

that he was proceeding on the understanding that his clients would meet with Babbitt, not a delegate.⁴³⁷

After the initial phone discussion, Eckstein and Babbitt did not speak again concerning the Hudson matter until May 14, 1995. Eckstein did little on the case during the balance of April, as he, Goff and Havenick had determined that they would review the status of the matter in early May, after the April 30 deadline for additional comments. After that date passed, Eckstein's contact was with staff in Babbitt's office concerning the general scheduling request. At the same time, other applicant representatives were engaging the DOI staff, principally through Duffy and Skibine, in discussions that led to the scheduling of the May 17 meetings in Washington.

It was with these developments in mind that Eckstein mentioned the Hudson matter to Babbitt in passing during the Pomona College commencement events on May 14, 1995. The two men were together for much of that day on the Claremont, Calif., campus, but Eckstein did not engage Babbitt in any substantive discussion of the matter. Rather, during a quiet moment when the two were alone, Eckstein recalls mentioning that he would be at Interior that week to see Duffy on the Hudson application. According to Eckstein, Babbitt responded with general approval, and suggested that Eckstein stop in and see Babbitt during the visit. Babbitt recalls being with Eckstein at the Pomona ceremony, but does not recall this exchange.

⁴³⁷Eventually, Eckstein recalls that he received word from the Secretary's staff that Babbitt would see Eckstein but not his clients. Eckstein dates this communication sometime in May or June, after his May 17 meetings with John Duffy and the Secretary.