

TRUSTEE COUNCIL
MEETING TELECONFERENCE
JUNE 16, 1995

EXXON VALDEZ OIL SPILL SETTLEMENT TRUSTEE COUNCIL

Simpson Building
645 G Street, 4th Floor
Anchorage, Alaska 99501

RECEIVED
AUG 28 1995

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

TRUSTEE COUNCIL TELECONFERENCE MEETING
June 16, 1995
11:00 a.m.

TRUSTEE COUNCIL MEMBERS in attendance:

STATE OF ALASKA

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

UNITED STATES DEPARTMENT
OF THE INTERIOR

MS. DEBORAH WILLIAMS, Special
Assistant to MR. GEORGE
FRAMPTON, Assistant Secretary/
MR. RON MCCOY, Alternate

STATE OF ALASKA DEPARTMENT
OF FISH AND GAME

MR. FRANK RUE
Commissioner

UNITED STATES DEPARTMENT OF
AGRICULTURE - FOREST SERVICE

MR. JAMES WOLFE, Alternate
for MR. PHIL JANIK, Regional
Forester

UNITED STATES DEPARTMENT OF
COMMERCE - NOAA

MR. STEVE PENNOYER
Director, Alaska Region/
MR. BILL HINES, Alternate

STATE OF ALASKA DEPARTMENT
OF ENVIRONMENTAL CONSERVATION

MS. MICHELLE BROWN, Deputy
Commissioner and Trustee
Representative for MR. GENE
BURDEN, Commissioner

TRUSTEE COUNCIL STAFF

MS. MOLLY MCCAMMON	Executive Director, EVOS Trustees Council, present in Anchorage
MR. ERIC MYERS	Director of Operations, EVOS Trustees Council
MS. TRACI KRAMER	Director of Administration, EVOS Trustees Council, present in Juneau
MS. REBECCA WILLIAMS	Executive Secretary, EVOS Trustees Council, present in Anchorage

OTHERS PRESENT who participated

MR. JIM LYNCH	Interim Vice President for Finance, University of Alaska Fairbanks, present in Fairbanks
MS. GINA BELT	Department of Justice

P R O C E E D I N G S

(On Record 11:04 a.m.)

OPERATOR: Molly, are you are line?

MS. McCAMMON: Yes.

OPERATOR: Tracy.

MS. KRAMER: Yes.

OPERATOR: Phil Jenkins? (sic)

MR. JANIK: Yes.

OPERATOR: Steve Pennoyer

MR. PENNOYER: Here.

OPERATOR: Bruce.

MR. BOTELLO: Here.

OPERATOR: Michelle Brown.

MS. BROWN: Here.

OPERATOR: Jim Lynch.

MR. LYNCH: Here.

OPERATOR: Deborah Williams.

MS. WILLIAMS: Here.

OPERATOR: Gina Belt.

MS. BELT: Here.

OPERATOR: Before I leave the line if anyone needs
to reach me just press star-zero. If anyone gets disconnected
dial 1-800-770-2121. I'm going to leave the line.

MS. McCAMMON: Thank you, operator.

OPERATOR: You're welcome.

MS. KRAMER: I'm also going to leave.

1 MS. McCAMMON: What's that?

2 MS. KRAMER: This is Traci, I'm also going to
3 leave.

4 MS. McCAMMON: Oh, okay.

5 MR. TILLERY: Yes, so this is Craig Tillery. Molly
6 suggested that I could chair this rump meeting of the Council.
7 As I understand it, the agenda has two items. One, is the
8 university overhead issue, and everybody should have received a
9 draft of a cooperative agreement between the Council and the
10 university, and we have a representative of university on line.
11 The second issue has to do with habitat protection, which is
12 something that we would probably do in executive session, and I
13 would propose that we start with the cooperative agreement, if
14 that's amenable to everyone?

15 (Members respond - yes)

16 MR. TILLERY: Molly, could you give us a summation of
17 what you propose and how we got here?

18 MS. McCAMMON: Yes, Mr. Chairman, in the last couple of
19 years the Trustee Council has done an ...

20 MR. JANI: Molly, excuse me a minute, please.

21 MS. McCAMMON: Yes.

22 MR. JANI: Is Steve Pennoyer on the line?

23 MS. McCAMMON: Yes, he is.

24 MR. PENNOYER: I am, Jim.

25 MR. JANI: Okay, all right, thanks. I didn't hear
26 you awhile ago. I'm sorry.

1 MS. McCAMMON: Okay, in the last two years, the Trustee
2 Council has informally adopted a policy that for University of
3 Alaska projects they would receive a 20 percent indirect rate.
4 This policy has been informal in the sense that there has been no
5 written agreement, there has been confusion as to what the rate
6 is applied against, as to what processes it applies to, and it
7 has resulted in a great deal of misunderstandings, confusion, and
8 at times hard feelings. As a result of this, I began discussions
9 in January of this year with the university president about
10 trying to come to some mutual agreement as to what rate would be
11 used for all University of Alaska projects, how it would be
12 applied against what factors, and try to come to some agreement
13 that we could put into writing and that we could show all
14 elements of the university system. President Komisar has been
15 very cooperative in this aspect, as indicated in my memo. The
16 university is becoming a much more significant player in terms of
17 the Trustee Council's annual restoration program. Last year, the
18 university received somewhere between \$4 and \$5 million worth of
19 projects. It is estimated that they'll probably be receiving
20 about on that level in FY '96. The current indirect rate that
21 the University of Alaska uses is 42 percent. That is being
22 renegotiated with federal government now, and is expected to
23 increase to 50 percent probably in the fall. The 25 percent rate
24 that the university has agreed to for Trustee Council projects, I
25 believe, does reflect a very serious commitment by the university
26 to the Council's program, and a recognition of the Council's

1 research effort, it's importance to the entire state, and I
2 really think the university should be recognized for their
3 willingness to make this commitment. Having a -- some form of a
4 formalized agreement that is signed by two parties, and whoever
5 those two parties may be, I believe is a much more preferable way
6 to approaching this than the informal agreement that we've had in
7 the past. I think it will clear up a lot of the
8 misunderstandings that we've had in the past. And, for that
9 reason, I'm recommending that we go forward with some form of an
10 agreement. In having this reviewed by some of the attorneys,
11 there has been some question as to whether the Council can enter
12 -- the Council itself can enter into an actual cooperative
13 agreement, and whether this reflects a contract. And, for that
14 reason I sent around a revised motion which would be to approve
15 the policy that's described in this cooperative agreement, and
16 then to authorize me to formalize this with the university in an
17 appropriate manner, and that is whether it ends up being a policy
18 or a memorandum of understanding, or exactly what format it might
19 take. And, we do have Jim Lynch who is the comptroller for the
20 University of Alaska. Both Jim and President Komisar have been
21 very cooperative in the discussions that we've had in the past
22 six months, and he is available to answer any questions.

23 MS. WILLIAMS: Mr. Chairman, I move -- I so move.

24 MR. TILLERY: You -- you so move Molly's amended
25 motion, is that?

26 MS. WILLIAMS: That's correct.

1 MR. TILLERY: Is there a second?

2 MS. BROWN: Second, this is Michelle.

3 MR. TILLERY: Is there discussion?

4 MR. PENNOYER: Yeah, just a couple of quick questions,
5 Molly, if I could. The 25 -- I didn't understand your comment
6 about negotiating with the federal government at 50 percent. In
7 our case at least all SK grants going to the University of Alaska
8 are at 25 percent. I haven't heard anything about an increase in
9 the allowed indirect cost rate -- overhead rate, have you heard
10 anything?

11 MR. TILLERY: Perhaps Mr. Lynch can respond to that.

12 MR. LYNCH: Yes, this is Jim Lynch, and we're -- we
13 will commence our negotiations with the federal government on
14 these rates in mid to late June, and that will be coming up here
15 in the next two weeks or so. We'll be negotiating some temporary
16 rates. The final negotiations will probably take place in
17 August. Our current calculated rate that we've submitted is at
18 59 percent. We expect that to be negotiated at 50 percent for
19 the fiscal year, FY '96, starting July 1. So, it's my
20 expectation ...

21 MR. PENNOYER: Will that be with all federal grants and
22 anything?

23 MR. LYNCH: That's correct.

24 MR. PENNOYER: In other words, you're negotiating out
25 of our SK program and everything?

26 MR. LYNCH: That's for all federal grants and

1 contracts.

2 MR. PENNOYER: Oh -- okay.

3 MR. LYNCH: There may be special circumstances where
4 -- this is the general on-campus rate for the University of
5 Alaska Fairbanks. There are other rates for different
6 activities. That's a basic ...

7 MR. PENNOYER: One of the other (indiscernible) I had
8 is this ...

9 MR. LYNCH: I don't know where those other grants
10 are coming through the university, but ...

11 MR. PENNOYER: Okay, that was just a matter of
12 interest, Molly. The other question I had is, I'm not -- I don't
13 -- I think this is fine. I think you guys have done a good job.
14 I think the university is -- certainly come to discuss it with us
15 and the recognition you talked about it, the importance of the
16 research is appreciated. I guess I'm a little confused to kind
17 of the background overhead cost question. Is this -- this -- the
18 25 percent sort of a level playing field with other people we
19 have indirect costs with, including the agencies, or where -- I
20 don't know if that's necessary to even worry about here, because
21 this -- this needs to be done and I agree with you, but what's
22 your general view of overall overhead costs questions?

23 MS. MCCAMMON: Mr. Chairman, we have looked at -- been
24 looking at the whole question of overall, indirect, and general
25 administration costs. The agencies are receiving basically a 15
26 percent general administration for personnel and other costs,

1 with the exception of contracting, and the contracting costs are
2 two and seven percent, depending on the size of the contracts.
3 However, the agencies also receive additional support from the
4 Trustee Council in the form of personnel for liaisons and project
5 managers and things of that nature. So, I think this does fairly
6 well allow for a level playing field. What we haven't totally
7 come to grips with is whether there should be a policy such as
8 just capping all potential, indirect rates for other entities,
9 other private entities. These, the non-university and non-agency
10 recipients of Trustee Council funds is a very small amount of the
11 whole budget, and we're looking at those and some specifics on
12 that, and I am -- I would expect I'll be coming back to you with
13 a recommendation on that probably in July sometime. So, I don't
14 have a total answer for that.

15 MR. PENNOYER: Madam Chairman, thank you very much.
16 That's just a couple of questions of clarification. I have no
17 problem with proceeding with the vote on the motion, then.

18 MR. TILLERY: Okay, is there further discussion?

19 MR. JANIK: Phil Janik here, Mr. Chairman.

20 MR. TILLERY: Mr. Janik.

21 MR. JANIK: Just an observation in my -- the
22 turnover file that I received, I came across this document called
23 the "Financial Operating Procedures" for the Council signed by
24 all the members at a point in '92. And, in no way suggesting any
25 opposition to what's on the table right now as a motion, but just
26 a reminder to us that there are some numbers in that document

1 that do reflect, I think, what, Molly, you just described, and
2 it's, quote, the norm or the standard or whatever it might be,
3 and we may want to look at that and update this. This appears to
4 be a current document that we might want to basically revise.

5 MR. TILLERY: Ms. McCammon, could you respond?

6 MS. MCCAMMON: Mr. Chairman, the financial operating
7 procedures were adopted in 1992. We've been looking at them very
8 closely in relation to preparation for the audit that will occur
9 this fall. These operating procedures are in drastic need of
10 revision. We are in the process of drafting some changes --
11 proposed changes to it now, and those changes will be coming
12 forward to you in July or August, and you're absolutely right,
13 this is something that needs to be considered once again.

14 MR. JANIK: This is a deviation from these.

15 MR. TILLERY: Well, Mr. Janik could you specifically
16 speak to the fact, is there a need to change the financial
17 operating procedures to deal with this, or my understanding was
18 that the -- I thought that the operating procedures allowed for a
19 -- allowed for Trustee Council by resolution to -- to alter
20 overhead rates.

21 MS. MCCAMMON: I believe that with a resolution and a
22 motion of this nature, the Trustee Council is authorized to take
23 this action without formally changing the financial operating
24 procedures. But, I think that when we do come back with proposed
25 changes to the actual operating procedures, we may want to
26 include something in this.

1 MR. TILLERY: Mr. Janik, was there follow up?

2 MR. JANIK: I'm simply not familiar enough with the
3 document to be able to personally answer your questions. Again,
4 my intent was only to describe the need to look at this document.
5 I was not suggesting, because I simply don't know, whether this
6 document needs to be changed prior to moving on this motion.
7 That was not my intent. It was just a matter of reminding all of
8 us that we do have financial operating procedures, and the
9 figures I see in here reflect things like 15 percent, and so on,
10 and we're looking at numbers higher than that, so it's probably
11 time we looked at this.

12 MR. TILLERY: Mr. Janik, in fact, at the time you
13 asked your question, I was similarly perusing this document,
14 looking for something, and I have not located that statement,
15 yet, although I think there was in here that allowed Trustee
16 Council to go about it. Molly is going to look here for a
17 second. While we're doing that, is there further discussion?

18 (Pause -- Ms. McCammon peruses procedures)

19 MR. TILLERY: Molly is still looking through the
20 procedures.

21 MS. KRAMER: Hey, Craig, it's Traci.

22 MR. TILLERY: Yes, Traci.

23 MS. KRAMER: I think there's a line -- one line
24 -- I don't have my financial operating procedures in front of me,
25 but I think there is a line where they talk about the 15 percent
26 and the seven and two percent, that says this is the rate that

1 may be applied, but the Trustee Council can do something
2 different. I remember a line like that in there. It's like page
3 3 or 4 on the bottom part.

4 MR. TILLERY: Okay, thank you, Traci. Molly, do you
5 have ...

6 MS. McCAMMON: Well, the -- the actual language is
7 "general administration costs may be included for all separate
8 budgets funded through the Trustee Council." There are two types
9 of general administration costs that may be incorporated into
10 project budgets, 15 percent of each, and up to seven percent and
11 two percent, so the language is may, which is a permissive
12 language. I think, what we could do is add to the motion some
13 language that says, "and to revise the financial operating
14 procedures as appropriate to reflect this."

15 MS. WILLIAMS: I will take that as a friendly
16 amendment.

17 MR. TILLERY: I guess, this is Craig, my own view is
18 that Molly's interpretation is correct, that it is permissive,
19 and that we can alter this. I'd rather see a wholesale revision
20 of the financial operating procedures. I don't think we really
21 want to include this particular MOA or whatever it turns out to
22 be in the financial operating procedures, but maybe the motion
23 ought to reflect that this is in accordance with the financial
24 operating procedures, and I think the discussion should reflect
25 that -- that to the extent it is not, it's the Council's intent
26 to -- to alter those.

1 MS. WILLIAMS: That's fine.

2 MR. TILLERY: Do I hear a second to the motion?

3 MS. BROWN: Yeah, it's a friendly amendment, fine.

4 MR. TILLERY: Is there further discussion?

5 MR. McCAMMON: Do you want to repeat the friendly
6 amendment?

7 MR. TILLERY: Well, that's what I'm -- I'm trying to -
8 - go on with -- if somebody wants to discuss something, I'm
9 trying to write what it might be.

10 MS. McCAMMON: I should just note for the record here,
11 I mean, the financial operating procedures are very -- they were
12 crafted in 1992, and three years later they're fairly obsolete at
13 this point and are in need of major revision. And, Traci Kramer
14 has been looking at these for the last few months, and we will
15 have something before the Council in July and August.

16 MS. WILLIAMS: Call for the question.

17 MR. TILLERY: Okay. Thank you, and I'm just drafting
18 -- I'm just writing something out real quick so I can repeat back
19 the motion. What I would -- as I understand the motion now, it
20 reads, a motion to approve the policy of a 25 percent indirect
21 rate for the University of Alaska projects, as described in the
22 draft agreement presented to the Council, and authorize the
23 Executive Director to formalize this policy with the university
24 in the appropriate manner. It is the belief of the Council that
25 this policy is in accord with the financial operating procedures.
26 To the extent that it is not, the financial operating procedures

1 are amended to conform with this policy. Is that -- capture the
2 motion?

3 MS. WILLIAMS: Yes.

4 MR. TILLERY: All in favor of the motion.

5 MS. WILLIAMS: Aye.

6 MR. JANIK: Aye.

7 MR. PENNOYER: Aye.

8 (Mr. Rue and Ms. Brown's votes are not audible.)

9 MR. TILLERY: Opposed. (No response) The motion is
10 carried and passed. Mr. Lynch, I suspect you can sign off if you
11 wish.

12 MR. LYNCH: I'll do that, thank you very much for
13 passing the motion and thanks for your cooperation. It was --
14 Molly and Traci and the rest of the staff have really been very
15 good to work with in this project.

16 MR. TILLERY: Thank you, and thank you for your
17 cooperation and for being here today.

18 MR. LYNCH: Thank you.

19 MR. TILLERY: The next part of the agenda would have
20 to do with the habitat protection program. I believe
21 specifically with the current discussions with Eyak. Is there
22 any -- and the proposal I heard would be to do that in executive
23 session. Before we have a motion to go into executive session,
24 we should find out if there is anybody believes there is anything
25 else that needs to be discussed in executive session so we can be
26 complete about what we'll be talking about. Are there any other

1 subjects? Is there a motion with regard to habitat?

2 MR. PENNOYER: I move we go to executive session.

3 MR. TILLERY: Could you state the purposes?

4 MR. PENNOYER: I thought you already did.

5 MR. TILLERY: Okay, for those purposes then?

6 MR. PENNOYER: Land acquisition and particularly the
7 Eyak negotiations.

8 MR. TILLERY: Okay, is there a second?

9 MR. JANIK: Second, Phil Janik.

10 MR. TILLERY: In favor.

11 ALL TRUSTEE COUNCIL MEMBERS: Aye.

12 MR. TILLERY: Opposed. (No response) Okay, this
13 meeting will go -- is -- will be moved into executive session.
14 Logistically, what do we have to do?

15 MS. McCAMMON: I believe if Mr. Lynch is off line, then
16 -- everyone who is not a Trustee Council member or an appropriate
17 staff person should be leaving their respective offices. And, we
18 don't have to hang up.

19 MR. TILLERY: Okay, is there anyone on the phone who
20 is not Council member or on the Council member's staff.

21 MS. BELT: This is Gina Belt.

22 MR. TILLERY: Okay, Gina, you need to be here for
23 this. Is there anyone -- okay.

24 MS. WILLIAMS: Mr. Chairman, this is Deborah Williams.
25 I regret to say that I have to leave, I'm going to have Ron
26 McCoy, my top staff member sit in for me, and if there is

1 something on which we need to vote today, I can -- I can be
2 available for that vote later today, and he can inform me of the
3 discussion.

4 (Off Record: 11:24 a.m.)

5 (On Record: 11:50 a.m.)

6 MR. TILLERY: We are now back in public, we have
7 concluded the executive session. The Council, or Molly, perhaps
8 you could report what the Council discussed in executive session.

9 MS. McCAMMON: In executive session the Council
10 discussed the current status of negotiations with Eyak
11 Corporation.

12 MR. TILLERY: Okay, is there any further business to
13 come before the Council? Do I hear a motion to adjourn?

14 MR. JANIK: So moved.

15 MS. BROWN: Second.

16 MR. TILLERY: Any discussion? All in favor?

17 ALL TRUSTEE COUNCIL MEMBERS: Aye.

18 MR. TILLERY: This meeting is adjourned, thank you.

19 MS. McCAMMON: Thank you very much.

20 (Off Record 11:52 a.m.)

21 END OF PROCEEDINGS

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 16 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council teleconference meeting taken electronically by Ladonna Lindley on June 16, 1995, commencing at approximately 11:00 a.m. at the Exxon Valdez Oil Spill Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by Sandra Yates and me to the best of our 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 23rd day of June, 1995.

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