

TRUSTEE COUNCIL MEETING
TRANSCRIPTS

JANUARY 5, 1995

EXXON VALDEZ OIL SPILL SETTLEMENT TRUSTEE COUNCIL

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

RECEIVED
JAN 7 1995

EXXON VALDEZ
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

Trustee Council Meeting

Juneau, Alaska
January 5, 1995
4:00 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. LEN VIRELLI, Acting
Commissioner, **MR. MARK
BRODERSON**, Trustee
Representative

UNITED STATES DEPARTMENT
OF THE INTERIOR

MR. GEORGE FRAMPTON, Assistant
Secretary via teleconference
from Washington, D.C.

STATE OF ALASKA DEPARTMENT
OF FISH AND GAME

MR. CARL ROSIER,
Commissioner

UNITED STATES DEPARTMENT OF
AGRICULTURE - FOREST SERVICE

MR. PHIL JANIK,
Regional Forester

UNITED STATES DEPARTMENT OF
COMMERCE - NOAA

MR. DON COLLINGSWORTH, Deputy
Regional Director, National
Marine Fisheries Service,
Trustee Representative for **MR.
STEVEN PENNOYER**, Director.

TRUSTEE COUNCIL STAFF

MS. MOLLY MCCAMMON	Executive Director, EVOS Trustees Council, present in Anchorage
MS. L.J. EVANS	Public Information Officer, EVOS Trustees Council, present in Anchorage

OTHERS IN ATTENDANCE in person or via teleconference

MR. ALEX SWIDERSKI	Attorney General's Office, Alaska Department of Law, present in Anchorage
--------------------	---

P R O C E E D I N G S

(On Record at approximately 4:05 p.m.)

MR. FRAMPTON: Are you -- who is going to chair this meeting?

MR. ROSIER: I'll chair the meeting here, I guess.

MR. FRAMPTON: That will be great.

MR. ROSIER: Be glad to do it George. It shouldn't take us more than five minutes.

MR. FRAMPTON: Five minutes?

MR. ROSIER: (Laughter -- aside comments)

MS. McCAMMON: We have the court recorder here in Anchorage also to record the meeting.

MR. ROSIER: Thank you, Molly.

(Aside comments off the record)

MR. ROSIER: Molly?

MS. McCAMMON: Yes.

MR. ROSIER: I understand that basically what we have on the agenda for today is the Eyak court request, is that correct?

MS. McCAMMON: That's correct. That's the only thing on the agenda, and we did notice the meeting to the effect that we do have a public notice on the door here in Anchorage.

MR. ROSIER: Okay. (Laughter) I'm glad to see that we've got widespread public notice -- something here on this.

(Aside comments on final editing) Okay. We can come to order then. This is a meeting of the Exxon Valdez Oil Spill Trustees Council. Present today is Mr. Don Collingsworth, Deputy Regional

1 Director for the National Marine Fisheries Service; we have
2 George D. Frampton, Jr., U.S. Department of the Interior; we have
3 Craig Tillery for the Alaska Department of Law; Mark Broderon is
4 here representing the Commissioner's Office for the Department of
5 Environmental Conservation; Carl Rosier, here, representing ADF&G;
6 and, let's see . . .

7 UNIDENTIFIED VOICE: Len Virelli.

8 MR. ROSIER: Len Virelli. Okay. Okay, Len, you're
9 representing the Commissioner's Office then?

10 MR. VIRELLI: Right.

11 MR. ROSIER: All right. Good enough. Excuse me for
12 the oversight there with Mark. It is my understanding that we the
13 draft Eyak court request before us for action here today, and --
14 and I believe that -- that the Forest Service plans to make a
15 presentation on that. Who is going to make a presentation on this
16 for the Forest Service?

17 MR. JANIK: Mr. Chairman, I'll be happy to begin that
18 . . .

19 MR. ROSIER: All right.

20 MR. JANIK: Maybe Jim Wolfe and Dave Gibbons will have
21 some things to add, but, if I may, without going into all of the
22 details of how this deal has come to closure, it has been a
23 complicated process, as we all know. It relates back to a purchase
24 agreement signed between the U.S. Government and Eyak Corporation
25 on May 6, 1994, which reflected a commitment by this council to pay
26 fair market value for the commercial timber rights on the subparcel

1 of the Orca Narrows, as it's referred to, consisting of
2 approximately 2,052 acres. What has led up to the events that
3 occurred late last week were finalization of the appraisal work and
4 final negotiations with Eyak with regard to that. It would
5 probably be helpful for me to explain at least some of the details
6 of that appraisal process. The government appraisal, which was
7 basically done by Pacific Forest Consultants and then reviewed by
8 both the state and federal review appraisers, came in at 3.1 dollars
9 for these commercial timber rights. In addition to that, there
10 were features of points of agreement that we had to concur, those
11 of us who were involved in the discussions with Eyak, namely Mr.
12 Tillery and myself. We had to concur that there were points of
13 agreement that should have been included in the appraisal
14 instructions to Pacific Forest Consultants that were not, and in
15 response to that we asked Manley of Pacific Forest Consultants to
16 cost-out those features. They involved such things as the amount
17 of volume over a log transfer facility site, as well as whether an
18 assumption regarding a one year or two year timber operation was to
19 be used. Those were costed out and came back to us and we
20 recognized an adjustment of \$350,000 as being an appropriate add-on
21 to the final government appraisal of \$3.1 million, and therefore
22 offered to Eyak a purchase price of \$3.45 million -- \$3,450,000.
23 They accepted that offer on December 31st after a meeting of their
24 board occurred. One instrument we used to help resolve the
25 departure that existed between an independent appraisal by Eyak
26 Corporation that amounted to \$5.8 million and a government

1 appraisal of \$3.1 (million) fair market with the add-on of \$350
2 (thousand) that I mentioned basically was the introduction of yet
3 a third set of eyes, another appraiser that we hired. The
4 corporation that was chosen by mutual agreement between Eyak and
5 the government, Cascade Appraisals -- titled that -- and a
6 gentlemen by the name of Ray Granville did the work. That work
7 amounted to an examination of the assumptions and data used leading
8 to the appraisal value of \$5.8 (million) that was done by Eyak,
9 also the assumptions and data leading to the government appraisal
10 of \$3.1 (million). The conclusion of that opinion that we asked
11 for by Mr. Granville came in at \$3.2 (million), indicating that the
12 government appraisal of \$3.1 (million) was a better reflection of
13 fair market value as he judged those facts. That was basically
14 then taken to the federal review appraiser, Carl Rasmussen (ph),
15 and after looking at both of those appraisals as well as the
16 additional opinion by Mr. Granville, confirmed and in that judgment
17 called at \$3.1 (million) was an accurate reflection of fair market
18 value. One other interpretation was a Forest Service regional
19 appraiser, Rich Goosens, who has been very active in all of these
20 proceedings in terms of the appraisal process, examined all this
21 information and confirmed in a letter to Mr. Sheridan of the Forest
22 Service -- I have copies of all of this for the record -- that the
23 three-five add-on to the \$3.1 (million) was certainly within the
24 spirit of the purchase agreement that was signed on May 6th --
25 pretty much confirmed that in his January 3rd letter to Mr.
26 Sheridan. So, at this point we have a resolution before us which

1 will pretty much be the final action of the Trustee Council to
2 basically confirm the purchase of the commercial timber rights of
3 subparcel Orca Narrows from Eyak Corporation for the price of
4 \$3,450,000, and there are some follow-on activities that I'll ask
5 Mr. Tillery to go over here that are edits that they've just made
6 to the resolution document that I think you have all had an
7 opportunity to review. It's basically a follow-up (indiscernible)
8 that we will need to do to bring closure to this as well as make
9 money available to Eyak the release of that money that Mr. Tillery
10 will describe.

11 MR. TILLERY: I guess two items and neither of these, as
12 I understand it, are prerequisites to going and getting the money,
13 it's simply a requisite to the payment of the purchase price. The
14 first one is congressional review that is required for the
15 acquisition (indiscernible -- poor teleconference quality) the
16 Forest Service, House Report No. 102-116 -- that is as it's stated
17 in the draft you have before you. The second addition should read
18 -- it is sort of a change we had in the draft -- "verification of
19 the language contained in Exhibit (indiscernible) to the May 6,
20 1994, purchase agreement to the extent it may be necessary, as
21 determined by the U.S. Department of Justice and the Alaska
22 Department of Law, intended to authorize the State to enforce in a
23 court of competent jurisdiction the restoration and conservation
24 purposes for which this acquisition is made as set forth in the
25 May 3rd, 1994, resolution, this resolution, and the May 6th, 1994,
26 purchase agreement." And what that is doing is -- we originally

1 had, I think, a final on the language that had a reverter clause in
2 it to the State in case the United States, for example, sold the
3 timber to someone else, the Department of Justice did not object to
4 that initially -- you know -- in accordance with other acquisitions
5 that we've done, they've decided they think may be legally a
6 problem, made some changes, and are doing it differently with the
7 other acquisitions, and we're not going to be having any different
8 effect, but we're going to probably have to change the language a
9 little bit to come to the same effect we originally intended in a
10 legal manner, and that's all that number two is.

11 MR. JANIK: Mr. Chairman, a question.

12 MR. ROSIER: Yes, Phil.

13 MR. JANIK: That would be done as the edit that you've
14 provided there -- it would be referred to as the conveyance
15 document.

16 MR. TILLERY: That's correct.

17 MR. JANIK: To the purchase agreement.

18 MR. TILLERY: The purchase agreement.

19 MR. JANIK: Thank you.

20 MR. ROSIER: Do all of the trustees have copies of this
21 latest wording? George?

22 MR. FRAMPTON: I have a copy of -- it's about four hours
23 old, so the only question is whether I have the precise language on
24 the second item that Craig mentioned?

25 MR. TILLERY: You do not because it's only about four
26 minutes old.

1 MR. FRAMPTON: Right. That's what I thought. (Laughter)
2 We'll need to redraft.

3 MR. TILLERY: Right. I could read it again slowly.

4 MR. ROSIER: Read it again slowly, if you would, I
5 think that would be helpful.

6 MR. TILLERY: Yes. Number two, verification of the
7 language contained in Exhibit B to the May 6, 1994, purchase
8 agreement to the extent it may be necessary, as determined by the
9 U.S. Department of Justice and the Alaska Department of Law,
10 intended to authorize the State to enforce in a court of competent
11 jurisdiction -- and then it continues to read as it reads in the
12 draft you have.

13 MR. ROSIER: Okay.

14 MR. FRAMPTON: Fine.

15 MR. ROSIER: Any questions, comments?

16 MR. FRAMPTON: Mr. Chairman?

17 MR. ROSIER: Yes, George.

18 MR. FRAMPTON: Just a comment on, I guess, it's item
19 number one. I think it's fine to make certain that the -- sort of
20 a condition subsequent is any congressional approval that may be
21 necessary, but for your information we, having gone through this
22 with Kodiak Island, we obtained the agreement of both -- in the
23 last Congress minority and majority Appropriations Committee
24 members, both the Senate and the House, that when the use -- the
25 use of funds from the joint fund does not require congressional
26 reprogramming approval. We informed them, did a very extensive

1 briefing of the Kodiak Island purchase, and they assented to it but
2 that that was a matter of comity not a reprogramming requirement,
3 and those are virtually the same people although the majority and
4 minority have been reversed in the new Appropriations Committee.
5 So probably no formal congressional approval will be required. The
6 same people for the Forest Service as for DOI -- the same
7 committee.

8 MR. ROSIER: Okay. Any other comments? Is there -- is
9 there objection to the proposed wording that Mr. Tillery has read
10 into the record? Hearing none, that is adopted then. I would --
11 the Chair would entertain a motion here for adoption here of the
12 resolution.

13 MR. JANIK: I so move.

14 MR. TILLERY: Second.

15 MR. ROSIER: Motion made, and seconded by Mr. Tillery,
16 to move forward with the resolution. Do I hear objection? Hearing
17 no objection, the resolution is adopted as presented. Thank you
18 very much.

19 MR. JANIK: Thank you, Mr. Chairman.

20 MS. MCCAMMON: Mr. Chairman, this is Molly McCammon. For
21 the recorder's purposes here, could you let us know who made the
22 motion and who was the second.

23 MR. ROSIER: It was Phil Janik that made the motion.

24 MS. MCCAMMON: Thank you.

25 MR. ROSIER: And it was seconded by Mr. Tillery.

26 MS. MCCAMMON: Thank you.

1 MR. FRAMPTON: Mr. Chairman, just an observation --
2 you've really got these meetings down to an art. (Laughter)

3 MR. ROSIER: Well, if Mr. Pennoyer was here, I would
4 (indiscernible) in a little bit here. (Laughter) We appreciate --
5 you're up kind of late in your part of the world here at the
6 present time, George.

7 MR. FRAMPTON: No, not really. Listen, I heard a rumor
8 about -- do you have any future plans that are different from when
9 I saw you last.

10 MR. ROSIER: Well, yeah, I -- my future plans there are
11 to lay on the beach in Hawaii for awhile, for guy's sake, and
12 cogitate what the future holds. (Laughter)

13 MR. FRAMPTON: Well, I hope to see next time I come up to
14 Alaska, but I just want to say that I have really enjoyed
15 enormously working with you on this and a couple of other projects,
16 and I will certainly miss you as a colleague on this august body.

17 MR. ROSIER: Well, I truly appreciate that George, and
18 undoubtedly the invite is always there to get out and see a little
19 bit of Alaska from the water whenever to get here, for guy's sakes.

20 MR. FRAMPTON: Thank you.

21 MR. ROSIER: All right. Good enough. Anything else?

22 MR. JANI: Mr. Chairman.

23 MR. ROSIER: Yes, Phil.

24 MR. JANI: Just a brief comment before we adjourn
25 here. Just let me say in appreciation to all who have participated
26 in working through the Eyak negotiations, that took a great deal of

1 effort, there were a lot of complications, and I just want to
2 personally thank everyone that was involved in that. Mr. Tillery
3 played a major role, some of my folks here in the Forest Service --
4 Jim Wolfe, Dave Gibbons, Walt Sheridan, and others -- this just
5 would not have happened without that kind of commitment.

6 MR. ROSIER: This was indeed -- I would like to echo
7 those comments as well. This was indeed a tough parturition, I
8 guess is the best way to describe it, but we've finally gotten
9 there at least part of the way anyway on this. Hopefully, we will
10 be successful with the -- some of the remaining items here on the
11 table from Eyak. But that will be up to you, gentlemen, to take
12 care of here I think. Good luck in that particular endeavor
13 anyway.

14 MR. JANIK: We will all miss you.

15 MR. ROSIER: Thank you, Phil. Anything else to come
16 before this group?

17 MR. FRAMPTON: I would like to add my congratulations to
18 the Forest Service.

19 MR. ROSIER: Yes.

20 MR. FRAMPTON: After struggling for over a year, this is
21 a really, a nice accomplishment and a sweet day to take step number
22 one with Eyak.

23 MR. ROSIER: Craig.

24 MR. TILLERY: I would like to note that, having been
25 involved in the (indiscernible) saga, I would very much like to
26 commend the Forest Service and the way it did this and the way that

1 they put together a whole separate appraisal in about four hours
2 and got it down -- it was an outstanding job and (indiscernible)
3 here, very impressed -- appreciate it.

4 MR. ROSIER: Okay. I would entertain a motion to
5 adjourn.

6 MR. FRAMPTON: So moved.

7 MR. ROSIER: George Frampton.

8 MR. ROSIER: Happy New Year, George.

9 MR. FRAMPTON: Happy New Year.

10 MR. ROSIER: Thanks for the quick handling everyone.

11 MS. McCAMMON: Thank you.

12 (Off record: 4:22 p.m.)

13 END OF PROCEEDINGS

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

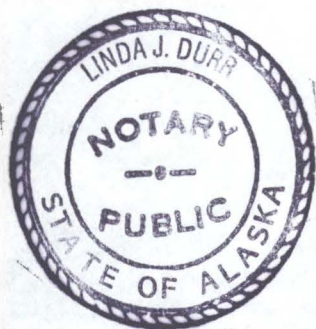
I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 13 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by me on January 5, 1995, commencing at the hour of 4:00 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 10th day of January, 1995.



Linda J. Durr

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

ACCOPRESS®

25970	YELLOW
25971	BLACK
25972	LIGHT BLUE
25973	DARK BLUE
25974	LIGHT GRAY
25975	LIGHT GREEN
25976	DARK GREEN
25977	TANGERINE
25978	RED
25979	EXECUTIVE RED

GENUINE PRESSBOARD

ACCO®



ACCO USA, INC.
770 S. ACCO PLAZA
WHEELING, IL 60090