

HB4084

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 6, 1992
 Date of Committee Action: 4/30/92
 The FINANCE Committee considered:

FURTHER REFERRAL:

HB 484

HOUSE BILL NO. 484

EXXON TRUST EXPENDITURE LIMITATIONS

"An Act relating to the Exxon Valdez Oil Spill Trust and to natural resource damage recoveries under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of the parties' claims for damages for injury, loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill; to the approval of expenditures by the state officers acting as trustees of the trust established for natural resource damage recoveries under that Memorandum of Agreement and Consent Decree; and placing the state trustees of the Exxon Valdez settlement and certain persons to whom trust duties are delegated in the Alaska Executive Branch Ethics Act; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 484 (FIN) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note HFC

zero fiscal note(s) Leg Audit 4/6/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>EP Maclean</u> <small>MACLEAN</small>	✓	<u>Stan Brown</u> <small>BROWN</small>		✓	
<u>Mike Savare</u> <small>SAVARE</small>	✓	<u>Bob Shand</u> <small>SHAND</small>		✓	
<u>Mark Bayen</u> <small>BAYEN</small>	X	<u>Roll E. Phillips</u> <small>PHILLIPS</small>		✓	
<u>Harjo Koponen</u> <small>KOPONEN</small>	✓	<u>William Tamm</u> <small>TAMM</small>		X	
<u>Charles J. Hansen</u> <small>HANSEN</small>	X	<u>Thomas Barnes</u> <small>BARNES</small>		X	

Mike Savare EP Maclean
CHAIRMAN'S SIGNATURE
 SAVARE MACLEAN

Revision Date: _____
Title: 2 X 10M Valdez Mill Mill Trust
Sponsor: House Judiciary
Requestor: _____

Department Affected: Legislature
BRU: Budget & Audit Committee
Component: Committee Expense

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: - 0 -

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Randy S. Welker Phone: 465-3830
Division: Legislative Audit Date: 3-4-92
Approved by Commissioner: _____ Date: _____
Agency: _____

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CS HB 484 (FI)

Revision Date: _____ Department Affected: DEPARTMENT OF LAW
 Title: "An Act relating to the Exxon Valdez Oil Spill" BRU: Exxon Valdez Litigation
 Component: "Exxon Valdez Litigation"
 Sponsor: House Judiciary by request
 Requestor: House Finance Committee COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Co-Chair Eileen MacLean *Eileen MacLean* Phone: 465-4833
 Co-Chair Mike Navarro *Mike Navarro* Phone: 465-3779
 Division: House Finance Committee Date: 4/30/92

Approved by Commissioner: _____ Date: _____
 Agency: _____

CS FOR HOUSE BILL NO. 484 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the trust established under the Memorandum of Agreement and
2 Consent Decree entered into by the United States and the state in settlement of the
3 parties' claims to money received for injury, loss, or destruction to the natural resources
4 affected by the March 24, 1989, Exxon Valdez oil spill and to the trustees of that trust;
5 relating to reimbursements paid to the state for expenses related to the Exxon Valdez oil
6 spill; relating to the approval of expenditures by the state officers acting as trustees of
7 that trust; relating to state agencies' expenditure of money received from that trust;
8 placing the state trustees of that trust and certain persons to whom trust duties are
9 delegated in the Alaska Executive Branch Ethics Act; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 37.14 is amended by adding new sections to read:

12 ARTICLE 5. EXXON VALDEZ OIL SPILL TRUST.

1 Sec. 37.14.400. TRUST RECOGNIZED. The trust established under the Memorandum
2 of Agreement and Consent Decree entered into by the United States and the state in settlement
3 of claims to money received for injury, loss, or destruction of the natural resources affected by
4 the March 24, 1989, Exxon Valdez oil spill, and approved by the United States District Court on
5 August 28, 1991, is recognized. It shall be managed as provided in the Memorandum of
6 Agreement and Consent Decree that established it.

7 Sec. 37.14.405. APPROPRIATIONS REQUIRED. (a) Notwithstanding any other
8 provision of law, a state agency may not expend money received from the trust unless the
9 expenditure is in accordance with an appropriation made by law.

10 (b) Appropriations made to satisfy the requirement of (a) of this section may be made
11 by general appropriations of program receipts conditioned on compliance with the program
12 review provisions of AS 37.07.080(h).

13 (c) The provisions of (b) of this section do not apply to amounts paid as reimbursements
14 to the state, as authorized by the Memorandum of Agreement and Consent Decree establishing
15 the trust, for expenses that are

16 (1) related to the Exxon Valdez oil spill; and

17 (2) incurred by the state on or before December 31, 1992.

18 Sec. 37.14.410. REIMBURSED EXPENDITURES. Amounts received by the state as
19 reimbursement for expenses related to the Exxon Valdez oil spill incurred by the state on or
20 before December 31, 1992, shall be deposited in the general fund and may not be credited to the
21 oil and hazardous substance release mitigation account under AS 46.04.010 or AS 46.08.020.

22 Sec. 37.14.415. BUDGET AND REPORTS. The state trustees shall

23 (1) submit to the governor and the legislature by December 15 of each year a
24 report setting out, for each object or purpose of expenditure, the amounts approved for
25 expenditure from the trust during the preceding fiscal year and the amounts actually expended
26 during the preceding fiscal year;

27 (2) prepare and submit, under AS 37.07, a budget for the next fiscal year setting
28 out, for each object or purpose of expenditure, the trustees' estimate of the amounts that are,
29 during the next fiscal year, to be funded by the trust and expended by state agencies; and

30 (3) prepare and submit to the legislature at the same time the budget for state
31 agency expenditures is submitted under (2) of this section, a proposal setting out, for each object

1 or purpose of expenditure, the trustees' estimate of the amounts that are to be funded by the trust
2 in the next fiscal year and that are not included in the budget submitted under (2) of this section.

3 Sec. 37.14.420. PAYMENTS TO PERSONS OTHER THAN GOVERNMENTS. The
4 state trustees may not agree to an expenditure of money from the trust to a person or entity other
5 than an agency of the state or federal government unless the expenditure is for administrative
6 expenses of the trust and is consistent with the competitive principles of AS 36.30 (State
7 Procurement Code). This section does not prevent an agency receiving trust money from
8 expending the money in accordance with procurement or other law applicable to that agency.

9 Sec. 37.14.425. PUBLIC RECORDS. For purposes of AS 09.25.120, records of the trust
10 in the custody of or subject to the control of state officers and agencies are public records.

11 Sec. 37.14.430. APPLICABILITY OF OPEN MEETINGS LAW. (a) The provisions
12 of AS 44.62.310 and 44.62.312 apply to a meeting related to the trust in which

13 (1) one or more of the state trustees and one or more of the federal trustees
14 participate, except to the extent that applicable federal law conflicts with AS 44.62.310 or
15 44.62.312, in which case the applicable federal law governs; or

16 (2) two or more of the state trustees, but none of the federal trustees, participate.

17 (b) Notwithstanding (a) of this section, the provisions of AS 44.62.310 and 44.62.312 do
18 not apply to a discussion between the trustees outside of a formal meeting about matters related
19 to the trust if, during the discussion, no decision is made and none of the trustees agrees to vote
20 in a particular way.

21 (c) The state trustees may discuss the establishment of an official common state position
22 regarding the trust in executive session under AS 44.62.310(b) and (c)(1).

23 (d) For the purposes of this section,

24 (1) a person to whom a state trustee has delegated any of the trustee's authority
25 related to the trust is considered a state trustee; and

26 (2) a person to whom a federal trustee has delegated any of the trustee's authority
27 related to the trust is considered a federal trustee.

28 Sec. 37.14.450. DEFINITIONS. In AS 37.14.400 - 37.14.450,

29 (1) "federal trustee" means a person appointed by the President of the United
30 States to serve as a co-trustee of the trust;

31 (2) "state trustee" means a state officer designated by the governor to serve as a

1 co-trustee of the trust;

2 (3) "trust" means the trust established for natural resource damage recoveries
3 under the Memorandum of Agreement and Consent Decree entered into by the United States and
4 the state in settlement of claims to money received by the state and federal governments for
5 injury, loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez
6 oil spill, and approved by the court on August 28, 1991.

7 * Sec. 2. AS 24.20.206 is amended to read:

8 Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall

9 (1) report to the legislature its recommendations relating to the confirmation of
10 appointees to the Board of Trustees of the Alaska Permanent Fund Corporation;

11 (2) annually review the long-range operating plans of all agencies of the state
12 which perform lending or investment functions;

13 (3) review periodic reports from all agencies of the state which perform lending
14 or investment functions;

15 (4) present a complete report of investment programs, plans, performance, and
16 policies of all agencies of the state which perform lending or investment functions to the
17 legislature within 30 days after the convening of each regular session;

18 (5) present to the legislature within 30 days after the convening of each regular
19 session a review of the report of the governor under AS 37.07.020(d) with recommendations for
20 needed legislation;

21 (6) in conjunction with the finance committee of each house recommend annually
22 to the legislature the investment policy for the general fund surplus and for the income from the
23 permanent fund;

24 (7) provide for an annual post audit and annual operational and performance
25 evaluation of the Alaska Permanent Fund Corporation investments and investment programs;

26 (8) provide for an annual operational and performance evaluation of the Alaska
27 Housing Finance Corporation and the Alaska Industrial Development and Export Authority; the
28 performance evaluation shall include, but is not limited to, a comparison of the effect on various
29 sectors of the economy by public and private lending, the effect on resident and nonresident
30 employment, the effect on real wages, and the effect on state and local operating and capital
31 budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial

1 Development and Export Authority;

2 (9) provide assistance to the trustees of the trust established in AS 37.14.400 -
3 37.14.450 in carrying out their duties under AS 37.14.415.

4 * Sec. 3. AS 37.05.146 is amended to read:

5 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
6 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
7 state money received by a state agency in connection with the performance of its functions; all
8 program receipts except the following are general fund program receipts:

9 (1) federal receipts;

10 (2) University of Alaska receipts (AS 14.40.491);

11 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
12 terms are restricted to a specific purpose;

13 (4) receipts of the following funds:

14 (A) highway working capital fund (AS 44.68.210);

15 (B) correctional industries fund (AS 33.32.020);

16 (C) loan funds;

17 (D) international airports revenue fund (AS 37.15.430);

18 (E) funds managed by the Alaska Aerospace Development Corporation
19 (AS 14.40.821), the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing
20 Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010),
21 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
22 Development and Export Authority (AS 44.88.020);

23 (F) fish and game fund (AS 16.05.100);

24 (G) school fund (AS 43.50.140);

25 (H) training and building fund (AS 23.20.130);

26 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
27 former AS 39.37);

28 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

29 (K) public school trust fund (AS 37.14.110);

30 (L) second injury fund (AS 23.30.040);

31 (M) fishermen's fund (AS 23.35.060);

1 (N) FICA administration fund (AS 39.30.050);
2 (O) mental health trust fund (AS 37.14.031);
3 (5) receipts of or from the trust established by AS 37.14.400 - 37.14.450.
4 except reimbursements described in AS 37.14.410.

5 * Sec. 4. AS 39.52.960(21) is amended to read:

6 (21) "public officer" or "officer" means

7 (A) a public employee; [AND]

8 (B) a member of a board or commission; and

9 (C) a state officer designated by the governor to act as trustee of the

10 trust or a person to whom the trustee has delegated trust duties; in this paragraph.

11 "trust" has the meaning given in AS 37.14.450;

12 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

7-LS1563Y ✓
Finley
4/30/92

CS FOR HOUSE BILL NO. 484 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Exxon Valdez Oil Spill Trust and the trustees of that trust, and
2 to natural resource damage recoveries under the Memorandum of Agreement and Consent
3 Decree entered into by the United States and the state in settlement of the parties' claims
4 to money received for injury, loss, or destruction to the natural resources affected by the
5 March 24, 1989, Exxon Valdez oil spill; relating to the approval of expenditures by the
6 state officers acting as trustees of the trust established for natural resource damage
7 recoveries under that Memorandum of Agreement and Consent Decree; relating to state
8 agencies' expenditure of money received from that trust; placing the state trustees of that
9 trust and certain persons to whom trust duties are delegated in the Alaska Executive
10 Branch Ethics Act; and providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. AS 37.14 is amended by adding new sections to read:

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ARTICLE 5. EXXON VALDEZ OIL SPILL TRUST.

Sec. 37.14.400. TRUST RECOGNIZED. The trust established under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of claims to money received for injury, loss, or destruction of the natural resources affected by the March 24, 1989, Exxon Valdez oil spill, and approved by the United States District Court on August 28, 1991, is recognized ~~and shall be known as the Exxon Valdez Oil Spill Trust.~~ It shall be managed as provided in the Memorandum of Agreement and Consent Decree that established it.

Sec. 37.14.405. APPROPRIATIONS REQUIRED. (a) Notwithstanding any other provision of law, a state agency may not expend money received from the trust unless the expenditure is in accordance with an appropriation made by law.

(b) Appropriations made to satisfy the requirement of (a) of this section may be made by general appropriations of program receipts conditioned on compliance with the program review provisions of AS 37.07.080(h).

(c) The provisions of ~~(a) and (b)~~ of this section do not apply to amounts paid as reimbursements to ~~the United States or~~ the state, as authorized by the Memorandum of Agreement and Consent Decree establishing the trust, for expenses that are

(1) related to the Exxon Valdez oil spill; and

(2) incurred by either government before ~~September 30, 1991.~~ 12/31/92

Sec. 37.14.410. REIMBURSED EXPENDITURES. Amounts received by the state as reimbursement for expenses related to the Exxon Valdez oil spill incurred by the state before ~~September 30, 1991,~~ 12/31/92 shall be deposited in the general fund and may not be credited to the oil and hazardous substance release mitigation account under AS 46.04.010 or AS 46.08.020.

Sec. 37.14.415. BUDGET AND REPORTS. The state trustees shall

(1) submit to the governor and the legislature by December 15 of each year a report setting out, for each object or purpose of expenditure, the amounts approved for expenditure from the trust during the preceding fiscal year and the amounts actually expended during the preceding fiscal year;

(2) prepare and submit, under AS 37.07, a budget for the next fiscal year setting out, for each object or purpose of expenditure, the trustees' estimate of the amounts that are, during the next fiscal year, to be funded by the trust and expended by state agencies; and

1 (3) prepare and submit to the legislature at the same time the budget for state
 2 agency expenditures is submitted under (2) of this section, a proposal setting out, for each object
 3 or purpose of expenditure, the trustees' estimate of the amounts that are to be funded by the trust
 4 in the next fiscal year and that are not included in the budget submitted under (2) of this section.

5 Sec. 37.14.420. PAYMENTS TO PERSONS OTHER THAN GOVERNMENTS. The
 6 state trustees may not agree to an expenditure of money from the trust to a person or entity other
 7 than an agency of the state or federal government unless the expenditure is ^{FOR ADMINISTRATIVE EXPENSES} consistent with the ^{of} the
 8 competitive principles of AS 36.30 (State Procurement Code). This section does not prevent an ^{Trustee}
 9 agency receiving trust money from expending the money in accordance with procurement or ^{Council}
 10 other law applicable to that agency. ^{AS}
 11 ¹⁵

11 Sec. 37.14.425. PUBLIC RECORDS. For purposes of AS 09.25.120, records of the trust
 12 in the custody of or subject to the control of state officers and agencies are public records.

13 Sec. 37.14.430. APPLICABILITY OF OPEN MEETINGS LAW. (a) The provisions
 14 of AS 44.62.310 and 44.62.312 apply to a meeting related to the trust in which

15 (1) one or more of the state trustees and one or more of the federal trustees
 16 participate, except to the extent that applicable federal law conflicts with AS 44.62.310 or
 17 44.62.312, in which case the applicable federal law governs; or

18 (2) two or more of the state trustees, but none of the federal trustees, participate.

19 (b) Notwithstanding (a) of this section, the provisions of AS 44.62.310 and 44.62.312 do
 20 not apply to a discussion between the trustees outside of a formal meeting about matters related
 21 to the trust if, during the discussion, no decision is made and none of the trustees agrees to vote
 22 in a particular way.

23 (c) The state trustees may discuss the establishment of an official common state position
 24 regarding the trust in executive session under AS 44.62.310(b) and (c)(1).

25 (d) For the purposes of this section,

26 (1) a person to whom a state trustee has delegated any of the trustee's authority
 27 related to the trust is considered a state trustee; and

28 (2) a person to whom a federal trustee has delegated any of the trustee's authority
 29 related to the trust is considered a federal trustee.

30 Sec. 37.14.450. DEFINITIONS. In AS 37.14.400 - 37.14.450,

31 (1) "federal trustee" means a person appointed by the President of the United

1 States to serve as a co-trustee of the trust;

2 (2) "state trustee" means a state officer designated by the governor to serve as a
3 co-trustee of the trust;

4 (3) "trust" means the trust established for natural resource damage recoveries
5 under the Memorandum of Agreement and Consent Decree entered into by the United States and
6 the state in settlement of claims to money received by the state and federal governments for
7 injury, loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez
8 oil spill, and approved by the court on August 28, 1991.

9 * Sec. 2. AS 24.20.206 is amended to read:

10 Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall

11 (1) report to the legislature its recommendations relating to the confirmation of
12 appointees to the Board of Trustees of the Alaska Permanent Fund Corporation;

13 (2) annually review the long-range operating plans of all agencies of the state
14 which perform lending or investment functions;

15 (3) review periodic reports from all agencies of the state which perform lending
16 or investment functions;

17 (4) present a complete report of investment programs, plans, performance, and
18 policies of all agencies of the state which perform lending or investment functions to the
19 legislature within 30 days after the convening of each regular session;

20 (5) present to the legislature within 30 days after the convening of each regular
21 session a review of the report of the governor under AS 37.07.020(d) with recommendations for
22 needed legislation;

23 (6) in conjunction with the finance committee of each house recommend annually
24 to the legislature the investment policy for the general fund surplus and for the income from the
25 permanent fund;

26 (7) provide for an annual post audit and annual operational and performance
27 evaluation of the Alaska Permanent Fund Corporation investments and investment programs;

28 (8) provide for an annual operational and performance evaluation of the Alaska
29 Housing Finance Corporation and the Alaska Industrial Development and Export Authority; the
30 performance evaluation shall include, but is not limited to, a comparison of the effect on various
31 sectors of the economy by public and private lending, the effect on resident and nonresident

1 employment, the effect on real wages, and the effect on state and local operating and capital
2 budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial
3 Development and Export Authority;

4 (9) provide assistance to the trustees of the trust established in AS 37.14.400 -
5 37.14.450 in carrying out their duties under AS 37.14.415.

6 * Sec. 3. AS 37.05.146 is amended to read:

7 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
8 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
9 state money received by a state agency in connection with the performance of its functions; all
10 program receipts except the following are general fund program receipts:

11 (1) federal receipts;

12 (2) University of Alaska receipts (AS 14.40.491);

13 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
14 terms are restricted to a specific purpose;

15 (4) receipts of the following funds:

16 (A) highway working capital fund (AS 44.68.210);

17 (B) correctional industries fund (AS 33.32.020);

18 (C) loan funds;

19 (D) international airports revenue fund (AS 37.15.430);

20 (E) funds managed by the Alaska Aerospace Development Corporation
21 (AS 14.40.821), the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing
22 Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010),
23 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
24 Development and Export Authority (AS 44.88.020);

25 (F) fish and game fund (AS 16.05.100);

26 (G) school fund (AS 43.50.140);

27 (H) training and building fund (AS 23.20.130);

28 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
29 former AS 39.37);

30 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

31 (K) public school trust fund (AS 37.14.110);

- 1 (L) second injury fund (AS 23.30.040);
- 2 (M) fishermen's fund (AS 23.35.060);
- 3 (N) FICA administration fund (AS 39.30.050);
- 4 (O) mental health trust fund (AS 37.14.031);
- 5 (5) receipts of or from the trust established by AS 37.14.400 - 37.14.450.

WHERE DOES THIS GO?

described in other than money 37.14.410 ←

- 6 * Sec. 4. AS 39.52.960(21) is amended to read:
- 7 (21) "public officer" or "officer" means
- 8 (A) a public employee; [AND]
- 9 (B) a member of a board or commission; and
- 10 (C) a state officer designated by the governor to act as trustee of the
- 11 trust or a person to whom the trustee has delegated trust duties; in this paragraph,
- 12 "trust" has the meaning given in AS 37.14.450;
- 13 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 484

Revision Date: _____
Title: "An Act relating to the Exxon Valdez Oil Spill Trust..."
Sponsor: House Judiciary by Request
Requestor: House Judiciary Committee

Department Affected: Department of Law
BRU: Exxon Valdez Litigation
Component: Exxon Valdez Litigation

COMPONENT SERIAL

1	1	7	5
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

The Attorney General's comments will be forthcoming after an opportunity to review the bill.

HB 484

Prepared by: Richard I. Pegues, Director
Division: Administrative Services

Phone: 465-3672
Date: March 5, 1992

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: March 5, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

State of Alaska

House Majority Leader
COMMITTEES
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Representative Max F. Gruenberg, Jr.
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M E M O R A N D U M

DATE: April 6, 1992

TO: Representative Mike Navarre
Co-chair, House Finance Committee

FROM: Representative Max Gruenberg *Max*

RE: CSHB 484 (JUD), "The Exxon Valdez Oil Spill Trust
Bill"

I would very much appreciate it if you would schedule HB 484 for a hearing as soon as it is possible.

HB 484 recognizes the Exxon Valdez Oil Spill Trust in statute. It requires state trustees and their designees to conform to the requirements of the Alaska Open Meetings Act and the Alaska Executive Branch Ethics Act. It requires that state trustees ensure that all trust expenditures are submitted to the legislature for appropriation, ensure that trust records are treated as public records, and that all trust expenditures are spent either through state or federal agencies.

HB 484 was introduced at the request of the House Judiciary Committee Settlement Subcommittee.

The subcommittee asked legislative legal counsel to review the settlement for potential conflicts with our state statutes and the Alaska State Constitution. The subcommittee also asked for suggestions regarding legislation that would help make the trust work within our existing constitutional framework and improve the state's position in the event of a legal challenge to the settlement.

The advice of legal counsel to the subcommittee was that in order to place the state in the best position to defend itself against a state constitutional challenge to the structure of the Exxon spill settlement, the legislature must appropriate the state's interest in the settlement money to the trust, when that money is paid by Exxon. The legislature should also require appropriation of all trust expenditures.

If you have any questions please call me or my legislative assistant, Mark Handley, at 465-4986.

Thank you.

HB484.TXT

**BRIEFING PAPER ON AUTHORITY FOR AND RISK OF
DISTRICT COURT INVOLVEMENT TO ENFORCE
THE MOA AND CONSENT DECREE**

ALASKA DEPARTMENT OF LAW

February 19, 1992

I. INTRODUCTION

The Memorandum of Agreement and Consent Decree entered in August 1991 (MOA) culminated almost three years of intense negotiations between the state and federal governments. The MOA deals with fundamental issues of state-federal jurisdiction that go to the heart of our federalist system of government. Without an amicable resolution, these issues could well have resulted in a deep schism between the two sovereigns, threatening not only the ultimate recovery in this case but jeopardizing the ability of the state and federal governments to work together on other resource management issues and in other areas. The MOA represents a carefully crafted compromise on issues on which there are strong competing claims and no clear basis for predicting the outcome of judicial resolution, including the primacy of control over wildlife and marine resources and the interplay of federal and state environmental and remedial laws.

The MOA required restraint--indeed statesmanship--by both sovereigns. The co-trusteeship that was created avoided the very real possibility that separate state and federal litigation efforts could lead to far less total recovery than the joint approach and that litigation over state versus federal resource ownership or management authority would be decided adversely to the state's interest. The governments by agreement filed a lawsuit (United States v. Alaska, Case No. A91-081 CIV) and had the MOA embodied in a Consent Decree precisely in order to assure (1) that the agreement would be binding and enforceable against each party (see MOA Section X), (2) that a separate joint trust fund could be established outside of the unilateral control of either government (see MOA, Section VA(2)) and (3) that there would be an appropriate mechanism and forum (i.e. the federal district court) for resolving disputes under the MOA (MOA Section V(A)(3)).

In one sense, the MOA is a political accord between the state and federal governments that relies primarily on the good faith and good judgment of both sovereigns to continue to cooperate for the mutual benefit of the restoration of Prince William Sound and other areas impacted by the Spill. Just as overreaching or blind pursuit of parochial interests by the state or federal government might have prevented the MOA from coming into existence, overreaching by either government at this time could severely impact the ability to implement the MOA in the manner contemplated by the parties.

However, the MOA is much more than a political document. It has been incorporated into an order of the federal district court under the Clean Water Act. As

such, the terms of the MOA and Consent Decree are subject to enforcement by the federal district court. Any attempt, whether it be by Congress or by the Alaska Legislature, to rewrite the deal or to tip the balance toward either sovereign undoubtedly will bring the parties back into court to seek injunctions, clarification or other appropriate rulings. Each time the court is required to step in, there not only is a collective loss of face by the governments but also an increasing risk that the court will assume control of the process if it feels a need to assume a more vigilant (and intrusive) role in order to effectuate the purpose of the Consent Decree. The cases discussed below clearly demonstrate that the federal district courts do have sweeping powers to enforce consent decrees and other remedial orders, and that they are not hesitant to use them when necessary.

II. DISCUSSION.

A. The federal district court has broad powers to enforce the terms of the consent decree, including the power to coerce the state to act, and in the appropriate case, the power to directly order the state to act in accordance with its terms.

The inherent powers of the district court to enforce its consent decrees and other remedial orders are well established. For example, the United States Supreme Court recently discussed the broad powers of the federal district courts to enforce their remedial orders, including the power to order state governments to spend money to effect the remedy, in Missouri v. Jenkins, ___ U.S. ___, 110 S.Ct. 1651 (1990). In that case, after trial, the district court entered a detailed order requiring the State of Missouri and the Kansas City Missouri School District to take specific action to remedy segregation, which was estimated to cost \$88 million over three years and which was to be paid approximately 75% by the State and 25% by the School District. Id. at 1656.

The issue on appeal was whether the district court acted lawfully in directly ordering that property taxes be raised to a specified rate to pay for the remedy. The Supreme Court unanimously affirmed that the district court's direct imposition of the tax was an abuse of discretion in this case, but it clearly stated that this was not outside the district court's powers. A five-justice majority stated that "[b]efore taking such a drastic step [as imposing a local property tax increase] the District Court was obliged to assure itself that no permissible alternative would have accomplished the required task." Id. at 1663.

The majority agreed with the court of appeals that there was an alternative to the district court's direct imposition of a tax increase: "it could have authorized or required KCMSD to levy property taxes at a rate adequate to fund the desegregation remedy and could have enjoined the operation of state laws that would have prevented KCMSD from exercising this power." Id. at 1663 (emphasis added). The Court rejected Missouri's argument that the federal judicial power can go no further than to require local governments to levy taxes as authorized under state law. The Court stated that "a local government with taxing authority may be ordered to levy taxes in excess of the

limit set by state statute where there is reason based in the Constitution for not observing the statutory limitation." Id. at 1666.¹

Federal courts of appeals decisions indicate that this broad authority to force a state to act is not confined to constitutional cases. In particular the federal appellate courts have held that district courts have broad power under the federal environmental laws to order states to take action to effectuate remedial orders. This is demonstrated in the recent case of United States v. Metropolitan District Commission, 930 F.2d 132 (1st Cir. 1991). This case involved a suit by the United States and an environmental group to stop the discharge of sewage by the Commonwealth of Massachusetts into Boston Harbor. The parties developed, and the district court approved, a compliance plan which calls for construction of a \$6 billion sewage treatment system by 1991. The plan is to be overseen and implemented by the Metropolitan Water Resources Authority (MWRA).

The MWRA surveyed 299 potential sites and located a preferred site, which took five years and cost \$10 million. Under Massachusetts law, however, the state legislature must authorize the MWRA to obtain the site and in December 1990 it rejected a bill which would give it that authority. The United States then asked the court to either 1) directly order the transfer of the site to the MWRA and enjoin the enforcement of any state law to the contrary; 2) order the Commonwealth to approve the transfer itself; or 3) order the Commonwealth not to connect new sewer hook-ups to the Harbor discharge system until the MWRA had authority to acquire a suitable site. The court chose this last option and entered an order accordingly.

The First Circuit Court of Appeals rejected Massachusetts' arguments that the order was unlawful. It stated that "[t]he law confers broad legal authority upon a district court to choose appropriate remedies for violation of the Clean Water Act." Id. at 135 citing Weinberger v. Romero-Barcelo, 456 U.S. 305, 316, 320 (1982) (emphasis added). The court stated that the district court has "the breadth and flexibility [that] are inherent in equitable remedies" in tailoring the remedy to the violation. Id. quoting Swann v.

¹The procedural history of the case before it reached the Supreme Court is instructive as well. The Eighth Circuit Court of Appeals affirmed the district court's sweeping remedial order in most respects. Id. at 1657. On remand, it became apparent that property tax cap provisions of the Missouri Constitution and Missouri statutes prevented the School District from being able to pay its share. Id. at 1656, 1658. The district court ordered that property taxes be raised to pay for the remedial action. Id. at 1658. On the second appeal, the court of appeals rejected the state's argument that a federal court lacks the judicial power to order a tax increase, but nonetheless rejected the imposition of the tax, holding that principles of federal/state comity required the district court to use "minimally obtrusive methods to remedy constitutional violations." Id. The court therefore held that rather than setting the property tax rate itself, the district court should authorize the School District to submit a levy to the state tax collection authorities and should enjoin the operation of state laws hindering the School District from adequately funding the remedy. Id. at 1658-59. As discussed above, the Supreme Court affirmed this aspect of the court of appeals decision.

Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 15 (1971). The Boston Harbor case is discussed further below.

In another recent water pollution case, a federal district court judge ordered the State of Michigan to fund its share of a sewer system evaluation survey which was incorporated into the court's compliance orders. State of Michigan v. City of Allen Park, 739 F.Supp. 1102 (E.D. Mich. 1990). The court summarily rejected the argument that it did not have authority to compel funding of the survey, stating that it had at its disposal "a broad range of equitable powers to enforce [its] orders and judgments." Id. at 1106.

Thus, there can be little doubt that federal district courts have broad powers to enforce their consent decrees and other remedial orders, including the power to coerce or force a state to act. The methods used must be tailored to the particular violation and must be as minimally intrusive as possible, but the powers are broad, extending in the appropriate case to imposing a costly remedy and requiring the state to raise taxes to fund the remedial measures.

B. In this case, the federal district court may condition issuance of funds from the joint trust fund to the state upon the state's assurance that funds received would be spent in accordance with the MOA and decisions made by the Trustees.

One could reasonably expect that the district court, having issued an order upon the consent of the federal and state governments establishing a joint trust fund and a procedure for making expenditures from the fund pursuant to the Clean Water Act for restoration purposes, will seek to enforce that order if any party balks at complying with it. The most powerful lever, and one that is clearly in the hands of the district court, would simply be to refuse to issue money from the trust fund to the noncomplying party. This would be well-supported by other cases, would be minimally intrusive on the party, and if the recalcitrant party were the state, would adequately respect state-federal comity.

For example, in the Metropolitan District Commission, supra (the Boston Harbor case), the court rejected Massachusetts' argument that the court's order essentially compelling the legislative branch of government to transfer legal authority to an agency intrudes too deeply into state affairs. Id. at 136. The Court reasoned:

Considerations of comity and federalism, however, do not give a state the legal power to violate federal law, to continue violations that have taken place over a fifteen-year period, or to place at risk a major compliance plan the very purpose of which is to reflect important state needs and interests by bringing the state into compliance only gradually, over time. Moreover, the orders at issue seem designed specifically to reflect considerations of "comity" to respect state interests in several important ways. They leave to the state the freedom to look for alternative sites, while simultaneously safeguarding the remedial time-schedule only by insisting that the MWRA have authority to obtain a "suitable" site. As a matter of form, they do not order the state legislature directly to take specific

action; rather, they give the Commonwealth the choice *either* of eliminating the time-schedule risk *or* of banning new sewer connections. And, they interfere less directly with state sovereignty than would an order of the sort the United States initially sought—one directly ordering transfer of the Walpole site. See generally *Missouri v. Jenkins*, ___ U.S. ___, 110 S. Ct. 1651, 1663-66, 109 L.Ed.2d 31 (1990). We cannot say that the district court intruded into areas of state concern beyond what it might reasonably have thought necessary in the circumstances.

Id. Similarly, the court here could well find that denying the state access to moneys from the joint trust fund minimally interferes with state sovereignty while providing an incentive for the state to act in accordance with the court's Clean Water Act remedy.

A Pennsylvania case arising under the Clean Air Act illustrates the use of this same type of financial incentive (or coercion depending on one's point of view) to force a state legislature's compliance with a negotiated consent decree. *Delaware Valley Citizens' Council for Clean Air v. Commonwealth of Pennsylvania*, 678 F.2d 470 (3rd Cir. 1982) cert. denied 459 U.S. 969 (1982).

In that case, the Commonwealth of Pennsylvania entered into a consent judgment under which Pennsylvania agreed to institute an auto emissions (I/M) program in the Philadelphia and Pittsburgh areas. The consent judgment provided that the Pennsylvania Department of Transportation would seek legislation instituting a franchise system, and if the legislature failed to enact such a system, the DOT would promulgate regulations providing for a private garage system. The legislature not only failed to enact the franchise system, it passed a bill prohibiting the expenditure of funds by the executive branch for the implementation of the I/M system.² Upon the motion of an environmental group, the district court found the Commonwealth in contempt and ordered as a sanction that the United States Department of Transportation refrain from approving any projects or awarding any grants under Title 23, U.S.C., for highways in areas of Pennsylvania covered by the consent decree other than for purposes of safety, mass transit, or air quality improvements or maintenance.

The Third Circuit Court of Appeals affirmed the order in all respects. The court rejected an argument that the executive officers were powerless to comply with the consent decree because of Art. 3, § 24 of the Pennsylvania Constitution providing that "[n]o money shall be paid out of the treasury except on appropriations made by law" The court found that

these arguments disregard the fact that the Commonwealth itself was and remains bound by the consent decree. ... By

²Several legislators also petitioned to intervene in the federal district court, claiming that their rights as legislators were being usurped by the enforcement of the consent decree. The district court denied intervention and the court of appeals affirmed. See *Delaware Valley Citizens' Council v. Commonwealth of Pennsylvania*, 755 F.2d 38, 40 (1985).

its terms, "[t]he provisions of this Consent Decree apply to the Defendants Commonwealth of Pennsylvania, ... and to each of the officers, agents, employees, and successors of said parties." This court has previously noted that the Pennsylvania Department of Justice, members of which were signatories of this decree, has the exclusive power to compromise and settle lawsuits against the Commonwealth.

Id. at 475. The court further noted that all branches of the Commonwealth were bound by the consent decree and that even if the executive branch were physically or legally incapable of complying with the decree, "those Commonwealth officials sitting in the General Assembly certainly are not incapable of insuring the Commonwealth's compliance." Id. at 476.

The court upheld the sanction of ordering the federal Secretary of Transportation to refrain from approving any projects or awarding any grants of federal highway funds in the subject counties until the legislature complied. The court stated that the district court had "wide discretion in fashioning a remedy" and found no abuse of discretion. Id. at 478. The court noted that the remedy was less intrusive than the remedies of fining or conditional jailing of officials which may be appropriate in certain civil contempt proceedings. It found that the cut-off of funds serves both to induce implementation of the I/M program and to inhibit highway building, which contributes to the problems which the Clean Air Act is designed to remedy, and finally found that any harm to the citizens of Pennsylvania can be brought to an end by compliance by their elected representatives. Id. at 478-79.

C. The federal courts are not likely to tolerate a unilateral attempt to rewrite the consent decree or to disregard some of its terms.

The Pennsylvania case is instructive not only as an example of the type of "hammer" the federal court may use to enforce state compliance with a consent decree issued as a final judgment, but also as a graphic illustration of the ultimate outcome when a state chooses to flout the terms of the consent decree.

After the appellate court judgment discussed above, legislators brought an action in the Pennsylvania state courts to prevent the Pennsylvania Department of Transportation from implementing the I/M program, arguing that it had no statutory authority to enter into the consent decree. The Pennsylvania trial court and supreme court agreed, and enjoined the Pennsylvania DOT from performing the terms and conditions of the decree. Scanlon v. Commonwealth, Department of Transportation, 467 A.2d 1108 (1983). The Commonwealth then moved the federal district court to vacate the decree. The court denied the motion and the case was again appealed to the Third Circuit Court of Appeals. That court held in no uncertain terms that Pennsylvania was bound by the consent decree. Delaware Valley Citizens' Council v. Commonwealth of Pennsylvania, 755 F.2d 38 ((3rd Cir. 1985) cert. denied 474 U.S. 819 (1985).

Noting that "[t]he Commonwealth of Pennsylvania finds itself between a rock and a hard place" as a result of the Pennsylvania Supreme Court decision, the federal court

held that its earlier determination the attorney general was authorized to enter into the consent decree had res judicata effect and the consent decree must be enforced. Id. at 43. It firmly rejected the challenge to its authority to enforce the consent decree:

[T]he case devolves to this. Only the federal courts have the power to determine the authority of federal court litigants, bringing suit under federal law, to enter into a consent decree approved by a federal court. The resolution of this dispute does not go to the substantive merits of the controversy, but it goes directly to basic jurisdictional powers of courts of separate sovereignties. Accordingly, although the Pennsylvania Supreme Court's discussion of state statutes and especially its motor vehicle code is impressive and erudite, jurisprudentially speaking, it is irrelevant to the overarching question of the competency of a state court to interfere with a final, federal court judgment bottomed on federal law.

Id. at 44. The court concluded by rejecting the argument that the district court had abused its discretion in refusing to vacate the consent decree. The court tersely concluded that "in addition to the settled law that a final federal court judgment based on federal law cannot be collaterally attacked by a state court, we find a profound lack of equities in the Commonwealth's position before the district court" and it once again affirmed the district court in all respects. Id. at 45.

D. Other consent decrees have authorized the expenditure of funds for restoration-oriented purposes without legislative approval.

The Consent Decree in the Shell Oil Carquinez Strait Spill case required Shell to pay a total of \$19.75 million. Payment was to the California Department of Justice, Litigation Deposits Fund. The Consent Decree provided that upon entry of the Decree by the court, the principal and interest "shall be disbursed" to various specified recipients. This disbursement included \$10.838 million as compensation to the State and federal trustees for alleged natural resource damages, which was to be disbursed to the California Department of Justice, Special Deposits Fund into an account called the "Trustee's Fund." The Consent Decree provided that "[t]he Trustees shall administer and disburse the money in the Trustees Fund in accordance with the Memorandum of Agreement." (Shell Consent Decree ¶IV.A.1.a) The MOA established a committee of federal and state resource agencies and specified that "[t]he Committee shall have final authority to disburse the money contained in the Trustees Fund referred to in section IV(A)(1) of the Consent Decree and to make all necessary decisions for the management and administration of the projects for which money has been disbursed from the Trustees Fund." (Shell MOA ¶I.C)

The Consent Decree ordered several disbursements to specific municipal accounts and for specific purposes, such as \$600,000 to the City of Benecia, of which \$75,000 was to be used to reconstruct a pier, \$275,000 was to be used to construct two marsh overlooks at specified locations, and \$250,000 was to go into the City's general fund.

II. CONCLUSION

In conclusion, in this case the federal district court has approved a Clean Water Act Consent Decree fashioned by the state and federal government and it has broad powers to enforce the order. The court need not necessarily order the legislature to act to effectuate the Consent Decree even though it has the power to do so. The court could condition the distribution of any settlement money to the State on compliance with the terms of the MOA and on an assurance that the funds distributed will only be spent in accordance with the joint state-federal restoration plan. This is within its powers to enforce its orders, is minimally intrusive on state sovereignty, and is supported by precedent. To the extent any party attempts to upset the balance struck in the MOA and consent decree, it increases the likelihood that another party will go to the court to seek relief and that the court will exercise its power to enforce compliance.

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STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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May 6, 1992

Honorable Max Gruenberg
Alaska House of Representatives
State Capitol, Rm. 216
Juneau, AK 99801-1182

Re: HB 484 and 486

Dear Representative Gruenberg:

I wish to express my support for the passage of House Bill No. 484 and the accompanying appropriation bill, House Bill No. 486. The version of House Bill 484 offered by the House Finance Committee (CSHB 484(Fin)) would enact procedures for the expenditure of money received by the trust established under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of the claims arising out of the Exxon Valdez oil spill.

The bill makes the existing program review procedures of the Executive Budget Act a part of the process for state agencies to receive and expend receipts of the trust. If this bill is enacted, the Legislative Budget and Audit Committee would become the monitor for appropriations of trust receipts to state agencies. I initially opposed this approach but, after consulting with Representative Larson and you, I now believe that the involvement of this committee of the legislature will enable the legislature to have the involvement which it views as necessary.

House Bill No. 486 makes technical appropriations of the money received under the Memorandum of Agreement and Consent Decree to the trust. These appropriations are conditioned upon the enactment of the spending procedures enacted in House Bill No. 484. I believe that these bills will foreclose legal challenges to the spending authority of the trustees by assuring that the money received by the trust and the expenditures from trust receipts are authorized in the manner required by the Alaska Constitution.

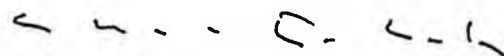
I am also authorized to say that the Department of Justice has no objections to these legislative proposals.

Honorable Max Gruenberg
Alaska House of Representatives
Our file:

May 6, 1992
Page 2

I appreciate the cooperation and understanding shown by Representative Larson and you and your respective staffs for my concerns relating to these bills. I urge your favorable consideration of these bills.

Sincerely yours,



Charles E. Cole
Attorney General

CEC:JLB:tg



Alaska Center for the Environment

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-3621

March 3, 1992

Rep. Dave Donley, Chair
House Judiciary Committee
P.O. Box V
Juneau, AK 99811

RE: ACE Support for HB 483, HB 484, and HB 486

Dear Rep. Donley:

The Alaska Center for the Environment (ACE) appreciates this opportunity to express our support for the above referenced legislation. It is essential that the legislature exert its full authority under the constitution to appropriate monies, and also to ensure that adequate public oversight occur in regards to how spill settlement funds are expended.

Therefore, ACE supports HB 484 and HB 486. These bills will help ensure that the legislature will retain its full constitutional authority to appropriate money from the Exxon Valdez oil spill settlement. There is widespread concern among Alaskans regarding the manner in which the Trustee Council will spend the settlement monies. For instance, despite overwhelming support from throughout the spill-impacted region for investing most of the settlement money in an aggressive program of habitat acquisition, the Trustee Council is dragging its feet while publicly expressing support for programs other than habitat acquisition. It is therefore important for the legislature to protect the public interest through full review and approval of restoration expenditures. In support of this oversight authority, we recommend that the legislature establish a citizen advisory committee to advise the legislature on questions regarding proposed expenditures.

ACE also supports HB 483, which would require court approval of, and opportunity for public review and comment on, future proposed settlements of public interest litigation. The inadequate Exxon Valdez settlement was finalized without the benefit of public review and comment, and this mistake should not be allowed to happen again. As can be seen from the high level of public interest and extensive testimony occurring in the Trustee Council proceedings, there is much to be gained by public involvement.

We appreciate the opportunity to comment on these bills.

Sincerely,

Alan Phipps
State Lands Specialist



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

March 9, 1992

Representative Gruenberg
P. O. Box V
Juneau, Ak. 99811

RE: HB 483, HB 484, HB 486

Dear Representative Gruenberg,

The Alaska Environmental Lobby (AEL) would like to express its support of House Bills 483, 484 and 486. AEL believes that there was not adequate legislative or public participation in the review and acceptance of the second settlement proposal with Exxon concerning its liability for the Exxon Valdez oil spill. HB 483 mandates that any settlement for future resource damages in excess of \$10 million would be subject to Legislative approval and public review. AEL believes that all issues of such magnitude and importance be subject to extensive public review and comment.

AEL supports HB 484 because it will help prevent the further exclusion of the public from the decision making process regarding the Exxon settlement. We believe that any disbursement of the monies paid into the Trust must be subject to public review. The Alaskan Legislature provides the best mechanism for providing adequate public participation and oversight in the deciding how these funds should be spent.

Thank you for introducing these three bills.

Sincerely,

Russell Heath





Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

Exxon Oil Spill Trust--HB 484 and HB 486

The Alaska Environmental Lobby supports HB 484 and HB 486.

These bills will help prevent the further exclusion of the public from the decision making process regarding the Exxon Valdez settlement. Its important for the legislature to protect the public interest through full review and approval of restoration monies.

These bills will also help ensure that the legislature retains its full constitutional authority to appropriate monies, giving it more control over how the settlement is spent.

We believe that passage of HB 484 & 486 will provide the only way for concerned Alaskans to have much say in how the Exxon Valdez settlement monies are used.

Linda Franklin, volunteer lobbyist
April 28, 1992



PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

→ 17th STATE LEGISLATURE - 2nd SESSION
FINAL REPORT OF THE SETTLEMENT SUBCOMMITTEE
HOUSE JUDICIARY COMMITTEE