

HOUSE BILL NO. 10
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES DAVIDSON, Brown

Introduced: 1/11/93

**Referred: State Affairs, House Special Committee on Oil and Gas, Resources,
Finance**

A BILL

FOR AN ACT ENTITLED

1 "An Act making appropriations for restoration projects relating to the Exxon
2 Valdez oil spill; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. FINDINGS.** The Eighteenth Alaska State Legislature finds that

5 (1) Under the criminal plea agreement between the United States and Exxon
6 Corporation and Exxon Shipping Company (United States of America v. Exxon Corporation
7 and Exxon Shipping Company, United States District Court, District of Alaska, case No. A90-
8 015 CR.), the State of Alaska received \$50,000,000 as "remedial and compensatory payments."
9 The payments received by the state "are to be used by the State of Alaska . . . exclusively for
10 restoration projects, within the State of Alaska, relating to the 'Exxon Valdez' oil spill.
11 Restoration includes restoration, replacement and enhancement of affected resources,
12 acquisition of equivalent resources and services, and long-term environmental monitoring and
13 research programs directed to the prevention, containment, cleanup and amelioration of oil
14 spills."

1 (2) The expeditious appropriation of remedial and compensatory payments for
2 the acquisition and protection of high value resources and services and action on
3 appropriations for additional restoration, replacement, and enhancement activities will provide
4 interim protection needed to allow the Exxon Valdez Restoration Trustee Council time to
5 develop a systematic restoration plan. The appropriations made by this Act complement the
6 process being established by the Exxon Valdez Restoration Trustee Council.

7 (3) As stated by the United States Department of Justice in recommending that
8 the United States District Court accept the criminal plea agreement, "[t]his oil spill was a
9 catastrophe, and it was also an environmental crime. The criminal remedy should, likewise,
10 in substantial part, be environmental in nature; . . . The environment, as a victim, must be
11 aided quickly through efforts funded by restitutionary payments."

12 (4) The health of damaged coastal and near-shore habitats is substantially
13 related to activities on adjacent uplands. Economically important fish species, including
14 herring and halibut, utilize near-shore areas, and anadromous species, including five species
15 of salmon, rely on continued access to both clean streams and unpolluted estuaries for
16 spawning and rearing.

17 (5) Sea otter pups are particularly dependent on pristine water quality, a
18 productive near-shore and shallow subtidal ecosystem, and a disturbance-free environment.

19 (6) Populations of aquatic birds, including the tree-nesting marbled murrelet
20 and bald eagle and the fresh water nesting species such as harlequin ducks, were severely
21 damaged by the Exxon Valdez oil spill.

22 (7) Recreational, aesthetic, and subsistence services provided by the prespill
23 environment were severely damaged. Residents who relied upon these services desire to have
24 these damaged services replaced through the acquisition and retention of comparable
25 threatened resources.

26 (8) The quality of fresh water entering the estuarine environment is critical to
27 satisfactory restoration and recovery of the physical and biotic environment in the region
28 affected by the Exxon Valdez oil spill.

29 (9) Recovery of the coastal estuaries affected by the Exxon Valdez oil spill is
30 placed at risk by further environmental stress resulting from timber harvesting and other
31 industrial activities that involve substantial environmental disturbance. In order to minimize

1 the potential for further environmental stress and to encourage and enhance the natural
2 recovery and restoration of the affected region, acquisition of coastal related uplands in the
3 affected region, including Prince William Sound, the Kenai Peninsula, the Kodiak
4 Archipelago, and adjacent biologically related areas, is an important use of "remedial and
5 compensatory payments" received by the state under the criminal plea agreement.

6 (10) Continued citizen involvement and education of residents and nonresidents
7 are essential to the expeditious and effective restoration of the areas affected by the Exxon
8 Valdez oil spill, and to the prevention of future oil spills and the restoration of public
9 confidence in the ability of the state to protect the environment.

10 * Sec. 2. In order to achieve the purposes of the remedial and compensatory payments, the
11 sum of \$4,350,000 is appropriated from the remedial and compensatory payments to the
12 Department of Natural Resources for the acquisition of land, development rights in land,
13 including timber rights, or moratoria on timber harvesting from willing sellers in the areas of
14 Eyak Lake, Nelson Bay, Simpson Bay, and Sheep Bay in Township 15 South, Range 2 West;
15 Township 15 South, Range 3 West; Township 14 South, Range 3 West; and Township 14
16 South, Range 4 West, Copper River Meridian.

17 * Sec. 3. In order to achieve the purposes of the remedial and compensatory payments, the
18 sum of \$1,675,000 is appropriated from the remedial and compensatory payments to the
19 Department of Natural Resources for the acquisition of land, development rights in land,
20 including timber rights, or moratoria on timber harvesting from willing sellers in the areas of
21 Port Fidalgo and Bligh Island in Township 12 South, Range 6 West; Township 12 South,
22 Range 7 West; and Township 12 South, Range 9 West, Copper River Meridian.

23 * Sec. 4. In order to achieve the purposes of the remedial and compensatory payments, the
24 sum of \$1,675,000 is appropriated from the remedial and compensatory payments to the
25 Department of Natural Resources for the acquisition of land, development rights in land,
26 including timber rights, or moratoria on timber harvesting from willing sellers in the areas of
27 Eshamy Bay, Paddy Bay, Ewan Bay, Jackpot Bay, Chenega Island, Evans Island, and southern
28 Knight Island in Township 1 South, Range 9 East; Township 1 North, Range 9 East;
29 Township 1 South, Range 8 East; Township 1 North, Range 8 East; Township 1 North, Range
30 10 East; Township 2 North, Range 8 East; Township 3 North, Range 7 East; Township 3
31 North, Range 8 East; Township 4 North, Range 7 East; Township 4 North, Range 8 East;

1 Township 4 North, Range 9 East; Seward Meridian.

2 * Sec. 5. (a) In order to achieve the purposes of the remedial and compensatory payments,
3 the sum of \$8,000,000 is appropriated from the remedial and compensatory payments to the
4 endowment trust fund established under AS 14.40.400 upon the completion of an agreement
5 before January 1, 1994, between the Department of Natural Resources and the Board of
6 Regents of the University of Alaska for

7 (1) the transfer of timber rights on land between Seal River and Cape Suckling
8 (as conveyed under ADL 223456 and known as the Cape Suckling parcel) to the Department
9 of Natural Resources under the terms of ch. 143, SLA 1990; and

10 (2) a moratorium on the sale, harvesting, or other development by the
11 University of Alaska or its agents or contractors of the land described in (1) of this subsection
12 that is subject to timber rights held by the University of Alaska until December 31, 2003.

13 (b) It is the intent of the legislature that the agreement between the Department of
14 Natural Resources and the Board of Regents of the University of Alaska described in (a) of
15 this section must provide that

16 (1) the value of the timber rights on the Cape Suckling parcel is established
17 as the fair market value of those rights on July 1, 1993, under the process for appraisal and
18 repurchase developed under ch. 143, SLA 1990, provided that if the Department of Natural
19 Resources and the Board of Regents are unable to reach agreement as to the fair market value,
20 the Department of Natural Resources and the Board of Regents shall each submit a final offer
21 that is between the two appraisals and a mutually acceptable arbitrator shall determine the
22 value of the timber rights by selecting the more reasonable of the offers submitted by the
23 Board of Regents or the Department of Natural Resources;

24 (2) if the fair market value of the timber rights exceeds \$8,000,000, the
25 Department of Natural Resources shall seek additional appropriations or provide additional
26 assets necessary to complete the acquisition of the timber rights; if the University of Alaska
27 has received more than two-thirds of the total value of the timber rights before December 31,
28 1998, then the moratorium described in (a)(2) of this section shall be extended to
29 December 31, 2008; interest shall accrue on the unpaid balance owing the endowment trust
30 fund at the rate prescribed by AS 09.30.070 and shall be included in the total purchase price
31 for the timber rights;

1 (3) if timber rights remain to be purchased at the conclusion of the
2 moratorium, the Department of Natural Resources and the Department of Fish and Game shall
3 select timber rights for those areas of the Cape Suckling parcel that are most valuable for fish
4 and wildlife habitat and most desirable for inclusion in the Yakataga State Game Refuge, up
5 to the value of funds already paid to the endowment trust fund plus an amount for imputed
6 interest at the rate prescribed by AS 09.30.070 from the date of payment; all timber rights
7 selected by either department shall be valued at the fair market value on July 1, 1993, plus
8 an adjustment for interest at a rate prescribed in AS 09.30.070; in making their selections, the
9 departments shall assure that the University of Alaska retains reasonably accessible,
10 harvestable, and economically viable areas in which to harvest its remaining timber;

11 (4) in the event that the title of the University of Alaska to timber on the Cape
12 Suckling parcel is determined to be invalid before the end of the moratorium, the terms of this
13 subsection shall no longer apply and each party to the agreement shall retain the timber rights
14 or funds it possesses on the date of the determination.

15 * Sec. 6. In order to achieve the purposes of the remedial and compensatory payments, the
16 sum of \$9,274,315 is appropriated from the remedial and compensatory payments, and the
17 interest accrued before July 1, 1993, on the \$50,000,000 remedial and compensatory payments
18 while held in trust by the state treasury is appropriated from that trust account in the general
19 fund, to the Department of Natural Resources for the purchase of the inholdings of the
20 Seldovia Native Association and of the Timber Trading Company, within the Kachemak Bay
21 State Park as identified in the Preliminary Exchange Agreement dated June 30, 1989, as
22 amended as of the effective date of this Act, between the state, the Seldovia Native
23 Association, and the Timber Trading Company; and for the purchase of the inholdings of the
24 Cook Inlet Region, Inc., within Kachemak Bay State Park.

25 * Sec. 7. In order to achieve the purposes of the remedial and compensatory payments, the
26 sum of \$2,800,000 is appropriated from the remedial and compensatory payments to the
27 Department of Natural Resources for the acquisition of development rights or conservation
28 easements in aquatic, wetland, and riparian areas important to the maintenance of important
29 commercial and sport fish populations within the Kenai River watershed, in consultation with
30 the Cook Inlet Aquaculture Association.

31 * Sec. 8. In order to achieve the purposes of the remedial and compensatory payments, the

1 sum of \$800,000 is appropriated from the remedial and compensatory payments to the
2 Department of Environmental Conservation for payment as a grant under AS 37.05.316 to the
3 Prince William Sound Science Center for facility renovation, long-term damage assessment
4 and aquatic ecosystem monitoring, and development of an ecosystem database using a
5 geographic information system for the greater Prince William Sound ecosystem.

6 * Sec. 9. In order to achieve the purposes of the remedial and compensatory payments, the
7 sum of \$75,000 is appropriated from the remedial and compensatory payments to the
8 Department of Natural Resources for payment as a grant under AS 37.05.316 to the Cook Inlet
9 Aquaculture Association for acquisition of 33 acres of land (Kenai Peninsula Borough tax
10 number 125-010-32; North 1/2 of the Northeast 1/4 of Section 13, Township 1 North, Range
11 1 West, Seward Meridian) adjacent to the Cook Inlet Aquaculture Association Bear Creek weir
12 site.

13 * Sec. 10. (a) In order to achieve the purposes of the remedial and compensatory
14 payments, the sum of \$7,000,000 is appropriated from the remedial and compensatory
15 payments to the Department of Natural Resources for the acquisition from willing sellers of
16 land surrounding Pauls Lake and Malina Lake on Afognak Island. One-half of this
17 appropriation shall be used to acquire land in Township 20 South, Range 18 West, Seward
18 Meridian, Sections 30 and 31; Township 20 South, Range 19 West, Seward Meridian, Sections
19 24, 25, 26, and 36; and Township 21 South, Range 19 West, Seward Meridian, Sections 1, 2,
20 3, 10, 11, and 12; the balance of this appropriation shall be used to acquire land on Afognak
21 Island in watersheds draining into Muskomee Bay and into Malka Bay and land westward of
22 the watersheds draining into Muskomee Bay and into Malka Bay in Township 23 South,
23 Range 23 West; Township 23 South, Range 24 West; Township 24 South, Range 23 West;
24 and Township 24 South, Range 24 West, Seward Meridian.

25 (b) It is the intent of the legislature that the land acquired under this section be
26 comprised of not more than two reasonably compact parcels.

27 * Sec. 11. In order to achieve the purposes of the remedial and compensatory payments,
28 the sum of \$1,300,000 is appropriated from the remedial and compensatory payments to the
29 Department of Natural Resources for the acquisition of land or development rights from
30 willing sellers on eastern Afognak Island in Township 21 South, Range 18 West, Seward
31 Meridian.

1 * Sec. 12. In order to achieve the purposes of the remedial and compensatory payments,
2 the sum of \$350,000 is appropriated from the remedial and compensatory payments to the
3 Department of Fish and Game for the acquisition from willing sellers of land, leases, or
4 development rights in land at weir sites important to anadromous fisheries in the Kodiak
5 Archipelago.

6 * Sec. 13. In order to achieve the purposes of the remedial and compensatory payments,
7 the sum of \$175,000 is appropriated from the remedial and compensatory payments to the
8 Department of Fish and Game for a herring spawn deposition program in Prince William
9 Sound.

10 * Sec. 14. In order to achieve the purposes of the remedial and compensatory payments,
11 the sum of \$560,000 is appropriated from the remedial and compensatory payments to the
12 Department of Fish and Game for a four-fold increase in test fishing at the boundary of the
13 Cook Inlet Central District to improve estimates of sockeye salmon run timing in the district.

14 * Sec. 15. In order to achieve the purposes of the remedial and compensatory payments,
15 the sum of \$100,000 is appropriated from the remedial and compensatory payments to the
16 Department of Fish and Game to provide "in season" estimates of the contributions of Kenai
17 River, Susitna River, and Kasilof River sockeye salmon stocks to the total sockeye salmon run
18 at the boundary of the Cook Inlet Central District by using stock identification techniques.

19 * Sec. 16. In order to achieve the purposes of the remedial and compensatory payments,
20 the sum of \$30,000 is appropriated from the remedial and compensatory payments to the
21 Department of Fish and Game for a study to verify the forecast for 1994 and 1995 five year
22 old Kenai River sockeye salmon through analysis of the 1993 and 1994 returns of four year
23 old sockeye salmon.

24 * Sec. 17. In order to achieve the purposes of the remedial and compensatory payments,
25 the sum of \$300,000 is appropriated from the remedial and compensatory payments to the
26 Department of Fish and Game for a study to provide a total return estimate of the Kenai River
27 sockeye salmon runs in 1994 and 1995 by considering genetic stock identification estimates
28 for the East Side set net fishery.

29 * Sec. 18. In order to achieve the purposes of the remedial and compensatory payments,
30 the sum of \$250,000 is appropriated from the remedial and compensatory payments to the
31 Department of Fish and Game for payment as a grant under AS 37.05.316 to the Cook Inlet

1 Aquaculture Association for an accelerated growth sockeye salmon smolt program in Thumb
2 Cove in Resurrection Bay.

3 * Sec. 19. In order to achieve the purposes of the remedial and compensatory payments,
4 the sum of \$60,000 is appropriated from the remedial and compensatory payments to the
5 Department of Fish and Game for a contract to continue long-term research and monitoring
6 of killer whales in Prince William Sound.

7 * Sec. 20. In order to restore, replace, and enhance subsistence resources and services in
8 southwestern Prince William Sound, particularly areas in or around Chenega Bay including
9 Eshamy Bay, Granite Bay, Chenega Island, Evans Island, Elrington Island, Bainbridge Island,
10 Latouche Island, and Knight Island, the sum of \$200,000 is appropriated from the remedial
11 and compensatory payments to the Department of Environmental Conservation for payment
12 as a grant under AS 37.05.316 to the Chenega Bay Local Response Program for restoration
13 of subsistence resources and services, including removal of oiled sediment, oil, and oil debris
14 and revegetation of beach rye grass.

15 * Sec. 21. (a) In order to achieve the purposes of the remedial and compensatory
16 payments, the sum of \$800,000 is appropriated from the remedial and compensatory payments
17 to the Department of Natural Resources for contracts to assess, inventory, and map the
18 archeological resources of the area affected by the Exxon Valdez oil spill.

19 (b) It is the intent of the legislature that contractors employed under (a) of this section
20 agree to comply with federal and state laws, including the Archeological Resources Protection
21 Act of 1979 (16 U.S.C. 470aa - 470ll) and AS 41.35.010 - 41.35.240, and the terms and
22 conditions of the consent decree entered by the United States District Court in Native Village
23 of Chenega Bay v. United States and State of Alaska, United States District Court, District
24 of Alaska, case No. A91-454 Civ.

25 * Sec. 22. In order to achieve the purposes of the remedial and compensatory payments,
26 the sum of \$100,000 is appropriated from the remedial and compensatory payments to the
27 University of Alaska, Fairbanks, Fishery Industrial Technology Center for design and planning
28 of a fishery technology and research facility.

29 * Sec. 23. In order to achieve the purposes of the remedial and compensatory payments,
30 the sum of \$1,140,000 is appropriated from the remedial and compensatory payments to the
31 Department of Fish and Game for salmon projects in Prince William Sound.

1 * Sec. 24. In order to achieve the purposes of the remedial and compensatory payments,
2 the sum of \$65,000 is appropriated from the remedial and compensatory payments to the
3 Department of Fish and Game for restoration of the Coghill Lake sockeye salmon run.

4 * Sec. 25. In order to achieve the purposes of the remedial and compensatory payments,
5 the sum of \$30,000 is appropriated from the remedial and compensatory payments to the
6 Department of Fish and Game to monitor the early marine growth of juvenile salmon in Prince
7 William Sound.

8 * Sec. 26. In order to achieve the purposes of the remedial and compensatory payments,
9 the sum of \$1,285,000 is appropriated from the remedial and compensatory payments to the
10 Department of Fish and Game, division of fisheries rehabilitation, enhancement and
11 development, for construction of a heated water pipeline to the Fort Richardson Hatchery, for
12 improvements to Sikusuilaq Hatchery on the Noatak River, and for sockeye salmon smolt
13 production at the Big Lake Hatchery.

14 * Sec. 27. In order to achieve the purposes of the remedial and compensatory payments,
15 the sum of \$585,000 is appropriated from the remedial and compensatory payments to the
16 Department of Environmental Conservation for removal and cleanup of the Chenega Bay
17 herring saltery.

18 * Sec. 28. In order to achieve the purposes of the remedial and compensatory payments,
19 the sum of \$800,000 is appropriated from the remedial and compensatory payments to the
20 Department of Community and Regional Affairs for payment as a grant under AS 37.05.316
21 to the North Pacific Rim Corporation for establishment and operation of an aquatic farm
22 shellfish hatchery.

23 * Sec. 29. In order to achieve the purposes of the remedial and compensatory payments,
24 the sum of \$500,000 is appropriated from the remedial and compensatory payments to the
25 Department of Administration for payment as a grant under AS 37.05.315 to the City of
26 Seward for development of the Alaska Sea Life Center for work associated with endangered
27 species in the region affected by the Exxon Valdez oil spill.

28 * Sec. 30. In order to achieve the purpose of the remedial and compensatory payments, the
29 sum of \$215,000 is appropriated from the remedial and compensatory payments to the
30 Department of Administration for payment as a grant under AS 37.05.315 to the City of
31 Valdez to install oil and grease separators on the storm drains.

1 * Sec. 31. In order to achieve the purposes of the remedial and compensatory payments,
2 the sum of \$1,000,000 is appropriated from the remedial and compensatory payments to the
3 Department of Commerce and Economic Development for payment as a grant under
4 AS 37.05.316 to the Prince William Sound Aquaculture Corporation for upgrading the Main
5 Bay hatchery.

6 * Sec. 32. In order to achieve the purposes of the remedial and compensatory payments,
7 the sum of \$130,000 is appropriated from the remedial and compensatory payments to the
8 Department of Fish and Game for payment as a grant under AS 37.05.316 to the Valdez
9 Fisheries Development Association, Inc., for a study of the migration behavior of juvenile
10 Prince William Sound salmon.

11 * Sec. 33. In order to achieve the purposes of the remedial and compensatory payments,
12 the sum of \$85,000 is appropriated from the remedial and compensatory payments to the
13 Department of Fish and Game for payment as a grant under AS 37.05.316 to the Valdez
14 Fisheries Development Association, Inc., for a remote release fry transport study.

15 * Sec. 34. In order to achieve the purposes of the remedial and compensatory payments,
16 the sum of \$4,000,000 is appropriated from the remedial and compensatory payments to the
17 Department of Revenue for establishment of a commercial fisheries development endowment
18 for the Alaska Fisheries Development Foundation for the purpose of fisheries development and
19 research, including research on the effects of the Exxon Valdez oil spill on commercial
20 fisheries. The appropriation made by this section is contingent upon the enactment into law
21 of a bill passed by the Eighteenth Alaska State Legislature establishing the commercial
22 fisheries development endowment.

23 * Sec. 35. In order to achieve the purposes of the remedial and compensatory payments,
24 the sum of \$190,685 is appropriated from the remedial and compensatory payments to the
25 Department of Fish and Game for the development of a commercial sockeye salmon fishery
26 at Kodiak Island to replace damaged Red Lake stocks.

27 * Sec. 36. In order to achieve the purposes of the remedial and compensatory payments,
28 the sum of \$100,000 appropriated from the remedial and compensatory payments to the
29 Department of Environmental Conservation for payment as a grant under AS 37.05.316 to the
30 Bristol Bay Buy-Back Coalition to work with the Congress to develop mechanisms for the
31 future purchase of the federal offshore oil and gas leases in Bristol Bay.

1 * Sec. 37. In this Act, "remedial and compensatory payments" means the remedial and
2 compensatory payments received by the state under the criminal plea agreement between the
3 United States and Exxon Corporation and Exxon Shipping Company in United States of
4 America v. Exxon Corporation and Exxon Shipping Company, United States District Court,
5 District of Alaska, case No. A90-015 CR.

6 * Sec. 38. The appropriations made by secs. 2 - 7, 9 - 12, and 20 of this Act replace
7 resources and services injured by the Exxon Valdez oil spill with equivalent resources and
8 services.

9 * Sec. 39. The appropriations made by secs. 2 - 4, 6, 7, 9 - 12, 21, 22, 30, and 31 of this
10 Act are for capital projects and lapse under AS 37.25.020.

11 * Sec. 40. The appropriations made by secs. 8, 18, 23, 26 - 29, 32, 33, and 35 of this Act
12 lapse into the fund from which they were appropriated June 30, 1996.

13 * Sec. 41. The unexpended and unobligated balances of the appropriations made by
14 secs. 14 - 17, 19, 20, 24, 25, and 36 of this Act lapse into the fund from which they were
15 appropriated December 31, 1995.

16 * Sec. 42. The unexpended and unobligated balances of the appropriations made by secs. 5
17 and 13 of this Act lapse into the fund from which they were appropriated June 30, 1994.

18 * Sec. 43. The appropriation made by sec. 34 of this Act is for the establishment of an
19 endowment and does not lapse.

20 * Sec. 44. This Act takes effect immediately under AS 01.10.070(c).