

9.11.10

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL

TRUSTEE COUNCIL MEETING (Teleconference)
Tuesday, November 10, 1998
2:00 o'clock p.m.

Fourth Floor Conference Room
645 G Street
Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT (Telephonically):

STATE OF ALASKA - DEPARTMENT OF LAW: (Chairman)	MR. CRAIG TILLERY Trustee Representative for the Attorney General
U.S. DEPARTMENT OF AGRICULTURE - U.S. FOREST SERVICE	MR. JAMES WOLFE Trustee Representative
STATE OF ALASKA - DEPARTMENT OF FISH AND GAME:	MR. FRANK RUE Commissioner
U.S. DEPARTMENT OF INTERIOR:	MR. BARRY ROTH for Ms. Deborah Williams Special Assistant to the Secretary for Alaska
U.S. DEPARTMENT OF COMMERCE - NMFS:	MR. BRUCE WRIGHT for Steve Pennoyer Director, Alaska Region
STATE OF ALASKA - DEPARTMENT OF ENVIRONMENTAL CONSERVATION:	MR. AL EWING for Commissioner Brown

Proceedings electronically recorded, then transcribed by:
Computer Matrix, 3520 Knik Ave., Anchorage, AK - 243-0668

1 TRUSTEE COUNCIL STAFF PRESENT:

2 MS. MOLLY McCAMMON

Executive Director
EVOS Trustee Council

3 MS. REBECCA WILLIAMS
4

Executive Secretary
EVOS Trustee Council

5 MR. HUGH SHORT

Community Facilitator
EVOS Trustee Council

6 MR. ALEX SWIDERSKI
7 (Telephonically)

State of Alaska
Department of Law

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

(On record - 2:05 p.m.)

CHAIRMAN TILLERY: Okay. This is the November 10th meeting of the Exxon Valdez Trustee Council. We have present Bruce Wright representing NOAA; Jim Wolfe representing the Forest Service; Craig Tillery representing the Department of Law; Frank Rue representing the Department of Fish and Game; Al Ewing representing the Department of Environmental Conservation; and Barry Roth representing the Department of the Interior.

As I understand, this meeting has been called to deal with an issue that has arisen with respect to the AJV acquisition. Ms. McCammon, could you describe to us what the issue is that has come up and proposals from the negotiators as to how to resolve this?

MS. MCCAMMON: Thank you, Mr. Chairman. As you know, we're trying to get all the documents in place to go forward with the signing of a purchase agreement and closing for the Afognak Joint Venture acquisition. We're hopeful that this will happen in the next week or so. As these documents were being put together, Alex Swiderski, with the Department of Law, realized that a number of items that we had brought to your attention over the last six months had not actually been reflected in any of the resolutions that the Council has passed on this acquisition. There are a few minor adjustments that

1 need to be made and I'll go through those really briefly.

2 One is the acquisition of an additional 78.7 acres in
3 parcel AJV 8 at 431 per acre for a total of \$33,920. The
4 reason for this is that this portion of the acquisition, the
5 original description would have required very expensive survey
6 costs. And if it had be adjusted, allowing for this additional
7 acreage, then we could use existing section lines and reduce
8 the cost of -- expand the acreage and also reduce the cost of
9 the surveys.

10 The second item was the reduction of that parcel by 320
11 acres. That's a portion of two sections that were selected by
12 AJV but not conveyed to AJV and instead they were conveyed to
13 the Natives of Kodiak. This would reduce the price by
14 \$137,920.

15 The total adjustment with those two combined is a
16 reduction in price of \$104,000 and reduction in acreage of
17 approximately 241.3 acres.

18 So these two adjustments are known. There are a couple
19 of others that are possible adjustments.

20 One is the selected lands in parcel AJV 8. It's
21 uncertain whether AJV will receive all of the remaining
22 selections in the two sections on the map -- in the two
23 sections in item number 2. In the event that they are not
24 received by AJV and conveyed to the State, the price of the
25 third closing would be reduced accordingly. If they are

1 received after the third closing, but prior to September 1st,
2 2002, they would be conveyed. After that date the State and
3 the United States may acquire them if they ever are conveyed to
4 AJV, but are not required to take them. And those lands are
5 described as number 3 on the attached map.

6 The other item was the partition lands in parcel AJV
7 1b. As you know, Afognak Joint Venture is a partnership.
8 Certain lands in parcel 1b have been designated by one of the
9 AJV partners. If they were to withdraw from AJV they would
10 like those lands to go to them as part of their share. The
11 Joint Venture opposes the selections of these lands, but a
12 final determination of which lands will be taken, potentially,
13 by the partner has not been made. None of those lands have
14 commercial timber, they were added to the package at the
15 request of AJV and in the event that the issue is not resolved
16 by the time of the third closing, the price would be reduced by
17 431 per acre for those acres not conveyed.

18 Afognak Wilderness Lodge lands in parcel AJV 3a. AJV
19 plans to convey 27.9 acres of land to Roy and Shannon Randall,
20 owners of the Afognak Wilderness Lodge. They currently have a
21 permit for the lodge. If this land is sold to the Randalls, it
22 will be subject to a conservation easement to be held by the
23 State and then the price would be reduced by \$105,843 or \$3,973
24 per acre, which is the average price per acre for that parcel.
25 If the lands are not sold to the Randalls they will be included

1 in the acquisition. And those lands are shown as number 5 on
2 the attached map.

3 To address these minor adjustments there may also be
4 additional minor adjustments in the future, and we'll be
5 talking about this issue a little bit more at the November 30th
6 meeting. But to address these specific ones that you have in
7 the memo that was sent to you today, I would recommend that the
8 Council adopt the following motion.

9 It is moved that the AJV acquisition be adjusted as
10 follows: (1) the total purchase price is reduced by \$104,000;
11 (2) the lands shown at number 1 on the map of AJV 8 are added
12 to the acquisition; and (3) the lands shown at number 2 of
13 AJV 8 are deleted from the acquisition. Further adjustments in
14 the AJV acquisition are authorized but not required as follows:
15 (1) the lands shown at number 3 on the map of AJV 8 may be
16 removed from the acquisition so long as the purchase prices if
17 reduced by 431 per acre removed; (2) the lands shown at number
18 4 on the map of AJV 1b may be removed from the acquisition so
19 long as the purchase price is reduced by 431 per acre removed;
20 and (3) the lands shown at number 5 on the map of AJV 3a may be
21 removed from the acquisition so long as the purchase is reduced
22 by \$3,973 per acre removed.

23 And we do have Alex Swiderski on the line if any of the
24 Trustees have further questions. But these are all
25 modifications that have been discussed at one time or another

1 in the preceding six months.

2 CHAIRMAN TILLERY: Okay. Are there Council
3 members that have questions for either Ms. McCammon or
4 Mr. Swiderski?

5 MR. RUE: I have a quick question, this is
6 Frank.

7 CHAIRMAN TILLERY: Commissioner Rue.

8 MR. RUE: Yeah, Alex, since some of these will
9 be actions that will be taken in three or four years, are we
10 going to have the maps on file or some way of denoting which
11 map we're talking about? It seems like we might want to
12 amplify on that part of it a little bit.

13 MR. SWIDERSKI: I would think that the map
14 would become part of the administrative record of the Trustee
15 Council.

16 MR. RUE: Okay. It seems like we need the
17 official version because someone may lose track in a few years.

18 MR. SWIDERSKI: I think that's -- Rebecca
19 should be getting.....

20 CHAIRMAN TILLERY: Yeah, I would.....

21 MR. ROTH: Mr. Chairman.

22 CHAIRMAN TILLERY:note also that I had
23 some discussions with Gina Belt and Bill Brighton about this
24 and the three of us concur that we need -- we don't need to go
25 get a new order from the court, but since we have already

1 gotten the funds for this acquisition, or for at least phase
2 one, that we need to go back to the court and provide it with a
3 notice of this change and that in doing so we would attach a
4 copy of the motion or certification of the Executive Director
5 as to the motion and that would include the map as an
6 attachment to that certification. So that's always been one of
7 our fallback in terms of the official record is that these
8 things are available in the court pleadings.

9 MR. ROTH: Mr. Chairman, I guess I have several
10 questions.

11 CHAIRMAN TILLERY: Mr. Roth.

12 MR. ROTH: Going to Frank's point, I believe
13 that -- well, these points that are here as three, four and
14 five in the memo and in the later portion of the motion,
15 they'll be reflected in the purchase agreement. And the
16 purchase agreement will be recorded so the land descriptions
17 for those lands will be indicating -- in the public records
18 will be indicating our potential future interests, if I
19 understand it correctly.

20 MR. SWIDERSKI: That's correct.

21 MR. ROTH: So that similar -- so that's a
22 little stronger than just having the maps in our current file,
23 both the purchase agreement and the public record descriptions
24 will give us some protection and put potential future
25 purchasers on notice of our contractual rights to those, if

1 certain events happen.

2 Now, I didn't understand Molly's comment about we're
3 going to discuss further adjustments on November 30th, which I
4 thought was after the closing. Did I misunderstand that?

5 MS. McCAMMON: Well, there was some -- Alex
6 believes that it is quite possible as we go through the second
7 and third closings that there may be some additional minor
8 boundary adjustments. And at one point we had talked about
9 including in this motion just the authority to go forward with
10 those, pending the Executive Director's approval. I asked him
11 to take that out because I wasn't sure who all would be on the
12 call today and I wanted to make it very simple. And I thought
13 we could discuss that further, if we wanted to add that
14 provision, at the November 30th meeting when everyone will be
15 here in Anchorage. It's not anticipated but it's possible.

16 MR. ROTH: Okay. So that would be treated as
17 -- Mr. Swiderski, that'll be treated as an amendment to the
18 purchase agreement, in necessary, later?

19 MR. SWIDERSKI: Yes. Yeah, we don't reflect
20 any of that in the purchase agreement now. I don't see
21 anything out there but, for example, if something came up with
22 the surveying or something like that, we may need a little bit
23 of authority to deal with that.

24 MR. ROTH: Okay.

25 CHAIRMAN TILLERY: Okay. Do you have any

1 further questions, Mr. Roth?

2 MR. ROTH: I don't believe so.

3 CHAIRMAN TILLERY: Are there other Council
4 members that have questions or comments about the proposal?

5 MR. WRIGHT: I have one question. Bruce Wright
6 here. Alex, are there subsurface rights involved with these
7 lands?

8 MR. SWIDERSKI: We -- the Council at a meeting,
9 I believe, in September adopted a motion to acquire the
10 subsurface, that is, a portion of these lands from Koniag.
11 Because of the press of time, we have not yet drafted a
12 purchase agreement or started to work on the details of that
13 deal or that transaction. We would anticipate that we will do
14 that, I would think, shortly after the new year.

15 MR. WRIGHT: So that doesn't affect this action
16 at all?

17 MR. SWIDERSKI: No.

18 MR. WRIGHT: Okay.

19 MR. ROTH: It does and doesn't. Mr. Chairman.

20 CHAIRMAN TILLERY: Yeah, Mr. Roth.

21 MR. ROTH: I have -- that does raise a question
22 in my mind. With respect to Koniag then, I am assuming that
23 there would be a reduction -- if we acquire fewer surface acres
24 then there would be fewer subsurface acres acquired and, we,
25 when we do the purchase agreement we would be looking for an

1 adjustment to reduce the price. You know, whatever number of
2 acres being bought should reflect -- the purchase price should
3 be based on the number of acres. The fewer acres to be
4 conveyed means fewer, you know, a slightly lower purchase price
5 for the subsurface.

6 MR. SWIDERSKI: Yeah. I.....

7 CHAIRMAN TILLERY: I know. I think that would
8 have to be an action the Council would have to take at that
9 time. I mean, I don't think it's -- it's something that, I
10 think, that people would want to discuss, but that's not part
11 of the motion that Ms. McCammon has read out.

12 MR. ROTH: No, mine's more of an understanding
13 that as we deal with this later that with the Koniag, I think
14 that, you know, our earlier motion to approve Koniag was based
15 on a certain number of acres. Now, because of these changes
16 that they are, in self, a party to as part of AJV, you know,
17 we're going to be needing to look at that to make sure the two
18 are consistent since we're obviously here not going to be
19 acquiring the same subsurface that was the subject of the
20 Council resolution.

21 CHAIRMAN TILLERY: Okay. Again I -- this
22 wouldn't be dealing with that. I don't think that necessarily
23 follows, I think that personally I would want to look at that
24 and see whether we would want to acquire the greater number of
25 subsurface acreage anyway, particularly in terms of a

1 management scheme and everything else or maybe not, I don't
2 know what the answer is, but that's something -- you're correct
3 that it needs to be discussed and dealt with, but I'm not sure
4 that I would say that at this time I would agree that that's
5 necessarily how it would happen. But certainly it's something
6 that -- I don't know either way, I just haven't thought about
7 that, so -- but you're right it needs to be brought up.

8 MR. WRIGHT: That was the only point is that's
9 a ball we should drop and we should discuss further at a later
10 time.

11 MR. ROTH: Yeah, I agree.

12 MR. WRIGHT: That's my only point.

13 MR. ROTH: And I concur on that.

14 CHAIRMAN TILLERY: Okay. Did you have anything
15 else, Mr. Wright?

16 MR. WRIGHT: No, that's all I had. Thank you.

17 CHAIRMAN TILLERY: Are there any other
18 questions or comments from Council members?

19 MR. WOLFE: Mr. Chairman, I have a quick
20 question. It has to do with the Randall's Wilderness Lodge. I
21 don't recall any discussion about this in previous
22 transactions, but that doesn't mean it didn't happen, so I'm a
23 little puzzled over how this got to be a part of the deal. So
24 how many acres are involved and was this really part of what we
25 had originally thought we were acquiring?

1 MR. SWIDERSKI: Mr. Chairman, this is Alex
2 Swiderski here. That proposal encompasses 27.9 acres and it
3 actually was discussed, it's in -- and it's actually authorized
4 in one of the res -- this one is already authorized in one of
5 the resolutions that we could reduce the price as is
6 contemplated by this motion with the understanding that this
7 land, where the Randalls now have a permit, would be conveyed
8 to the Randalls subject to a conservation easement to be held
9 by the United State and/or the State of Alaska. And I don't
10 have the date of that resolution in front of me, but it was in
11 there and it was subject to the approval of the Executive
12 Director. And, in a sense, what we're doing here by adopting
13 the motion, rather than going for the approval of the Executive
14 Director, we would simply get the approval from the Council.
15 I think it was the most recent AJV motion it's in.

16 CHAIRMAN TILLERY: The acreage to.....

17 MR. SWIDERSKI: The acreage is 27.9 acres.

18 CHAIRMAN TILLERY: Mr. Wolfe.

19 MR. WOLFE: Yeah. Okay. How big is this lodge
20 anyway?

21 MR. SWIDERSKI: It's pretty modest. They
22 actually own, in fee, a half acre there now and they have their
23 main building on that, which is essentially a residence and a
24 common area. And then on the 27.9 acres that are a subject of
25 the permit they have three guest cabins that hold a total of

1 four people each, or a total of 12 people. And they have tool
2 shed and a bunkhouse for staff, a small boat house, some
3 gardens, docks.

4 MR. WOLFE: If they acquire this 28 acres there
5 would be no restrictions on the use of that land?

6 MR. SWIDERSKI: No, it would be subject to a
7 conservation easement that the State will hold that will limit
8 them, as it's written, to a operating wilderness lodge, they
9 can build two additional residences on the lodge for owners or
10 employees of it. They can go two additional guest cabins.
11 They can build an additional boat house. And in addition to
12 that they can conduct essentially home businesses, which would
13 be like producing traps or they've asked about can they invest
14 in the stock market from there, that's the commercial activity
15 they'd do there.

16 MR. WOLFE: Boy, okay. I guess I'm not too
17 bothered by it then if we hold that kind of an easement,
18 although that's quite a bit of activity. I must have been
19 asleep but I really do not recall that.

20 MR. SWIDERSKI: I'm sorry it is -- I could step
21 out and I'd have to grab the resolution pretty.....

22 MR. WOLFE: No, that's okay. That's fine, I'm
23 okay with it, Alex. I must have been drawing a total blank
24 that day or something, but it does concern me a little bit, but
25 if we have enough controls to limit the development, and it

1 sounds like we do, it doesn't bother me.

2 MR. SWIDERSKI: And, Mr. Chairman, the lodge
3 exists today, it exists on this acreage and they do have a
4 permit to operate it through the year, I believe, 2003. Even
5 without allowing the conveyance to them, we would take -- we
6 would have no choice but to take subject to the permit, I
7 think.....

8 MR. ROTH: Who issued the permit?

9 MR. SWIDERSKI: The Forest Service actually
10 issued the permit in 1978 or '79.

11 CHAIRMAN TILLERY: This is Craig Tillery, it is
12 in resolution dated August 13th, 1998, that the Randalls is
13 discussed.

14 MR. WOLFE: Okay. Thanks, Craig. That's the
15 only question I had.

16 CHAIRMAN TILLERY: Are there other questions or
17 comments from Council members?

18 MR. WOLFE: I'm sorry, I did have one other
19 question.

20 CHAIRMAN TILLERY: Mr. Wolfe.

21 MR. WOLFE: How many acres, potentially, could
22 be involved in that one where the partner may pull out of the
23 deal? I'm just curious about.....

24 MS. McCAMMON: That partition?

25 MR. WOLFE: Yeah.

1 MR. SWIDERSKI: The partition. I would --
2 between 1,000 and 1,500 acres, maximum.

3 MR. WOLFE: Okay. Pretty substantial then.

4 MR. WRIGHT: Yeah.

5 MR. SWIDERSKI: It's a significant amount of
6 acreage. It is acreage that really, interesting enough, AJV
7 insisted on putting into the deal as their way of getting more
8 non-timbered land into the deal -- acquisition, so.....

9 MR. WOLFE: Right. Yeah, I'm fine, I was just
10 curious as to how much was potentially involved.

11 MR. SWIDERSKI: Okay.

12 CHAIRMAN TILLERY: Is there anyone else with
13 questions or comments?

14 (No audible responses)

15 CHAIRMAN TILLERY: Okay. Is there a motion?

16 MR. ROTH: Okay. I move that we adopt the
17 motion as read by Ms. McCammon.

18 MR. WOLFE: I'll second.

19 CHAIRMAN TILLERY: It has been moved and
20 seconded to adopt the motion as read by Ms. McCammon. Is there
21 any discussion?

22 (No audible responses)

23 CHAIRMAN TILLERY: Okay. Hearing none, all in
24 favor of the motion signify by saying aye.

25 IN UNISON: Aye.

1 CHAIRMAN TILLERY: Opposed?

2 (No opposing responses)

3 CHAIRMAN TILLERY: The motion is unanimously
4 adopted. And, Ms. McCammon, is there any additional business
5 for the council at this time?

6 MS. MCCAMMON: No, not today, although Joe has
7 just informed me that the last meeting was recessed with Jim
8 Wolfe as Chair, so we probably want to adjourn this one and
9 then, Jim Wolfe, you'd be Chair for the next meeting.

10 MR. WOLFE: Actually I was being real quiet.
11 It was not bothering me at all.

12 MR. RUE: I move that we adjourn this meeting
13 and have Jim Wolfe chair the next meeting.

14 MR. WRIGHT: Oh, I second that.

15 MR. WOLFE: Yeah, right.

16 CHAIRMAN TILLERY: It's been moved and seconded
17 to adjourn with Jim Wolfe as Chair for the next meeting. All
18 in favor say aye.

19 IN UNISON: Aye.

20 CHAIRMAN TILLERY: Opposed?

21 (No opposing responses)

22 CHAIRMAN TILLERY: The meeting is adjourned.

23 (Off record - 2:21 p.m.)

24 (END OF PROCEEDINGS)


25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

I, Joseph P. Kolasinski, Notary Public in and for the State of Alaska and Owner of Computer Matrix do hereby certify:

of: THAT the Transcript has been prepared at the request

DATED at Anchorage, Alaska this 12th day of November
1998.



Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 04/17/00