

1 EXXON VALDEZ OIL SPILL
2 TRUSTEE COUNCIL
3 Teleconference Public Meeting
4 Tuesday, May 3, 2005
5 1:35 o'clock p.m.
6 Anchorage, Alaska
7 TRUSTEE COUNCIL MEMBERS PRESENT:
8 STATE OF ALASKA - DEC MS. KURT FREDRIKSSON
9 (Chairman) Commissioner
10 U.S. DEPARTMENT OF COMMERCE, MR. PETE HAGEN for
11 National Marine Fisheries Svc: MR. JAMES W. BALSIGER
12 Administrator, AK Region
13 STATE OF ALASKA - DEPARTMENT MR. McKIE CAMPBELL
14 OF FISH AND GAME: Commissioner
15 STATE OF ALASKA - MR. SCOTT NORDSTRAND
16 DEPARTMENT OF LAW: Assistant Attorney General
17 State of Alaska
18 U.S. DEPARTMENT OF AGRICULTURE, MR. JOE MEADE
19 U.S. FOREST SERVICE Forest Supervisor
20 U.S. DEPARTMENT OF INTERIOR: MR. CAM TOOHEY for
21 MS. DRUE PEARCE
22 U.S. Department of Interior
23 Proceedings electronically recorded, then transcribed by:
24 Computer Matrix Court Reporters, LLC, 3522 West 27th,
25 Anchorage, AK 99517 - 243-0668

1 TRUSTEE COUNCIL STAFF PRESENT:

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3 MS. GAIL PHILLIPS Executive Director

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5 CHERRI WOMAC Administrative Assistant

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7 RICHARD DWORSKY Science Coordinator

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9 STEVE ZEMKE U.S. Forest Service

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11 MICHAEL BAFFREY Department of Interior

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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

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

3 MR. NORDSTRAND: Moved by Nordstrand.

4 MR. CAMPBELL: Second.

5 CHAIRMAN FREDIKSSON: Any objections?

6 MS. WOMAC: Who was the second?

7 MR. CAMPBELL: Campbell.

8 MS. PHILLIPS: Campbell.

9 MS. WOMAC: Thank you.

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

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

17 MR. MEADE: Thank you.

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

22 (No audible response)

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

25 (No audible response)

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

4 MS. PHILLIPS: The first action item is the
5 FY05 Herring Proposal. The Council approved in their
6 February meeting, they approved \$50,000 for this proposal.
7 We sent it out to bid, there were no responsive bids and I
8 received approval from the Trustees to rebid it at
9 \$125,000. We did get several proposals in that were
10 reviewed by the STAC, the PAC, the Science Coordinator and
11 myself and we do have a proposal in front of you today for
12 a total amount of \$132,024.10 to be broken up FY05
13 101,240.54, FY06 \$30,783.56.

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

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

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

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

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

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

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

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

15 MS. PHILLIPS: And you will note that all
16 of the recommendations came forward favorably to fund it at
17 125, my recommendation was different, fund it at the 132
18 because when the PIs originally put their proposal together
19 the forgot about the GA to the university which brought up
20 the cost of the project a little bit.

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

25 MS. PHILLIPS: Richard is here.

1 MR. DWORSKY: Can you hear me?

2 CHAIRMAN FREDIKSSON: Yep.

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

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

13 MS. PHILLIPS: Pardon me?

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

18 MS. PHILLIPS: You can ask them now.

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

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

1 CHAIRMAN FREDIKSSON: Okay.

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

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

8 MS. PHILLIPS: Yes, that's correct.

9 CHAIRMAN FREDIKSSON: Could you go over
10 that again?

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

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

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

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

23 MR. HAGAN: Okay.

24 MS. PHILLIPS: Sorry about that.

25 MR. HAGAN: I thought I'd try.

1 MS. PHILLIPS: Good idea.

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

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

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

9 MS. NORCROSS: Yeah, that would be it.

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

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

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

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

20 CHAIRMAN FREDIKSSON: Okay. Do we have a
21 second?

22 MR. TOOHEY: Second. Cam Toohey.

23 CHAIRMAN FREDIKSSON: Any discussion?

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

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

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

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

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

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

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

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

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

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

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

7 MR. MEADE: Very good.

8 MS. NORCROSS: Okay.

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

11 (No audible response)

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

15 (No audible response)

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

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

20 CHAIRMAN FREDIKSSON: Okay.

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

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

5 MS. NORCROSS: Jacqueline Michel.

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

13 MS. NORCROSS: CYA.

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

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

21 MS. PHILLIPS: Yes.

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

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

2 MS. PHILLIPS: Yeah.

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

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

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

15 MS. PHILLIPS: Sure.

16 CHAIRMAN FREDIKSSON: Please.

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

25 MS. PHILLIPS: I think that would be very

1 sufficient, Joe.

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

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

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

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

10 MR. MEADE: Yes. Michel.

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

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

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

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

6 MS. PHILLIPS: That would be perfect.

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

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

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

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

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

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

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

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

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

19 (Laughter)

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

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

1 CHAIRMAN FREDIKSSON: Do we have a second?
2 MR. TOOHEY: Toohy seconded.
3 CHAIRMAN FREDIKSSON: Okay. Any
4 discussion?
5 (No audible response)
6 CHAIRMAN FREDIKSSON: Any objections to the
7 resolution?
8 (No audible response)
9 CHAIRMAN FREDIKSSON: Hearing none, that
10 resolution is passed, Gail.
11 MS. PHILLIPS: Okay. Thanks very much.
12 And that's all you have on the agenda.
13 CHAIRMAN FREDIKSSON: Okay. Do we have a
14 motion to adjourn?
15 MR. CAMPBELL: I'll move to adjourn. This
16 is Campbell.
17 MR. MEADE: I'll second that. This is
18 Meade.
19 CHAIRMAN FREDIKSSON: Okay. Any objection?
20 (No audible response)
21 CHAIRMAN FREDIKSSON: Hearing none,
22 appreciate it, Gail, and thank you all.
23 MS. PHILLIPS: And thank you everybody for
24 coming on line so we can get this on the road.
25 (Off record -- 1:54 p.m.)

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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