

**EXXON VALDEZ OIL SPILL SETTLEMENT
TRUSTEE COUNCIL**

Simpson Building
645 G Street, 4th Floor
Anchorage, Alaska 99501

TRUSTEE COUNCIL TELECONFERENCE MEETING
June 16, 1995
11:00 a.m.

TRUSTEE COUNCIL MEMBERS in attendance:

STATE OF ALASKA

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

UNITED STATES DEPARTMENT
OF THE INTERIOR

MS. DEBORAH WILLIAMS, Special
Assistant to **MR. GEORGE
FRAMPTON,** Assistant Secretary/
MR. RON McCOY, Alternate

STATE OF ALASKA DEPARTMENT
OF FISH AND GAME

MR. FRANK RUE
Commissioner

UNITED STATES DEPARTMENT OF
AGRICULTURE - FOREST SERVICE

MR. JAMES WOLFE, Alternate
for **MR. PHIL JANIK,** Regional
Forester

UNITED STATES DEPARTMENT OF
COMMERCE - NOAA

MR. STEVE PENNOYER
Director, Alaska Region/
MR. BILL HINES, Alternate

STATE OF ALASKA DEPARTMENT
OF ENVIRONMENTAL CONSERVATION

MS. MICHELLE BROWN, Deputy
Commissioner and Trustee
Representative for **MR. GENE
BURDEN,** Commissioner

TRUSTEE COUNCIL STAFF

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

MR. ERIC MYERS Director of Operations, EVOS Trustees
Council

MS. TRACI KRAMER Director of Administration, EVOS
Trustees Council, present in Juneau

MS. REBECCA WILLIAMS Executive Secretary, EVOS Trustees
Council, present in Anchorage

OTHERS PRESENT who participated

MR. JIM LYNCH Interim Vice President for Finance,
University of Alaska Fairbanks, present
in Fairbanks

MS. GINA BELT Department of Justice

P R O C E E D I N G S

(On Record 11:04 a.m.)

OPERATOR: Molly, are you are line?

MS. McCAMMON: Yes.

OPERATOR: Tracy.

MS. KRAMER: Yes.

OPERATOR: Phil Jenkins? (sic)

MR. JANIK: Yes.

OPERATOR: Steve Pennoyer

MR. PENNOYER: Here.

OPERATOR: Bruce.

MR. BOTELLO: Here.

OPERATOR: Michelle Brown.

MS. BROWN: Here.

OPERATOR: Jim Lynch.

MR. LYNCH: Here.

OPERATOR: Deborah Williams.

MS. WILLIAMS: Here.

OPERATOR: Gina Belt.

MS. BELT: Here.

OPERATOR: Before I leave the line if anyone needs
to reach me just press star-zero. If anyone gets disconnected
dial 1-800-770-2121. I'm going to leave the line.

MS. McCAMMON: Thank you, operator.

OPERATOR: You're welcome.

MS. KRAMER: I'm also going to leave.

MS. McCAMMON: What's that?

MS. KRAMER: This is Traci, I'm also going to leave.

MS. McCAMMON: Oh, okay.

MR. TILLERY: Yes, so this is Craig Tillery. Molly suggested that I could chair this rump meeting of the Council. As I understand it, the agenda has two items. One, is the university overhead issue, and everybody should have received a draft of a cooperative agreement between the Council and the university, and we have a representative of university on line. The second issue has to do with habitat protection, which is something that we would probably do in executive session, and I would propose that we start with the cooperative agreement, if that's amenable to everyone?

(Members respond - yes)

MR. TILLERY: Molly, could you give us a summation of what you propose and how we got here?

MS. McCAMMON: Yes, Mr. Chairman, in the last couple of years the Trustee Council has done an ...

MR. JANIK: Molly, excuse me a minute, please.

MS. McCAMMON: Yes.

MR. JANIK: Is Steve Pennoyer on the line?

MS. McCAMMON: Yes, he is.

MR. PENNOYER: I am, Jim.

MR. JANIK: Okay, all right, thanks. I didn't hear you awhile ago. I'm sorry.

MS. McCAMMON: Okay, in the last two years, the Trustee Council has informally adopted a policy that for University of Alaska projects they would receive a 20 percent indirect rate. This policy has been informal in the sense that there has been no written agreement, there has been confusion as to what the rate is applied against, as to what processes it applies to, and it has resulted in a great deal of misunderstandings, confusion, and at times hard feelings. As a result of this, I began discussions in January of this year with the university president about trying to come to some mutual agreement as to what rate would be used for all University of Alaska projects, how it would be applied against what factors, and try to come to some agreement that we could put into writing and that we could show all elements of the university system. President Komisar has been very cooperative in this aspect, as indicated in my memo. The university is becoming a much more significant player in terms of the Trustee Council's annual restoration program. Last year, the university received somewhere between \$4 and \$5 million worth of projects. It is estimated that they'll probably be receiving about on that level in FY '96. The current indirect rate that the University of Alaska uses is 42 percent. That is being renegotiated with federal government now, and is expected to increase to 50 percent probably in the fall. The 25 percent rate that the university has agreed to for Trustee Council projects, I believe, does reflect a very serious commitment by the university to the Council's program, and a recognition of the Council's

research effort, it's importance to the entire state, and I really think the university should be recognized for their willingness to make this commitment. Having a -- some form of a formalized agreement that is signed by two parties, and whoever those two parties may be, I believe is a much more preferable way to approaching this than the informal agreement that we've had in the past. I think it will clear up a lot of the misunderstandings that we've had in the past. And, for that reason, I'm recommending that we go forward with some form of an agreement. In having this reviewed by some of the attorneys, there has been some question as to whether the Council can enter -- the Council itself can enter into an actual cooperative agreement, and whether this reflects a contract. And, for that reason I sent around a revised motion which would be to approve the policy that's described in this cooperative agreement, and then to authorize me to formalize this with the university in an appropriate manner, and that is whether it ends up being a policy or a memorandum of understanding, or exactly what format it might take. And, we do have Jim Lynch who is the comptroller for the University of Alaska. Both Jim and President Komisar have been very cooperative in the discussions that we've had in the past six months, and he is available to answer any questions.

MS. WILLIAMS: Mr. Chairman, I move -- I so move.

MR. TILLERY: You -- you so move Molly's amended motion, is that?

MS. WILLIAMS: That's correct.

MR. TILLERY: Is there a second?

MS. BROWN: Second, this is Michelle.

MR. TILLERY: Is there discussion?

MR. PENNOYER: Yeah, just a couple of quick questions, Molly, if I could. The 25 -- I didn't understand your comment about negotiating with the federal government at 50 percent. In our case at least all SK grants going to the University of Alaska are at 25 percent. I haven't heard anything about an increase in the allowed indirect cost rate -- overhead rate, have you heard anything?

MR. TILLERY: Perhaps Mr. Lynch can respond to that.

MR. LYNCH: Yes, this is Jim Lynch, and we're -- we will commence our negotiations with the federal government on these rates in mid to late June, and that will be coming up here in the next two weeks or so. We'll be negotiating some temporary rates. The final negotiations will probably take place in August. Our current calculated rate that we've submitted is at 59 percent. We expect that to be negotiated at 50 percent for the fiscal year, FY '96, starting July 1. So, it's my expectation ...

MR. PENNOYER: Will that be with all federal grants and anything?

MR. LYNCH: That's correct.

MR. PENNOYER: In other words, you're negotiating out of our SK program and everything?

MR. LYNCH: That's for all federal grants and

contracts.

MR. PENNOYER: Oh -- okay.

MR. LYNCH: There may be special circumstances where -- this is the general on-campus rate for the University of Alaska Fairbanks. There are other rates for different activities. That's a basic ...

MR. PENNOYER: One of the other (indiscernible) I had is this ...

MR. LYNCH: I don't know where those other grants are coming through the university, but ...

MR. PENNOYER: Okay, that was just a matter of interest, Molly. The other question I had is, I'm not -- I don't -- I think this is fine. I think you guys have done a good job. I think the university is -- certainly come to discuss it with us and the recognition you talked about it, the importance of the research is appreciated. I guess I'm a little confused to kind of the background overhead cost question. Is this -- this -- the 25 percent sort of a level playing field with other people we have indirect costs with, including the agencies, or where -- I don't know if that's necessary to even worry about here, because this -- this needs to be done and I agree with you, but what's your general view of overall overhead costs questions?

MS. McCAMMON: Mr. Chairman, we have looked at -- been looking at the whole question of overall, indirect, and general administration costs. The agencies are receiving basically a 15 percent general administration for personnel and other costs,

with the exception of contracting, and the contracting costs are two and seven percent, depending on the size of the contracts. However, the agencies also receive additional support from the Trustee Council in the form of personnel for liaisons and project managers and things of that nature. So, I think this does fairly well allow for a level playing field. What we haven't totally come to grips with is whether there should be a policy such as just capping all potential, indirect rates for other entities, other private entities. These, the non-university and non-agency recipients of Trustee Council funds is a very small amount of the whole budget, and we're looking at those and some specifics on that, and I am -- I would expect I'll be coming back to you with a recommendation on that probably in July sometime. So, I don't have a total answer for that.

MR. PENNOYER: Madam Chairman, thank you very much. That's just a couple of questions of clarification. I have no problem with proceeding with the vote on the motion, then.

MR. TILLERY: Okay, is there further discussion?

MR. JANIK: Phil Janik here, Mr. Chairman.

MR. TILLERY: Mr. Janik.

MR. JANIK: Just an observation in my -- the turnover file that I received, I came across this document called the "Financial Operating Procedures" for the Council signed by all the members at a point in '92. And, in no way suggesting any opposition to what's on the table right now as a motion, but just a reminder to us that there are some numbers in that document

that do reflect, I think, what, Molly, you just described, and it's, quote, the norm or the standard or whatever it might be, and we may want to look at that and update this. This appears to be a current document that we might want to basically revise.

MR. TILLERY: Ms. McCammon, could you respond?

MS. McCAMMON: Mr. Chairman, the financial operating procedures were adopted in 1992. We've been looking at them very closely in relation to preparation for the audit that will occur this fall. These operating procedures are in drastic need of revision. We are in the process of drafting some changes -- proposed changes to it now, and those changes will be coming forward to you in July or August, and you're absolutely right, this is something that needs to be considered once again.

MR. JANIK: This is a deviation from these.

MR. TILLERY: Well, Mr. Janik could you specifically speak to the fact, is there a need to change the financial operating procedures to deal with this, or my understanding was that the -- I thought that the operating procedures allowed for a -- allowed for Trustee Council by resolution to -- to alter overhead rates.

MS. McCAMMON: I believe that with a resolution and a motion of this nature, the Trustee Council is authorized to take this action without formally changing the financial operating procedures. But, I think that when we do come back with proposed changes to the actual operating procedures, we may want to include something in this.

MR. TILLERY: Mr. Janik, was there follow up?

MR. JANIK: I'm simply not familiar enough with the document to be able to personally answer your questions. Again, my intent was only to describe the need to look at this document. I was not suggesting, because I simply don't know, whether this document needs to be changed prior to moving on this motion. That was not my intent. It was just a matter of reminding all of us that we do have financial operating procedures, and the figures I see in here reflect things like 15 percent, and so on, and we're looking at numbers higher than that, so it's probably time we looked at this.

MR. TILLERY: Mr. Janik, in fact, at the time you asked your question, I was similarly perusing this document, looking for something, and I have not located that statement, yet, although I think there was in here that allowed Trustee Council to go about it. Molly is going to look here for a second. While we're doing that, is there further discussion?

(Pause -- Ms. McCammon peruses procedures)

MR. TILLERY: Molly is still looking through the procedures.

MS. KRAMER: Hey, Craig, it's Traci.

MR. TILLERY: Yes, Traci.

MS. KRAMER: I think there's a line -- one line -- I don't have my financial operating procedures in front of me, but I think there is a line where they talk about the 15 percent and the seven and two percent, that says this is the rate that

may be applied, but the Trustee Council can do something different. I remember a line like that in there. It's like page 3 or 4 on the bottom part.

MR. TILLERY: Okay, thank you, Traci. Molly, do you have ...

MS. McCAMMON: Well, the -- the actual language is "general administration costs may be included for all separate budgets funded through the Trustee Council." There are two types of general administration costs that may be incorporated into project budgets, 15 percent of each, and up to seven percent and two percent, so the language is may, which is a permissive language. I think, what we could do is add to the motion some language that says, "and to revise the financial operating procedures as appropriate to reflect this."

MS. WILLIAMS: I will take that as a friendly amendment.

MR. TILLERY: I guess, this is Craig, my own view is that Molly's interpretation is correct, that it is permissive, and that we can alter this. I'd rather see a wholesale revision of the financial operating procedures. I don't think we really want to include this particular MOA or whatever it turns out to be in the financial operating procedures, but maybe the motion ought to reflect that this is in accordance with the financial operating procedures, and I think the discussion should reflect that -- that to the extent it is not, it's the Council's intent to -- to alter those.

MS. WILLIAMS: That's fine.

MR. TILLERY: Do I hear a second to the motion?

MS. BROWN: Yeah, it's a friendly amendment, fine.

MR. TILLERY: Is there further discussion?

MR. McCAMMON: Do you want to repeat the friendly amendment?

MR. TILLERY: Well, that's what I'm -- I'm trying to -- go on with -- if somebody wants to discuss something, I'm trying to write what it might be.

MS. McCAMMON: I should just note for the record here, I mean, the financial operating procedures are very -- they were crafted in 1992, and three years later they're fairly obsolete at this point and are in need of major revision. And, Traci Kramer has been looking at these for the last few months, and we will have something before the Council in July and August.

MS. WILLIAMS: Call for the question.

MR. TILLERY: Okay. Thank you, and I'm just drafting -- I'm just writing something out real quick so I can repeat back the motion. What I would -- as I understand the motion now, it reads, a motion to approve the policy of a 25 percent indirect rate for the University of Alaska projects, as described in the draft agreement presented to the Council, and authorize the Executive Director to formalize this policy with the university in the appropriate manner. It is the belief of the Council that this policy is in accord with the financial operating procedures. To the extent that it is not, the financial operating procedures

are amended to conform with this policy. Is that -- capture the motion?

MS. WILLIAMS: Yes.

MR. TILLERY: All in favor of the motion.

MS. WILLIAMS: Aye.

MR. JANIK: Aye.

MR. PENNOYER: Aye.

(Mr. Rue and Ms. Brown's votes are not audible.)

MR. TILLERY: Opposed. (No response) The motion is carried and passed. Mr. Lynch, I suspect you can sign off if you wish.

MR. LYNCH: I'll do that, thank you very much for passing the motion and thanks for your cooperation. It was -- Molly and Traci and the rest of the staff have really been very good to work with in this project.

MR. TILLERY: Thank you, and thank you for your cooperation and for being here today.

MR. LYNCH: Thank you.

MR. TILLERY: The next part of the agenda would have to do with the habitat protection program. I believe specifically with the current discussions with Eyak. Is there any -- and the proposal I heard would be to do that in executive session. Before we have a motion to go into executive session, we should find out if there is anybody believes there is anything else that needs to be discussed in executive session so we can be complete about what we'll be talking about. Are there any other

subjects? Is there a motion with regard to habitat?

MR. PENNOYER: I move we go to executive session.

MR. TILLERY: Could you state the purposes?

MR. PENNOYER: I thought you already did.

MR. TILLERY: Okay, for those purposes then?

MR. PENNOYER: Land acquisition and particularly the Eyak negotiations.

MR. TILLERY: Okay, is there a second?

MR. JANIK: Second, Phil Janik.

MR. TILLERY: In favor.

ALL TRUSTEE COUNCIL MEMBERS: Aye.

MR. TILLERY: Opposed. (No response) Okay, this meeting will go -- is -- will be moved into executive session. Logistically, what do we have to do?

MS. McCAMMON: I believe if Mr. Lynch is off line, then -- everyone who is not a Trustee Council member or an appropriate staff person should be leaving their respective offices. And, we don't have to hang up.

MR. TILLERY: Okay, is there anyone on the phone who is not Council member or on the Council member's staff.

MS. BELT: This is Gina Belt.

MR. TILLERY: Okay, Gina, you need to be here for this. Is there anyone -- okay.

MS. WILLIAMS: Mr. Chairman, this is Deborah Williams. I regret to say that I have to leave, I'm going to have Ron McCoy, my top staff member sit in for me, and if there is

something on which we need to vote today, I can -- I can be available for that vote later today, and he can inform me of the discussion.

(Off Record: 11:24 a.m.)

(On Record: 11:50 a.m.)

MR. TILLERY: We are now back in public, we have concluded the executive session. The Council, or Molly, perhaps you could report what the Council discussed in executive session.

MS. McCAMMON: In executive session the Council discussed the current status of negotiations with Eyak Corporation.

MR. TILLERY: Okay, is there any further business to come before the Council? Do I hear a motion to adjourn?

MR. JANIK: So moved.

MS. BROWN: Second.

MR. TILLERY: Any discussion? All in favor?

ALL TRUSTEE COUNCIL MEMBERS: Aye.

MR. TILLERY: This meeting is adjourned, thank you.

MS. McCAMMON: Thank you very much.

(Off Record 11:52 a.m.)

END OF PROCEEDINGS

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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 16 contain a full, true, and correct transcript of the Exxon Valdez Oil Spill Settlement Trustees Council teleconference meeting taken electronically by Ladonna Lindley on June 16, 1995, commencing at approximately 11:00 a.m. at the Exxon Valdez Oil Spill Restoration Office, 645 G Street, Anchorage, Alaska;

That the transcript is a true and correct transcript requested to be transcribed and thereafter transcribed by Sandra Yates and me to the best of our 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 23rd day of June, 1995.

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