the Treasury apparently took the -- well, they took the view that we could not set up outside of one of those two places. (Inaudible) things have changed and that we're talking about something different now. We have asked the Department of Justice to revisit it. The Department of Justice, Environmental Resource, as we did in 1991, are supporting the view that it can be established in, for example, in this case, in the State Treasury outside of the registry. They have taken that to the Office of Legal Counsel, which is a separate division within the Department of Justice, and it was hoped to have an answer by Friday. I spoke with the Department of Justice about an hour ago, and they still had not heard, or Environmental Resource Department had not heard from the Office of Legal Counsel. So what we are doing is waiting for that determination. If it does, and says, yes, it's fine, we can go ahead, then we will circulate a resolution that more defines how the reserve is going to work. There will be another resolution that will ask the court to (inaudible) that we will withdraw the money, and we will very likely actually bring the reserves to the court in the form of a -- in some type of a pleading, and ask the court to sign off on it, based upon the statement in the Memorandum of Agreement that says that the money will be held in the court unless the parties agree otherwise and the court agrees to it. So, that's the status. (Inaudible) reserves, but the details are where the banks -- what bank we're going to use are still to be worked out.

MR. AYERS: Mr. Chairman, that is essentially where we

are on that. We have -- we've done (inaudible) . . . I have gone to the Department of Revenue (inaudible) . . . it is certainly as we look at the long-term monitoring and research effort that in the interests of the public, we're asking for (inaudible) for establishing the reserve, and we will do so based on your direction. I -- I just passed the small parcel process under the habitat acquisition and protection, and I did put the agreed memo about the protection process in your packet, and I don't -- I -- it's simply an update on what's happening with small parcels, that what's included in the resolution that small parcels be a part of the effort. The process is still in discussion, but basically with the small parcels the issue of ranking the parcel and the criteria that would be used is still in discussion. There's still some discussion among each of your respective staff. I hope to get that completed within the next seven days and move forward with solicitation for nomination by May 1st. There has been discussions about this is going to take -- it could be finished by October. There have been other discussions that it would go into FY95. I think at this time, we don't know. We know that generally that the agencies have nominations, land (inaudible), the public nominations, trying to establish a process that would filter those nominations in a fair and efficient way. If there's a (inaudible), certainly we can be finished by October. If there's a thousand or more that have to be evaluated, ranked, then it's possible it could go into the next fiscal year, but we won't know that until we get ready -- until we finish the nomination process, establish the

criteria, evaluate them, and before we even talk to landowners, we would be back to talk to you with a report. If, in fact, it looks like it's going to go into next year, you will know that as we get the material for the FY95 year, and that would be back before you as well and keep you updated on it.

MR. MEACHAM: Your filtering process, does that take place in the threshold evaluation early -- early on?

MR. AYERS: The threshold evaluation is to try and (inaudible) as many -- I mean, everybody who has some bird migration in the state very well may be (inaudible) proposal. So the idea of a threshold evaluation was that we would set some evaluation criteria where it has to be tied specifically to an injured resource, it has to have an agency support, those kinds of very structural criteria, before we ever get into the evaluation and ranking of them -- how -- is to try and let the landowners know right off the bat.

MR. MEACHAM: I think that's a good idea.

MR. WOLFE: More questions on the small parcels? I guess maybe my memory is failing me, but are we going to solicit proposals for small land acquisition, small parcel acquisition or is it our desire to have the criteria available if the Trustees identify parcels that they'd like to go ahead with? Is there some position that we've taken on this at this point in time. I know we got to the point of requiring that the Habit Work Group to develop criteria, but we never went to another stage. This has gone a little bit beyond what we intended in my early recollection of what

we decided early, although I don't disagree with what's being proposed. Mr. Meacham?

MR. MEACHAM: I can't answer your question really, but is the question whether or not to include all nominations along with the agencies, or (inaudible) nominations or just have the agencies (inaudible) . . . ?

MR. WOLFE: That was my question. In essence, do we want to solicit for offerings of parcels for evaluation by the Trustees for acquisition, and considering that we have more on the table right now than we can afford, and we haven't finished our comprehensive proposal, my concern is if we get too far in to evaluate a number of small parcels, we get a little further along and/or the agencies have a specific parcel that they're extremely interested in. Mr. Meacham?

MR. MEACHAM: I (inaudible) to have reasonable threshold criteria, you can probably get through a number of public proposals fairly quickly, and I don't know that (inaudible) . . .

MR. WOLFE: I don't know the answer to that. I would assume if you have to visit each site and do some on-the-ground evaluations, than what we did in the comprehensive evaluation of large parcels, the evaluation process would be very time-consuming if there are a lot of small parcels out there.

MS. WILLIAMS: Mr. Chairman, this is Deborah Williams, alternate for George Frampton.

MR. WOLFE: Deborah.

MS. WILLIAMS: Hello, how is everyone? When we're

talking about public participation, obviously there are two subgroups. One is landowners, and the second is the general public. Are we now specifically just talking about nominations from landowners? That, obviously, is a more relevant and more limited subgroup.

MR. WOLFE: I would ask Jim to answer, but I think he was making it general public.

MR. AYERS: Eh, yes. Mr. Chairman, Ms. Williams, the small protection process chart that's in your packet under the Executive Director's Report, there are two pages. One is a memo from me to the Council; the other is the small parcel protection process chart that's a draft. But basically item -- at the top of that page talks about a request for agency and landowner nominations -- agency/landowner nominations. It is envisioned that there would be a parallel or simultaneous solicitation from agencies and potential landowners based on criteria, and we would actually ask them the question, you know, in more specific terms. We would specify the type of lands that we are interested in having nominations for in an effort to cut that down, and that's why we have the threshold evaluation as the next item -- do they meet the terms or the conditions of the request of what we're interested in? Certainly, that is what the debate -- the discussion has been about -- should we try to (inaudible) at this point to have this more open solicitation of nominations beyond simply agencies. The idea would be, certainly, that the landowners would demonstrate that their land would be of value, to do so with an agency.

MS. WILLIAMS: It does seem to me as if landowner nominations is a good idea, and I wanted to make sure that we weren't throwing it open to all public nominations, that I might nominate someone else's property as being a good idea. I don't think that is a good idea. If the public is interested in a particular piece of property that is owned by Landowner "X", I think the public might want to talk to Landowner "X" and say, gee, there's this process, why don't you throw your property into the process and see if it is purchased or otherwise addressed by the process. So, I would support the notion, Jim, that you have reflected in your flow chart that landowners could nominate their land and that it be screened according the steps in your process.

MR. WOLFE: Mr. Ayers.

MR. AYERS: This is Jim. And I would add one more thing about the agency/landowner, and that is, the agency would have to -- would certainly have to be a participant in the nomination offer. The Trustee Council is not going to own and manage land, so there will certainly have to be an agency that's got to be willing to receive that particular piece of property, based on its relationship to the injured resource. So, I wanted to point that out as well. That's another significant part of the consideration here that I think has been discussed in the working group. There are some details yet to be worked out on that criteria. Certainly, you and your staff will be a part of finalizing that before we go forward, and that's the reason I say "to date." I would rather have not brought this because I don't

think there is an agreement on the criteria. There are details of the criteria and how that threshold is going to work, and before we go out, it needs to be worked out so that it is more selected solicitation -- selective solicitation.

MR. WOLFE: Any other questions? Okay.

MR. AYERS: The next item is the EIS report, and I think either Dave or Rod -- is Rod on line?

MR. WOLFE: Rod are you there? (Pause) Maybe he isn't. Dave, do you --

STAFF: He's here, sir.

MR. WOLFE: Is the Anchorage office on line?

MR. KUHN: I'm here.

STAFF: Yes, sir. We are.

MR. KUHN: I'm here.

MR. WOLFE: Rod, could you give us a brief update on the status of the EIS thus far?

MR. KUHN: Okay. Since the Trustees' approval of the restoration plan and the environmental impact statement project on January 31, an interdisciplinary team has been formed, and we've set up offices here on the first floor of the restoration office, and the team members have reviewed the work that's gone on in the past and are incorporating as much of that as possible. Such things as chapter one and chapter two of previous work has been revised, a lot of other things have been revised as well, and all of the recent developments, such as the development of the draft restoration plan as a replacement for the previous alternative five

in the brochure, that's all part of what we're doing to date. The analysis is progressing according to the schedule that I have given the Trustee Council, and the draft environmental impact statement will be available for public review and comment by mid-June. The comment period should run from approximately June 17th through August 1st. Are there any questions?

MR. WOLFE: Oh, maybe just a quick run-through the percentages that were going to be used for alternative five at this point, based on the comments that we had.

MR. KUHN: I have not gotten a final reply to some inquiries I've made on that, so I'm still awaiting a formal reply on that. I have some approximations, but I don't have a final reply on that yet.

MR. WOLFE: Okay. Any questions on what's going on in the EIS process at this point? Okay. Thanks, Rod. Jim?

MR. AYERS: Yes, Mr. Chairman. I have been talking with Rod, and he has actually written a memo to me that I will discuss with each of you, but generally it's along the same lines as that which was circulated to each of the Trustee Council members. He wanted the agency -- we're trying to get clarification of what is the fund balance -- what is your receivables -- and then also those percentages that you mentioned, and I will be shortly responding to his request for that on a draft that, if you want to take a look at or if you want to discuss today at the end of the meeting before I send it to him, I can certainly submit it to Mr. Chairman and the members. With regard to recreation and

subsistence planning, there is an item on today's agenda with regard to subsistence planning. It's an item that was before the Council on January 31st as a report, and the state, through its criminal settlement funds, has established a fund for subsistence efforts with regard to injured subsistence resources and services.

However, there have been problems with planning because within the purview of those funds, they do not have the -- don't have the money to actually go do the planning. There needs to be a coordinated effort between the civil trust and the state's criminal fund and the various federal and state agencies surrounding the subsistence question, and that's a project that we'll talk about later. The recreation effort -- Molly actually gave me a time-line which I have misplaced with the bundle of paper that I have, but the -- we have been working with DNR -- the Department of Natural Resources, Parks Division, is committed to working with us, as in fact I think they are required to work with the state Trustees in their effort to develop a recreation plan and effort for the spill area. They have funds through the criminal settlement -- state criminal settlement funds -- and we have been working to ensure a coordinated effort. There is a plan now to proceed. They are in the middle of developing a comprehensive recreational planning program that will include working and coordination with the Trustees in developing objectives and criteria for strategies, and that includes a coordinated effort with people like the United States Forest Service, who obviously have a primary management in the Chugach Range. The Prince William Sound, Kachemack Bay,

Shuyiak Island areas all have state parks, and within that then there's an effort to develop a comprehensive recreational effort throughout the spill area and address many of the recreation questions. We'll be working with them on that. They will be implementing that, beginning it in April, and hopefully submitting a draft objective and criteria for their program and working with the state Trustees, and the state Trustees will maintain communication with them. They hope to have a plan completed by February. As I see a line through this -- yeah, February, the end of February that they would have a completion of a draft recreational plan for the spill area.

UNIDENTIFIED VOICE: (Inaudible -- poor audio quality and extraneous noise)

MR. AYERS: I'm just trying to keep you updated on those issues. The Trustee Council has mentioned that services ought not to be left out in reports, and I'm just including those as a matter of course. There's no written -- this is all we've gotten to date, but we have communicated with DNR, and I feel comfortable that they are going to now develop a recreational plan, including public meetings. We'll be working with them in those public meeting efforts.

MR. PENNOYER: Mr. Chairman, how does that relate to our (inaudible -- coughing) recreational plan (inaudible -- out of range of microphone) Prince William Sound recreational plan.

MR. AYERS: Mr. Chairman, Mr. Pennoyer, this year there was a follow-up proposal to continue to do that recreational

effort. It seemed to be duplicative, and when we met with DNR it was clear that in fact most of that effort was duplicative, but we've worked with them -- that's what we talked to Mr. Johannsen about at the last meeting, that we would take our information. Veronica Gilbert from our staff, I think has completed a rewrite of that information and that study. We have -- we've given that to the Division of Parks. We're working with them now to see that that's implemented, and we will work with them on the public communication effort to ensure that we stay in touch on how they're going to implement that recreational effort -- recreational plan.

MR. WOLFE: Just a little further note there, DNR was co-lead with the U.S. Forest Service and (inaudible) region plan, and I believe the report is due out in April (inaudible), and we should have a final report shortly.

MR. PENNOYER: Out of curiosity, how much money are we talking about?

MR. WOLFE: I don't know.

MR. PENNOYER: Two hundred thousand?

MR. WOLFE: I'll get back to you.

MR. AYERS: I think that the -- Mr. Chairman, Mr. Pennoyer -- I think that in response to both your question and to the question that the effort has been invested today. I thought the seventy-nine thousand, but I'll get the actual number. (Inaudible) I'll get that exact number. But that report when it's finished will be the basis of DNR's effort. Like I say, they have funds to implement and assure us they will work closely with us on

that effort. Okay. The forum and public participation effort, let me say just two things. One is that we have completed the publication about the forum itself, which you all should have received, and recently -- this seems a little elaborate on the one hand; on the other hand, we were getting several calls about what was the public's response. We were getting calls from the public about what was the public's response, and so we actually have now simply bound -- obviously it's not multi-color or anything, it's a basically bound response to the question -- to the public response to the fifth anniversary of the grounding of the Exxon Valdez -- the forum that we held. I think that the public responded fairly that the Trustee Council's action of comprehensive approach and an annual status report is not only appreciated but is imperative for the public to continue to feel like they understand what's going on. So, I think it was well received, and we have (inaudible) our adaptive management process. A long-term restoration will only be as successful as the public's understanding and participation in the management of that ecosystem. There is another schedule, Mr. Chairman, and I don't know -- has this been circulated? We are proceeding with our public participation effort, and we have -- through our office -- I think Rebecca and Molly have made an effort to contact your offices and talked with the various people who are involved in your scheduling, and to the best of our ability we tried to schedule some public participation in the various communities, as you directed previously. That's schedule is before you. I know it's very difficult to come here for plane travel. We

will proceed with the schedule, and hopefully there will be members of the Trustees that will be able to make one or more of those community visits. We have been talking with the community, however, and they in particular want to just participate in the discussion in their community about their observations. Molly and I will proceed with that and will keep you informed of this schedule so that you may participate, depending on your schedules.

MR. WOLFE: Questions on the forum? Okay.

MR. AYERS: Mr. Chairman, the only other thing under the Director's Report is the time-line for all of this. These are -- there are time-lines that Molly and others have been working on to put together, and there are a -- as one of the scientists described it the other day in very scientific terms, "there's a billion things going on here," and one of the things that we wanted to make sure people continue to be aware of is that these billion things all seem to happen at the same time, and so there's a time-line that Molly has put up on the board here, a critical path analysis, if you will, of the various major projects that we have going on and the time-lines in which they have to be accomplished in the next seven months. It's overwhelming to look at, and I think on any given day there's long range and why there's confusion. You all should have received now the memo that we sent out this morning. Jim Sinclair, Director of Administration, has been working with the state and federal representatives, either OMB or -- who represents the federal?

MS. MCCAMMON: Bob Baldorf (ph).

MR. AYERS: Bob Baldorf from the federal side OMB, and trying to put together an accurate balance and accounting of our funds. We have submitted a request to the court, and again I might call on learned counsel about the question of our access to information from the court, but we've asked the court to submit to us copies of their accounting reports that they generate weekly regarding the Trustee Council's joint trust fund -- your joint trust funds. Page 1 is a statement of the settlement funds as of February 28 to the best of our ability, and in essence what that shows is that the funds, the receipts that have been -- that have happened to date beyond Exxon payments, earned receipts, the disbursements that have happened out of that account actually of the \$900 million dollar settlement. Those are not just the joint trust funds, but the total disbursements that have come from the Exxon settlement funds, and then the actual funds that are available, which is the Exxon future payments or receivables, the balance that is in the joint trust funds, and then other, which is balances that may be available. Page 2 of this is the actual joint trust fund, and that's the money that's actually been deposited into the trust funds and then withdrawals, and as you'll note from Page 1 to Page 2, that there certainly has been disbursements that did not pass through the joint trust funds. For example, reimbursements and Exxon clean-up costs have not been -- those are not funds that pass through the joint trust fund and therefore do not show on the accounting of the joint trust fund. The balance as

of February 28 was ninety thousand (sic) two hundred and fifty-nine dollars -- eh, two hundred and fifty-nine thousand seven hundred and ten dollars. That does not reflect our current court request.

The total available today is whatever interest we've earned between February 28 and today, five hundred and sixty thousand from Exxon, and the balance of the joint trust fund, which is ninety-thousand (sic) two hundred fifty thousand seven hundred and ten dollars.

MR. WOLFE: It's million.

MR. AYERS: Pardon me?

MR. WOLFE: Million.

MR. AYERS: Six hundred and fifty million two hundred and fifty-nine thousand seven hundred and ten dollars. (Aside comments) The five hundred and sixty million in accounts receivable from Exxon is anticipated to all pass through the trust fund, except for reimbursements, which is why I suggested in the memo that's circulating and I suggested to the accounting director of the EIS effort that reimbursements do need to show as a percentage that ultimately will come -- it needs to be considered as one of the percentage that will be -- that is currently a liability debt -- six hundred and fifty million two hundred and fifty-nine thousand seven hundred and ten dollars. I'll stop there while you take a look at those figures. We do intend to put together a balance sheet and a financial statement as rapidly as we can get the detailed information from both the court and the respective OMB.

MR. WOLFE: Questions on the financial report?

Balance available? Okay.

MR. AYERS: Did I miss anything? I didn't? Did -- let me just say one thing, do we have an understanding, Mr. Chairman -- do we have an understanding of what the court -- whether the court is going to allow us to have the records of the court accounting?

MR. TILLERY: The court sent us an order last week saying they had received a letter from a Mr. Ayers, who represented himself as the executive director of the Trustee Council, asking us if he was indeed some official -- in some official position -- and should they release this information to him. We are drafting and will be sending back to the court a pleading suggesting that this information should be publicly available, which is something the court does not consider to be public information. We would suggest that it should be publicly available, that the court should allow the Trustee Council to have access to it (inaudible), and that the Trustee Council should be the place where the public should go to get the information. That should be filed tomorrow or the next day.

MR. AYERS: Mr. Chairman, we're into the '94 work plan. Project 94320, which is the next major item of business, there is a recommendation, a written recommendation, in your packet. On line, I believe, is Ted Cooney from the University of Alaska, as well as Brian Rogers. Dr. Cooney is on line to discuss any questions or to respond to any questions regarding the details of the project. Vice President Rogers is on line to respond to

financial questions, including the discussion surrounding the indirect rate . . .

STAFF: Mr. Chairman?

MR. AYERS: . . . Also on line is Dr. Spies who has worked with the peer reviewers and the scientists involved in the project.

STAFF: Mr. Chairman?

MR. AYERS: There is one other item, and that is that there's been an incredible effort and experience to try and put together such a comprehensive scientific program in the last hundred and forty days, or whatever it's been, to put this together, and it's been an outstanding effort on the people that are working on this project, the Prince William Sound Science Center and at the University. It is exactly what I think the Trustees are -- an example of the type of ecosystem approach project that we are looking for, but let me also say that there are a number of problems that need to be worked out of our system in terms of funding and analyzing this type of proposal, and the effort that you see in your packet is in no small way also due to the effort by people in the Department of Fish and Game and also NOAA, in particular Joe Sullivan and people that work with him over at Fish and Game, and also the people that work in the Anchorage office in communicating with a variety of people in a variety of quarters under very difficult and sometimes adversarial roles to try and put information together to the best of their ability to get this project in front of us today, so that the people that are

involved in the project can actually get into the field. This recommendation is before you, and I could go through it in summary or I could go through each of those project recommendations that I have laid out in the memo. You find that -- actually there's eight, including the general recommendation; there are seven specific recommendations with regard to this project, and I guess it's your pleasure, Mr. Chairman.

STAFF: Mr. Chairman?

MR. WOLFE: The (inaudible) is with the Trustee Council. Mr. Pennoyer?

MR. PENNOYER: Mr. Chairman, would you relate for me the role of the Trustee Council in the actual action we're expected to take today based on our prior recommendations and proposals, (inaudible) this whole project cost (inaudible -- coughing) and the recommendations (inaudible -- out of microphone range).

MR. AYERS: Mr. Chairman, as Molly looks for the actual wording of your motion, there was certainly a core understanding that I had that only those things which were time sensitive and had been -- are supported by the Chief Scientist and peer reviewers would go forward. We sent out a memo on March 9th and moved forward with those, except for that portion which had to do with the hatcheries specifically. The March 9th memo was very clear, at your direction, that we were not to proceed without completion of NEPA compliance based on the advice and direction of the attorneys. We then proceeded to work with the attorneys, both here and in Seattle and Washington, D.C., in completing the NEPA

compliance with regard to the hatcheries, and that funding you authorized subject to NEPA compliance. The other aspects of Project 94320 were approved conditionally, with the direction that the Executive Director identify and come back with detailed work plans and peer review of those specific sub-projects in 94320 and schedule a teleconference for review and approval by the Council in thirty to sixty days, which is what you now have before you is that review and recommendation.

MR. WOLFE: Mr. Pennoyer?

MR. PENNOYER: Would you refresh my memory then on what has already been approved, based on the short-term need, and what is the balance that has not been approved. (Inaudible -- out of microphone range) numbers in front of us and (inaudible).

MR. AYERS: Primarily, what is in front of you today are all of the detailed project descriptions. What has gone forward were -- is some project management funding, some \$25,000, the \$1,750,000 for the PWSAC fry manipulation and research project, and the boat charter effort, although the boat charter effort -- although it has been approved, is actually incorporated into the -- it was time sensitive and we wanted to move forward, so we've gone out with the RFP, we have bids in, but actually there's not expenditure of funds until you take action today, because this is -- you know, the boat charters are essential for these projects. There is no need for the boat charters without these projects. So, essentially, it's only the hatcheries and \$25,000 for program management that has been previously approved. Everything else is

before you today. Does anybody have -- is there any modifications, did I miss anything in that?

MR. PENNOYER: The time-critical recommendations in the previous memo on project 3279 (inaudible -- out of microphone range) -- subject to NEPA compliance (inaudible -- out of microphone range) that you talked about (inaudible -- out of microphone range), the equipment purchase (inaudible -- out of microphone range) go forward as immediate needs on this one proposal?

MR. AYERS: I didn't -- I have calculated that that it would be the six million three hundred ninety-seven thousand eight minus the hatchery minus the equipment and the boat charters. Do you have those numbers -- do you happen to know those numbers.

MS. MCCAMMON: It would be six point two five minus the three point two five.

MR. AYERS: About half.

MR. PENNOYER: Mr. Chairman?

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: (Inaudible) received the detailed project budgets for each of these sub-projects (inaudible) review.

MR. AYERS: Each of the detailed project descriptions have gone through -- they were reviewed by the Chief Scientist and a distribution to individual and respected peer scientists, were reviewed by them, and those comments have been resubmitted -- eh, submitted -- back to the Chief Scientist and then back to us. Dr. Spies, would you like to elaborate?

DR. SPIES: Yes, sir. Those are all nearly complete.

We have a few more outstanding due to the short nature of the turnaround time in the review process, but we're reasonably satisfied that we have the bulk of them reviewed, (inaudible) in terms of the main projects. The second part of the review is financial review, and that was done as part of this exercise, but we looked mainly at the technical merit and enclosed, summarized our comments on the technical merits of the project.

MR. PENNOYER: Mr. Chairman?

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: (Inaudible) note then that the recommendations (inaudible) Dr. Spies, and he has some recommendations as well. The Trustees (inaudible) going to take action though, the funding of these projects, the recommendations (inaudible -- extraneous noise) yes or no, a lot of pieces (inaudible).

MR. AYERS: Mr. Chairman, Mr. Pennoyer, the recommendation that is before you is -- is to accept first of all the recommendations of the Chief Scientist and reinforced, I guess, by the Executive Director in my recommendations, in particular at 94320, which is actually sixteen separate projects to be approved by the Trustee Council to proceed consistent with recommendations and conditions that I have laid out. Some of those specific conditions that the Chief Scientist and the peer reviewers have made with regard to the respective projects. In particular, that with regard to project leadership, and that's on page 3 of the

recommendations, that with regard to project leadership that it's clear that there needs to be formal recognition that Dr. Cooney will have the initial leadership role in '320, and provides that Dr. Cooney exercise that leadership authority necessary to successfully implement that particular aspect of the project. Leadership, responsibility and accountability, needs to be emphasized to ensure continued support, and if the future leadership and direction of this project (inaudible) evaluate by the Chief Scientist and the Executive Director and the Trustee Council, and specifically by that I think that we're making it very clear that we need to evaluate this project and widen the whole adaptive management approach and make a decision then this next year, once we have information back from them about how to proceed.

Specifically, with regard -- and then -- I was going through each one of these -- but with regard to the recommendation, the recommendation is actually twofold. One has to do with policy, the second has to do with funding. Specifically, I'm recommending the funding based on our detailed budget analysis, and let me say that I suspect they're not only typo errors but there are probably some numerical errors in some cases, due to the fast and pressurized, stressful nature of putting this package together so that we had a greater understanding of what the project was and we had a clear understanding of what the Chief Scientist was recommending, and that we could bring it to you so that we didn't lose this season -- they've got to get in the field. We're recommending that you do fund the projects (inaudible). We're recommending that you fund

the overall project with the details that our outlined in the spreadsheets according to each project that is in the back of the recommendation, which is called Table 2, Budget Summary, and those are specific break-outs of each of those respective sub-projects. So, with regard to the funding, I -- we're recommending that we do so based on the detailed budgets of each of those respective sub-projects. With regard to policy, the specific policy measures that I think -- that I would like to cover for your reflection and then determination.

MR. WOLFE: Mr. Pennoyer.

MR. WOLFE: Mr. Chairman, (inaudible) go ahead and put the budgets specifically in front of us, the key areas in the budget that are different than what we originally looked and (inaudible) to discuss them, such as the indirect rate, whether we should or not (inaudible) withdraw one project -- but put them in front of us and perhaps we could discuss that and then discuss the policy questions separately.

MR. WOLFE: Mr. Ayers?

MR. AYERS: Mr. Chairman, Mr. Pennoyer, the recommendation with regard to the budget, and I haven't actually done the math -- are you doing the math? -- the recommendation with regard to the budget is that the Council accept the budget as presented in Table 2, which provides a budget summary of all of the funding that is related to 94320. That specifically is that -- that total which is six million two hundred fifty thousand dollars, which is the amount that you authorized for this project at your

January 31st meeting minus the one million seven hundred and fifty thousand dollars that you have previously authorized. Jerome, I don't -- do you have a number for the equipment? A total dollar amount for the equipment?

MS. MCCAMMON: One point five two nine.

MR. AYERS: One point five two nine --

DR. MONTAGUE: That's for charters.

MR. AYERS: And the amount for vessel charters?

DR. MONTAGUE: That's for --

MR. AYERS: That's for vessel charters and equipment that's previously been authorized. So, six-two-five-o minus the three-two-seven-nine, two-point-nine-seven-one. The amount of money that is before you, Mr. Chairman, is two million nine hundred seventy-one thousand dollars that is associated with the various projects. That does not include the -- as we outlined -- that does not include equipment or the boat charters which have been previously authorized. Now, the actual amounts -- where those dollars actually are, are incorporated into several additional projects, both the boat charters and equipment -- and there the C, D, and E on the boat charters -- (rustling through papers) -- the amount of funding that is requested -- that is before you today is two million nine hundred and seventy-one thousand dollars for the projects that are listed in A through Q, except for item L, which has been -- which has already been authorized, and within those projects -- for example B, D, and J. Those are projects that have significant boat charter and equipment costs. There's one other

item that has equipment costs. Do you know what item that is?

(Pause) Dr. Cooney, are you on line?

DR. COONEY: Yes, I am, Jim.

MR. AYERS: Dr. Cooney, would you agree with what I just described with regard to where the primary funding for boat charters and equipment are, and I said B, D, and J?

DR. COONEY: I believe that's correct, Jim. I'm looking at my list. I think that's primarily where they are. I think there is roughly thirty -- twenty-five or thirty thousand in number H there -- or letter H -- as well.

MR. AYERS: Okay. So, it's primarily B, D, J and N. Those projects are primarily equipment and boat charters which you have previously authorized.

MR. MEACHAM: Mr. Chairman?

MR. WOLFE: Mr. Meacham.

MR. MEACHAM: If this is a single project, and apparently there were portions of this already approved, would it be reasonable then to approve just the balance (inaudible) -- fully implement this project, the (inaudible) elements, is that where we are?

MR. AYERS: Mr. Chairman, Mr. Meacham, that is exactly where we are. That is the description, and each of these project descriptions that are -- have detailed the amount of that particular aspect of that sub-project of the overall project. That is what you're approving, is that amount for that particular sub-project.

MR. MEACHAM: Thank you.

MR. AYERS: That is outlined in that summary.

MR. PENNOYER: For purposes of discussion, I move that we accept this budget.

UNIDENTIFIED VOICE: Second.

MR. WOLFE: We have a motion and a second to accept this budget. Any?

MR. PENNOYER: Yeah. I'd still like to get a discussion -- there's a discussion of three items there on the budget, and before we vote on the total, I'd like to have some discussion of the University of Alaska indirect rate, the ownership and storage questions, and internal (inaudible) operation -- although there have been some modifications, some excellent modifications to the initial budget we looked at. Could you (inaudible) --

MR. AYERS: Yes, Mr. Chairman, the -- and I would like also to come back to the other aspects, specific recommendations of the set pieces, but in particular, starting with the budget issues, I have, number one, the University of Alaska indirect rate -- and let me also say that the proper title of this particular item ought to be indirect rate. It says University of Alaska/Prince William Sound Science Center indirect rate, and it -- it is not a clear written policy of the Council that I have been able to establish. I have not (inaudible) and submit it to you a specific policy regarding indirect rates generally. In particular, we have before us today the indirect rate as it relates to Project 94320 and specifically the University of Alaska and the Prince William Sound

Science Center. In the body of this budget is an indirect rate that is approximately twenty-five percent. I say approximately because the University works out to be twenty-five percent of the direct costs of what it cost to run the project. The Prince William Sound Science Center is approximately twenty-four point eight percent. The extra cost for the University of Alaska is mitigated somewhat by the fact that they did not charge the full twenty percent rate on the pass-through funding for the Prince William Sound Science Center, as they noted in this. However, it is clear that the compilation is a misunderstanding. The Trustee Council has established, as I understand it -- the Trustee Council had communicated with the University over this issue in the past, and there was a general understanding that the indirect rate would be twenty percent. The Trustee Council, or at least staff, I have talked to some members, have indicated to me that the Trustee Council intended that that was twenty percent of a project. If it cost the project -- if a project cost a million dollars to run, the University would be able to charge twenty percent or two hundred thousand dollars. That is not how the University nor the Prince William Sound Science Center calculate the rate. Their rate is based on a calculation of the total project cost, and by that I mean the project is simply a portion of the project, and there is a cost to the University in doing that, the indirect rate, that is -- works out to be twenty-five percent. We go through --

MR. MEACHAM: Mr. Chairman, my understanding of the way it was in the past was twenty percent of the project cost.

(Inaudible) This represents a change in the way --

MR. AYERS: It's my understanding that Brian Rogers, vice president for finance at the University is on line. Are you there, Brian? (Pause -- no response) Dr. Cooney?

DR. COONEY: Yes. I will not presume to speak for the University on this matter. I am not authorized to do so. I'm sorry that Dr. Rogers is not on the line. I -- that's as far as I can carry you.

MR. AYERS: We anticipated being on this item earlier. I don't know if he's gotten called away to another meeting. Rebecca, are you on line?

STAFF: No, sir. This is L.J. We're checking on Dr. Rogers, and we'll find out what the status is and let you know.

MR. AYERS: Would you call his office and call Ms. Ewalt and see if she can locate him, please?

STAFF: He was on line when we -- a little while ago, sir. I'm not sure what the status is right now. We're checking on it.

MR. AYERS: I'm sure it's because he anticipated being called upon earlier.

MS. WILLIAMS: Mr. Chairman, this is Deborah Williams. From Sandy Rabinowitch, I understand that the Trustees -- that the Trustee agencies normally charge fifteen percent for personal services and then an additional amount for contractual costs. I would be interested to know the exact difference in cost between a -- either fifteen percent or a twenty percent overhead fee versus

the twenty-five percent that's in the project. How many dollars are we talking about?

MR. WOLFE: Okay. I'm not sure Jim can answer that, but the fifteen percent was what the Trustees had used as an indirect cost for agency -- yeah for the Trustee agencies as part of our financial operations to do that. It wasn't necessarily intended to drive a contract overhead cost, although we have asked that our contractors keep their overhead to a minimum, but we are talking two different things here, Deborah.

MR. AYERS: What Dr. Rogers described to me is that the University has two particular problems in this area. One, their indirect rate -- the cost of them managing a project is approximately forty-seven percent. The way, however, that that rate is established is through audits of the cost of all of their administration of managing projects through the University. The federal government then establishes with them a rate. Due to their relationship and the amount of money and the amount of business that they've done for the Trustee Council, they have consistently lowered that rate, which has also lowered their overall average. They gone from what was a forty-seven percent -- their policy was fifty, their average was forty-seven, they are now down to forty-one because they have consistently done business with the Trustee Council, the federal auditors have consistently used that, but their average -- they have now lowered their average to -- their overall University average for all projects is now forty percent. In this particular case, it was their understanding that the

formula process as used by the federal government, which is in essence twenty-five percent of the project but it is the project -- the project cost plus twenty-percent of that, equals the total, that gets the indirect cost and then twenty percent of that number works out to be twenty-five percent. It's their decision. They -- that is what they believe they must have -- that Ocean and Fisheries Science does not have the funding nor the administrative support. Agencies have, in the past, they're able to support this because agencies have both a Department of Administration and their own administration, therefore they don't require as much support because behind those entities there's a Department of Administration or procurement and those things, as well as a division of administration within the respective agencies that are funded through their own programs. They do not have that capability. They have to fund their own department of administration, own division of administration, and they specifically -- the Ocean and Fisheries Sciences program does not have the funding to support this project. It does take -- their actual cost of managing this project, twenty-five percent of the project or twenty percent of the total.

MR. WOLFE: Mr. Ayers, the question at this point in time is do we accept the twenty-five percent or are we going to disagree with, I guess, and if we disagree with it, what is the position of the University in your opinion?

MR. AYERS: My understanding is that they would not be able to do this project. They literally have had their budget cut.

According to Mr. Rogers, they've lost their indirect rate or they've lowered it by some six percent because of the federal government's recent audit, and the lowering of their overall University indirect rate, and what -- our recommendation was that in view of the need to move forward and get this project into the field that we accept this with the understanding that the indirect rate is an exception to apply to this start-up year only for this project, and that except for any work that is to be undertaken by the University or Prince William Sound Science Center on behalf of the Trustee Council in FY95 or beyond, that rate will be calculated as a twenty percent of direct costs or direct me to go develop a policy on indirect rates, and in so doing I will involve myself in discussion with you people and report back.

STAFF: Mr. Chairman?

MS. WILLIAMS: That is one concern that I have about the twenty-five percent if we vote on it without any caveat that it will establish a precedent for our future actions with the University and other non-profit entities, and so I hope the other Council members will think about the precedential value of this. I think Jim has offered us some alternatives to that.

STAFF: Mr. Chairman?

MR. PENNOYER: Mr. Chairman, Jim gave you a direct recommendation -- what he was saying we move on it as one year only, start-up question (inaudible) at this point in time, and still go into the field, and clearly that way. The second question is that it's not a precedent and we reconsider it in the '95 budget

year, and by considering the indirect rate we're going to allow for it by going to some type of (inaudible) process?

MR. AYERS: Exactly. Mr. Chairman, Mr. Pennoyer, the conversation that I did have with Brian Rogers was exactly along those lines, and we understood that -- it means that they could be competitive. They understood that that is the nature of the beast, whether they come in at twenty or twenty-five or higher or lower number, would be determined by an RFP process. But this still would be clear that there would not be a set rate of twenty-five percent beyond this first year. The Prince William Sound Science Center, I did talk to their director just prior to this meeting, and I think that it's clear, and I don't know if he's on line there, but they will be willing to negotiate the rate when the (inaudible) rate is to go into FY95 and we can actually get to the bottom of what the costs are -- (inaudible -- interruption by staff)

STAFF: Mr. Chairman? Mr. Chairman?

MR. WOLFE: Mr. Sandor.

MR. SANDOR: With the understanding that both Deborah and Jim have just outlined, that it's not a precedent, it is an exception, I would move acceptance of the University (inaudible).

MR. WOLFE: Mr. Pennoyer?

MR. PENNOYER: Mr. Chairman, we have a motion for acceptance of the total proposal. I don't know that we have to move separately on this piece, which was (inaudible) appropriate, part of the overall motion that we incorporate the concept we've

alluded to (inaudible) -- an amendment that the main motion include the caveat -- the fact that the University of Alaska/Prince William Sound Science Center overhead is a one year option only for this start-up year and we reconsider the future issue -- discussion (inaudible -- out of range of microphone).

MR. WOLFE: We have a motion, a second, and an amendment and then second.

MR. PENNOYER: I think we have to vote on the amendment to the main motion. There may be other amendments we may want to make to the main motion as we get -- first deal with this amendment -- any objection to -- ?

MR. WOLFE: Do we want to vote on the amendment at this point in time?

MR. PENNOYER: (Inaudible) get on the record.

MR. WOLFE: Any objection to the amendment as proposed? Deborah, could you hear the motion?

MS. WILLIAMS: I certainly could, and I thoroughly agree with it.

MR. WOLFE: Okay. Hearing no objection, the amendment to the main motion passes.

MR. PENNOYER: The second item listed under the recommendations on the budget, I'm not sure how that affects the dollars amount to the recommendation that the Executive Director has made. We may wish to make that amendment as well, if he want to go through -- (inaudible -- out of range of microphone).

MR. AYERS: Mr. Chairman, that's what (inaudible) were

just discussing. The equipment issue has been an item of discussion. Actually, it is an item of probably policy discussion of the Trustee Council, which is the issue of -- when equipment is purchased, does it remain as a part of the asset of the Trustee Council, or does it become the property of the agency, entity or the contractor that actually is awarded the equipment funds? In a particular case, the issue became rather debatable -- and rather than go into the debate, we agreed that we would provide -- there is funding available -- those budgets reflect funding for them that they said they needed in order to provide for not only purchasing, but insurance, storage, maintenance and repair of this equipment. Now, it's a fairly substantial amount. I don't remember what percentage it worked out to be, but it was actually -- I think it came out to be essentially the same as their indirect rate, which is about twenty-four -- is that correct? -- yeah -- twenty-four percent. We said for this first year that we were going to allow that but that we certainly needed to sit down and -- that we needed to sit down and negotiate that again. I have talked to the director of the Prince William Sound Science Center, but I think we need to talk to both the Science Center and the University of Alaska and come to a resolution on the issue of equipment, storage, and maintenance and repair, for otherwise that's going to be an additional cost. In my view, that would be a part of an indirect rate -- their overall indirect rate that they would have been charged for equipment beyond the first year -- be their responsibility. That's in part one. Secondly, who does that

equipment belong to at the termination of this project, and I think we need to resolve that issue, but I'm not prepared to make a recommendation today because it also affects a larger policy question about all the various computers, the pieces of equipment, the boat motors, the tanks that have been and continue to be purchased with Trustee Council funds. My recommendation is that this equipment currently, which belongs -- I guess it belongs to the Department of Fish and Game at this point, or perhaps the University --.

DR. MONTAGUE: It belongs to the University until the end of the project, at which time it goes back to the (inaudible -- out of microphone range).

MR. AYERS: The University, if they are going to own the project, they would be responsible for insurance, storage and maintenance through their indirect rate, particularly if it's the higher indirect rate. But we do -- at this point, what I would recommend is that we go forward with the (inaudible) that ADF&G and the University (inaudible) understanding that it reflects that they're going to take care of all of these various services and that these services will not be charged in addition to the indirect rate in the future.

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: Mr. Chairman, thank you. Jim, so basically then, within the amount of money proposed here, those charges will be taken care of?

MR. AYERS: Yes. Yes.

MR. PENNOYER: Without any diminution of the work that's reflected in this budget?

MR. AYERS: That's correct. That's correct.

MR. PENNOYER: Secondly, in terms of ownership of equipment, I guess the pause I have is that we just passed a motion saying that we might do an RFP process on this project in the future (inaudible) required, but I didn't intend to do an RFP process and have to go out and re-buy all the same equipment. That somehow -- you're getting into a project -- equipment that we've been told will last five to ten years, I don't feel that if we do give -- start subcontracting on the project that we should spend the next year, if something different happens, having to re-buy all the equipment.

MR. AYERS: That's exactly -- Mr. Chairman, Mr. Pennoyer, that's -- that is exactly the method that I have tried to convey to them. It is my understanding that Fish & Game has conveyed the message to the University that the property belongs to the University until the project is completed, and then it reverts back to the Department of Fish & Game.

MR. WOLFE: They're saying that that ownership of property is addressed in the financial operating procedures for the Trustee Council. That is true, and what's being proposed is consistent with what we did with University under our last contract with them -- agreement with them -- on the coastal habitat studies, so I don't see there's any change from what we've been doing, so we want to keep it that way, I think. I think that's what you

proposed.

MR. PENNOYER: Jim, I'm not sure this -- I move that we do it as you said, with our understanding that the storage and so forth and equipment be covered under the initial amounts we've approved for these projects, with the equipment to remain in the ownership of the Trustee agency and no diminution of work to take care of those costs.

UNIDENTIFIED VOICE: Second.

MR. WOLFE: Motion made and seconded that -- we verify that (inaudible -- simultaneous talking and extraneous noise).

MS. WILLIAMS: Mr. Chairman, I certainly agree with what Mr. Pennoyer just said, that we firmly believe that the equipment should be owned by the Trustee Council representative and that ultimately it belongs to that agency or entity.

MR. WOLFE: Okay, very good. Any objection? (No response) There is no objection, the motion carries. Mr. Sandor?

MR. SANDOR: Let the record reflect that Mark Broderson will represent me from now on for this meeting.

MR. PENNOYER: Mr. Chairman, the last item on the budget was the otolith (inaudible) marking, 94320-C, and there's some discussion their withdrawing the project, but keeping some part of it, and I notice the project budget includes -- is still the same as it was before, not really (inaudible) in the table.

DR. MONTAGUE: It was three sixty-one.

MR. PENNOYER: Oh, I see. Okay -- significant reduction. Okay, that doesn't show on the table -- (pause). I don't think a

motion is necessary. It's part of the total budget (inaudible) understand the rationale --.

MR. WOLFE: Okay.

MR. PENNOYER: I would just like to proceed on the main motion on the budget, although I would like to characterize that as being approval, pending our approval of all (inaudible) recommendations as well if they have something to do with how it's going to spent. If we take a first vote on the project budget as discussed, and then recognize the fact that it (inaudible) have some problems that might affect our approval, we might come back and revisit it, but we can go ahead, you can ask for approval or for any objection on the main motion (inaudible) the budget part (inaudible).

MR. WOLFE: Any objection? (No response)

MR. PENNOYER: Mr. Chairman, sir -- you and the Chief Scientist, I haven't started to compare them exactly, so I'm not really sure if there are differences or not or additional things that the Chief Scientist recommended or not. You might want to (inaudible) discussion -- if both of you (inaudible) policy having to do with this project in terms of its initial implementation and leadership, and also in terms of its longer term review, and so forth. Could you take and approve those one at a time now?

MR. AYERS: Yes, Mr. Chairman, the project leadership I think I covered, but in essence it's clear that Dr. Cooney leadership, guidance, and authority need to be there so that responsibility and accountability is something that we can call in

University -- and Dr. Cooney in particular -- for this start-up year. That will include the discussion eventually of how then this project will be dealt with in the future, but certainly this first year, it needs to have a clear leadership and guidance, and it's our understanding and it's certainly just simply that reinforcement that this will be Dr. Cooney. Dr. Cooney is the lead scientist, which, as I say, provides the authority, but beyond that responsibility and accountability through him for the project. The issue of -- the next item, which is on the bottom of page three -- adaptive management and project implementation -- and I think that adaptive management is more than just the jargon we need to think of. Adaptive management is the practical sense approach that as things change, we realize what has changed, and we think about what that change means and adjust to it. On page four, it is certainly a part of the policy recommendations that the plans have to be tailored to the biological realities, as Dr. Spies says, and implementation of this first field season will necessitate flexibility and a willingness on the part of investigators to scale the work effort to the biological opportunities that are available.

In some cases, that's going to mean deferring significant portions. And Dr. Thomas and I talked earlier today. They are anxious to get in the field. That's the reason we've all worked hard to get this project up and out the door today, so they can get in the field. I think that based on my conversations with Dr. Spies and some of the peer reviewers, it's clear we're going to have to rely on Dr. Cooney and the prudence of the PIs to identify

those places where

it just doesn't make sense or that they're just not going to make it this year, and we need to understand it. We're not going to get it all done this year, and we're not going to know a lot in September about this writing about what the study did accomplish. We want to make sure that we're all clear on that up front, and that if they need to forego doing something, they forego it and let us know, without penalty, but in fact give them credit for that prudence. The next item is that of data management modeling, and again, based on everything that I've read in the project it's clear that this is a very complex issue, and that information system and modeling is a key part of this and that it's going to be complex. We need to realize that's what folks are -- the Chief Scientist and peer reviewers have said. There are substantial questions about the utility of this deterministic modeling effort to address fishery management issues. It's not going to all be there the first year. We recommend that this aspect of the work be closely scrutinized, and I think scrutinized includes good communication between Dr. Cooney and Dr. Spies and peer reviewers about the success of what we're learning about this data management and modeling effort, and that we come right back in '95 and take a look at this to try to determine the effectiveness of this, what the direction should be, but that specifically they pay attention to it, and I'm sure that they will, but that we have -- that we're clear that we need good communication between the projects and the Chief Scientist regarding this modeling effort. Program review and evaluation is something --

MR. PENNOYER: Mr. Chairman?

MR. WOLFE: Yes.

MR. PENNOYER: (Inaudible) policy to pass each one of these and ask if there are any questions, then when we get to the end we can decide whether we like it all or not, but coming back and reviewing (inaudible) difficulty. A particular question on (inaudible) on each one of these, and my question at the end (inaudible).

MR. WOLFE: Should we go back and answer questions on the three that we've covered at this point or -- let's do that? Any questions on the project leadership issue at this point? No questions. On the adaptive management project implementation as described by Jim, any questions there? Okay, no questions. Any questions on data management and modeling? Okay, no questions. Jim?

MR. AYERS: Again, Dr. Cooney and Dr. Spies are on line. Certainly, good Doctors, do not hesitate to interrupt me if you feel that I need to be corrected of my understanding of our conversations or written comments or if you want to add something.

DR. COONEY: Okay. We feel free to chime in when we feel the necessity, Jim.

DR. SPIES: You've done a good job so far, Jim. Plug on.

MR. AYERS: Okay. Program review and evaluation. The Chief Scientist has been working with the project investigators in

trying to establish clear milestones. Management by objectives is the trend of management that we're trying to permeate the entire system with. Every aspect -- from every staff person to actual projects, we are trying to instill the concept of management by objectives with measurable milestones. Dr. Spies has been working with project investigators and it is certainly our effort that those principal investigators will establish clear milestones, and again, as he has indicated and others have talked about, next September milestones are needed so that we'll be able to comment to you about this with regard to '95. The Trustee Council, I think, we need to continue to reiterate the point that future planning and support for this or any other project is determined by the success of that project the previous year and the completion of effort. In addition, that the '94 field season should be given more in-depth review, probably in mid-January we're going to -- as Dave -- they have indicated, both the peer reviewers and the scientists involved in the project, as well as Dr. Cooney, (inaudible) mid-January before they have good (inaudible) information, although we're probably going to have to make some decisions in October and November in some cases, but it will probably be mid-January. Do you want to add anything to that, Ted?

DR. COONEY: Well, just to indicate that we are going to pull all the stops out this summer to have data available, at least crucial data available for the mid-September check of milestones. We certainly understand the need for an accomplished -- an accomplishment based outcome -- that's going to give you the

ability to carry forward, and we want to demonstrate to the Council and its agents after the field season that we have more than just a few impressions about what took place in the field this coming summer. We are pulling all stops that we can to provide a core of results at that early meeting to indicate and to demonstrate what we've done this summer, to be followed up by a much more comprehensive review of data by mid-January.

MR. WOLFE: Okay. Mr. Pennoyer.

MR. PENNOYER: Yes, Jim, so in effect that says you're going to restart this whole meeting you laid out for us on an adaptive management style, diagrams, organization, (inaudible) this summer. This means that this project, as other projects, (inaudible) isn't necessarily unreasonable for all projects (inaudible) including this project would enter into this type of organizational diagram and adaptive management cycle.

MR. AYERS: Absolutely, Mr. Chairman, Mr. Pennoyer. That is exactly -- based on the direction that the Trustees have given me with regard to ecosystem based approach, we've been utilizing and working with the scientists in developing what that means. What that means is an adaptive -- a growth, scientific, adaptive management approach -- and this particular project is one piece of the ecosystem approach, albeit a good model, it is that type of approach that ought to be applied to all of our efforts, and then get -- then this will fall into the same (inaudible) adaptive management approach. It will be reviewed, and they knew they all won't be able to come in at the same time, but that

projects, through a science review and synthesizing, projects would not only be peer reviewed, but there would be good, open discussion in the interdisciplinary work group, and a recommendation would come to you before we actually funded a project. Yes. This would fall into that adaptive management cycle. Let me also say that it's very ambitious for us to try to get there for '95 right now because it's largely trying to put together this cycle at the same time we're going out with our '95 solicitation for projects.

MR. WOLFE: Mr. Meacham.

MR. MEACHAM: Yes. Yes, I concur with the value of working to get these milestones of these projects, but I guess, looking at some of the activities that are (inaudible) particular project, there's a lot going on before September, so I think people should not be disappointed if they don't receive at that point all the information that they would like to have through these projects available.

MR. AYERS: I think in many ways Dr. Cooney has been, you know, committed to this effort in keeping as accurate -- instilling some discipline and understanding in all of the various principal investigators that that is what they are expected. At the same time, I think we need to be aware that -- and realistic -- that we're going to be in kind of jam if we say that's the absolute. We're going to have to meet with them in this September and the scientists to look at the adaptive process and in some cases there's going to be gaps. We're going to have to make a decision. In some cases we'll be able to wait until January

because some things won't be finished by this time period, but that will give us enough time to then get good information, assessizing (ph), and still give the decision about funding before they get into the season. However, as Dr. Cooney and Dr. Thomas and many of the others involved in the project have pointed out, it's got to happen long before April, and I think now that will work because I -- we've done all this in a hundred and forty days, and there's a lot we would do differently if we had more time.

MR. WOLFE: Any further questions on the program review and evaluation? (No response) Okay.

MR. AYERS: Under NEPA compliance, Mr. Chairman, members, NEPA compliance as far as we know, and I'm always going to try to remember to say that with regard to NEPA, (inaudible) recently -- Environmental Protection Act, a copy of the FONSI for the hatchery has been completed, is on file -- it is our understanding that all of the other parts are helpful for categorical exclusion under NEPA, and we're working on that. In any case, those projects will be allowed to proceed prior to a determination of full NEPA compliance, and -- I think with regard to that we need to clarify a couple of policies with regard to how we're going to proceed when there are questions and that all projects must have -- there is a policy regarding NEPA compliance, but in the event that there's a categorical exclusion, it is the responsibility of the proposer -- the principal investigator -- to ensure that they are working with the respective agency liaison to get that categorical exclusion. There can't be an assumption that

because it's probably eligible for the categorical exclusion that they take no action. We've got to get that clear. In some cases, people are simply writing to (inaudible) and have gotten into (inaudible). The other issue with regard to policy there is that there are some questions regarding policies that have not been established, and they vary from particular activities within a project that may require regulatory action or a policy on the part of the Council, and -- for example, the taking of birds or mammals, we need to establish and review a policy. I have asked the Chief Scientist to identify with peer reviewers any kind of taking of a bird or mammal to bring that to my attention, and we need to formulate a policy and I need to bring that before you so that it's clear what your policy is going to be with regard to the taking of birds or mammals. I think -- the public in general -- a lot of interest has been generated recently, and I think we need to clarify what that's going to be with regard to the Council's policy.

MR. WOLFE: Mr. Meacham.

MR. MEACHAM: Yeah, in your comments there about taking -- our talking about (inaudible) takes as opposed to other takings?

MR. AYERS: Mr. Chairman, Mr. Meacham, that's exactly right. I was referring simply to the lethal action that results in the death of either a bird or mammal.

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: Mr. Chairman, without getting off into the NEPA parts that deal with a longer term policy that might warrant

more discussion, I move that we accept the Executive Director's recommendation on the project leadership, adaptive management project implementation, data management and modeling, program review and evaluation, and NEPA compliance as it relates to Project '320.

MS. WILLIAMS: I second.

MR. WOLFE: Okay. We have a motion to accept Mr. Ayers' recommendations on items one through four. Any objection? (No response) Motion carries.

MR. PENNOYER: Mr. Chairman, one addition question? That would be of Dr. Spies -- if (inaudible) back and forth, is there any points Dr. Spies wants to make relative to this project?

DR. SPIES: I think just for the points and recommendations with regard to policy based on the points I make, though I make (inaudible) refinements, my general recommendations regarding policy with respect to 94320 (inaudible).

MR. MEACHAM: Mr. Chairman?

MR. WOLFE: Mr. Meacham.

MR. MEACHAM: One comment here, Ken Shock (ph) was really, really working to get these NEPA compliance taken care of, and I want to thank National Marine Fisheries Service for working with us and helping out.

MR. PENNOYER: Mr. Chairman, I would like to thank all the people that worked on preparation and review of these detailed projects plans, and I know that this year particularly it's been a very tough thing to get done in a short period of time, a lot of

midnight oil burned to get this in front of us for this meeting instead of delaying the meeting. So, I don't have the names of all the individuals on the staff, agency (inaudible) but our thanks to all of them for getting this done in time (inaudible).

MR. WOLFE: Okay. Moving on to the next item on the agenda, which is NEPA for 94199? (Inaudible) for Project 94191.

MR. AYERS: Okay. Mr. Chairman, the (inaudible) for Project 94191, which is the oil-related egg and alevin mortality at a cost of ninety-seven point seven thousand dollars. This is required supplemental funding for the original request -- this is an unanticipated finding that -- that the agency was coming up with about the same time as we were actually reviewing and proposing projects, so it was coming in as we were finalizing our recommendations before the January 31st meeting. The study needs to be repeated this year in order to build the strength of the results regarding the differences that the heritable and genetic damage in pink salmon between oiled and un-oiled streams. The project description is in your packet. It is expected to receive a categorical exclusion. There is no legal concern at this time, although I think there are some implications certainly verifying that there's damage, and there is good reason to assume that there is at this point. However, it's going to take the study to develop the empirical data to support the hypothesis. It very well may have important implications for restoration, particularly if we are considering genetic damage, and will probably need to be continued at least through FY96, as pointed out. The other, I guess, long

term implication -- I have not talked with our attorneys about this, but this is not something that was anticipated at the time of the settlement, nor did we understand the fund settlement, so we're pursuing this -- it's pretty new information that's coming out here. The peer reviewers are very interested in proceeding with this and are very concerned about this. I highly recommend that we move forward, as did the Chief Scientist on this project.

MR. PENNOYER: Mr. Chairman?

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: We've -- how much money did we vote for this project this year already?

MR. AYERS: One ninety-one --

DR. MONTAGUE: Mr. Chairman, I think it was about seven hundred and some thousand dollars between the interim funding and the remaining funding through NOAA.

MR. PENNOYER: For that amount we didn't do the ninety-seven -- put in reverse, if we don't the ninety-seven point seven, what happens? The other seven hundred and some thousand dollars (inaudible)?

DR. MONTAGUE: The other part related to this wasn't dependent on it. I mean, this is (inaudible) work regardless of the (inaudible) in '93. The experiment done in '93 was the odd year (inaudible), and those results came in January, the first tentative results, and to answer your question in one respect, if you were to not approve this project to go ahead (inaudible).

MR. MEACHAM: I think the additional funding here goes

towards really confirming something that seems to many people to be almost unbelievable event. I mean, if you include the prior results of (inaudible -- out of microphone range).

MR. PENNOYER: (Inaudible -- out of microphone range)  
pink salmon (inaudible -- out of microphone range)

MR. MEACHAM: Yes.

MR. BRODERSON: Mr. Chairman?

MR. WOLFE: Mr. Broderon.

MR. BRODERSON: To follow up what Chuck was saying there, when these proposed project for last year, -- when the project was first proposed for last year, several peer reviewers told us we would not be able to see the effects that we actually in the end did, and we need now to confirm that with another year's worth of data so that it was not a part of that study, as result the damage actually did occur, and the result, standing alone from last year, and will repeat by themselves (inaudible -- out of range of microphone) very, very strong indication for continuing injury to this resource if the results we saw last year actually repeat. We need to know that regardless (inaudible -- out of microphone range).

MR. PENNOYER: Mr. Chairman, my point was this if this result is true, the major lynch pin for what may or may not be (inaudible) in Prince William Sound (inaudible -- out of range of microphone).

MR. MEACHAM: Yes. I would move that ninety-seven point seven thousand supplemental funding be approved.

MR. PENNOYER: Second.

MR. WOLFE: Motion made and seconded. A question, on my part, has Dr. Spies received this project proposal at this point and supports it?

MR. PENNOYER: His recommendation is in here in the packet memo that --

MR. WOLFE: Okay. I didn't get to it, but -- yes, okay. Very good. And the motion that's been seconded that we approve the ninety-seven point seven -- or ninety-seven thousand seven hundred dollars for the supplemental funding for Project 94191, any objection? Hearing no objection, motion approved.

MR. AYERS: The next item, Mr. Chairman, has to do with Project 94199, which is the expansion of the Institute of Marine Science. This particular amount -- eh, this particular request is an addition. We estimated that there may be a need for some fifty thousand dollars to begin work on the NEPA compliance when we were putting it together for the January -- putting the request together for the January 31st meeting. We had no idea whether it was going to be an EA or an EIS at that time. There was an estimate that it could cost any place from fifty to a hundred -- eh, to two hundred -- thousand dollars and beyond. We are working with the State, the University, as well as the Institute of Marine Science in Seward and the City of Seward. We are not going to pay out of civil trust funds for all of the contractual work with regard to the EIS; however, Fish and Game and Minerals Management Service of the Department of the Interior are working on the EIS

for the project, and Minerals Management Service is the lead agency for NEPA. In order to get this accomplished, we need an additional eighty-three thousand dollars to pay for the staffing of the EIS, and it is described in the description -- we split the original fifty thousand between Fish and Game and the Department of the Interior. An additional ninety-seven thousand is actually what's required. Sixty-four thousand to cover costs over at DOI and thirty-three thousand for the remainder of the project, EIS project, on this work for ADF&G. We did move some -- I don't know if that's in here or not -- the reason we're not asking for the full ninety-seven thousand, we did move fourteen thousand dollars out of Project 94110 towards this particular effort, so the balance that's required is eighty-three thousand dollars.

MR. WOLFE: Comments? Questions? Mr. Pennoyer?

MR. PENNOYER: Could you review for us the status of the project (inaudible) that is ongoing or -- we've got a NEPA question in front of us or not, whether the two relate to each other, but we do have a process (inaudible -- extraneous noise). The Trustee Council voted at the last meeting which was that the project be designed (inaudible) settlement appropriate to the next research project -- programs that are going to be conducted through out the spill, etcetera, etcetera, and I don't know how that exactly relates to this hundred and some thousand dollars for NEPA compliance work, but I guess somewhere the two ought to come together.

MR. WOLFE: Mr. Ayers, can you address this.

MR. AYERS: Eh, well, first of all, Molly has handed me the attachment that has to do with what it was that (inaudible), including the University of Alaska, City of Seward, Seward Association for the Advancement of Marine Science -- SAAMS. The appropriate Trustee agencies reviewed the (inaudible) related to the proposed improvements and the required capital and operating budget, developed and integrated funding approach which ensures that the use of trust funds are appropriate and legal under the terms of the MOA and the Consent Decree and prepare recommendations on the appropriate level of funding for consideration by the Trustee Council that would be legally permissible under the terms of the MOA. Secondly, in order to do that, we have Kim Sundberg from the Department of Fish and Game working almost -- actually, he is working full time on this issue -- he's working -- he went to Fairbanks to work with the University of Alaska and has recently met with a variety of the scientists and the architects that are involved with this project, including talking to Dr. Spies and other scientists. He recently went down to look at both Monterey Bay and one of the other projects, working that to try put together the actual part of the facility with the architect that will be used for research of seabirds and marine mammals, and that this project then, project description, including architectural design, and identifying those portions which have to do specifically with the research and monitoring efforts. In addition to that then, identifying those parts which may not be permissible under the terms of the MOA and Consent Decree, and we have been talking with

federal Trustees and will continue to talk to federal Trustees about the opportunity for other potential funds which would cover those costs which wouldn't fit under the Consent Decree. He, Kim Sundberg, will be preparing a full report, both of -- of all of those aforementioned meetings -- scientists, the University and his recent visit both to -- primarily to do with aquariums, but -- both aquariums, but having to do specifically the tanks and research capability at the University and the recent visit to those at the University of Washington and preparing a report to us about that and then a separation of the two particular aspects -- research and monitoring can be funded with the civil trust -- and those costs which may not be funded with civil trust and what those are. We will then bring that back before you. In addition to that, Kim Sundberg, we have asked and he will be providing a type of monthly report from here on out regarding the progress on this effort. The time-line we put on our critical path analysis for those (inaudible) taking place, so is the scoping meeting, the public review and hearings on the DEIS will begin on the 20th. In the meantime, Kim is putting together a description of the project that does what I just said, and what you directed me to do is to bring that back to the Council, including a discussion of the integrated funding approach, before we got out on June 20th with a draft EIS, and it would be after the DEIS on June 20th and August 22nd.

MR. WOLFE: I think Mr. Pennoyer brought up the point that several of us were interested on coming together at some point here before the (inaudible) .

MR. AYERS: And, Mr. Chairman, members of the committee, part of it has to do with the amount of things are on -- that actually we're trying to get accomplished in seven months. This one in particular has not fallen by the wayside, but most of what's going on right now is Kim Sundberg's research in trying to work with the agencies, including the University to get a clear understanding, and sometimes in order to get that understanding it ends up being negotiation, as you can understand. The architects, at the same time, are struggling with how to describe a particular aspect that is going to be research and monitoring as opposed to something that might not be eligible. So, we will have a full report back to you, and I apologize that it's not moving -- the EIS part of it is moving along as scheduled -- a description and the work with the architect describing what's permissible under the civil trust versus what is not is becoming more complex. The architects are having some (inaudible) difficult.

MR. WOLFE: Mr. Pennoyer?

MR. PENNOYER: Mr. Chairman, I move we approve the requested eighty-three thousand dollars for this project.

MS. WILLIAMS: I second.

MR. WOLFE: I have a motion to approve the additional money for NEPA work on Project 94199, and it's been seconded. Any objections? No objection, funding approved. The next item is NEPA compliance for '94 projects.

MR. AYERS: Eric -- is Eric on line? Eric, are you on line? Is Anchorage on line?

MR. MYERS: Yes. I'm on line.

MR. AYERS: Is anybody on line?

MR. MYERS: Can you hear me?

MR. AYERS: Barely.

MR. MYERS: Hello?

MR. AYERS: Eric?

MR. MYERS: Yes, it is.

MR. AYERS: Okay. Eric, we're just about to talk about the NEPA compliance status report.

MR. MYERS: The information in the status report is simply, as shown, a status of the various projects that require some sort of NEPA compliance in the form of an environmental assessment or an environmental impact statement, and that's an informational status report that I'm in the process of updating continually. In fact, there's even a more current version than the one that was provided for the Trustee Council, but if there are questions regarding specific projects and their status, they should probably be directed to the respective liaison, as identified on the sheet.

MR. AYERS: Okay, and in particular, each of these projects have activities taking place, but no project will proceed without the EA being completed.

MR. MYERS: That is correct.

MR. AYERS: Okay. I guess to proceed, we have already talked about the Seward IMS one, but others -- that each of these has EAs that are in process, and that the three (inaudible) well,

except for the Marine Science, have been combined.

MR. WOLFE: Any questions on the NEPA for the '94 projects at this point? Okay. If there are no questions, we'll move on to the next item. We're making good progress.

MR. AYERS: The last -- the next item is new business, Mr. Chairman, and those are under the new business portion of your packet. Why they're in reverse order, I'm not sure. Perhaps that's the way we're numbering now, I don't know. I lost track of that, and I think -- these literally got up to -- into an airplane just that morning -- Friday morning -- so there are a couple of items that I will mention, that changes -- again, I can't say too much and so I don't feel like I'm being redundant to say that the staff went far beyond any normal commitment that I've seen in terms of getting this out the door, and there are a couple of numerical changes that I want to present immediately. On the face of the memorandum under this project, 94428, this is restoration planning and implementation, the actual dollar amount is ninety-nine point two, not ninety-nine point one, and I think it has to do with the addition as the time has gone on. In addition to that -- eh, the detailed work plan actually supports the ninety-nine point two. Since the new project has been designed and implemented to be a one-time-only planning process to coordinate with state and federal agencies in affected subsistence communities to identify subsistence restoration efforts, I'm not sure about proposals at this point, but certainly to work together with the agencies and the communities to identify specific subsistence efforts for the

FY95 work plan, but to ensure that they are subsistence users involving (inaudible) in the FY95 planning effort, but more specifically, the '95 effort as it relates to the five million dollar appropriation of the Exxon Valdez criminal settlement funds to the State of Alaska. The State of Alaska criminal settlement funds were made available for subsistence efforts at the meeting and there were several questions regarding civil trust limits, in terms of actually going forward, as you all know much better than I, with actually funding services as opposed to resources related to services, and the State of Alaska committed to work with the subsistence communities and actually took a portion of their criminal settlement funds, at the urging of the Trustee, committed that to the subsistence communities through the Department of Community and Regional Affairs. The Department of Community and Regional Affairs reported at the January 31st meeting that, in fact, they wanted to move forward, however they were having some difficulty and subsequently reported that they don't have the funds. They'll work with the communities and the other agencies, including the federal agencies, to put together the unified coordinated proposal. We said that if that's the problem, we would bring it before the Trustee Council. The subsistence division at the Department of Fish and Game has worked hard to detail a proposal that's in your packet to describe how they would go about working with the federal agencies in the communities and get involved, and Jim Fall, who was at our forum and who I've known quite some time, is well respected in both the research and

scientific community, as well as the actual subsistence communities, would be the lead on this project. I think that it's one of the foremost things that we can do working with the subsistence communities right now is to actually fund an effort, coordinate the restoration of subsistence planning projects. One time only, ninety-nine point two million dollars. It will be a joint effort: ADF&G, DOI-Forest Service.

MS. WILLIAMS: (Inaudible)

MR. WOLFE: Okay.

MS. WILLIAMS: Mr. Chairman?

MR. WOLFE: Ms. Williams.

MS. WILLIAMS: Yes, we agree very much with this project, with one small modification, and that is that we encourage the Council to adapt the language just a little bit to emphasize that the purpose of these studies would be to study the natural resources upon which subsistence and other services are based. We think it is important to keep our focus on the natural resources, so this is consistent with the various agreements, settlements, and so, with that change, we would wholeheartedly endorse this project.

MR. TILLERY: Mr. Chairman?

MR. WOLFE: Mr. Tillery.

MR. TILLERY: The problem with basing this strictly on natural resources, any of the things that would be most effective for subsistence may not deal particularly with natural resources -- trying to pass along subsistence knowledge or put it together, may see things that aren't -- can't be traced to some particular

natural resource. This was part of a conversation with Jim Cole (ph), State Subsistence Division. I think what the Department of the Interior is alluding to is the old state-federal disagreement about whether you can restore -- whether you have to restore only resources under (inaudible). I would not like to see the description be changed to limit us from going out and talking to people about things that go beyond restoring natural resources. I worry if you talk about replacing natural resources, I talk to the legal justification for going out and buying (inaudible) replacement for pink salmon, but I would find I couldn't go out there and talk about doing something that would try to keep these subsistence lifestyles going during a period of time when people may not otherwise be able to engage it when their ability may be diminished or lost. I -- I think we can work it out, but I don't think we can work out today, and I am wondering if perhaps we can't approve the funding for this proposal with some kind of a caveat that over the next few days we are going to have to come to grips with this. We need to make a decision on this. I mean, we can't go out to the villages and say we don't know answers as to what they can do with -- what we can do with the money. I don't believe that's going to be acceptable. And if this requires going in front of Judge Holland and asking him for a decision on this services versus taking simply natural resources, that may be where we end up. I would also (inaudible) the Trustee Council that Judge Holland just recently issued a decision in which he rejected non-economic assistance claims and suggested to the Natives that have

sued them that the Trustee Council has received -- the Trustees have received settlement money and that the use of that money would so remediate, in his view, some of those claims that they have.

MR. WOLFE: I think, Craig, what you're saying isn't in disagreement with what Deborah was trying to make in her point there, but our emphasis has always been on the resource end of it, and we always early on in the litigation end of this issue dealing with subsistence made it clear that subsistence as a federal or state resource -- we've always talked about the resources used for subsistence, and that's how we stayed out of some of the third-party litigation. Maybe now, we're not able to stay out of that, but I guess the sensitivities to that issue is still appropriate in our view also. I guess the other thing is that the Department of Agriculture, the Department of the Interior pointed out appropriated dollars a pretty intensive subsistence use of injured resources study in the oil spill affected area which probably none of you ever saw, but we did fund that, and that information is available and I think would go a long ways towards to satisfying what you're looking for in this study. That study was done and finished about six or nine months ago, maybe a year at the outside, probably less than that. Pete Peterson (ph) was the principal person putting the study together for the contractor that did the work for us, so there's a lot of information that's been done at this end already. So, I don't disagree with the project, I don't think I heard Deborah Williams disagreeing with the project either, but the sensitivity to possible litigation is our concern at this

point.

MR. TILLERY: What do you mean, the litigation by whom?

MR. WOLFE: Third parties, the users.

MR. TILLERY: Mr. Chairman, maybe (inaudible) what I said about Judge Holland.

MR. TILLERY: I understand what Judge Holland said, but there are different opinions on Judge Holland's actual opinion. He said one thing one time; he said another thing in another -- in (inaudible) summary. So, our attorneys are saying that it's not clear exactly what he said, and that they are trying to clarify what he said.

MR. TILLERY: As I suggested, perhaps this is one of the times when we might want to ask him to clarify.

MR. WOLFE: Our role as a Trustee Council in dealing with -- it maybe, and I would ask that you work with Maria and Barry Roth (ph) to -- Barry is probably more up on it than Maria at this point in time, but I don't think we want to stop this project at this point in time. I think we need to be sensitive to the attitude. We're really talking about -- we have first responsibility for the resources not for those other factors, and I understand what you're saying, but the uses are important, or the services side of it are important and we recognize that. Okay, any further discussion on this issue? Mr. Pennoyer?

MR. PENNOYER: Mr. Chairman, I don't disagree with the concept either. I mean, we had a lot of subsistence-oriented projects in the past for resources on the ground, including the

mariculture project which some of us liked but which maybe didn't fit some of the concepts of what some thought the settlement monies should be spent on, and so I think that issue is out in front of us, and I guess this project would -- surface all sorts of projects, the mariculture project might surface out of this (inaudible) settlement monies and other projects might be questioned. I guess my question is -- I'm going to vote for this project, but in terms of how projects proceed through our review process, has this project been given full public and peer review type of aspect that we've asked of the other projects?

UNIDENTIFIED VOICE: Yes.

MR. PENNOYER: I suspect a lot of this has been part of other proposals which have come to us over the last year as subsistence, and I'm not clear if that takes care of it or not. Mr. Ayers, do you view this as having an adequate review for us to vote on it at this time?

MR. AYERS: Mr. Chairman, Mr. Pennoyer, in honesty I would say no. That in terms of what I knowing you to believe adequate review is, I do not believe that this project description as its outlined has had adequate review. I think that given guidance, I think the public has looked at the subsistence issue in terms of projects -- there was a project, a subsistence project that went out during the '94 work plan -- there were actually two that talked about subsistence, I can't remember, and they were approved and there was discussion. With regard to -- and I think this is the result of all that discussion in January 31st -- that

it is an outcropping of -- there were ten -- there was a lot of discussion about subsistence about insufficient effort in the area of subsistence and what we need to do, but I -- what I would recommend is that we work with the department and the federal and state representatives and to (inaudible) the expanded projects of planning and coordination, and that what you do is you authorize this project to go forward with the understanding that I'm to work with the state and federal attorneys in developing a project description, but that the effort to develop the coordinated with regard to subsistence and to come back with recommendations for you and the state Trustees with regard to the use of the five million dollars, and not get bogged in with that language that's in that particular project description. So, you authorize the general concept of the project and the funding, as outlined with the various agencies, with the understanding that we would develop the project description. That is in fact something similar to what you do. You require a detailed project description, and after you authorize the project before it goes too much further, it gets a detailed project description developed. I would suggest that's what we're talking about here and not get bogged down with that language in the long (inaudible).

MS. WILLIAMS: I would concur with that approach.

MR. PENNOYER: Mr. Chairman, if we do that though, in your view has (inaudible) adequate public input to this type of a program to meet this approach. Essentially the project description has occurred and the public has in fact (inaudible) what is

necessary and so forth. I'd like to at least have that down on the record.

MR. AYERS: Yes, Mr. Chairman, Mr. Pennoyer, for the record, it is clear to me that there's been more than adequate -- if there is such a thing -- but there is adequate public review and comment and participation with regard to subsistence and the need to have a coordinate effort in planning for subsistence restoration effort. (Pause) And this project falls within those comments and the public participation and the public encouragement and review in this project is consistent with what we've heard from the communities and the public regarding the need for a coordinated effort of subsistence.

MR. PENNOYER: Mr. Chairman.

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: And there is a detailed project budget here. Is this the (inaudible) -- is this considered to be a detailed study plan or is this a (inaudible -- extraneous noise).

MR. AYERS: No.

MR. PENNOYER: There's a fair amount of detail.

MR. AYERS: There's a fair amount of detail in that project budget, and there will be a detailed project description, but that budget would stay essentially as it is, and I think that the people and the activity that is going to go forward to work with the community is going to go forward. It's not going to expand the budget.

MR. PENNOYER: This is -- this is the review of the

detailed study plan basically at this meeting. Would you (inaudible -- extraneous noise) briefly characterize what the cost is for, specifically what ninety-three thousand -- whatever -- ninety thousand dollars is going for for this project.

MR. AYERS: It's three different areas. I don't have that project detail in front of me, but it's approximately eight thousand dollars for the teacher -- do you have it? (Aside comments) It's approximately twenty-four thousand -- yeah -- the personnel sixty-three thousand nine hundred twenty-five dollars -- you have that page.

MR. PENNOYER: (Inaudible)

MR. AYERS: (Inaudible -- aside comments)

DR. MONTAGUE: (Inaudible -- out of microphone range) The Department of Fish and Game is not (inaudible) -- staff wouldn't be working -- would be working part-time or not.

MR. WOLFE: Mr. Montague, these are people who wouldn't normally be out there on some of the other projects, is what I understand you're saying. They are specifically for this job or explain --?

DR. MONTAGUE: They're already on staff part-time, and this is just utilizing their time. We are not taking on new hires.

MR. WOLFE: Mr. Pennoyer.

MR. WOLFE: The balance of it is the (inaudible).

(Pause) Absent the Chief Scientist review (inaudible) --

(Pause)

MS. MCCAMMON: Mr. Chairman, this is Molly McCammon. If

I could just amplify briefly, I think the main goal of this project is to work -- is to do real intensive public outreach by this project, working closely by the state and federal attorneys so that we don't end up with a wish list of projects that are not really cost permissible to fund but that we end up with a number of projects that both the state and federal attorneys agree are permissible under the terms of the settlement, and if they aren't legally permissible, that might be permissible under the state criminal settlement, and the idea is to work real closely with the attorneys, work closely with the Trustee Council staff, work closely with Fish and Game, Department of the Interior, Department of Agriculture, and all the affected communities to develop this -- a comprehensive subsistence restoration -- effort, basically.

MS. WILLIAMS: Mr. Chairman, I agree with what Ms. McCammon just said and, on behalf of the Department of the Interior, we of course would like that Ms. McCammon and Mr. Ayers would work closely with the Barry Roth(ph), and in agreement with what Mr. Tillery said, if need be, if there simply cannot be a consensus reached among the attorneys, we would not oppose clarification by Judge Holland of this issue.

MR. WOLFE: Okay, any other pertinent questions? Okay, I guess I have a question. Is this time critical that we need to make a decision today, and I hear some of you saying that it is. If that's the case, when would you need the requested funding for this project?

MR. AYERS: The reason that it needs to go forward

today, Mr. Chairman, is that in order for us to be prepared for the '95 work plan, we need to start working with the communities as soon as possible in developing a subsistence comprehensive plan as Molly described it, so those efforts can be described in such a way that we can decide which part of that is appropriate for the civil trust, which may be more appropriate for the state criminal settlement funds, so that's the reason we brought it before you today without having really worked through some of the more detailed legal questions that are involved in the project. We need to get it into the field this spring, and we're working with the communities to get the pamphlet together so we can come back to you with the '95 work plan, and also to get the state to move forward with the funds that they've already received.

MR. WOLFE: The -- one further question, I would -- right now we fund each agency, each Trustee agency, to put together project proposals to bring forward to the Trustee Council for review, so this is not out of line with what we've already funded for the agencies' to some degree, other than maybe magnitude here. Can you comment on that?

MR. AYERS: I guess --

MR. WOLFE: I want this project to move forward. I wondering if we could defer it a little bit and find out more about what is in the Ag-Interior subsistence study that we paid for and that just got finished a little while ago dealt with subsistence use of injured resources and see if we could discover something a lot more comprehensive by way of a project proposal, but at the

same time clarify some of the legal questions? Mr. Meacham?

MR. MEACHAM: I wonder if we could approve it for funding at this point but as a requirement indicate that the study discuss -- consider the development of more thorough (inaudible). If your report is out and available, (inaudible) to be done.

MR. WOLFE: It is. It's not something that we made publicly available to everybody, but the report is completed. It's (inaudible) how to proceed with this project -- how do you want to proceed?

MR. PENNOYER: Mr. Chairman.

MR. WOLFE: Mr. Pennoyer.

MR. PENNOYER: It's not a motion I have, but I was just going to state my concerns, and that it's not legal, technically. That has to be part of any proposal that comes before us, but there is a question of who considers (inaudible) -- what's your expert body that tells you what's the right amount of money to do this particular job, review the projects objectively, both public and household review. This is not in way dissimilar from the project for ecosystem research, for example, adaptive management schedule and Chief Scientist and so forth. I don't know if we've got a chief anything in this. People proposing it is the Subsistence Division of the Department of Fish and Game (inaudible) -- in doing this type of thing, and I'm looking for somebody to tell me that that has been done and that this is the key type of study that hiring people at seventy-five hundred dollars a month is appropriate for doing this project design and that these are the

appropriate expenditures, and you know -- if any of these project proposals, for example, on the ecosystem project (inaudible) project for Prince William Sound, I didn't try to delve into the specifics of how you measure (inaudible) populations around the annual cycle in Prince William Sound -- (inaudible) -- but I have assurances that people and peer reviewers who do understand that had reviewed it and have made their recommendations. I have sort of a general recommendation here, but I don't know the specifics of this study related to work we've already done or anything else for this study. So, I think this is the type of plan we need -- (inaudible) -- I guess a motion to take into account what's been done before, and for the Executive Director to work with the project proposers, taking that into account, and then to approve a detailed project not to exceed the amount that we've indicated, I guess I so move.

UNIDENTIFIED VOICE: Second.

MR. WOLFE: Motion made to proceed with the project essentially as proposed.

MR. BRODERSON: Mr. Chairman?

MR. WOLFE: Mr. Broderon.

MR. BRODERSON: Let's make it clear for the record, what I think I heard was that we are to proceed with the description with the caveat that the Executive Director work with the people proposing the project, utilize the recently completed federal study, and based upon that study either scale back the cost of this project or appropriately (inaudible -- out of range of microphone

and extraneous noise).

MR. PENNOYER: The caveat also, Mr. Chairman, is that they, during that process, take care of the legal question --

MS. WILLIAMS: Yes.

MR. PENNOYER: -- in whatever we are doing here doesn't -- the folks understanding the legal requirements (inaudible) -- some additional step, I don't know -- (inaudible) back on the Executive Director, absent a science review board or something close to this type of thing, and I think that's what we have to do.

We agree (inaudible) -- get a certain plan back to us. We approve it to continue with those qualifications, but at this stage, I don't know exactly what it is that's required -- (Inaudible -- extraneous noise) -- starting outline, the caveats that were brought up, going back to the Executive Director working with the appropriate legal (inaudible) before the final -- (inaudible).

MR. BRODERSON: Mr. Chairman, is the Executive Director comfortable (inaudible -- extraneous noise) with approval level of this project (inaudible -- simultaneous comments).

MR. AYERS: Yes. Mr. Chairman, yes. That's consistent with our -- and I think that it does require more detailed project description that includes the clarifications that you mentioned. It also includes what Jerome has mentioned that there has been this other federal study, and if that federal study is available, and it's not mentioned in this particular -- it's not mentioned to date towards the program coordinating -- so to answer your questions, Mr. Chairman, Mr. Broderon, is that I'm

comfortable and actually think that's good guidance with regard to how to proceed with this project. In the event that we run into a -- this particular question with regard to legal questions -- is it -- I was going to wait until this was over to clarify it, but I might as well do it during the motion -- is it this, the Trustees' desire at this point to actually pursue that question with Judge Holland, if it becomes necessary and the state, in discussion between the state and federal Trustees?

MS. WILLIAMS: Mr. Chairman, that is my desire.

(Inaudible aside comments)

MR. WOLFE: There's additional clarification though, I would expect that if it's going to be elevated, for it to come back to the Trustee Council for discussion before we -- and I think we almost have to have that.

MR. AYERS: So, Mr. Chairman, with that understanding then, if we do proceed -- we will proceed, we'll go -- we'll work with the proposers, certainly the project coordinator -- actually, the Department of Fish & Game, as well as (inaudible) -- and with regard to the legal requirements, after talking to the federal and state attorneys, get back to you what the status is prior to actually having effort proposed to present to Judge Holland -- the question goes to Judge Holland -- come back to you for (inaudible).

MS. WILLIAMS: Mr. Chairman, I call for the question.

MR. WOLFE: The question's been called. Any objection to the motion? There are no objections, the motion carries.

MR. AYERS: Mr. Chairman, the next project is 94427,

the harlequin duck boat surveys and methodology testing costs. This is the first project I ever had discussion about and continue to -- and boat surveys continue to be a discussion. The items of housecleaning, two things. First, the actual cost is twenty point four in order to be consistent with the detailed project budget -- twenty point four thousand -- thousand dollars. (Aside comments) The purpose of this particular project, and let me say, Mr. Chairman, that in the course of the last thirty days, I have had at least twenty hours of discussions regarding the harlequin duck project and study, and I am comfortable in response to the question, do I think this has been adequately reviewed? The answer is unequivocally yes. This is exactly what ought to happen with this project. I sat with a variety of the scientists at the Department of Fish and Game, I've talked with the Chief Scientist and others about this, I've talked to other bird experts about this particular issue, and had a teleconference three weeks -- just before the forum -- on this particular project, and in fact this project falls consistently within the adaptive management approach, which is what they propose to do is go (inaudible) final to date all the studies that they've done regarding harlequin ducks, including the surveys, what they think, and develop a methodology of how to proceed. Now, that's what was explained to me, that was exactly what was going to occur from Mr. Rosie (ph) and Mr. Wayne Raglan (ph), that they look, bring closure to those studies, and develop a methodology with regard to how they are going to proceed, what was necessary in terms of harlequin duck future monitoring and

research. This particular project is supported by the Chief Scientist who recommends the study await the results of the FY92 and 93 field reports, which have not been finalized. Now, it is my understanding that there is a commitment that those will be finalized, that --

DR. MONTAGUE: (Inaudible -- out of microphone range)

MR. AYERS: Yes. We are told it will be get done is the point, Mr. Chairman, and nothing will happen until those reports are completed, and that in fact the proposers, in this particular case, developed the methodology of classifying the agents composition in the region. They are going to proceed this year with this particular project with a minimal survey to just maintain this year's survey. They will go back in FY95, having completed the finalized report -- having finalized the '92-'93 field reports -- and this '94 effort, including the development of a methodology that they will then incorporate into our long-term monitoring effort for harlequin ducks. This does not include the taking in the legal -- in the legal -- lethal sense of harlequin ducks. (Pause) Our recommendation again is twenty point four.

MR. WOLFE: Do we have a motion?

MR. PENNOYER: Move we approve at twenty point four thousand dollars for the harlequin duck boat survey and methodology testing (inaudible -- extraneous noise) designs for future (inaudible) next year.

UNIDENTIFIED VOICE: Second.

MR. WOLFE: Discussion? Any objection? Hearing no

objection, the project is approved.

(Aside comments)

MR. WOLFE: Okay. Mr. Ayers?

MR. AYERS: Yes, Mr. Chairman -- sorry, Mr. Chairman.

MR. WOLFE: Mr. Tillery?

MR. TILLERY: Now, that we have approved a few more hundred dollars worth of funding, the status of the court request comes up. The issue is whether we should go ahead with the court request that you've all signed for the third time, or whether we should do a new one, and I think it would have to do with whether -- timing. We've got -- before we put up the (inaudible) signs, we get a grasp of the papers -- the Department of Justice is looking at it now -- we hope to be able to get out with this tomorrow or the next day. If we wait and do a new court request with the new resolutions, we have to find everybody. On the other hand, going to back to Judge Holland with the two hundred thousand dollar court request is not going to be looked upon favorably. If we don't redo this current one, I would prefer to wait and add these in when we go in for the twelve million from the reserve fund when we get that resolved, hopefully within a week or two. That's the choice I see.

MR. WOLFE: Any comments on that end of it? I was under the impression that we needed sort of a hand with the court request to get funding available as soon as possible, so we probably do not want to delay the one that's making its way through the process right now. So, I guess it would be prudent for us to wait until we combine this with the twelve million -- do we want to

vote on that, or do we just want to --?

MR. MEACHAM: This is just a question. Is there reasonably good probability that this can be taken care of in the next thirty days.

UNIDENTIFIED VOICE: Yes.

MR. MEACHAM: I think that's a good option.

MR. WOLFE: Can we proceed along that line? Okay. Do we need a motion to.

(Simultaneous comments)

MR. WOLFE: That was my point. Mr. Ayers?

MR. AYERS: I know people are anxious to leave. I wanted to clarify three things. One, that in fact we don't anticipate a meeting now until probably June, depending on what we're able to accomplish with getting out the draft FY95 work plan and our effort for implementation with the science -- the implementation structure and the completion of a draft EIS -- is being put together -- but we anticipate probably a June meeting. The issue of habitat package is subject to the appraisal issue and the questions that Commissioner Sandor raised with regard to habitat, that debate, that issue will come back to you once we've got the appraisal and we're involved in that situation, that will come back to you. I don't anticipate that's going to be until late summer. With regard to your review of the DEIS and the FY95 work plan, we're hoping that will fall in June, but it very well could fall between June and August, in which case it would be a July meeting. So, I just put that before you so that you're aware that

at this point the next time I officially meet with you, outside a teleconference, an official meeting, would probably be June, and then it depends on either the EIS, FY95 work plan, and how far we are along, and the effort on acquisition and any problems that we may run into there, that would depend on whether it was July or August before we get that together.

MR. PENNOYER: We await your command -- (inaudible)

MR. WOLFE: Mr. Broderon?

MR. BRODERSON: Point of clarification there, you're not apparently planning then to bring back the 95 work plan to the Trustee Council before it goes out, including the draft (inaudible -- extraneous noise)

MR. AYERS: I don't know when that will be available, and if the '95 work plan -- if you look at the time-line of the '95 work plan -- workshop of priorities, etcetera, public solicitation of FY95 projects, development of draft work plan and budget happens on June 1st, it's not clear to me that there would be an actual package to bring before the Trustee members, and I don't see that happening in the -- before the end of the next forty-five days. There will be a meeting in June, but I'm guessing that it will be June before we actually -- that's forty-five days, and I can't imagine what package is together for the Trustee Council --

MR. BRODERSON: (Inaudible)

MR. AYERS: -- but the answer is, yes, I don't anticipate meeting in the next forty-five days, unless, you know, something unforeseen situation develops -- there's certainly been

a number of them today. I do intend to proceed as I spoke during the habitat acquisition with sellers and interest groups -- if we're contacted, if they're interested, we intend to proceed with that discussion, and basically, we will get back to you on an individual basis as that proceeds.

MR. WOLFE: Any further business? I think Mr. Pennoyer made a motion to adjourn.

MR. PENNOYER: I move to adjourn.

UNIDENTIFIED VOICE: Second.

MR. WOLFE: Objection? Motion made to adjourn, any objection?

UNIDENTIFIED VOICE: I don't care. (Laughter)

MR. WOLFE: We are adjourned.

(Off Record at 4:30 p.m.)

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CERTIFICATE

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 102 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council teleconference meeting taken electronically by me on the 11th day of April, 1994, commencing at the hour of 1:00 p.m., at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 18th day of April, 1994.

\_\_\_\_\_  
Linda J. Durr, Certified PLS  
Notary Public for Alaska  
My commission expires: 10/19/97