

STATE OF ALASKA THE LEGISLATURE

2006

Source

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**Legislative
Resolve No.**

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Urging the United States Congress to honor the process and judgment of the federal courts in the case of the Exxon Valdez disaster and to refrain from enacting legislation that would affect the outcome of the courts' resolution of the case; urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full \$100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry out these plans.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS, on March 24, 1989, the Exxon Valdez ran aground on Bligh Reef in Prince William Sound, Alaska, spilling more than 11,000,000 gallons of crude oil and becoming what President George H. W. Bush called "the worst marine environmental disaster

this nation has ever experienced"; and

WHEREAS the grounding and spill released oil across more than 10,000 square miles of Alaska's coastal oceans and 1,300 miles of shoreline, including five state parks, four state critical habitat areas, one state game sanctuary, and many Alaska Native ancestral lands; the spilled oil killed hundreds of thousands of birds, marine mammals, fish, and invertebrates; and the grounding and spill seriously disrupted the economy, culture, and livelihoods of coastal residents; and

WHEREAS, on October 9, 1991, the United States District Court for Alaska in Anchorage approved a settlement (Civil Actions No. A91-082 and A91-083) between Exxon Corporation, the United States of America, and the State of Alaska for damages to natural resources, including publicly owned wildlife and wild lands, from the Exxon Valdez oil spill; and

WHEREAS this settlement includes a clause that provides for a "Reopener for Unknown Injury," which states that the governments may, between September 1, 2002, and September 1, 2006, request that the ExxonMobil Corporation pay additional sums as needed, up to \$100,000,000, to restore oil-damaged populations, habitats, or species in the spill zone if the injury could not reasonably have been known nor anticipated at the time of the settlement; and

WHEREAS this provision was a key factor in addressing the uncertainty of the public, the Alaska State Legislature, the United States Congress, the State of Alaska, and the United States District Court regarding the potential for future damages and, therefore, in winning approval of this settlement; and

WHEREAS, in September 1994, a unanimous jury of Alaskans found Exxon Corporation liable for the Exxon Valdez oil spill and awarded damages of \$5.3 billion to those injured by the spill, including punitive damages in the amount of \$5 billion; and

WHEREAS, 17 years after the disaster, and nearly 12 years after the original jury verdict, the victims are still awaiting resolution of the litigation; and

WHEREAS the Ninth Circuit Court of Appeals is currently reviewing the latest appeal of the damages order by Exxon Mobil Corporation and is expected to issue its decision sometime later this year; and

WHEREAS, during consideration by the United States Congress of the Oil Pollution

Act of 1990, Exxon Mobil Corporation sought an amendment that would have substantially reduced the punitive damages that it would have to pay for the Exxon Valdez oil spill;

WHEREAS scientists funded through the Exxon Valdez Oil Spill Trustee Council and by federal and state agencies, universities, and private foundations have clearly and conclusively demonstrated substantial long-term harm from the Exxon Valdez oil spill; their findings include evidence of direct and indirect harm to native species, coastlines, and the peoples of the spill zone; and

WHEREAS all of these long-term damages from oil were unanticipated at the time of the 1991 settlement because of the complexity of the intertidal spill zone environment, the unexpected persistence of subsurface oil, species decline that did not become manifest until after the settlement, and increased modern scientific recognition of the toxicity of oil to wildlife; and

WHEREAS there exist many cost-effective restoration opportunities to mitigate these unanticipated injuries; and

WHEREAS the governments are required to submit detailed plans for use of reopener funds 90 days before a formal request to ExxonMobil Corporation, and the last day on which the governments may make those requests is September 1, 2006; and

WHEREAS it is clearly in the interest of the citizens of Alaska that the governments assert this claim for full payment for the additional damages from the Exxon Valdez oil spill;

BE IT RESOLVED that the Alaska State Legislature respectfully urges that the United States Congress respect the judicial process and refrain from enacting any legislation that would reduce or delay payment of the punitive damages awarded to more than 32,000 plaintiffs as a result of the 1989 Exxon Valdez oil spill as finally determined by the federal courts; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full \$100,000,000 available under the reopener clause to enact these plans; and be it

FURTHER RESOLVED that the Attorney General of the State of Alaska or the

Attorney General of the United States report to the Alaska State Legislature on or before June 2, 2006, on the status of the governments' claim for reopener damages.

COPIES of this resolution shall be sent to the Honorable George W. Bush, President of the United States; the Honorable Richard B. Cheney, Vice-President of the United States and President of the U.S. Senate; the Honorable Bill Frist, Majority Leader of the U.S. Senate; the Honorable Harry Reid, Minority Leader of the U.S. Senate; the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; the Honorable John Boehner, Majority Leader of the U.S. House of Representatives; the Honorable Nancy Pelosi, Minority Leader of the U.S. House of Representatives; the Honorable Alberto Gonzales, Attorney General of the United States; the Honorable David W. Marquez, Alaska Attorney General; and the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.