

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

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TRUSTEE COUNCIL MEETING
Wednesday, February 28, 1996
3:30 o'clock p.m. EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

645 G Street
Fourth Floor Conference Room
Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

U.S. DEPARTMENT OF THE INTERIOR: **MS. DEBORAH WILLIAMS (Chair)**
Special Assistant to the
Assistant Secretary

STATE OF ALASKA -
DEPARTMENT OF LAW: **MR. CRAIG TILLERY**
Trustee Representative
for the Attorney General

STATE OF ALASKA - DEPARTMENT
OF FISH AND GAME: **MS. JANET KOWALSKI**
Alternate for
Commissioner Frank Rue

U.S. DEPARTMENT OF AGRICULTURE -
U.S. FOREST SERVICE: **MR. PHIL JANIK**
Regional Forester

U.S. DEPARTMENT OF
COMMERCE - NOAA: **MR. STEVE PENNOYER**
Director, Alaska Region

STATE OF ALASKA - DEPARTMENT
OF ENVIRONMENTAL CONSERVATION: **MS. MICHELE BROWN**
Commissioner

1 **TRUSTEE COUNCIL STAFF PRESENT:**

2	MS. MOLLY McCAMMON	Executive Director EVOS Trustee Council
3		
4	MS. REBECCA WILLIAMS	Executive Secretary EVOS Trustee Council
5		
6	MS. L. J. EVANS	Public Information Specialist EVOS Trustee Council
7		
8	MR. ALEX SWIDERSKI	Alternate, Department of Law
9		
10	MR. JAMES WOLFE	Alternate, Department of Agriculture, U.S. Forest Service
11		
12	MR. ERNIE PIPER	Alternate, Department of Environmental Conservation

11 **OTHER PARTICIPANTS:**

12	DAVE GIBBONS	U.S. Forest Service
13	MS. GINA BELT	U.S. Department of Justice

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ANCHORAGE, ALASKA - WEDNESDAY, FEBRUARY 28, 1996

(Tape No. 1 of 1)

(On record at 3:33 p.m.)

CHAIR WILLIAMS: I will call the February 28th, 1996, meeting of the Exxon Valdez Oil Spill Trustee Council to order. I would like to announce the Trustee Council members that are present today. We have Craig Tillery, representing the Attorney General's Office; myself, Deborah Williams, representing the Department of Interior; Steve Pennoyer, representing the National Marine Fisheries Service; Michele Brown, representing the Alaska Department of Environmental Conservation; Phil Janik, representing the U.S. Department of Agriculture, Forest Service.

Do we have the representative from ADF&G on?

MS. McCAMMON: Janet Kowalski.

CHAIR WILLIAMS: Yes.

MS. KOWALSKI: Yeah, I'm here. Thanks.

CHAIR WILLIAMS: Okay. And Janet Kowalski, representing the Alaska Department of Fish and Game.

Welcome all Trustees. We have before us a proposed agenda. Do I hear any additions or corrections to the agenda?

(No audible response)

CHAIR WILLIAMS: Do I hear a motion to approve the agenda?

1 MR. PENNOYER: I move.

2 CHAIR WILLIAMS: Moved by Steve. Seconded -- did I
3 hear you, Phil?

4 MR. JANIK: Yes.

5 CHAIR WILLIAMS: Okay. Seconded by Phil to approve
6 the agenda. Are there any objections?

7 (No audible response)

8 CHAIR WILLIAMS: Hearing none, the agenda is adopted.

9 The first item on the agenda is the Quarterly Project
10 Status Summary, and the monthly financial statement. We have
11 been given copies of both here in Anchorage. Do you have
12 copies in Juneau?

13 MR. JANIK: Yeah, we do.

14 MR. PENNOYER: Yes.

15 CHAIR WILLIAMS: Excellent. Molly, would you like to
16 discuss them, please?

17 MS. McCAMMON: Madam Chair, I didn't need to discuss
18 these necessarily. I just wanted to take the opportunity to
19 make sure that all of the Trustees received copies of them
20 since we don't know when the next full-fledged meeting will be.

21 These are just the monthly financial statements and
22 then the Quarterly Status Report. I think that has a lot of
23 good information about the status of project reports, which I
24 think we've made considerable progress on in the last year.

25 CHAIR WILLIAMS: Are there any questions or comments

1 about the Quarterly Project Status Summary or the monthly
2 financial report?

3 MR. PENNOYER: Yeah, Madam Chair?

4 CHAIR WILLIAMS: Yes. Mr. Pennoyer?

5 MR. PENNOYER: Haven't had a chance, of course, to
6 read it. Molly, you said made good progress. Is there
7 anything else you want to highlight we should pay particular
8 attention to, any problems you see?

9 MS. McCAMMON: Madam Chair, there's only a couple of
10 projects that we're really behind on in the project reports.
11 Most of them -- and those are pretty much for a good reason;
12 we're still trying to work out various ways of resolving them.

13 At this point, our biggest gap seems to be in last
14 year's reports. We've had a number of these come in since this
15 report was prepared; this is as of December 31st. It's been
16 almost two months since that time, and we've actually had quite
17 a few in there. So at this point, I don't think there's any
18 major problems.

19 MR. PENNOYER: Okay. Thank you.

20 CHAIR WILLIAMS: I heard what sounded like a hang-up.
21 Let me make a quick check that we have all the Trustee Council
22 members. Obviously, Steve, you're still on. Phil, you're on?

23 MR. JANIK: Yes.

24 CHAIR WILLIAMS: Okay. And Janet?

25 MS. KOWALSKI: Yes.

1 CHAIR WILLIAMS: Okay.

2 MS. McCAMMON: Michele.

3 CHAIR WILLIAMS: And Michele. Excuse me. Michele?

4 MS. BROWN: Yes.

5 CHAIR WILLIAMS: Yes. Excellent. Very good. Okay.

6 Any further questions or comments about these two documents?

7 (No audible response)

8 CHAIR WILLIAMS: All right. The next item on the
9 agenda is an Executive Session to discuss habitat protection
10 negotiations including Eyak Core Lands. Would someone care to
11 make a motion that the Trustee Council go into Executive
12 Session to discuss habitat protection negotiations including
13 Eyak Core Lands?

14 MR. JANIK: Phil Janik. So moved.

15 MR. PENNOYER: Second.

16 CHAIR WILLIAMS: Moved by Phil. Seconded by Steve.
17 Is there any discussion about going into Executive Session on
18 these items at this time?

19 (No audible response)

20 CHAIR WILLIAMS: It's been moved and seconded. Is
21 there any opposition to the motion?

22 (No audible response)

23 CHAIR WILLIAMS: Hearing none, we will go into
24 Executive Session at this time.

25 COURT REPORTER: Off record.

1 (Off record at 3:40 p.m.)

2 (On record at 4:45 p.m.)

3 COURT REPORTER: On record. It's 4:45 p.m.

4 CHAIR WILLIAMS: This is the continuation of the
5 Trustee Council meeting of February 28, 1996. Let me just make
6 absolutely sure that we have all Trustee Council members
7 present. We have Craig Tillery here; myself, here. Steve, you
8 are still on the line?

9 MR. PENNOYER: Yes. I'm on line.

10 CHAIR WILLIAMS: Michele?

11 MR. PENNOYER: Yes.

12 CHAIR WILLIAMS: No, no, no, no, no.

13 (Laughter)

14 CHAIR WILLIAMS: Michele?

15 MS. BROWN: Yeah. I had the last part of that. It
16 just sounded like an "L." Yeah, I'm here.

17 CHAIR WILLIAMS: Phil?

18 MR. JANIK: Yes. We're on line.

19 CHAIR WILLIAMS: Good. And Janet?

20 MS. KOWALSKI: Yes.

21 CHAIR WILLIAMS: All right. We have all Trustee
22 member agencies represented at this time. We thank the public
23 for being patient while we were in Executive Session.

24 As our motion indicated, in Executive Session we
25 restricted ourselves to discussing habitat protection

1 negotiations, including Eyak Core Lands.

2 We thank the public who presented us with the urgent
3 petition to protect Eyak Lake, Eyak River, and Power Creek. We
4 did review that petition for purposes of our discussion, and I
5 thank the 248 individuals who signed that, primarily in the
6 city of Cordova.

7 Would anyone like to bring a motion regarding Eyak to
8 the floor at this time?

9 MR. JANIK: Madam Chair, this is Phil Janik. I am
10 prepared to submit a motion. Would you prefer we go over a
11 description of the parcel first and the description of values?

12 CHAIR WILLIAMS: Yes. Why don't we do that? Let's
13 go ahead and do background and then the motion. Thank you, Mr.
14 Janik.

15 MR. JANIK: Okay. We're going to have Jim Wolfe,
16 here, of the Forest Service, do those two tasks for us.

17 MR. WOLFE: Okay. The property that we're interested
18 in are the Eyak River, Power Creek, and Eyak Lake area, known
19 as -- together known as the Core Lands, consisting of
20 approximately 2,000 acres, and we have a map depicting the
21 areas involved.

22 CHAIR WILLIAMS: Mr. Wolfe, I believe you mean 11,200
23 acres?

24 MR. WOLFE: I'm -- what did I say?

25 CHAIR WILLIAMS: I think, 2,000.

1 MR. WOLFE: Sorry. Eleven thousand two hundred
2 acres. These lands are within the oil spill area. Core lands
3 include important habitat which are critical to recovery of
4 injured -- of natural resources injured during the oil spill.

5 Overall, the habitat was evaluated as -- with a
6 moderate ranking in the Trustee Council habitat acquisition
7 ranking process. However, it has high value to benefit
8 restoration of sockeye salmon, cutthroat trout, Dolly Varden,
9 river otter, as well as a high recreation value for -- or
10 restoration value for recreation use.

11 In addition, the water quality for Eyak Lake is of
12 major concern from development in the area and protection of
13 the land surrounding the lake; an acquisition would limit the
14 risk of this occurring. The Core Lands also have a high scenic
15 value because of their visibility from the Copper River
16 Highway.

17 I guess that's probably enough of a description of
18 restoration benefits at this point.

19 CHAIR WILLIAMS: Very good. Before there is a
20 motion, would any Trustee Council members or Ms. McCammon like
21 to put any other issues on the table with regard to the Eyak
22 Core Lands?

23 (No audible response)

24 CHAIR WILLIAMS: You know, it might be useful -- is
25 it possible to review the meeting with the board at this time,

1 talk about -- well, its been a long day.

2 Basically, what I want to say is that the Trustee
3 Council has been very, very interested in protecting the Core
4 Lands. And we have discussed the Core lands for, certainly,
5 the entirety of my two-year tenure on the Trustee Council, and
6 I know Steve, you can predate me. We are committed to
7 protecting the Core Lands for all the reasons that Mr. Wolfe
8 mentioned. They have important restoration value, and very
9 candidly, we also are aware of their importance to the
10 community of Cordova and to the state of Alaska in general.

11 We were notified a month ago or so from board members
12 at Cordova that there is an intent on the part of Eyak and
13 Sherstone to log this core area beginning March 15th. And that
14 prompted the Trustee Council to react and to seek to make a
15 specific offer to, again, afford these core lands the
16 protection that they deserve. And we understand that the
17 community of Cordova and, for the most part, the people of
18 Alaska hope to achieve.

19 So the Trustee Council has met now on several
20 occasions to consider an offer, and that is what we are
21 prepared to do shortly in the form of a resolution. We
22 certainly do hope that Eyak Corporation and Sherstone will
23 review this offer carefully, and we hope that it will be
24 accepted for the benefit of restoration and the citizens of
25 Cordova and the people of Alaska.

1 Anyone else like to make prefatory comment?

2 (No audible response)

3 CHAIR WILLIAMS: Okay. Then, Mr. Janik, are you
4 prepared to make a motion at this time?

5 MR. JANIK: Yes. And I'd like to preface that by
6 simply saying that the specifics and details of the offer that
7 I am about to move will be contained, as you referred to, Madam
8 Chair, in a resolution yet to be finalized, and we will
9 hopefully have that taken care of as early as by tomorrow and
10 available, of course, to Eyak Corporation and Sherstone,
11 Incorporated, as well as others who may want to review that.

12 I move the following: That the Trustee Council
13 authorize the Forest Service to offer \$7 million to Eyak
14 Corporation/Sherstone, Incorporated, for fee simple acquisition
15 of the area generally known as the Core Lands, which includes
16 Power Creek, Eyak Lake, Eyak River parcels, including timber.

17 CHAIR WILLIAMS: Is there a second to the motion?

18 MR. TILLERY: Second.

19 CHAIR WILLIAMS: Seconded. It's been moved by Mr.
20 Janik and seconded by Mr. Tillery to offer \$7 million for the
21 purchase of 11,200 acres in fee simple, known as the Core Land.

22 We do have a map which depicts the property in
23 question and, among other things, shows areas that Eyak
24 Corporation desires to exclude. Those lands that are depicted
25 on our map with blue stripes, at least on the map that I have,

1 are not included in the offer. They are lands that Eyak is
2 desirous of developing: two parcels on the lake and one parcel
3 on Eyak River.

4 Discussion, please, of the motion. Mr. Pennoyer,
5 would you like to say anything?

6 MR. PENNOYER: No, Madam Chair. I think you
7 summarized it earlier. The Core Lands have certainly been an
8 important aspect of this Council for a long, long time, were
9 one of the first parcels in Prince William Sound we really
10 discussed the need to acquire for restoration purposes and
11 importance in that particular area. So I'm completely in
12 accordance with this and prepared to vote on it.

13 CHAIR WILLIAMS: Okay.

14 MR. JANIK: Madam Chair?

15 CHAIR WILLIAMS: Yes.

16 MR. JANIK: This is Phil Janik. Just one statement
17 of observation, and in full consideration by the Council, just
18 for the record, the offer included in the motion of \$7 million
19 is above the estimated fair market value.

20 (Pause)

21 CHAIR WILLIAMS: Yes. And I know sometimes we avoid
22 adverse, but I certainly believe it is substantially above.
23 All right. Any further discussion of the motion?

24 (No audible response)

25 CHAIR WILLIAMS: We will take a vote on the motion at

1 this time. All members in favor of the motion, please indicate
2 by saying aye.

3 ALL TRUSTEE MEMBERS COLLECTIVELY: Aye.

4 CHAIR WILLIAMS: Opposed?

5 (No audible response)

6 CHAIR WILLIAMS: The motion passes.

7 The next item on the agenda is Technical Amendment to
8 Project 96115. Ms. McCammon?

9 MS. MCCAMMON: Madam Chair, you should all have a
10 memo before you from myself that is requesting permission to
11 transfer \$21,400 from Project 96100 to 96115 within the Alaska
12 Department of Environmental Conservation.

13 As a result of the planning effort by the Sound Waste
14 Management Plan, Project 96115, they've identified a number of
15 other complimentary planning efforts that they can do with
16 these funds; they've requested the additional funds. It's
17 consistent with the current contract; the work would be
18 invoiced according to the actual work preformed.

19 And so I view as a technical amendment between these
20 two projects.

21 MR. PENNOYER: So moved.

22 CHAIR WILLIAMS: It's been moved by Mr. Pennoyer. Do
23 I hear a second?

24 MS. BROWN: This is Michele.

25 CHAIR WILLIAMS: Seconded by Michele Brown. Any

1 discussion of the motion?

2 (No audible response)

3 CHAIR WILLIAMS: All right. Is there any objection
4 to the motion?

5 (No audible response)

6 CHAIR WILLIAMS: Hearing none, the motion passes.
7 Ms. McCammon, is there any other business?

8 MS. McCAMMON: Not today.

9 CHAIR WILLIAMS: All right. Trustee Council members,
10 is there anything else you wish to raise at this time?

11 (No audible response)

12 CHAIR WILLIAMS: Hearing nothing, I will entertain a
13 motion to adjourn.

14 MS. McCAMMON: Adjourn?

15 (Laughter)

16 MR. JANIK: What was that?

17 (Laughter)

18 MR. JANIK: Whatever it was.

19 MS. McCAMMON: The perpetual Chair wishes to adjourn.

20 CHAIR WILLIAMS: Yes. Yes. Yes. I think it's time
21 now for me to pass the torch to a State member.

22 MR. TILLERY: Madam Chair, I move that we adjourn.

23 CHAIR WILLIAMS: Thank you, Mr. Tillery. Do I hear a
24 second?

25 MR. PENNOYER: Second.

1 CHAIR WILLIAMS: It's been moved by Mr. Tillery,
2 seconded by Mr. Pennoyer that we adjourn. All in favor,
3 indicate by saying aye.

4 ALL TRUSTEE MEMBERS COLLECTIVELY: Aye.

5 CHAIR WILLIAMS: All opposed?

6 (No audible response)

7 CHAIR WILLIAMS: Thank you very much.

8 MS. BROWN: Thank you.

9 MR. PENNOYER: Thank you.

10 COURT REPORTER: We're off the record. The time now
11 is 4:55 p.m.

12
13 (Whereupon, the proceedings in the above-entitled
14 matter were adjourned at 4:55 p.m.)
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C E R T I F I C A T I O N

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)
_____)

I, CINDY S. CARL, do hereby certify:

(1) That the foregoing pages contain a full, true, and correct transcript of proceedings in the above-entitled matter, transcribed by me, or at my direction and supervision, to the best of my knowledge and ability.

(2) That I have been certified for transcript services by the United States Courts.

(3) That I was certified for transcript services by the Alaska Court System prior to January 1, 1993.

SIGNED AND CERTIFIED:

BY: Cindy S. Carl
Cindy S. Carl
Certified Court Reporter

DATE: 3/4/96

