

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

RESTORATION OFFICE
Simpson Building
645 G Street
Anchorage, Alaska

Trustee Council Meeting

**Juneau, Alaska
January 5, 1995
4:00 p.m.**

TRUSTEE COUNCIL MEMBERS in attendance:

STATE OF ALASKA

MR. CRAIG TILLERY
Trustee Representative for
BRUCE BOTELHO, Attorney
General, Alaska Department of
Law

STATE OF ALASKA DEPARTMENT
OF ENVIRONMENTAL CONSERVATION

MR. LEN VIRELLI, Acting
Commissioner, **MR. MARK
BRODERSON**, Trustee
Representative

UNITED STATES DEPARTMENT
OF THE INTERIOR

MR. GEORGE FRAMPTON, Assistant
Secretary via teleconference
from Washington, D.C.

STATE OF ALASKA DEPARTMENT
OF FISH AND GAME

MR. CARL ROSIER,
Commissioner

UNITED STATES DEPARTMENT OF
AGRICULTURE - FOREST SERVICE

MR. PHIL JANIK,
Regional Forester

UNITED STATES DEPARTMENT OF
COMMERCE - NOAA

MR. DON COLLINGSWORTH, Deputy
Regional Director, National
Marine Fisheries Service,
Trustee Representative for **MR.
STEVEN PENNOYER**, Director.

TRUSTEE COUNCIL STAFF

MS. MOLLY MCCAMMON Executive Director, EVOS Trustees
Council, present in Anchorage

MS. L.J. EVANS Public Information Officer, EVOS Trustees
Council, present in Anchorage

OTHERS IN ATTENDANCE in person or via teleconference

MR. ALEX SWIDERSKI Attorney General's Office, Alaska
Department of Law, present in Anchorage

P R O C E E D I N G S

(On Record at approximately 4:05 p.m.)

MR. FRAMPTON: Are you -- who is going to chair this meeting?

MR. ROSIER: I'll chair the meeting here, I guess.

MR. FRAMPTON: That will be great.

MR. ROSIER: Be glad to do it George. It shouldn't take us more than five minutes.

MR. FRAMPTON: Five minutes?

MR. ROSIER: (Laughter -- aside comments)

MS. McCAMMON: We have the court recorder here in Anchorage also to record the meeting.

MR. ROSIER: Thank you, Molly.

(Aside comments off the record)

MR. ROSIER: Molly?

MS. McCAMMON: Yes.

MR. ROSIER: I understand that basically what we have on the agenda for today is the Eyak court request, is that correct?

MS. McCAMMON: That's correct. That's the only thing on the agenda, and we did notice the meeting to the effect that we do have a public notice on the door here in Anchorage.

MR. ROSIER: Okay. (Laughter) I'm glad to see that we've got widespread public notice -- something here on this.

(Aside comments on final editing) Okay. We can come to order then. This is a meeting of the Exxon Valdez Oil Spill Trustees Council. Present today is Mr. Don Collingsworth, Deputy Regional

Director for the National Marine Fisheries Service; we have George D. Frampton, Jr., U.S. Department of the Interior; we have Craig Tillery for the Alaska Department of Law; Mark Broderson is here representing the Commissioner's Office for the Department of Environmental Conservation; Carl Rosier, here, representing ADF&G; and, let's see . . .

UNIDENTIFIED VOICE: Len Virelli.

MR. ROSIER: Len Virelli. Okay. Okay, Len, you're representing the Commissioner's Office then?

MR. VIRELLI: Right.

MR. ROSIER: All right. Good enough. Excuse me for the oversight there with Mark. It is my understanding that we the draft Eyak court request before us for action here today, and -- and I believe that -- that the Forest Service plans to make a presentation on that. Who is going to make a presentation on this for the Forest Service?

MR. JANIK: Mr. Chairman, I'll be happy to begin that . . .

MR. ROSIER: All right.

MR. JANIK: Maybe Jim Wolfe and Dave Gibbons will have some things to add, but, if I may, without going into all of the details of how this deal has come to closure, it has been a complicated process, as we all know. It relates back to a purchase agreement signed between the U.S. Government and Eyak Corporation on May 6, 1994, which reflected a commitment by this council to pay fair market value for the commercial timber rights on the subparcel

of the Orca Narrows, as it's referred to, consisting of approximately 2,052 acres. What has led up to the events that occurred late last week were finalization of the appraisal work and final negotiations with Eyak with regard to that. It would probably be helpful for me to explain at least some of the details of that appraisal process. The government appraisal, which was basically done by Pacific Forest Consultants and then reviewed by both the state and federal review appraisers, came in a 3.1 dollars for these commercial timber rights. In addition to that, there were features of points of agreement that we had to concur, those of us who were involved in the discussions with Eyak, namely Mr. Tillery and myself. We had to concur that there was points of agreement that should have been included in the appraisal instructions to Pacific Forest Consultants that were not, and in response to that we asked Manley of Pacific Forest Consultants to cost-out those features. They involved such things as the amount of volume over a log transfer facility site, as well as whether an assumption regarding a one year or two year timber operation was to be used. Those were costed out and came back to us and we recognized an adjustment of \$350,000 as being an appropriate add-on to the final government appraisal of \$3.1 million, and therefore offered to Eyak a purchase price of \$3.45 million -- \$3,450,000. They accepted that offer on December 31st after a meeting of their board occurred. One instrument we used to help resolve the departure that existed between an independent appraisal by Eyak Corporation that amounted to \$5.8 million and a government

appraisal of \$3.1 (million) fair market with the add-on of \$350 (thousand) that I mentioned basically was the introduction of yet a third set of eyes, another appraiser that we hired. The corporation that was chosen by mutual agreement between Eyak and the government, Cascade Appraisals -- titled that -- and a gentlemen by the name of Ray Granville did the work. That work amounted to an examination of the assumptions and data used leading to the appraisal value of \$5.8 (million) that was done by Eyak, also the assumptions and data leading to the government appraisal of \$3.1 (million). The conclusion of that opinion that we asked for by Mr. Granville came in at \$3.2 (million), indicating that the government appraisal of \$3.1 (million) was a better reflection of fair market value as he judged those facts. That was basically then taken to the federal review appraiser, Carl Rasmussen (ph), and after looking at both of those appraisals as well as the additional opinion by Mr. Granville, confirmed and in that judgment called at \$3.1 (million) was an accurate reflection of fair market value. One other interpretation was a Forest Service regional appraiser, Rich Goosens, who has been very active in all of these proceedings in terms of the appraisal process, examined all this information and confirmed in a letter to Mr. Sheridan of the Forest Service -- I have copies of all of this for the record -- that the three-five add-on to the \$3.1 (million) was certainly within the spirit of the purchase agreement that was signed on May 6th -- pretty much confirmed that in his January 3rd letter to Mr. Sheridan. So, at this point we have a resolution before us which

will pretty much be the final action of the Trustee Council to basically confirm the purchase of the commercial timber rights of subparcel Orca Narrows from Eyak Corporation for the price of \$3,450,000, and there are some follow-on activities that I'll ask Mr. Tillery to go over here that are edits that they've just made to the resolution document that I think you have all had an opportunity to review. It's basically a follow-up (indiscernible) that we will need to do to bring closure to this as well as make money available to Eyak the release of that money that Mr. Tillery will describe.

MR. TILLERY: I guess two items and neither of these, as I understand it, are prerequisites to going and getting the money, it's simply a requisite to the payment of the purchase price. The first one is congressional review that is required for the acquisition (indiscernible -- poor teleconference quality) the Forest Service, House Report No. 102-116 -- that is as it's stated in the draft you have before you. The second addition should read -- it is sort of a change we had in the draft -- "verification of the language contained in Exhibit (indiscernible) to the May 6, 1994, purchase agreement to the extent it may be necessary, as determined by the U.S. Department of Justice and the Alaska Department of Law, intended to authorize the State to enforce in a court of competent jurisdiction the restoration and conservation purposes for which this acquisition is made as set forth in the May 3rd, 1994, resolution, this resolution, and the May 6th, 1994, purchase agreement." And what that is doing is -- we originally

had, I think, a final on the language that had a reverter clause in it to the State in case the United States, for example, sold the timber to someone else, the Department of Justice did not object to that initially -- you know -- in accordance with other acquisitions that we've done, they've decided they think may be legally a problem, made some changes, and are doing it differently with the other acquisitions, and we're not going to be having any different effect, but we're going to probably have to change the language a little bit to come to the same effect we originally intended in a legal manner, and that's all that number two is.

MR. JANIK: Mr. Chairman, a question.

MR. ROSIER: Yes, Phil.

MR. JANIK: That would be done as the edit that you've provided there -- it would be referred to as the conveyance document.

MR. TILLERY: That's correct.

MR. JANIK: To the purchase agreement.

MR. TILLERY: The purchase agreement.

MR. JANIK: Thank you.

MR. ROSIER: Do all of the trustees have copies of this latest wording? George?

MR. FRAMPTON: I have a copy of -- it's about four hours old, so the only question is whether I have the precise language on the second item that Craig mentioned?

MR. TILLERY: You do not because it's only about four minutes old.

MR. FRAMPTON: Right. That's what I thought. (Laughter)
We'll need to redraft.

MR. TILLERY: Right. I could read it again slowly.

MR. ROSIER: Read it again slowly, if you would, I think that would be helpful.

MR. TILLERY: Yes. Number two, verification of the language contained in Exhibit B to the May 6, 1994, purchase agreement to the extent it may be necessary, as determined by the U.S. Department of Justice and the Alaska Department of Law, intended to authorize the State to enforce in a court of competent jurisdiction -- and then it continues to read as it reads in the draft you have.

MR. ROSIER: Okay.

MR. FRAMPTON: Fine.

MR. ROSIER: Any questions, comments?

MR. FRAMPTON: Mr. Chairman?

MR. ROSIER: Yes, George.

MR. FRAMPTON: Just a comment on, I guess, it's item number one. I think it's fine to make certain that the -- sort of a condition subsequent is any congressional approval that may be necessary, but for your information we, having gone through this with Kodiak Island, we obtained the agreement of both -- in the last Congress minority and majority Appropriations Committee members, both the Senate and the House, that when the use -- the use of funds from the joint fund does not require congressional reprogramming approval. We informed them, did a very extensive

briefing of the Kodiak Island purchase, and they assented to it but that that was a matter of comity not a reprogramming requirement, and those are virtually the same people although the majority and minority have been reversed in the new Appropriations Committee. So probably no formal congressional approval will be required. The same people for the Forest Service as for DOI -- the same committee.

MR. ROSIER: Okay. Any other comments? Is there -- is there objection to the proposed wording that Mr. Tillery has read into the record? Hearing none, that is adopted then. I would -- the Chair would entertain a motion here for adoption here of the resolution.

MR. JANIK: I so move.

MR. TILLERY: Second.

MR. ROSIER: Motion made, and seconded by Mr. Tillery, to move forward with the resolution. Do I hear objection? Hearing no objection, the resolution is adopted as presented. Thank you very much.

MR. JANIK: Thank you, Mr. Chairman.

MS. McCAMMON: Mr. Chairman, this is Molly McCammon. For the recorder's purposes here, could you let us know who made the motion and who was the second.

MR. ROSIER: It was Phil Janik that made the motion.

MS. McCAMMON: Thank you.

MR. ROSIER: And it was seconded by Mr. Tillery.

MS. McCAMMON: Thank you.

MR. FRAMPTON: Mr. Chairman, just an observation -- you've really got these meetings down to an art. (Laughter)

MR. ROSIER: Well, if Mr. Pennoyer was here, I would (indiscernible) in a little bit here. (Laughter) We appreciate -- you're up kind of late in your part of the world here at the present time, George.

MR. FRAMPTON: No, not really. Listen, I heard a rumor about -- do you have any future plans that are different from when I saw you last.

MR. ROSIER: Well, yeah, I -- my future plans there are to lay on the beach in Hawaii for awhile, for guy's sake, and cogitate what the future holds. (Laughter)

MR. FRAMPTON: Well, I hope to see next time I come up to Alaska, but I just want to say that I have really enjoyed enormously working with you on this and a couple of other projects, and I will certainly miss you as a colleague on this august body.

MR. ROSIER: Well, I truly appreciate that George, and undoubtedly the invite is always there to get out and see a little bit of Alaska from the water whenever to get here, for guy's sakes.

MR. FRAMPTON: Thank you.

MR. ROSIER: All right. Good enough. Anything else?

MR. JANIK: Mr. Chairman.

MR. ROSIER: Yes, Phil.

MR. JANIK: Just a brief comment before we adjourn here. Just let me say in appreciation to all who have participated in working through the Eyak negotiations, that took a great deal of

effort, there were a lot of complications, and I just want to personally thank everyone that was involved in that. Mr. Tillery played a major role, some of my folks here in the Forest Service -- Jim Wolfe, Dave Gibbons, Walt Sheridan, and others -- this just would not have happened without that kind of commitment.

MR. ROSIER: This was indeed -- I would like to echo those comments as well. This was indeed a tough parturition, I guess is the best way to describe it, but we've finally gotten there at least part of the way anyway on this. Hopefully, we will be successful with the -- some of the remaining items here on the table from Eyak. But that will be up to you, gentlemen, to take care of here I think. Good luck in that particular endeavor anyway.

MR. JANIK: We will all miss you.

MR. ROSIER: Thank you, Phil. Anything else to come before this group?

MR. FRAMPTON: I would like to add my congratulations to the Forest Service.

MR. ROSIER: Yes.

MR. FRAMPTON: After struggling for over a year, this is a really, a nice accomplishment and a sweet day to take step number one with Eyak.

MR. ROSIER: Craig.

MR. TILLERY: I would like to note that, having been involved in the (indiscernible) saga, I would very much like to commend the Forest Service and the way it did this and the way that

CERTIFICATE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Linda J. Durr, a notary public in and for the State of Alaska and a Certified Professional Legal Secretary, do hereby certify:

That the foregoing pages numbered 03 through 13 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council meeting taken electronically by me on January 5, 1995, commencing at the hour of 4:00 p.m. at the Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by me to the best of my knowledge and ability from that electronic recording.

That I am not an employee, attorney or party interested in any way in the proceedings.

DATED at Anchorage, Alaska, this 10th day of January, 1995.

Linda J. Durr, Certified PLS
Notary Public for Alaska
My commission expires: 10/19/97