

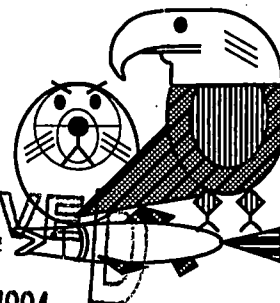
7/18/94 TC
meeting
handouts
—

Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 G Street, Suite 401, Anchorage, Alaska 99501-3451

Phone: (907) 278-8012 Fax: (907) 276-7178



RECEIVED

JUL 18 1994

RESOLUTION

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

WHEREAS, Dr. Charles H. Peterson has served as one of the Trustee Council's most highly regarded scientific peer reviewers; and

WHEREAS, Dr. Peterson has been extremely diligent in his efforts to provide the Trustee Council and the public with sound information and advice; and

WHEREAS, Dr. Peterson has made an important contribution to the Trustee Council's efforts to develop an ecosystem approach to the restoration of resources and services injured by the *Exxon Valdez* oil spill; and

WHEREAS, the Pew Scholars Program in Conservation and the Environment recently recognized Dr. Peterson's exceptional professional contribution to the conservation of biological diversity and related environmental issues,

THEREFORE BE IT RESOLVED, that the *Exxon Valdez* Oil Spill Trustee Council commends Dr. Peterson for the receipt of this prestigious award from the Pew Charitable Trusts.

Craig J. Tillery Dated 7/11/94
for BRUCE M. BOTELHO
Attorney General
State of Alaska

Donna L. Williams Dated 7/11/94
for GEORGE T. FRAMPTON, JR.
Assistant Secretary for Fish,
Wildlife & Parks
U.S. Department of the Interior

Phil Janik Dated 7/11/94
PHIL JANIK
Regional Forester
Alaska Region
USDA Forest Service

Steve Pennoyer Dated 7.11.94
STEVEN PENNOYER
Director, Alaska Region
National Marine Fisheries Service

Carl L. Rosier Dated 7/11/94
CARL L. ROSIER
Commissioner
Alaska Department of Fish &
Game

John A. Sandor Dated 7/11/94
JOHN A. SANDOR
Commissioner
Alaska Department of
Environmental Conservation

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation

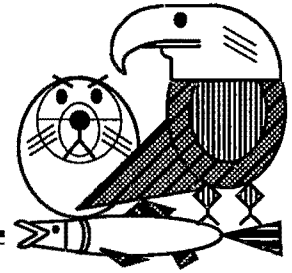
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

Exxon Valdez Oil Spill Trustee Council

Restoration Office

645 G Street, Suite 401, Anchorage, Alaska 99501-3451

Phone: (907) 278-8012 Fax: (907) 276-7178



DRAFT

AGENDA
EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL
CONTINUATION OF JULY 11, 1994 MEETING
TELECONFERENCE
JULY 18, 1994 @ 3:00 P.M.

7/18/94
1:00 pm
DRAFT

Trustee Council Members:

PHIL JANIK/JIM WOLFE
Regional Forester/Trustee
Alaska Region/Representative
U.S. Department of Agriculture-Forest Service

BRUCE BOTELHO/CRAIG TILLERY
Attorney General/Trustee
State of Alaska/Representative

GEORGE T. FRAMPTON, JR./DEBORAH WILLIAMS
Assistant Secretary/Trustee Representative
U.S. Department of the Interior

STEVE PENNOYER
Director, Alaska Region
National Marine Fisheries Service

CARL L. ROSIER
Commissioner
Alaska Department of Fish & Game

JOHN A. SANDOR
Commissioner
Alaska Department of Environmental
Conservation

John Sandor, Chair
Juneau - Forest Service Conference Room 541A
Anchorage - 645 G Street Fourth Floor

1. Call to Order 3:00 p.m.
 - Approval of Agenda
 - Order of the Day
2. Habitat Acquisition Update (Dave Gibbons)
 - Appraisal Schedule & Cost Estimate
3. Future Meeting Schedule
 - August 23, 1994 @ 7:30 or 8:00 a.m. (Simpson Building)
 - Tentative Topics to be Discussed
 - Final Restoration Plan
 - EIS Preferred Alternative
 - FY95 Interim Budget
 - Habitat Update

Trustee Agencies

State of Alaska: Departments of Fish & Game, Law, and Environmental Conservation
United States: National Oceanic and Atmospheric Administration, Departments of Agriculture and Interior

DRAFT

July 18, 1994

FOREST SERVICE STATUS REPORT REGARDING
APPRAISAL SERVICES AND APPRAISAL SCHEDULE

At its July 11, 1994, meeting, the Trustee Council requested both a status report regarding the Forest Service contract to conduct appraisals in support of the restoration acquisition program and a current appraisal schedule.

I. Background

The status of the appraisal contract and current appraisal schedule cannot be fully appreciated without a consideration of the historical context in which the Trustee Council's appraisal process has evolved.

A. Standardized Appraisal Process and Appraisal Services Contract.

On November 30, 1993, the HPWG issued its comprehensive habitat protection evaluation and ranking of large parcels, which were evaluated, scored and ranked as high, moderate, or low to represent the degree to which protection of a parcel would benefit the recovery of linked resources and services that occur on the parcel.

At its January 31, 1994, meeting, the Trustee Council approved a resolution proposed by Commissioner Sandor to proceed with a habitat protection program. Among other things, the resolution directed the Executive Director to work with the lead negotiators to develop a standardized appraisal process, including standardized appraisal instructions, to be used to appraise the parcels under consideration for protection. This Council direction launched several initiatives.

First, the Alaska Department of Natural Resources, the U.S. Department of the Interior, and the U.S. Department of Agriculture entered into a Memorandum of Understanding (MOU) regarding the appraisal process to be used to appraise interests in land under consideration for acquisition and habitat protection as part of the Trustee Council restoration process. The parties entered into the MOU to ensure that all appraisals are conducted and reviewed in an efficient and uniform manner. The MOU provides that standard appraisal instructions will be developed and applied to each appraisal of interests in land proposed for acquisition, and that all appraisals will comply with State of Alaska appraisal standards and the *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA), 1992. In addition, the parties agreed that an existing

DRAFT

U.S. Forest Service contract for the procurement of appraisal services would be used to appraise all interests in land proposed to be acquired for purposes of restoration. The responsibility for the overall administration of the appraisal services contract remains with the Forest Service. The parties executed the MOU on March 21, 1994.

Second, in March, 1994, the Executive Director began a process to develop standardized appraisal instructions. The appraisal instructions utilized in the existing Forest Service contract were the basis for development of the standardized instructions. The Executive Director solicited comments on these instructions from landowners interested in participating in the restoration acquisition program and incorporated appropriate comments in the final version. The Department of Justice Chief Appraiser also reviewed the standardized instructions and concurred that the standards met the requirements of UASFLA. The standardized appraisal instructions were finalized on April 21, 1994.

Third, the Executive Director also requested that the appropriate staff develop a framework for the appraisal process that could be shared with landowners and the public. Throughout April, 1994, agency negotiators, appraisers, and attorneys formulated a twelve step process for conducting appraisals, reviewing appraisals, and approving appraisals. The draft twelve step process was also submitted to interested landowners for comment and was endorsed by the Council on May 31, 1994. The final twelve step process was issued June 3, 1994.

B. Initiation of Appraisals and Current Schedule.

At the same time the above initiatives detailing the standards and process to be used in conducting appraisals was taking place, negotiations with landowners were occurring. Receipt of permission from the landowners to proceed with an appraisal has varied with each parcel and remains dependent upon the progress of on-going negotiations. The progress of negotiations and thereby the number of parcels to be appraised within the assumed deadline of mid-September has made the confirmation of the completion of any given appraisal difficult. In fact, the Executive Director informed the Council at its April 11, 1994, meeting that the schedule for completion of appraisals was not definitive and that the appraisers were expecting appraisals to be prepared by July, August, or maybe even early September. Transcript at p. 16.

In addition, two issues have been problematic with respect to the scheduling of appraisals, although it does not appear either issue has caused significant delays in the current appraisal schedule. First, the May 6, 1994, purchase agreement with the Eyak Corporation and Sherstone, Inc. for the purchase of approximately

DRAFT

two thousand acres of commercial timber rights required that an appraisal be conducted as soon as possible to meet the 90 day closing requirement stated in the purchase agreement. This required a shift in focus from the Shuyak and Chenega parcels to the Eyak/Sherstone parcel with respect to the performance of the timber appraisal. Second, locating a subcontractor to perform timber appraisals was troublesome. No timber appraisal firm with experience in Alaska was acceptable to the State and/or the private landowners. This results from a potential appearance of a conflict for the Alaska firms because no qualified firm was identified that was not already associated with either the private parties or with Exxon Corporation in the remaining oil spill litigation. Not until mid-May was the Forest Service contract appraiser, Black-Smith and Richards of Anchorage, able to subcontract with Pacific Forest Consultants of Portland, Oregon to perform timber appraisal services under the Forest Service contract.

An appraisal schedule prepared for the Council for its May 31, 1994 meeting indicates that of the five appraisals authorized to be conducted as of that date, the draft appraisal completion date for two was mid-July, one in August, and two in mid-September. The chart attached details, among other things, the expected completion date of the draft appraisal reports for these five parcels, which effectively remain on schedule as reported to the Council in May.

Since the May Council meeting, however, three additional requests have been made by the Executive Director to prepare appraisals, with a presumed target for completion of the draft appraisal report of September 15, along with the other parcels already being appraised. Completion of these draft reports by this target date significantly raises the cost of conducting the appraisals and also may raise the perception that the Council's appraisal process is not reliable.

With respect to costs, several factors affect the estimated cost of conducting an appraisal, including the deadline established for completion of the appraisal. Large parcels containing timber may increase appraisal costs substantially. This results, in part, from deficient or non-existent timber inventory data, which then requires a significant amount of field work to inventory the timber. A significant number of additional timber cruisers may be required to complete the groundwork during this field season in order to meet a September 15 timeframe. There may be substantial risks involved in performing timber appraisals for an estimated 200,000 acres during the remaining 1994 field season. First, the margin for error increases in the timber inventory and grade, which calls into question the validity of the appraisal. This factor therefore requires that the accountability level increase substantially. Timber check cruisers must be available from the lead negotiating agency to ensure the validity of the timber

DRAFT

inventory. In addition, physical risks for the individuals performing the timber inventory work increases as the end of the field season nears.

If the draft completion date for each appraisal requested is to be by mid-September, an increase in contract personnel and cost will certainly occur. Based on discussions with Pacific Forest Consultants, the Forest Service estimate for completing the timber cruises for the Afognak and Eyak large parcels by September 15 is approximately \$800,000. This is based on an increase in personnel to approximately 100 people to cruise the estimated 163,000 acres to be appraised, and considers current costs for labor, transportation, overhead, and expenses. It is estimated that if the September 15 draft completion date is not required, and the deadline to complete the timber cruise is late October, the estimate for Eyak is \$250,000, assuming that good timber inventory data is available for Afognak. In addition, it must be noted that Pacific Forest Consultants indicates there is only a 50-50 chance that it could meet the September 15 deadline.

The incurred costs associated with the conduct of appraisals currently exceeds the amount authorized by the Council at its May 31st meeting to conduct appraisals. The Council allocated \$515,000 to conduct appraisals. The cost of performing the five appraisals authorized at the time of the May 31st meeting, Akhiok-Kaguyak, Chenega, Eyak-Orca Narrows Sub-parcel, Shuyak, and Old Harbor, is \$992,617. This does not include the \$53,043 that the Federal trustees authorized to be expended from federal restitution funds to conduct an appraisal of the Chenega parcel. The worst case analysis regarding completion of Afognak, Eyak large parcel and Koniag by September 15th brings the estimated total to conduct all appraisals to \$1,827,617. This total cost exceeds the \$515,000 allocated by the Council by \$1,312,617. This estimate does NOT include any appraisal of Tatitlek lands that may be requested for draft completion by September 15.

Finally, it must be emphasized that the attached appraisal schedule provides for an expected date of completion of the draft appraisal report and the cost estimates are based on the September 15 completion date. For acquisitions involving partial interests, significant issues continue to remain undefined, which affect the appraiser's ability to meet this draft completion date. Where less than fee acquisitions are proposed, negotiators must resolve issues such as public access, subsistence rights, ANILCA 22(g), and defining development rights retained by the landowner before a defined partial interest to be acquired is presented to the appraiser for a determination of value of the less than fee interest.

DRAFT

July 18, 1994

APPRAISAL SCHEDULE & COST ESTIMATES

PARCEL OWNERSHIP	REQUEST FROM E.D.	ACRES TO BE APPRAISED	INTEREST APPRAISED	DRAFT REPORT DATE	ESTIMATED COST
EYAK	5/5/94	2,025	TIMBER	LATE-JULY	\$60,320
CHENEGA	9/93*	76,000	FEE/PAR/TIM	LATE-JULY	\$450,000
SHUYAK	4/29/94	27,900	FEE/TIMBER	MID-AUGUST	\$391,603
AKHIOK	5/6/94	119,885	FEE	MID-SEPT	\$63,401
OLD HARBOR	5/6/94	34,134	FEE/PARTIAL	MID-SEPT	\$27,291
KONIAG	7/11/94	100,000	FEE	MID-SEPT	\$35,000**
AJV	6/23/94	112,658	FEE/TIMBER	MID-SEPT	\$200,000**
EYAK	6/17/94	50,000**	FEE/PAR/TIM	MID-SEPT	\$600,000**
				LATE-OCT	\$250,000**
TATITLEK	not ordered				
CHUGACH	not ordered				
PORT GRAHAM	4/29/94	CANCELLED 5/17 AFTER PRELIMINARY WORK WAS INITIATED			
ENGLISH BAY	not ordered				

ESTIMATED TOTAL	\$1,827,617
-----	-----
APPRAISAL FUNDS AUTHORIZED BY TRUSTEE COUNCIL ON 1/31/94	\$515,000
-----	-----
ADDITIONAL FUNDS NEEDED	\$1,312,617

*Landowner permission given thru 9/93 agreement with Forest Service

**Estimate

DRAFT