09.19.02

EXXON VALDEZ OIL SPILL

TRUSTEE COUNCIL

Teleconference Public Meeting

Tuesday, May 3, 2005

1:35 o'clock p.m.

Anchorage, Alaska

TRUSTEE COUNCIL MEMBERS PRESENT:

STATE OF ALASKA - DEC	MS. KURT FREDRIKSSON
(Chairman)	Commissioner
U.S. DEPARTMENT OF COMMERCE,	MR. PETE HAGEN for
National Marine Fisheries Svc:	MR. JAMES W. BALSIGER
	Administrator, AK Region
STATE OF ALASKA - DEPARTMENT	MR. McKIE CAMPBELL
OF FISH AND GAME:	Commissioner
STATE OF ALASKA -	MR. SCOTT NORDSTRAND
DEPARTMENT OF LAW:	Assistant Attorney General
	State of Alaska
U.S. DEPARTMENT OF AGRICULTURE,	MR. JOE MEADE
U.S. FOREST SERVICE	Forest Supervisor
U.S. DEPARTMENT OF INTERIOR:	MR. CAM TOOHEY for
	MS. DRUE PEARCE
	U.S. Department of Interior

Proceedings electronically recorded, then transcribed by:

Computer Matrix Court Reporters, LLC, 3522 West 27th,

Anchorage, AK 99517 - 243-0668

TRUSTEE COUNCIL STAFF PRESENT:

MS. GAIL PHILLIPS	Executive Director
CHERRI WOMAC	Administrative Assistant
RICHARD DWORSKY	Science Coordinator
STEVE ZEMKE	U.S. Forest Service
MICHAEL BAFFREY	Department of Interior

P R O C E E D I N G S

(Anchorage, Alaska - 5/3/05)

(On record - 1:35 p.m.)

CHAIRMAN FREDIKSSON: Okay. Well, maybe I'll just call it to order and I guess I'd like to take a roll call of the State Trustees, Gail, unless you have their name you could just verify who we have on the line.

MS. PHILLIPS: Sure. We have Pete Hagan for Jim Balsiger.

CHAIRMAN FREDIKSSON: Okay.

MR. HAGAN: Present.

MS. PHILLIPS: Cam Toohey is here for Drue.

MR. TOOHEY: Present.

CHAIRMAN FREDIKSSON: Thanks, Cam.

MS. PHILLIPS: McKie.

MR. CAMPBELL: I'm here.

MS. PHILLIPS: Let's see and Scott Nordstrand.

MR. NORDSTRAND: Here.

MS. PHILLIPS: And yourself, Kurt.

CHAIRMAN FREDIKSSON: Okay. And I heard we had Joe Meade on as well.

MR. MEADE: Present.

CHAIRMAN FREDIKSSON: Okay, welcome. So let's see about getting the agenda approved. I'd entertain

a motion to approve the agenda as was sent out today by Gail.

MR. NORDSTRAND: Moved by Nordstrand.

MR. CAMPBELL: Second.

CHAIRMAN FREDIKSSON: Any objections?

MS. WOMAC: Who was the second?

MR. CAMPBELL: Campbell.

MS. PHILLIPS: Campbell.

MS. WOMAC: Thank you.

MR. MEADE: I only need to make a notation that I'm back in New York so I've not had access to read the agenda, so I'll concur with the acknowledgement that I've not reviewed.

MS. PHILLIPS: Okay. It's pretty simple, Joe. It has to items, to approve the Herring Proposal and just confirm the PI for the Lingering Oil Proposal.

MR. MEADE: Thank you.

CHAIRMAN FREDIKSSON: Okay. Hearing no objection on the agenda, we'll adopt the agenda as presented and move on to the public comment. Do we have any public comment?

(No audible response)

CHAIRMAN FREDIKSSON: I guess I would open it up for public comment.

(No audible response)

CHAIRMAN FREDIKSSON: I guess not hearing any public comment I would just move on to the action items.

MS. PHILLIPS: The first action item is the FY05 Herring Proposal. The Council approved in their February meeting, they approved $50,000 for this proposal. We sent it out to bid, there were no responsive bids and I received approval from the Trustees to rebid it at $125,000. We did get several proposals in that were reviewed by the STAC, the PAC, the Science Coordinator and myself and we do have a proposal in front of you today for a total amount of $132,024.10 to be broken up FY05 101,240.54, FY06 $30,783.56.

And I would ask Brenda Norcross and Richard to just briefly go through the proposals that we are recommending for approval and give a brief synopsis of them so you'll know what is in the proposals. Brenda, would you please do it.

MS. NORCROSS: Sure. We had two proposals that responded this time. The one that was unanimously selected at all levels was the one by Jeep Rice, et al., from NOAA. The PIs on it are Jeep Rice, Carey Quinn from UAF, School of Fisheries and Ocean Sciences and Fritz Sunk formerly and presently, temporarily at least, from Alaska Department of Fish and Game.

This proposal was responsive to the amended invitation. The way we had written it, it specifically states that it will look at all of the literature that has come out so far of any of the EVOS funded work and it goes further than that saying that it will go beyond the EVOS funded work, it will also look -- which is something we specifically asked for, it will compare to other herring populations in other places that aren't doing well, specifically in San Francisco Bay and in ____ Point in Washington. It specifically address that it will look at the genetics.

There's an outline, it's got five objectives that are clearly laid out as the way to address it, to look at the population dynamics, to look at the disease, to look at the genetics, to look at the life history and the other factors that will affect it and then to collate all of it.

We felt that it was a really excellent group of people. They have other consultants in there, Gary Marty whose the person who's been funded to do the disease funded by EVOS and Joella Host who did the genetics directly following the spill. So we felt -- there was some notes of caution added that said consider looking at other ecosystem factors. And that we didn't see much detail on the part of objective five, which is putting it all

together, but I suspect that's because they don't know how to put it all together until they have all the components.

I personally was pleased because unlike the one we had it didn't address all the issues we wanted the first time. This one specifically talks about doing new analysis, taking the data that exists and is a true synthesis and that it puts it all together so that there should be some new analysis. So it was recommended to be funded because we think that what this proposal will produce is an evaluation of the information to assess the cause of injury.

That's where we are. And they also will examine and proposal restoration options if they find any that are possible.

MS. PHILLIPS: And you will note that all of the recommendations came forward favorably to fund it at 125, my recommendation was different, fund it at the 132 because when the PIs originally put their proposal together the forgot about the GA to the university which brought up the cost of the project a little bit.

CHAIRMAN FREDIKSSON: Gail, I guess I would just ask if there are any other comments that your staff would want to make in additions to Brenda's? Richard or is that sufficient right not?

MS. PHILLIPS: Richard is here.

MR. DWORSKY: Can you hear me?

CHAIRMAN FREDIKSSON: Yep.

MR. DWORSKY: Yeah, I went through that at the same time that Brenda did, I reviewed all the comments. It's pretty unanimous in the selection of this particular proposal. We think the addition of new data will contribute substantially to our understanding of the problem and we -- all the folks that have reviewed it here recommended that this be approved.

CHAIRMAN FREDIKSSON: I wonder if -- I have some questions, I wonder if we should wait for a motion or just if we could ask for clarification now, Gail.

MS. PHILLIPS: Pardon me?

CHAIRMAN FREDIKSSON: I have a few questions, just kind of more technical clarification than anything else, should we wait for a motion or should we -- could I go ahead and ask those now?

MS. PHILLIPS: You can ask them now.

CHAIRMAN FREDIKSSON: Okay. I guess when I looked at the document you had sent out earlier you had recommended funding to the tune of 132,326 and I was trying to jot down the numbers as you had introduced this proposal and it looked like it had been shaved a little.

MS. PHILLIPS: Yes. In fact, we got the last shaving about an hour ago.

CHAIRMAN FREDIKSSON: Okay.

MS. PHILLIPS: And they did, they shaved it first to 132,026 and then about an hour ago we got the final amount and it's 132,024.10.

CHAIRMAN FREDIKSSON: Okay. And you had also mentioned -- I think you had broken this up into two pieces, and FY05 and 06.

MS. PHILLIPS: Yes, that's correct.

CHAIRMAN FREDIKSSON: Could you go over that again?

MS. PHILLIPS: Yes, in FY05 the total amount is 101,240.54 and that is broken down to NOAA and Fish and Game and then in FY06 it's $30,783.56 and that is all for Fish and Game.

CHAIRMAN FREDIKSSON: Okay. Thanks, that helps me. Are there any other questions people might have just for clarification of the proposal?

MR. HAGAN: Yeah, this is Pete. I'm wondering, can we eliminate the pennies on that and just round to a dollar?

MS. PHILLIPS: The financial people say no, the court order has to go in with the full amount.

MR. HAGAN: Okay.

MS. PHILLIPS: Sorry about that.

MR. HAGAN: I thought I'd try.

MS. PHILLIPS: Good idea.

CHAIRMAN FREDIKSSON: I thought it was a great idea, Pete.

MS. NORCROSS: I think Pete tried to do that on his end. I have that impression and someone there wouldn't let him.

CHAIRMAN FREDIKSSON: Oh, okay, it's my agency, huh?

MS. NORCROSS: Yeah, that would be it.

CHAIRMAN FREDIKSSON: Well, if there aren't any other questions, would we have a motion to adopt Proposal FY05-06 proposal for the.....

MS. PHILLIPS: Kurt, we need to have you guys adopt Resolution 05-03.

MR. NORDSTRAND: Nordstrand moves that we adopt that resolution.

MS. PHILLIPS: Okay, good. And then what we will do, if you pass it, what we will do is send it around to everybody for signature.

CHAIRMAN FREDIKSSON: Okay. Do we have a second?

MR. TOOHEY: Second. Cam Toohey.

CHAIRMAN FREDIKSSON: Any discussion?

MR. MEADE: The discussion from Joe is just can you give me a sense -- the proposal sounds like it's

right on track from what we did not find in the former proposal, with other competing proposals, were others unanimous or was this the only one that was unanimous? Did it clearly separate itself from others being considered and would the STAC identify this one as the most viable approach?

MS. PHILLIPS: And, Joe, thanks. I sent out a notice about it, but I would ask Brenda to respond to that also.

MS. NORCROSS: Sure. Actually, Joe, I realized I should have said that when I was talking about the first one.

First, I need you to know there were two responsive proposals and that I sent them all out for external review, so there were five external reviews over the weekend, luckily. And so there was one other proposal, it was from Gail Keefer, it has some interesting aspects in the fact that it was going to take data and look -- and make a GIS database essentially to reanalyze it. It was not recommended at any of the levels. The STAC debated it more, but when I had a statistician analyze it, the statistician said he didn't believe the statistics were accurate or that it was going to achieve what the purpose was of this proposal. The general feeling was that it was interesting at some other time, but it wasn't going to

answer this question. It had a definition of work and objectives outline, but it didn't address everything that we wanted.

For instance, there was nothing in it about a synthesis of the literature, which we thought was the basic part. No where was that in it, it didn't talk about addressing restoration plans. The new analysis in was all GIS and, like I said, we didn't find anyone who backed it up and decided that those statistics they were proposing were accurate and a good reason for that was there were no details in it, you couldn't tell what the statistics were going to be. So conceptionally it was good, practically we didn't think it was a great idea at all.

MR. MEADE: It sounds like basically it was not a viable proposal to get to the very principles we were looking for, must similar to the first one when we first saw it, so.....

MS. NORCROSS: Yes. There are words that are in there, like this proposal is vague on details of the analysis and the products to be produced. That's part of the STAC's write up.

MR. MEADE: I appreciate that, that helps give me great confidence in the separation between the number one and number two proposal from the staff and the STAC's prospective.

MS. NORCROSS: I might point out that the PAC in their comments said, don't fund it's not responsive, but they liked the ecosystem component, hence the caution that the STAC put in the first one that said, make sure you consider the ecosystem, came as a result of comparing it with the second proposal.

MR. MEADE: Very good.

MS. NORCROSS: Okay.

CHAIRMAN FREDIKSSON: Any other further questions from the Council members?

(No audible response)

CHAIRMAN FREDIKSSON: Looks like we have a motion and a second. I would as if there is no further question, do we have any objections to the resolution?

(No audible response)

CHAIRMAN FREDIKSSON: Hearing none, Gail, I think it's passed.

MS. PHILLIPS: Great. And we will send it around for signature.

CHAIRMAN FREDIKSSON: Okay.

MS. PHILLIPS: Okay. The second item on the agenda is the FY05 Lingering Oil Proposal. You approved this proposal at the February 04 meeting, you approved it for $50,000 and it was an open approval, not a name attached to it because we had to go out with an RFP.

We issued those RFPs on February 15th. On March 18th we received the proposals back, we only had on responsive bid for the Lingering Oil Project, and that was awarded to a person called Michel, last name is Michel.

MS. NORCROSS: Jacqueline Michel.

MS. PHILLIPS: Jacqueline Michel. There wouldn't necessarily need to be further action taken by the Trustee Council, other than I was questioned about whether or not we should bring it back to the Trustee Council for confirmation of the award to that specific person. The contract has already gone out, it's already in the process, but this is just to.....

MS. NORCROSS: CYA.

MS. PHILLIPS: .....just to make sure that every I is dotted and every T is crossed. So if you guys would just make a motion to confirm action taken at the February 4 meeting and award this to Jacqueline Michel.

CHAIRMAN FREDIKSSON: Gail, if we might have a little discussion. So I'm correct in my understanding that the contract has been let?

MS. PHILLIPS: Yes.

CHAIRMAN FREDIKSSON: My only concern here is, because I was one who obviously concurred when you had requested this back in March. And I felt our action at that time was sufficient for you to move ahead and actually

go with the contract. I'm a little worried, concerned.....

MS. PHILLIPS: Yeah.

CHAIRMAN FREDIKSSON: .....that any action we might take now might cast some cloud on that action or cast some cloud on the contract authority been let.

MS. PHILLIPS: Every one of you confirmed to me to go forward with it at that -- on March 18th. So I have the record, but it's a verbal record and an e-mail record. I have the record from each one of you to confirm to go ahead. Somebody further question that we should put a name on it and that's the only reason I'm bring back forward. It's not necessary, it's up to you guys.

MR. MEADE: You know, one option -- is it okay for discussion?

MS. PHILLIPS: Sure.

CHAIRMAN FREDIKSSON: Please.

MR. MEADE: One option I might mention is would it be plausible to kind of blend the two thoughts together and simply put forward a motion that affirms in motion form commitments made on specified dates to authorize specified activities to take place and this motion is simply to put it as a matter of record task or motion which was pre-agreed to by each Trustee member and conveyed verbally to the Executive Director.

MS. PHILLIPS: I think that would be very

sufficient, Joe.

MR. MEADE: That way it won't, I would presume, not cast a cloud.

MS. PHILLIPS: Confirm action taken, yeah. Confirm actions taken.

MR. MEADE: Yes. Confirm actions taken that verbally were authorized. This simply is to administratively make sure it's in motion form.

MS. PHILLIPS: Right. With her name on it.

MR. MEADE: Yes. Michel.

MR. NORDSTRAND: The other option. This is Scott Nordstrand. The other option is we could simply acknowledge -- the Board could acknowledge receipt of the information identifying the contractor. That's a little less, but it's -- the contract was let, it was done in February and this would just confirm that we were informed of who it was ultimately let to.

CHAIRMAN FREDIKSSON: Joe and Scott and the other Trustees, I might be a little more comfortable with that, Joe and -- because I'm very comfortable with what Gail had proposed to us in March and the way in which the EVOS staff have moved forward. I'd almost like to -- I think what Scott offers is a way, where unless somebody has some objection they wish to bring forward or some proposal that might suggest a different course of action, I would

like to see us just kind of make an affirmation that we recognize that EVOS have followed our instructions and let a contract to this Michel.

MR. MEADE: I'm very comfortable with that, too, if that meets the needs of the Executive Director.

MS. PHILLIPS: That would be perfect.

MR. HAGEN: Yeah, I think that's fine as well. I guess technically speaking what was done was allowing the courts to release the funds to the individual that was recommended by the Executive Director and technically we haven't done the contract yet, the money is still percolating through the bureaucracy but we've been in contact with the PI and it's getting in place. But, yeah, I think just acknowledging it was given the Executive Director's discretion to go forward under a fund contingent basis and at this point we're saying go ahead and fund.

CHAIRMAN FREDIKSSON: Gail, could I ask for you to assemble such a confirmation resolution and then perhaps hear a motion from one of the members to so adopt?

MS. PHILLIPS: I think just a simple -- following what Scott said, just a simple motion to affirm action taken in awarding the Lingering Oil Contract to Ms. Jacqueline Michel.

MR. NORDSTRAND: I don't know if I would -- I would suggest not doing the affirm action taken part.

Maybe more like that we make a motion that the Trustee Council acknowledges receipt from the Executive Director of the identity of the contractor that was awarded the contract such and such, and that is Michel or something to effect.

MS. PHILLIPS: Okay. That the Trustee Council acknowledge the receipt from the Executive Director of the award of the Lingering Oil Contract to Jacqueline Michel.

MR. NORDSTRAND: Acknowledge receipt of the identity of the contractor to whom that contract was awarded and it is such and such. Something like that.

MS. PHILLIPS: Acknowledge receipt of identity of the contractor on the Lingering Oil Project from the Executive Director to Jacqueline Michel.

MR. NORDSTRAND: It'll work. It's a little wordy, but it's my words, so I'm not going to complain any further.

(Laughter)

CHAIRMAN FREDIKSSON: I sure feel a lot more comfortable with just the acknowledgement that you kind of carried out the Council's actions and provided us with the name of the contractor.

MR. NORDSTRAND: Good. Then that will be my motion.

CHAIRMAN FREDIKSSON: Do we have a second?

MR. TOOHEY: Toohey seconded.

CHAIRMAN FREDIKSSON: Okay. Any discussion?

(No audible response)

CHAIRMAN FREDIKSSON: Any objections to the resolution?

(No audible response)

CHAIRMAN FREDIKSSON: Hearing none, that resolution is passed, Gail.

MS. PHILLIPS: Okay. Thanks very much. And that's all you have on the agenda.

CHAIRMAN FREDIKSSON: Okay. Do we have a motion to adjourn?

MR. CAMPBELL: I'll move to adjourn. This is Campbell.

MR. MEADE: I'll second that. This is Meade.

CHAIRMAN FREDIKSSON: Okay. Any objection?

(No audible response)

CHAIRMAN FREDIKSSON: Hearing none, appreciate it, Gail, and thank you all.

MS. PHILLIPS: And thank you everybody for coming on line so we can get this on the road.

(Off record -- 1:54 p.m.)

C E R T I F I C A T E

UNITED STATES OF AMERICA)

) ss.

STATE OF ALASKA)

I, Joseph P. Kolasinski, Notary Public in and for the state of Alaska and reporter for Computer Matrix Court Reporters, LLC, do hereby certify:

THAT the foregoing pages numbered 3 through 19 contain a full, true and correct transcript of the Exxon Valdez Oil Spill Trustee Council's Meeting recorded electronically by me on the 3rd day of May 2005, commencing at the hour of 1:35 p.m. and thereafter transcribed by me to the best of my knowledge and ability.

THAT the Transcript has been prepared at the request of:

EXXON VALDEZ TRUSTEE COUNCIL, 451 W. 5th Avenue, Suite 500, Anchorage, Alaska 99501;

DATED at Anchorage, Alaska this 8th day of May 2005.

SIGNED AND CERTIFIED TO BY:

Joseph P. Kolasinski
Notary Public in and for Alaska
My Commission Expires: 03/12/08

JOSEPH P. KOLASINSKI NOTARY PUBLIC STATE OF ALASKA