

**EXXON VALDEZ OIL SPILL SETTLEMENT  
TRUSTEE COUNCIL**

RESTORATION OFFICE  
Simpson Building  
645 G Street  
Anchorage, Alaska

Trustee Council Teleconference Meeting

**VOLUME IV**  
(Continuation of April 28, 1994 teleconference)  
(Pages 56 through 140, inclusive)

May 31 1994  
1:00 p.m.

**TRUSTEE COUNCIL MEMBERS in attendance:**

State of Alaska

**MR. CRAIG TILLERY**  
Trustee Representative for  
**BRUCE BOTELHO**, Attorney  
General, Alaska Department of  
Law

State of Alaska Department  
of Environmental Conservation

**MR. JOHN SANDOR**, Commissioner,  
and **MR. MARK BRODERSON**,  
Alternate

United States Department  
of the Interior

**MS. DEBORAH WILLIAMS**, Trustee  
Representative for **GEORGE  
FRAMPTON**, Assistant  
Secretary

State Department of Fish  
and Game

**MR. CARL ROSIER**  
Commissioner

United States Department of  
Agriculture - Forest Service

**MR. JAMES WOLFE**, Director,  
Engrg & Aviation Mgmt

United States Department of  
Commerce - NOAA

**MR. STEVE PENNOYER**  
Director, Alaska Region,  
National Marine Fisheries  
Service

**TRUSTEE COUNCIL STAFF**

MR. JIM AYERS	Executive Director, Trustees Council
MS. MOLLY MCCAMMON	Director of Operations
MS. L.J. EVANS	Public Information Officer
MR. ERIC MYERS	Project Coordinator
MS. REBECCA WILLIAMS	Executive Secretary

**OTHERS IN ATTENDANCE in Anchorage/Juneau/via teleconference**

BARRY ROTH, U.S. Department of Justice  
KIM SUNDBERG  
DR. DAVE GIBBONS  
DR. JOE SULLIVAN

P R O C E E D I N G S

(Recorder's Note: The teleconference quality during this meeting was poor during some portions of the proceedings)

(On Record: 1:10 p.m.)

MR. PENNOYER: Okay, we'll go ahead and get started then. This is a meeting of the Exxon Valdez Oil Spill Trustee Council. We have here myself, I'm Steve Pennoyer from the Department of Commerce, National Marine Fisheries Services -- NOAA; James Wolfe from the Department of Agriculture -- Forest Service; we have Deborah Williams from the Department of Interior; Carl Rosier, Commissioner of the Alaska Department of Fish and Game; Craig Tillery, representing the Attorney General's Office, State of Alaska; and John Sandor, Commissioner of Alaska Department of Environmental Conservation. I have been asked to announce that we have a recorder on this call and remind you to speak clearly and slowly -- I guess that was meant for me -- because they're going to be transcribing it, no shuffling of paper next to the microphone, and those of us who aren't immediately identifiable by our voices, we should identify ourselves. This is a re-enactment of one of the longest running Trustee Council meetings ever. We recessed the last time, so I guess I'm automatically nominated to be chairman of this august body for this meeting. Hopefully, this meeting we will adjourn and start afresh next time. We had an agenda we had sent

out to us, and on the most current copy it's got basically four items on it, and -- approval of the agenda is the discussion we're going to now.

MS. WILLIAMS: I move to approve.

MR. PENNOYER: Does anybody have any additions -- is there a second to that --

UNIDENTIFIED VOICE: Yeah.

MR. PENNOYER: Is there any discussion, does anybody have additions to that agenda?

MR. SANDOR: Excuse me, what is the fourth item?

MR. PENNOYER: The fourth item is something called "2:30 p.m. executive session on habitat protection and acquisition strategies."

MR. SANDOR: I guess (inaudible -- extraneous noise)

(Aside comments)

MR. PENNOYER: I guess the whole point of this agenda, I am going to announce the fact we will be having an executive session on habitat protection and acquisition strategies at about 2:30, depending on the progress of our new discussions, and after that is over, of course, we will reconvene and summarize that before we call it a day. Are there any other additions? I have one addition. I have a resolution here for Michael Barton. I'd like to get that in under the -- maybe right off the bat, if we can. Are there any other additions? (Pause) Is there any objection to the agenda as shown? (Pause) -- No shuffling of papers -- Okay, everybody has gotten an agenda. Now, have you had

a chance to look at it -- does anybody have any further comments?

UNIDENTIFIED VOICE: Call for the question.

MR. PENNOYER: Okay. Is there any objection to the

agenda, as outlined, with one modification as stated. (Pause -- no audible objection) Maybe, we could do that right off the bat then.

I have here the resolution of appreciation for Michael A. Barton, recognizing his outstanding leadership and dedication as Trustee Council member for the U.S. Department of Agriculture in the Exxon Valdez Oil Spill Trustee Council. Perhaps, I'll very briefly read it, probably too fast for the recorder, but I'll pass it -- we'll have it in writing. "The Exxon Valdez Oil Spill Trustees Council expresses its profound appreciation to Michael Barton for his extraordinary leadership and stewardship as the Trustee Council member, U.S. Department of Agriculture in the Exxon Valdez Oil Spill Trustee Council. At the time of the spill, during response and damage assessment, as well as subsequent planning and implementation, and administration activities Michael Barton always brought exceptional judgment and insight to the process of formulating policy for the restoration of the injured natural resources and the services they provide. Michael Barton's dedication to service and his composure under pressure contributed significantly to the Trustee Council's design of a balanced approach to restoration of the oil spill affected area. The Trustee Council unanimously commends Michael Barton for his professional friendship and wish Mr. Barton well in future endeavors.

MR. SANDOR: Move adoption.

MS. WILLIAMS: Second.

UNIDENTIFIED VOICE: Second (simultaneously with Ms.

Williams).

MR. PENNOYER: Is there any objection? (No audible objection). I will then pass this around for signature during the course of the meeting.

So the next item on the agenda -- I think we've done the order of the day, I believe, by reading through the agenda and schedule -- the next item is approval of meeting notes from April 11th and 28th and May 2nd and 3rd, and I believe those are in the notebook that was passed out, that we -- do we want to do that now or does anybody wish to take a few more minutes to look at them during the course of the meeting and perhaps come back and approve them toward the end? Is there any preference? (Pause -- no response) Do I have your approval then?

UNIDENTIFIED VOICE: Move to approve.

UNIDENTIFIED VOICE: Second.

MR. PENNOYER: Is there any objection to their approval? (Pause -- no audible objection) The meeting notes of the dates read are therefore approved. I think then the next item is the Executive Director's report. Jim, that's you.

MR. AYERS: Thank you, Mr. Chairman, the purpose of today's meeting, Council Members and members of the public, is to apprise the Council, at your request, of all of the activities that are currently being undertaken to implement your direction of a

comprehensive restoration program, including the policy directions that have been given over the course of the last one hundred and twenty days in that some way modify that course or give more

specific direction. On the wall behind me and as was circulated at the last meeting -- we tried to put it in an overhead, and that didn't work, and then we went to this version which also is a (inaudible) visual -- (inaudible -- simultaneous talking). The individual copies of this that are being circulated are in essence -- there are eleven major efforts and a multitude of tasks within those efforts being undertaken today. Those are the items that we will be discussing: the restoration plan, including the EIS process; the implementation management structure, including the development of a science approach to implement the ecosystem approach at your direction; the FY95 work plan process that has a variety of changes to it, subject to your direction; there is the update on work projects, including the '94 work plan, which is referred to in our report as project status; there is the Institute of Marine Science, which is moving forward, we'll be discussing today; public information and communication, specific items at your direction; as well as habitat protection issue which we will air out in general as an overview to a closed session and specific negotiation discussions and the strategies during executive session; there's a financial and administration report that is also ongoing that we will cover, and a discussion of the restoration reserve is a part of that administration and financial report. The

majority of the items on the agenda are a part of that critical path analysis, except for the two items under the --. Under "new business" there are two items that I believe require Council action, one way or the other, those are the negotiations with

regard to two sellers who are recently contacted us. I do not want to describe them as willing sellers, but they are interested in discussing such with us, that's Tatitlek and Chugach Corporation. There is also the subject of conversation that I would like for you to at least consider and that is what about others that may contact us with regard to authorization to proceed at least with looking at the value and ranking that and bringing that back before you. The other items under "new business" is the transfer of some twenty thousand dollars from project 94165, which was a herring genetic stock identification project, which is being taken care of, to a project -- which is 94427, which is a harlequin duck survey and methodology testing which we will discuss, and it is my understanding that Joe Sullivan is on line in Anchorage to discuss that issue. At 2:30 then, we will go into executive session. Back to the issue of those items which are before you -- and I do want to -- just one of the items that will be covered today are part of the overall restoration plan implementation which you have directed us to move forward on. This graphic was first discussed at our January 31st meeting and shows that your direction (inaudible) a balanced, comprehensive approach to restoration, including that area which we now know, based on many of our monitoring and research projects will go on beyond the year 2000, which is the

creation of a restoration reserve. There are, obviously, three major areas: general restoration, research and monitoring, and habitat protection. (Inaudible) the restoration reserve, which is something we will discuss under the financial report. The basic

organization chart between -- the staff will be presenting the projects that are underway now, if you can see this, this is essentially the organizational chart that we have adopted that you had authorized in November. This particular organizational chart, with some modification, and I will be requesting authorization to modify the organizational chart, subject to the needs that we are now aware of, at our next meeting, which will be in August. The next -- if you go to it -- the next chart actually shows the four major policy directions that you've given with regard to planning and management, that we should -- to develop an ecosystem approach, that we should evolve a synthesis of integration of all of the research, including the past research that's been going on, that there should be an adaptive management approach to this process, and that there should be an explicit public involvement component.

The adaptive management -- I think that's the next chart, I'm not sure -- (aside comments). We now know that that direction -- we've had five different work sessions, three major work sessions with a variety of scientists and staff. This is in your packet, it's an organizational chart, somewhere in the back, which I will be proposing in August for adoption for the '95 work plan. This is the chart that we distributed, I guess, the first time in April after discussions with the scientists, but basically build the

organizational structure on an ecosystem approach. It divides it into nearshore, the upland or the pelagic system, including the various human uses, it establishes work groups for an ecosystem approach of fish, birds, mammals, nearshore organisms and the

archaeology. Those groups approaching the issue of ecosystem management -- the issue that is going to take some conversation we'll be discussing over the next two weeks is a science review board. A science review board will work with the Chief Scientist, will be a small board of three to five members, they will work with the Chief Scientist in integrating and synthesizing the information to assure that the gaps are being met and the (inaudible) are being identified from an ecosystem point of view. They will work with the various groups, the fish, the birds, mammals, nearshore, archaeological work groups to ensure that there is an ecosystem approach, not just singular, independent specie projects. The science review board will also work to identify gaps in information that need to be filled or even propose new hypotheses that ought to be looked in the event of continuing declines in specific injured resources. The science review board will also work with the Executive Director and the Trustee Council in reviewing proposals. It does supplant the peer reviewers. There will still be individual, specific peer reviews or specific talents or disciplines. The science review board would bring the synthesizing to all of the various data (inaudible) projects and monitoring into a coordinated effort with recommendations on how to move forward.

MR. PENNOYER: Excuse me, Jim, would the science review board have anything to do with the peer review process though?

They coordinate it instead of the Chief Scientist trying to do it by himself?

MR. AYERS: Yes. They would work -- and that is

exactly the conversation that's been going on with the scientists, and I will circulate a proposal as soon as we get it together on the major function of the science review board. They would work with these various coordinating committees in identifying what we know today. They would also work with those groups to identify gaps, what might be other problems. Then they would also propose - - for example, there may not be a marine mammal expert on the science review board, and in the event, let's say, there's a harbor seal issue, they would have those projects sent out for the peer review after discussion of what do we think the problem is, let's say, with harbor seals, what might be a project, those projects that would come in having to do with harbor seals, they would sent out to a peer reviewer, would be a marine mammal, hopefully a harbor seal expert. The science review board, the effort there would be to reinforce and bring additional synthesizing discipline to our science program. The only item that was of major dissention -- leave it up there for just a second, Molly, because we'll come back to it when you talk about public input -- the other item is that we have consistently, at every meeting over the last two months of the scientists, have invited public members, including members of the PAG or representatives of the PAG. And so, we've also, and they have participated in the development of this

particular organizational chart which is showing that they're not just a separate entity, but they are part of the actual planning and review of information. They, in addition, as through our subsistence project that you authorized previously, the communities

would also work and have a representative or public members who work in each of the respective work groups: fish, birds, mammals, nearshore, and archaeology. The adaptive management chart is the next one up there. This is the adaptive management chart that you saw a first draft of on April 7th that came out of the science work group, an effort of a variety of scientists, and when I say scientists, that includes some of our independent scientists, as well as our State scientists. We brought in the various PIs, as well as Dr. Spies and a few of his peer reviewers. The adaptive management process is simply that. It is taking the development of project ideas, using that for the formation of a draft annual work plan, and that out for public review, and then before the Trustee Council for authorization, then, to the extent possible, and we're still working on this part of it, how to do RFPs and actually DPDs.

They would -- we would develop RFPs and go out with those RFPs where appropriate, we would review a proposal and DPDs -- this will be the SRB with the Chief Scientist. They will review proposals and DPDs, subject to whatever that respective authorization was, to the Council. The project would get implemented, there would be interim reports, annually we would continue to do -- we would formalize our status report and have an annual workshop to look at what is the status, what did we find out in the previous year, they

would review and revise strategies, but within that, again, would be the SRB leading a synthesizing and review of the information. This would also be conducted with the other respective work groups: birds, fish, etc. From that information we would make a decision

about what we thought we needed to do for the next or the following or the subsequent year.

MR. TILLERY: Your -- your cycle here after developing annual work plans, does it contemplate something in there about it coming to the Trustee Council before it goes out for public review?

MR. AYERS: Yes.

MR. TILLERY: Is that part of developing an annual ...

MR. AYERS: Yes, and actually, we talked about that several times, and it's -- this -- we had that discussion, and each time we had the discussion, it was pointed out that that is essentially how it has happened in the past, that it comes back to the Council, and the Council actually has the presentation about that particular -- about that particular work plan for each proposal, although some of that should be screened out -- there are some that are screened out -- but actually does come back to the Trustee Council for authorization. The '95 schedule is where we're talking about the work plan itself, those proposals, has got to get out for some sort of public review prior to the Council meeting in October. The question of the Council actually taking action on a draft work plan before it's circulated, is an issue that we're going to discuss when we get to Molly's point, because the '95 is a problem. Frankly, there's a problem in the next ninety days of how to get proposals in and get it back to the Council and still meet a

forty-five -- a thirty to forty-five days -- a thirty day public review process. So, it's a problem in '95, and we're going to talk about that specific issue when we get to the '95 work plan.

Okay, the next chart is one -- and I don't know if we have -- do we have copies of that made?

UNIDENTIFIED VOICE: (Inaudible response)

MR. AYERS: We'll get copies of that made if we don't have them. (Aside) Would you have Mary make copies of that (Aside comments). The Trustee Council is currently engaged in a variety of activities that generate information and input. What this proposal is is that we need to develop and integrated process for information management. On the right hand side, this particular chart talks about the research and monitoring. On the other side, the Council has public input consistently coming in. We also have, and we have been seeking, cultural and historical information from a variety of sources from existing oil spill baseline data. We have completed restoration damage assessment, as well as the natural history of the oil spill area, that is being put together. Currently, that information flows in a variety of parallel tracks, but it is not organized. OSPIC is doing the best it can, but it's at a process that was originally established by Preston Thorgrimson, and it's not necessary -- necessarily lends itself to getting that information into a usable format. What this proposal is in a nutshell is that we will develop a system for integrating that information. It would then be available to OSPIC, -- and then on the left hand side that says educational and

informational coordinated system. What we're talking about there is point-and-click access to our information -- our basic information: what's the natural history of the spill area, what do

we know about the spill, what do we know generally about all the injured resources, what is their current status; the basic questions the public is asking us now. The problem we have now is that we mail out bundles of information, including that which is submitted by what is ever on the street available from private donations, so to speak, of information. We mail it out in hard copy, bundled, instead of having an integrated, easy access to the information that people are requested. And, again, the easiest way to look at it is point-and-click access to the current status of the injured species. On the other side of that chart is an information system that would be available for managers and scientists. Where is all this information that we have gathered over the last five years? Currently, it depends which specific piece of information you're looking for whether or not you can find it. For example, much of the data is still residing within agencies, where it probably should reside as far as detailed data.

However, we ought to at least be able to easily find out from a menu where is that information. We ought, again, be able to have easy to use, user-friendly information about the injured resources and where the detailed information is, and you ought to be able to find that in a matter of minutes. You cannot currently do that, and we are spending close to a half million dollars a year on an

information system. It needs to be built around a system that is user friendly, public accessible, as well as bibliography and references available to science and managers.

MR. TILLERY: Jim, on looking at what you have go into

this system, I think it's maybe a philosophical question about what they want to spend their money or how complete a repository of oil spill information you want it to be, but you don't include response information, stuff like shoreline oiling mess and those kinds of things. Is it intended that response information be under OSPIC, or is that going to stay for ever outside in state or federal archives, or are you -- do you anticipate that OSPIC will be the central place anybody who wants to know about the oil spill goes to.

MR. AYERS: Mr. Chairman, Mr. Tillery, based on everything I've heard from the public as well as some scientists, I think that there ought to be a central location for information regarding the oil spill. I think the shoreline oiling information ought to be at least referenced and at least easily found through this window. So, the answer to your question is I think that information ought to be easily identified under the existing oil spill area baseline info'. The oiling of shorelines, it seems to me, you ought to be able to go under "menu," look at area, find Green Island or if you want to know the oiling of that island, you would be able to -- it would have a reference of exactly where you can go and find that information. I don't know if that information needs to be or is in archives today. But my view is, you ought to be able to find that easily. The question of whether or not the

hard copy should be located in this OSPIC, I don't know. It seems to me, it would be, but if it's easily accessible and it's already in the State archives, perhaps that would satisfy, but it seems to

me like it could be in one location.

MR. WOLFE: Mr. Chairman? I have a question, Jim, and it relates primarily to -- at one point I thought we were looking at opportunities to move the Oil Spill Information Center into a more public forum, rather than just have the Trustee Council continue to manage that. Does this accommodate that other -- or is it leading us to that at some point?

MR. AYERS: We talked to both -- Mr. Chairman, Mr. Wolfe -- we talked with the University system, we talked with the independent library association, we talked with the BLM, who has the library in Anchorage. They're not necessarily interested at this point. Not -- not -- what they want is to know if we would endow, so to speak, a library staff. What I think is we need to build what it is we want to see and then make a decision about whether or not the Council -- and this is not before you as a proposal today, but just letting you know that we're researching this. It would come up as a proposed project, once we work out some of those details. But the specific answer to your question is, so far no one's interested. They're only interested in us endowing, so to speak, a -- some sort of project. I guess what we want to know is, first, how the Council would like to see this project work, and then we'll go out with an RFP and see if there's someone interested, and that would be the answer, or we would

actually just simply continue to have it in our facility.

MR. PENNOYER: Jim, are the projects all required to produce interim and final reports? And in looking through your

list here, I notice that not very many of them (inaudible) that task, but still there's going to be a whole body of those final reports that are either final for specific time period or maybe even final depending on what area of work. What are we going to that? I mean, those are all presented through our Chief Scientist, our science review board, reviewed by peers and all that stuff, and some of them end up in symposia things -- (inaudible -- poor teleconference quality) -- work is done, but is it produced according to some standard that we put out? I'm not sure they're all editorialized in exactly the same fashion or exactly the same outline, but we are going to produce final reports and interim reports, so it seems to me besides just the information where you go for it, we are required to be presented to us some body of reports that either we distribute them or they just end up like (inaudible) reports (inaudible) downstairs, which are available for reference, I think you have to deal with that as well.

MR. AYERS: Point well taken. There is a variety of opinions about that right now. Mike Broderson and I talked about that the other day, and it is my understanding that DEC has actually looked at the technological capability of scanning information into electronic databases, which is probably the more prudent approach. Spies is very clear that at some point we need to figure out what we're doing about all of these reports, and at

this point it's not something that certainly -- it's not in his contract currently, but we looked at two options, and one, the most recent one that I've heard of that seemed the most prudent was the

one that Mark Broderon had talked about last week, which was scanning the information into an electronical (sic) database and putting it on CD and . . . .

MR. BRODERSON: Very cheaply you can distribute copies, electronic copies of the whole thing, produced for a few dollars, rather than trying to reprint massive hard copies (inaudible -- out of microphone range).

MR. AYERS: We need additional research, Mr. Chairman.

MR. PENNOYER: Thank you. Any further questions on this particular graphic? Okay. I forgot at the start of the meeting to introduce the last voice you heard which was Jim Ayers, our Executive Director, so I'll introduce him for those who won't be here. Next -- do you have more in your report or are you . . .

MR. AYERS: No, Mr. Chairman, I just wanted . . .

MR. PENNOYER: . . . through with these various topics?

MR. AYERS: . . . I just wanted to give the overview, and the rest of this -- are the people who are actually working on each of those respective assignments, and I would propose that we just continue right on through, Mr. Chairman.

MR. PENNOYER: You want to go ahead and introduce them for the people in the tropics then?

MR. AYERS: June Sinclair is our administrative officer, and June is responsible for the financial and

administrative details of the Trustee Council, and June has a couple of overheads, although I'm not sure you're going to be able to see that one, but it is in your packet (inaudible). Thank you.

MS. SINCLAIR: This is June Sinclair. I guess I'll start with the court request. It's my understanding the requests number six and number seven will be combined, (inaudible -- out of microphone range) together. I have all the signatures now for court request number seven, and I'll turn that over to (inaudible -- out of microphone range) . . .

MR. PENNOYER: Excuse me, June, would you say what's under six and seven. I'm not fast with the numbers yet.

MS. SINCLAIR: Sure, court request number six, the net amount after interest will give a balance of thirteen point six million dollars, and seventh court request is two point two after interest.

MR. PENNOYER: But the first one is 1994 work plan, and the second one is the added projects . . . that we approved last time?

MS. SINCLAIR: Right.

MR. PENNOYER: . . . that we approved last time?

MS. SINCLAIR: The sixth court request covers all the approval -- projects -- in the January 31st meeting, and the seventh covers the (inaudible -- out of microphone range).

MR. PENNOYER: For some reason I assumed the first court request was long gone. It wasn't?

MR. AYERS: Mr. Chairman, briefly, I would say that it

encountered more than just a discussion from the Department of Justice in its review and has bogged down at the Department of Justice level. I've had three separate conversations with Mr.

Brighton, who assured me two weeks ago that it would be released. They wanted to be clear, at least in the conversations I had with Mr. Brighton, they wanted to be clear that the Council was not actually making obligations for long-term operating costs of facilities, like hatcheries, without a more thorough review. We assured them that that was not the case, that if they were going to build or construct or engage in long-term operations of hatcheries, we would sure like to sit down and talk to them about it, but that was not the action the Council took. Now, to specific actions which was in the work plan that was submitted, that they felt like then we would clarify -- they were going to clarify that in some letter that that was their observation at this point at least, as far as the one point seven five million, and that the court request would be released immediately. That was two weeks ago, and I was somewhat surprised last week to find that it hadn't been released, although Mr. Brighton told me today he, too, was somewhat surprised. He thought he had authorized it to go forward, but it has bogged down over further discussion. He assured me this morning that that was no longer the case, and I understand that the Department of Law has talked with Justice today.

MR. PENNOYER: Mr. Tillery, would you care to elaborate for us where we are right now on court request number six?

MR. TILLERY: My understanding is that number six will

go out this week. We will try to combine the number seven, which is the Eyak money and the additional three hundred thousand, with six. If we can't get that done this week, six is going to go out

by itself. It would make more sense to add it all in and hit the court one time, but I think at this point the problems with the Department of Justice is ironed out.

MR. PENNOYER: It might be handy in the future if you find out things we think are long gone, aren't long gone, to try and let us know, would you. We might want to make phone calls on our own and find out what's hanging up the decision.

MR. AYERS: Mr. Chairman, I apologize. I let the liaison group know as soon as I knew, but I'd be glad to notify the Trustees in any further delays with the Department of Justice. It's my understanding, I think everyone's understanding, at least mine, was that once it reached the Department of Justice that it was going to move forward, which is what Mr. Brighton told me. And how it bogged down and why, I suspect -- I know, in the future, Mr. Chairman, I'll notify the Trustee Council with the delay, and I suspect we ought to put a fifteen day time limit on the request from the Department of Justice, unless they find that unreasonable, and then if they're not going to get it out, that they notify us in writing why they're not going to release the request.

MR. PENNOYER: If there are lessons to be learned, we probably ought to know them so we don't do the same thing twice if there's going to be a problem or . . .

MR. AYERS: Yes.

MR. PENNOYER: So . . .

MR. AYERS: It seems obscure to me. I'll try and clarify what the process is going to be.

MS. SINCLAIR: The other issue related court requests is the twelve million dollar reserve that was discussed and (inaudible -- out of range of microphone and poor teleconference quality) . . . and the specifics on that. Also in the packet are financial statements. The first statement is up there on the overhead and gives you an idea of what's been happening with the settlement funds, (inaudible -- extraneous noises on teleconference) coming in (inaudible), what disbursements have been made, and what funds are estimated to be available. (Inaudible -- extraneous noises on teleconference) . . . payment . . . (inaudible -- extraneous noises on teleconference) . . . It's estimated at nine point nine seven five (inaudible -- extraneous noises on teleconference) . . . made in November of '94, '95, and '96. It will have to go back to the court to request withdrawal of those funds. The next is (inaudible -- extraneous noises on teleconference) . . . two and provide us information on (inaudible -- extraneous noises on teleconference) . . . activity . . . We are now including from the court an accounting report on a monthly basis that lists out all the expenditures, interest payments, the court . . . (inaudible -- extraneous noises on teleconference) . . . Basically, this package are the (inaudible) financial statements and those are the . . . (inaudible -- extraneous noises on teleconference) . . .

information and ties back to the court request authorization,  
except the '92, '93, and '94 work plans, we only . . . (inaudible -  
- extraneous noises on teleconference) . . . '92 update . . .  
(inaudible -- extraneous noises on teleconference) . . . , and the

'94 work plan was (inaudible) activities to date. You will note that there are some negative numbers in the '94 work plan, but that's related to the court request not being processed yet. It's not related to (inaudible -- extraneous noises on teleconference). The State of Alaska projects (inaudible -- extraneous noises on teleconference) fiscal year, and the legislature did extend that to (inaudible) '95, so that is no longer (inaudible -- extraneous noises on teleconference). The '95 work plan, we start working on a detailed budget, . . . (inaudible -- extraneous noises on teleconference) . . . in anticipation of (inaudible) and identifying projects that need interim funding . . . (inaudible).

MR. PENNOYER: Questions on the financial statements?

MR. TILLERY: Mr. Chairman?

MR. PENNOYER: Yes.

MR. TILLERY: Are you going to be able to tell us what we've earned on the money that's sitting in the court registry by looking at their reports?

MS. SINCLAIR: Yes.

MR. TILLERY: The percentage of interest?

MS. SINCLAIR: Not the percentage of interest, but I can tell you actual dollars.

MR. TILLERY: Can you find out the percentage of interest and get back to us?

MS. SINCLAIR: Yes.

MR. PENNOYER: Any questions -- do you have a question on the financials at this time, Jim?

MR. AYERS: No, Mr. Chairman. Only if there was a change in either -- what I'm interested in mostly, and June and I have talked about this, whether or not these statements are satisfying your need to know. What we're trying to do is do both things through these statements. One, is give you an overview of the current status of the Exxon settlement funds, including the receivables from Exxon and obligations against those funds, and secondly, to give you a clear picture of the cash flow through the actual joint trust held by the court registry. I guess the quarterly reports -- I find the quarterly reports helpful, but not necessarily thorough at this point because they have not reached a point where we can tell whether or not agencies or even particular projects are having a problem. We're getting better at that; we're getting closer to being able to tell, but I think we're going to continue to rely on the agencies themselves to tell us whether or not they think expenditures are on track with regard to a project. So, I guess, I feel like this is as fair as it can be at this point. Questions by Craig are helpful because we know then to include some of that information in the report itself. If there's additional information you'd like to see, otherwise -- otherwise we'll continue this format on a quarterly basis.

MR. PENNOYER: Jim, certainly one of the ideas here was get enough so we can identify the problem areas, and I assume that

going through the morass of numbers, and we've generated more and more numbers all the time, that you will identify for us any potential problem areas and highlighted them . . . (inaudible --

poor teleconference quality).

MR. AYERS: Exactly. Mr. Chairman, that is my understanding as well, and we are doing that. At this point, let me say that at this point it is still difficult in some areas because of what (inaudible) . . . We are beginning to see negative numbers, which lights up everybody's bulb, and as we begin to find those, it was clear that we were getting ourselves a fairly substantial problem as a result of Justice's delay.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Mr. Chairman, I also believe it desirable that these various reports get to the Public Advisory Group (inaudible -- simultaneous talking) . . .

MR. PENNOYER: Did you distribute this to the Public Advisory Group?

MR. AYERS: Mr. Chairman, yes, Commissioner Sandor, that -- as I mentioned before they have a complete packet of this information. We have been talking with them about that in advance of this meeting. I appreciate the comment, and if there are additional changes that you hear of -- we have talked with them and contacted them and we have mailed this out to them.

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: Mr. Chairman, Mr. Ayers, the statement in the report early on that a reserve account would not be requested

(inaudible) court registry, that an account would be set up within the court registry to accommodate that. I guess I fail to see how the court registry could be expected to set up an account without

having some request from the Trustee Council. Can you explain that?

MR. AYERS: Yes, Mr. Chairman, Mr. Wolfe, we've only recently found out -- I did not know that there was another level of the Department of Justice. I mentioned it at the April meeting that there is an Office of Legal Counsel -- there is an Office of Legal Counsel within the Department of Justice that somehow has additional jurisdiction beyond Mr. Brighton. The Office of Legal Counsel has determined that a reserve outside of the federal government control is unacceptable. However, they are willing to accept, evidently, the third branch as government, so they are willing to accept that there would be a reserve set up within the court registry. Currently, I think as far as Mr. Tillery's question, currently, the court registry simply invests at the fifty-two week Treasury level, which is the lowest interest rate possible. What we are trying to do is develop a plan to bring before the Council, and we would ask the Council then to give some instruction to the court registry with regard to investment of balances. For an example, you do have the authorization to request the court registry to invest in securities beyond five years, which -- and we are certainly favoring those investments with an understanding that we get a report about what -- what if you were to decide or later the Trustee Council were to decide to pull it

out within that five years. You certainly -- as the feds tell me, we run the risk of losing some of our earnings but not of the principal, but even at that it would be a much higher return than

what we are receiving today. So we're -- I'm trying to understand what it is that OLC will accept, we'll develop that proposal and bring it back before you, but my understanding is the only thing that they are willing to accept is an investment by the court registry in longer term securities, and we would give them some advice in doing that -- which would in fact, at this point, give us more than a seven and a quarter percent interest return on even Treasury -- longer term Treasury certificates -- as opposed to the three and a quarter percent which we're earning, or estimated to be earning, today.

MS. WILLIAMS: Mr. Chairman, I would move that that be worked (inaudible -- poor teleconference quality) . . . by the Executive Director prepare an option paper on . . . (inaudible).

MR. SANDOR: Second.

MR. PENNOYER: It's been moved and seconded. Any discussion? An objection to the proposal?

MR. TILLERY: Mr. Chairman, to clarify, not just the reserve fund, but all the monies we're holding.

MS. WILLIAMS: Yes.

MR. TILLERY: Including the ones that have federal control, the court registry . . . (inaudible).

MR. PENNOYER: Any objection to the proposal? (No audible objection) Craig?

MR. TILLERY: Thank you, Mr. Chairman.

MR. PENNOYER: That completes the financial reports. It fairly clear, it's 2:00 and we're not going to get done in half an

hour we advertised for the executive session, so I guess we'll just plow on and everyone on line will know we'll get there when we get there. The next item is project status.

MR. AYERS: On the project status report, Mr. Chairman, Eric Myers is unavailable today . . . (Laughter at Anchorage) -- Is Eric on line?

MR. MYERS: I think I'm available if you want me to answer any questions, I'll be happy to.

MR. AYERS: I apologize. I was living on earlier information. (Aside comments) Eric, in view of the time line and the (inaudible) project status report, if you'll hit the highlights and then if there are questions, how about we do those?

MR. MYERS: I'll keep them real brief. If you'll turn to the project status tab, you will find a set of project status summaries. It's a little bit confusing perhaps at first, but essentially you've got two quarterly reports for each of the work plan years '94, '93 and '92, for the quarterlies of December 31st and, the most current, March 31st. This is, in effective, our inaugural quarterly status summary. In the future, we anticipate only having one, the most current version, for you on a quarterly basis, and the next will becoming available sometime after June 30th. In any case, you will see that the status summaries are fairly straightforward, simply providing the most current available

information regarding any individual work plan project. The -- in '94, you will see that the results and references are essentially not there, simply because the projects haven't proceeded far enough

to yield any results and references, but in the '93 and '92 status summaries, you will see increasingly greater references and results. I don't want to take any more time. Again, your questions, I can either attempt to answer them or refer you to the appropriate agency liaison.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: It's a good summary. Are there any problems areas within this item of concern to you that you could share with us, the Trustees.

MR. MYERS: I wouldn't say there are any particular problem areas, there are quite a few reports that are imminent in terms of their being finalized, and we need to work to ensure that we come up with an effective procedure for processing and dealing with all this information that's going to be flooding in the door here quickly, but I wouldn't characterize that so much as problem as I would a substantial challenge.

MR. PENNOYER: Commissioner Sandor?

MR. SANDOR: To follow up, a comment or suggestion -- if in the course of tracking these projects, somebody began to fall behind schedule, we'd like to have them called to our attention at our August or September meeting, and it might even be worthwhile having them asterisked or some kind of way of flagging these projects that aren't -- that are behind schedule. We would prefer

not to be surprised at the end of the year.

MR. MYERS: I will work with the agency liaisons on that.

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: Jim, my question in fact goes along the line that John was perceiving, and it really has to do with are we on schedule with all of our project reports from the '93 fiscal year that we -- I think we slated for, what, April the 15th or something like that as I recall. Do we have all those in now, Eric?

MR. MYERS: I would have to review each of the status summaries. I think that they're largely in in terms of the reports being submitted. What is possibly taking the longest is the back and forth between the principal investigator and the peer reviewers in terms of reaching a consensus as to when a particular report is ready for publication. That's really where the protracted delays come, not in so much the preparation of the initial report, which I think are generally timely.

MR. PENNOYER: Eric, echoing what Commissioner Sandor said, I notice that clear back to '92 some reports -- some projects still have a report being drafted, not submitted, not finalized, not anything else, and I guess I recall back to a conversation we had about two years ago when then Trustee representative Cole submitted a proposal that if a prior year's report wasn't done within one month of the deadline, the next year we would not disburse any further funds. Obviously, there are all sorts levels

of rationale that might make that a little bit drastic in terms of cutting off information flowing needlessly, but there was a lot of discussion about people doing other things and priorities, and I

guess the Commissioner has requested that you highlight for us whether there is -- there might be a problem, and that we then have the opportunity to visit with the particular agency, the PI, the agency rep, to see what can be done about it. I do know that going clear back to '92, that there are some reports that have not been submitted yet and are still being drafted, and having made that push a couple of years ago, it seems reasonable that we follow up on it now -- perhaps not by withholding funds or doing anything dramatic of that nature, but put the project on notice that future funding for its continuation may be in jeopardy, or something like that. So, at our next meeting, if those could be highlighted, I think that would be helpful.

MR. MYERS: I will work to provide that information to the Council.

MR. PENNOYER: Any comments on projects status. Thank you for the very detailed review on -- as we get time to go through it and visit with you again, I'm sure we'll be able to -- we'll have more questions, but for now then I guess that's all. Thank you. Next is the restoration plan EIS. Mr. Ayers?

MR. AYERS: Yes. I believe Rod Kuhn is on line. Many of you received the draft of the draft EIS. There is a memo in your packet under the EIS tab, and, Rod, are you on line?

MR. KUHN: Yes, sir.

MR. AYERS: Very good.

MR. KUHN: Okay. We have this being launched at the end of January. I completed work on the draft environmental impact

statement and I have included in that array of alternatives, modification of alternative five to reflect the draft restoration plan. The preliminary draft, as you indicated, was circulated to the Trustees for their review and comment, and I want to be sure and express my thanks to all the Trustees and their staff for responding so quickly and so thoroughly on that. The DIS is now in the hands of the printer, and if all goes as expected -- I spoke to the printer a little while ago, we should make the date with the Environmental Protection Agency filing of the document that will allow the public comment to run for forty-five days from June 17th through August 1st. The comments from the Trustees, even up to the eleventh hour, were incorporated, including one that, I think, that Jim sent in from Kodiak, and I want to thank him for that, and those have all been addressed. In fact, there were some -- a few points that were of concern to some of the Trustees in particular, and working with their staff, their liaisons, we were able to resolve those. Everything is going ahead as scheduled. The staff here has set up public meetings to be held during the public review period. They are tentatively scheduled now to occur as follows: June 27th in Anchorage, June 29th in Seward, July 1st in Homer, July 5th in Kodiak, July 7th in Cordova, and July 19th in Valdez. And that's where we are to date, if anyone has any questions, I'd be happy to answer them.

MR. PENNOYER: Any questions about the EIS?

MS. WILLIAMS: Mr. Chairman, my question of Mr. Kuhn, do you anticipate holding evening meetings in the locations you just

cited?

MR. KUHN: The locations that I cited, we are planning on having open house-type, informal meeting, running from four o'clock to 8:00 p.m.

MR. PENNOYER: Any questions on the EIS? Commissioner Sandor.

MR. SANDOR: Early this month, we received from (inaudible) the Department of Natural Resources, Alaska, the results of the forest health management reports . . . (inaudible -- poor teleconference quality) transmitted to you. Hopefully, Jim Ayers and hopefully each of the Trustees have gotten copied here in case the individuals haven't received that. The thing that's particularly interesting about this forest ecosystem discussion was the impact of the -- of the -- insect infestation on the old growth and the habitats that depend on old growth. This massive increase over the last three years, which is represented in the graph, illustrates that the loss of habitat greatly exceeds that of habitat lost by timber harvesting, and I don't know how you're going to address that in the EIS. The last EIS that was drafted last year was unable to adequately reflect that because it's (inaudible) to identify. In the last draft of the EIS, it was similarly was not identified, but we do want to recognize that the impact of that habitat loss. I guess I'd ask the question, how is

this to be dealt with?

MR. KUHN:           Okay.    The actual infestation is only mentioned in chapter three of the environmental impact statement,

where we're talking about the affected environment. There is no action proposed by the Trustee Council at this time to deal with that -- that is outside of the actual oil spill impacts and outside the scope of what the Trustees are doing. That would, in fact, though, have, I assume, some -- to be of some concern in when we're acquiring habitat and how that habitat is valued. So, but that is still something is more site-specific when you're looking at acquiring parcels, and not something of a programmatic nature that we're evaluating in this particular document.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Yes. I take exception to that, Mr. Chairman and fellow Trustees. What we're concerned about with the loss of habitat that's harlequin ducks, marbled murrelets, and other species are dependent on is that, and part of the habitat restoration program that we have deals with habitat loss, and there is substantial harm that's several thousand acres that's within the oil spill area. It is true that we're concerned about acquiring lands that may be subject to insect infestation, but I think we should also be concerned for loss of other critical habitat that results as a result of insect infestation, particularly the old growth habitat that both the wildlife and (inaudible) depend on. So I think that should be examined and all of that discussed with members of the Public Advisory Group and shared (inaudible). Thank

you, Mr. Chairman.

MR. PENNOYER: Commissioner Sandor, is that a specific recommendation for the EIS in terms of how it's . . .

MR. SANDOR: Yeah, I'd say the petitioner will make reference to that in the summer or subsequent meetings of the significance of this . . . (inaudible -- poor teleconference quality) is the massive increase in the infestation that jumps from, well, two hundred thousand acres in 1980, four hundred thousand acres in 1981, six hundred thousand acres in 1982, and seven hundred and some thousand acres in 1993 . . . (inaudible -- poor teleconference quality) . . . the species that are dependent on old growth and the loss of old growth from either timber harvesting or the bark beetle (inaudible) in the spill impact area is essentially the same. The question of what, if anything, can be done about this, I would point out that if the areas are not dealt with, and the area is converted to grass, and the restoration of the forest is not as quick as if the insect-infested trees are -- the killed trees are removed. So, I think all of us are looking, of course, at evaluating the (inaudible) species of trees from timber harvesting, and I think we also need to look at these several thousands of acres of forests that are being lost from the insect infestation. Hopefully, this (inaudible) that I have incurred over the last two days (inaudible) is troublesome. I think one needs to address it (inaudible), I guess perhaps an option, but I really urge the restoration team to look at that and

to decide what, if any, action ought to be taken and develop recommendations or whatever. That was my objective in transmitting this to you, the Executive Director, and requesting that it be sent on to the restoration program staff on the 18th.

MR. PENNOYER: Mr. Ayers.

MR. AYERS: Mr. Chairman, as Commissioner Sandor pointed out, he had sent this information along, we've had the Habitat Working Group take a look at the most recent information and we've (inaudible) them to work with each of the respective lead agencies and the Habitat Acquisition and asked them to do an explicit review of the information with regard to this particular area. (Inaudible) circulated in an information packet to the Public Advisory Group and asked them for their comments. There are a number of Public Advisory Group members that, as Commissioner Sandor points out, that are interested and are concerned about it. We are -- we've also asked the Habitat Working Group to give us recommendations on actions that they think might be appropriate in the event that there's an area that falls within the spill area that we may be involved in.

MR. PENNOYER: Okay. Further comments -- EIS? Thank you. We'll go onto the next topic, Mr. Ayers.

MR. AYERS: Yes, Mr. Chairman, the next topic is, again, an EIS discussion at this point. It is the issue of the Institute of Marine Science, and Kim Sundberg from the Department of Fish and Game is here with us and has the lead on that project.

MR. SUNDBERG: Thank you. Project number 94199 was a . . . (inaudible due to poor teleconference quality) . . . spill area

in general, (inaudible) laboratory studies related to the restoration and rehabilitation of species injured by the EVOS, particularly for marine mammals and marine birds, but also fish

genetics. On January 31st, the Trustee Council approved financial support for the Institute of Marine Science, (inaudible) improvement project, and directed Jim Ayers to, number one, take necessary steps to comply with NEPA; two, consult with the appropriate entities, including the University of Alaska, City of Seward, and the Seward Association for Advancement of Marine Science, otherwise known as SAAMS, and appropriate Trustee agencies to review the assumptions relating to the proposed improvements and come up with an operating budget; three, to develop an integrated funding approach to ensure the trust funds are appropriate, legally permissible under the terms of the Memorandum of Agreement of the Consent Decree; and four, to prepare recommendation of the appropriate level of funding for consideration by the Trustee Council that would be legally permissible under the terms of the Memorandum of Agreement of the Consent Decree. And what I would like to do is briefly provide a status update on this project. The funding is currently on schedule, and its proceeding ahead with the four tasks that were outlined in the January 31st meeting. With respect to the first task, NEPA compliance, there -- it was decided following the January 31st meeting, in late February, that the project would require an environmental impact statement process. We put together a thirty-three week EIS schedule. The Department

of the Interior is the lead federal agency on the environmental impact statement, and Nancy Swanson is with the -- chief of environmental operations (inaudible -- poor teleconference quality) and the EIS project manager, and I believe Nancy is on the

teleconference in Anchorage if anyone has specific questions. (Aside comments by others). We completed a scoping process (inaudible), sent out newsletters to five thousand people. The scoping has been completed, and the EIS team has identified three alternatives for the draft environmental impact statement. Those include the proposed action, which is a research rehabilitation institute with a public education and visitation component. Alternate two, which is a reduced action, which includes all needed research and rehabilitation component of the project; and three, is a no-action alternative. The draft environmental impact statement, a preliminary draft of that is completed, and the EIS team is reviewing that right now. That's scheduled to be finalized and go out for public review on June 1, 2nd. So, with a forty-five to sixty day public review period, and we've scheduled public hearings in the evenings, which will be an open house or by formal hearing in Seward and Anchorage on July 26th and 28th. According to the schedule, the --

MR. PENNOYER: Excuse me, Kim, we've had a request from the recorder for everybody to speak louder. Perhaps, you could move down to get to the microphone. Thank you.

MR. SUNDBERG: According to the schedule, the comments on the final -- on the draft environmental impact statement -- will be completed, and its final EIS will be issued to the public on

September 23rd, followed by a record of decision will be issued on October 28, 1994. Task two, consultation with appropriate entities and review of assumptions, there's been ongoing consultation with

the University of Alaska, City of Seward, SAAMS, and Trustee agencies continuously. We've developed two formal working groups. One is called the scientific working group, which I chair. It involves representatives of the Institute of Marine Science, the ADF&G, the National Marine Fisheries Service, the National Biological Survey. That group has met formally twice, including a two-day workshop. The product of that work is a design program work book which is going directly to the architect and designers of the project to describe the program and components that would occur at the facility for research and rehabilitation, and that design program work book is the basis for the conceptual design of the facility and subsequent design following that. There is another work group that was formed by SAAMS, called the education work group, and they are working similarly on the public visitation and education end. I would like to just add that the public education is education component is primarily funded with private funding and (inaudible) to raise private donating for that component. In addition a portion of the twelve point five million dollar grant from the state appropriated from the criminal settlement restitution, and SAAMS has retained the services of a professional fund-raising company, called J. Donovan Associates, which does fund-raising for such groups as KAKM Television and Providence

Hospital. They are coming back with a detailed financial plan in mid August which will provide the target for private donating for the project. Currently the target is a ten million dollars private funds. The research component that's come out of the scientific

work group is primarily related to studies on marine mammals, marine birds, fish genetic, invertebrate biology and oceanography, and specifically this facility would provide infrastructure that does not currently exist in the spill area or in Alaska for conducting such research. That would be distinct tanks and pools for holding marine mammals, conducting studies on those in a laboratory-controlled situation, wet labs, dry labs, and office space, a library, and other facilities that are needed to carry out that type of research. Currently, when that type of research is done, it has to be done in other institutions outside of Alaska. The rehabilitation component is specifically related to rehabilitating mammals and birds that are injured or become sick as a result of processes that are ongoing in the environment. The focus is on animal health research, primarily, rather than serving as an animal hospital per se. It is intended to find out what is going with marine mammals, marine birds in the spill area with their health, what's causing mortalities, and to use these animals in a research situation once they are rehabilitated. Animals that are completely rehabilitated will be returned to the wild, those which are determined not to be released will be used at the institute for research and public education. Another part of this project that was presented on January 31st involves a research

vessel and a research submersible. We have a vessel committee that's chaired by Dr. Thomas Rohr (ph) of the Institute of Marine Science, and he has been working with Dr. Ray Highsmith, Dr. A.J. Paul, myself and Tom Smith of the Institute of Marine Science to

come up with better estimates as to what steps for the purchase of a vessel and operation of a vessel and research principles are involved. Currently, our preliminary estimates are that purchasing a and converting a mud-boat type of a vessel, which is a type of vessel used for sending rigs in the Gulf of Mexico is fairly readily available, would be about two point four million dollars for equipment and the research vessel. An annual operating cost is estimated about one million dollars a year. The submersible that appears to be the best type of submersible to work in this area would be a two-person, delta submersible which would cost about six hundred thousand dollars to purchase, and its seasonal operational costs are about two hundred thousand per year, assuming 70 days period in Alaska. The vessel committee will continue to flesh out that, those costs, and provide more detail later. The operation of the project at the present time is envisioned that it will be run by a non-profit organization. The University has not expressed an interest in owning this facility. They (inaudible) experience with other such facilities in terms of non-profit organizations, 501(c)(3) organizations, are fully capable of operating and maintaining a facility of this type, and it is envisioned that SAAMS or perhaps a derivative of SAAMS will be the owner of the project. They would be governed by a board of directors, which

would be composed of the research people from -- research at the facility and Trustee Council entities, City of Seward, and others.

With respect to other research institutes in the area, conducted an ongoing consultation with the Fisheries Technology Center in

Kodiak, the Seward -- Prince William Sound Science Center, Copper River Delta Institute, University of Alaska Institute of Marine Science, and the Seward Marine Center. We had one formal meeting and we're scheduled to have another meeting July 28th, and basically we are discussing how new projects fit in with other research facilities along the coast. With respect to the integrated funding approach, there are four major components of funding currently envisioned. Number one is the state restitution funds, which has twelve point five million which we are already allocated to the project; the ten million dollars in private donations I have already mentioned -- we'll have a more detailed plan for private donations in mid August; EVOS settlements funds, joint settlement funds, civil settlement and also federal settlement funds -- currently looking at those. When we come back with this project, we'll put together a -- an integrated approach to funding this project . . . (inaudible -- poor teleconference quality). I would just like to finally say that we're putting this -- putting together the recommendations based on the (inaudible) of the three tasks, and expect to have that available or a major component of that would be available in mid August. Currently, the pro forma for this facility indicates that it would have a revenue stream of approximately three point eight million dollars a year

and that that would be the operating (inaudible) for the facility.

And I brought with me some conceptual designs of the project which are a result of the scientific work group and (inaudible) work group. Basically, the project is located (inaudible) and the

Institute of Marine Science on the waterfront. (Inaudible due to poor teleconference quality) . . . property . . . facility . . . area, parking lot over here. The research and rehabilitation part is over on this side . . . (inaudible) . . . includes support veterinarian, marine bird area, invertebrate labs and marine mammal labs. This area over here is research habitat, naturalistic habitat area where animals can be housed for a long period of time.

There are also pools and portable tanks at various (inaudible) . . . . The public visitation part is outlined in brown here. There would be a walkway around here, entry over here, and . . . (inaudible -- poor teleconference quality) this side of the project. The visitation and research component . . . (inaudible) . . . what's going on with marine research in the EVOS area, what are the problems that are going on with birds and mammals and other species in the ecosystem, and what are people doing about it, and that's . . . (inaudible -- poor teleconference quality). The second (inaudible) for viewing and an additional (inaudible) primarily to . . . (inaudible -- poor teleconference quality). At the moment, the final conceptual design is to be completed in two weeks, and then we'll go to schematic design of the facility and bring that back to the Council (inaudible). . . . answer any questions anybody has.

MR. PENNOYER: Ms. Williams.

MS. WILLIAMS: (Inaudible) . . . conceptual designs will be in the draft EIS when distributed to the public?

MR. SUNDBERG: Yes.

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: Mr. Chairman, I have a question for Mr. Sundberg, and it really relates to we'll be well into NEPA before we sort out what type of structure we need, but you'll still trying to -- you haven't come to closure at all on those needs to support EVOS restoration and so we can develop what the long term needs are for the restoration part and get that behind us. I guess my concern is that we need to get that ironed out very quickly, and so my question is really to Mr. Sundberg and others working on this that when can we expect to have all the information available?

MR. SUNDBERG: This information related to the project?

MR. WOLFE: Yes -- Mr. Chair?

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: My question is, is there's an expectation that the joint restitution or restoration funds and there might be some federal restitution funds would be used, but the project would define the need to justify that at this point in time, and I think all of us are interested in getting ahead in that, therefore we haven't defined that need yet so that we can lock in.

MR. SUNDBERG: Well, the project description was provided to the Trustee Council on January 31st and the draft environmental impact statement has some more materials relating to that (inaudible) . . . components of this project. So there is quite a

bit of information that's been generated currently on the project  
that (inaudible).

MR. PENNOYER: Mr. Wolfe? (inaudible)

MR. WOLFE: I guess following the preparation of that package, as I understand their counsel, as well as the administrator's office that looked at that package, there are legal questions that were identified that we needed to address with respect to that proposal, and it was my understanding that you and others were working on resolution of those questions, and I guess that to me would drive the answer to the question that I was asking.

MR. SUNDBERG: I would just add that I have been working with legal counsel folks at the Department of Law and the with the Trustee agencies. We've had several meetings. We'll be having another meeting later on this week to discuss that and to -- those assessments are ongoing with respect to the legally permissible expenditures of the joint funds.

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: Mr. Chairman, I guess my recommendation is that maybe we need to have the team working on this project with our liaison people and our counsel folks and let see if we can't get some resolution to the legal questions and get that behind us, and then we can deal with the distribution of funding for the project at some point here before too long.

MR. PENNOYER: Mr. Sundberg, additional questions, in terms of one of the elements that was identified in the original

questions was sort of how the Seward facility would fit in with all the other research we are going to do on the Sound, including the ongoing funding of operational aspects of that research. We've got

a major sea project in Cordova, we've got a harvesting or a facility being built in Kodiak and discussed there, and other aspects, and as you correctly, and I know you were drafted out by a lot of other areas there, doing research that might be related to EVOS. I notice one part here it mentions sighting and visiting with some of those other locations. They all thought portions of the project should be located elsewhere, and I'm not -- is there a report that's going to be presented to us going to bring that back together again, so we have that in view as to what the long-range research objective is of the facility and how it relates to the other research we plan to do in this reserve fund, or whatever.

MR. SUNDBERG: Well, we have been trying through the scientific work group to provide or validate assumptions that were made about this facility, the need for it, the types of research that would go forward. That's (inaudible) the scientific work group has been developing assumptions and identifying the need for the project construction. In part, the location of the project, it was determined by the Trustee Council, this project was approved for Seward, and subsequent to that the EIS even looked at some of this siting criteria for Seward and why that might be a good location for it. Primarily, that is -- the criteria that we came up with that -- Seward -- it's centrally located in the EVOS area, it has the Institute Marine Science program with twenty-three of

continuous operation, it has suitable land availability, room for expansion, it has availability of a high quality seawater for laboratory studies, it has road accessibility to researchers and

the public, and its proximity to a research vessel dock, it has availability of adequate water, sewer, electric utilities, has available opportunities for revenue to offset operational costs. So those are factors that are -- make Seward a suitable location for such a facility like this. We have been continuing to discuss the programs that may occur out of Seward, which is somewhat different to the programs that are my understanding that are going on in other facilities, particularly as they relate to marine mammals and marine birds. Those facilities do not have nor do they have the plans to -- for holding marine birds or marine mammals for doing laboratory research. I don't even think they have wet labs that are set up for doing fish work or laboratory work in a seawater lab. I believe Kodiak facility has some plans for that facility but those are related to fisheries technology and seafood processing. I don't think NOAA has plans for a wet lab (inaudible -- teleconference interference).

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Yes, I thought the scoping report (inaudible) verbal report (inaudible) purpose of this project having previously (inaudible) very helpful. (Inaudible) Jim Wolfe's suggestion that we sit down now, as soon as the (inaudible -- interference on teleconference) . . . that was is to take place.

(Aside comments)

MR. PENNOYER: Mr. Ayers.

MR. AYERS: Mr. Chairman, I'll see to it that --

actually before Mr. Roth (ph) leaves town and Maria is available, that we get together this week. If you're available, while everybody's here in town, why don't we sit down and go through some of these things that have been raised on what those concerns are and see how we can revise the project description to accommodate the recent concerns that have been raised, and I would suggest that we do that tomorrow if that's possible.

MR. ROTH: I have a meeting on Friday with Alex (inaudible) . . . Maria (inaudible -- poor teleconference quality) Okay?

MR. AYERS: We'll work it out, Mr. Chairman.

MR. PENNOYER: Thank you. Further questions on this item? Okay, no other action is required at this time and we gave some direction, which has been requested. Next item is public information and communication -- Molly McCammon.

MS. MCCAMMON: Mr. Chairman, there is a section in your packet that refers to an update on public information and communication activities, and I won't go through it (inaudible). However, it brings to your attention a separate memo on the results of the public release that we had in April. So if you have any questions on any of these activities, we do have a full schedule planned throughout the summer as well. Going on to the FY'95 work plan timeline, I actually have a new schedule that we could have

put on the overhead. (Aside comments while overhead is being prepared). The timelines that we're talking about now is basically the same as the one in your packet, except it adds a few extra

steps in terms of budget preparation. The main (inaudible) that we work under in this situation is trying to have the FY95 work plan adopted on October 31st. So, we took that as our action date and then worked backwards, trying to include enough time for public review and all the various steps. It basically started on May 15th with an invitation to the public to submit FY95 restoration projects. This packet was put together and made available to a mailing list, a small mailing list that we have of those folks who are interested in actually submitted projects. It was also advertised in our newsletter, in the Alaska Journal of Commerce, in the Alaska Administrative Journal, and in newspapers in the spill region, and in the Anchorage Daily News. The main (inaudible) period is for thirty days, until June 15th. However, we are also experimenting with two separate, competitive-type processes on an experimental basis, very small scale experimental basis for FY95. If successful, we hope to extend those in FY96. One is use of the federal broad agency announcements for going out and submitting projects, the other is the state's two-step general (inaudible) process. So those are the experimental processes that are relatively very specific type of research projects. The deadlines for those is actually June 30th, but whatever we get through this two separate processes will also be incorporated into the FY95 work

plan. Last week we took the first steps of identifying what kind of interim funding needs might be needed for the first quarter of federal fiscal year '95. We will be working with the agencies in the next two weeks to get those finalized and to start putting

together an interim budget for that first quarter. The proposals, once they come back to our office by June 15th, we will be reviewing them and organizing them. They will then be sent to the Chief Scientist and interim Science Review Board, which will be a technical review committee of approximately five people. They will be reviewing those until July 10th. They will be meeting in Anchorage July 11th and 12th to put together their technical recommendations on those project proposals. In response to the Public Advisory Group's requesting the opportunity to have input in the work plan process early on, we've scheduled a meeting for June 28th to go over all of the proposals that we've received by that time and to get input from the PAG before the draft work plan is actually developed. We were not able to schedule it after the technical review occurs. There just wasn't time to do it in a very compressed time frame this summer. The work groups will be meeting in mid July with the Executive Director to develop recommendations and actually figure out what goes into the draft work plan. The draft work plan, to meet this timeline, needs to be printed and mailed the last two weeks of August. It would go out to the public for public review the month of September. The month of October we would compile those comments, and there would also be further review by the Public Advisory Group, the Science Review Board, the

general public -- the Trustee Council would approve the work plan on October 31st. The way this timeline works, it requires (inaudible) the Trustee Council takes action after the federal fiscal year begin, it requires an interim budget, to finally have

all those projects put together and identified and ready for Trustee Council action in late August. So, what we've got on FY95 is -- actually in the practice of a year, we've put together two work plans in one year, and that's the reason for such a compressed time schedule. If you look at FY96, which is the next schedule ahead, I think there is light at the end of the tunnel. Our goal next year is to actually go out for solicitation for the FY96 projects in March and early April, we'll have the review in the spring, the draft work plan will go out for public review during the summer months, and it is estimated or at least anticipated that the Trustee Council would approve the FY96 work plan at the end of August, so that we would be ahead of the schedule in terms of (inaudible) the actual federal fiscal year (inaudible). The goal is that in FY96 not to have an interim budget, so hopefully we will be able to keep to that. I think the major question in terms of the FY95 work plan is how to get Trustee Council approval authorization on the draft work plan, and the way we have the schedule put together now, the draft work plan needs to be prepared in its final stages of preparation by August 1st, it needs to get to the printer at the earliest -- at the latest -- by August 12th to be printed and distributed and in people's hands by September 1st. We don't anticipate a Trustee Council meeting now until late

August, so at this point the kind of timeline we have proposed here would basically be putting together the draft work plan would be in advance consent of the Trustees. We will be working really closely with all of the liaisons on what goes into the draft work plan, and

we will make sure they are working very closely with the Trustees and feel comfortable with what is going in at this point.

MR. PENNOYER: Questions on '95 or '96? Commissioner . .

MR. ROSIER: Thank you, Mr. Chairman. Molly, quite frankly it's a pretty tight schedule, but one area that creates difficulties for us in the past has been the review of the project proposals by the PAG.

MS. MCCAMMON: Right.

MR. ROSIER: And it appears to me that we're not solving anything with this time schedule. It looks like they've got a maximum of one day to get through the entire package, and I think that we've given the Chief Scientist, technical review there, ten days, actually thirteen days, there on this. Is there any way that we could subtract -- add additional time for at least review prior to that briefing for the Public Advisory Group.

MS. MCCAMMON: Mr. Chairman, Commissioner Rosier, we worked out the schedule with Doug Mutter and with Brad Phillips, the chair of the Public Advisory Group. I don't know if this totally addresses their interest in their being involved in the work plan development, but I believe it does at least go somewhat to addressing that. It gives them two opportunities to comment on the work plan, whereas in the past they have only had the

opportunity after the draft plan has actually been published and put out for public review. So they will continue to have that opportunity at the end of the process, but this also puts them in

the process early on. We're trying to work it where we have PAG actually doing the review after the technical review, but before the work force took action, sometime between July 12 and July 13th -- and the only way we could do that would be if we were to give ourselves five days or a week to put together in some kind of written form what the interim Science Review Board actually puts together. I mean that would have put it completely off schedule, and there was no way we could meet that kind of time line. So, we have worked with Brad Phillips and we believe that this is satisfactory for this year. It gets them at least part way there.

MR. PENNOYER: Commissioner Rosier.

MR. ROSIER: As a follow-up, it appeared to me that there some additional time in there. What's going to happen during this period 6/27 through 7/10 when the Chief Scientist and technical review is ongoing? It appears to me that the Public Advisory Group briefing the schedule some during that -- would at least give them -- according to this schedule, you're talking about them having a maximum of, what, three days? Staff review and organization project proposal is 25th, and you're talking about meeting with them three days later. It is possible to move that into this period during the Chief Scientist -- to give them at least a week? These are volunteer people that are -- whose time is

pretty precious. It just seems to me that three days after the staff gets done with these, you sit down and give them a one day briefing on this, and then we've got a long blank spot of time here

while the further review by the Chief Scientist is going on. It just seems to me that the Public Advisory Group briefing sometime during that thirteen day period there with the Chief Scientist review would be a lot more meaningful than given four days that appears to be provided for in this schedule.

MS. MCCAMMON: I agree with you on that, Commissioner Rosier, and I will check that schedule again and see if that can be done. I believe there was some scheduling problems due to the fact that there's the lengthy July 4th weekend in the midst of that.

MR. PENNOYER: Any questions? Mr. Ayers.

MR. AYERS: Mr. Chairman. To some this may sound like a reiteration. Let me point out that the conversation I had is that this is more than what the Trustee Council (sic) had in the past. They actually are having this briefing after we have received projects which should be in 6/15, and those projects are in, and so the staff wants a chance to compile that information to the best of our ability, to give them a good packet three or four days before they actually meet on the 28th, and we'll actually go through the -- some of the raw stuff, which is what they've asked for in the past. But you are correct, what they want to then hear is another step, which is what does the scientist say the problems are and how do these projects relate to the science. All of that has been transpiring after the draft work plan has already been

submitted -- or out for public review, and then -- sent out for public review and just a few days before the Trustee Council meeting. They wanted to get in the loop much sooner. So this is

actually three months sooner than they've been in the loop previously, but you are correct -- it's jammed. They do have the 28th meeting, whether we can add another one in their with the Chief Scientist, that's what we'll work on. The Trustee Council meeting is another issue, however, Mr. Chairman, which is the issue that was raised earlier, and what we're talking about doing is, there were three issues that got pulled out of those draft plans -- work plans -- by the Trustee Council in the past. What we're proposing here is working with the work force, making sure the Trustee Council members all have the packet, go to that with the work force, and put together the packet and get it out to the public as soon as possible, not necessarily having a review of the draft draft work plan through a full Council meeting. You would go through the draft work plan, but not a draft of the draft work plan. You will do that individually with your work force members.

I want to be clear on that.

MR. PENNOYER: In the past we've always had a problem reviewing draft work plans. Kind of what we've done is sort of abrogating some of the responsibility by sending it out, waiting to see what we got back, and that was not necessarily -- since we've got a restoration plan in front of us now and we're further down the pike -- it's not necessarily a productive activity. The Trustee Council ought to initially, at least, in some fashion make

its views known on what the annual work plan should generally look like. We will want detailed work plans in front of us, but you say there will be another chance to do that. You're suggesting that we

do that through our work force members, rather than as a group. I'm not -- in '95 I can see that, but in '96, I'm not sure you've worked all that out yet. There will be a little bit more time, and I think we going to have to consider whether we need to review something before we send a general draft plan out to public review as a group, rather than just through our individual work force members. So, I'm not ready to sign off on that myself until we've tried '95 on for size and see how it goes. Hopefully, we will far enough down the pike that we can give a little more direction to the draft plan, based on our restoration plan and our work to date that we've been able to do in the past.

MR. WOLFE: Mr. Chairman.

MR. PENNOYER: Mr. Wolfe.

MR. WOLFE: I hear your concerns, but I tend to take the reverse of where you're coming from on that, and that's due to the lack of a restoration plan being in place, that at this point in time we get in work force -- I have some concerns about going out with a draft restoration -- '95 work plan -- without having some oversight by the Trustee Council. Maybe I'm unduly concerned, but I do feel like once we get a restoration plan in place and have some -- a basically a general strategy for what restoration is occurring, then I would think would be the point at which it would be possible to go out to the public with a work plan without having

the Trustee Council oversight. But until we get that in place, I have concerns on that.

MR. PENNOYER: Mr. Ayers, do you want to follow up on

that, taking the '95 work plan schedule (inaudible) in terms of getting out a draft and the Trustee Council deciding what to do with it or -- where would you -- would you put us in somewhere around August 11½ -- where would we fit?

MR. WOLFE: I'm not sure about August 11½. Somewhere, probably end of July time frame.

MR. PENNOYER: If the draft work plan gets sent out to public review on August 12th, and there's (inaudible) between the 12th and the 31st. The 31st is closed, so . . .

MR. WOLFE: Mr. Chairman, I would be encouraged somewhere in the back end of the process, close to where the Chief Scientist and the review board is looking at it also. That's when we would normally get involved in reviewing any document.

MR. PENNOYER: So, you -- I would presume we would want the Science Review Board taking a look at things and then meet with us . . .

MR. WOLFE: That is correct.

MR. PENNOYER: . . . or is your idea before that?

MR. WOLFE: No, I'm not interested in before we get the Chief Scientist involved.

MR. PENNOYER: So, Ms. McCammon, how would you take into account Mr. Wolfe's concern.

MS. MCCAMMON: Mr. Chairman, if the Trustee Council

wished to actually have an official meeting and take action on the draft work plan, putting that together, I would think you would have to talk probably around the third week of July after the Chief

Scientist and Science Review Board met, after the work force and the Executive Director went through all of the proposals. After we go through that review, in our expectation, there will be some -- there could be some identification of gaps coming over on work plans, so we'll be using those last two weeks maybe to draft an additional project to try to fill in those gaps, so I would think we would want to fairly quickly after that on the 15th.

MR. WOLFE: Mr. Chairman, it looks like it would fit between the 15th and the 31st. I think that's where Molly has suggested.

MS. MCCAMMON: That's correct.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Mr. Chairman, I too thought, well, after the Chief Scientist and the interim Science Review Board finalizes their recommendations that that would be a time at which we hopefully, collectively, look at this -- and I think -- and I hear Molly saying that the restoration work force and the Executive Director will review the projects for inclusion in the draft work plan also will be completed by the 15th, and sometime after that would perhaps be an opportune time, is that what I heard?

MS. MCCAMMON: That's correct, Commissioner Sandor. The reason is that the Science Review Board is only going to be looking at proposals from the scientific, technical perspective. We are in

the process of drafting criteria for them to do that kind of review on there. The work force and the Executive Director will actually look at proposals from more of a policy perspective and we'll have

a whole different set of criteria that we'll be looking at those projects with, and those are also currently under draft right now.

The work force should have those by late this week or early next week in draft form. So that there are two kinds of review, essentially, that the projects are going through.

MR. PENNOYER: Commissioner Sandor.

MR. PENNOYER: Well, in follow up, Mr. Chairman, I endorse then -- that's a particularly bad time for me, but Mark, my second, will be here. I think we'll need formal discussion indeed, and exchange (inaudible), about that period of time, and I guess I would move that we do have a collective review of, not only the Chief Scientist and the interim Science Review Board's recommendations, but also the restoration work force and the Executive Director review of proposals -- budgets -- sometime from the 15th to the 26th.

MR. PENNOYER: Is there a second to the motion that we review the draft work plan before it is sent out to public review?

MR. ROSIER: Second.

MR. PENNOYER: Is there other discussion? This -- we'd like to avoid what sometimes we've done in the past -- in the past, I remember staff bringing us a book about a foot and a half thick of the draft, and us looking at the thing, oh my God, what are we going to do with that, let's just send it out and see what we get

back and then make a decision. I would hope we could do more with it, but it's going to require you to really organize this for us, and probably at that stage we'd be signing off on concepts more

than on detail. So, if it's the (inaudible) events, we agree to try to schedule a meeting for late July sometime to look over the draft '95 work plan, before it goes out to public review, and a concepts review, mostly dealing with concepts not being -- not expecting to come to a formal presentation (inaudible) . . . Is that . . .? Mr. Wolfe.

MR. WOLFE: I would also just say that this would also accommodate Mr. Rosier's on PAG, and I say that the PAG (inaudible -- extraneous noises on teleconference) . . .

MR. PENNOYER: At this point, after the Executive Director makes his review. If not, we'll try and put it before the Science Review -- does not work too -- the PAG, but also do their review during that time period, so they'd be looking at the Executive Director's recommendation, not just the science. They would have the benefit of seeing the consolidation of thought that would occur prior to us getting it.

MR. AYERS: Yeah -- that's another -- that would give them another iteration that that timeline would get a little more complicated. That's what we were just talking about, to get them into the loop again, just prior to the Trustee Council, that would give them another shot at it. That would then be three shots, as opposed to the one they've had in the past.

MR. PENNOYER: Okay. Does that take care of your

concerns, Mr. Rosier?

MR. ROSIER: Yes, it does, Mr. Chairman. Thank you.

MR. PENNOYER: Mr. Ayers.

MR. AYERS: Mr. Chairman, there are two items, two issues that I want to make clear here, for your information. One is that we have taken the direction, and with regard to my brief overview earlier, the policy direction with regard to an ecosystem approach, we have been working with the scientists . . . .

MR. PENNOYER: Mr. Ayers, we have a motion on the table. Is that addressing this motion?

MR. AYERS: Yes, it is.

MR. PENNOYER: I'm sorry, go ahead.

MR. AYERS: The agencies' scientists, as well as the other scientists outside, have been a part of developing the framework for the proposals for these projects that are going to come forward. We are hoping to narrow the scope so you don't have the big pile that you're referring to, and what you will get is the very condensed version, subject to the conditions the ecosystem approach would put on it. The other thing for clarification is, it is my understanding you're not looking for final recommendations with regard to each one of these projects at this July meeting. Is that correct?

MR. PENNOYER: I assume we couldn't take final action anyhow until it went out to public review . . . .

MR. AYERS: Right.

MR. PENNOYER: . . . so I assume we're not looking for

your final recommendation, we're looking for your best shot at that time.

MR. AYERS:           And the condensed version, subject to the

criteria that we have put together about what we're looking for for '95.

MR. PENNOYER: Okay, Mr. Ayers. Is there further discussion of this motion? Is there any objection to the motion?

MS. WILLIAMS: Mr. Chairman.

MR. PENNOYER: Ms. Williams.

MS. WILLIAMS: I was just going to underscore with a red highlighter here your suggestion that staff think of the most time-effective way to develop information so that hopefully you will see (inaudible) our review of it in half a day or no longer than a day. I understand in the past sometimes that you've taken two or three days, and I don't think any of us can afford that amount of time, and I particularly encourage them to think of the most creative ways to present that information to us (inaudible).

MR. PENNOYER: I would expect things like work force briefings of individual members to air out their concerns for specific projects before we get to the meeting and not have to go through each project in depth, and then go back to general questions one, two, three, four, five, six, and so forth. Is there further discussion of this motion? Is there any objection to the motion? (No audible objection) The motion is therefore approved.

You have a Trustee Council meeting in the latter part of probably July to look at the draft work plan before it is sent out for

public review. Just as a follow-up then for '96, I would assume that we would not an update for a similar type of thing, and I guess we'll cross that bridge on timing when we get to it, but I

that I guess is the motion to -- something of that nature, not in that timeframe but and interadaptive cycle to get it in there. (Inaudible -- interference on teleconference). Any further comment on the work plans. Mr. Tillery.

MR. TILLERY: Is there any thought in this cycle of having some place there where the Department of Justice takes their shot at these, so we don't have delays after the Trustee Council has approved?

MR. PENNOYER: Do you have an answer to that?

MS. WILLIAMS: Well, I'll try. I just want to represent to Mr. Tillery that is going to be a target of mine when I get back to Anchorage, to sit down with Justice and make sure that they incorporate them more expeditiously. I'll be talking to my other federal counterparts to see if we can accommodate that.

MR. PENNOYER: I think we had on the sketch here somewhere something about lawyers.

MS. WILLIAMS: Yes. (Laughter)

MR. PENNOYER: Somewhere on the schedule . . . (Aside comments and laughter). (Inaudible -- laughter) . . . schedule specifically address lawyers? Justice?

MR. AYERS: Yes, we talked about that with them the last time, if you recall, that was the direction the Trustee Council gave me. I met with Mr. Brighton the 1st of March about

that issue and tried to get them to actually comment on projects when other people did. They have not been very forthcoming or responsive with regard to that issue, saying that they wouldn't

know exactly how to respond until they see the Council action. I would hope that they would comment on the projects, which is what we have asked them to do in the past.

MR. PENNOYER: Aren't they doing the same thing we're doing and review the, quote, draft plan is a preliminary fashion and give us advice and come back and --

MR. AYERS: (Inaudible) jet flying is always jet flying.

MR. PENNOYER: Mr. Roth.

MR. ROTH: Mr. Chairman, the -- Justice has restaffed to try to reflect this and indicated -- and has asked in fact to be given copies earlier so that they're thinking about it. There were at least to see if they are given early responses, those views are incorporated in the (inaudible) and hopefully that will work. If it doesn't, we got (inaudible) due process. But they've now figured out how to have more staff and have a person who (inaudible) . . . Anchorage to (inaudible) that work.

MR. PENNOYER: Thank you. Anything further on the work plan?

MS. WILLIAMS: No.

MR. PENNOYER: As I pointed out -- (inaudible -- extraneous noises on teleconference) . . . Mr. Wolfe.

MR. ROSIER: A quick question for the Executive

Director -- this science -- when are we going to have something under the Science Review Board. Are you going to release some kind of a written document on that or -- do we have something on that at

this time?

MR. AYERS: Mr. Chairman.

MR. ROSIER: We're beginning to build it into work plans and so forth, and I'm afraid I don't know a great deal about it.

MR. AYERS: Mr. Chairman, Commissioner Rosier, I'll get something together for you by the end of this next week. We'll circulate it to the Trustee Council and work force by the end of next week.

MR. PENNOYER: Thank you.

MR. AYERS: Including -- a sort of a view from the Chief Scientist.

MR. PENNOYER: (Inaudible -- extraneous noise on teleconference) a flight by six o'clock tonight, and we're already running thirty minutes late, so if we could proceed with that in mind. The next item is habitat protection and acquisition status. That ought to be short. (Laughter)

DR. GIBBONS: I'll try to make it short, Mr. Chairman. (Aside comments). Very briefly, the first one is the standard of (inaudible) obligations, the second one is the appraisal process as we see it, and the third is the actual appraisal . . . (inaudible - - extraneous noise on teleconference). The detailed negotiations for each of the parties will be handled in executive session, so I

don't want to get into those. In the public version of the document here, there is a brief synopsis of the public -- of the status of negotiations of the various areas of Prince William

Sound, the Kenai, and the Kodiak archipelago, so that is a kind of a status in there. So, I'll briefly go through these three items, and we'll try to get us some way back on line. The first is the development of the standard appraisal specification. At the January 31st Council meeting, you directed the development of a standard appraisal specification. At that point in time, an interagency, state and federal interagency team started to develop these and drafted a package -- there were many drafts of these specifications that were developed by about -- early part of March, they were sent out for review to the landowners after repeated review by federal-state people. In addition to that, sending those standards out for review, we met with -- several team members met with several representatives of the landowners here in Juneau (inaudible) . . . standardize the appraisal specifications. We received the comment from, I believe, five -- five or six -- various comments, letters, from the landowners, and we incorporated the specifications as appropriate. We had to deal with state and federal law -- I didn't know what (inaudible -- extraneous noises on teleconference) . . . know what it is now. So we used those as -- to guide us as to what the specifications should be -- should be like. So we modified the standard specification to what we thought was acceptable to the landowners. In mid April we requested a

review by the head of Forest Service review appraiser and the head of the review appraiser from the Department of Justice. We received comments from them, they concur with the standard as they are drafted now. So we went through many reviews is what I'm

trying to get across, and we have set a standard, standard dated April 21st, and copies were sent to the willing landowners (inaudible) development. Concurrently with this process, we developed federal-state review appraisers to develop the appraisal process as you see it, and in your book at the tab, I think it's 3, is the process that was developed for appraisals. I'm not going to go through the written -- each of these steps, but if you will go to the third sheet, it's dated 5/18/94, its the first part of the appraisal process, I'll quickly walk you through what -- how we see that. I won't (inaudible) that eight of the twelve boxes -- process -- has the landowner involvement in, so there's no (inaudible) process (inaudible) by a lot in the major areas of review. So, the first box is that the lead negotiating agency advised the landowner that, with the landowner's consent, the Trustee Council is prepared to undertake an appraisal of the property rights. The landowner is advised to provide all information important to determining the value of its lands, and the landowner may, at its own expense, procure its own appraisal, do its own appraisal process at this time, which also must comply with USPAP and UASFLA to be completed by the government. A copy of the standards are attached to this document for land agency. Step 2, the lead negotiating agency requests the U.S. Forest Service to

have the contract appraiser conduct the appraisal. The Forest Service contract will be the vehicle for conducting the appraisals.

There was -- sent out for an RFP and bids received and a contract awarded to Blacksmith. So that bid, that contract, will be the

vehicle for the Trustee Council appraisals. The third step is, without landowner (inaudible) involvement here is USFS issues task order to the contract appraiser. All that is is a work order -- get busy and cover these areas is what we'd like to see. Step 4, prework conference with the contract appraiser, the landowner appraiser, if the landowner chooses to have their own appraisal done, the lead negotiating agency, and representatives of the landowners. This is an opportunity for the landowner to provide any and all pertinent information to be included in the appraisal process. It is a means for the various interested parties. Step 5, a site visit is conducted by the contract appraiser and landowner appraiser, if any. Representatives from the lead negotiating agency and the landowner are encouraged to attend and provide further pertinent information, again, requesting all the information we can from the landowner. Step 6, contractor and landowner submit draft appraisal reports for review by the lead negotiating agency review appraiser and state and federal review appraisers. This, again, involves the landowner. You'll see that the darkest boxes here are the ones that involve the landowner, so it's clear what -- if you've got a highlighted copy, the darker boxes involve the landowner. Step 7, state and federal review appraisers submit comments to the lead review -- the lead review --

and Forest Service review appraisers. The Forest Service provides comments to the respective contract and landowner appraisers. Step 8, comments considered by the contract and landowner appraisers, modify draft appraisals where appropriate, final appraisal reports

submitted to the Forest Service for distribution to review appraisers. A note here that this step may be repeated. It's a cycle that may go on before a final appraisal is accomplished. Step 9, state and federal review appraisers submit comments. Lead negotiating review appraisers issues review statement designating an approved or rejected appraisal. Step 10, lead negotiating agency submits approved appraisal report and review statement, or review statement for the rejected appraisal, to the landowner for review and comment. Step 11, the lead negotiating agency review appraiser transmits landowner comments to the contract appraiser and federal and state review appraisers for consideration. The final step, the lead negotiating agency review appraiser identifies final approved appraisal and issues final review statement. So, that's the process as we see it. Like I said, eight of the twelve steps involve the landowners in the process for (inaudible) specification standard (inaudible). This process will be sent to all the willing seller landowners today (inaudible) signed and transmitted. That will take us to step 2, (inaudible) to step 3. Now, if there's any questions -- the appraisal -- the timeline for the appraisal is (inaudible).

MR. AYERS: Let me say a couple of things while we're passing these out. In the twelve-step process, let me say that we have spent a considerable amount of time, as Dave mentioned,

reviewing the sellers' comments. I would say that it's safe to say that our appraisal process meets the direction you gave us with regard to establishing a uniform appraisal process, and completely

-- no -- and better meets the need of the seller and also the interests of the seller. However, I would not want it represented that it completely meets all the requests of the sellers. I want to be clear on that, but it is the process that we think will work, and it is consistent with UASFLA and USPAP. I do not believe that we can represent it as saying that it meets all of the interests of the sellers in what they would like to see happening in regard to appraisals. It does provide for them to have an appraisal of their own and for that to get into the process. The other thing that I would mention is that in the description of the 12-step process, it does indicate that all requests for appraisals comes through the Executive Director, representing the Trustee Council, and there was an issue raised by the attorneys and there has been a memo in each case where it is clear, and I raise this issue because one of the sellers recently represented to me that only when I have an indication from the seller personally, should I request authorization for an appraisal from the Forest Service, and there is a step in there that requires that I request from the Forest Service an appraisal for the Trustee Council. It is an important step, and I did -- I failed to do that recently, and a seller's attorney unequivocally that they had not, in writing, represented that they wanted to discuss an appraisal. So that process is in

place that takes written request from me to the Forest Service, representing the Council, and I will do so only with the understanding that there's been written authorization by the seller for an appraisal to be conducted. I just wanted to mention those

two things. They are major issues with sellers right now and I want the record straight.

MR. PENNOYER: Commissioner Sandor.

MR. AYERS: Well, this lays this out as I understand it, the UASFLA process, we may have no opportunity to do anything but comply with those -- in such things as transaction letters -- goes along (inaudible -- poor teleconference quality) . . . appraisal process or an independent appraisal process, and (inaudible) we do have this, and I think as a result of that (inaudible -- poor teleconference quality) . . . processes.

MR. PENNOYER: Mr. Tillery.

MR. TILLERY: I'm not sure I quite understand what this process is. Assuming we get to step 8, and you have two appraisals, the contract appraisal and the landowner appraisal, that both conform to UASFLA and USPAP, then you -- step 9 -- you designate and approve or reject an appraisal. Do you contemplate identifying two -- two approved appraisals?

DR. GIBBONS: There's only one approved appraisal -- that's my understanding. An appraiser is standing by to answer that question. He has signaled yes, but I understand there is only one approved appraisal. The other one is there, but there's an approved appraisal.

MR. TILLERY: Then is the one that's not approved

rejected?

DR. GIBBONS: I don't think it's considered rejected, is  
it?

(Response out of range of microphone)

MR. TILLERY: When it comes to the Trustee Council, are they going to get one or two appraisals?

MR. AYERS: One.

MR. TILLERY: Get one?

DR. GIBBONS: One fair market value.

MR. TILLERY: Even if the second one conforms to law?

MR. AYERS: Mr. Chairman.

MR. PENNOYER: Mr. Ayers.

MR. AYERS: Mr. Tillery, the (inaudible) and my understanding is what we've done is provide for the most in-depth review of an appraisal process to get to a fair market value, the price -- the fair market value. It is not an appraisal that you will get or discussion of an appraisal, hopefully, but a fair market value based on an appraisal. This provides that if there's two appraisals, or three or four, but in this case if there's two, if the value of the -- the value of the land will be based on an appraisal and various factors in that appraisal. Through the review appraisal process, another appraisal that may have different numbers, will be reviewed by the reviewers, and they will then say to the contractor, please look at this, this is an oversight, or maybe you ought to go back and look at this, or, no, we think this particular factor has been found exactly right, so that value is

found by the review appraisers to be the right -- consistent with USPAP and UASFLA. It is my understanding that the review appraisers will then come down through a review of each of the

appraisals, and they may choose one or the other, or they incorporate some of the -- let's say the sellers possess some information through appraisers that is beyond knowledge that's been picked up by the contract appraisal, Blacksmith in this case. That information would go back to Blacksmith, they'd look at that, give that, you know, find some value. The review appraiser then would discover all that during his very extensive reviewing process. But when it got to the Council, there would not be two or three appraisals for you to then get into the argument. You certainly could ask for that, but it is not my understanding that the reviewers would bring something forward -- and they don't have that jurisdiction to bring three or four options forward with regard to value.

MR. TILLERY: Mr. Chairman, may be you can answer this way. If the seller came to the Trustee Council meeting and presented their view of the value which differed from what came out of this process, but based on an appraisal that our review appraiser said did conform with these two federal standards.

MR. AYERS: All I can say, Mr. Chairman, (inaudible).

MR. TILLERY: If that happened, under federal law is it permissible?

MR. AYERS: Now that's -- now that particular question is easy for me to answer -- I don't interpret federal law, so I

would suspect that what we should do is ask the federal attorneys who have been around the block on this several times now. And actually we're going to engage in a very lengthy conversation here,

Mr. Chairman, for the record.

MR. PENNOYER: Does the federal attorney care to comment now or wait and further review this.

UNIDENTIFIED VOICE: (Inaudible -- out of microphone range)

MR. PENNOYER: Well, whichever one wants to come.

UNIDENTIFIED VOICE: (Out of microphone range and poor teleconference quality) . . . federal standards . . . for example . . . higher value . . . .

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: In the interests of time, I'm going to ask that the attorneys for the federal government take this and discuss this separately with Mr. Tillery.

MR. PENNOYER: Are you willing to carry on such a separate conversation and report back to us the results of that discussion.

MR. TILLERY: Mr. Chairman, I'm satisfied with the last answer that I heard.

MR. PENNOYER: Answering Mr. Sandor -- Commissioner Sandor's request, I guess we're going to get a more formal response to the question here as we go along. Can we move on. I've been asked by the way that we stop shuffling papers as much as possible. Apparently, this microphone is very sensitive to that. Each have

about twenty-two pounds of paper in front of us, I realize it's going to be difficult, but we'll try our best. Dave, do you want to continue.

DR. GIBBONS: I just have small point and then I'll be done. Point three was (inaudible -- extraneous noise on teleconference) . . . we have ordered four, five, appraisals, another one waiting imminently in the wings. There's a sheet here that I passed out that gives you the status of what those are. I don't need to discuss them other than just to let you know that we're proceeding now with appraisals on five, soon to have six, appraisals going, and this is the status as we know of today.

MR. PENNOYER: Thank you. Then in terms of the process that you're discussing in this previous diagram with all the diamonds and squares on it were down here on those.

DR. GIBBONS: Right.

MR. PENNOYER: So, further discussion on this report at this time? Hearing none, we have two more items before we break for executive session that the Executive Director wanted to bring up entitled "New Business: Authorization for Ranking and Negotiations Tatitlek, Chugach, and other" and the transfer of \$20,000 from the Prince William Sound herring project to boat surveys.

MR. AYERS: Mr. Chairman, very briefly it is my review and my opinion, and my opinion only, that the Trustee Council resolution that gave me the detailed authorization to move forward with regard to land acquisition, did not necessarily provide for

authorization for me to have conversation with those who may want to discuss parcels that have not been ranked. So what I'm asking for is the authorization to enter into at least preliminary -- at

least into the ranking and preliminary negotiations with sellers who may want to talk to us about parcels that may not have been ranked.

MS. WILLIAMS: So moved.

UNIDENTIFIED VOICE: Second.

MR. PENNOYER: It has been moved and seconded to give the Executive Director this authority. Is there further discussion? So, then what you're saying is you'll engage in those and then come back to us before it went . . .

MR. AYERS: It would just put them in the first step, which is simply to find out the seller's interest compared to our interest, get a ranking, I would have to come back to you as I have with the others for detailed negotiation authority.

MR. PENNOYER: Thank you. Is there any objection to that motion? (No audible objection). The motion is passed.

MR. AYERS: The second item, Mr. Chairman, is the transfer of some \$20,000 from Prince William Sound herring stock identification. The actual reason that \$20,000 is not in here but is a footnote at the bottom, which is available because poor herring returns did not allow for full-scale testing. However, we are doing a full-scale testing planning project in '95, and as you may recall, we did move some additional funds because what is needed is a toxicological research effort that is going on with

regard to herring. The \$20,000 would be used for the harlequin duck project or this (inaudible) of the year it is necessary to do spot checking in a couple of areas, and I think Joe Sullivan is on

line, if you would like to discuss that item further.

DR. SULLIVAN: Yes, I am here. This is Joe Sullivan in Anchorage. Basically, you should have a memo in front of you that outlines why we need to do this, but -- can you hear me, by the way, down there?

MR. PENNOYER: Yes, Joe -- except when we shuffle papers.

DR. SULLIVAN: That's okay. I just -- sometimes my voice doesn't seem to come in on this system here. Anyway, basically, we have reports from Exxon contractors that there are more broods out there than our studies have indicated in 1993 and previous years, and we're not certain whether or not they have their act together as far as being able to recognize birds -- eh, broods -- or whether they are looking at female birds or what's going on, but we do think that it's -- since the aspect of successful recruitment into the population is extremely important in the recovery of harlequin ducks or not, it's something that we really need to check out. So, what we're not looking for here is a full blown survey, what we're looking for is an ability to get out for a couple of weeks in the middle of the summer and check the areas where they have reported what they say is numerous broods near Green and Naked islands, and also look at some of the areas where we believe we've seen some recruitment in the past couple of years. So, it's not a lot of money, but we do believe that it's necessary to get out there

during the couple of weeks in the middle of summer and check that out and see whether that is in fact true or not or whether perhaps their techniques are not sufficient to really accurately document

what's there and what's -- or what isn't there. In the '95, we plan to do a larger scale survey of harlequin ducks in general.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Yeah, I'm very -- Mr. Chairman -- I'm very pleased to see this. I only regret that it's not the full scale project which we, of course, did not approve. I move the transfer of the \$20,000 from project 94165 to project 94427.

UNIDENTIFIED VOICE: Second.

MR. PENNOYER: Mr. Sandor . . .

MR. SANDOR: (Inaudible ) . . . pass out to the Trustees this (inaudible) on the oil impact on harlequin ducks which I found persuasive (inaudible -- extraneous noises on teleconference).

MR. PENNOYER: I guess my only question, Commissioner Sandor, or -- is, if this is not compelling, are we dealing with just the transfer or should increased funding be provided. I don't think we were transferring is a mechanism that's within an existing budget that was approved, which, if submitted and so forth -- I guess that it's easier to handle than submitting a new court request, but I'm not sure I've heard the viability of one versus the other so far. If there's a real need here, is just going out there and looking at a technique an appropriate thing to do or should we be out there actually doing a full blown survey? Mr.

Ayers.

MR. SANDOR: Well, Mr. Chairman, one of the reasons I passed this two-page sheet that (inaudible) -- it seems to me that

the challenge is much larger than we first -- I guess this is the step of getting more of the answers that are needed, and I honestly can't answer the question of whether the \$20,000 is enough, but if there's enough to get started, I assume that if it's recommended to the Trustees.

MR. AYERS: Mr. Chairman.

MR. PENNOYER: Mr. Ayers.

MR. AYERS: In response to the information and the request, the various parties involved, including the Department of Fish & Game, has requested this year over the year to develop a full blown methodology because they anticipate a long-term effort at recovery -- a long-term recovery of harlequin ducks. They declined and are declining. There is an issue about outstanding reports and information that needs to be synthesized with regard to those reports, unless -- they had originally requested with some twenty -- \$22,000 -- to develop a methodology for a long-term monitoring program of some ten to fifteen years, and use this year as a year to develop that methodology.

MR. PENNOYER: So this request is consistent with the original proposal, I presume.

MR. AYERS: The Chief Scientist and Dr. Fry (ph), the peer reviewer, recommended that approach as well, and if you want to talk about the toxicology reports, we can get into that. They

did not feel those needed to go forward this year. They felt that this was a measure that ought to happen in addition to their methodology effort -- methodology development effort this year, and

completing their previous reports and synthesizing that information, they thought this ought to go forward this year because they need -- they have this additional information, which is, they have brood stock or reported broods that they believe, as Joe pointed out, are actually molting females, and that we ought to fund a review of that report, and we ought to do so now . . .  
(inaudible -- simultaneous talking)

MR. PENNOYER: Any further discussion of this motion? Any objection to the motion? (No audible objection) Motion is approved; transfer is approved. We will now take a break unless there is further discussion to -- for about five minutes, and then go into executive session.

(Off Record at 3:38 p.m.)

(On Record at 5:52 p.m.)

MR. PENNOYER: Okay, we'd like to reconvene this meeting of the Exxon Valdez Oil Spill Trustee Council. We've had an executive session to discuss the progress of those negotiations relative to habitat acquisition, and I believe we will want to conclude our business here expeditiously, and we are going to have a motion as part of that.

MS. WILLIAMS: Mr. Chairman?

MR. PENNOYER: Go ahead.

MS. WILLIAMS: I would like to make a motion to have the

Executive Director develop a draft process of policy statement on less than fee simple habitat acquisition, which will examine public access and canopy protection, among other issues, and to bring this

policy statement and process -- this draft policy statement and process -- to the Trustee Council, by resolution, or at the next scheduled Trustee Council meeting.

MR. PENNOYER: Is there a second?

UNIDENTIFIED VOICE: Second.

MR. PENNOYER: Discussion?

MR. SANDOR: Question -- is it process on our options (inaudible).

MR. PENNOYER: The answer is yes. (Inaudible) of this motion, and in the meantime we will proceed with process we set in place to determine the process we have ongoing, the appraisal process and so forth. It doesn't put everything on hold until that time?

MS. WILLIAMS: Absolutely correct.

MR. PENNOYER: Commissioner Sandor.

MR. SANDOR: Then it is understood that if the negotiations are going to be less than fee, this whole issue of access is to be defined and dealt with at the next meeting.

MS. WILLIAMS: That's correct.

MR. PENNOYER: Okay.

MR. AYERS: I expect Rebecca got that -- Rebecca, are you on line?

STAFF: Yes, we are.

MR. AYERS: Did you catch that latter clarification by  
Commissioner Sandor.

STAFF: No, it needs to be repeated, please.

MR. SANDOR: I said that in the negotiations of anything less than fee that this whole matter of appraisal for less than fee is to be dealt with by the Trustee Council at its next meeting, so that these -- (inaudible) about this process, and the answer is yes.

MR. PENNOYER: The clarification is that that doesn't stop us from proceeding with appraisals, however, just to keep this in mind.

MS. WILLIAMS: Yes.

MR. PENNOYER: Thank you. Any further discussion on the motion? Is there any objection to the motion? (No audible objection) The motion passes. The last item of business I have on my agenda is setting a date and time for the next meeting and deciding whether we were recessing or adjourning, or what we're doing with this one. Commissioner Sandor.

MR. SANDOR: Move we recess until a report can be prepared (inaudible) to which the Executive Director and the committee.

UNIDENTIFIED VOICE: Second.

MR. PENNOYER: One further item of business then, in terms of calendars, do you want to take a few minutes and decide when an appropriate time for the next meeting would be. The -- we have some (inaudible) activity and has to rule that out because

some of us weren't available in any given week. So, can we talk about that? I'm gone through June 18th -- June 19th, first of that week. I'm here for the following two weeks.



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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 56 through 139 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council teleconference meeting taken electronically by me on the 31st day of May, 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 6th day of June, 1994.

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