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Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Wendy H. Arundale, Ph.D.
Research Associate
University of Alaska
Institute of Arctic Biology
Fairbanks, Alaska 99775-0180

Dear Dr. Arundale:

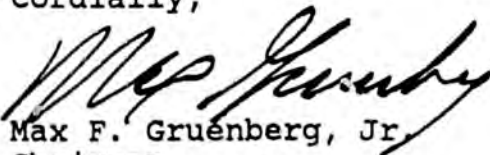
Thank you for taking the time to write to me about the Exxon Valdez Oil Spill Claims Settlement agreement and your concern for archaeological resources.

The subject of potential damage to archaeological resources was discussed a number of times during our committee meetings. However, the administration was unable to clarify whether they would be included or excluded under the definition of natural resource damages. As a result, the committee included that question as Item No. (9) in House Concurrent Resolution 29, which I have enclosed for your information.

I am personally unaware of any effort on the part of the U.S. Justice Department to obtain a ruling that would exclude archaeological resources; and I would appreciate being copied on any reply you receive as a result of your April 15 letter. As new negotiations get underway, I hope that most, if not all, of the conditions set by the House will be incorporated into any future settlement.

Again, thank you. Your comments were greatly appreciated.

Cordially,


Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am



UNIVERSITY OF ALASKA FAIRBANKS

INSTITUTE OF ARCTIC BIOLOGY
Fairbanks, Alaska 99775-0180 U.S.A.

(907) 474-7640
FAX: (907) 474-6967

April 15, 1991

Representative Max Gruenberg
House Special Committee on the Exxon Valdez
Oil Spill Settlement Claim
Alaska State House
Juneau, AK

Dear Representative Gruenberg:

I was unable to attend the Committee's recent hearings in Fairbanks. However, I would like to bring to the Committee's attention a concern that I share with many other members of the archaeological profession in Alaska. I am concerned because the definition of natural resources in the settlement does not explicitly include archaeological resources. I understand that efforts are under way in the U.S. Justice Department to obtain a ruling that would exclude archaeological resources for the definition as written. If these important resources are excluded from the definition, funding for damage assessment studies and restoration efforts would not be available. I believe there is widespread recognition that Prince William Sound archaeological resources have been put at risk and deserve careful attention along with the fish, birds, sea otters, and other resources.

I include comments I have written on the settlement to back up my concerns. I ask that these comments be included in the hearing record for your committee.

Thank you for the opportunity to comment.

Sincerely,

Wendy H. Arundale, Ph.D.
Research Associate

Enclosure



UNIVERSITY OF ALASKA FAIRBANKS

INSTITUTE OF ARCTIC BIOLOGY
Fairbanks, Alaska 99775-0180 U.S.A.

(907) 474-7640
FAX: (907) 474-6967

April 15, 1991

Thomas A. Campbell
General Counsel of NOAA
U.S. Department of Commerce
Room 5814
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

and

Barbara Herman
Attorney General's Office
State of Alaska
1030 West 4th Avenue
Anchorage, Alaska 99501

Dear Mr. Campbell and Ms Herman:

I would like to comment on one aspect of the Exxon Valdez oil spill settlement agreement that concerns me greatly. At issue is the definition of natural resources contained in the agreement. Since very soon after the spill occurred, the effects of both the oil and the clean up efforts on archaeological sites and resources have been recognized as an issue that must be addressed. Yet the definition of natural resources, as written in the agreement, does not specifically mention archaeological or cultural resources. I feel strongly that these important resources need to be mentioned explicitly in the definition so that they cannot possibly be left out of future damage assessment and restoration efforts. Let me outline several reasons why.

1. Archaeological resources should be included in the definition of natural resources because:

a.) archaeological sites clearly are made up of natural resources. They are tangible physical resources that include "land" and "biota" such as rocks, shells, pollen grains, animal bones, carbonized seeds, wood, and a host of other natural materials. Further some of the sites consist of petroglyphs, pictographs (sculptures and paintings on rock faces), stone or wood weirs, and submerged stratigraphic layers, all clearly natural resources.

b.) archaeological resources are natural resources in the traditional sense, in that when they are properly studied, they can provide important information about human history that is not documented in any other way.

INSTITUTE OF ARCTIC BIOLOGY

Exxon Valdez Settlement Comments
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c.) archaeological resources fit the definition of natural resources in that they are tangible, publically-owned resources for which the state of Alaska and the federal government are responsible.

2. Efforts are currently under way by solicitors within the Department of Justice to rule that archaeological resources are not natural resources under the definition used this agreement, which is very similar to the definition in CERCLA. Such a ruling would not only jeopardize the archaeological resources affected by the Exxon Valdez oil spill, including some magnificent resources on Kodiak Island as well as those in Prince William Sound, but could be used as a very negative precedent for future events in other parts of the country in which CERCLA might be invoked.

3. Damage assessment studies have already been significantly delayed. The awarding of the contract for last summer's proposed work was delayed until it was too late in the season to complete all the work, or even to carry out a part of it safely. (August can be extremely stormy in that region, and even under good conditions, great care must be taken to reach remote sites safely.) Has the Department of Justice's efforts to exclude archaeological resources already played a role? It is difficult for someone who is not an insider to know. But is clear that this delay has led to the loss of an entire year's time in obtaining important data.

It is extremely important that the damage assessment work proposed for this summer go forward without further delay. On the present timetable, the award date will leave barely enough time for a responsible contractor to prepare for and carry out the work. If additional damage to sites is to be prevented, a prompt damage assessment is essential. Further arguing over the definition of natural resources could lead to such a delay, and could bring about a significant additional loss of resources that are already endangered.

4. Finally, inclusion of archaeological resources in the definition of natural resources is important because it could make available restoration funds needed to protect sites in the region from looting. One of the spill's most significant impacts was to reveal to many people working on the clean-up the location of sites that had hitherto been protected by their obscurity. These sites are now in much increased danger of being looted. Money for site monitoring, anti-looting education, and ARPA investigations when looting occurs is not readily available from regular agency budgets, but could be made available as a part of

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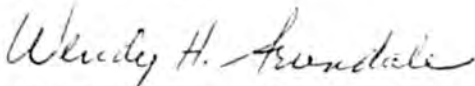
Exxon Valdez Settlement Comments
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restoration efforts. Such funding could play a significant role in preserving archaeological resources in the affected area for the future.

I am a professional archaeologist who has worked in northern regions for nearly 20 years and Alaska for the past 12 years. I have no personal interest whatsoever in any work that might come out of damage assessment or restoration efforts. But I have a great concern for Alaska's magnificent cultural resources. And I have seen the significant losses that take place when adequate funds are not available for preventing further losses to endangered resources. I urge you strongly to amend the settlement's definition of natural resources so archaeological resources are explicitly included.

Thank you for this opportunity to comment.

Sincerely,



Wendy H. Arundale, Ph.D.
Research Associate

cc: Richard Stewart, Assistant Attorney General for Lands and
Natural Resources, Department of Justice
Manuel Lujan, Jr., Secretary, Department of the Interior
James M. Ridenauer, Director, National Park Service
Jerry Rogers, Associate Director, Cultural Resources, NPS
Senator Dick Eliason, Chair, Special Committee on the Exxon
Valdez Oil Spill Settlement Claims, Alaska State Senate
Representative Max Gruenberg, Chair, Special Committee on the
Exxon Valdez Oil Spill Settlement Claims, Alaska State
House

COMMENTS OF
ALASKA CENTER FOR THE ENVIRONMENT
DEFENDERS OF WILDLIFE
GREENPEACE
NATIONAL AUDUBON SOCIETY
NATURAL RESOURCES DEFENSE COUNCIL
NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE
SIERRA CLUB
TRUSTEES FOR ALASKA

ON THE
PROPOSED SETTLEMENT AGREEMENT
CONCERNING THE EXXON VALDEZ OIL SPILL
BETWEEN THE UNITED STATES, THE STATE OF ALASKA
AND THE EXXON CORP., EXXON SHIPPING CO.
AND THE EXXON PIPELINE CO.

Prepared by:

Sarah Chasis
Robert Adler
Senior Attorneys
Natural Resources Defense Council

Eric Jorgensen
Managing Attorney
Sierra Club Legal Defense Fund

April 18, 1991

The following environmental organizations submit these comments on the proposed Exxon Valdez settlement agreement in response to the request for written comments appearing in the Federal Register (56 FR 11636, March 19, 1991): Alaska Center for the Environment, Defenders of Wildlife, Greenpeace, National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Prince William Sound Conservation Alliance, Sierra Club and Trustees for Alaska.¹ These groups have major reservations about the proposed settlement. Most importantly, since the scientific and economic data on natural resource damages and restoration collected by the government trustees and Exxon have been kept secret, the public, the Congress, the Alaska State legislature and the Federal Court in Alaska cannot determine whether the settlement is fair, reasonable and equitable and whether the trustees have met their statutory and common law duties under the Clean Water Act, section 311(f), and other applicable law to recover natural resource damages, including the costs of restoring, replacing, or acquiring the equivalent of the natural resources damaged or destroyed as a result of the spill.² The environmental organizations ask that

1. These groups are also submitting comments on the Memorandum of Agreement and those comments are incorporated here by reference.

2. The Clean Water Act will be used throughout these comments as the shorthand way of referring to all statutory and common law principals under which the trustees may recover from Exxon.

these data be made available to the public immediately and that approval of the settlement by the court await such disclosure and the opportunity for public comment on the proposed settlement in light of such disclosure.

Even without the data, we are very concerned about the apparent inadequacy of the settlement to compensate for natural resource damages and to cover the costs of restoring, replacing and acquiring equivalent resources. The present value to the governments of the settlement money is approximately \$500 million. This compares with \$3 to 10 billion in damages found by state and federal economic studies. Moreover, after past expenses and future clean-up costs are deducted, the amount actually available for restoration in the early years appears inadequate to undertake important and needed restoration and acquisition projects.

We also are concerned about the \$100 million cap placed on future recovery for unknown damages and the virtually impossible standard the government must meet in order to obtain such future recovery; and the release of Alyeska from any liability for natural resource damages.

Following are more detailed comments on the proposed settlement and the memorandum of agreement between the state and federal governments.

I. NEED FOR THE DATA

Before approving the proposed settlement, the court must be satisfied that it is "fundamentally fair, adequate and reasonable" and that it conforms to applicable law and public policy. United States v. State of Oregon, 913 F.2d 576, 580 (9th Cir. 1990); Sierra Club v. Electronic Data Controls Design, Inc., 909 F.2d 1350, 1355 (9th Cir. 1990). Without knowing how extensive the natural resource damages are, the economic value of these damages and the costs of restoring or replacing these resources (or acquiring equivalent resources), it is impossible for the court, the public, Congress or the Alaska State legislature to evaluate whether the proposed settlement is fair, adequate or reasonable or whether the trustees have met their duty under the Clean Water Act, section 311(f), and other applicable law to recover for natural resource damages, including the costs of restoring, replacing or acquiring the equivalent of the natural resources destroyed or damaged as a result of the spill.

The summary of effects of the spill submitted to the federal court in Alaska on April 8 in no way is sufficient to judge the adequacy of the settlement. No economic data on the diminution of use values, including intrinsic values, nor information on the cost of restoring, replacing or acquiring equivalent resources have been provided. Yet these data are crucial to evaluating the

adequacy of the settlement amount since these represent the measure of the damages to which the public is entitled. State of Ohio, et. al. v. Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989). Moreover, without disclosure of the underlying scientific data the public cannot judge the ecological, long-term significance of the losses described in the summary nor the comprehensiveness nor accuracy of the summary. The trustees of the damaged resources have an affirmative obligation not only to disclose these data, but to provide a clear, well-supported explanation of how the amount of the settlement was calculated, and why it is sufficient to compensate the public.

Release of these data is important for a number of reasons in addition to providing crucial information to evaluate the settlement. Opening up the science to public scrutiny would provide the public with the best possible understanding of the natural resource damages that have resulted and are likely to result from the spill. Moreover, release of the data would enable meaningful public and independent scientific input into the design of future damage assessment studies and restoration planning in Prince William Sound -- something that has been virtually impossible in the face of the secrecy surrounding the data. Finally, the data would inform other important public policy decisions that must assess the benefits and risks of proceeding with oil development and transportation. The scientific truth of what has happened may not be withheld from

the public which has suffered the results of this catastrophic spill.

As an enforceable condition of the proposed settlement, all data concerning the nature, extent and economic value of natural resource damages and restoration should be made publicly available by all parties to the settlement on an ongoing basis. Currently, there is no such condition in the settlement. There is only a public commitment by the federal trustees to release data. However, this is not reflected in the proposed settlement or Memorandum of Agreement. No commitment at all on the part of the Coast Guard, the State of Alaska or Exxon is made to release data at any time.

II. INADEQUACY OF SETTLEMENT MONEY

Even without the scientific and economic data that we seek, we seriously question the adequacy of the settlement to compensate for the natural resource damages suffered as a result of the spill and to cover the costs of restoring, replacing and acquiring equivalent resources.

First, the long pay-out schedule of eleven years and the tax-deductibility of the payments substantially reduce the real value of the settlement money to the government. The Congressional Research Service has estimated that the present value to the federal and state governments of settlement (including the \$100

million criminal fine), taking into account the present value of the money and Exxon's ability to deduct civil payments from its taxes, ranges from \$421 million to \$524 million, depending on the discount rate used. (Attachment 1, CRS, "Net Present Values of the Exxon Valdez Settlement," March 19, 1991).

Second, by no means all of the civil settlement money will go for restoration for at least three reasons. First, \$134 million will go to reimburse the federal and state governments for past expenses associated with the spill. Memorandum of Agreement, Para V.B. Second, Exxon's 1991 and 1992 clean-up costs, will be credited against the amount of settlement money it must pay. Proposed Settlement, Para. 8(b). Third, all future state and federal clean-up costs, over and above Exxon's, will come out of the settlement money. MOA, Para. V.B. These future clean-up costs could be substantial.³ This could mean that, of the \$900 million to be paid out over 11 years, \$500-600 million or less (at present value, approximately \$300-400 million) actually will be available for restoration and acquisition.

In light of the Summary of Effects filed with the federal court on April 8 and reports that state and federal economic studies have shown damages to be in the \$3-10 billion range (see attachment 2, Washington Post article, March 20, 1991), the

3. For example, Exxon claims to have spent \$180-200 million in 1990 on clean-up.

available \$500-600 million (or less) clearly cannot compensate for the disastrous ecological consequences of the spill. Indeed, the Trustees apparently ignored lost use values, including intrinsic values, in determining the appropriate settlement amount. In State of Ohio, cited above, the D.C. Circuit clearly rejected the Interior Department's "lesser of" rule, whereby the lesser of restoration or replacement costs or diminution of use values, would dictate the recovery amount. Yet in his testimony before the House Merchant Marine Committee, Assistant Attorney General Richard Stewart indicated that, with respect to amount, the criterion for an adequate settlement was "sufficient recovery of damages for the trustees to undertake a prompt and thorough restoration program for the Sound...."(p.4) Especially given the Washington Post article cited above, which reported that state and federal economic studies found lost use values to be at least \$3 billion, it appears that the trustees simply ignored the State of Ohio holding in calculating the settlement amount.

Nor does the \$500-600 million appear adequate to cover restoration costs. Acquisition of timber rights for habitat and fisheries protection was identified repeatedly as a priority in public comments on the restoration process. See August 1990 Progress Report "Restoration Planning Following the Exxon Valdez Oil Spill," prepared by the Restoration Planning Work Group,

pages 22-23.⁴ It has been estimated that acquisition of timber rights on private lands adjacent to Prince William Sound and the Lower Kenai, in order to prevent logging that could harm the resources adversely affected by the spill, alone would cost \$200-300 million. (Attachment 3, Coastal Coalition Proposal, page 16)⁵. This one acquisition proposal, if implemented, could consume most of the money available under the settlement for restoration (using the present value figure). And this proposal does not include acquisition of timber in many areas affected by the oil, including the Kodiak Archipelago.

Whether there will be money in the first few years for any significant restoration and acquisition at all is another major concern. Past expenses are to be recouped over the first five years. See Memorandum of Agreement. Para. V.B. We understand that these payments may be front-loaded: \$45 million (1991), \$40 million (1992), \$40 million (1993), \$5 million (1994), \$5 million (1995). If the payments are front-loaded in this manner, then only \$45 million will be available in the first year of the settlement to cover state/federal clean-up expenses, scientific

4. The groups were distressed to learn that the state trustees are backing off from their original commitment to use settlement money to acquire timber rights. See April 17, 1991 Anchorage Daily News, page C-1. In our view, such acquisition should be a high priority of the fund.

5. EPA's recent federal register notice also proposes as one of four restoration activities for 1991, the protection of strategic fish and wildlife habitats and recreation sites. See 56 Fed. Reg. at 8902-3. Properly implemented, this could encompass timber rights on key lands proposed to be logged.

studies and restoration. (\$90 million less \$45 million). How much of this will be available for restoration and acquisition is a real question. Since Exxon may credit its clean-up expenses for 1991 and 1992 against its second payment of \$150 million, there may be no payment at all in the second year. Not until the third year would there clearly be money for restoration -- and that amount would be relatively small (\$60 million, or \$100 million less \$40 million). Given the estimated costs of important restoration projects (see, e.g. Coastal Coalition Proposal for timber acquisition), it appears that there would be insufficient money in the early years to undertake extensive restoration and acquisition projects.

Yet such early expenditures are critical. For example, there are at least five areas within the oil-impacted region where timber-harvesting is presently ongoing and where an all-out effort should be made to prevent harmful logging.⁶ In addition, three other areas in the region, are scheduled to be cut this summer. (Fish Bay, Patton Bay and Kachemak Bay).

III. REOPENER PROVISION

The reopener provision contained in Para. 17 is totally inadequate. It places a cap of \$100 million on any future recovery. We strongly oppose such a cap. The longterm

6. Copper River Delta, Two Moon Bay, Windy Bay, Dogfish Bay and Afognak Island.

ecological damages from the spill are still unknown and could be very substantial. The March 1991 Summary of Effects, submitted to the federal court in Alaska on April 18, repeatedly confirms this. For example, the degree of injury to several important species, such as salmon and herring, will not be known for years; injuries to many other species, such as harbor seals, killer whales, river otters, murre and bald eagles are continuing.

For the government to agree to a cap on future recovery for damages currently unknown places the public in the untenable position of underwriting the longterm costs of this spill. This violates the trustees' obligation to recover the costs of restoration, replacement and acquisition of equivalent resources from the spiller, under section 311(f), and violates the important public policy of making the spiller, rather than the public, pay for the problems caused by the pollution.

Moreover, the terms under which the government may invoke the reopener are so stringent that it will be virtually impossible for the government to obtain a future recovery from Exxon. In order to be able to recover under the reopener clause, the injury cannot have reasonably been known or anticipated by any trustee based on any information in the possession of or reasonably available to the trustees at the time of the settlement. This will be a very difficult standard of proof to meet and one which will inevitably lead to years of litigation.

CERCLA requires that settlements contain a reopener for unknown conditions, except in extremely rare circumstances:

a covenant not to sue a person concerning future liability to the United States shall include an exception to the covenant that allows the President to sue such a person concerning future liability resulting from the release or threatened release that is subject of the covenant where such liability arises out of conditions which are unknown at the time the President certifies... that remedial action has been completed at the facility concerned. 42 U.S.C. Sec. 9622(f)(6)(A) (emphasis added).

The standard articulated in the CERCLA reopener provision should be employed in this settlement and no cap should be placed on future recovery.

Two additional criticisms of the reopener are that 1) future payments are limited to a particular four year period (2002-2006), when in fact the money may be needed earlier or later, and 2) there is no procedure specifying that Exxon must pay within 30 days (or another similarly reasonable period) following a demand by the government for payment and that the burden falls on Exxon to bring a challenge should it disagree with such a demand for payment.

IV. LETTING ALYESKA OFF THE HOOK

The United States' agreement in the criminal plea not to seek criminal charges, civil penalties or administrative penalties against Alyeska and the federal and state governments' agreement in the civil settlement not to sue Alyeska for natural resource

damages mean that Alyeska will not be held accountable despite its negligent, perhaps even fraudulent conduct. It was Alyeska after all that was completely unprepared to carry out its oil spill contingency plan. Alyeska's failure to comply with the plan significantly compounded the environmental damage that occurred. According to material recently submitted to the federal court by Representative George Miller, Vice Chairman of the U.S. House of Representatives Committee on Interior and Insular Affairs, Alyeska and its owners had knowledge of Alyeska's inability to respond to an oil spill in Prince William Sound, and deliberately decided not to take remedial action.

What kind of message does the government's actions send to others responsible for oil spill contingency planning and response -- that no matter how grossly negligent they are in implementing their contingency plans and carrying out spill response, they can escape all criminal and civil penalties and liability for natural resources damages? We regard this as one of the most egregious elements of the proposed settlement.

V. OTHER MISCELLANEOUS COMMENTS ON THE PROPOSED SETTLEMENT

We question whether future clean-up should be paid for out of the same fund as restoration. As Congressman Studds pointed out in his April 12 letter to Judge Holland, this will create competition between cleanup funding and restoration funding, when both are required under the Clean Water Act.

We request clarification concerning Exxon's continuing obligations to conduct clean-up. We read the settlement to require Exxon to continue to conduct clean-up as directed by the Federal and State On-Scene Coordinators. Para. 11(a). However, Para. 11(b) could be read to relieve Exxon from future clean-up obligation once the settlement is approved. This should be clarified. As part of its continuing clean-up obligations, we would like to see Exxon required to test and, if effective, use clean-up technologies, methods and substances which are environmentally benign and which have proven effective elsewhere or have been shown to be highly promising in past test results.

We read the settlement to permit a one-time credit to Exxon for its clean-up expenses, which would be used to reduce the \$150 million payment due September 1, 1992. Para. 8(b). Thereafter, no such credits appear to be allowed.

It is not clear whether the provision in Para. 11(a), removing from Exxon any liability by reason of its clean-up, covers negligently performed clean-up. Clearly it should not. In addition, there must be a mechanism to independently assess the legitimacy of those Exxon clean-up expenditures which may be deducted from the \$150 million payment due in 1992. Otherwise, unreasonably high or otherwise improper expenditures may be deducted, in turn unfairly reducing the money available for

restoration.

The governments' rationale for agreeing to Para. 12 is totally perplexing. Why should they agree to such an offset, should the settlement fail? What are they getting in return? Moreover, why did the government agree to such a stringent standard for disallowing expenditures over \$35 million? It will be very difficult for the government to prove these costs should not be offset.

Under Para. 20, why was Exxon not explicitly required to drop its pending administrative claim against the Coast Guard? What is the status of this claim under the settlement?

Finally, we also object to the settlement's failure to impose civil penalties against Exxon for violation of the Migratory Bird Treaty Act, which it admitted violating, as well as the Marine Mammal Protection Act, the Endangered Species Act and the Bald and Golden Eagle Protection Act.

VI. CONCLUSION

For all these reasons, the environmental groups request that the scientific and economic data so critical to an evaluation of the settlement be released immediately and that approval of the settlement be delayed pending such release and opportunity for public comment. We also would like to see the settlement

modified to respond to the other concerns raised.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366
Fax 907-463-3312

The Alaska Environmental Lobby (AEL) urges the legislature to reject the Exxon Valdez civil settlement.

4/26/91

The Exxon Valdez oil spill profoundly affected thousands of Alaskans. However, the very process to redress these damages excluded those injured parties. By excluding the public, the administration negotiated an unacceptably flawed settlement.

Justice Holland's ruling to reject the criminal settlement sends a message: Exxon's and Alyeska's punishment does not fit their crimes. This same message carries through to the proposed civil settlement--Exxon and Alyeska have not provided suitable recompense for the damages they inflicted upon the environment. To Alaskans, the Exxon Valdez oil spill is the greatest environmental catastrophe to affect our state. The oil spill wiped out livelihoods, converted entire subsistence cultures to cash economies overnight, and inflicted a staggering toll on animal communities. The proposed Exxon civil settlement does not repair all that was lost.

This settlement--

1. Is not a deterrent . . .

This settlement sets a poor example for future offenders. Alyeska failed to fulfill its promise to respond to a spill in Prince William Sound. Not only is Alyeska released from natural resources damage liability, but the financial cost, with a real dollar, amount after taxes of only \$425 million in 1991 dollars, is insignificant to a corporation the size of Exxon.

2. Discounts the value of scientific studies . . .

This settlement permits the suppression of scientific and economic studies. The public cannot make an intelligent and informed decision on the settlement without these studies. The studies' suppression enforces a cruel ignorance on the people. This sets an unjust precedence.

3. Neglects the people . . .

The trustees system fails to include a vehicle for meaningful public input. The trustees have already met--in private. There is no mechanism in place to include the public, the legislature or local governments. Indeed, the formation of such a mechanism is up to the trustees.

4. Does not provide for adequate restoration. . .

This settlement fails to ascertain adequate protection for spill affected areas. In order for these ecosystems to recover, they will need to be adequately protected. This will require acquisition of land and its resources. Local communities need to be involved with the selection and management of these purchases.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
BETHEL GROUP SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL

April 26, 1991

The Alaska Environmental Lobby and the Oil Reform Alliance strongly oppose the proposed Exxon Valdez oil spill claims settlement. The following list of conditions is provided in the spirit of laying a foundation for further negotiations.

CONDITIONS

Memorandum of Agreement

- 1) Full release of all scientific and economic studies/data with summary interpretations provided by all parties AND sufficient time (60 days) for the public to comment on an appropriate settlement amount.
- 2) Clear provisions for how the funds may and may not be spent with emphasis on restoration, replacement and acquisition of equivalent resources. For example, appropriate use of funds includes IN-STATE acquisition of land and development rights, and spill-related scientific studies; inappropriate use of funds includes road building, economic development, creation of recreational facilities, etc.
- 3) Provide in the trustee arrangement for including, as voting members, representatives from regional or statewide Native, environmental, and commercial and sport fishing groups.

Agreement & Consent Decree

- 4) Obtain significantly more money in the settlement (natural resource damage estimates range from three to eight billion dollars) with non-tax deductible payments, if possible, and compounding interest.
- 5) Remove the restrictive language in "re-opener" clause and the \$100 million cap.
- 6) Separate cleanup funds (past and future) from restoration funds and from the settlement - cleanup funds should be reimbursed directly by the spiller.
- 7) Retain state rights to pursue recovery natural resources damages against Alyeska.
- 8) Settlement should not jeopardize legitimate claims by private parties.



Oil Reform Alliance



MEMBER ORGANIZATIONS

ALASKA CENTER FOR THE ENVIRONMENT * ALASKA RECOVERY COALITION
BERING SEA FISHERMEN'S ASSOCIATION * GREENPEACE
KACHEMAK RESOURCE INSTITUTE * KENAI PENINSULA FISHERMEN'S ASSOCIATION
KODIAK ENVIRONMENTAL CLEAN-UP EFFORT * KODIAK ENVIRONMENTAL NETWORK
NORTHERN ALASKA ENVIRONMENTAL CENTER
NORTH PACIFIC FISHERMEN'S ASSOCIATION
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE
PUBLIC AWARENESS COMMITTEE FOR THE ENVIRONMENT
SIERRA CLUB * SELDOVIA OIL SPILL RESPONSE TEAM
TONGASS CONSERVATION SOCIETY * TRUSTEES FOR ALASKA
UNITED COOK INLET DRIFT ASSOCIATION * WRANGELL RESOURCE COUNCIL
YAKUTAT RESOURCE CONSERVATION COUNCIL

INDIVIDUAL MEMBERSHIP

BARROW * CORDOVA * DILLINGHAM * FORT YUKON
EAGLE * HAINES * LAKE-PENINSULA BOROUGH
MAT/SU VALLEY * PETERSBURG * PORT ALLSWORTH

Representative Kay Brown

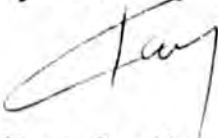
ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

During Session
P.O. Box V
Juneau, Alaska 99811
(907) 465-4998

TO: Representative Max Gruenberg, Chair
Special Committee on the Proposed Exxon Settlement

FROM: Representative Kay Brown

DATE: April 17, 1991 

SUBJ: Questions Regarding the *Exxon Valdez* Settlement

As we discussed, I would like to have Attorney General Cole provide a written response to the following questions:

1. Is it the administration's policy to fully determine the natural resource injuries caused by the spill?
2. The plea agreement and the memorandum of agreement define restoration to include "enhancement of affected resources" [Plea Agreement p. 8], or "enhancement of resources" [MOA, p. 8]. In contrast to the rest of the definition, these words are not found in the Clean Water Act. Where did the added language come from? Why was it included? Please explain how natural resources "enhancement" differs from or enlarges on the definition of restoration contained in the Clean Water Act and related regulations (see, for example, see 42 USC. sec. 9607: "Sums recovered by a State as trustee...shall be available for use only to restore, replace or acquire the equivalent of [injured] natural resources.")
3. How much state funds have been spent on economic studies related to this case?
4. What valuation (dollar value) of the damages from the *Exxon Valdez* spill was determined by the contingent valuation analysis conducted by the economists hired by the state? [See the Washington

DISTRICT 12

Downtown • Fairview • City View • Bootleggers Cove • Inlet View • South Addition • Thunderbird Terrace
Eastridge • Penland Park • Airport Heights • Government Hill

printed on recycled paper

Post, 3/20/91, "Value of Intangible Losses From *Exxon Valdez* Spill Put at \$3 Billion."]

5. Did any representative of the state make any representation to Exxon or any other party that the state would not disclose the state's economic studies?

6. Please provide for the committee copies of memoranda prepared by the Department of Law for state representatives to the restoration planning work group interpreting the definitions of restoration found in federal laws and regulations.

7. Could forested habitat or timber rights in or near the Kachemak Bay State Park be an "equivalent resource" as that term is used in the federal definition of restoration?

8. Why is the state's claim under the TAP liability fund being kept secret from the public?

9. Is it the view of the administration that state employees may be employed in restoration activities funded by the settlement without appropriation by the legislature of the funds to cover their salaries?

10. Is it the view of the administration that the trustees may enter into contracts independent of state laws and procedures governing government contracting?

11. Is the Governor precluded from appointing a member of the legislature to serve as a Trustee?

Your assistance with this request is appreciated.

August 6, 1989

"ZERO TOLERANCE FOR EXXON AND THEIR POLICIES..."

Editor:

We'd like to enlighten Exxon concerning a few of the serious problems this community has experienced over the past few months, due to the double "enemy" as we now see it: the oil spill, AND Exxon's irresponsible management and lack of foresight.

We have a salmon purse seine and herring gillnet operation in Kodiak. Normally, by this time of year, we're feeling relatively "whole": spiritually, physically, emotionally, socially, and economically. Contrary to John Harrington's now laughable promise of "Exxon will make you whole," you presently have on your hands several hundred boat owners, permit-holders, hundreds of crewmembers, and throngs of villagers and community members who are feeling the pinch, and who are not addressed fairly in your claims process, who feel emotionally fried, who've had their lifestyle, hopes, and dreams disrupted this summer and for probably years to come, and have lost hope in being able to work honestly this year, to get off Exxon's claims dole.

Whether Exxon intentionally, or unintentionally created this bogus operation is not the issue. The reality is, you did. Exxon's oil spill nearly five months ago has cost us dearly. It took away our opportunity to make a living and Exxon's management of this crisis in Kodiak has created serious discrepancies by giving some (non-residents included,) the opportunity to work on top of a claim, and others the only other option: to sit through a bleak summer even as the oil continued to pour down the Shelikof, to bombard our beaches, and to ultimately take our fishery from us.

In retrospect what you have done, is to doubly deny us the chance for employment. Your "windows of opportunity" did not include room for impacted Kodiak residents (especially the salmon and herring fleet.) An equal opportunity for clean-up work was not even offered, even through the beaches and waters are as seriously oiled as they were in May, if not worse.

You did not take care of and "make whole" the impacted fishermen as you did in Prince Williams Sound where every vessel was put on charter, where they even had a salmon fishery. It's obvious that Kodiak's salmon season is devastated by your spill and you could see the necessity to put only twenty seine boats to work in mid-July as our openings were going down the tubes. These twenty boats volunteered to democratically rotate so that others could earn a living and do something to take care of the problem. That seems like a real simple idea. But, Exxon still doesn't get it.

Your system of irresponsible management has penalized the fisherman who wanted to fish from April on, and keep their lifestyle undisrupted, as

most herring and salmon boats tried to do. Trying to get on a charter was full-time frustrating "job," and also took you out of the fishery. There were no "lists," in fact, some boats moved backwards in position for being hired. Your system gave lucrative charters to some vessels in April, May, and on who had nothing to lose from the closures and cancellation of the herring and salmon seasons. You lacked the foresight to see that Kodiak's circumstances justified a massive clean-up effort, just like Prince William Sound's.

Since April 13th, we have been trying to adjust to the effects of your spill through the mounting pressure and stress. Herring fishing areas were shut down, prices for herring plummeted, we lost crew in May to VECO. "Test" boats were sent out in May before the halibut opening to see if we would even have an opening. The herring fleet continued to fish in unnatural circumstances, in the face of many growing problems right along side chartered vessels of the same size who had no qualms relating about the Exxon "gravy train."

In May, John Harrington continued to deny that our beaches were oiled, or that it would cause problems for the salmon fishery.

We continued to herring fish. By the time the halibut announcement rolls around, the entire mainland, some west side and north end bays are closed.... not from harvest, but from the effects of Your Spill.

By June, we're under a tremendous strain. A few of the chartered vessels who didn't have herring permits and didn't halibut fish come off charter to go salmon fishing with a good Exxon "season" in their pockets, which would equal any good salmon year.

By June, we were to be ready for the regular salmon openings and were put on one day notice until the 23rd of June. We had no choice but to stay "on notice." We could not seek other employment. Exxon and VECO had a file of hundreds of boats ready and willing to clean up Exxon's mess.

Yet, Exxon continued to push for a normal harvest under their rules, with "dirty fish tenders," etc., and Harrington continues to invalidate the seriousness of the oil. Seiners are told there are no openings for work, for boats of their size.

By June, large vessels, villagers, and set notters have negotiated clean-up work with Exxon and yet Exxon still refuses to take a serious look at several hundred seiners that are ideally suited to travel and clean-up their own waters!

Finally, when the larger vessels start whining about their contracts, the seiners can no longer stand it, and unify, and ingeniously show Exxon how to clean-up their own oil. Exxon responds by hiring twenty more vessels out of an idle fleet to show us how "serious" they are about cleaning up our beaches.

So, by August 6, it's obvious to all to us how poorly you've managed this crisis (as the culprits of this tragedy) to compound a disaster in March into a living nightmare in August, for our community and island.

Your claims process tries to fit a variety of people into your niche, and doesn't address the myriad of circumstances which beset people, especially fisherman who are inherently diverse, and have changing seasons. Your hiring process has guaranteed some a "double season" and the chance to upgrade substantially in the same fishery, yet sets others back into the stone ages economically.

Instead of magnanimously trying to help the communities and individuals involved, you've filled our lives with turmoil and uncertainty by disrupting us emotionally, socially, and economically. Your policies have been successful in that respect.

In all tragedies, the true human spirit emerges in the form of courage, dignity, honesty, pride, and in our case the love for our island and its wildlife. That you can't take from us. We will be a stronger community even after you've pulled out, leaving us holding the bag. because you've taught us how to unify, and showed us our strengths and weaknesses which includes the danger of complacency.

We need to look for solutions by seriously pursuing other alternative energy sources, and by conserving fuel. We'll have to make difficult choices to undo our dependency on oil, and we won't forget the nation's worst oil spill (to date.)

Sincerely,

Lacey Berns
Chris Berns
F/V Tanaga

The Honorable Max Gruenberg
Chairman, Exxon Valdez Settlement Committee
P.O. Box V
Juneau, Alaska 99811

April 14, 1991

Dear Mr. Gruenberg and Committee Members:

Thank you for the opportunity to speak to you in person in Kodiak on April 13, 1991. The subject of Exxon still upsets many of us. I tried to present a reasonable opinion about the proposed settlement. However, judging from the comments that night and my personal feelings about Exxon, many of us are far from "recovered" from the trauma.

Do I "trust" Exxon? Emphatically and absolutely not. And I'll relate to you our personal experiences especially regarding the issue of "trust." My family is still deeply angry with Exxon. You want to know specifics? We have come away from our experience in 1989 with deep emotional and financial scars.

My husband has fished in Kodiak since the 1970's. We had a tremendous salmon (seine) season in 1988 and went into 1989 ready to fish, after spending most of our '88 earnings for new equipment and refurbishing the boat for salmon. Then the oil hit. Exxon and VECO slowly took over the clean-up and gradually hired mostly large (non-salmon) vessels, paying exorbitant rates. Over the next few months our salmon season slipped away from us. The salmon seine vessels which did end up on a charter made \$200,000 to \$300,000, plus a claim (which equalled around \$3-500,000.00). This translated into brand new vessels for the 1990 salmon season. We knew that would happen and we fought all summer to get a charter, or to preferably go fishing. Exxon wouldn't hire very many seiners so

~~so~~ most of the Kodiak seine fleet sat idle all summer. Gillnetters in Olga Bay participated in the only fishery conducted on Kodiak and made millions! The tragedy in this set of unfortunate circumstances for people us is: we were prevented from working, either on charter or fishing, and we were paid through our "claim" about 1/4 of what we made in 1988.

Yet, we were promised throughout the summer of '89 by Exxon: "WE WILL MAKE YOU WHOLE!" John Harrington (Exxon rep.) re-stated this over the course of several months. Yet, we fought and argued with Exxon in town meetings to put all of us to work-we stopped short of begging. I repeatedly wrote and called agencies or people that I thought would intervene in this fiasco and never received an ounce of "help." The replies were: "Your problem will have to be settled through litigation," or "Your letters need editing"; !! For someone like my husband who had devoted his adult life to salmon fishing--this was an emotionally wrenching experience. For many reasons, I hope to God we never have another oil spill.

And, since 1989 we've watched Exxon's charter/claim system make a huge impact in the Kodiak salmon fishery by artificially financing a large upgrade in the fleet. We've watched people buy land in Hawaii, build new homes, buy permits, and vessels, new gear and equipment from these artificial dollars. Our claims amount was less than average because of the 1987 salmon season-my husband fished 1/2 the summer. So as far as economic and emotional damage I couldn't begin to put a price tag on the damages, or put into

words how I feel about Exxon now--2 years later--and there's no end in sight for the "little people" in this very raw deal. So much for "making us whole."

Please find enclosed just a few of the letters I wrote from June, 1989 on. These document our anger, powerlessness, and frustration, and anguish in dealing with this corporation. My letters over the past two years may have been read, but I have yet to see some concrete results. I realize this packet is rather lengthy, but your committee should consider individual experience pertinent to the State's settlement with Exxon, especially regarding critical issues such as "trust" and "good faith."

Sincerely,

Lacey Berns

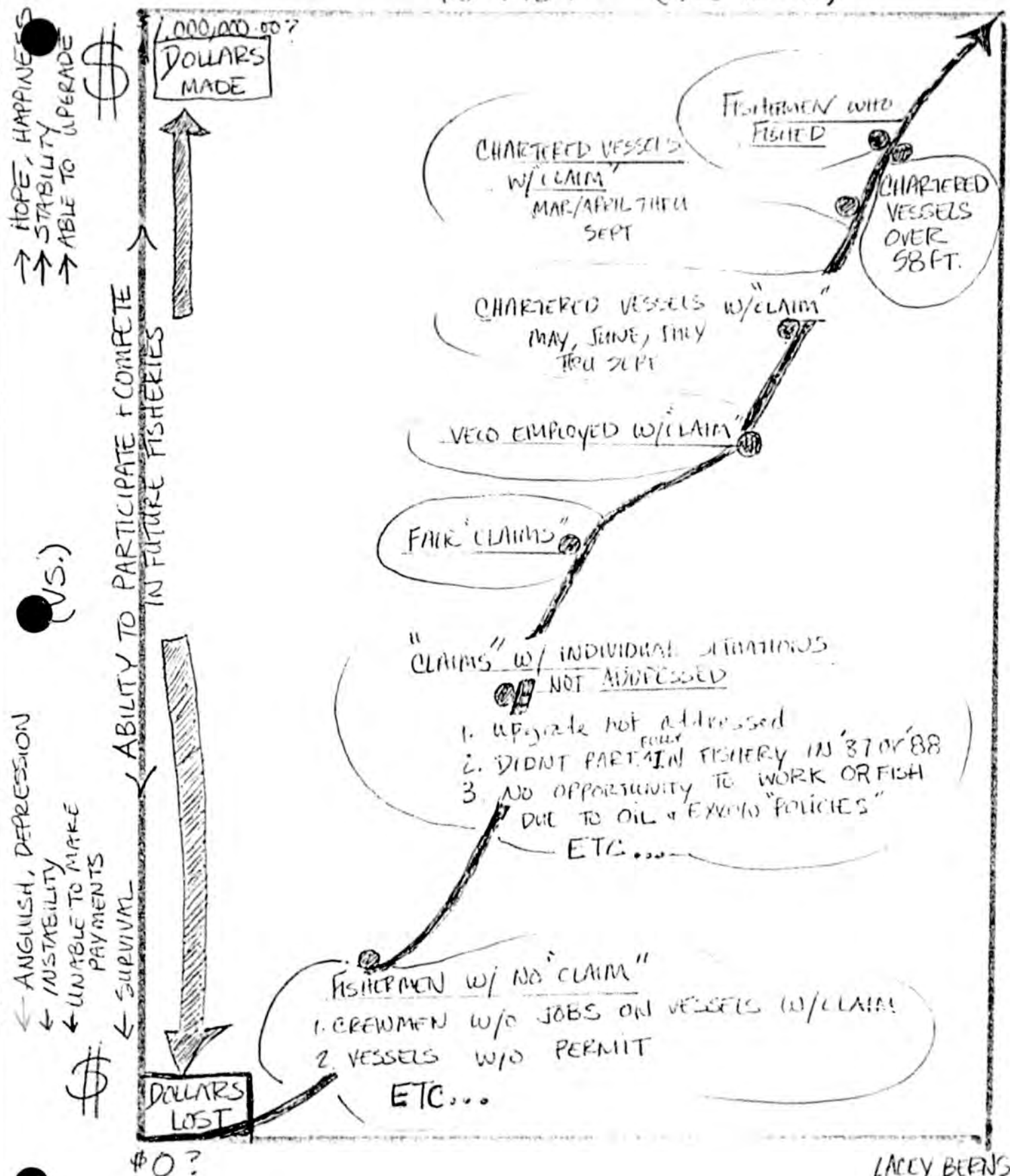
Lacey Berns

Box 26

Kodiak, Alaska 99615

486-5091

THE INEQUITABLE ECONOMIC TREATMENT OF AK. FISHERMEN IN 1989 " (DUE TO OIL)



LACEY BEENS

(A HIERARCHY OF DAMAGES)
BY DISTRIBUTION OF
MONEY

9/29,89

We are presenting this idea to several State agencies, fishing associations, and Legislators in the hopes of developing a program which will address the needs of spill-affected fishermen in Alaska. This is a serious, state-wide problem.

We need to know, or to let these agencies know, the extent and magnitude of individual situations. We see this program as a partial solution to the economic inequities Exxon created in their handling of the clean-up.

To develop this program, or one similar, these agencies will need input, and criteria. We are asking the State of Alaska, in the aftermath of this disaster, to survey the situation, assess the problem, and develop suitable, positive programs to help us.

If you are interested in pursuing this idea, please feel free to write or call us, or any of the following people.

*Sincerely,
Chris and Lacey Berns
4V Tanaga
Box 26
Kodiak, Ak. 99615*

Governor Steve Cowper
Office of the Governor
Juneau, Alaska 99811

Bob LeResche, Mike Harmon
Alaska Oil Spill Coordinating Office
PO Box AV
Juneau, Alaska 99811
Phone: 465-2062

Martin Richard
Division of Investments
Dept. of Commerce and Economic Development
PO Box DI
Juneau, Alaska 99811
Phone: 465-2510

Jerome Selby
Borough Mayor
710 Mill Bay Road
Kodiak, Alaska 99615

Cliff Davidson, House of Reps.
112 Mill Bay Rd.
Kodiak, Ak. 99615

Fred Zharoff
PO Box 405
Kodiak, Alaska 99615

Matt Jamin, Attorney
324 Carolyn Ave.
Kodiak, Alaska 99615
Phone: 486-6024

Fisherman's Claims Office (UFMA)
1321 Mill Bay Road
Kodiak, Alaska 99615
Phone: 486-7678

Currently, there are serious hardships developing for a group of fishermen in Alaska due to Exxon's management of the oil spill clean-up. What has occurred is a hierarchy of damages which will seriously handicap our businesses in the future. This group of fishermen, which includes crewmembers, vessel owners, and permit-holders:

1. Did not receive an Exxon charter
2. Did not have the opportunity to fish
3. They are not receiving a fair claim in the fact that their individual situations are not addressed.
4. It now appears that a fair resolution of this situation awaits us in the court system, which could mean years of waiting.

The opportunities for a fair settlement in this system are becoming narrower, thus leading to a bleak outlook on our future participation in the salmon fishery. Whereas, some fishermen actually benefitted from the oil spill, others were dealt a substantial economic blow, and are now handicapped in ~~the~~^{their} futures. Whereas, in a normally competitive and fair fishery, every fisherman starts the season with a "clean slate" and can compete within this healthy context, there has occurred during the oil clean-up a destructive, and demoralizing range of policy-making procedures. It has created a class structure in the same profession:

1. The chartered vessels received monies, plus a claim enabling them to progress economically.

2. Fishermen (including setnetters in Olga Bay) "lucky" enough to participate in a fishery made fortunes, allowing them to progress economically.
3. Individual claims are inconsistent, based on a mere 2 years of records which does not take into account many variables. This has made some claims fair, and some far below what would have been expected in a normal fishery. Therefore, some fishermen will progress economically and some won't.
4. Interim-financing from the State of Alaska while we wait for the court settlement will allow these affected fishermen the same opportunity to advance.

This group of fishermen has experienced severe anguish and economic hardship and needs the State's attention. Therefore, we are proposing that the State of Alaska assist this group by making funds available before 1990, in the form of low-interest loans. A program such as this will enable these people to have the same opportunity to progress economically in the same fishery, which will alleviate some of the economic damage we are facing. Exxon's policies have disastrously proliferated in our lives for over six months, and will continue to haunt us if the State of Alaska does not intervene to help us to overcome this adversity.

We feel it is now the State's responsibility and duty, to help its' residents and businesses adjust and recover because Exxon is not showing any willingness or the ability to address

our individual cases. Unless action is taken, we will undoubtedly face future salmon seasons unable to compete on equal ground with people in the same profession. We will only be able to subsist. The people who were on charter, who fished, or who are receiving fair compensation will quickly gain ground. Damage from the 1989 oil spill will be compounded in future years unless we receive interim assistance. We cannot afford to wait for the court settlements to fairly distribute compensation and address our needs today. Therefore, we are calling your attention to this overlooked group of fishermen.

Sincerely,

Chris Berns

permanent { Lacey Berns
Box 26, Kodiak, Alaska
99615
-or-
attending { 2084 Buttermilk Ln.
school { Arcata, Calif. 95521
until { (707) 826-9430
May 1990 { FV Tanaga

Feb. 4, 1990

Jay Mathews
Washington Post
1150 15th St NW
Washington, D.C. 20070

Dear Mr. Mathews,

I am compelled to write you and your paper concerning the article printed in the S.F. Chronicle on Jan. 29th.

The article gives the false impression that the Lopez couple is typical of how fishermen were treated last summer. On the contrary, in Kodiak, which was the hardest hit economically, we did not fish one day, we did not work "on charter" one day, and have not even been adequately addressed in our "claims." We are still waiting for our "4th payment." Exxon has not adjusted our run total which turned out to be 22 million fish, well over the 14 million they are basing their interim payments on.

This article is upsetting and fills me with

continuing anger and bitterness over the way Exxon has handled this fiasco. We would have been happy to work last summer but were forced to sit idly as our largest run went upstream, and as Exxon doled out the lucrative charters to boats not even involved in the Kodiak salmon fishery.

If you must write articles about this tragedy, please try to convey an adequate picture of other communities. Kodiak fishermen were treated much differently than those in Prince William Sound... much as if our area was not as important, or as needy.

I have enclosed several letters written during this emotional summer.

In our particular case, we have been deeply affected by the shortsightedness of their "claims" system and are scrambling to make payments, unable to live as we were living before the spill. Our claim is $\frac{1}{5}$ of what we made in 1988 - if you want to understand how Exxon treated fishermen

you need to know That The Lopez's were
very lucky to have fished and receive a charter.
Please feel free to write or call
if you have any questions.

Sincerely,

Lacey Berns
2084 Buttermilk Lane
Arcata, Ca. 95521

707-826-9430

Mixed Emotions in Alaska

As Exxon Captain's Trial Begins

By Jay Mathews

Washington Post

Valdez, Alaska

Tom and Doris Lopez fervently wish that the Alaska oil spill had never happened, but as they enjoy their new bedroom and television room, spruce up their new fishing boat and reminisce about their recent California vacation, it has become clear that the spill brought them more money than they had ever seen.

When jury selection begins today in Anchorage in the trial of Joseph Hazelwood, the captain charged with running the oil tanker Exxon Valdez onto a reef 25 miles from here last March, this village will be awash in mixed emotions.

An oil-spill boom has obscured bitterness toward Exxon, the tanker's owner, almost as completely as record winter snows have covered the gritty streets and petroleum-stained boats in Valdez with a white blanket several feet thick.

Doris Lopez, relaxing in the lounge of the refurbished community college, said, "I visualize all these Exxon executives sitting around a table saying, 'We will spend \$2 billion and pay off all these people and, when we get finished, they won't be able to say anything.'"

Neighbors' C

A critic of Exxon despite her family's financial success, she was confronted by a neighbor who is happy with the company and "wanted to know what made me think I spoke for people in Valdez."

Few here express much ill will toward Hazelwood, charged with one count of criminal mischief and other spill-related offenses that could bring as many as seven years in prison and \$61,000 in fines. Valdez residents blame the system, oil executives and government officials who created the conditions that caused the spill and failed to begin the cleanup in the crucial first hours of March 24.

144 dead bald eagles — 1,016 dead otters, lost fishing days and disrupted salmon-spawning patterns.

Sandra Cesarini, awaiting a crucial meeting on claims by her seafood processing company against Exxon, considers hers one of the few Valdez businesses that actually suffered from the spill of nearly 11 million gallons of oil in Prince William Sound.

"Most merchants probably tripled their business" from the influx of oil executives, cleanup crews, scientists and journalists, she said. Joe Bridgman, spokesman for the Alaska Department of Environmental Conservation (DEC), said some mer-

Many merchants tripled their business from the influx of out-of-state visitors

chants "literally became millionaires."

Bills Covered

Although they look forward to normalcy, most people here seem quietly grateful that Exxon and nature had enough resources left to provide work and cover the bills. And, although most have lost little income and many found bank accounts suddenly fat, they say they would trade it all for the simpler lives they led before the spill.

Michelle Hahn O'Leary, a fisherman in nearby Cordova, had about as much income from Exxon claims and limited salmon catches in 1989 as she did in the year before the spill. But during long days of forced inactivity as she attended spill-related meetings in Anchorage and Washington, punctuated by dashes through airports with heavy luggage, she aggravated a knee injury and spent eight weeks this summer recovering from surgery.

couples who have agreed to meet periodically with Washington Post reporters to discuss how the spill has affected them.

All say they realize that it will be some time before Exxon, which has spent \$2 billion on the cleanup, will return to being little more than a name on some of the tankers picking up oil from the terminal of the Trans-Alaska Pipeline.

Lawsuits Against Exxon

The three couples are involved, as are most people on the sound, in a series of private and government lawsuits against Exxon and Alyeska Pipeline Co., a consortium of oil companies, that may not be resolved for a decade.

If this were any other year, Tom Lopez, 33, and his wife Doris, 23, would be celebrating a professional triumph. They grossed \$428,000 this year. Even after paying taxes and heavy expenses for their two fishing permits and salaries for their crews, their net income was twice that of last year.

For \$1,000, they sold the gill-net boat that they had contracted to help in the cleanup — "It's now an oil-soaked piece of rotten wood," Doris Lopez said — and bought a new, faster gill netter, the "Blue Jay," for \$15,000. They had enough money left to attach a new bedroom and television room to their trailer at the foot of the mountain that looms over the town. They took their elder son Thomas, 4, to Disneyland.

But, as fishermen, they did not like what they had to do to earn most of this money. They made \$250,000 renting their gill-net boat to Exxon and doing other spill-related chores but only by pleading with company officials and watching closely for every opportunity.

Yet, to their surprise, by the end of the shortened season in August, the couple had gathered in \$141,000 worth of fish. Exxon paid them \$37,000 in compensation for lost fishing revenue.

The Lopezes said that with luck they could have made just as much

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
ALASKA OIL SPILL COORDINATING OFFICE

Lacey Berns

November 30, 1989

Chris and Lacey Berns
Box 26
Kodiak, AK 99615

Dear Mr. and Mrs. Berns:

On behalf of Governor Cowper, thank you for your letter concerning programs to assist fishermen affected by the EXXON VALDEZ oil spill. I understand that Mike Harmon has responded over the telephone to the points raised in your letter of September 19, but I also wanted to reply personally.

If I understand it correctly, your letter questions the fairness of the Exxon commercial fishery claims process and alleges that Exxon vessel chartering practices will place those fishermen who did not receive a charter at an competitive disadvantage in the future. Your solution to these perceived inequities is a low-interest loan program for those fishermen who did not receive an Exxon charter as well as those who did not receive a "fair" claim. Your letter articulates the feelings of other fishermen I have talked to about the Exxon vessel contracting system and claims process and I understand your frustration. However, I cannot offer you much assistance.

First, the state has no power nor desire to dictate the contractual practices of any private sector company in its relations with other private parties. While vessel contracting practices during the spill clean-up may have seemed inequitable, they apparently did not violate any state laws. And, absent a charter for every commercial fishing vessel in Alaska, I do not see how total fairness could have been achieved.

Second, Alaska also has no authority to formally intervene on behalf of fishermen in the claims settlement process. This office was heavily involved in attempting to informally assist the various commercial fishermen's organizations in negotiating the current claims process and most of those organizations appear satisfied with the result. While the two-year rule may not have been acceptable to all, a majority concurred.

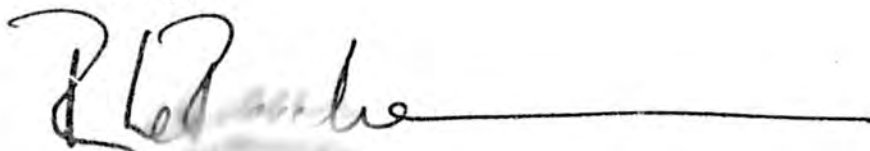
Finally, the kind of loan program you suggest would be fraught with legal difficulties. There would be just no way to fashion a state loan program which would achieve the result you seek. To do so, it would have to bar loans to fishermen who received charters. It also would have to distinguish between fishermen who received "fair" settlements and those who received "unfair" settlements. I hope you understand that would be an impossible task. On the other hand, a program which did not make those distinctions would simply maintain the dislocations you want the state to redress.

I also understand your frustration about the delays inherent in the judicial process. The fact remains, however, that your recourse is the same as that of the State of Alaska and your fellow small businesses—engage an attorney and file a lawsuit or join one of the several "class action" lawsuits.

I do not wish to minimize the psychological and emotional injuries you have suffered because I am sure they are very real. Only legal counsel can determine whether or not they are sufficient for a legally enforceable claim.

In the meantime, however, you should explore the possibility of a Small Business Administration loan. The SBA is currently accepting loan applications from businesses who have suffered economic hardship as a result of the oil spill.

Sincerely,

A handwritten signature in dark ink, appearing to be "Robert", followed by a long horizontal line extending to the right.

Robert

Oil Spill

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
ALASKA OIL SPILL COORDINATING OFFICE

August 16, 1989

Lacey Berns
Chris Berns
Box 26
Kodiak AK 99615

Dear Chris and Lacey:

Governor Cowper has asked me to respond to your kind letter concerning the Exxon Valdez oil spill in Prince William Sound. We have received thousands of cards and letters from all over the world, expressing anger, sorrow and disappointment over this disaster. We also have received thousands of letters like yours, recommending ways to mitigate damage from the spill.

Resolution of issues you raised are crucial. Rest assured, Alaska is committed to doing whatever is necessary to prevent another Exxon Valdez, including insuring that the clean-up of crude oil is made as environmentally safe as humanly possible.

I want to thank you for sharing your feelings. During the next few months, as we continue to fight this disaster, many of us will have to deal with our emotions and exhaustion. It is comforting to know that your wishes are with us. Like you, I hope that this tragedy can, at least, be a lesson for vigilant stewardship in the future.

Sincerely,

A handwritten signature in cursive script that reads "Robert LeResche".

Robert LeResche,
State Oil Spill Coordinator

U.S. Department
of Transportation
United States
Coast Guard



Commandant
United States Coast Guard

MAILING ADDRESS:

COMDT (G-MER-TF)
WASH., DC 20593-0001
Phone: (202) 267-0010

16465

Mr. Lacy Berns
Box 26
Kodiak, AK 99615

25 SEP 1989

Dear Mr. Berns:

On behalf of President Bush, this is in response to your letter of June 14, 1989, concerning the EXXON VALDEZ oil spill. Your views are appreciated. I want you to know that the Coast Guard is doing everything possible to minimize the impact of this incident on our environment as well as develop ways of preventing such disasters.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard H. Crawford".

RICHARD H. CRAWFORD
Captain, U.S. Coast Guard Reserve
Valdez Oil Spill Task Force
Marine Environmental Response Division
By direction of the Commandant

Editor
The Anchorage Times
820 W. 4th Ave.
Anchorage, Alaska 99501

May 29, 1990

Dear Editor:

I'd like to comment on your April 29th editorial regarding the National Wildlife Federation's message to Exxon's shareholders. My husband and I have resided in Kodiak and fished commercially for 30 years, ~~and~~. Although our lives were not totally "destroyed" by ~~the~~ spill, I'd like to inform your newspaper (which was purchased ~~by~~ all know, by oil spill profits), that hundreds of ~~the~~ Kodiak suffered emotionally and financially. We were not among the "spillionaires" who reaped incredible profits in the dirty business of cleaning our precious, gooey coastline. We did not fish, we were not allowed to work, and our lives are forever affected by Exxon's tragic mistake and methods of "compensation." We witnessed VECO's gluttonous method of managing the clean-up, reaping for itself millions of dollars in profits. Why, enough to buy its own forum in the Anchorage Times. How convenient.

If your stated purpose is "to present a balanced, accurate, and impartial news report..." then I dare you to print this, and I expect you to do a little more research on Alaskans in other communities who are not quite as thrilled about an "oil spill as a tool of economic recovery." You certainly don't represent the viewpoint of hundreds of previously hard-working commercial fishermen who anxiously sat out the season of 1989.

Sincerely,

Lacey Berns, FY TANAGA

Box 26

Kodiak AK 99615

707-456-4738

June 2, 1990

Dear Editor:

A comment on the controversy surrounding offshore oil development and the oil industry in general. As a resident of Alaska for 22 years, a "victim" of Exxon's tragic mistake last year, and as a woman whose family depends on commercial fishing in Kodiak, I feel qualified to further educate Californians on this matter.

In the aftermath of the oil spill, Exxon promised to clean our coasts. They didn't finish the job and paid a sub-contractor, VECO, to manage the task. VECO walked away with millions of dollars in profits. Exxon promised "to make us whole", to compensate us for the agonizing reality of losing a salmon season. They have since refused to pay Kodiak fishermen the full value of the enormous catch we would've harvested, had there been a ^{season} ~~harvest~~. They have "nickle and dimed" us by cutting our prices per lb., by denying that our fish weigh a certain amount in these calculations, and by denying that we would've caught certain fish that normally pass through Kodiak waters! In essence, not only did Exxon create a calamity for us as fishermen in the spill itself, but have since refused to negotiate in good faith for adequate compensation.

As for "pristine" coastlines, Exxon is now dabbling in "bioremediation"--spraying down still oiled beaches with chemical fertilizers! A process which is still experimental.

Many Alaskans testified in November at a Citizens Commission Hearing, sponsored by the National Wildlife Federation

the Natural Resources Defense Council, the Wildlife Federation of Alaska, and the Windstar Foundation, voicing their rage, frustration, and the TRUTH about Exxon and their oil spill. The facts are available in a free booklet entitled, "The Day the Water Died" from the Alaska Natural Resource Center, 750 W. 2nd Ave., Suite 200, Anchorage, Alaska 99501.

I urge you to consider these testimonies before placing your coastline and future in the hands of the oil industry and their "promises."

Sincerely,

Lacey Berns
Box 26
Kodiak, Alaska 99615
907-486-4738

or
707-826-9430 until June 14

3/21/90

Jamies, Ebell, Bodger, & Gentry
323 Carolyn
Kodiak, AK. 99615

Dear Matt and Duncan,

Our claim does not adequately reflect Chris' ability to "catch fish". According to our records (CFEC), there were many loopholes which have allowed Exxon to make inequitable payments to fishermen.

In 1987, Chris leased our vessel to Brian Wilson to go herring fishing as the price of herring was good ^(@2200/ton) enough to "give it a try." Thus, Chris had 2 salmon deliveries in June when there were actually 22 fishing days. Chris fished a total of 17 days for salmon in 1987 due to extenuating circumstances. In August, our daughter became ill with viral meningitis and was hospitalized. Chris came to town from Old Harbor in the middle of an opening, the height of the (Aug. 11 or 12)

pink run in that district, to see if she was okay. He brought the boat in. It was an emergency and he lost valuable fishing time. He also stopped salmon fishing early in 1987 to prepare for and do gear work for the King Crab season which would begin on Sept. 20th in the Bering Sea, on the FV Little Ann. This was a ^{prior} commitment.

In 1988, Chris fished 38 days, every opening he possibly could. He ultimately geared up ^(see our CCF expenditures) investing a large amount of 1988's earnings back into the boat and gear to put most of his energy into the 1989 salmon season. We invested \$70-80,000 into the boat because we were sure that we could equal or surpass 1988's earnings. Thus far, we have been severely disappointed and adversely affected by Exxon's methods of dispersing claim money. Because of 1987's amount - which was based on 3 unusual circumstances - our claim is less than adequate and does

not reflect Chris' catch ability. (*see Catch records).

Exxon's failure to pay us an "ADEQUATE" claim, plus their failure to pay Kodiak a post season run strength adjustment has continually put stress and pressure on our finances and mental health since last summer. We waited from August until February for our 4th payment. Our bank account reached a low point of about \$1500⁰⁰. Since I am in school and not able to work at this point, it was extremely stressful. Chris was forced to get a job tanner fishing in January - a job he had previously "retired" from. All of this, because we were "dependent" on Exxon to "make us whole"? Previous to the oil spill, we had plans to buy another home in Kodiak and/or get a different boat. Those plans could not be carried out, after our claim amount

reached severely low proportions. We received
 @ \$51,000 from Exxon in 1989, with The same
 amount of expenses incurred just as if we had
 gone salmon fishing. We have a
 \$ 14,000 business loss for fishing in 1989
 due to This extraordinary method of "payment." We
 have never incurred a loss before 1989.
 (*See 1989 TAXES).

As we have previously asserted, our
 ability to compete and survive in The Kodiak
 fishing industry has been severely hampered.
 As we have watched other fishermen upgrade,
 buy new boats, houses, etc. from Veco and
 Exxon claim money, we have been helpless
 to stay on our course for our fishing business.
 When some members of a population or
 profession receive more than others, it
 increases their ability in future fisheries, to
 do better ^{and} to compete on a stronger basis.

As always, we appreciate your time and
 effort in carrying this message to Exxon,
 in The legal sense. Thanks -

Lacey Berns
 2084 Buttermilk Ln.
 Arcata, CA 95521

9-89

Director
State of Alaska
Dept. of Commerce and Economic Dev.
P.O. Box DI
Juneau, Alaska 99811-0802

Sept. 10, 198

Dear Mr. Richard,

We appreciate The State's offer to help impacted fishermen, by extending The due date for our payments. We aren't sure whether we'll need This extension, however we would like your department to know exactly how the oil spill and Exxon's management of The clean-up affected us. So, I've enclosed a copy of one letter I wrote to The Kodiak Daily Mirror in August which helps to explain part of The problem.

Because we were not able to be hired as part of The clean-up effort, although Exxon did hire large vessels and setnetters, we are now in a position to have to "catch up" economically. Some seiners were hired in Kodiak and because of The exorbitant rates paid to chartered vessels, have now had Their most profitable seasons EVER. Where does That leave The person, like my husband, who has worked in The Kodiak salmon industry for 20 years, who has gillnetted for 11 years, and seined for 9 years? Many of The chartered vessel

owners can, at This moment, afford to buy a new vessel outright. A greater percentage of Kodiak seiners ~~are~~^{are} in our position of wondering if we'll be able to make payments, or to pay taxes, or to buy new gear for next year's "possible" season. ^{because} Exxon stifled the hiring process in May.

Let me explain to you how many ways this effected us:

- ① The price drop for salmon is not reflected in the interim payment for salmon claims.
- ② We put over \$70,000 of new gear and equipment into our vessel between 1988 and 1989. My husband worked for 5 months on this project. This is not reflected in the claims formula.
- ③ If ~~y~~ our salmon season was cancelled because of the presence of oil in our waters, why did Exxon not see the need to hire as many people as possible ESPECIALLY Kodiak purse seiners, to hasten the clean-up?? Why were we forced to sit around all summer tormented by Exxon's management of this crisis?
- ④ The "charter" situation has allowed some Kodiak fishermen the opportunity to upgrade, & has put them in a completely different financial category. Meaning that,

in future years, we will be competing with these same vessels, in the same waters. How can Exxon create an artificial economy such as this, which penalizes the person who could not get a job, or go fishing? Exxon created huge, disastrous inequities in their management of the clean-up. Should we be burdened by their incompetence and ignorance for years? Will Exxon be ultimately responsible to those who will suffer because of their policies?

- ⑤ Exxon has ignored the fact that over \$6 million fish returned to the Kitoi Hatchery on Kodiak, on top of the pre-season forecast. Fish we would have been able to catch, market, and be paid for. Our harvest in 1989 would have been stupendous.
- ⑥ Because of the presence^{of} oil, only one area was open - Olga-Moser Bay - where^{only} setnetters can ~~only~~ fish at this time. Normally, purse seiners are allocated a percentage of the catch which this year went entirely to setnetters, but because Cape Attak was closed, purse seiners did not have the opportunity. These setnetters had "multi-hundred" thousand dollar seasons because of this situation.

4

Furthermore, ADF+G allowed seiners to harvest subsistence fish in Olga Bay by emergency order. Perhaps, due to The extraordinary circumstances This summer, ADF+G could have issued an emergency order to allow seining ^{in Olga Bay} for commercial purposes? It was definitely an emergency situation. Kodiak seiners have been hit The hardest by These inequities, and would undoubtedly have opted to go fishing rather Than vegetate. I'm writing This letter to you as an informative tool which you might be able to use. We are angry and bitter over Exxon's management of The spill in Kodiak. We especially feel That Exxon should not have had The control over The clean-up and our lives which They had. The State should be aware of This.

Sincerely,

Lacey Berns

permanent

{ Box 26
Kodiak, Ak. 99615

temporary
while attending
school

{ 2084 Butternut
Arcata, Ca. 95521

BIXBY, COWAN & GERRY

Attorneys At Law

P.O. BOX 790

705 2ND AVENUE

CORDOVA, ALASKA 99574

(907) 424-5999

FAX # (907) 424-5357

April 15, 1991

My name is Bill Bixby; I am with the law firm of Bixby, Cowan & Gerry. We represent almost 1,300 commercial fishermen who suffered damage as a result of the Exxon Valdez oil spill.

I have listened to a tele-conference held in Cordova wherein Attorney General Cole seemed to be a little annoyed that individuals who testified asked him questions which were prepared by attorneys. Mr. Cole's position was that the attorneys could address those questions in court and therefore it was somewhat "wrong" for clients to pose those questions to him.

This is only a ploy from Attorney General Cole's part to avoid answering tough questions about the settlement. Mr. Cole knows full well that attorneys such as myself have no standing to bring a motion in court to object to the settlement. It would be akin to any of you on the committee trying to voice an objection of a settlement of an auto accident case of mine. The judge would ask you what business you had sticking your nose into my business.

The problem of standing aside there are also time constraints. The legislature must take action approving or disapproving the settlement in the very near future. As far as I'm aware there are no court hearings scheduled on this matter before the legislature must take action. The tough questions dodged by Mr. Cole must be answered before then if we are to know the meaning of the agreement.

Finally, there is nothing wrong with a client asking you or the Attorney General about the consequences this agreement will have on him. Like most of you, my clients are not lawyers. They can read the agreement but really do not understand the consequences of some of the language in it. Once their attorneys have explained what consequences the language of the agreement could have on them, you can bet your bottom dollar that none of them would ever vote for anyone who approved this settlement in its uncertain form.

Now let me discuss the gravest concern that I have regarding this settlement. It deals with language found in

paragraph 13(c) of the settlement agreement. That paragraph states:

Nothing in this agreement shall affect or impair the following:

c. The rights and obligations, if any, of legal entities or persons other than governments who are the holders of any present right, title, interest in land or other property interest affected by the oil spill.

When attorneys in our office first read that paragraph we had concerns as to the consequences of this paragraph. Our concerns became even greater when Exxon confirmed our suspicions as to how they would interpret this paragraph. We have been told by Exxon that they will not owe money to any fisherman for any damage done to the natural resource (i.e., fish) after the agreement has been adopted by the State. Under their interpretation they have paid the owner (the State) for damage done to the resource. Therefore, they do not have to pay the fishermen except for damages that have been presently accrued to the fishermen. In short, Exxon will not have to pay for damages to the 1991 salmon runs and every salmon run thereafter to fishermen who utilize the resource because they will claim that they have paid the owner (the State) for the damage already via their settlement agreement.

The following example will illustrate the problem. Suppose a client of mine has damages that once they are totally calculated amount to \$100 (for illustrative purposes only). Of that \$100 my client suffered \$30 worth of damage for 1989 and 1990. Under the terms of this agreement my client would only be able to recover the \$30 of damages he has accrued in 1989 and 1990 but will not be able to recoup the rest of his losses as that part of his case has already been settled by the State.

In Cordova, Bobby VanBrocklin posed this question to Attorney General Cole. Mr. Cole referred Bobby to paragraph 32 of the agreement. The last sentence of paragraph 32 says:

Nothing in this agreement, however, is intended to affect legally the claims, if any, of any person or entity not a party to this agreement.

Mr. Cole's reference to this sentence did not truly answer Mr. VanBrocklin's question. He again side-stepped the issue. Going back to my example of the fisherman who suffered \$100 worth of damage, this sentence still gives my client the right to go after his \$30 but still does not allow him to seek the total amount of damage he suffered by the oil spill because of paragraph 13(c) limitations.

Attorney General Cole needs to be pinned down and a definite answer received as to the answer to this question. Does paragraph 13(c) mean that commercial fishermen have no claim for damage to the fish runs after the agreement has been adopted? The agreement needs to be changed to reflect that the fishermen still have the right to go after the total damages incurred by them, i.e., both present and future damages, without interference by the State's settlement agreement.

All we ask is that the agreement reflect this in writing or by having Mr. Cole and all the other parties stipulate to this in open court.

In summary, if this agreement interferes with the right of fishermen to receive total compensation for the damages they have suffered, and will suffer in the future, it needs to be rejected.

Best regards,

William Bixby
BIXBY, COWAN & GERRY

WB/jam

May 22, 1991

Ms. Marian Callahan
540 "L" Street
Anchorage, Alaska 99501

Dear Ms. Callahan:

Thank you for taking the time to contact my office about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

CONSTITUENT REPORT

District 12

Subject: Exxon settlement

Date: May 7, 1991

Name: Mariam Callahan

H. Phone 272-6967

Res. add 540 L Street

W. Phone _____

Mail add 540 L Street, Anchorage

Zip: 99501

Synopsis of problem/request: Pleased with performance of all the House Democrats for rejecting the Exxon settlement. It was put together too fast, was too easy on Exxon and ignored lots of Alaskans.

Followup/Comments:

Staff name *Nancy Bobcock*

April 15, 1991

Sandra Clark
6766 Double Tree Court
Anchorage, Ak 99516
(907) 346-2800

House Special Committee
On Proposed Exxon Settlement
P.O. Box V
Juneau, Ak 99811

The comments contained in the attached copies of various letters to the editor, pretty well expresses the opinion of most knowledgeable Alaskans as to the role the State played in the Exxon "Valdez" incident.

The attached portion of Alyeska's oil spill contingency plan clearly shows that the effects of the spill were just as should have been expected under the circumstances as shown in the State approved plan.

The quicker the State can get this settlement behind it, the better off it will be.

Very truly yours,

A handwritten signature in cursive script that reads "Sandra Clark".

Sandra Clark

State bumbled cleanup

Dear Editor:

I would like to add a little more to your excellent editorial of Friday, Feb. 2, and Hugh Cunningham's column of Sunday, Feb. 4, regarding the continuing mass of oil spill misinformation that pours forth from both the Department of Environmental Conservation, and our chief executive — the "lame tur-

I observed DEC's handling of the oil spill in Kodiak far over seven months, and the fact they made a numerical error saying 224 beaches were deeply fouled when it's really only two beaches, is probably closer than most of the statistical information they've presented as a result of their 10 months of "scientific research."

The Kodiak DEC office during the spill consisted of some 40 people — the largest collection of non-Alaskan hippy types to be seen since Woodstock — all "supervised" by a man whose previous experience with the department had been as a restaurant inspector in Anchorage.

This amazing group punched in their time cards at 6 a.m. and punched out at midnight — seven days a week for six months. During that time they played cards and computer games, slept, ate and flew around the country sightseeing, fishing, taking pictures, and occasionally collected samples and figures that no one on earth will ever be able to figure out.

They also had wild parties, wrecked a state vehicle, refused to consult with the natives of the six Kodiak villages on any pertinent issue — were unable to handle even a simple phone call, and only the fact that God protects fools and drunks kept some of them from getting killed. Their second supervisor, who replaced the restaurant inspector after he's "lost" several hundred miles of beach, did break a few bones preforming silly tricks.

As far as the Kodiak office is concerned, I personally doubt that one true or usable piece of information was developed in the entire 10 months they've spent getting rich at state expense. As a witness to their action, I also believe that the blame for any long-term environmental damage should be laid firmly on DEC's doorstep. They hampered and restricted the cleanup — over extended their authority with Exxon, Veco and the Coast Guard and showed more ignorance and stupidity than this world has seen since the Titanic set sail without enough life boats.

It certainly makes me wonder if Alaska will be able to survive the remaining months of Cowper's administration.

Laura "Sasha" Hughes
Sitka

Time to fire Kelso

Dear Editor:

I am totally outraged about the Department of Environmental Conservation employees and their so-called overtime pay. If any of those union rip-off artists worked 12 1/2 hours a week, I'll eat my hat. That would be 17.35 hours a day, seven days a week, leaving only 6.65 hours for a meal, a bath and sleep. Come on, what kind of nonsense are these people trying to shove down our throats? Not only are they overpaid in the first place, but to see them sticking it to the Alaskan people for \$10,000 to \$18,000 a month is totally abominable.

The papers say their boss, Steve Provant, is concerned and that his boss, Bob LeResche, is investigating. But they don't go directly to the problem of the entire DEC and that's with their loud-mouthed leader, Dennis Kelso. This is the man who should shoulder all the blame and should actually be fired for allowing his people to gouge the people of Alaska.

Dennis Kelso is the man whose early decisions in the spill not only exacerbated cleanup efforts but also probably did more damage to the beaches than the oil did, over the advice of scientists. I might add.

This is the man who had never even set foot in Valdez in all the time he was on the payroll until after the spill.

If we can prosecute the guy who was asleep in the back seat for what the man behind the wheel did, we can surely demand Dennis Kelso's pink slip.

Larry W. Phillips
6711 Lunar Drive

The Juneau

Dear Editor:

Perhaps some new light can be shed on the Exxon Valdez grounding. We Alaskans all got a black eye from this accident. Captain Hazelwood and Exxon have been highlighted.

Are we so naive as to overlook the real cause of the wreck? I personally find it appalling that one man is being held responsible for embarrassing the state of Alaska. Where were the safeguards that were supposed to be in place to prevent this very thing? In theory we had agencies whose sole function was monitoring and ensuring that this couldn't happen. But if it did, it could be contained!

Hopefully no one at the Department of Environmental Conservation and the U.S. Coast Guard was hurt in the stampede to distance themselves from exposure of their neglect.

I've seen enough oiled birds and otters to gag. Let's see some coverage of those agency directors that pulled their heads out of the sand and got to higher ground. Buzzards aren't native to Alaska, but at the Daily News they are in abundance and gorging on the oil industry!

Don Whitehead
Anchorage

Kelso bears much of blame

There has been a preponderance of misleading stories written by the Anchorage Daily News lately alluding to the premise that Alyeska was unable to handle the Exxon Valdez oil spill as promised. Most of these stories appear to be based on information and complaints furnished by the DEC and its commissioner, Dennis Kelso.

If Mr. Kelso had bothered to read the Alyeska Oil Spill Contingency Plan before approving it (it was reported he did not), he would have known the following:

1. The plan clearly shows that if a spill of this magnitude did occur, and the use of dispersants and burning were not immediately allowed, the amount of oil reaching the shoreline would be just like it was in this case.

2. The plan further states that even under the most ideal conditions, in a spill only 1/65th the size of that of the Exxon Valdez, 40 percent of all the spilled oil would reach the shoreline and would require approximately two months to clean up.

By approving this plan, the DEC approved of the expected consequences. Remember, this plan was 100 percent DEC-required, -administered and -approved.

In spite of all of the attempts to whitewash, praise, and glorify Mr. Kelso and the DEC, the only conclusions that can be drawn from all of the evidence are:

1. If Dennis Kelso did indeed not read the plan before he approved it, he should be immediately fired.

2. If, in light of Dennis Kelso's remarks as to the inadequacy of the plan, he did read it and then still approved it, he should be immediately fired.

— Sandra Clark

Pumping up the numbers

Dear Editor:

Did you ever wonder why oil is discovered, produced, transported and processed in barrels but only spilled in gallons? Because bigger numbers sound much more dramatic!

So goes the governor's DEC report on oil penetration of Prince William Sound beaches (the misstatements were uncovered and reported in The Anchorage Times Feb. 1).

Mr. Kemelovitz made lame excuses and stated, "the figures are definitely approximate" and "these measurements are approximate by the way you measure them."

Then why measurements in centimeters? Elementary, my dear Watson, look at the big numbers!

Now no one will deny that any oil spill no matter what size is serious. But let's get real and put things in perspective! I'm 21,000,000 minutes old but I sure as heck wasn't born yesterday.

Marvin Ebner
Starling AT 2-16-90

An end to smokescreens

Dear Editor:

Many people in the state are currently focusing on the projected future revenue shortfalls which will be caused by decreasing oil revenue, but there is another large liability looming on the horizon that appears to go unnoticed by the general public.

State statutes place protection of the environment in Alaska as the responsibility of the Department of Environmental Conservation (i.e., Dennis Kelso). Therefore because DEC was lax in working effectively with Alyeska and Exxon in the containment of the Valdez oil spill, the state will have to share part of the responsibility.

The lawsuits filed against the state so far are probably just the tip of the iceberg. Once the public finds out that claims filed against Exxon will be paid by both Exxon and the state, the "only" mouse will really hit the fan.

Kelso can hide a while longer behind the smoke screen that he continues to throw up, but he better remember one thing — there is no smoking allowed in the courtroom!

James Blalock
Anchorage

Paying the piper AT 2-17-90

Dear Editor:

I noted the other day that Exxon has counter-sued the state. It seems that after the state insisted that Exxon spend \$2 billion on the spill, washing rocks, they then sued Exxon for damages. Exxon, of course, counter-sues saying that the state prevented them from using dispersants or burning before the spill got out of hand. Therefore, the state should reimburse them for most of their \$2 billion cost.

What happens five or six years from now when this mess finally emerges from the court system and Exxon wins? Those of us still here will have to come up with \$2 billion, plus interest, plus attorney fees, etc. Mr. Cowper and Mr. Kelso will probably be living in California saying, "Gee, that's too bad," while we spend our Permanent Fund paying off the debt.

I think it is time to start focusing on all the bad guys in this mess, not just Exxon. Cowper and Kelso have not contributed anything positive to the problem. In fact, they became part of the problem.

I think we should hold these guys accountable now. Why is Kelso still DEC commissioner? Why is Cowper not being taken to task for his actions? We Alaskans who were here when these two clowns came to Alaska will be here after they leave, paying the bills for their actions.

Bob Bell
2610 Curlew Circle

Questions on DEC overtime

I would like to pose several questions to the state Department of Environmental Conservation. I hope they will use this public forum to reply.

The issue is not about the overtime wages paid to employees of the department working, presumably, on the Exxon tanker spill. My questions are:

1) What were the employees doing of such importance to justify the massive use of overtime, much in the winter months?

2) If the work was essential, why was the overtime eliminated just when the public learned of the issue?

3) If the overtime was non-essential, then how was it authorized in the first place?

4) Who is to pay this overtime: the public or Exxon?

ADN 1-31-90 David G. Hendrickson

Prince William Sound Tanker Casualty: Spill Amount 200,000 Barrels

Alyeska Pipeline Service Company has been requested to respond to a scenario of a 200,000-barrel spill in Prince William Sound. APSC believes it is highly unlikely a spill of this magnitude would occur. Catastrophic events of this nature are further reduced because the majority of tankers calling on Port Valdez are of American registry and all of these are piloted by licensed masters or pilots. Nonetheless, should such an incident occur, the following is our overview of the initial response to that scenario. Attached is an oil spill trajectory of the oil movement. A spill of this magnitude would require considerable resources and logistical operations, the minute details of which are not included in this scenario because the details are not useful in long-term response planning. This scenario will not address the circumstances responsible for the loss of cargo or of the fate of the tanker. Once a tanker is immobilized, the U.S. Coast Guard will determine future movement of the vessel.

Assumptions

The following assumptions are made in presenting the response to the scenario: The sea state and weather conditions are in and remain in a state conducive to oil containment and cleanup. For example, winds less than 15 knots, sea state less than 5 feet, currents less than 1.6 knots, waves less than 2 feet, visibility equal to or greater than 2 miles.

The spill incident occurs through some failure of the tanker crude tanks and does not discuss other disaster possibilities such as collision or fire.

Conditions

In addition to the above assumptions on sea state, the weather is assumed to be conducive to oil spill cleanup and remains in this mode for the response actions. For this particular scenario and trajectory input, the date of June 22 at 6:00 a.m. was chosen for the spill incident with winds from the east at 5 knots. The location is 60° 30' 5" North, and 147° 2' 0" West longitude. The tanker has a cargo amount of 550,000 barrels. The trajectories show two possibilities—one is an instantaneous spill of 200,000 barrels and a second is a 10,000 barrel per hour spill that continues for 20 hours. Figure 306-6 shows the trajectory oil spill movement. It is approximately 30 miles to the site from the Valdez Terminal; an average speed of 12 knots is used to determine the travel time to the area for the Crowley tugs. An approximate speed of 8 knots is used for towed equipment and 20 knots for the workboats without tows. Figure 306-4 is a summary of equipment capacity and response times. Figure 306-5 is a table of equipment in the first response effort.

Immediate Response Actions

On notification of the pollution incident, the following response actions would be simultaneously initiated. The closest empty or light loaded tanker will be directed to the spill site with an estimated maximum arrival time of 12 hours. The initial response would include moving containment booms, skimmer equipment, support equipment and personnel to the site. Additional backup personnel and equipment from the pump stations along the line would be mobilized. Private commercial vessels from the Valdez small boat harbor would be employed to assist in booming and logistical support. Aircraft in Valdez would be employed to assist in the response with overflights, communication or logistics. This would immediately be backed up with air support from our eleven on-call flight services contractors. APSC would request U.S. Coast Guard Pacific Strike Team assistance through the Valdez U.S. Coast Guard office. In addition, all oil spill contractors in the state of Alaska would be asked to mobilize and move to the site as soon as possible to respond to the spill. Also, a request to the local cooperatives, CIRO and Alaska Clean Seas, would be made for any additional equipment that they could supply to this area. See Figure 607-1 for a summary of air transport response times and Figure 607-2 for vessel response times. A request would be made to the Association of Petroleum Industry Co-op Managers to respond with available equipment and personnel that can be located in the West Coast area. The International Bird Rescue Research Organization would be immediately requested to mobilize and prepare for movement to Prince William Sound. A request would be made immediately to the OSC to apply dispersants to the oil slicks. Biebert Aviation and other dispersant contractors would be requested to mobilize in Valdez and be prepared to apply dispersants. A request to open-burn slicks on the ocean and debris and oil on the shoreline would also be made immediately to the OSC.

to open-burn slicks on the ocean and debris and oil on the shoreline would also be made immediately to the OSC.

It is expected the agencies response actions would include the following: The regional response team would be immediately mobilized. The decision process on dispersant application would be begun immediately. There would be a joint meeting between the U.S. Coast Guard, EPA, Alyeska, Alaska Department of Environmental Conservation, U.S. Fish and Wildlife Service and possibly other government entities, to keep all affected parties apprised of the situation and, hopefully, to facilitate the decision making on the response alternatives.

As a result of the initial coordination meeting, it was decided certain response priorities would have to be made as this would be a long-term impact and cleanup situation.

The trajectories indicate that oil will threaten Eleanor Island, Naked Island, Lone Island, Perry Island and the Pigot Bay area, Culross Island and the Main Bay area shorelines. Although it is unlikely oil will reach Main Bay, as a precaution the fish hatchery will be boomed immediately. Some of the exclusion area numbers 79 through 92 may be impacted by the oil movement. The first areas of consideration would likely be exclusion areas 81, 82 and 83.

Second considerations would include areas 79, 80, 89, 90, 91 & 92, and third consideration would likely be sites 84 through 88. These sites are considered sensitive, primarily because they are salmon spawning areas. Additional sites or other areas may have a higher priority, depending on the oil movement and other additional information that may become available. The oil spill trajectory indicates the above priorities are likely to be the most significant. This information is listed in Section 300. One of the oil spill response contractors would be directed to Whittier with the sole task of providing exclusion booming in these areas with the above-listed priority, unless other priorities were agreed to among the agencies and Alyeska at the coordination meeting.

300

PRINCE WILLIAM SOUND SCENARIO RESPONSE TIMES

Vessel	Storage Cap. (bbls)	Recovery Rate (bbls/hr)	Vessel Speed/Prep Time		Travel to Spill with Prep Time (hrs)
			(knts)	(hrs)	
Tugs	N/A	N/A	12	0	2.5
2 Mooring Launches	N/A	N/A	8	0.5	3
Towing:					
Marco Class V	40	428			
Marco Class VII	80	428			
2 Vikoma Seapacks	w/ 1500' boom each				
2-21' Monarks	N/A	N/A	20	0	1.5
1-26' Monark	N/A	N/A	20	0	1.5
1-26' Monark	N/A	N/A	8	0.25	2.75
Towing:					
1 Vikoma Seapack	w/ 1500' boom				
Tug & Contingency					
Barge with/	4700	N/A	8	2.5	5.0
Sea Skimmer	N/A	536			
Equipment	1976 (bladders)				
Towing:					
2 Vikomas	w/ 1500' boom each				

PRINCE WILLIAM SOUND SCENARIO
RESPONSE TIMES

Figure 306-4

Distribution of Oil

It is estimated that approximately 50% of the oil will be recovered at sea, either directly after the spill or at a later time by being washed off of the rocks, contained and skimmed off of the water. Approximately 15 percent of the spill will evaporate during the time it is moving toward the shoreline and prior to removal. Of the oil that remains approximately 15 percent of the oil will be recovered from the shore, primarily by washing the oil off of the rocks and recovering it on the water. Fifteen percent of the oil will naturally disperse and approximately 5 percent will remain in the environment.

Environmental Considerations

Along with the salmon spawning areas and the sea bird colony areas there are some purse seine and drift gill net areas around Esther Island in the Port Wells area. There is also some ground fish activity on the west side of Naked Island, Eleanor Island, Ingot Island and the Port Wells area.

Section 600 of the Prince William Sound Contingency Plan gives us the Sea Bird colony areas that would likely be impacted by a spill of this nature. The Naked Island group, Eleanor Island, Bald Head Criss Island, Dutch group, Perry Island, Fool Island, Egg Rock, and Esther Rock are likely impact areas of the sea bird colonies. There is a possibility that Smith Island and Little Smith Island sea bird colonies may also be impacted with a slight wind change. The most likely effective protection of the sea bird colonies is to prevent the oil from impacting the shore lines at all. This can be done of course only by dispersing the oil at sea, or allowing an open burn of the oil at sea. Since the timely application of dispersants is so important it is necessary that the decision process for allowing dispersant application be approved prior to an incident such as this. It will allow the oil industry to stockpile the necessary dispersants and application means so that resources such as the sea bird colonies can be protected in the most reasonable manner.

This has been a brief initial response to the spill scenario of a 200,000 barrel catastrophic event. There would, of course, be a long term cleanup of the spill on the various beaches of Prince William Sound. In reviewing the aspects of this size spill it becomes very apparent how important it is to have dispersants approved so that they can be used very effectively to prevent the continuing input of oil into the small bays and shorelines in Prince William Sound. Burning also has to be looked at as a very good alternative to the cleanup in Prince William Sound on the various inlets and bays in which oil may accumulate.

May 8, 1991

Governor Walter J. Hickel
P.O. Box A
Juneau, Ak 99811-0101

Dear Governor Hickel,

Well, try as you might, by the looks of the budget, it appears that you were unable to talk any sense into our irresponsible legislators. It is a shame for all Alaskans that the Democrats and the few Republicans who have defected, can't fulfill their fiscal responsibilities.

The end of the the legislative session is sort of like spring breakup. Things heat up, and all of the trash that has accumulated over the winter is exposed. And as usual, the budget is the biggest pile of trash to emerge.

I know that the veto is not the preferred way to go, but the legislature has left no other choice. They could have made fairly painless cuts where you suggested, or anywhere else their little hearts desired. Now, they should be held accountable for any drastic measures that must be taken.

Feel free to use the enclosed red pen on the legislature's behalf. I probably won't necessarily like it, but I am perfectly willing to accept any cuts directly or indirectly affecting me and my family.

Very truly yours,



Jerry Celey
6766 Double Tree Court
Anchorage, Ak 99516

cc: All Legislators



April 26, 1991

The Honorable Max Gruenberg, Chairman
House Special Committee on Exxon Settlement
Post Office Box V
Juneau, Alaska 99811

Dear Representative Gruenberg:

I am writing to formally protest the exclusion of Valdez from your committee's recent round of meetings in southcentral coastal communities. We in Valdez could develop paranoia when it comes to relations with the State if we were not mentally resilient. In looking at the list of other meeting sites, Valdez was conspicuous by its absence.

I understand the constraints of time and distance your committee must have been under and I sincerely appreciate your coming to the region to gather input. However, for the record, I would like to note that no town can hold a candle to us in terms of impact of the oil spill on municipal services. We were not "oiled" by the Exxon Valdez, but our community exploded during the spring and summer of 1989 as a result of the spill. Our population tripled, with adequate housing lagging far behind the demand, crime was up 600%, our sewage treatment plant was handling 4 to 5 times its normal volume, temporary buildings sprung up overnight, employee availability and salaries became irreparably skewed, our economy was severely disrupted, and other symptoms of gross impact were manifest. These same things happened in other places, but not nearly to the degree they occurred here. We are probably guilty of not complaining enough about the extraordinary impacts that happened here. Again, we pride ourselves in our ability to respond to these unexpected events and bounce back from misfortune.

We believe a Valdez meeting would have given your committee another important perspective that it did not receive in other venues. I believe the City and your committee are both poorer for the oversight.

Best wishes in your deliberation on this vital issue.

Sincerely,

Lynn Chrystal
Mayor

LC:DG:blp

xc: Representative Gene Kubina

*In favor of
Settlement*

April 18, 1991

TO: Representative Max Gruenberg, Chairman, House Special
Committee on the Exxon Valdez Oil Spill Claims Settlement.

FROM: Kieran E. Donahue
Scientific Diver, IMS/SFOS (UAF)
5243 A. Broadway
Eielson AFB, Alaska 99702

(ph.) 907-372-3359

SUBJECT: Testimony - Exxon Valdez Oil Spill Claims Settlement

April 18, 1991

To: Representative Max Gruenberg, Chairman, and Members, House
Special Committee on the Exxon Valdez Oil Spill (EVOS) Claims
Settlement

Rm. 216, Capitol

P.O. Box V

Juneau 99811

From: Kieran E. Donahue, Student of Natural Resources
Management, and Scientific Diver for the Institute of Marine
Science, University of Alaska Fairbanks (UAF).

I would like to offer testimony on the proposed Exxon Valdez
Oil Spill Claims Settlement Agreement. It is my opinion that
the state of Alaska should accept the 9.9 million dollars that
Exxon Corporation has agreed to pay. However, in the best
interest of Prince William Sound, I would encourage that part
of the settlement money be used to: (1) Establish a Long-Term
Monitoring program for Prince William Sound and (2) the
publication of all scientific data related to the oil spill.

I offer the perspective of a university research student who
has been involved in different aspects of scientific research,
in both fresh water and marine ecosystems, for over six years.
I was a Field Supervisor/Scientific Diver for the coastal

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 2

habitat assesment project(subtidal) that was performed under a contract with the Institute of Marine Science(IMS)/UAF.

I am not offfering my testimony on behalf of IMS, but I draw upon my experiences and work with other scientists in developing my analysis and recommendations.

PART I LONG TERM MONITORING

The United States is in danger of losing an important national historic and scientific asset.

A.Prince William Sound and South Coastal Alaska are special.

Prince William Sound(PWS) is one of the last intact coastal environments that remains in the world. The Sound is a world class ecological resource, and is one of the most biologically productive and diverse systems of its kind in the world. In order to insure that PWS remains a productive and healthy area, a long term monitoring program should be established.

B.Relationships are complex.

I don't believe enough attention has been given to integrated approaches involving the PWS system as a whole, including terrestrial, intertidal, and subtidal components. At

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 3

the present time, many agencies spend money and time studying the individual resources of PWS. These agencies are responding to their missions and doing what they can individually. But this fragmented effort needs to be consolidated, coordinated, and focused into an integrated approach to long term monitoring. There stands before us now a chance to pull this effort together and fill the gaps by using some of this money from the claims settlement.

C. Good information and insight is needed to make the best management decisions.

For a long term ecological monitoring program to provide useful information, managers and scientists must together define the key information needed to understand and track the health of a system. Sometimes simple measurements can be made at intervals, but it is important to maintain the effort to provide for continuity so that the measurements are meaningful.

Monitoring can be done for a variety of reasons. As an example, some of the key variables I would recommend for monitoring include:

1. Primary Producers
 - a. Kelp
 - b. Laminaria and Agarum
 - c. Plankton

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 4

2. Harvested Species

- a. Salmon
- b. Herring
- c. Halibut

3. Keystone Species or Species of Special Interest

- a. Shellfish (eg. Sea Urchins)
- b. Sea Otters
- c. Orcas

D. The importance of monitoring primary producers as an example of species interrelationships.

Primary producer species such as kelp not only provide food for certain organisms, but they also provide habitat at both large and small scales. Kelp beds are hiding places for small fish such as juvenile salmon. They also provide a place for herring to attach their egg sacs. A healthy marine system requires healthy and abundant Kelp.

The EVOS may have threatened the productivity of PWS in an unexpected way. Kelp beds are heavily grazed by sea urchins. Sea otters, however, eat the urchins and keep their numbers in check. Without otters (killed by the spill) the system will see an increase in the sea urchin population. Sea urchins can now overgraze the kelp beds of PWS causing a drastic decline in the

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 5

kelp population and productivity. The loss of kelp beds will reduce the habitat for spawning herring and cover for small salmon. This in turn may have an adverse effect on the fishing industry by limiting the number of fish that can be harvested, thus adversely effecting the economic balance of the area.

From this example, it is possible to see the integrated relationship of organisms within the system and why it is important to understand whether a system is healthy or not.

To help us make the right decisions in managing PWS we need to "take the pulse" of the system. In order to accomodate the questions and concerns that have been raised, and others like them, base line data needs to be gathered and formulated. The size of the base line data needed can only be obtained through a long term moitoring program.

PART II: PUBLICATION OF BASE LINE DATA

Monitoring can be simple when it is hooked up to a deep understanding.

A. Importance of Base Line data

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 6

- 1.) Managers have a responsibility to base management decisions on a firm understanding of resource conditions and possible human impacts on the public resources they manage.
- 2.) We don't need to study or monitor everything in the system. However, there is so little known about the natural ranges of species within the PWS ecosystem that extensive work needs to be done to establish this information. Only if normal limits of individual species are known can abnormal conditions be readily identified in time to take corrective action.
- 3.) One example of base line data that has proven to be very effective is population dynamics of selected organisms--the ways in which populations change.

Population dynamics accurately reflect ecosystem conditions because organisms integrate the effects of a vast array of ecological factors, including predation, competition, and environmental conditions that are expressed as changes in readily measured population parameters.

Population dynamics permit predictions into the future providing early warning of adverse conditions through

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 7

changes in parameters such as age structure and recruitment.

Population dynamics provide information at the species and population level, which is the level at which most management controls operate. Therefore the monitoring information is directly applicable to management concerns.

B. Existing and Continuing Base Line Data For PWS.

Following the EVOS, an effort of unprecedented magnitude by state and federal governments and Exxon to study the effects of the spill, was set in motion. Among those efforts are state and federal Natural Resource Damage Assessment studies designed to measure injuries to natural resources, including birds, mammals, fish and other wildlife, and marine and terrestrial habitats.

Some of the studies that have been done to date in the terrestrial, intertidal, and subtidal zones of PWS, are the most intensive studies of their kind ever done in the Northern Pacific. But they will be of little value if they remain secret.

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 8

and if they are not pulled together and key components continued.

I strongly recommend that all damage assessment base line data be released from secrecy once a settlement agreement is reached. To not allow the scientific community to publish and release the data they have gathered and analyzed in the last two - three years after the spill is absurd. These data are a crucial starting point in formulating a base line of biological information in PWS. The loss of this critical information will have long reaching detrimental effects on establishing a quality monitoring program in PWS. It can not be stated strongly enough, that, only if normal limits of species are known can abnormal conditions be readily identified in time to take corrective action.

In summary, I believe that;

Instead of wasting time and money in court, it is my opinion that the state of Alaska should accept the money being offered in the settlement agreement as long as an adequate sum of that money is set aside in an endowment fund (or something comparable) to put in place, and support, a long term monitoring and study program in PWS.

By establishing what exists in a system we will be better prepared to recognize and adress problems when they arise.

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 9

Monitoring over time can give managers a firm understanding of resource conditions given that all parameters have been given a chance to be explored.

If a long term ecological monitoring program is going to provide useful information, managers and scientists must be allowed to utilize every possible tool at their disposal.

Base line data have been gathered and analyzed. It is now time to release and review that information so that the best possible management decisions can be made.

There will be other problems for PWS, why not make the best of this bad situation by doing something positive and preparing for the future.

DAVIS WRIGHT TREMAINE

LAW OFFICES

SUITE 1100 • 150 WEST 11TH AVENUE • ANCHORAGE, ALASKA 99501
(907) 257-5300

DAVID W. OESTING
(907) 257-5323

April 13, 1991

Via-Facsimile
(907) 235-3140

The Honorable Max F. Gruenberg, Jr.
House Judiciary Co-Chair
State of Alaska
District 11-B
Room 118, Capitol
PO Box V
Juneau, Alaska 99811

Re: The Exxon Valdez Oil Spill

Dear Representative Gruenberg:

At the request of Mr. Robert Cowan I am providing you with the following statement. I do so as one of the two Court appointed Lead Counsel charged with the leadership and coordination of the litigation of all private sector persons and entities with claims for damages arising out of the Exxon Valdez Oil Spill.

The specific topic which Mr. Cowan asked me to address is framed by paragraph 13, subparts b. and c. of the proposed Agreement and Consent Decree intended by the United States, the State of Alaska and the Exxon defendants to settle the Oil Spill litigation pending between them. More specifically, the precise selection of words contained in these subparagraphs, when juxtaposed to the actual nature of the physical damages to natural resources caused by the Oil Spill and the path of transmission of that injury to private plaintiffs dependent upon the physical condition and biological production of those natural resources for their livelihoods, is serious cause for alarm. The

It should be noted that the same terms are exactly and carefully duplicated and reaffirmed at paragraph III, subparts C-2. & 3., of the proposed Memorandum of Agreement and Consent Decree for settling the litigation between the United States and the State concurrently with the tripartite settlement between the governments and the Exxon defendants.

FAX: (907) 257-5399

BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

Max F. Gruenberg, Jr.
April 13, 1991
Page 2

selection of the words ". . . any present right, title, or interest in land or other property interest effected by the Oil Spill;" when analyzed under the legal rules pertaining to the assessment of damages illustrates quite clearly that Exxon (now to be joined by the State and the United States) intends to argue that the future biological output in the form of fish, shellfish and other harvestable products dependent upon the cleanliness and productiveness of Alaska's natural resources, is owned and controlled by the governments to the exclusion of the private and commercial harvesters of such resources. Therefore, the latter persons have no standing to claim damages for diminished future harvestable output of the natural resource assets of this State.

My opinion that the foregoing accurately states Exxon's, and the respective governments, position with respect to recovery for future natural resource damages as they affect private citizens has been distilled from numerous communications and discussions with all parties concerned over a substantial period of time in my role as Lead Counsel for private plaintiffs' Oil Spill litigation efforts. Due to constraints on certain dialogue and/or communications in that process, I am not in a position to cite to any documentation or communication supporting this opinion. However, the simple solution to determine whether it is accurate is to ask the state representatives and Exxon representatives whether a commercial fisherman in Prince William Sound or the Kodiak archipelago has a claim for economic losses suffered by reason of diminished salmon production in the future caused by the Oil Spill. If that question is answered in the negative, there can be no doubt as to the intent and objectives of the governments and the Exxon defendants with respect to such claims under their settlement agreements.

I hope the above is responsive to your inquiry as presented to me by Mr. Cowan.

Very truly yours,

DAVIS WRIGHT TREMAINE

David W. Oestling

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee



Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: Representative Max Gruenberg, Chair
House Special Committee on the Exxon Valdez Settlement

FROM: Representative Cliff Davidson

DATE: 23 April 1991

SUBJECT: Disapproval of Settlement Unless Modified

Below are some conditions that I believe the Committee should support as we take up consideration of disapproval without these conditions in the settlement:

1) All factual information accumulated during the course of the Exxon Valdez oil spill scientific studies, whether done by Exxon or the governments of Alaska or the United States must be made available immediately upon the final approval of this settlement.

This may be the most important element in the restoration of the faith of our citizens in government. That should be one of the primary public policy goals in resolving this tragedy. It is clear that the current settlement does just the opposite and this provision is essential to the restoration of a measure of justice and openness in this process.

2) The payment of the full amount of the settlement should occur over 3 years, not 10 years.

If Exxon wants to resolve this situation as soon as possible, this will do it quicker. As a sweetener, I propose that we eliminate the reopener clause. Its effectiveness was limited and it only served to artificially inflate the apparent value of the settlement.

3) Delete those provisions which provide that Exxon can set off cleanup expenses against the settlement.

Settlement for the damages caused by Exxon's mistakes should not relieve Exxon of the responsibility of continuing the cleanup to the satisfaction of both the state and federal governments.

4) Prior to final agreement, there should be a better definition of how the Trustees will be selected, under what rules of procedure

they will operate, how the public process will operate and what kinds of projects will qualify for funding.

These are very important provisions that should not matter to Exxon, thus they will not affect the overall settlement. I am unclear as to how they should be worked into our disapproval of the settlement, but feel strongly that they should be.

5) Alyeska should not be mentioned in the settlement.

Alyeska was not a party to the negotiations and they should not be absolved from culpability.

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7628

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE

CHAIR
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

TO: Rep. Max Gruenberg, Chair,
and Members of the House Special Committee on the
Exxon Valdez Oil Spill Claims Settlement

FROM: Rep. Johnny Ellis *JE*

RE: Comments on the Exxon Settlement

DATE: April 26, 1991

In the aftermath of Judge Holland's decision regarding the criminal plea in the suit between Exxon and the federal government, I understand the Committee will proceed as planned with deliberation on the civil suit, at least until any of the parties give notice that they are withdrawing. Although I am not a member of the Special Committee, I would like to offer my comments regarding the proposed civil settlement.

You may have noted in a recent Anchorage Times article that I was one of two legislators who has decided to vote against the proposed settlement. The article was correct if the the choice for legislators is to simply take it or leave it. However, I see no reason why the legislature can not set its own list of conditions for acceptance of the settlement. **I encourage the Committee to adopt the position that the settlement be rejected unless certain changes are made.**

I would be willing to vote for the settlement if it included the following changes:

1) PAYMENT UP FRONT OR WITH INTEREST OVER TIME

If we accept \$900 million as the settlement figure (which is much lower than the preliminary damage assessment figures), then the state should receive it in one lump sum or with interest if paid over time. The expectation created by the Governor is that the settlement figure would be around \$1 billion and not \$500 million, which is the approximate present value amount.



2) DAMAGE ASSESSMENT INFORMATION SHOULD BE MADE PUBLIC

The settlement should be written to ensure that all damage assessment information is released to the public. While the Attorney General has a legitimate need to protect the government's interest by withholding this information, the legislature has a broader interest in representing the people of Alaska who have a right and a need for the information.

3) PUBLIC/LEGISLATIVE APPROVAL OF TRUST FUND EXPENDITURE

The settlement needs to provide for an ironclad guarantee that the Alaskan public is allowed to participate in decisions regarding the restoration process and use of the settlement monies. Perhaps the legislature's approval should be required which has the advantage of helping to avert constitutional (dedicated fund) challenges.

4) RECOVERY OF LOST TAX REVENUES

The state should receive immediate payment for lost tax revenues related to the oil spill in addition to the restoration monies. This includes \$19-33 million in lost petroleum tax and \$5-6 million in lost fish tax revenues, as estimated by the Legislative Research Agency.

cc. all House members

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7628

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE



*To Max
FROM ANDY*

CHAIR
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

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cc. all House members

ALASKA CONFERENCE OF MAYORS

PRESIDENT 1991

Robert B. Brodie
Mayor, City of Kodiak
(907) 486-8635

217 SECOND STREET, SUITE 200

JUNEAU, AK 99801
(907) 586-1325 Fax 463-5480

VICE PRESIDENT

Dan Keck
Mayor, City & Borough of Sitka
(907) 747-3294

April 16, 1991

"OILED" MAYORS SUBCOMMITTEE

Robert B. Brodie, Chairman
Box 1397, Kodiak, AK 99615
(907) 486-8642 Fax 486-8600

SECRETARY/TREASURER

Gary L. Davis
Mayor, City of Soldotna
(907) 262-9107

Governor Walter J. Hickel
Pouch A
Juneau, AK 99811-0101

Dear Governor Hickel:

I am writing on behalf of the "Oiled Mayors" of Alaska regarding the pending EXXON VALDEZ oil spill settlement.

First I would like to begin by thanking you and Attorney General Cole for meeting with us during our trip to Juneau in March of this year. As a result of this meeting and the continued dialogue between our staffs I feel progress was made in clarifying our respective positions.

We appreciate the modifications which were made to the EXXON Settlement Agreement which reflected some of the Oiled Mayors concerns. But I feel obligated to bring to your attention several of our continuing concerns.

The legal staff of the Oiled Mayors continue to review the technical aspects and implications of the agreement and will communicate those concerns in a separate letter. Those concerns reflect our desire to clarify how certain sections of the EXXON settlement will impact our own situations.

A major concern that we would like to raise is one that was broached at our February meeting and continues to haunt us. This is the matter of the make up of the Exxon Settlement Trustee Council. The fact is that the 3 federal and 3 state trustees are all representatives of natural resource agencies. A substantial representation of these groups is not inappropriate in light of the fact of the wide spread damage caused by EXXON'S oil on Alaska's environment. But we must continue to ask who is the representative of the "human resources"? Specifically we refer to the cannery worker, businessman, fisherman, subsistence user and landowner affected by the spill.

April 16, 1991
Governor Hickel

It is our contention that these groups can be no better represented than by a member of local government. It was the local governments that stood alone in the early days of the EXXON spill. It was the local governments that stood alone and dealt with the tremendous influx of clean up activities. It was the local governments that still stand alone in dealing with the aftermath of damage now that EXXON is long gone.

Through out this process of dealing with EXXON'S arrogance, VECO'S incompetence, the Federal government's indifference and the state's impotence the Oiled Mayors have steadfastly refused to publicly criticize the Coast Guard or the State's efforts. Rather we have chosen to pursue the role of quiet diplomacy in dealing with our elected officials and administration agencies.

Consequently we feel that the Oiled Mayors have a legitimate basis for requesting that a **seventh** seat be established on the Trustee Council to include a member of local government. I would suggest that the ranks of the Oiled Mayors would provide no better source for such a representative.

I believe that this change would go along way in relieving another concern which is that there still remains a perception that Prince William Sound continues to be the center of the spill universe. No sooner had the announcement of the settlement been made than EPA Secretary Riley made the statement to the effect "now that a settlement has been reached we can now go about the business of rebuilding Prince William Sound".

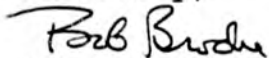
Those of us in Alaska recognize that EXXON'S oil had far reaching effects throughout the Gulf of Alaska and that in all fairness the entire area should be given appropriate consideration in the restoration process. It is through the inclusion of the municipal representative on the Trustee Council that this point can be brought home.

I recognize that this is not a new topic but we feel that now is the time to formally bring forth this reasonable request. We will be espousing this doctrine to a number of agencies, legislators and interested parties in state and federal government.

April 16, 1991
Governor Hickel

I look forward to discussing this further with you during the next visit of the mayors to Juneau April 25 and 26. If you or your staff have any questions please do not hesitate to get in touch with me or our legal council Mr. Matt Jamin.

Sincerely,



Bob Brodie, Mayor
City of Kodiak
President, Alaska State Conference of Mayors
Chairman, Alaska's "Oiled Mayors"

cc:DNR,ADF&G,ATTNY GEN.,AK SENATE & HOUSE MEMBERS, DEPT'S
OF INTERIOR, EPA, TRANSPORTATION, USCG, CONGRESS, MEDIA

anchorage printing INCORPORATED

Rep Max Gruenberg
Chair- House Special Committee
on Exxon Valdez Oil Spill Claims
PO Box V
Juneau, Ak. 99811

Dear Representative Gruenberg;

21 March 1991

I am interested in offering the state a method of receiving public input into the settlement claim against Exxon recently accepted by the Hickel administration.

Within two or three weeks I can have a four or eight page tabloid designed, printed and inserted statewide into more than two dozen newspapers covering the entire state population. Because of our unique setup, I am able to logistically get this important information to the voters in time for the legislative committees to get a firm reaction from the people of this state.

If you would care to know the details of my proposal, please give me a call. I would be more than happy to provide a single price for handling the entire project.

Many thanks for your consideration.

Sincerely,



Patrick Foster
Anchorage Printing



patrick foster
coordinator of
special services

anchorage printing, incorporated
3110 spenard road
anchorage, alaska 99503
272-2213 ■ fax 272-2105

May 22, 1991

Sheila K. Gottehrer
Executive Director
Regional Citizens' Advisory Council
601 West Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2254

Dear Sheila:

Thank you for taking the time to write to me about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that any future settlement will incorporate most, if not all, of the conditions placed by the House.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am



REGIONAL CITIZENS' ADVISORY COUNCIL

April 11, 1991

Representative Max Gruenberg
P. O. Box V
Juneau, Alaska 99811

Dear Representative ^{Max}Gruenberg:

The citizens represented by the Regional Citizens' Advisory Council (RCAC) encourage you to do all that is within your power to see that the Exxon Valdez Damage Assessment studies become a part of the public record. More than \$70 million of public funds have been invested to collect invaluable information necessary to understand the damage caused to Alaskan coastal ecosystems by oil spills; Alaskans have the right to know the impacts to their resources.

Enclosed is RCAC Resolution 91-5 stating the Council's support for the full disclosure of Damage Assessment studies. RCAC requests your support.

Sincerely,

Sheila K. Gottehrer
Executive Director
Regional Citizens' Advisory Council

A The Regional Citizens' Advisory Council (RCAC) was established in response to the Exxon Valdez oil spill to be a regional citizens' oversight organization. Alyeska Pipeline Service Company, the operator of the Trans Alaska Pipeline Terminal at Valdez, worked cooperatively with the citizens affected by the spill to form RCAC. Members include representatives of communities throughout the region as well as Native villages and corporations, the commercial fishing industry, conservation organizations, the state chamber of commerce, and regional fishery associations.

Q How was RCAC established?

A After the spill the state required Alyeska to submit an aggressive new prevention and response (contingency) plan. The Alaska Oil Spill Commission had strongly recommended increased citizen involvement. RCAC emerged from this process, incorporating as a nonprofit to ensure independence. The resulting contract with Alyeska requires that it provide an annual budget of \$2 million for "as long as oil flows through the line" and ready access to all its facilities. The federal Oil Pollution Act of 1990 reinforced this action and specified details.

Q Why is RCAC needed?

A A major lesson learned from the Exxon Valdez spill is that oil transportation is a risky business, and the people who bear the burden of that risk must be involved at all levels of decision making. Too often we have been adversaries working against one another rather than citizens cooperatively seeking progress and improvements. No substitute exists for local knowledge, experience, and commitment.

Q What is the structure of RCAC?

A A sixteen-member board and staff accomplishes its goals primarily through three working committees:

- Oil Spill Prevention and Response
- Port Operations and Vessel Traffic Systems
- Terminal Operations and Environmental Monitoring

Additionally, the Scientific Advisory Committee, comprised of scientists and technical experts, reviews research proposals and advises the working committees and the council on technical issues.

The contract specifies that RCAC committees will perform independent research and monitoring of oil spill prevention and response efforts, tanker safety, and environmental effects of terminal operations. RCAC uses this information to develop recommendations for environmental safeguards to Alyeska and government regulatory agencies.

Q What is the purpose of RCAC?

A RCAC involves local citizens in spill prevention and fosters a long-term partnership between government, industry, and communities in the region.

The Exxon Valdez oil spill received worldwide attention for months, but nowhere were people more shocked and stunned than in the picturesque communities and villages of Prince William Sound and the Gulf of Alaska. How could this have happened? Who was to blame? Could the spill have been avoided? What could be done to minimize chances of this ever happening again?

Residents of the region knew that only their commitment could guarantee that everything possible would be done to prevent a future spill of this magnitude. They responded to the March 1989 disaster, cleaning up thousands of barrels of oil. Logically, these are the people best qualified for prevention and response planning, but they lacked funding, resources, and access to do the job.

The Regional Citizens' Advisory Council was designed to overcome these barriers to citizen participation in contingency planning. We believe that we have.

Mission Statement

"To ensure the safe operation of the Trans Alaska Pipeline Terminal and the crude oil tankers served by the terminal so that environmental impacts associated with the terminal and tanker fleet are minimized."

RCAC members

- o Alaska State Chamber of Commerce
- o Chugach Alaska Corporation
- o City of Cordova
- o City of Homer
- o City of Kodiak
- o City of Seldovia
- o City of Seward
- o City of Valdez (2)
- o City of Whittier
- o Cordova District Fishermen United
- o Kodiak Island Borough
- o Kenai Peninsula Borough
- o Kodiak Village Mayors Association
- o National Wildlife Federation
- o Prince William Sound Aquaculture Corporation

RCAC committees

- o Oil Spill Prevention and Response (OSPR)
- o Port Operations and Vessel Traffic Systems (POVTS)
- o Scientific Advisory (SAC)
- o Terminal Operations and Environmental Monitoring (TOEM)

We welcome your inquiries. For additional information and details, please contact:

Sheila Gottehrer, Executive Director
Regional Citizens' Advisory Council
601 W. Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2254
907/277-7222 • FAX/277-4523

REGIONAL CITIZENS' ADVISORY COUNCIL
601 West Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2254



What is the
Regional
Citizens'
Advisory
Council



REGIONAL CITIZENS' ADVISORY COUNCIL

Resolution 91-5

EXXON VALDEZ DAMAGE ASSESSMENT STUDIES

WHEREAS, the United States and Alaska State governments undertook scientific studies under the authority of Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and the Clean Water Act to assess the damages of the *Exxon Valdez* oil spill; and

WHEREAS, these studies involve the expenditure of public funds in the amount in excess of \$70 million; and

WHEREAS, the information from these studies will not only assess the damages in the short term but are designed to predict long term impacts; and

WHEREAS, it is the business of the Regional Citizens' Advisory Council to understand and to promote the understanding of damages caused by oil spills in order to strengthen public commitment to the prevention of future spills;

NOW, THEREFORE, BE IT RESOLVED that the Regional Citizens' Advisory Council ask the Governor of the State of Alaska, the Attorney General of the United States and the Attorney General of the State of Alaska to release all of the information generated by the National Oceanic and Atmospheric Administration, United States Coast Guard, U.S. Fish and Wildlife Service, Alaska Department of Fish and Game, Alaska Department of Environmental Conservation; and

BE IT FURTHER RESOLVED that in the spirit of cooperation and public education the Regional Citizens' Advisory Council asks that Exxon also release all information generated by their damage assessment studies.

Certification

This resolution was duly adopted by the RCAC at an RCAC meeting held March 22, 1991 by the following vote:

Ayes 10 Nays 0 Abstain 0

Marilyn Leland, Secretary

Chris Gates, President



Volume 1 Number 1

Spring 1991

Council celebrates first birthday

Members gather in Valdez at first annual meeting

The Regional Citizens' Advisory Council held its annual meeting in Valdez March 20-23. It has been a year full of challenges and accomplishments. RCAC incorporated December 29, 1989, signed its contract with Alyeska February 9, 1990, established a council and committees, completed projects and work products, set up an office, and hired staff.

The annual meeting agenda was full. New members were elected, committees reported, and policy decisions were made; but most importantly, residents of Prince William Sound and the Gulf of Alaska had an opportunity to meet with members and staff to ask questions and discuss their concerns. We want to hear from you, so if you couldn't be there, please write, call, or fax us.

RCAC members

Alaska Chamber of Commerce, Stan Stephens
Chugach Alaska Corporation, Keith Gordaoff
City of Cordova, Scott Sterling
City of Homer, Tony Joslyn
City of Kodiak, Leslie Smith
City of Seldovia, Tim Robertson
City of Seward, Chris Gates
City of Valdez, Bill Walker and Jason Wells
City of Whittier, Lynda Hyce
Cordova District Fishermen United, Marilyn Leland
Kenai Peninsula Borough, Frank Mullen
Kodiak Island Borough, Wayne Coleman
Kodiak Village Mayors Association, Ray Jones
National Wildlife Federation, Ann Rothe
Prince William Sound Aquaculture Corporation, John McMullen

What is the Regional Citizens' Advisory Council?

The Regional Citizens' Advisory Council (RCAC) was established in response to the Exxon Valdez oil spill to be a regional citizens' advisory and oversight organization. Alyeska Pipeline Service Company, the operator of the Trans Alaska Pipeline Terminal at Valdez, worked cooperatively with the citizens affected by the spill to form RCAC. Members include representatives of communities throughout the region as well as native villages and corporations, the commercial fishing industry, conservation organizations, the state chamber of commerce, and regional fishery associations.

A major lesson learned from the Exxon Valdez spill is that oil transportation is a risky business, and the people who bear the burden of that risk must be involved at all levels of decision making. No substitute exists for local knowledge, experience, and commitment. Too often we have been adversaries working against one another rather than citizens cooperatively seeking progress and improvements. RCAC involves local citizens in spill prevention and fosters a long-term partnership between government, industry, and communities in the region.

After the spill the state required Alyeska to submit an aggressive new prevention and response (contingency) plan. The Alaska Oil Spill Commission had strongly recommended

See Council page 8

REGIONAL
CITIZENS'
ADVISORY
COUNCIL

I n t e r V i e w



Jim Hermiller, president and CEO,
Alyeska Pipeline Service Co.

Jim Hermiller came to Alaska in May 1989 from Cleveland-based BP Oil, a subsidiary of BP America Inc., as executive vice president and CEO. He was named president of Alyeska in October 1989.

What were the biggest challenges when you joined Alyeska?
I think there were three things that were difficulties at Alyeska. Rethinking contingency planning following the Exxon Valdez oil spill, that was a big issue, the corrosion along the pipeline, and the company's organization.

You were an early supporter of RCAC.
Before the legislation [Oil Pollution Act of 1990], citizen involvement already was written in to the Alyeska plan. At that time we had a vision of this. We thought they would help to facilitate the contingency plan, review it, and then be on board to see how the plan was carried out. At that time it was called the Alyeska Citizens' Advisory Council. The legislation resulted in an expanded charter for the organization.

RCAC has provided written comments on both the state and Alyeska's contingency plans. Has that proved helpful to Alyeska?

RCAC's comments were particularly well focused, well defined. They were the best we received. We'll always have differences determining what's necessary. This will go on.

What do you see as the main function of a group like RCAC?
It's an advisory group, and that's different than oversight. An advisory group doesn't take responsibility for actions that might occur. The character of RCAC changes with the membership; what each member entity's mission is, what its charter is.

There is a contract, yes, but it's a contract of trust. We want to trust RCAC to do what is best, objectively best. They have to weed out subjective agendas. Alyeska has to supply information and make good decisions based on the input supplied to us in return.

Do you see RCAC providing a model for advisory groups to industry?
Clearly, what we have here is a major departure from what's been done elsewhere—at least for our kind of development. I'm sure others are watching us to see how things work out. I imagine they are interested in the structure.

What has changed for Alyeska since the spill?
Well, we have a citizens' advisory group, for one thing, and more regulations. It's difficult to do anything without being second-guessed.

Let's assume Day 1 Spill 2, how would things be different?
A lot of people ask that. It's hard to look back and judge in today's light. We have escort vessels. Not instant response, but we have rapid response. Another Exxon Valdez, and all bets are off. We go under a planning standard of 250,000 barrels in seventy-two hours, but in reality we know with another spill that size and all the variables—weather, season, position of the ship—there can never be guarantees.

People are going to be right there, almost immediately. We're spending \$50 million each year on this. The point to make clear is that the most likely spill had been thought to be 1.700 barrels, and that was very clear in the plan that was in place.

What message would you leave our constituents with?
That this is a two-way street. We need to be effective in educating each other, understanding each other's viewpoint. No surprises. The relationship is young, and these changes occur incrementally. We just need to keep going.

"We want to trust RCAC to do what is best, objectively best."

ELDER SPEAK

CITIZEN OVERSIGHT

by Walt Parker

Walter B. Parker chaired the Alaska Oil Tanker Standards Task Force (1975-77) was co-chair of the Joint Federal-State Land Use Planning Commission for Alaska (1976-79), commissioner of the state highway department, and chaired the Alaska Oil Spill Commission in 1989-90.

The Alaska Oil Spill Commission decided early in its deliberations to concentrate on prevention of future spills. It did not overlook its legislative mandate to recommend better response to future spills; but it was obvious in the wake of the wreck of the Exxon Valdez that prevention measures were the most cost effective and best protected the environment. In the end the most difficult question was: How can we guarantee that these new systems

do not degrade and become largely inoperative as they did between 1979 and 1989?

The commission sought to insert some mechanism into the system that would be as its principal goal the safety of the marine transportation system, an institution that would not be led away from this goal by other organizational concerns.

Eventually, the commissioners decided that the missing ingredient was a group of concerned local residents who would be given a statutory mandate to provide citizen oversight of both



See Parker, page 8

Cook Inlet RCAC takes shape

Thanks council and staff for organizational assistance

by Frank Mullen, acting CIRCAC executive director and RCAC council member

The Cook Inlet Regional Citizens' Advisory Council (CIRCAC), called for in the Oil Pollution Act of 1990, has been taking shape over the winter. Many of you who were involved in or observed the formation of the Prince William Sound RCAC will recall the sometimes arduous process of organization and will know that our council is attempting to implement many of the same concepts and policies that the Prince William Sound RCAC struggled with a year ago.

CIRCAC has spent most of its time to date working on articles of incorporation, bylaws, establishing committees, goals, objectives, and infrastructure and negotiating a contract with Cook Inlet Spill Prevention and Response, Inc. (CISPRI). This process remains unfinished as of this writing. Our bylaws are very close to final form and may be adopted by the council in March.

The council has spent most of its time so far establishing an identity for this group of thirteen citizens and building a working relationship with CISPRI, the oil industry's organization in the Cook Inlet area. CISPRI is a newly formed consortium of oil producers that has organized to meet the many new requirements for spill prevention and response.

CIRCAC intends to organize under Section O of the Oil Pollution Act of 1990 as a voluntary council. We have received interim funding from CISPRI and have been working hard for two months on a long-term funding agreement.

As CIRCAC has grown, we have looked to RCAC for guidelines and guidance. Sheila Gottehrer, executive director, and her staff have helped us answer many questions as we struggle to life. Many thanks from our council to yours for your assistance!

OBSERVER

EDITOR-IN-CHIEF
Sheila K. Gottehrer

EDITOR
Judith Bragan

DESIGN & TYPOGRAPHY
Illusions Too

PHOTOGRAPHER
Hal Gage

PRODUCTION
Van Cleve Printing

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Contingency Plan Steering Committee opens channels of communication

The development of the Prince William Sound Tanker Spill Prevention and Response Plan turned out to be an enormous task for both Alyeska, which prepared the plan for the state, and the state, which had to review and approve it. Following months of stalemate about how to handle the plan, Alyeska proposed that all outstanding issues be placed on the table and that a group of affected and interested parties sit down together to work things out.

In June 1990 such a group assembled and agreed to work through the difficulties of formulating and improving contingency plans for Prince William Sound. The original members added the Alaska Department of Environmental Conservation (ADEC), the Coast Guard, and the Regional Citizens' Advisory Council (RCAC) to their "working group."

By late summer 1990 the Prince William Sound Tanker Association (owners/operators/charterers in the TAPS trade) joined the working group. Each member's contingency plans would include, by contract, the Prince William Sound Tanker Spill Prevention and Response Plan.



The working group has grown into the "Steering Committee" with six technical working groups. The group's purpose has not changed—namely, to work cooperatively and honestly with all interested and concerned parties to research, discuss, and resolve technical issues of the Prince William Sound contingency plans.

The conduct of the Steering Committee (and its technical working groups: prevention and navigation; initial response equipment; oily waste disposal; dispersants, burning and bioremediation; nearshore response and shoreline cleanup; plan coordination) is governed by a ten-point protocol. Their essence is to open communications among participants, provide technically supportable conclusions and recommendations, and no surprises. These protocols paved the way toward settling previously unresolved issues.

The foundations for a productive Steering Committee parallel those of the Regional Citizens' Advisory Council: To encourage a partnership in the definition, research, solution, and implementation of difficult and important projects required for effective contingency planning. After nine months and the investment of thousands of hours, progress has been made.

Sitting down together at the table has established a process that makes that result much more likely.

NOTE: You can expect to see the Steering Committee's final reports late in 1991.

"The First Amendment made confidence in the common sense of our people and in the maturity of their judgment the great prebate of our democracy."

William O. Douglas

RCAC-Alyeska contract defines good citizenship

Scott Sterling, RCAC council member, City of Cordova

The RCAC-Alyeska contract attracts wide attention because it creates an innovative relationship between community and industry. In effect for as long as oil flows through the Trans Alaska Pipeline System, the contract consists of more than legalities—it is a mutual commitment to good citizenship.

Under the contract Alyeska involves local citizens, through RCAC, in the process of forming oil spill contingency plans, monitoring of industry practices, and issuing advice on important issues. Of equal importance is Alyeska's promise to respect the absolute independence of RCAC while providing adequate funding for its work. Alyeska also must open its records, facilities, and personnel and respond promptly to RCAC's inquiries. Funding is guaranteed at \$2 million a year for the first three years of the contract.

RCAC is a nonprofit Alaska corporation operated by its sixteen members. Members comprise diverse interests—municipalities; the state chamber of commerce; and fishing, Native, and conservation groups with thousands of individual constituents throughout Prince William Sound and the Gulf of Alaska. Each member selects a representative to sit on the RCAC board of directors, called the council, which is responsible for the overall conduct of the organization.

RCAC's work is centered on broad-based committees with specific missions. Separate committees monitor oil spill prevention, response, and cleanup planning, Valdez terminal operations and environmental monitoring, Port Valdez operations and vessel traffic systems, and legislation. Another committee critically reviews scientific studies and research proposals. All committee members are unpaid volunteers. Keeping the organization moving is the job of a competitively selected executive director and staff.

The RCAC-Alyeska contract took effect in February 1990. Though some growing pains persist, since that time RCAC's committees have heavily influenced the Alyeska oil spill contingency plan, critically reviewed the TAPS trade tanker fleet and Coast Guard vessel tracking systems, commissioned scientific studies of pollution in Port Valdez, and testified at legislative oversight hearings on the TAPS trade. During the rest of 1991 the group will also focus on public education, long-term research projects, and improved oil spill drills and legislation.

RCAC's democratic structure emphasizes community concerns and citizen involvement. Gaining informed understanding of the complex legal, financial, and environmental issues confronting the TAPS trade is a daunting task. Making sound, objective judgments about those issues requires honest and occasionally spirited debate. We accept these facts. We also accept the fact that from time to time we will make mistakes. We are most mindful, however, of the fact that by honoring the RCAC-Alyeska contract, we honor the sobering lessons of the Exxon Valdez disaster and create a precedent for other good individual and corporate citizens to follow.

"Gaining informed understanding of the complex legal, financial, and environmental issues confronting the TAPS trade is a daunting task. Making sound, objective judgments about those issues requires honest and occasionally spirited debate."



Why a newsletter?

by Sheila Gottehrer, executive director

RCAC's objective in launching this new letter matches that of our mission statement: To ensure the safe operation of the Trans Alaska Pipeline Terminal and the crude oil tankers served by the terminal so that environmental impacts associated with the terminal and tanker fleet are minimized. We want the Observer to inform, educate, and connect people both in and outside the region to sources of information. Our goal is to create a forum for pertinent information exchange and opinion on the issues.

We want to hear from you. This must be a two-way street to be most effective. We solicit

your feedback in the form of news items and letters to the editor. In other words we want this to be your newsletter. Let us know what you want and need in the way of information, and we'll try to supply it. We hope that our efforts will minimize ongoing pollution and prevent future catastrophic spills ... and if another spill occurs, response and cleanup equipment and procedures are the best they can be. Your help and support are valuable.

To these ends we dedicate all of our efforts, but especially through this newsletter, which we hope will be a conduit for information from and to our many constituencies. We must stay connected if we are to formulate informed opinions and improve our decision making on issues of importance to all of us who live in this region.

When you see the Observer in your pile of mail we want you to reach for it, knowing that what you will find inside is concise, well-written, objective, and factual—in short, that it's what you need.

Port Operations and Vessel Traffic Systems (POVTS) Committee

Capt. Stan Stanley, staff

POVTS (acronym pronounced "povits") continues to evolve but concentrates on providing technical advice to the council and information to the public on all relevant port and tanker operations in Prince William Sound. Tankers are the committee's key concerns, including their construction, repair, and operation; however, port operations and the Vessel Traffic System present distinctly separate considerations as well, as do weather and pilotage factors.

Currently, we are in the information-gathering stage, but the committee intends to become more pro-active in the future. POVTS has been operating for six months and is working on other projects.

Committee members reviewed proposed changes in the Vessel Traffic System and asked the Coast Guard for more information regarding its decision to utilize a dependent surveillance system in Prince William Sound. Members reviewed vessel escort procedures and sent letters to shipping agencies and pilots

seeking their views on the desirability of a tug attached during a portion of tanker transit. Committee members observed the operation of tractor and conventional tugs in Puget Sound and will report their findings to the full council.

Early in 1991 the committee commissioned Jim Dickson, Safety Officer at the Sullom Voe Harbor Authority, Shetland Isles, to report on oil spill prevention actions as appropriate for Alaska and Prince William Sound. The second draft of his report is being circulated for public review until 22 April 1991. POVTS commented to the Pilots Board on the draft pilotage study issued by the Alaska Office of Management and Budget. Members reviewed the Coast Guard's proposed double-hull regulations and its report on TAPS tanker fleet structural integrity and submitted position papers to the council. The group also obtained a copy of a National Research Council report on the effects of reduced manning aboard vessels and began consideration of this issue.

Scientific Advisory Committee (SAC)

Thea Lefkowitz, staff

Much of RCAC's annual budget of \$2 million plus funds research and provides for monitoring of Alyeska's operations. The Scientific Advisory Committee expects to dedicate much of its time to reviewing requests for proposals (RFPs) advanced by the other committees and the council. The committee has considered several draft RFPs, ranging from biological baseline monitoring to modeling socioeconomic impacts of oil spills to testing the capabilities of cleanup equipment. The council makes final decisions about all RFPs.

SAC is well prepared to handle the flood of proposals RCAC expects in response to a variety of RFPs. Its seven members cover disciplines ranging from chemical engineering, air-quality chemistry, meteorology, seabird biology, mathematics, limnology, oceanography, and fisheries. Committee members are well versed in project planning and management and have prepared and evaluated many proposals. Their background and expertise allow them to judge not only for scientific merit, but also for feasibility and applicability to Alaska environments.

In addition to its responsibilities to advise the council and the technical committees, SAC recommends research priorities. Toward that end, committee members will prepare a forecast of critical research issues pertaining to safe oil transport by TAPS for the coming decade. As long as oil flows through the pipeline and tankers ply the waters of Prince William Sound, rigorous and ambitious research will be essential to protection of the coastal environment and the people whose livelihoods depend on its resources.

Oil Spill Prevention and Response (OSPR) Committee

Joe Banta, staff

OSPR (acronym pronounced "osprey") focuses on prevention, safety, citizen involvement, use of local knowledge and resources, and building an information base about TAPS trade issues related to the prevention of and response to crude oil spills in Prince William Sound.

Committee members prepared extensive comments on appendices of the Alyeska Contingency Plan (A. Scenarios; D. Training; and E. Community and Fishing Vessel Involvement). The council has requested written response from Alyeska. OSPR also reviewed the Alaska Department of Environmental Conservation's draft Prevention and Contingency Plan and retained two experts to comment as well. OSPR recently drafted a resolution to the council,

which it approved, concerning the 72-hour transition and nearshore response issues. Additionally, RCAC representatives to the Alyeska Contingency Plan Steering Committee and its working groups have adopted the OSPR position in their deliberations.

Members of the committee recently authorized a literature search for an RFP on "Safe Spill"—a nontoxic, biodegradable crude oil substitute. The committee is moving ahead with commissioning "white papers" for briefings in several key areas and has identified potential experts for papers on small-boat technology, risk assessment, and bioremediation. Other subjects of interest to the committee include dispersants, fire control in Port Valdez, beach cleanup techniques, and oily waste disposal.

Terminal Operations and Environmental Monitoring (TOEM) Committee

Joe Bridgman, staff

TOEM's (acronym pronounced "tow 'em") primary purpose is to identify pollution, to monitor environmental impacts of terminal and tanker operations in Prince William Sound, and to communicate committee findings to the public. TOEM has solicited a critical analysis of the design and modeling of Alyeska's air monitoring program in Valdez, which measures ambient levels of hydrocarbons and human exposure to them. The committee retains a consultant to inventory actual and potential sources of environmental pollution stemming from terminal and tanker operations and to install relevant data into a computerized matrix for easy access.

With the help of the Scientific Advisory Committee, TOEM will draft a request for proposals for a report on the likely fate and effects of hydrocarbons emitted into the air during tanker loading at the Alyeska terminal. A comprehensive environmental monitoring program comprises significant scientific effort requiring extensive field work over several years. Most current committee work is in preparation for this task.

Currently the committee is planning a series of public meetings in Prince William Sound communities to hear the public's environmental concerns about oil industry activities. We expect these meetings to take place in late fall, so watch for notice in your local newspaper or call our Valdez or Anchorage office for details.



Mission Statement

"To ensure the safe operation of the Trans Alaska Pipeline Terminal and the crude oil tankers served by the terminal so that environmental impacts associated with the terminal and tanker fleet are minimized."

Council

continued from page 1

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- Terminal Operations and Environmental Monitoring

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RCAC's contract with Alyeska specifies that RCAC committees will perform independent research and monitoring of oil spill prevention and response efforts, tanker safety, and environmental effects of terminal operations. RCAC uses this information to develop recommendations for environmental safeguards to Alyeska and government regulatory agencies.

Parker

continued from page 1

the regulators and the regulated—government and industry. The thought was that "those who have the most to lose will pay the most attention."

Congress already had received proposals from Prince William Sound and Cook Inlet oversight groups. The commission backed those efforts but also recommended creation of the state Citizens' Oversight Council on Oil and Other Hazardous Substances as the rest of the state had been overlooked. Regional and local councils were already mandated by the legislature. The relationship between federal and state sponsored councils should be both independent and supportive since they have common goals but may have different ideas on how to achieve those goals.

Now, as a result of congressional and state action, we in Alaska have an impressive array of oversight councils. We should remain vigilant against becoming part of the problem, however, especially after our vision and memory fade over time. The transportation of large amounts of crude oil through Alaska waters will probably continue for the next fifty years, at least. Over time, it will be easiest to go along with those who want to do the minimum in maintaining safety standards. The Alaska Oil Spill Commission considered citizens' councils the chief weapon against government apathy and bottom-line industry standards.

As we approach the second anniversary of the Exxon Valdez spill, we can expect to hear from those who want to forget about what happened and return to the old ways. We must stand firm. Citizen councils clearly provide knowledgeable continuity to spill protection for Alaska. Those with the most to lose do pay closest attention.

May 22, 1991

Nancy Gross
City Manager
City of Cordova
P.O. Box 1210
Cordova, Alaska 99574

Dear Nancy:

Thank you for the kind words expressed in your April 20 letter. The insight and perspective gained from hearing from the public during the public hearings in Cordova, Homer, Seward and Kodiak were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. As you are no doubt aware, the resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that any future settlement will include most, if not all, of the conditions placed by the House.

Again, my thanks to you for all your help and hospitality while we were in Cordova.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

CITY OF CORDOVA



April 20, 1991

Representative Max Gruenberg
Alaska House of Representatives
P.O. Box V
Juneau, Ak 99811

Max
Dear Representative Gruenberg:

Mayor Van Brocklin has asked me to thank you for bringing the House Select Committee on the Exxon Valdez settlement to Cordova last week for a hearing. We all appreciate your thoughtful consideration of the testimony here and in Juneau. This is a monumental issue for us, financially, psychologically, and emotionally.

You were very impressive with the way you kept the comments on track and to the point. In such a charged atmosphere it is difficult to keep a cool head, but you have done an outstanding job.

The City of Cordova and the people of Prince William Sound and all the oil affected areas are depending on you to make sure we are protected in this matter. we sincerely appreciate your help.

Yours, truly,

Nancy
Nancy Gross
City Manager

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(607) 463-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Ms. Patricia Garoutte
Public Awareness Committee for the Environment
100 Trailing Bay #4
Kenai, Alaska 99611

Dear Ms. Garoutte:

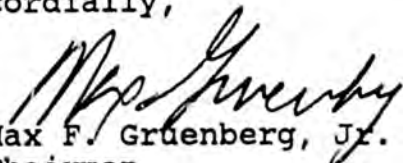
Thank you for taking the time to submit written testimony on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to the committee and the entire House of Representatives in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution was then transmitted to the Alaska State Senate, which did not act on it. The Legislature favors a re-negotiated settlement over litigation, and yesterday adopted House Concurrent Resolution 38, requesting that the Governor resume negotiations with Exxon. It is my hope that most, if not all, of the conditions placed by the House will be incorporated in any future settlement.

Again, thank you for your comments and making your voice heard on this important issue.

Cordially,


Max F. Gruenberg, Jr.
Chairman

TELECOPY COVER SHEET

Kanai Peninsula Legislative Information Office

Phone - (907) 262-9364.

Fax - (907) 262-1881.

TO: Rep Gruenberg, (H) sp. Comm on Exxon Valdez spill claim's settlement

ATTR: _____ FAX: _____ PHONE: _____

FROM: _____ PHONE: _____

INSTRUCTIONS: please deliver

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NUMBER OF PAGES (not counting the cover sheet): 2
110.1



Alaska State Legislature

Please enter into the record my testimony to the House Special
committee name

committee on Exxon Valdez Settlement dated April 15, 1991
bill/subject

PACE is against the settlement. Because the public has not been given access to scientific spill studies, we have been deprived of our right to make informed decisions upon our future.

We need more time to review what information is available & digest it better & come up with a more suitable solution.

PACE feels there should be a member from the environmental, & fishing group on the Trusteeship Board, so funds are dispensed of in an equitable manner.

PACE feels the subsistence villages have been deprived of their subsistence way of living & no amount of money can make up for that deprivation.

PACE is opposed to the settlement as it stands.

PACE demands the legislature pass a resolution requiring release of the states economic & scientific data.

Signed: Patricia Rosenthal

Testifier

Public Awareness Committee for the Environment

Representing (Optional)

100 Trading Bay #4 Kenai AK 99611

Address

283-7170

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the

House Special
committee name

committee on Environmental Settlement dated April 15, 1991
bill/subject

(Continued)

PACE feels the settlement does not send a message to polluters to clean up their act and prevent spills. Instead, it tells industry that they can buy their way out of a messy problem in the state of Alaska.

If the court finds that the state approved of a faulty contingency plan & failed to enforce it led to damages, the state should pay for these damages.

Whose interests does the state government represent, the bureaucrats or the people?

PACE feels a large sediment, fauna, & tissue study should be done in the Prince William Sound area, so people will know once & for all if the foods that sustain their way of life are safe to pursue or not safe to pursue. Cleanup must be continued! These native villages must not be allowed to perish!

Signed: Patricia Barnett

Testifier

Public Awareness Committee for the Environment
Representing (Optional)

100 Trading Bay # 4, Kenai, AK 99611
Address

283-7170
Phone No.

PO Box 202045
Anchorage, AK 99520
April 21, 1991

Representative Max Gruenberg
PO Box V
Juneau, AK 99811

Dear Max,

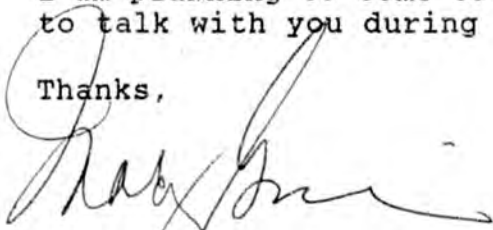
First, I want you to know I have appreciated your many efforts to hold the Hickel Administration accountable to the public and to keep the avenues open for the public during all the changes the Governor is offering.

For the sake of simplicity, I have enclosed copies of comments regarding the proposed settlement with Exxon that I prepared for National Parks and Conservation Association and those prepared by the National Trust for Historic Preservation.

Personally, I think this proposed settlement is a good deal for Exxon. While I can appreciate people wanting to take the money and move on, buying a "pig in a poke" doesn't set well with me. The oil spill itself reminded us how helpless we can feel in response to disaster. I wonder if this proposed settlement is not getting the same response - folks feeling helpless in the shadow of a large, wealthy and powerful corporation?

I am planning to come to Juneau for the last couple weeks and hope to talk with you during that time.

Thanks,

A handwritten signature in dark ink, appearing to read "Mary Grisco", written over the typed name.

Mary Grisco



National Trust for Historic Preservation

April 18, 1991

Thomas A. Campbell, General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce, Room 5818
14th St. and Constitution Ave., N.W.
Washington, D.C. 20230

Re: Proposed Settlement Agreement Concerning the Exxon
Valdez Oil Spill, 56 Fed. Reg. 11636 (March 19, 1991)

Dear Mr. Campbell:

The following comments are submitted by the National Trust for Historic Preservation in the United States (the National Trust) in response to the proposed settlement agreement resolving all civil claims between the State of Alaska, the United States, and Exxon Shipping Company arising out of the March, 1989, Exxon Valdez oil spill. The National Trust's comments address the need for the agreement to permit settlement funds to be applied to the restoration of cultural and archaeological resources on public lands that were injured by the oil spill and related clean-up efforts.

The National Trust, a congressionally chartered private nonprofit organization with over 225,000 members nationwide, is charged with facilitating public participation in the preservation of the nation's historic and cultural resources. The National Trust has a strong commitment to the preservation of our nation's irreplaceable archaeological sites and resources, the protection of which is critical to our ability to understand and learn about our past. If properly studied, these resources can provide important information about human history that is undocumented in any other way.

The National Trust is particularly concerned about the effects of the Exxon Valdez oil spill on the archaeological resources of the Gulf of Alaska region, which is an area that is extraordinarily rich in cultural resources. Past archaeological studies have revealed evidence of Alaska native occupation that may date back 11,000 years. While the area has not been thoroughly inventoried, it is estimated that over ten thousand cultural archaeological sites may exist in this area. As statutes such as the Archaeological Resources Protection Act (ARPA), 16 U.S.C. § 470aa et seq. recognize, these resources are held in trust by the federal government for the use of the nation and for the enjoyment of future generations.

Thomas A. Campbell
April 18, 1991
Page 2

It is already clear that substantial damage to archaeological resources has occurred as a result of the oil spill, and has been documented by preliminary damage assessment studies and clean-up efforts. For example, the recently released report on the results of preliminary government studies revealed injury to at least 26 archaeological sites along the shoreline caused by the oil spill. This report also indicates that significant injury may have occurred to the ability to use radiocarbon dating techniques to contextually date organic materials at these sites. Moreover, reports filed during the clean-up identified incidents such as the unauthorized excavation of artifacts in an eroding shell midden by clean-up workers on the Kenai Peninsula, and numerous other incidents of vandalism and looting. These irreplaceable resources may be irreparably damaged or destroyed by the oil spill and related clean-up activities unless appropriate ameliorative measures are planned, funded, and implemented.

The proposed settlement agreement limits the use of settlement funds to costs incurred by the United States and the State of Alaska in assessing damages to "natural resources" and planning, implementing, and monitoring the restoration, rehabilitation or replacement of damaged natural resources. Proposed Settlement, Para. 10. The settlement agreement uses the following definition of "natural resources" contained in the regulations implementing CERCLA and Section 311 of the Clean Water Act, one of the statutory bases for liability asserted by the lawsuit: "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by, the United States. . . ." Id., Para. 6(c). See 40 C.F.R. § 300.6.

In the National Trust's view, damage to cultural and archaeological resources are encompassed within this broad definition of "natural resources," and should therefore be specifically enumerated in this definition for purposes of clarity. Alternatively, other state statutory and common law provisions on which the State of Alaska's lawsuit was predicated provide a basis for specifically identifying cultural resources as a type of damaged resource covered by the settlement agreement.

Archaeological Resources Are "Natural Resources"

To the extent that the settlement agreement is based on claims asserted under Section 311 of the Clean Water Act, it is our view that the broad definition of "natural resources" contained in the regulations implementing the Clean Water Act does authorize recovery for damage to publicly-owned cultural and archaeological

Thomas A. Campbell
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Page 3

resources. This opinion has strong support in relevant case law, principles of statutory construction and logic.

The question of whether the definition of "natural resources" employed by CERCLA or the Clean Water Act was intended to exclude or include cultural resources has not specifically been addressed by the courts. However, other statutory schemes employing the term "natural resources" have been interpreted as extending to cultural resources located on public land. For example, this issue has been raised in the context of the Submerged Lands Act, 43 U.S.C. § 1301 et seq., which transferred to the states title to lands and natural resources beneath navigable waters. At least one court has held that the rights and powers granted to states by the Submerged Lands Act include the right to regulate ownership and recovery of abandoned historic shipwrecks and marine artifacts located on these submerged lands. See Subaqueous Exploration & Archaeology, Ltd. v. Unidentified, Wrecked and Abandoned Vessel, 577 F. Supp. 597, 608 (D. Md. 1983).

Established principles of statutory construction also strongly supports the view that publicly-owned archaeological and cultural resources fall within the broad definition of "natural resources" contained in the settlement agreement, because cultural resources are clearly akin to the items specifically enumerated as natural resources in the definition. See Harrison v. PPG Industries, Inc., 446 U.S. 578, 588 (1980). This can be seen by the fact that damage to archaeological and cultural resources is encompassed within the plain meaning of several of the specifically enumerated items in the definition of natural resource, including "land," "biota," and in the concept of resources "held in trust" by the United States.

First, archeological sites, such as petroglyphs and pictographs (rock or cave drawings), weirs, middens, and submerged stratigraphy, are tangible, physical resources that may include "natural resources" such as rocks, shells, pollen grains, animal bones, carbonized seeds, wood samples, charcoal, and other materials. Moreover, one type of injury to natural resources such as "land" and "biota" caused by the oil spill is injury to and impairment of the significance of archaeological resources. For example, the oil penetration could mask the stratigraphy of a site important to determining the layers of occupation. Changes to soil chemistry could prevent soil testing techniques used to determine the extent of a site. As noted above, the important ability to employ radiocarbon dating techniques may be harmed by the oil spill. Thus, injury to these resources can be considered a type of injury that is specifically included within the definition of "natural resources."

Thomas A. Campbell
April 18, 1991
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Second, archaeological and cultural resources on public lands are clearly resources that are "held in trust" by the land managing agencies. On the federal level, this "public trust" principle is exemplified by the Archaeological Resources Protection Act (ARPA), which declares that archaeological resources on public lands are "an irreplaceable part of the Nation's heritage," and specifically empowers federal land managing agencies to protect these resources "for the present and future benefit of the American people." 16 U.S.C. § 470aa(a). Therefore, unlike damage to privately-owned property, cultural resources on public land are held by the land managing agency in trust for the benefit of all generations, rather than for the benefit of a few individuals who may hold them by right of discovery or by purchase.

Finally, excluding publicly-owned cultural resources from eligibility for settlement funds makes no sense. For example, the settlement agreement expressly reserves the rights of third parties to bring actions against Exxon for damages to privately-owned property injured by the oil spill. Proposed settlement, Para. 13(c). Thus, third parties are free under the proposed settlement to sue to recover for oil spill-related damage to archaeological resources located on private lands. Yet the federal government is expressly precluded from bring an action under ARPA, which protects archaeological resources on federal lands from loss and destruction, or any other statute to recover for injury to archaeological resources. *Id.*, Para. 13. This leads to the illogical and inequitable result that, under the settlement agreement, damage to publicly-owned archaeological and cultural resources stands alone as the only type of resource for which oil spill-related injury is absolutely non-compensable, even while the right of private parties to recover for damage to their personal property is carefully preserved.

Accordingly, the National Trust believes that cultural resources can and should be considered "natural resources" under the statutory definition borrowed from CERCLA and the Clean Water Act. We therefore urge you to amend the settlement agreement in order to expressly include cultural resources within the definition of "natural resources" eligible for settlement funds.

The Settlement Agreement Should be Amended to Allow Recovery for Archaeological and Cultural Resources.

In any event, it is unnecessary to even reach the question of whether the CERCLA and Clean Water Act definition of "natural resources" borrowed by the settlement agreement encompass cultural and archaeological resources. Other legal authorities on which the State of Alaska's lawsuit was predicated provide a

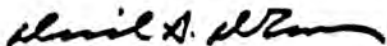
Thomas A. Campbell
April 18, 1991
Page 5

basis for specifically identifying cultural resources as a type of injured resource covered by the settlement agreement.

Allowing cultural resources restoration to remain eligible for settlement funds by no means requires or mandates that cultural resources be given priority in terms of funding over other types of resources, nor does it jeopardize other potential restoration projects. It simply allows injury to cultural resources to be evaluated and prioritized along with other natural resources damaged by the oil spill. It also grants the trustee council the discretion they need to carry out their difficult responsibility of allocating limited resources in attempting to restore and repair the enormous damage to our nation's publicly-owned resources caused by the Exxon Valdez oil spill.

Accordingly, we strongly urge that the proposed settlement agreement be expressly amended to allow for recovery to cultural resources on federal land. If you have any questions, please do not hesitate to contact National Trust Assistant General Counsel Andrea Ferster, at (202) 673-4035.

Respectfully submitted,



David A. Doheny
Vice President and General Counsel

cc: Secretary Manuel Lujan, Jr.
Sen. Ted Stevens
Sen. Frank Murkowski
Rep. Gerry E. Studds
Rep. George Miller
Rep. Chester G. Atkins
Rep. Don Young
James Ridenour, Director, National Park Service
Richard B. Stewart, Assistant Attorney General,
Environment and Natural Resources Division
Wendell Willkie, General Counsel,
Department of Commerce
Barbara Herman, Esq.
Judith Bittner, Alaska SHPO
John F. W. Rogers, Chairman, Advisory Council on
Historic Preservation
J. Jackson Walter, President, NTHP
Kathryn Burns, Director,
Western Regional Office, NTHP

Thomas A. Campbell
April 18, 1991
Page 6

bcc: Bob Adler, Natural Resources Defense Council
Sarah Chase, Natural Resources Defense Council
Doug Wolf, National Wildlife Federation
Ted Birkedal, Regional Archaeologist, NPS
Mary Grisco, Nat'l Parks & Conservation Ass'n ✓
Wendy Arundale, University of Alaska, Fairbanks
Alaska Association for Historic Preservation
Peter Frid, National Trust Advisor

National Parks and Conservation Association

PO Box 202045
Anchorage, AK 99520
April 17, 1991

Thomas A. Campbell
General Counsel, NOAA
US Department of Commerce
16th & Constitution Ave., NW
Washington, DC 20230

Re: Memorandum of Agreement Between the United States and
the State of Alaska Concerning the Exxon Valdez Oil Spill

Settlement Agreement Concerning the Exxon Valdez Oil Spill
Between the United States, the State of Alaska and
the Exxon Corp., Exxon Shipping Co., and Exxon Pipeline Co.

Dear Mr. Campbell,

I am writing on behalf of the National Parks and Conservation Association (NPCA), the only national non-profit citizens organization that focuses on national park concerns. Our 280,000 members nationally, including over 1,800 in Alaska, promote the protection, preservation and understanding of our nation's National Park System through diverse activities. We appreciate this opportunity to submit comments on the proposed settlement and MOA.

We applaud the efforts of the State of Alaska and the federal Trustee Council to work for a settlement. Protracted litigation not only absorbs needed fiscal resources but diverts attention and those resources from undertaking assessment studies, restoration and reclamation projects and acquisition of equivalent natural resources. The settlement agreement and MOA however need revisited. NPCA is concerned about the financial settlement, the extent of public participation, the extent of culpability and protection and restoration of the natural (including archeological) resources.

FINANCIAL SETTLEMENT

NPCA appreciates the release of "Summary Of Effects Of The Exxon Valdez Oil Spill On Natural Resources And Archaeological Resources March 1991" by the federal government. Economic analysis is not



1015 Thirty-First Street, N.W., Washington, D.C. 20007-4406
Telephone (202) 944-8530 • Fax (202) 944-8535

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included; the report states it is "preliminary" and "available data are not fully analyzed and interpreted". It is quite difficult to offer meaningful comments on the amounts listed in the settlement agreement without this analysis and similar information from the State. NPCA has asked the US District Court for public disclosure of the financial information which provides the basis for the \$100 million proposed criminal fine and then opportunity for public comment. NPCA asks the same for the settlement agreement.

Why is a ten year payment schedule proposed for the civil settlement of \$900 million? Scheduling payments for decision making regarding restoration projects seems reasonable, however, a schedule can be set up after receiving lump sum payments. This schedule will reduce the amount to approximately \$508 million in current dollars. This schedule also allows Exxon to take full advantage of tax deductibility for payments, thereby shifting payments to consumers and taxpayers. Why are costs incurred before to be reimbursed from this amount? If these costs are included, the ten year amount could be reduced to a total of \$766 million.

Paragraph 18 (Reopener For Unknown Injury) has merit. However, again, how can NPCA offer meaningful comments about the \$100 million cap without full knowledge of economic analyses?

PUBLIC PARTICIPATION

The State of Alaska continues to withhold studies; the federal government did not release any economic analysis. It is fundamentally wrong to suppress information about damages. Whether the State or federal government is liable to pay any of the damages is a separate matter from the scientific data and economic analysis that quantifies damages. The scientific and economic information do not address which party was at fault. The public cannot make intelligent and informed judgements without information.

The MOA directs the Trustees Council to establish procedures for meaningful public participation (IV.A. 4 and 5). Thus far, these players have met privately, without even allowing the public to listen to their meetings. IV.B.3. also allows the Trustees Council to change designated officials without public consideration. At issue here is faith and trust in our governments to manage our resources. Secrecy, cavalier disregard for public participation and media reports of changing designated officials do little to maintain that faith. These sections need to more specifics and less flexibility for administrative changes.

While NPCA is pleased that half the proposed criminal fine will go to the State, we think the public has a right to review proposed activities and to challenge any that may seem inconsistent with settlement language. The State should not be given unilateral authority to resolve disagreements nor to insulate itself from public debate and scrutiny.

EXTENT OF CULPABILITY

Central to an equitable settlement of any criminal suit is the imposition of a sentence that reflects the seriousness of the offense, that promotes public respect for the law and that serves as a deterrence to future criminal behavior by the defendants and others.

High fines often achieve the goals of fairness and deterrence. Corporations do not go to jail. Corporations can often absorb fines and redistribute their impacts. Corporate structure is such that fines, while necessary and important, may not lead to rehabilitative changes in management. Creative sentencing needs to be drafted to meet this challenge.

Alyeska Pipeline Service Company played a crucial role in the events following the grounding of the Exxon Valdez. Alyeska's failure to comply with oil spill contingency plans contributed to the extensiveness of the damage and to the confusion of roles for various agencies and companies. The opportunity to ascertain whether Alyeska's conduct warrants criminal and/or civil penalties should not be foreclosed.

Paragraphs 20 through 30 need to be re-worked. Sections VII and III.B. also need to be re-worked. There may be a compelling fiscal rationale for the State and the federal government agreeing to not sue each other and to defend against third party suits together, but statutory responsibilities under the Clean Water Act, the Comprehensive Environmental Response Compensation & Liability Act, Bald Eagle Protection Act, Migratory Bird Treaty, Archeological Resources Protection Act and Section 106 of the National Historic Preservation Act need to be clarified before such an agreement can be signed.

RESTORATION AND PROTECTION OF NATURAL RESOURCES

Ultimately, the MOA and settlement agreement are about making whole what the Exxon Valdez oil spill damaged. It is frustrating to have so little information upon which to make reasonable judgements and offer meaningful comments. It is our land, water and air that are at risk when oil is transported. Yet, again the public is being asked to trust government and industry to protect our resources.

MOA; Settlement
page 4

Clearly, the public learned from the Exxon Valdez oil spill that government and industry were not prepared. Without scientific and economic information, NPCA cannot say that government and industry are now working to protect and restore our resources.

NPCA, as do many other individuals and organizations, has many suggestions about how to spend any monies for research, restoration and related activities. The MOA and the settlement agreement do not give any structure or guidance for spending monies. We however will expect to offer such comments once any settlement agreement has provided that information. We have commented on draft restoration plans.

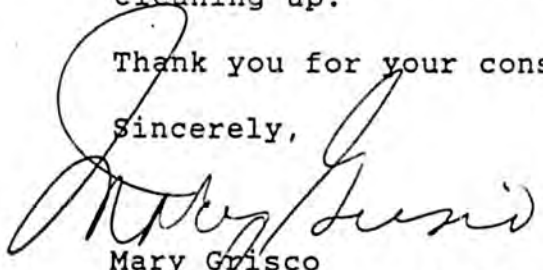
SUMMARY

NPCA chose not to enter litigation following the Exxon Valdez oil spill partly because we expect governments to execute their statutory responsibilities to protect and restore our resources. Without scientific and economic information, NPCA cannot state that the MOA and settlement agreement are in the public's best interest.

For the public to make an intelligent and informed judgement, economic and scientific information needs to be released. Exxon and its companies and Alyeska must be held accountable for their actions. State and federal agencies must also be accountable for their actions. Any settlement should include structure for allocating funds and criteria for what is to be funded. Any settlement needs to act as a deterrent, a clear message to industry and government that prevention costs much less than restoration and cleaning up.

Thank you for your consideration of our comments.

Sincerely,



Mary Grisco
Alaska Regional Director

cc: Barbara Herman, State of Alaska

Alaska Deserves a Fair Settlement
by Rep. Max Gruenberg

When Gov. Hickel returned from Washington D.C. in March, he announced that he had just negotiated with Exxon and the Justice Department the best oil spill civil settlement deal Alaska could expect. Despite the Governor's sincere attempt to negotiate a good deal for Alaska, this settlement was unfair to Alaska and here's why:

- Alaskans would have been excluded from decisions as to how money should be spent on restoration and recovery in spill-hit areas. Instead, a board of federal and state bureaucrats would have unilaterally decided how the money should be allocated. There was no guarantee that the people directly affected by the spill would have had any say in the matter.

- It did not adequately protect the rights of Alaska Natives and other third party groups. Unless loopholes in the settlement were closed, the rights of Alaska Natives to recover damages from Exxon for cultural and subsistence losses could have been restricted. Also, commercial fishermen could have lost their right to recover damages resulting from diminished fish stocks.

- All scientific and economic data could have remained secret without justification. This information should be published so the public can be sure that further damage is minimized, more safeguards can be prepared, and the total impact of the spill can be fully assessed. This will also help prevent unfounded claims by the oil industry of recovery rates in spill areas and verify the toll on wildlife and natural resources.

The House set-up a nine-member bipartisan committee which went over the proposal literally line by line during more than 100 hours of hearings over a period of six weeks. The committee also held hearings in Seward,

Homer, Kodiak and Cordova to hear from people in areas most directly affected by the spill.

In total, 237 Alaskans from all over the the state either wrote or testified about the settlement. Of those, 169 (71 percent) were strongly against the settlement proposal, 14 (6 percent) favored it and the remaining 54 (22 percent) were neutral.

Most committee members felt the settlement weighed too heavily in favor of Exxon by giving the oil giant 11 years to pay the \$900 million settlement. Over time that meant the settlement was really worth only between \$500 million and \$700 million. Meanwhile, Exxon would have continued to profit off money owed to the state.

The House wants a \$700 million payout (what Alaska Attorney General Charles Cole asserted is the real value of the original proposal) within 15 months of the date the judge approves the settlement. Exxon should pay that up front and be done with it.

Under the rejected proposal, the State of Alaska would have subsidized Exxon through state corporate tax write-offs from the settlement worth at least \$5 million. House members thought it was unfair that Exxon should be awarded a \$5 million state tax break. Incidentally, under the agreement, Exxon would have been able to write-off more than \$150 million in federal taxes. The House wanted the agreement modified to prevent Exxon from deducting the civil settlement from its state taxes.

The House also suggested changes so scientific and economic data would be published on a case by case basis unless a court ordered that the data be kept secret.

In addition, The House asked that the public be intimately involved in spending decisions and that the rights of Alaska Natives and other third parties to file claims against Exxon be fully protected.

Other recommended changes would assure that the settlement conforms to the Alaska Constitution by requiring legislative appropriation of monies and that two state legislators be nonvoting members of the trustee board, which will make final spending decisions.

The House suggested the criminal fine be increased to \$500 million, \$100 million going to the state and \$100 million going to the federal government. The rest would go into the civil settlement trust fund for restoration purposes. That would bring the total settlement to \$1.2 billion, a much higher figure than the rejected settlement, but equal to Governor Hickel's goal.

Let's be very clear: the House still wants a fair settlement. The House's suggestions are a road map to making an equitable settlement happen. In rejecting the civil settlement, the House showed that Alaskans have the fortitude to withstand large offers that are really not fair in the long run. True, we took a risk that one of the parties might choose to litigate rather than renegotiate. My colleagues and I felt that was a small risk because litigation is in nobody's best interest.

The Governor made the right decision in putting the settlement before the legislature. He now has a stronger hand to win concessions that protect Alaska's rights, provide fair and adequate compensation and have broad-based popular support. Legislators expect the Governor to honor his word that he will give the public and the legislature opportunity to review and approve the settlement, even if it's a second version. With a little encouragement, Exxon, the Justice Department and the Hickel administration will emerge with a better proposal, one that we all can live with.

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special on the Exxon Valdez Oil Spill Claims Settlement

May 15, 1991

Joe Gumm? (p. 17 of minutes)?
Kodiak, Alaska 99615

Dear Mr. Gumm:

Thank you for taking the time to testify before the committee and offer your comments on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through public hearings, letters, and public opinion messages were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

apr1291b, HOUSE EXXON

Page 40
DRAFT

file copy

Alaska State Legislature

House of Representatives



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

Official Business

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Nancy Gross
City Manager
City of Cordova
P.O. Box 1210
Cordova, Alaska 99574

Dear Nancy:

Thank you for the kind words expressed in your April 20 letter. The insight and perspective gained from hearing from the public during the public hearings in Cordova, Homer, Seward and Kodiak were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of the public.

I have enclosed a copy of House Resolution 29 passed by the Alaska House of Representatives on May 2. As you are not aware, the resolution has been transmitted to the Alaska Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that any future settlement will include most, if not all, of the conditions placed by the House.

Again, my thanks to you for all your help and hospitality while we were in Cordova.

Cordially,


Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

April 25, 1991

Editor, New York Times

Sir:

If Judge H. Russel Holland wants REAL deterrence by Exxon or any other oil company against repeating the incompetence that caused the Valdez spill, he will have to do more than reject the \$100 million criminal fine negotiated by Exxon and Washington. He will have to place under a court trust at least \$10 billion of Exxon assets; otherwise, Exxon will pay only criminal penalties and escape all civil damages for destroying a national treasure. By the time suits, delays, and negotiations are through, Exxon will not be ABLE to pay full civil damages, even though Chairman Lawrence Rawl promised America in 1989 that the company would do so.

Should Judge Holland fail to ensure Exxon assets sufficient to pay DOUBLE the currently estimated economic costs to restore Prince William Sound (\$5 billion, from the unreleased report paid for by taxpayers) are taken out of potential mismanagement by the perpetrator, when Exxon finally is called to account, it will not have the ability to pay. By the end of this decade, it and the rest of the U.S. oil industry will have been reduced to minor economic status as gasoline marketers, replaced by Saudi Arabia and Kuwait. Exxon may still have assets and earnings from non-U.S. markets, but collecting outside America would be a lawyer's life work. The scale of the damage rises still; our estimate in 1989 for Congress (Rep. James Scheuer of New York) that the TOTAL could reach \$50 billion is gradually being confirmed by time, and scientific evidence.

The aftermath of the Valdez still follows the path we outlined in an article published April 17, 1989 (CNN reports aired on the 19th), and in our article published in a Palo Alto, CA paper March 6, 1990). We advised Exxon to set aside some \$30 billion for the purpose in April, 1989; it has not, and Exxon shareholders will pay the price for this lack of judgement. Expect suits soon to make public the scientific reports paid for by the taxpayers; when they become public, Congress will be forced to ensure the ability to collect damages from Exxon should Judge Holland not do so.

Cordially,

Norman Higby, 966 Fremont, Menlo Park, CA 94025 (415) 327-6793

Business Monday

Subject of Cable News Network interviews aired April 18-19

COURTESY OF NORM HIGBY

Will spill push oil industry to extinction?

The call came in a week ago from Menlo Park, Calif.

Norman P. Higby, Jr., whom I've never met but who called because a predecessor of mine had written a story about him in 1983, said we ought to think twice about letting the Exxon Valdez sail into Puget Sound for repairs. Before I could interrupt, he said he was fully aware that the ship's owner was planning to take the leaking ship to Portland. But he also understood that the folks in Portland weren't real crazy about the idea, so the next place Exxon would look will be — you guessed it, Seattle.

"Don't let them do it," he insisted. "You'll only be dealing with ghosts."

What followed was a lengthy conversation with a person that has some impassioned, and apparently informed, views about the domestic oil industry — the so-called "ghosts" of which he spoke. The Exxon Valdez — in case you've been locked in your attic for a month — is the supertanker that became impaled on a reef in Alaska's Prince William Sound March 24, dumping 10 million gallons of crude into the environment.

Our conversations — I called him back a few days later — took place before the Port of Portland announced Friday that the Exxon Valdez would arrive there within six weeks for an inspection of its damage. However, Higby pointed out that his arguments against letting the ship into Puget Sound apply equally to proposed oil drilling off the Washington coast.

The oil industry is basically writing checks that it can no longer cash, in terms of the cost of exploration and safe transportation of its product, he said. The Valdez spill will end



up costing more than twice the net worth of both Exxon and Alyeska, the consortium that transports oil from Alaska's North Slope to the sea port of Valdez.

"The (Valdez) accident has demonstrated that the oil industry's infrastructure is gone," said Higby. "The last vestige of it was it can drill in environmentally sensitive areas safely. Now that's gone."

"Nobody wants to deal with a gone industry. In the wake of Valdez, we should not even be considering drilling for oil or natural gas in any environmentally sensitive area for about 30 years, until we know what we're up against in the industry."

NORM HIGBY IS an entrepreneur, author and economic analyst. Mostly he consults with businesses, investors and the government on the economics of oil. He is also chairman and chief executive officer of a Menlo Park fuel research company which has a patent pending on a process for blending alternative fuels like ethanol and methanol with various oil products. The process, he says, would help end this country's dependence on foreign oil supplies.

In other words, he has a vested interest in seeing the current oil industry disappear.

However, his track record for predicting economic events involving oil is unapproached, even by the oil industry. He's quoted often in The Wall Street Journal, which refers to him as an "energy forecaster." He should not be ignored.

Two of his predictions stand out. In a 1981 letter to former White House staffer Michael Deaver, Higby went against popular opinion by projecting a 75 to 80 percent decline in Saudi Arabian oil revenues in this decade. King Fahd would concede as much seven years later.

Higby also predicted — two years before it happened last June — that Saudi Arabia would buy enough of Texaco Inc.'s East Coast operations to make that OPEC country one of the largest gasoline retailers in the eastern United States.

At the time of that transaction, Higby said Chevron would be next to go to Saudi Arabia. But the Valdez incident changed his mind.

"Exxon will be next — it will follow Texaco into Saudi Arabia, because Exxon won't be able to deal (economically)

with this disaster by itself," he said.

Transactions like these, Higby contends, will become evidence that the U.S. oil industry, and ultimately the world's oil industry, is disintegrating — a process he says has been aided tremendously by the Alaskan oil spill. The industry first will be absorbed by a few international oil giants, which themselves will eventually tumble under their own weight.

"Eighty percent of the current domestic oil industry will not be in existence by 2020," Higby said. "We are into a total restructuring of the economics of world oil. The question is which 20 percent will be left when it's all over? I don't know, but I'll bet Exxon won't be one of them."

The direct economic and social impacts of these developments will be tremendous in Washington State, where the oil industry is now seeking permission to drill off the coast.

"Say Saudi Arabia takes over the economics of Exxon, essentially you'll be asking Saudi Arabia to drill oil off the Washington Coast," he said. "And I don't think that's what you had in mind."

AS A NATION we face even more immediate economic costs from the Valdez disaster, according to Higby. He warns that the government should move immediately to ensure Exxon doesn't file for bankruptcy, which would protect the oil company from having to pay debts associated with the spill.

"The government could move to tie up Exxon's assets in a court-issued trust fund, so they'll be available to pay clean-up costs. It's a move that should be made right away," he said.

We actually have three choices, Higby said. 1.) Let Exxon walk away and allow the oil industry to limp along to what Higby calls "its inevitable demise." 2.) Let those responsible pay the price, and then end up spending an equivalent amount of money ourselves rebuilding the industry's infrastructure from scratch. 3.) Spend money on building an infrastructure for safer, alternative fuel sources, with far fewer environmental and economic risks than fossil fuels.

Or put another way by Higby:

"Do we spend \$150 billion building an industry that will be defunct in 50 years? Or do we spend the amount to build an industry that'll get us through the next century?"

Higby is betting his livelihood on the latter. And he predicts we will be as well.

A U.S. appeals court ruled that companies responsible for oil spills generally should pay the full cost of restoring the environment to its condition before the damage occurred. The most immediate result probably will be that Exxon Corp. will face higher costs in its cleanup of Alaska's Prince William Sound. (Story on Page B4)

If Exxon fails to pay, all of us will pay

San Francisco Chronicle

Tuesday, March 6, 1990

ON FEB. 22, Exxon U.S.A. and the U.S. Department of Justice proposed a settlement over criminal charges and fines arising from the March 1989 Exxon Valdez oil spill in Alaska. Exxon would pay into an environmental fund the sum of \$500 million, period.

While the Department of Justice assures us this "settlement" does not prohibit, or jeopardize, private suits by Alaska or others, the effect of the proposed settlement is another story. Should the

Exxon has misdirected \$2 billion attempting to clean Alaskan beaches.

deal take place, it would almost surely create an environment in which the San Francisco Bay, or the Mendocino/Santa Cruz coastline might see similar incidents before 2000. And every oil company will have been rendered "judgment proof," even if a

judgment with damages were rendered against the creator of an environmental disaster, no compensation would ever be paid.

EXXON HAS SPENT \$2 billion to date to "clean" Alaskan beaches — and has misdirected 100 percent of it. I outlined for Congress, Exxon and Alaska in June 1989 that the only viable cleanup was to replace all the beach sand/rocks. The Exxon steam hoses had driven oil into the beaches, at least 10 feet deep, for 1,000 miles. It cannot be retrieved. At \$20 million clean-up cost per mile, I calculated a clean-up cost at \$20 billion — without equipment or labor. With these costs added, the grand total would be \$60 billion or 130 percent of Exxon's net worth.

In the recent oil spill off Newport and Huntington beaches, the oil was driven three feet into the sand, without the cold, wind and tidal action of Prince William Sound. I warned in Cable News Network interviews aired last April that to collect, Congress would have to place Exxon in

bankruptcy — and if they did not, or Exxon "walked" (the proposed settlement), the money to restore Alaska would be lost forever. U.S. taxpayers ultimately would pay some inadequate cleanup costs.

THE UNITED STATES is now experiencing what I forecast in this newspaper in a 1982 commentary: a trend toward direct marketing of gasoline rather than crude oil in our state by oil

producers, such as Saudi Arabia with California as the major port of entry. Saudi Arabia bought 23 California gas stations from Texaco in 1988; last fall, British Petroleum (BP America) bought all Mobil gas stations in California. Chevron USA has just announced it will close its U.S. exploration/drilling division, and spend the money searching overseas for cheaper oil.

What Americans are witnessing is the rise of a redefined domestic oil industry: BP and Saudi

Arabia will be the domestic oil industry of the 21st century; the Exxons and Chevrons, by moving explorations overseas, will become foreign firms, and economically insignificant ones at that. For Saudi Arabia to gain marketing dominance in California, Exxon and Chevron must be put out of business. Texaco was merely the first of the dominoes.

IF WE CITIZENS DO NOT demand that Congress ensure Exxon meet the law and pay the full cost of its folly, no oil company will ever be made to pay for demonstrated incompetence, bad faith and abysmal planning. A Washington that quails at the consequences of placing an Exxon into bankruptcy in the future has no chance against Saudi Arabia or Soviet Union that builds a leaky pipeline into San Francisco Bay or off Mendocino. The Saudis, who may own the gasoline market in California by that point, will merely say "We cannot afford to pay; to require us to pay is insulting and will deny America access to Middle East oil." The Washington administration and Congress then in power will roll over and play dead — as dead as the bay would then be.

SHOULD THE READER QUESTION this outcome, recall that, during the late 1970s, OPEC raised the price of its oil from \$11 a barrel to almost \$40, citing it as "punishment for America for its support of Israel, and lack of support for the Arab position in the Middle East." As a result, California and America got 17 percent interest rates and 22 percent inflation by 1981. Compared to the incalculable cost of the loss of the coastline of the West Coast, from Washington to Mexico, as freebooting OPEC producers battle for control of the American market, those earlier "costs" will seem absolute bargains.

Norman Higby publishes the Higby Report and is a resident of Menlo Park.

April 18, 1989

Mr. Joe McMillan
Senior Vice President
Exxon U.S.A. Inc.
1251 Avenue of the Americas
New York, N.Y. 10021

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Dear Mr. McMillan:

As a professional courtesy, I would like to extend some support for you and Exxon, in your comments yesterday that the costs Exxon will accumulate subsequent to the Exxon Valdez cannot be translated to consumers as higher prices. You are correct, Exxon cannot so do this.

In recent releases and various interviews, I have disclosed my calculations that the ultimate direct costs to Exxon and the owners of Alyeska will run double your current net worth! When further costs only the Federal government can cover are added, the cost could exceed \$1 trillion over the next couple of decades.

I need not amplify what such a potential means for the securities markets of Exxon, et. al., or the litigation over damages that could last for a decade or more. Exxon's survival is at grave risk.

Please take a friendly piece of advice: immediately place in a trust the sum of \$30 billion--and hope accumulated interest by the end of litigation will cover your costs. A failure to do this will bring consequences Exxon management lacks the capacity to conceive.

The methodology used to calculate these figures is the same used in 1981 to forecast and calculate the subsequent 80% revenue decline of Saudi Arabia, conceded by King Fahd in Dec 1987. Saudi Arabia does not yet see, much less accept, that the revenue loss was a direct consequence in turn of prior strategies and tactics, some still used. Until they make the connection, they will not optimally move to the permanently restructured economic of energy in the future, which will see a fall in the need for oil of 70% by 2050.

An enclosed backgrounder gives some references. I would like your personal acknowledgement of the enclosed. Should Exxon wish to pursue any point, I may be reached as below, but should note my professional consulting fees are very costly, and prepaid.

In the enclosed S.F. Chronicle, I forecast last Sept the subsequent crude oil and product prices seen thru February in northern and central California. The future fluctuations will make these seem mild.

Cordially,

Norman Higby
Norman Higby, Publisher
The Higby Report
966A Fremont Street
Menlo Park, CA. 95025

Enclosures

EXXON COMPANY, U.S.A.

POST OFFICE BOX 2180 • HOUSTON, TEXAS 77252-2180

J. T. McMILLAN
SENIOR VICE PRESIDENT

May 8, 1989

Mr. Norman Higby, Publisher
The Higby Report
966 Fremont Street, No. A
Menlo Park, California 94025

Dear Mr. Higby:

I want to respond to your letter which expressed a number of concerns related to the oil spill in Alaska. I have attached a letter from our Chairman, Larry Rawl, which speaks to your comments concerning the spill and cleanup effort.

However, regarding your comments on pricing, claims that recent increases in crude oil and petroleum prices are largely the result of the Valdez spill are incorrect. Petroleum prices in the United States are impacted by a number of factors, including events well beyond the border of the country. The Alaskan oil spill was one such event that temporarily affected the supply of crude oil to the West Coast of the United States, but its effect on overall U.S. petroleum prices was minimal in relation to other factors. The price of gasoline was increasing prior to the Valdez incident in response to raw-material cost increases, seasonal effects, increased regulations, higher-cost imports, and added state excise taxes.

The idea that Exxon expects the consumer to pay the cost of the spill is completely unfounded. Gasoline prices are set by the interactions of thousands of individual sellers and buyers who operate in a very competitive market. Exxon must price its products at market levels for its dealers and distributors to compete. The marketplace will not permit any unusual costs incurred by a particular supplier, like the costs necessary to clean up the oil spill in Alaska, to be recovered in the marketplace. Those costs must be absorbed by the supplier.

We do not want to lose you as a customer, and we hope that our efforts in Alaska will convince you that we are a responsible company and one with whom you would like to continue to do business.

Sincerely,
Joe McMillan

JTM:kc
Attachment

April 4, 1989

Honorable Steve Cowper, Governor
State of Alaska
Office of the Governor
Juneau, Alaska 99801

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Dear Governor:

White House Press Secretary Marlin Fitzwater is quoted by the media today as indicating your proposed closure of the Alaskan oil pipeline is "not in the national interest". Please realize that Washington is more interested in saving a disintegrating oil industry infrastructure than it is in saving Alaska.

In the future world of oil, and the economics it will have, Alaska may be REQUIRED to seize the pipeline by right of eminent domain, as the sole means to you economic, and environmental survival. This might require closing it first; that will come about anyway, as the costs of the Exxon Valdez will range between \$10 billion and \$1 trillion, most of which can be directly charged against Exxon and the owners of Alyeska Pipeline. Neither, nor both, are worth in total the cost of the damage.

Alaska does not know how, but it will have to compete against Saudi Arabia in downstream U.S. markets directly, and be better than the Saudis at doing so. You lack the methodology, the forecasting record and the proper perceptions to do this. Learn them rapidly; the time frame is short.

The record of Washington in forecasting the future of, ramifications of, and changes in the economics of oil is worse than the pathetic record of bureaucratic inertia still demonstrated by the domestic oil industry. We have a world oil infrastructure built on the base that oil is \$80/bl-the assumptions of one and two decades ago. Oil is \$20, on its way to the total elimination, by the end of this century, of the need to refer to a crude oil price at all. Thus, the measurement base evaporates, leaving one to inquire on what basis can a domestic oil industry, still built on \$80 oil, establish any value, or reason to exist? If the U.S. needs a domestic oil industry, it does not mean it needs THIS one. As the Valdez has demonstrated, the ultimate cost of replacing it from scratch, on the economics of the future, will prove far less costly than subsidizing the one that gave us the Valdez.

Washington has effectively walked from Prince William Sound; if it is neither willing to fund the total replacement costs of a new U.S. oil industry, or to subsidize the \$1 trillion in total economic damage caused to Alaska, Alaska is on its own, and should act as it deems best.

Both your office and the National Security Council have acknowledged my accuracy in oil is far superior to either's. My professional consulting services are costly, and usually prepaid; Alaska has already seen the cost of reliance on those who neither learn nor change.

Cordially,


Norman P. Higby, Jr.
966 Fremont Street
Menlo Park, CA. 94025
cc: The White House

April 27, 1989

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Honorable George Bush
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President

New media reported your comments yesterday that the U.S. needs more exploratory drilling--more oil drilling, period--because we need a viable U.S. oil industry to reduce the rising imports of oil. The U.S. may well need a viable energy industry, but that is not the same as saying we need the current one. Since 80% of the current one will not be here by the end of this century in its present form, all is moot.

The problems of the U.S. oil industry, embodied in the Exxon Valdez, are derived from a total infrastructural disintegration. As I comment in the enclosed March 23 Wall Street Journal, the oil industry, and the world economy, has been built to function on the \$80 oil we were assured by the same industry that claimed competence in handling any Alaskan spills would be here by 1985. Oil is \$20, however, and that is the reason the disintegrating oil industry does not work, and cannot be made to.

On April 7, you said Exxon is "fully liable" for the costs of the aftermath of the Valdez. As we indicated in press releases beginning March 30 and in CNN interviews aired April 18 & 19, the costs to Exxon will be DOUBLE ITS TOTAL CURRENT NET WORTH. When costs only Washington can cover are added, the big spill will easily cost the U.S. \$1 trillion.

To calculate these figures, we used the same approach that we used in 1981 to forecast Saudi Arabia would lose 75-80% of its oil revenues in this decade, an event King Fahd conceded in Dec. 1987 had occurred. Mr. Deaver acknowledged our Oct. 20, 1981 forecasts of this--but we are also acknowledged as having written the 1981 book that forecast today's oil markets. Thus, Mr. President, you have ONLY two choices.

No more rapid, or ignominious end could come to your place in history than to permit Exxon to "walk" on some misanalysed "national interest" basis. As Exxon, with present management, cannot correctly implement viable procedures to survive a future it did not forecast, the sole choice for Washington may prove to be to place Exxon under some sort of involuntary bankruptcy, and to do what we advised Alaska Governor Cowper to do: take control off existing Exxon assets to ensure some ability to pay for what it has done. A failure to do so will mean Exxon will escape paying for placing the economy and ecology of an entire state on the endangered species list, even on the route to extinction.

It will prove far less costly to replace Exxon--the U.S. Aramco partners' functions--from scratch than to deal with them in rebuilding a viable U.S. drilling program. Our newsletter in the future will outline how to do so.

Cordially,

Norman Higby, Jr. Publisher
The Higby Report
966 A Fremont Street
Venlo Park, CA. 94025
P.S. We would appreciate acknowledgement of the above.

April 24, 1989

Rep. James Scheuer(NY)
U.S. Congress
2466 Rayburn HOB
Washington, D.C. 20515

NON-PUBLIC
MATERIAL PRIVATE
INFORMATION

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Dear Jim:

Pursuant to your request today, here is a rough rundown of the costs Exxon and Alyeska are "fully liable" for after the Valdez. The shares will be the subject of litigation. Some figures I do not have access to, so percentages are used; your staff can easily get the base numbers. Use these on the House floor, and the perceptions of the spill will be altered, and the parameters of the discussion changed forever

I appreciate your giving me public credit. When you are asked how I got the figures, say I used the same approach that enabled me to forecast, in 1981, that Saudi Arabia would lose 75-80% of its oil revenue in this decade --an "implausible event that King Fahd confirmed Dec 1987 had happened(a Dec 30 speech said Saudi oil revenues had fallen by four fifths since 1981). The same forecast is in the enclosed 1981 wire to the White House-I sent the truncated version, the original being four pages.

The total costs chargeable to Exxon and the owners of Alyeska run to double their total current net worths, roughly \$300 billion. Over the next 20 years, Washington may have to pay another \$700 billion or more.

I enclose another copy of my recent letter to Exxon advising them to put \$30 billion in cash in a trust now--and hope it will suffice: it might be deemed the present value of what they may ultimately pay. Not the full amount --practical consideration will limit what CAN be collected.

The Cleanup

Until March 24, the industry, and Washington assumed a competence and capacity by the oil industry it cannot bring to bear when needed. Therefore, we must make the worst case scenarios as the base; anything less than the worst case then becomes more manageable.

Conventional wisdom estimates run up to \$300 million for the surface cleanup of the oil, to make it look as if nothing had happened. Figure \$2-\$3 billion and up to five years, given the progress to date by Exxon. This figure does not cover the downstream costs of cleaning up the aftermath of incompetency or inappropriateness of cleanup methods adapted now for expediency. I would assign a "cost" of \$15 billion, for working purposes. If steam hoses drive oil into beach sand, as well as away from beaches, what of the crabs and shellfish that live IN the sand? Perhaps Exxon should replace the beaches 100% all over Prince William Sound? Ask that Exxon seek bids for this(of course, this is an example, but such questions must be asked).

Salmon and Herring Fishing Industries

I understand these industries total \$200 revenue annually. Assign 100% of the revenues to Exxon for ten years, then re-evaluate. Charge Exxon for 50% of the state and federal welfare costs for 75% of the current employees in the industries, again for ten years. The economic value of plants and equipment, residences and business will fall by at least 50% as fishing declines charge Exxon and Alyeska 50% of the market value prior to March 24 if the

continued

owner keeps the business/plant/house--the funds will cover holding costs. Should the owner want out, Exxon will pay 100% of the value--plus, as a business, ten years income--and Exxon will be required to place said plant, land, business, or residence on public sale in 2001 at whatever value can then be obtained.

Hunting, Tourism

Charge Exxon for 25% of the gross value to Alaska for these industries for ten years, then evaluate. This sum should counter employment and economic dislocations resulting from economic shifts resulting from Valdez.

Native Americans

Many native Americans in Alaska have fishing and other rights now impaired. Assign a value and charge Exxon and Alyeska 75% annually for ten years. For those native Americans employed in industries related to such rights, charge Exxon for salary costs as above for fishing.

Safety and Spill Prevention

Charge Exxon \$20 billion for the complete immediate redesign of all procedures, methods, and technologies used in the conditions found in P.W. --coastal tides, winds in enclosed coastal areas, not long coastlines. Exxon has tried inappropriate methods, unworkable in PWS. The costs will be high since this should have been done a decade ago--when Exxon and others began saying they could handle what just happened. Exxon was unlucky enough, or indifferent enough, to get caught "in the barrel".

\$5 EEL, environmental economics levy

Immediately impose a \$5/bl EEL or environmental economics levy against all transporters, shippers or buyers of Alaskan crude shipped from Valdez. This will begin to input the economic costs of incompetence in handling oil in environmentally sensitive areas. ALL must pay, but sales of Alaskan crude will fall, since EEL is a competitive disadvantage to buyers. Charge Exxon for the full royalties paid prior to March 24 paid to Alaska on the oil NOT so when sales drop. EEL should have been imposed a decade ago, but the Valdez has exacerbated the ramifications it will bring to sales of Alaskan crude--for which Alaska is ~~XXXXX~~^{due} for the compensation of lost royalties that would otherwise have been absorbed over a longer time frame.

If crude sales at Valdez fall from 1.8MMBD to 1MMBD, Exxon will pay EEL on what it buys at the lower purchase level PLUS 100% of royalties for five years otherwise payable on the lost 800,000BD. EEL to become permanent.

Optional charges directly to Exxon

Future oil markets for Alaskan oil

Alaska will discover its ONLY future competitiveness in oil, due in part to the \$5 EEL, will be to move downstream, and become a direct marketer of products, competing against Exxon--and Saudi Arabia. Exxon and Alyeska should put up \$50 billion to enable Alaska to do this, provided Alaska will

Rep. James Scheuer, April 24, 1989 p3

R&D fund

Exxon and Alyeska--the entire domestic oil industry--should establish a \$50 billion R&D pool of funds--to be used to develop new species, and adapt what will remain of past ones, of fish, wildlife and birds that my eventually rebuild Alaska and PWS as a wilderness habitat. It takes work to put the ecology of an entire region on the endangered species list, if not on the route to extinction (as you noted, Exxon did it all without a Federal subsidy of any nature); this fund will make them pay to build a new one for the region.

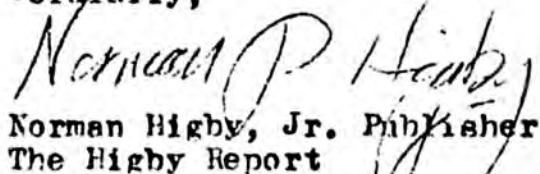
Can it be done? Let us so hope, but we must try--and Exxon/Alyeska must pay. Given some of the damage that may not be recoverable, but become a recurring nightmare, such as the crude oil sunken into underground caverns, even this fund may not be enough.

There is a practical limit to how much can be collected from Exxon, although I know how to collect it and how to enable Exxon to survive to pay it. Still, we have a few ancillary economic costs, which is why I say we may have to force Exxon into involuntary bankruptcy to make sure the incompetents that do not know what they have wrought are not around to commit suicide later. What is Exxon worth as a stock if it owes the sums above? It does have a value, but not with present management, or under any historic securities analysis methodology. What of the lost value to pension and retirement funds and insurance company plans? The loss of dividend income? We can answer all these.

Please let me know when you plan to present this outline on the house floor, since I am constantly revising it in content and as to numbers as I gain access to those I substituted ~~for~~ for. Those in the media, like the Wall Street Journal, would like to interview both of us, and I have referred CNN's Greg Lefevre to your office, although I am sure your contacts are far more extensive.

This will get a hot debate going, but we'll redefine the parameters, and others must play catchup. Yet, the American public gets perspectives it now lacks--but needs to make political and economic judgements later.

Cordially,


Norman Higby, Jr. Publisher
The Higby Report

Enclosures

The Peninsula Times Tribune

Friday, September 14, 1990

Norman Higby

Reopening offshore drilling is the wrong response

SINCE THE IRAQI INVASION of Kuwait Aug. 2, the book of oil has been rewritten. Old perceptions, assumptions, and relationships are being dashed against a reality that almost none anticipated, and fewer correctly comprehended. Except one: offshore oil drilling, California and elsewhere.

The cry has been sounded: we should reconsider permitting drilling off the coast of California, Washington, Oregon, Texas, Florida, the East Coast and in Alaska. "Saddam Hussein will bring supply shortages, ever higher oil and gasoline prices, and make America more vulnerable than ever to an energy crisis." A recent poll showed the number of

Californians who would approve exploration and drilling off the California coast had risen to 50 percent from 38 percent a year ago, provided federal and state safeguards were implemented. This demonstrates an almost total willingness to ignore real prior Iraqi oil market behavior. Californians are right to suspect another gigantic snow job from an oil industry/government to cabal that has, in the words of the American Petroleum Institute, been dead wrong on oil for the entire 1980s

To reconsider drilling would ignore Iraq's prior oil market behavior.

(the API placed me in a handful of "contrarians" who had been correct).

THERE WILL BE no supply shortages arising from Saddam Hussein's actions, although the "dead wrong" are sure to create at least a few. An oil embargo has shifted Saddam's world oil market share,

probably permanently, to other OPEC and non-OPEC oil producers — none of whom has sufficient current oil revenues to satisfy his needs. They are competitors who must fight to win, and then to keep what is a bonus market. Saddam Hussein started, in mid-1985 with price discounts, what became known as the oil price war of 1986. Iraq cheated so blatantly and successfully on its OPEC production quota that OPEC exempted it from 1987-89 from any quota.

Saddam must ultimately win back oil buyers, starting from a market share of zero. His competitors can always underprice him to retain it, and outproduce him with volume supplies. The 1990s will see an oil price war (low prices and surplus availability) to make that of the '80s seem placid. This is the only way for other producers to "defuse" Iraq as a threat.

The Exxon Valdez demonstrated our cabal's incapacity to prevent spills or handle them competently once they occur. And nothing has changed since March 1989, other than 18 months and rhetorical misdirection. Ten years from now, no better record will exist. To "defuse" Saddam Hussein, Gulf producers must dominate oil and gasoline markets to deny him economic revenue: this requires the displacement of the "dead wrong." To return Saddam to his cage, it must become the "domestic" oil industry.

All the rhetoric fears raised about Iraqi control of Mideast oil were raised a decade ago by the "dead wrong" oil industry: about Saudi Arabia ("petrodollars will own the world"), and then about Iran ("we cannot let 70 percent of the world oil reserves fall under the control of an Ayatollah Khomeini").

Before we even consider reopening offshore oil drilling anywhere

for our national and economic security California and America must require a proven track record of performance and willingness to sacrifice. We must require that the oil industry: a) reopen all shut-in domestic oil production, shut down because it was "unprofitable at low oil prices;" b) build new refinery capacity to 1980 levels, to ensure availability of gasoline made from the reinstated production; and c) open all operable but mothballed facilities, built originally on assumptions of \$80 oil (on which money is lost if operated when oil is less than \$35 or so). Chevron's Point Arguello offshore platform in southern California applies here, according to an article in the S.F. Examiner early this year.

If the industry cannot perform and make an unsubsidized "profit" reinstating the infrastructure present in 1980, they are beyond help. If they will not do this to demonstrate capacity, and a willingness to "share the burden" (by eating their errors of judgment in the bottom lines of their annual reports and stock share prices) then even to discuss offshore drilling with them is a threat to U.S. national security.

The California coastline and those of Alaska and all environmental sensitive areas will become late, lamented hostages to the Saddam Hussein Oil Drilling Plan of an oil/government cabal so out of touch with reality it lacks the time to learn how to survive, much less to "share the burden" with the citizens of America. It will be so incapable of learning from past errors that to deal with it risks diverting America from survival in a post-Saddam world.

Norman Higby of Menlo Park publishes the Higby Report, a newsletter on oil, banking and terrorism.

Times Tribune

Friday, September 13, 1985

We've already got more than we can use

SECRETARY DONALD HODEL of the Department of the Interior withdrew his support Tuesday from the agreement reached in July with the California congressional delegation regarding drilling off the California coast. The agreement would have restricted test drilling to 150 selected tracts, and prohibited extensive further exploration until the year 2000. Hodel now wants a vastly more extensive leasing of tracts, and only a five-year moratorium on further exploration. Naturally most members of the California delegation are outraged. But the oil industry believes any agreement prohibiting coastline drilling is not in the "national interest."

The California delegation — and the environmental movement — has been on the defensive on the issue since last spring, in effect letting the department of Energy and Interior and the oil industry define the parameters of the argument — future energy shortages and "independence from unreliable foreign sources of oil" — without really outlining why such arguments are a total misperception of reality, do not fit the future world of oil we will face in the next century and are being undermined by oil industry actions as this is written.

If Interior, Energy, and the oil industry are permitted to proceed on any economic rationale related to that used to oppose the July agreement, Californians will see only this result: The oil industry will raise the "cost" of any oil that reaches world markets to above the value of oil on the market. Whether found in great or small volume, the oil will be irrelevant to any impact on a U.S. need to import oil or refined product. Every citizen of California, must question whether these results are "in the national interest."

THE OIL INDUSTRY ran the "costs" of getting

Norman P. Higby Jr.

new reserves of oil from \$5/bbl in 1973 to roughly \$15 by 1983. They now cite new exploration as not profitable "due to falling oil prices." The widespread industry and DOE forecasts of the last decade — that oil could be up to \$90/bbl by 1983 — were worse than wrong. The consequence was to encourage little attention to costs in getting the "\$90" oil to market. Similar mistakes are made today. Exxon Corp. recently announced a policy of buying back its own stock, reducing the shares outstanding, while enlarging corporate debt to do so. They reason their present reserves have a cost basis of around \$4 or so, and that their own shares are thus an excellent purchase.

It is such logic that is behind oil industry problems. A securities repurchase adds not one new barrel of oil to their reserves. It only raises the debt burden which present reserves must fund — they raise the cost of holding what they already own! Nor are arguments that offshore oil is needed to reduce oil imports valid. This is due in part to the reality that oil imports are no longer related to energy, but to political concerns and foreign and banking policies!

U.S. oil imports of crude and refined product currently run around 4 million barrels a day (MMBD) — half what DOE in late 1982 projected, and about the level I forecast in the Wall Street Journal in January 1983. Even with this import level, half that of 1980, we see continuing surpluses of crude and products. Current demand/consumption patterns will hold through the end of this century — and as

oil producers need revenues, they will continue to create supply surpluses in competition for flat demand markets. The U.S. refining industry has declined by roughly 30 percent and consumption has fallen 25 percent, with the effect that increases in imports above some 2.5 to 3 million barrels a day come at the cost of lost U.S. refinery jobs. Demand will not increase to absorb additional offshore oil: Those who "pay" for it will be U.S. oil employees no longer working.

MEXICO NEEDS crude oil revenues to fund her foreign debt obligations to U.S. banks, and Washington buys Mexican oil for the Strategic Petroleum Reserves to provide financial support and a revenue stream Mexico can get nowhere else. Saudi Arabia, a U.S. ally, has current daily national budgetary expenditures of \$150 million (\$55 billion annually). Her current daily oil revenues run about \$25 million — one sixth of her expenditures! To "protect U.S. access to Middle East oil," Washington has no choice but to provide U.S. market access to these and other allies.

These are political decisions unrelated to U.S. energy needs, but their ramifications will include continued downward pressure on world oil prices and continued availability of supplies. Thus, the basic tenets of the Interior oil lobby logic are rendered invalid.

The California congressional delegation should insist that unless the oil industry develops a far more accurate rationale for further oil exploration and drilling off the coast of California than it now uses, no exploration or drilling be permitted.

Norman P. Higby Jr. is an independent oil-industry analyst based in Menlo Park.

PEN-TYPES

By Jack Russell
Assistant to the Managing Editor

THE WIZARD OF MENLO PARK — That was the title worn proudly by Thomas Edison of Menlo Park, N.J., back in the glory years of inventions. That title, as far as being a prophet for upcoming events, could be placed now on Norm Higby, the oil consultant and Middle Eastern expert from our county's Menlo Park.

Higby predicted in this column two months ago that the Soviet Union would be pulling nearly all of its troops out of the Eastern European bloc countries. Skeptics laughed, but now it all appears to be coming true.

All Foreign Troops Will Soon Leave Europe, Soviets Predict

S.F. Chronicle Associated Press

2/17/90

Washington

The Soviet Union agreed to allow the United States to have more troops in Europe because it expects events to make irrelevant within "a year or two" the newly agreed-upon ceilings, Soviet spokesman Gennady Gerasimov said yesterday.

"We want to lower the level of military confrontation in Europe," said Gerasimov, the Foreign Ministry spokesman, in a telephone interview on National Public Radio's Morning Edition.

"We want it to be zero confrontation, and we want foreign troops to be removed from foreign soil everywhere," he said.

Gerasimov said the Soviets did not accept the U.S. argument that the United States needs to have 30,000 more troops in Europe than the Soviets because of the difficulty in moving forces across the Atlantic in the event of a conflict.

But the Kremlin decided to accept President Bush's proposal to clear the way for a Europe-wide treaty on cutting conventional forces, Gerasimov said.

"The political situation in Europe is changing at such a pace that 4 year or two from now, these figures of 195,000 and 30 additional

thousand will become irrelevant," he said. "This is my hope."

"So as not to stop this process with small obstacles, we decided to make this concession to common sense," Gerasimov said. "...If you want to keep additional troops, it's your taxpayers' money."

He said he had been reading remarks by French President Francois Mitterrand that alliances can exist only if they have enemies, suggesting that the Warsaw Pact and the North Atlantic Treaty Organization "may fade away."

"Today nobody in his right mind can argue that the Soviets want to attack Western Europe," said Gerasimov. "And I hope that nobody in Western Europe or in your country thinks in terms of attacking Eastern Europe or the Soviet Union."

American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005
202-682-8120



Arthur E. Wiese
Public Relations Director

Synopsis of 2 pages

April 29, 1987

Mr. Norman P. Higby, Jr.
966 Fremont Street #A
Menlo Park, California 94025

Dear Mr. Higby:

The late H. L. Mencken used to answer every letter, from the silly to the sublime, that commented on his newspaper columns with a cryptic reply: "Dear sir, you might be right. Sincerely, Henry Mencken." After receiving your note of April 22, I would respond with an amended version of Mencken's formula: Mr. Higby you might be right -- but I greatly doubt it.

Contrarian views of the energy future -- not just yours but those expressed by such prognosticators as Dale Steffes, Arlon Tussing, Steve Hanke and others -- indeed were more correct than the conventional wisdom of the late 1970s about where oil prices and supply would be by the late 1980s. Much of that conventional wisdom -- that the 1980s inevitably would feature a cycle of ever-growing oil demand, sky-high prices and chronic fuel shortages -- was dead wrong.

The record high oil prices of the late 1970s and early 1980s carried in them the seed of the collapse of prices last year. Those high prices produced enormous incentives for exploration and an all-time record for drilling activity and new oil discoveries around the world. They also were a powerful inducement to conservation. Growing supplies and falling consumption inevitably sent prices tumbling despite what many had projected.

Again, Mr. Higby, you might be right. We just believe the weight of the evidence -- which favored your position in the 1979-80 period -- no longer does. We shall see.

Sincerely,

Arthur E. Wiese
Arthur E. Wiese

AEW/gjj

KATHLEEN HARRINGTON

5/6/91

DEAR MAX,

A BIG THANKS FOR
ALL YOUR WORK AND
LEADERSHIP IN THE OIL
SPILL SETTLEMENT REVIEW
COMMITTEE.

BEST REGARDS
K.

Harrington
1242 ST COTTAGE
AUCH 99508

a0646-----

u abx

^PM-Exxon Settlement, 2nd Ld - Writethru, a0636,0538<

^Judge Rejects Part of Exxon Settlement<

^Eds: Leads throughout with reax from Justice Department and Exxon reporting 75 percent jump in first quarter profits. No pickup. Russel in 3rd graf is cq. Also moving on financial wires.< *N.R.*

^By JOHN ENDERS=

^Associated Press Writer=

ANCHORAGE, Alaska (AP) — A federal judge today rejected part of the \$1 billion settlement in the Exxon Valdez oil spill, saying the record \$100 million criminal fine was inadequate.

Under the plea agreement, the Exxon would have paid a \$100 million criminal fine and another \$900 million to settle state and federal civil claims for natural resource damages. The agreement was negotiated by the state of Alaska, the Justice Department and the Exxon Corp.

"The fines which were proposed to me were simply not adequate," said U.S. District Judge H. Russel Holland. "There is no question that the Exxon Valdez oil spill was off the chart."

He said the criminal fines did not adequately reflect the environmental damage done to Prince William Sound, site of the nation's worst oil spill.

In New York, Exxon today reported its profits jumped 75 percent in the first quarter.

Because of the judge's action, Exxon and its shipping subsidiary can withdraw guilty pleas to four misdemeanor criminal pollution charges. At the request of Exxon attorney James Neal, the judge gave the company 30 days to consider what actions it may take.

"It was one of the options the court has," said Neal said after the hearing. "We thought it was a good plea agreement."

Justice Department officials in Washington said in a statement: "We are disappointed that the court would not approve the \$100 million fine and restitution The department continues to believe that the pleas and the fine provided for represent a just and reasonable settlement of the criminal case."

The Justice statement said Holland's decision "threatens the \$1 billion civil settlement to which Exxon has separately agreed."

Holland last month said the criminal and civil agreements were legally separate. It was not immediately clear what effect today's decision will have on the \$900 million civil settlement now pending before the state legislature.

State Attorney General Charles Cole told reporters outside the courtroom that the state intends to pursue the civil settlement. Cole said he still thinks a civil settlement is in the best interest of the state.

The \$900 million fine was to be paid over 11 years, with the money going into a trust to pay for cleanup and restoration of Prince William Sound.

The Exxon Valdez ran aground in the sound in March 1989, spilling nearly 11 million gallons of crude oil. The oil company already has spent \$2.5 billion to clean up the spill.

Exxon, the nation's largest oil company, said earnings rose to \$2.24 billion, or \$1.78 per share in the three months ended March 31, compared with \$1.28 billion, or \$1.01 per share in the year-earlier period.

Exxon's earnings increase was largely attributed to a lag in price movements. Prices at the gasoline pump, which rose with the Persian Gulf crisis, have not fallen as quickly as crude oil prices on the spot market.

u nbx

^PM-AK--XGR-Settlement Reax,807<

^URGENT<

^Lawmakers Surprised by Judge's Rejection of Exxon Plea Bargain<

^By BRIAN S. AKRE=

^Associated Press Writer=

JUNEAU, Alaska (AP) — Alaska lawmakers reacted with surprise today after a judge rejected the federal government's criminal plea bargain with Exxon Corp. over the nation's worst oil spill.

Legislative committees for weeks have been reviewing the billion-dollar settlement of Exxon Valdez litigation, of which the criminal plea bargain was a central part.

"I don't think anybody suspected this would happen," said Sen. Pat Rodey, D-Anchorage and a member of the Senate settlement committee.

"Certainly, conventional wisdom was that the plea agreement would be approved."

Although the federal criminal case was separate from the state and federal government civil litigation, they were linked under the settlement negotiated earlier this year.

Exxon agreed to plead guilty to four misdemeanor pollution charges and pay a \$100 million fine, which U.S. District Judge H. Russel Holland said was inadequate. To settle the civil damage claims, Exxon would pay \$900 million over 11 years for restoration of Prince William Sound.

The waterway was polluted with nearly 11 million gallons of crude oil when the tanker Exxon Valdez ran aground in March 1989.

Lawmakers disagreed over the effect of the judge's decision.

Rodey said the Legislature, which faces a May 3 deadline to approve or reject the settlement, likely will halt its review.

"It's a moot point," he said. "Should we really spend any more time looking at an agreement that's not going to be approved?"

But House Speaker Ben Grussendorf, D-Sitka, said it depends on whether Exxon decides to keep the settlement of the state and federal civil claims on the table.

If Exxon wants to reopen negotiations, the Legislature would have to approve any new settlement in a special session next summer or fall, or wait until its next regular session in January, he said.

The Legislature must end its 1991 session by May 21.

Senate President Dick Eliason, R-Sitka and chairman of the Senate settlement committee, said the state can still deal with Exxon on the civil claims to avoid years of expensive litigation.

"You'd have to renegotiate, certainly," Eliason said. "The state is going to be the loser. We'll find out down the road that this is the best deal we could have made."

Rep. Max Gruenberg, D-Anchorage and chairman of the House settlement committee, said he would ask the panel this afternoon to approve a letter asking the Hickel administration, federal government and Exxon what their plans are. The letter will ask for a response by 2 p.m. Thursday, he said.

The letter will ask if the parties want the Legislature to continue consideration of the civil settlement and if the May 3 deadline for a decision should remain in effect.

Gruenberg said he would like to see the deadline renegotiated.

"This may, in a very strange way, help the process considerably," he said. "It may take some of the pressure off. The deadline has created a lot of artificial pressure."

Gov. Walter J. Hickel was on a jet to Los Angeles and could not be reached for comment.

Hickel spokesman John Manly said the administration hopes the civil settlement can still be approved even if the criminal case remains unresolved.

"We don't think that they're so linked that it's going to affect the civil side of it," Manly said. "The only problem is if Exxon doesn't want to go through with it."

"Nothing's done until it's done. We believe that Exxon feels like they're getting a reasonable deal in this settlement, as the state of Alaska feels it's getting a reasonable deal."

Manly added, however, that the judge's ruling "probably sends a signal that we don't really want sent."

Grussendorf, who said he was leaning toward rejecting the settlement, praised the judge's ruling.

"Judge Holland's lived up to his reputation for being a jurist who's known for his deliberation of the cases before him."

Environmental activist Riki Ott of Cordova also cheered the ruling.

"It's about time somebody called the shots like they really are," said Ott, a leader of the Oil Reform Alliance, an oil industry watchdog group formed after the spill.

The rejection should force the Legislature to look closer at the civil settlement, she said.

"I'm hoping that Judge Holland's decision gives the Legislature an adrenalin shot that carries them through the next nine days to just say 'no.'"

Ott said she would like to see an agreement that makes Exxon pay more and forces the parties to release spill-damage studies that have been kept secret.

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Division of Forest Sciences
School of Agriculture and Land Resources Management
University of Alaska Fairbanks
Fairbanks, Alaska 99775-0080
(907)474-7188

March 26, 1991

Representative Max Gruenberg
attn: Mona Maehara
P.O. Box V
Juneau, Alaska 99811

Dear Mona,

I have enclosed copies of my two articles on the effects of the Exxon Valdez oil spill. I hope this information is of use to the Committee reviewing the proposed terms of the Exxon Valdez settlement agreement. I would appreciate the opportunity to provide comments on the agreement, which I have not yet been able to review.

Sincerely,

Glenn Patrick Juday

Glenn Patrick Juday
Assistant Professor of Forest Ecology, and
Alaska Ecological Reserves Coordinator
tel. (907) 474-6717
FAX (907) 474-7439

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 13, 1991

*Sample
Extra*

Ms. Linda Kryan
1822 Mark Allen Drive
Juneau, AK

Dear Ms. Kryan:

Thank you for taking the time to send me a Public Opinion Message with your comments on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

A handwritten signature in dark ink, appearing to read "Max F. Gruenberg, Jr.".
Max F. Gruenberg, Jr.,
Chairman

Enclosure: HCR 29 am

Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 15, 1991

Mr. Gary Kompkoff
P.O. Box 650
Cordova, Alaska 99574

Dear Mr. Kompkoff:

Thank you for taking the time to submit written testimony to the committee offering your comments on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through public hearings, letters, and public opinion messages were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

May 22, 1991

Ms. Victoria McDonald
P.O. Box 556
Petersburg, Alaska 99833

Dear Ms. McDonald:

Thank you for taking the time to write to me about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated in any future settlement.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

Box 556
Petersburg, AK
April 17, 1991

House Special Committee
P.O. Box V
Juneau, AK 99811

Re: Committee on the Exxon Settlement:

The proposed settlement on the Exxon case should be denied. There are issues that should be addressed before any settlement can be finalized.

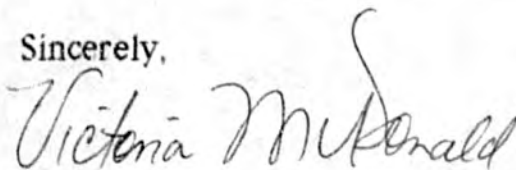
Many of Alaska's natives have not had sufficient time to respond to this issue. This issue seems to have been pushed through without time for studied public input. If major clean up efforts have taken at least two years to complete, public input concerning this disaster ought to have more time granted before completion of the settlement.

Alyeska Pipeline Service is asking to be absolved of all potential wrongdoing. This has serious consequences; large corporations have been allowed to commit crimes and not pay the consequences a private individual would pay. All oil companies in the dispute need to face the consequences of their illegal acts. If the oil companies do not have to pay penalties, there is no deterrent to future spills.

Please reconsider the proposed settlement until the public has more time to respond.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Victoria McDonald". The signature is written in dark ink and is positioned above the printed name.

Victoria McDonald



* * * For Immediate Release * * *

For More Information Contact:

Sarah Chasis, NRDC, New York, (212) 727-4424

Bob Adler, NRDC, Washington, (202) 783-7800

ENVIRONMENTALISTS CRITICIZE EXXON VALDEZ SETTLEMENT

-- Washington, D.C., Thursday, April 18, 1991

Today a coalition of environmental groups filed comments in Washington and Alaska strongly criticizing the proposed settlement reached between Exxon and federal and state agencies. The accord, which would require Exxon to pay \$1.1 billion dollars over an 11 year period and plead guilty to criminal charges, was agreed to in March. The comments will be reviewed by the government trustees who negotiated the settlement.

"We have major reservations about the proposed settlement," said Sarah Chasis, a senior attorney with Natural Resources Defense Council, who submitted the comments on behalf of the environmental groups. "It denies the public access to crucial scientific data collected by the government. It requires Exxon to pay a sum that appears inadequate to rectify the damage done to Prince William Sound, and it releases Alyeska from any liability despite its negligent, perhaps even fraudulent, conduct."

Throughout the negotiating process environmentalists have strongly objected to the government's refusal to release scientific and economic data collected by Exxon, federal and state agencies on the extent of damage suffered by the Sound.

"These data are crucial to evaluating the adequacy of the settlement amount since they represent the measure of the damages to which the public is entitled" said Chasis.

Environmentalists also maintain that the data is needed to inform other important public policy decisions that must assess the benefits and risks of proceeding with oil development and transportation.

Objecting to the settlement amount, environmentalists have pointed out that the long pay-out schedule of eleven years substantially reduces the present value of the settlement money.

- more -

The Congressional Research Service has estimated that the present value of the settlement to the government ranges between \$421 to \$524 million dollars. Moreover, under the terms of the agreement, as little as \$500 million of the \$1.1 billion dollar settlement may be available to repair the environmental damage done to Prince William Sound as a result of the spill, despite reports that damages are in the range of \$3 to \$10 billion dollars.

Another major objection to the proposed settlement is the United State's agreement not to seek criminal charges or civil penalties against Alyeska. Environmentalists have charged that Alyeska contributed to the spill by bungling initial cleanup efforts. According to a Congressional probe, at the time of the spill Alyeska apparently knew it could not implement its own clean-up plan for Prince William Sound and decided to take no corrective action.

"What kind of message does this send to others responsible for oil spill contingency planning and response," said Bob Adler, an attorney with NRDC. "That no matter how grossly negligent they are in implementing their contingency plans and carrying out spill response, they can escape all criminal and civil penalties and liability for natural resource damages?"

The submitted comments also objected to the Memorandum of Agreement (MOA) between the federal and state government, which outlines how the money received from Exxon will be jointly managed by state and federal trustees.

The MOA requires that all decisions relating to the use of the settlement money be made by unanimous agreement between the state and federal trustees. Environmentalists fear that this arrangement will result in innovative but important projects going unfunded. The comments also point out that the MOA shuts out the EPA from the decision making process.

In their comments on the MOA, environmentalists pressed for greater public participation in the restoration process through the establishment of a public advisory group. The advisory group would represent a broad range of those interests adversely effected by the spill and would be responsible for developing and updating an annual restoration plan for the sound. The comments strongly urged that the trustees commit to the advisory group by witting it into the settlement itself.

The environmental groups represented in the comments are Alaska Center for the Environment, Defenders of Wildlife, Greenpeace, National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Prince William Sound Conservation Alliance, Sierra Club, and Trustees for Alaska

May 22, 1991

Martin and Sheila Nickerson
540 West 10th Street
Juneau, Alaska 99801

Dear Mr. and Mrs. Nickerson:

Thank you for taking the time to write to me about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated into any future settlement.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

Martin & Sheila Nickerson
540 West 10th Street
Juneau, Alaska 99801

4/13/'91

Rep. Gruenberg
Dear Legislator,

We urge that you vote to reject the proposed Exxon Settlement. The terms offer too little. It denies the public the opportunity to learn the full extent of the damage. It leaves the State liable for all the secondary suits while holding Exxon harmless (which, after all the affected individuals get through, could end up with nothing for the State). It puts supervision of the fund created by the settlement outside the review of any elected officials and outside the political process. And, by a decision of the present State Administration, it puts all the economic and scientific studies out of public scrutiny. Each of those items causes harm. Together, those terms amount to a bad deal.

Studies made by the State to date support at least a \$3.5 billion dollar settlement on the basis of direct damages alone. The so-called, currently-proposed "\$1.0 billion dollar settlement" actually amounts to less than \$500 million for the state in present value since it will come in to the state over some time. That amounts to inadequate compensation.

Aside from the questionable allegiance of those who negotiated this deal, and apart from the shabby terms, we need to face the full impact of the spill and identify what needs to be done to lessen its impact and prevent it from happening again. There should be additional funding for the Departments of Environmental Conservation, Fish and Game and Natural Resources to identify the effects of the spill over time and to counteract them as much as possible. We should know the full extent of the damage and review the fate of Prince William Sound and the other affected communities for as many years as the impacts are felt. Nothing in this settlement and nothing proposed by those who negotiated it points in the direction of a responsible attitude to this problem or any continuing concern for this tragedy.

We urge that you take a step in the right direction and reject this bad first offer. It does not adequately address the responsibilities of the State.

Yours sincerely, *mn*

Sheila and Martin Nickerson

May 22, 1991

Mr. Martin Hansen
1352 Inlet Place
Anchorage, Alaska 99501

Dear Mr. Hansen:

Thank you for taking the time to contact my office about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's, telephone calls, and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

CONSTITUENT INTAKE FORM

Staff Person: Nancy B Subject: Exxon settlement

Name: Martin Hansen Date: 4-11-91
Resid. Address: 1352 Inlet Place Hm. Phone: 258-1222
Mail Address: " Wk. Phone: 267-1216
City/Zip: ANC 99501 Precinct: 120

SYNOPSIS OF PROBLEM/REQUEST:

Opposed to the settlement - thinks it's
a gift to Exxon + was done without
assessing the damages.

Asked to let Reps Brown, Ellis + Gruenberg
know his thoughts -

ACTION TAKEN:

CONTACTS:

Name: _____ Agency: _____ Phone: _____
Name: _____ Agency: _____ Phone: _____
Name: _____ Agency: _____ Phone: _____

Database Updated? Date: _____

Reply to Constituent? Date Phoned: _____ Date written: _____

Followup/Comments:

May 22, 1991

Ms. Jennifer Nelson
5100 Spruce Creek Circle
Anchorage, Alaska 99516

Dear Ms. Nelson:

Thank you for taking the time to write to me about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope any future settlement will include most, if not all, of the conditions placed by the House.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

April 9, 1991

Jennifer Nelson
5100 Spruce Ck. Cir.
Anchorage, Ak 99516

This is in response to the proposed Exxon settlement, both criminal and civil. Throughout the entire tragedy, Exxon has done nothing but defend itself and attempt to downplay the devastation which occurred. I have yet to see any evidence on their part of genuine concern for what they destroyed through their ignorance, incompetence, and general disregard for the unique environmental treasure chest of this state. The oil spill has forever destroyed the delicate balance of this enriched environment. Exxon's proposed punishment for this travesty is so minute it is unbelievable. The possibility that the company's directors and others responsible will not be forced to serve time in jail after the incarceration sentence they have handed to Alaska is outrageous. The one billion dollar settlement would be laughable if it was not so depressing. This settlement represents one quarter of Exxon's profits for last year alone, not to mention the fact that half of this petty cash qualifies as a tax deduction.

If we are to protect the part of this great state that has not already been destroyed, we must demand retribution that will not only cause great financial hardship to those who are responsible for so much damage and destruction, but will also allow us the financial capabilities to prevent this from happening again. We need to have the ability to develop research and preventative programs as well as state funded wildlife centers for those animals affected by the spill through physical damage as well as destruction of habitat.

If this settlement is approved, Exxon as well as other oil companies will realize that they can get away with murder.

Sincerely,



Jennifer Nelson



RECEIVED APR 15 1991

National Audubon Society

NATIONAL CAPITAL OFFICE

801 PENNSYLVANIA AVENUE, S.E.

WASHINGTON, D.C. 20003

(202) 547-9899

April 11, 1991

The Honorable H. Russel Holland
U.S. District Judge
c/o Clerk of the Court
Room 261
United States District Court
222 West Seventh Avenue
Anchorage, Alaska 99513

Re: United States v. EXXON Corporation and EXXON Shipping Company
No. A90-015 Criminal

Dear Judge Holland:

The following comments are submitted on behalf of Prince William Sound Conservation Alliance, Alaska Center for the Environment, Defenders of Wildlife, Greenpeace U.S.A., National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Sierra Club, and Trustees for Alaska ("the Conservation Groups") in response to the Court's March 22, 1991 Notice inviting public comment on the plea agreement entered into between the parties to the above-captioned proceeding. The Conservation Groups appreciate the opportunity to submit these comments. We are aware that you have offered the public an unusual opportunity to apprise the Court of its views on a criminal matter. But the events that led to the February 1990 ten-count indictment returned by a federal grand jury against EXXON and EXXON Shipping ("defendants") and the resultant consequences of those events for the environment of Prince William Sound and the surrounding area warrant the fullest possible public review of the settlement of the criminal charges against those defendants.

However, this review is hampered by the parties' failure to disclose information in their possession on the impact of the spill on the environment of Prince William Sound, Gulf of Alaska, Cook Inlet, and other affected areas making it difficult to give the Court an informed opinion on the adequacy of the proposed criminal fines.¹ Consequently, we cannot advise the Court with specificity

¹ The recent release by the United States of a 19-page summary of some of the information underlying the proposed settlement agreement does not cure this defect.

on whether the proposed criminal fines will provide restitution for the damage done Prince William Sound and its environs, or are even a "just" punishment for the crimes committed by defendants. This defect taints the entire settlement agreement. We ask the Court to order the release of all relevant information by the parties to the agreement.² Approval by the Court of the criminal plea should await such disclosure, and an opportunity should be given to the public to submit supplemental comments based upon that information.

The Conservation Groups view as central to the settlement of the federal and state governments' claims against defendants the imposition of a substantial criminal sentence. This sentence should reflect the seriousness of the offenses that underlie the federal indictment, provide restitution for damage to the Sound and act to deter future criminal behavior by defendants and other similarly situated businesses. We believe that the proposed agreement will not achieve these goals for the following reasons.

1. The Proposed Criminal Fines Are Insufficient

Based on what is known about the impact of the spill on Prince William Sound and applying basic tenets of criminal sentencing, the Conservation Groups believe the proposed fines are insufficient. We reach this conclusion after examining their correlation to the crimes that have been committed, their projected impact on defendants, and the extent to which they provide restitution for Prince William Sound and the species that depend upon the Sound for their survival.

The proposed criminal fines bear little relationship to the enormity of the crime against the environment committed by the defendants. These crimes are among the most heinous crimes against our environment to date. The crude oil that migrated from the *EXXON VALDEZ* contaminated 1,200 miles of shoreline, four National Wildlife Refuges, two National Parks, one National Monument, and one National Forest. It also destroyed migratory bird habitat, seal and lion haul-out areas, and six salmon hatcheries. According to a summary of natural resource damages from the spill released

Not included are the results of various economic studies. Without this information, the impact of defendants' conduct cannot be quantified.

² At minimum, the Court should order the United States to disclose the information in its possession, because of its special status as a Trustee of public resources.

on April 9, 1991 by the United States,³ several hundred bald eagles and as many as 500,000 birds of various species and several hundred thousand more chicks perished as a result of the spill. As many as 5,500 sea otters and 200 harbor seals may have died. Serious harm was done to at least 26 archaeological sites, and to the hunting and fishing lifestyles of Native villages. Contaminated clams and invertebrates are a continuing source of pollution to sea mammals, and the long-term impacts of the spill on fish and wildlife have yet to be determined.

The proposed criminal fines are significantly lower than those that might have been assessed had the Court elected to apply the Alternatives Fines Act, 18 U.S.C. Sec. 3571(d). Under that law, which the United States implied it would ask this Court to apply, defendants could have been assessed criminal fines at twice the proven pecuniary loss resulting from their criminal conduct.⁴ While such high amounts might not have actually been assessed by this Court, they do provide some measure of the potential seriousness of the crimes.⁵

2. Innovative Sentencing Measures Would Deter Repetitious Behavior

Corporations, particularly ones as large as defendant EXXON,

³ "Summary of Effects of the EXXON VALDEX Oil Spill on Natural Resources," filed with this Court April 8, 1991.

⁴ This would increase defendants' exposure to criminal fines to \$2 billion (twice the amount of civil damages assessed against defendants in the proposed settlement agreement). Depending on the accuracy of recent reports on the results of the State of Alaska's economic studies, this liability could run as high as \$6 billion.

⁵ A substantial criminal fine in this case, however, may deter others in the oil industry from engaging in similar criminal conduct. As there is ample evidence of widespread noncompliance with environmental laws and regulations by this industry, this Court should weigh the broader deterrent effect of high fines in evaluating the adequacy of the proposed fine. See Inland Oil Spills, Stronger Regulation and Enforcement Needed to Avoid Future Incidents (General Accounting Office, February 1989) (GAO/RCED-89-65).

pose particular challenges with respect to imposing sentences.⁶ Fines, even substantial ones, are rarely sufficient to induce behavioral reform.⁷ This fact is clearly illustrated in the instant case where the management of defendant EXXON has not only consistently refused to acknowledge any culpability or remorse for the havoc it wrought on the environment, but views the \$1.1 billion settlement agreement as a "cost of doing business."⁸ This unrepentant attitude makes it unlikely that defendants will take action to avoid a repetition of the events that caused this catastrophe. Therefore, the Court should consider the imposition of supplemental "innovative" sentencing measures to achieve a deterrence objective.⁹

We ask the Court to consider placing defendants on probation. Probation is particularly appropriate in sentencing a corporation where the goal is not to drive it out of business, but to preserve it as a constructive member of society, and where fines alone may not reform corporate behavior. Creative probation conditions can be tailored to each category of offense and to the characteristics of the offender to achieve the rehabilitation of defendants.

In this case, the Court could include as a condition of probation, or as a free-standing measure, a requirement that defendants' facilities be subjected to a periodic environmental audits by a court-appointed independent auditor. Such an audit could be designed to identify specific improvements in defendants'

⁶ Corporations do not go to jail and can absorb fines, because of their sheer wealth -- in no case more true than here -- and their ability to pass them on to customers. See F. Grad, *Treatise on Env't'l Law* at 2-555.

⁷ See Coffee, *Corporate Crime and Punishment: A Non-Chicago View of the Economics of Criminal Sanctions*, 17 *Am.Crim L. Rev.* 419, note 20 at 468, 475-76 (1980); Bower, "On the Amoral Organization" in *The Corporate Society*, 178, 197 (R. Marris ed. 1974).

⁸ Chairman of the Board of EXXON Corporation Rawls recently compared the total cost of the settlement to the cost of opening two offshore oil and gas wells.

⁹ See United States Sentencing Commission Proposed Amendments to the Sentencing Guidelines for the United States Courts. 54 *Fed. Reg.* 47056 (November 8, 1990).

equipment and operating practices to prevent a recurrence of the events that led to their conviction, and of other possible environmental problems as well. Environmental audits, like probation, can be viewed as a tool to "rehabilitate," rather than merely to punish environmental violators; analogous to community service requirements imposed on convicted drunk drivers.

3. Exculpation of Alyeska Pipeline Service Company

Conservation Groups object to the release of Alyeska Pipeline Service Company and its owner companies from any culpability under federal law arising from the events that unfolded after the grounding of the *EXXON VALDEZ*. Alyeska's failure to comply with the oil spill contingency plan in effect on March 24, 1989 significantly compounded the environmental damage that eventually occurred. According to material recently submitted to this Court by Rep. George Miller, Vice Chairman of the Committee on Interior and Insular Affairs, U.S. House of Representatives, Alyeska and its owners had knowledge of Alyeska's inability to respond to an oil spill in Prince William Sound, and failed to take remedial action.¹⁰

In light of this information about Alyeska and its owner companies' conduct, it is clearly not in the public interest for the United States to waive its right to pursue criminal as well as civil and administrative penalties against them. Alyeska and its owner companies gained access to environmentally sensitive lands to build the Trans Alaska Pipeline System, and then set out on a course of deceiving the public about their capacity to comply with the undertakings they had made to gain this privilege. If this portion of the agreement is approved, they will not be held accountable for their misconduct. The Court should strike that part of Paragraph IIIA that exculpates Alyeska and its co-owners.

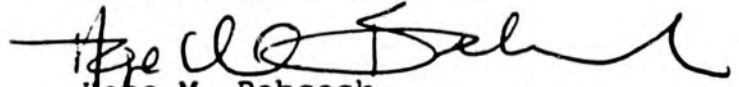
4. Alaska Should Not Be Insulated From Review

The Conservation Groups protest the insulation of Alaska from any administrative or judicial review of its actions under Paragraph IVA. Not only does the public have a right to review those actions and to challenge any that are inconsistent with the agreement, but the United States and this Court should not waive their authority to enforce the provisions of the agreement. Paragraph IVB is unenforceable, and should be struck by the Court.

¹⁰ April 8, 1991 letter from Rep. George Miller to Hon. Russel Holland and Hon. Stanley Sporkin, filed in No. A90-015 CR, A91082 Civil, A91083 Civil, A91081 Civil, 3AN-89-6852 Civil, 91-484 SS Civil.

We appreciate your consideration of these comments and hope that they will be helpful in your evaluation of the plea agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Hope M. Babcock', with a long, sweeping horizontal line extending to the right.

Hope M. Babcock
General Counsel
National Audubon Society

On behalf of Conservation Groups



Oil Reform Alliance



The Oil Reform Alliance strongly opposes the Exxon Valdez settlement and urges legislators to do the same because

IT SETS BAD PRECEDENT

- * There is much more than money at stake. The settlement should send a strong signal to potential spillers that they will be held to the highest degree of criminal culpability and financial accountability for oil spills.
- * The settlement should modify the behaviour of potential spillers, but the oil industry is lobbying as strongly as ever against increased reform. The industry is actively working to weaken oil spill planning and response standards and financial responsibility (through the 567 draft regulations and introduction of HB196, respectively).
- * The settlement gives away the farm. Instead of building public trust, this settlement shakes the foundation of our trust. It will be very difficult for the ORA to support future oil and gas developments unless the state takes forceful steps to hold spillers accountable and proves itself a regulator capable of balancing responsible development with public concerns and environmental protection.

IT LETS CRIMINALS OFF THE HOOK

- * The total cost to Exxon, after tax, is less than \$425 million in 1991 dollars. The cost to Alyeska is zero. Congressman George Miller discovered that the Alyeska owners decided in June 1988 that Alyeska could not and would not respond to oil spills past Valdez Narrows - contrary to their public promises. Alyeska and responsible officers should be exposed to substantial criminal penalties.
- * The U.S. Justice Dept. waives its rights to pursue criminal charges against Alyeska and its owner companies, AND its rights to pursue civil or administrative penalties against these same parties.
- * The largest U.S. settlement for environmental damages was the Allied Chemical case at \$13 million or 10% of Allied's earnings that year. Exxon's yearly sales are over \$100 billion.

IT IS A BAD DEAL FOR NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

- * The settlement holds hostage future spill-related scientific studies and restoration projects. Until a settlement is reached, there are no funds available to continue state and federal scientific studies or initiate restoration projects. Legislators should work out a funding mechanism for this type of work immediately, either

through direct appropriations or a state loan. The Oil Pollution Act of 1990 created a billion dollar renewable fund to avoid precisely this dilemma.

- * Continued scientific studies are critical to the public's understanding of spill impacts. Life cycles of some species, such as salmon and herring, are such that full impacts will not even be known for several more years. Scientists at the Woods Hole Oceanographic Institute have studied the West Falmouth oil spill for over twenty years and are still reporting effects to the biota and the environment.
- * Federal summaries of scientific studies show natural resource damages were up to twice as severe as previously estimated and long-term damage may be extensive. Although all economic data are still held secret, leaked estimates range from \$3 to \$10 billion.
- * The settlement must outline in detail how funds can be spent to prevent "an institutional feeding frenzy." Funds should be spent on projects for restoration, rehabilitation or enhancement as stated in the Clean Water Act.
- * The trustee system inspires no public confidence. Two state trustees stated they did not intend to spend much money on land acquisition, despite public support and precedence for this idea. (The recent settlement for the Arther Kill spill included \$5 million for land acquisition.) Another potential trustee is a co-conspirator of the Alyeska owner companies' plan not to clean up spills past Valdez Narrows - a plan that carries criminal liability overtones.
- * Funds for environmental restoration, research and monitoring will dribble out over a ten year period. The payment schedule does not include compounding interest and it is tax deductible. The payment schedule successfully impedes capital heavy mitigation projects such as land acquisition.
- * Future - and past! - cleanup expenses should be assessed directly to the spiller, not included in the settlement. Natural resources could well be the loser in competition for funds with past and future cleanup projects.

IT IS A BAD DEAL FOR THIRD PARTY VICTIMS (THE PUBLIC!)

- * The settlement drives a wedge between the State and its injured citizens by requiring governments to act in defense of each other if one is sued. Citizens will be forced to sue the State to recover compensation for the State's "percentage of fault" as decided by a jury (AS 9.17.040).

The Oil Reform Alliance also requests a new settlement be worked out and it should start with release of scientific and economic studies and full public participation.

The next spill - and there will be a next spill: it is part of the risk we take for our oil dependency - the public will look back to the voting record on this settlement. We will ask what you did to impress upon spillers that they would be held accountable for oil spills.

THINK AHEAD! VOTE "NO" ON THIS SETTLEMENT!



Oil Reform Alliance



SEWARD FRI 7:30-10:00 * HOMER SAT 9-12 * KODIAK SAT 4:30-7:30
CORDOVA SUN 12-4 * JUNEAU STATEWIDE MON 3:30-6:30

Final public hearings on the EXXON VALDEZ settlement are this weekend. Strong public outcry opposing the settlement is needed to influence legislators' vote.

OPPOSE THE SETTLEMENT BECAUSE - IT LETS CRIMINALS OFF THE HOOK

- * The total cost to Exxon, after tax, is less than \$425 million in 1991 dollars. The cost to Alyeska is zero. Congressman George Miller discovered that the Alyeska owners decided in June 1988 that Alyeska could not and would not respond to oil spills past Valdez Narrows - contrary to their public promises. Alyeska and responsible officers should be exposed to substantial criminal penalties.
- * The U.S. Justice Dept. waives its rights to pursue criminal charges against Alyeska and its owner companies, AND its rights to pursue civil or administrative penalties against these same parties.
- * The largest U.S. settlement for environmental damages was the Allied Chemical case at \$13 million or 10% of Allied's earnings that year. Exxon's yearly sales are over \$100 billion.

IT IS A BAD DEAL FOR NATURAL RESOURCE DAMAGE ASSESSMENT

- * Less than \$775 million will be available over a ten year period to pay for environmental restoration, research and monitoring. The payment schedule does not include compounding interest and it is tax deductible.
- * Federal summaries of scientific studies show natural resource damages were up to twice as severe as previously estimated and long-term damage may be extensive. All economic data is still held secret, but leaked estimates range from \$3 to \$10 billion.
- * The settlement should spell out how funds can be spent to prevent "an institutional feeding frenzy." The recent settlement for the Arther Kill spill included included \$5 million for land acquisition.
- * Future - and past! - cleanup expenses should be assessed directly to the spiller, not included in the natural resource damage assessment.

IT IS A BAD DEAL FOR THIRD PARTY VICTIMS (THE PUBLIC)

- * The settlement drives a wedge between the State and its injured citizens by requiring governments to act in defense of each other if one is sued. Citizens will be forced to sue the State to recover compensation for the State's "percentage of fault" as decided by a jury (AS 9.17.040).

DEMAND A NEW SETTLEMENT BE WORKED OUT and it should start with release of scientific and economic studies and full public participation.

Now is your chance to tell Legislators you don't want this deal, you want a new deal - and you want it ASAP!

DAVIS WRIGHT TREMAINE

LAW OFFICES
SUITE 1450 • 550 WEST 7TH AVENUE • ANCHORAGE, ALASKA 99501
(907) 257-5300

DAVID W. OESTING
(907) 257-5323

April 13, 1991

Via-Facsimile
(907) 235-3140

The Honorable Max F. Gruenberg, Jr.
House Judiciary Co-Chair
State of Alaska
District 11-B
Room 118, Capitol
PO Box V
Juneau, Alaska 99811

Re: The Exxon Valdez Oil Spill

Dear Representative Gruenberg:

At the request of Mr. Robert Cowan I am providing you with the following statement. I do so as one of the two Court appointed Lead Counsel charged with the leadership and coordination of the litigation of all private sector persons and entities with claims for damages arising out of the Exxon Valdez Oil Spill.

The specific topic which Mr. Cowan asked me to address is framed by paragraph 13, subparts b. and c. of the proposed Agreement and Consent Decree intended by the United States, the State of Alaska and the Exxon defendants to settle the Oil Spill litigation pending between them. More specifically, the precise selection of words contained in these subparagraphs,¹ when juxtaposed to the actual nature of the physical damages to natural resources caused by the Oil Spill and the path of transmission of that injury to private plaintiffs dependent upon the physical condition and biological production of those natural resources for their livelihoods, is serious cause for alarm. The

¹ It should be noted that the same terms are exactly and carefully duplicated and reaffirmed at paragraph III, subparts C-2. & 3., of the proposed Memorandum of Agreement and Consent Decree for settling the litigation between the United States and the State concurrently with the tripartite settlement between the governments and the Exxon defendants.

Max F. Gruenberg, Jr.
April 13, 1991
Page 2

selection of the words ". . . any present right, title, or interest in land or other property interest effected by the Oil Spill;" when analyzed under the legal rules pertaining to the assessment of damages illustrates quite clearly that Exxon (now to be joined by the State and the United States) intends to argue that the future biological output in the form of fish, shellfish and other harvestable products dependent upon the cleanliness and productiveness of Alaska's natural resources, is owned and controlled by the governments to the exclusion of the private and commercial harvesters of such resources. Therefore, the latter persons have no standing to claim damages for diminished future harvestable output of the natural resource assets of this State.

My opinion that the foregoing accurately states Exxon's, and the respective governments, position with respect to recovery for future natural resource damages as they affect private citizens has been distilled from numerous communications and discussions with all parties concerned over a substantial period of time in my role as Lead Counsel for private plaintiffs' Oil Spill litigation efforts. Due to constraints on certain dialogue and/or communications in that process, I am not in a position to cite to any documentation or communication supporting this opinion. However, the simple solution to determine whether it is accurate is to ask the state representatives and Exxon representatives whether a commercial fisherman in Prince William Sound or the Kodiak archipelago has a claim for economic losses suffered by reason of diminished salmon production in the future caused by the Oil Spill. If that question is answered in the negative, there can be no doubt as to the intent and objectives of the governments and the Exxon defendants with respect to such claims under their settlement agreements.

I hope the above is responsive to your inquiry as presented to me by Mr. Cowan.

Very truly yours,

DAVIS WRIGHT TREMAINE

David W. Oesting

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 218
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Ms. Renee Purpura
P.O. Box 243
Homer, Alaska

Dear Ms. Purpura:

Thank you for taking the time to send me a Public Opinion Message concerning the Exxon Valdez Oil Spill Claims Settlement agreement.

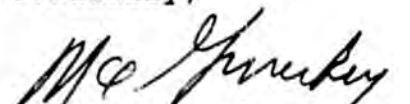
The concern you raise about areas outside of Prince William Sound which were affected by the oil spill is a valid one. The subject was discussed many times during our committee meetings and public hearings. The administration, through Attorney General Cole and Commissioner of Fish and Game Rosier, publicly assured the committee that settlement monies can and will be used for restoration of all spill affected areas, not just those within Prince William Sound.

As you are no doubt aware, the committee and the Alaska House of Representatives made the difficult decision of rejecting the proposed settlement. We felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. It is my hope that most, if not all, of the conditions placed by the House will be incorporated in future settlements.

Again, my thanks to you for making your voice heard in this important public decision.

Cordially,


Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE GRUENBERG

NAME: MS. RENEE PURPURA

TITLE:

ADDRESS: P.O. BOX 243

CITY: HOMER

ZIP: 99603

PHONE: 235-8822

BILL NO:

SUBJECT: EXXON VALDEZ OIL SPILL CLAIMS SETTLEMENT

MESSAGE: WHY IS THE MEDIA, GOVERNOR HICKEL, AND THE LEGISLATURE ONLY
CONCERNED WITH THE SETTLEMENT BEING IN PRINCE WILLIAM SOUND
AND NOT OTHER COMMUNITIES SUCH AS KODIAK, ENGLISH BAY, ETC.

I FEEL THE MEDIA IS ONLY CONCERNED WITH PRINCE WILLIAM SOUND.
WHERE DO YOU STAND ON THIS?

POMID: 17092030

DATE: 91/04/15

TIME: 09:20:30

LIONAME: VALDEZ INFORMATION OFFICE

COPIES: REPRESENTATIVES

DONLEY
DAVIDSON
NAVARRE
KUBINA
HUDSON
ULMER
BARNES
G.PHILLIPS

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 23, 1991

A. William Saupe, Esq.
Ashburn & Mason
1130 West Sixth Avenue, Suite 100
Anchorage, Alaska 99501

Dear Bill:

Thank you for copying me on your eloquent letter sent to the Governor's Assistant Press Secretary. I enjoyed it immensely!

The legislative session ended yesterday, and I'll be heading home to Anchorage in a few days. As you are probably aware, the Legislature passed House Concurrent Resolution No. 38 on May 21, which requests the Governor to resume negotiations with Exxon. I hope most, if not all, of the conditions adopted by the House will be incorporated into a new settlement. I have enclosed a copy of both resolutions for your file.

Again, thanks for your support.

Cordinally,


Max F. Gruenberg, Jr.
Chairman

Enclosures:

HCR 29
HCR 38

ASHBURN AND MASON
LAWYERS

A PROFESSIONAL CORPORATION
1130 WEST SIXTH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501

MARK E. ASHBURN
LEWIS F. GORDON
JULIAN L. MASON III
JOHN C. McCARRON
DONALD W. McCLINTOCK III
A. WILLIAM SAUPE
KIRSTEN TINGLUM

TELEPHONE
(907) 276-4331
—
TELECOPIER
(907) 277-8235

April 25, 1991

John Manly
Assistant Press Secretary
Office of the Governor
Pouch A
Juneau, AK 99801

RE: Daily News Article of April 24, 1991

Dear Mr. Manly:

In the enclosed article you are quoted as saying that Rep. Gruenberg's opposition to the proposed spill settlement and skepticism about the administration's poll results are motivated by his desire to keep his fellow lawyers busy for 10 to 15 years.

I know your job requires you to be an advocate for the settlement. I respect and understand that. I, too, am an advocate for my clients. ~~I am not an advocate for more work for lawyers. I am an advocate for the State of Alaska. Your statement revealed a serious misunderstanding of the facts.~~ As a lawyer representing a number of Alaskan fish hatcheries, fish processors, tourist businesses and fishermen's organizations, I feel compelled to explain to you what effect the settlement will actually have on the work to be done by lawyers and on the claims of their clients.

First, the settlement (unfortunately) makes more work for lawyers not less. By cutting the private plaintiffs out of the deal and leaving them to fend for themselves, the State prolongs their struggle for compensation against rich, powerful and very patient adversaries.

Second, by failing to obtain agreement from Exxon that it would not seek to shift blame onto the State, the State has forced private plaintiffs to sue the State. Otherwise, they risk having Exxon try to shift a portion of the blame to the State by "trying the empty chair," thereby diminishing the plaintiffs' ability to receive full and fair compensation for their damages. If, for example, Exxon convinces the jury that the State was liable for 20 percent of the damages, that's 20 percent the plaintiffs could never recover. The settlement thus makes the State a defendant in suits by its own citizens when

Mr. John Manly

April 25, 1991

Page 2

it wasn't before and doesn't have to be. Before the settlement, private plaintiffs and the State were allied against Exxon and Alyeska.

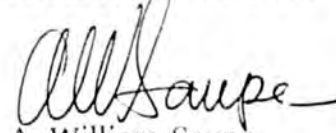
Third, Attorney General Cole has stated that the State will "vigorously pursue" civil claims against Alyeska, in spite of the settlement with Exxon. This will keep State and Alyeska lawyers as busy as if there had been no settlement.

In sum, the proposed settlement probably will increase the amount of work for lawyers. It will also weaken the ability of numerous Alaskans, who suffered substantial losses as a result of the spill, to receive prompt compensation.

If you had something else in mind that I am missing, please let me know.

Very truly yours,

ASHBURN & MASON



A. William Saupe

AWS/nk

cc: Rep. Gruenberg

4/24/91

Anchorage Daily News

Poll draws fire

58% back spill deal in survey

By DAVID POSTMAN
Daily News reporter

JUNEAU — The headline on the press release read "Alaskans Support Exxon Settlement" Tuesday when Gov. Wally Hickel learned the results of a statewide poll on the deal he cut with the federal government and Exxon Corp.

But the poll is more political trick than scientific study, says House Majority Leader Max Gruenberg, D-Anchorage. Gruenberg, who heads a special House committee reviewing the proposed settlement, questioned the timing of the poll, its accuracy and the use of \$4,000 in state money to pay for it.

"I'm very suspicious," Gruenberg said.

The governor's office was equally suspicious of Gruenberg's motives.

Hickel's deputy press secretary, John Manly, said Gruenberg, a family law attorney, is just looking out for his brethren in the bar.

"My personal opinion is, I think Gruenberg is upset because we cut a bunch of lawyers out of 10 or 15 years of work," Manly said, referring to the expected protracted litigation if the case is not settled. He said Gruenberg "is not a bad guy... just misguided."

Hickel paid Dittman Research of Anchorage to poll 536 Alaskans on six administration proposals, including the settlement of the Exxon Valdez lawsuits.

According to Dittman's report, 58 percent of those polled think the legislature should approve the settlement, 29 percent think it should not and 13 percent are unsure.

In his press release, Hickel said that shows overwhelming support for his deal.

Not so, says Gruenberg.

"They are trying to put the gloss of public approval on this," Gruenberg.

Gruenberg said Hickel was trying to counter the overwhelming negative testimony the legislature has heard about the proposed settlement.

He also said the way the question was asked ignored the drawbacks of settling with Exxon.

POLL: Survey shows 58% in favor of oil-spill settlement

Continued from Page B-1

The question was: "The Hickel Administration, the federal government and Exxon have negotiated a settlement that would have Exxon pay approximately one billion dollars over the next 10 years as payment for state and federal natural resource damage claims related to the oil spill. Do you think the state legislature should or should not approve this settlement?"

Gruenberg said that ignores the fact that the true value of the settlement is much less than \$1 billion because of the long payment schedule and does not men-

tion what legal rights the state would have to give up if the settlement becomes final.

Gruenberg said he thinks Hickel is trying to get out of his commitment to reject the settlement if it is not approved by the legislature. He thinks if the legislature votes the settlement down, Hickel will sign it anyway, claiming wide public support.

"I have serious questions as to whether he will keep his word," he said.

Tuesday was the day Gruenberg's committee was scheduled to take its final vote on the settlement. That

was postponed, but Gruenberg said Hickel held the results from last week to make a splash Tuesday.

"I don't believe it is a coincidence," he said. "The intent is to influence the vote of the legislature."

The pollster, Dave Dittman, said the governor's office had preliminary results last week but didn't have the full report until Monday.

Manly said there was nothing nefarious in the timing of the press release and said no one should be surprised that the governor's office was trying to promote its position.

Dittman defended the

question and said he thinks it accurately reflects what Alaskans think about the settlement.

"I'm kind of sympathetic with Max's position," Dittman said. When someone gets information that contradicts what he believes, Dittman said, "it's kind of natural to be critical of it."

Dittman said legislative hearings do not give an accurate portrayal of public attitudes.

"People who go to public meetings in Cordova and so forth are the activist element," he said. "They don't hear from the general public."



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7737
(907) 561-2036
BOX V
JUNEAU, ALASKA 99811
(907) 465-3438

March 22, 1991

Dr. Joe Sonneman, Esq.
324 Willoughy Avenue
Juneau, AK 99801

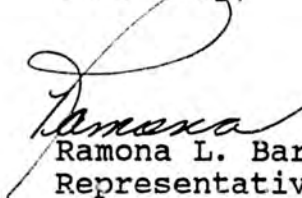
Dear Joe,

Your March 22 letter concerning the swearing of witnesses who might appear before the Special Settlement Review Committee of the Legislature expresses a concern which has been in my own thinking. I agree with your assertions.

Accordingly I have, by copy of this letter, asked Majority Leader Rep. Max Gruenberg to ask Speaker Ben Grussendorf to grant the Special Committee subpoena powers for possible use in connection with its hearings.

Joe I appreciate the advantage of your knowledge and research on the subject. Perhaps you'll attend some of the hearings.

Sincerely,


Ramona L. Barnes
Representative

cc: Rep. Max Gruenberg

RLB:p-m

Law Office of Joseph A. Sonneman, Ph.D., Esq.

324 Willoughby, Juneau, Alaska 99801

PH: (907) 463-2624 FAX: (907) 463-3802

Representatives Max Gruenberg, Dave Donely, Ramona Barnes, Cliff Davidson, Bill Hudson, Gene Kubina, Mike Navarre, Gail Phillips, Fran Ulmer
Senators Dick Eliason, Sam Cotten, Lloyd Jones, Jalmar Kerttula, Pat Rodey, Drue Pearce

March 22, 1991

Dear Special Settlement Review Committee Members:

re: Sworn Witnesses

You may find it wise, when witnesses other than your own employees come before you with testimony about the settlement or its origins or purposes, to swear in those witnesses.

Congress' House Commerce & Energy Subcommittee routinely swears in witnesses appearing before it. According to the Subcommittee's press secretary, that has always been the Subcommittee's practice since it was formed by Speaker Rayburn in the 1950's. The reason for using only sworn testimony is to ensure that people tell the truth, he said; some people have been convicted of perjury for lying to the Subcommittee.

I mentioned this concept to Rep. Gruenberg, who correctly perceives that the usual folkways of the Alaska Legislature do not ordinarily result in witnesses before legislative committees being sworn.

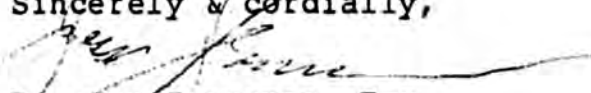
But this situation is far from usual or ordinary.

- 1) You serve on SPECIAL committees.
- 2) Some witnesses likely to appear before you may be your opponents in lawsuits, especially if you decide not to approve the proposed settlement.
- 3) Other witnesses may be those who helped structure a proposed settlement agreement in secret, who repeatedly refused to answer questions posed by the House Judiciary Committee, and who intentionally created an agreement that gave control over a \$900 million dedicated fund to the Executive rather than to the Legislative branch.
- 4) The amount of money involved is so large that otherwise honorable witnesses might be induced to shade the truth, if not sworn.

Of course, some witnesses may choose not to testify if you require sworn testimony. You may then have to use subpoena powers as well. But you are in the big leagues now, with suits, damages, and potential settlements of this magnitude. According to the Subcommittee's press secretary, subpoenas both compel and protect witnesses, especially protecting 'whistle-blowers', friendly witnesses, or those concerned about their future careers.

Subpoena and swear your witnesses.

Sincerely & cordially,


Dr. Joe Sonneman, Esq.

[Representing only myself]

April 18, 1991

APR-18-91 THU 14:49

LAW OFFICES 330 L STREET

FAX NO. 9072786571

P. 01

Dear Senators and Representatives:

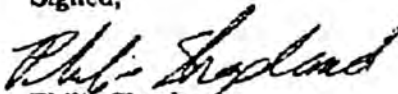
If the proposed settlement between the State of Alaska and Exxon Corporation over the damages stemming from the Exxon Valdez oil spill is approved by the legislature, it will be a tragedy of even greater proportions than the oil spill itself, and will be recorded by history as one of the greatest thefts of money rightfully belonging to the public -- specifically, to the citizens of Alaska -- of all time.

The proposed settlement is a sham, a fraud, and a "sell-out" by certain friends of the oil industry who happen to be in positions of political power at the moment.

If any of you or your families had sustained such grievous injury at the hands of one of the world's largest and wealthiest corporations, and you were advised by your attorney to accept a settlement proportional in amount and corresponding in terms to those proposed in the Exxon case, you would do well to run -- not walk -- to a new attorney who was truly interested in and capable of representing the interests of yourself and your family, as opposed to those of the party who had done the harm in the first place. Further, you might in good faith contemplate and initiate a malpractice action against the attorney who had given you such blatantly bad advice.

I urge you on behalf of all the citizens of Alaska to refuse to be party to this so-called "settlement", and further, urge you to see that justice is eventually done in this, one of the most outrageous cases in our history.

Signed,



Philip Shapland
Anchorage, Alaska

CONSTITUENT REPORT

District 11

Subject: Exxon settlement

Date: May 10, 1991

Name: Sandy Smith

H. Phone: refused to give

Res. add: 4631 Juneau #6

W. Phone: refused to give

Mail add: 4631 Juneau #6, Anch

Zip: 99501

Synopsis of problem/request: Unhappy with Rep. Gruenberg's role in the rejecting of the Exxon settlement. Believes it will cost the state millions of dollars and was based on a "political grudge" against the Governor.

Action taken: Encouraged her to give me her mailing address so that when I passed her message on to Rep. Gruenberg he would be able to respond to her. She gave me her address, after some reluctance, but would not give her phone number.

Contacts:

Name	Agency	Phone
Name	Agency	Phone
Name	Agency	Phone

Followup/Comments:

Staff name *Nancy P. Bock*



May 7, 1991

Max Gruenburg
P. O. Box V
Juneau, AK 99811

Dear Max Gruenburg,

I am deeply disappointed with the actions of our Legislature, particularly the Democratic members of the House. Their refusal to accept the terms and conditions of the Exxon settlement negotiations in good faith by our Governor and Attorney General is simply politics and greed. Considering the risk, costs and time involved in litigation I believe they have made a grave error that will cost our state more than we could ever hope to gain. We are already perceived by the lower 48 as greedy Alaskans who want to feather our own nest with the dollars. This latest action only serves to enforce this conception.

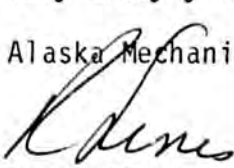
If the state is ever to become a viable entity in the business work we need to put this behind us and proceed with more important issues that concern all Alaskans, not just a few environmentalists and a bunch of greedy fisherman.

Maybe its time we had a Republican majority in the House so we can get on with building our state for all the people and not just a few cry babies.

I have enclosed a news article that exemplifies what we should be doing as a state instead of pursuing the politics of settlement.

Very truly yours,

Alaska Mechanical, Inc.



Roger Sires
President

RS:glm

ALASKA MECHANICAL INC.

MAIL - P.O. BOX 203649, ANCHORAGE, ALASKA 99520 ■ PHONE (907) 349-8502 ■ FAX (907) 349-1324
MAIN OFFICE - 8540 DIMOND "D" CIRCLE, ANCHORAGE, ALASKA 99515

Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Ms. Carol C. Smith
601 Chena Ridge Road
Fairbanks, Alaska 99709

Dear Ms. Smith:

Thank you for the kind words expressed in your April 25 letter, and for the information about the Dittman Research poll.

?? I thought you would find the comparison between the Dittman poll results on the oil spill settlement the statistics of the committee interesting. It should be noted that the committee did not commission a poll, but merely tallied the opinions expressed in letters and public hearings.

I have also enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated in future settlements.

Again, thank you for taking the time to write on this important public issue.

Cordially,

Max F. Gruenberg, Jr.
Chairman

*Enclose Coupon form
of 2d HCR*

Enclosure: HCR 29 am
News Releases - Governor and House Majority

601 Chena Ridge Rd
Fairbanks, Alaska 99709
April 25, 1991

Honorable Max Gruenberg
P.O. Box V
Juneau, Alaska 99811

Dear Sir,

Bully for you. Enclosed is copy of a letter I wrote to Dittman Research after being surveyed by phone AND copy of reply to my letter from David Dittman himself. This research firm certainly seems not to be impartial. Have you ever been surveyed by them? I can tell you that the questions asked and the tone of their surveys are geared most definitely to produce the desired results.

I am most grateful too to Judge Holland for his brave decision in this Exxon settlement. I believe in applauding integrity in our elected officials. Keep up the good work. I do hope this bit of evidence is helpful to you. Perhaps you would find it more to the point to obtain a copy of the specific questions asked in this "survey".

Thank you,

Carol C. Smith

Carol C. Smith

enc.

*you will note this exchange was in 1988
before the Exxon Valdez oil spill disaster
but the arrogant tone of Dittman's reply
reinforces my contentions — big oil companies
feel they can cover any contingency with
a few jobs, paying fines, conducting surveys
or buying Madison Avenue public relations ads.*

p.s. And my age bracket, first name, length of residency in Alaska have no bearing on these opinions. I want to see the results of this questionnaire in the Daily News Miner with the number of persons surveyed and precisely who funded it. This money might better be spent with a random mailing asking for comments with postage paid reply.

601 Chena Ridge
Fairbanks, Alaska 99709
August 30, 1988

Ditman Associates
8115 Jewel Lake Road
Anchorage, Alaska 99502

Dear Sir or Madam,

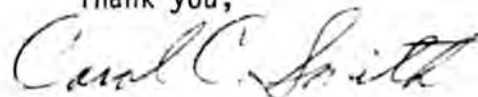
Last night I was called by one of your telephone solicitors I am disturbed that she was not able to tell me: 1) Who requested the survey? 2) Would the results be published? 3) How many people were being surveyed? 4) For what purpose?

From my viewpoint, the questions seemed to be aimed at determining how effective the oil companies slick advertising techniques are working so they can revamp and try some new techniques. Let me tell you that in my opinion, and I hear many more people express the same, we deeply resent the money contributed to our politicians and to causes the oil companies deem popular, the ads with which they pat themselves on the back and the tremendous amount of money for these obvious public relations gimmicks.

Count me among those environmentalists who decry the rape of our non renewable resources, the cover up of pollution and toxic spills and, more than all else, the irreversible damage to our Alaskan way of life. Our Inuit and Athabaskan people are ravaged by the despair and frustrations of an economic lifestyle which has penetrated their old ways and made them obsolete. These people desperately need our help to overcome the disease of alcoholism, the despair which spawns suicide and violence. They have become the "niggers of the North". We should treasure their old ways and help preserve them instead of encroaching our economy and values on their lives and land for generations to come. Alaska is the last place in this United States left to right the wrongs of our past history in dealing with wilderness and native peoples. Unfortunately we have a state government dedicated to "anything for economic growth" who lull us with rhetoric to appease the current crisis in employment.

You can pass on all my comments and I sincerely hope you do. I am against oil exploration or any other exploitation in national parks, federal or state land. Repeal the E.L.F. Please reply with answers to my questions.

Thank you,



Carol C. Smith.

DRC
DITTMAN RESEARCH CORPORATION
DRC BUILDING
8115 JEWEL LAKE ROAD
ANCHORAGE, ALASKA 99502
(907) 243-3345

September 29, 1988

Carol C. Smith
601 Chena Ridge
Fairbanks, Alaska 99709

Dear Ms. Smith,

Thank you for your note and concerns. (original enclosed)

In the interests of preventing any element of bias, our interviewing personnel are not aware of the sponsors of the surveys prior to their completion. This is an industry standard among public opinion and marketing research firms. Most public opinion surveys are privately sponsored on a confidential basis throughout Alaska, so the results are not usually published in newspapers or shown on television.

The sample size varies depending on the scope of the sample "universe" -- nation-wide surveys usually include 1,200-1,500 respondents, while state-wide surveys in Alaska generally include around 500 respondents distributed on a geographical basis.

Historically, mail-out surveys of the public-at-large are generally known to be inaccurate reflections of collective opinions because of the high non-response rate, and postage-paid replies seem to have little effect in increasing the response rate to an acceptable level.

The age, sex, length-of-time in Alaska and occupational data are important to identify the composition of the sample and are used to be certain each age group, gender category, etc., are included in their correct proportion.

ARCO Alaska was the sponsor of the survey which included your views, and that was the purpose -- to learn the views of a random sample of Alaskans throughout the state -- and we appreciate your participation very much.

please read on →

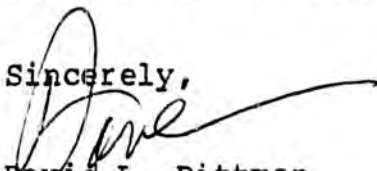
PAGE 2

CAROL C. SMITH
SEPTEMBER 29, 1988

On a separate and personal note, it's my opinion that your views are stunningly narrow. From my perspective, I don't know what you eat, or how you buy it; I don't know if you have children or if they attend school; I don't know if you've ever gone to a hospital, library, museum or attended a concert; I don't know if you've ever had reason to call upon a paramedic, policeman or a fireman; I don't know how you heat your home, or if you power a chainsaw; I don't know what fuels your vehicle or if you even drive on public roads -- but if you participate in any of these advantages of modern civilization, you do so as a direct beneficiary of Alaska's petroleum industry. You can't have it both ways -- you can't have high standards of education, health and safety without economic development, and since taxes from the oil industry provide approximately 90% of the state budget, eliminating petroleum development would have the direct result of reducing state services by 90% -- so which departments and state services would you recommend doing away with first? -- and where would you cut next, and next, and next to get down to the final 10%? And after you've reduced public services by 90%, you can start eliminating the United Way program, petroleum-supported grants, scholarships, endowments, gifts, contributions, and so on. As you can see, by the time you were finished, Alaska would be a pretty miserable place to live in.

Again, thank you for your nice note, and I do appreciate the opportunity to include your views in the results.

Sincerely,



David L. Dittman
President and Research Director
Dittman Research Corporation of Alaska

DLD:jb

HOUSE CONCURRENT RESOLUTION NO. 29 am
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON THE EXXON VALDEZ OIL SPILL CLAIMS SETTLEMENT

Amended: 5/2/91
Introduced: 5/2/91
Referred: Today's Calendar

A RESOLUTION

1 Relating to the proposed Exxon Valdez oil spill settlement.

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

3 WHEREAS the Attorney General has negotiated an "Agreement and Consent Decree" and a
4 "Memorandum of Agreement and Consent Decree", both signed March 12, 1991, and relating to the
5 settlement of State v. Exxon Corporation, et al., No. 89-06852 (Alaska Superior Court, Third Judicial
6 District), and of State v. Exxon Corporation, et al., No. A91-083 (United States District Court, District
7 of Alaska); and

8 WHEREAS under the terms of the proposed settlement the legislature has been granted an
9 opportunity to review the settlement and to express its approval or disapproval of it; and

10 WHEREAS the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement has
11 carefully reviewed the proposed settlement, and has concluded that it should be disapproved unless
12 certain changes are made;

13 BE IT RESOLVED by the Alaska State Legislature that the proposed settlement is disapproved
14 as written; and be it

15 FURTHER RESOLVED that the parties to the proposed settlement are requested to amend the
16 proposed settlement in the following respects:

(1) to provide for the payment of at least \$100,000,000 in settlement of civil claims

1 within 90 days of the date the settlement is approved and, in addition, at least \$600,000,000 in settlement
2 of civil claims within one year thereafter;

3 (2) to provide for a plea agreement establishing a criminal fine of at least \$500,000,000,
4 with at least \$100,000,000 of the fine to be remitted on payment of that amount to the State of Alaska
5 as restitution for economic losses incurred by the state as a result of the oil spill, and with at least
6 \$300,000,000 of the fine to be remitted on payment of that amount into the trust fund established in the
7 civil settlement, as restitution for damages to natural resources;

8 (3) to provide that there shall be no deduction from state taxes of any amounts payable
9 under the settlement;

10 (4) to provide for membership of two members of the legislature as ex officio nonvoting
11 members of the trustee board governing the operation of the trust fund established in the civil settlement;

12 (5) to provide that the state's share of the funds recovered in the settlement shall be
13 subject to appropriation into the trust fund and, if constitutionally required, expenditures from the trust
14 fund of the state's share shall be subject to appropriation by the Alaska State Legislature;

15 (6) to provide that if the trust fund is found to be an unconstitutional dedicated fund, the
16 civil settlement shall in all other respects be maintained;

17 (7) to provide that the funding decisions of the trustees of the trust fund shall be made
18 with input from a broad-based citizens' advisory board, that the trustees shall comply with Alaska law
19 regarding open meetings, public records, and adoption of regulations, and that the trust fund shall be
20 subject to oversight and auditing by the General Accounting Office and by the Legislative Budget and
21 Audit Committee;

22 (8) to provide that scientific and economic data obtained by the state shall be released
23 unless the state demonstrates that the data is privileged, and that release of the information would
24 materially and substantially harm the state's case in pending litigation;

25 (9) to clarify that third-party claims and claims for damages to archaeological resources
26 are not diminished or extinguished;

27 (10) to require the parties to enter good faith negotiations to resolve the claims of third
28 parties; and

29 (11) to delete the "reopener" clause; and be it

30 **FURTHER RESOLVED** that copies of this resolution shall be sent to the Honorable H. Russel
31 Holland, Chief Judge, United States District Court for the District of Alaska; Jack G. Clarke, Senior
32 Vice-President, Exxon Corporation; Richard Stewart, Assistant Attorney General, Environmental and
Natural Resources Division, United States Department of Justice; the Honorable Walter J. Hickel,
Governor of the State of Alaska; and to the Honorable Charles F. Cole, Attorney General of the State
of Alaska.

FORUM / LETTERS

Spill settlement lacks a key element: fairness

By REP. MAX GRUENBERG

When Gov. Hickel returned from Washington, D.C., in March, he announced that he had just negotiated with Exxon and the Justice Department the best civil-settlement deal Alaska could expect from the oil spill. Despite the governor's sincere attempt to negotiate a good deal for Alaska, this settlement was unfair to Alaska and here's why:

- Alaskans would have been excluded from decisions as to how much money should be spent on restoration and recovery in spill-hit areas. Instead, a board of federal and state bureaucrats would have unilaterally decided how the money should be allocated. There was no guarantee that the people directly affected by the spill would have had any say in the matter.

- It did not adequately protect the rights of Alaska Natives and other third-party groups. Unless loopholes in the settlement were closed, the rights of Alaska Natives to recover damages from Exxon for cultural and subsistence losses could have been restricted. Also, commercial fishermen could have lost their right to recover damages resulting from diminished fish stocks.

- All scientific and economic data could have remained secret without justification. This information should be published so the public can be sure that further damage is minimized, more safeguards can be prepared, and the total impact of the spill can

be fully assessed. This will also help prevent unfounded claims by the oil industry of recovery rates in spill areas and verify the toll on wildlife and natural resources.

The House set up a nine-member bipartisan committee which went over the proposal literally line by line during more than 100 hours of hearings over a period of six weeks. The committee also held hearings in Seward, Homer, Kodiak and Cordova to hear from people in areas most directly affected by the spill.

In total, 230 Alaskans from all over the state either wrote or testified about the settlement. Of those, 169 (67 percent) were strongly against the settlement proposal, 11 (6 percent) favored it and the remaining 31 (23 percent) were neutral.

Most committee members felt the settlement weighed too heavily in favor of Exxon by giving the oil giant 11 years to pay the \$900 million settlement. Over time that meant the settlement was really worth only between \$500 million and \$700 million. Meanwhile, Exxon would have continued to profit off money owed to the state.

The House wants a \$700 million payout (what Alaska Attorney General Charles Cole asserted is the real value of the original proposal) within 15 months of the date the judge approves the settlement. Exxon should pay that up front and be done with it.

Under the rejected proposal, the state of

Alaska would have subsidized Exxon through state corporate tax write-offs from the settlement worth at least \$5 million. House members thought it was unfair that Exxon should be awarded a \$5 million state tax break. Incidentally, under the agreement, Exxon would have been able to write off more than \$150 million in federal taxes. The House wanted the agreement modified to prevent Exxon from deducting the civil settlement from its state taxes.

The House also suggested changes so scientific and economic data would be published on a case-by-case basis unless a court ordered that the data be kept secret.

In addition, the House asked that the public be intimately involved in spending decisions and that the rights of Alaska Natives and other third parties to file claims against Exxon be fully protected.

Other recommended changes would assume that the settlement conforms to the Alaska Constitution by requiring legislative appropriation of monies and that two state legislators be nonvoting members of the trustee board, which will make final spending decisions.

The House suggested the criminal fine be increased to \$500 million, \$100 million going to the state and \$100 million going to the federal government. The rest would go into the civil settlement trust fund for restoration purposes. That would bring the total settlement to \$1.2 billion, a much higher

figure than the rejected settlement, but still equal to Gov. Hickel's goal.

Let's be very clear: the House still wants a fair settlement. The House's suggestions are a road map to making an equitable settlement happen. In rejecting the civil settlement, the House showed that Alaskans have the fortitude to withstand large offers that are really not fair in the long run. True, we took a risk that one of the parties might choose to litigate rather than renegotiate. My colleagues and I felt that was a small risk because litigation is in nobody's best interest.

The governor made the right decision in putting the settlement before the legislature. He now has a stronger hand to win concessions that protect Alaska's rights, provide fair and adequate compensation and have broad-based popular support. Legislators expect the governor to honor his word that he will give the public and the legislature opportunity to review and approve the settlement, even if it's a second version. With a little encouragement, Exxon, the Justice Department and the Hickel administration will emerge with a better proposal, one that we all can live with.

□ Rep. Max Gruenberg of Anchorage is the House Majority Leader.

May 22, 1991

Ms. Carol C. Smith
601 Chena Ridge Road
Fairbanks, Alaska 99709

Dear Ms. Smith:

Thank you for the kind words expressed in your April 25 letter, and for the information about the Dittman Research poll.

I thought you would find the comparison between the Dittman poll results on the oil spill settlement the statistics of the committee interesting. It should be noted that the committee did not commission a poll, but merely tallied the opinions expressed in letters and public hearings.

I have also enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated in future settlements.

Again, thank you for taking the time to write on this important public issue.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am
News Releases - Governor and House Majority

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Charles W. Trowbridge
P.O. Box 0013
Palmer, Alaska 99645

Earl Clabo
537 E. Fern Avenue
Palmer, Alaska 99645

Dear Mr. Trowbridge and Mr. Clabo:

Thank you for sending me a copy of your proposed research project for the oil-impacted areas of Prince William Sound.

If you have not already done so, I would suggest that you contact Ernie Piper, State On-Scene Coordinator for the Valdez Oil Spill Response effort, 2550 Denali Street, Suite 705, Anchorage, Alaska 99503 (phone 265-4600). Mr. Piper will be able to advise you on the procedure for submitting funding requests for scientific research.

Cordially,


Max F. Gruenberg, Jr.
Chairman

Charles W. Trowbridge
P.O. Box 0013
Palmer, AK 99645
907-746-3536

Earl Clabo
537 E. Fern Avenue
Palmer, AK 99645
907-746-2454

April 17, 1991

TO: Representative Max Gruenberg

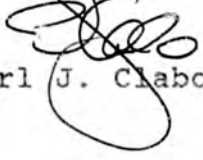
Enclosed is a proposed working research project for Prince William Sound regarding tidal zone cleanup of crude oil. The project was developed by using proven agricultural methods, and modifying them to the marine environment.

We would both be very happy to discuss details of this project with you. The disaster of the Exxon Valdez has deemed it necessary to develop new research and technology. We feel we have a very sound and cost effective project, and would appreciate any support that you could provide.

It should be noted, that \$70,000,000.00 has been spent in research to determine the problem that oil is on the beach, and it is time work related research should start to rehabilitate the Sound. You can reach either of us at the above numbers or our fax number is 907-746-3772.

Sincerely,


Charles W. Trowbridge


Earl J. Clabo

CWT:rht

PRINCE WILLIAM SOUND
REHABILITATION

The natural rehabilitation of the Sound may take 10 to 20 years by mother nature. The concept of natural biological enhancement or bioremediation is a practice used in agriculture. This process for cleaning up chemical residues was developed over 15 years ago, and works. The proposal that we will make uses good proven agriculture methods, and modifying the approach of application and rates to tidal zone and marine environment.

The product is MEDINA SOIL ACTIVATOR. This is a natural biological enhancer with "0" toxicity. The product was listed in the top 10 in both the NETAC and EPA Risk Reduction Laboratory Test, dealing with Prudhoe Bay crude in Prince William Sound. Medina Soil Activator was the product of choice based on performance and economics, by Dr. Mike Piotrowski, Ph.D., Woodward & Clyde Consultants.

I propose that a working research project be considered for application of MEDINA. A natural biological enhancer for beach cleanup and rehabilitation on oil contaminated areas in Prince William Sound. The project would consist of both product application and sampling of beach areas to determine levels of hydrocarbons and microbial densities. The MEDINA Soil Activator will be applied at 30 day intervals during June, July, August and September, to oil contaminated areas in the tidal zone.

Samples will be taken before and after application to monitor performance and evaluate beach contamination levels. The goal of this research project would be to treat approximately 25 miles of contaminated shore line, and develop new application technology.

The project would consist of a six man crew and one land support person. It will also be expected that a State agency such as D.E.C., Fish & Game or D.N.R. monitor application and sampling to evaluate both performance and technology for future spill response. The estimated cost of this working research project is 1.5 million.

The uses of biological activators, such as the Medina products, have been very successful in bioremediation to reduce and eliminate unwanted chemical residues on land. We would be modifying equipment and product application to work in a marine environment with a proven agriculture product. "0" toxicity and environmental safe.

Medina

Medina Products Commercial Division

*LAND TREATMENT OF HYDROCARBONS Controlled and Uncontrolled Spills

Motor Fuels - Oil Sludges

1. Evaluate the matrix of the spill and estimate the depth of hydrocarbon penetration into the soil. Bioremediation treatment will only be effective from 1" to 18" of soil depth. If the motor fuel or oil in question has penetrated deeper than 18", it may be necessary to remove the soil and place it on a hard subsurface, maintain a depth of 18" and treat accordingly.

***Note:** Maintain the suggested above mentioned depths if land farming oil sludge or tainted soils that have been imported to an area to be land farmed.

2. Mix 1 gallon of MEDINA SOIL ACTIVATOR to 20 gallons of water and spray (using flat fan nozzles) on 1,000 sq. ft. or 4,000 sq. ft of surface area. The square footage will depend on the amount of hydrocarbons that has to be remediated and the time factor for remediation.
3. Till or disk the area to the target bioremediation depth of contamination, after each treatment, to mix as well as increase the oxygen in the soil.
4. Add enough water on a weekly bases to keep the soil moist enough that would germinate seeds. If a metering device is being used to monitor moisture levels, keep levels between 30% to 70% of the gauging apparatus.
5. Repeat step 2 and step 3 each month for at least 3 months unless otherwise indicated from the contamination levels of the soil samples. We suggest to monitor the contamination levels each quarter.

***Note:** During the land treatment operation, caution should be taken to insure that contaminants are not flushed into ground water or washed into surface waters of ponds, lakes, creeks or rivers. Use dykes around the bioremediation plots to prevent tail waters of rain from washing contaminants into uncontaminated areas. Choose areas that have hard sub-surfaces to prevent leaching of contaminants into ground water. **If a fresh spill has been created**, it maybe necessary to apply a hydrocarbon degrading bacteria along with the Medina Soil Activator. Mix 1 lb of Hydrobac to 5 gallons of water stir and let set for 5 minutes. After the setting period, stir again and spray over 1,000 surface square feet. Then follow steps 2 and 3.

Product Information Sheet:**Trade Name:** Medina or Medina Soil Activator

Active ingredients: Trace Elements - Guaranteed amounts
Magnesium .50% from $MgCl$
Iron .10% from $FeSO_4$
Zinc .05% from $ZnCl$

Physical description: Sp. Gr. Approx. 1
Very little odor
Color light green
Highly soluble in water

pH: 2.0

Classification: Relatively harmless.

Shelf Life: Medina will remain stable as long as it is not mixed with water or other chemicals. Solids may precipitate after extended periods without agitation.

Storage: Do not allow to freeze, container may rupture. Freezing point approximately 22 degree F.

Mixing instructions: Medina can be mixed with most insecticides, liquid fertilizers and herbicides except 2-4-D and DYNAP. Always check compatibility in a jar before tank mixing. Always add Medina to your mixture last. Be sure to use a mixed solution of Medina within 5 hours after mixing.

Medina Agriculture Products Co. Inc.
P. O. Box 309
Hondo, Texas 78861
Telephone: 512-426-3011.



MEDINA AGRICULTURE PRODUCTS CO., INC.

MEDINA BIO-D NUTRIENTS

Bio-D is a combination of macro nutrients complexed with organic compounds for use in bioremediation of hydrocarbons. Bio-D is designed to be used with **Medina Soil Activator** and **Hydrocarbon Degrading Bacterial Seeds**.

To determine the amount of Bio-D to be added per cubic yard of soil, calculate the lbs of total petroleum hydrocarbons on the site and add 3 lbs of Bio-D for each 10 lbs of contaminants. If the ppm of TPH is known multiply this by 2,500 lbs in each yard of soil and divide by 1,000,000. This is the lbs of contaminants per cubic yard of loose soil. Mix the Bio-D with enough water to get even coverage and spray over the soil. Disk or till the soil to incorporate.

P.O. Box 309, Highway 90 West
Honda, Texas 78861

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Bioremediation REPORT

Effects of Medina Soil Activator on Prudhoe Bay Crude Oil

Introduction

Since the catastrophic oil spill from the Exxon Valdez in 1989, researchers have been studying various methods for the bioremediation of residue oil. The EPA's Risk Reduction Laboratory solicited proposals for bioremediation products and processes, then narrowed the field of responses to 10 products for final testing. Due to the confidential nature of the tests, other product names were not disclosed.

Medina Soil Activator was used in combination with Toxigon 2000, an emulsifying agent and Custom Blend nutrients (fertilizers). This mixture was designated Product "C" for the purpose of the EPA study. The results indicated a significant effect on alkane reduction and oxygen uptake, two variables required for successful bioremediation.

The EPA tests did not measure the economic impact of Medina and competitive products. However, in previous tests conducted by an environmental consulting

firm, Medina Soil Activator was considered the treatment of choice based on economic and performance considerations.

This BIOREMEDIATION REPORT is a summary of information from the original NETAC study. It has been condensed to accurately and briefly demonstrate the effects of Medina Soil Activator on weathered crude oil.

A summary of test results of the effectiveness of microbial bioremediation using Medina Soil Activator

Methods

The following is a summary of the laboratory results obtained by EPA's Risk Reduction Laboratory, Cincinnati, Ohio. Ten commercially available bioremediation products were tested for possible use in Alaska to help clean up the residual oil from the 1989 Exxon Valdez oil spill. The tests were conducted during April and May 1990, according to a defined protocol made known before the tests. This protocol involved placing the products in seawater from Prince William Sound, together with

weathered Prudhoe Bay crude oil. To assure objectivity during the testing, the 10 treatments were designated by alphabetical codes A through J. Therefore, the results are represented on a coded basis.

Results

The results of the laboratory study indicate that Medina Soil Activator produced notable alkane reductions—the combination of seawater and weathered Prudhoe Bay crude oil.

- At day 11, tests showed reductions of 67.8% compared to 27.6% for the benchmark test with no additives. At day 20, tests showed reductions at 90.6%, compared to benchmark at 25.2%.

(Continued)

Study Conducted by:

National Environmental
Technology Applications Corp.

University of Pittsburgh Applied
Research Center for the U.S.
Environmental Protection Agency
Risk Reduction Laboratory

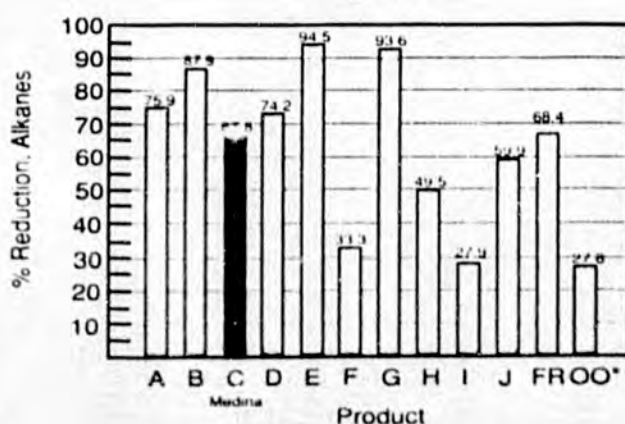
Study Dates:

April - May 1990

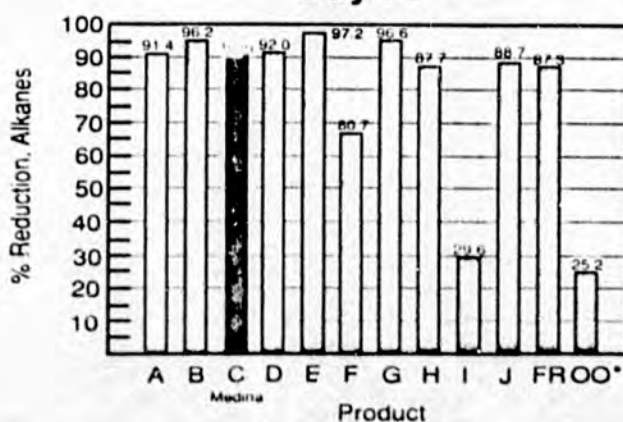
Location:

Laboratory

Total Alkane Reduction
Day 11

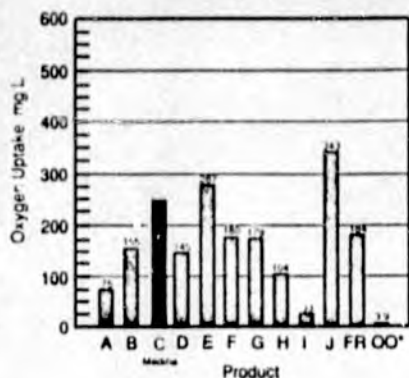


Total Alkane Reduction
Day 20

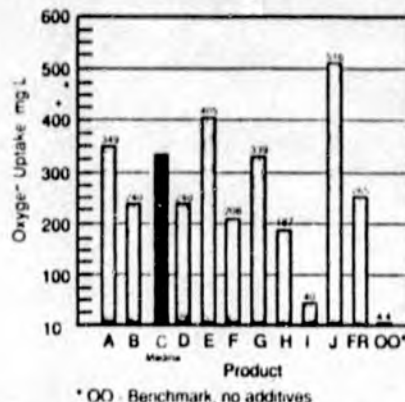


* OO - Benchmark, no additives

**Cumulative Oxygen Uptake
Day 11**



**Cumulative Oxygen Uptake
Day 20**

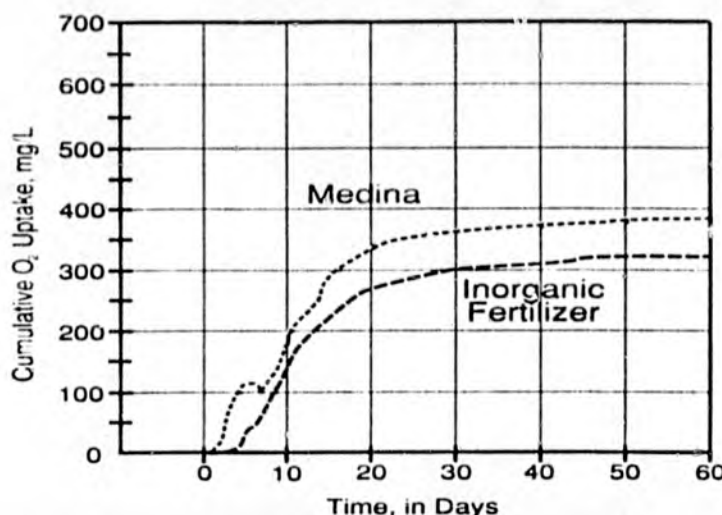


• The study also indicated a high degree of cumulative oxygen uptake. At day 11, tests showed 250 mg/L oxygen uptake, compared to the benchmark (no additives) of 3.9 mg/L. At day 20, Medina had a cumulative oxygen uptake of 341 mg/L, compared to the benchmark of 4.4 mg/L.

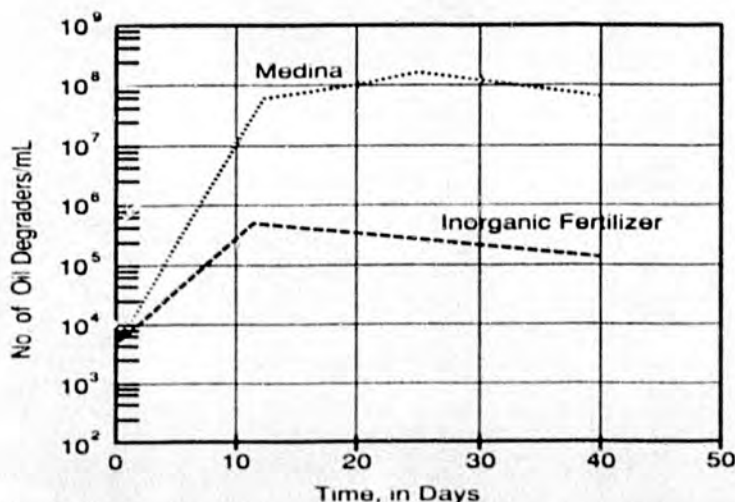
• Test results showed evidence of Medina's ability to stimulate the growth of oil degrading organisms. At the end of 20 days, Medina had increased the number of oil degraders to 1×10^8 , compared to 5×10^5 when stimulated with inorganic fertilizers.

• There is sufficient evidence to show that Medina has a demonstrated effect on alkane reduction, oxygen uptake and stimulation of oil degrading organisms. The manufacturer notes that the addition of microbial cultures is typically recommended to stimulate a fast response to the bioremediation process. However, these tests were conducted without the use of such cultures since Alaskan officials indicated a reluctance to introduce foreign cultures to the indigenous environment. Based on previous studies, the effectiveness of Medina Soil Activator on oil degradation is significantly improved by following the manufacturers recommendations which call for the addition of microbial degrading cultures.

Cumulative O₂ Uptake



Growth of Oil Degraders



**Medina Products
Commercial Division**

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Medina® Bioremediation Products include:

Bio-D® Bioremediation Nutrients
Medina® Soil Activator (microbial activator)
d-part® Waste Conditioner
plus, specific bacterial cultures

Bioremediation REPORT

Effects of Medina Soil Activator on Oil Contaminated California Land Site

Introduction

The effects of three biological treatment approaches for clean-up of oil contaminated soil were evaluated by Woodward-Clyde Consultants during a seven week on-site study. The original 20-page technical manuscript has been paraphrased with permission from the study's author in order to accurately and briefly demonstrate the effects of Medina Soil Activator.

The two other treatments studied include combinations of biodegradable surfactants, multiple-nutrient additives and a microbial additive. While these products were generally effective in reducing oil contamination levels, the study concluded that "the greatest degree of biological reduction of the contaminant (76% of initial) occurred in the treatment in which only Medina Soil Activator, a microbial activator was added. Based on economic considerations, this treatment approach is the treatment of choice".

Although the two other treatment methods were included in the original study, this BIOREMEDIATION REPORT will focus primarily on the effects of Medina Soil Activator.

Background

Oil contamination was discovered on a site in Oakland, California as a part of demolition activities of buildings in the late 1970's. The site was paved and fenced in 1986 for use as parking lots.

Study Conducted by:

Michael R. Piotrowski, Ph.D. and
George A. Ford
Woodward-Clyde Consultants
San Diego, CA

Study Dates:

October - November 1989

Location:

Oakland, California (on-site)

The two-block parking facility was to be the site of a new office building complex. The original plan for the fill material at the site called for use as engineered fill and disposal of excess materials in a Class III landfill. However, the oil contamination existed at sufficient concentrations that off-site hauling and disposal would be regulated by the California Administration Code. It is estimated that approximately 10,000 cubic yards of fill material would require either deposition in a Class I landfill, or sufficient remediation to allow deposition in a Class III landfill or use an engineered fill.

Woodward-Clyde Consultants, conducted an on-site, seven-week pilot scale study that evaluated the efficacy of accelerated biological treatment of the oil contaminants in the fill in October and November 1989. The initial soil hydrocarbon concentration was 605 mg/kg. Acceptable non-contamination level is 100 mg/kg.

Initial Soil Sampling

Approximately 20 cubic yards of the contaminated fill materials were isolated, mixed, and a set of composited, replicate soil samples was collected on October 2,

A summary of test results of the effectiveness of microbial bioremediation using Medina Soil Activator

1989. The soil samples were sent to NET-Pacific, Santa Rosa, California, and analyzed for total fuel hydrocarbons.

A second set of composited, replicate soil samples was collected on October 10, 1989 and sent to San Diego University (SDSU), San Diego, California for analysis of microbial content.

Set-up of Soil Treatment Plots

The material was separated into three equally sized piles (6.5 cubic yards per pile) and each pile was placed within a wooden frame (10 ft x 20 ft x 1.5 ft) located on a paved area adjacent to the site. Each pile has been spread to a depth of 1 foot.

Treatment Applications

Three treatment regimes were evaluated in the study. One treatment evaluated the effect of Medina Soil Activator on oil biodegradation. The second treatment evaluated the effect of an emulsifier solution combined with a multiple-nutrient fertilizer solution. The third treatment evaluated the effect of emulsifier, multiple nutrients, and hydrocarbon-degrading microorganisms. Treatments were applied to the soil plots on October 11, 1989.

Operations and Monitoring

Soil pH and moisture - Soil pH and moisture were periodically monitored. The average soil moisture in the plots was maintained at between 30% and 70%. The occurrence of two rain events during the study led to a suspension of irrigation until the soils dried to acceptable moisture levels.

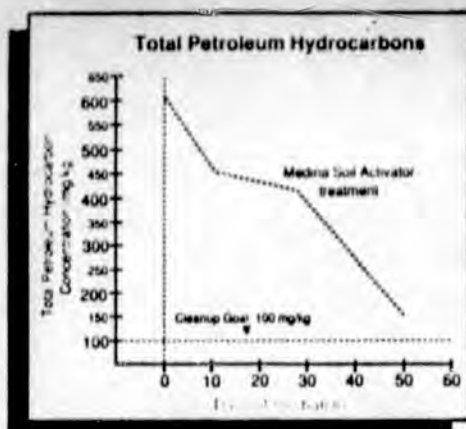
Tilling - Each plot was tilled three times each week for four weeks after treatment began. Tilling was conducted on each plot until it was thoroughly mixed. No tilling was conducted during the last three weeks of treatment.

Meteorological Conditions - The daily maximum and minimum air temperatures and total daily precipitation in the city during the study were recorded by the National Weather Service (NWS).

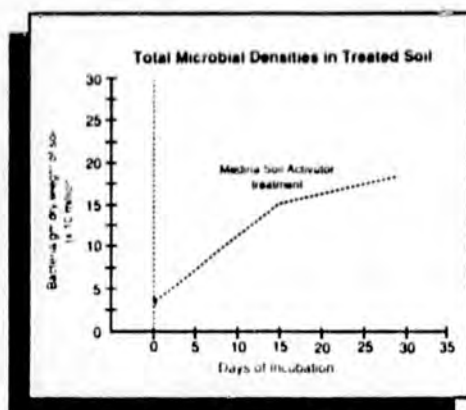
Soil Sampling and Analyses

Two weeks after treatment began (day 14 of incubation, October 25, 1989) composited samples were collected from each plot. One soil sample was sent to NET-Pacific, Santa Rosa, California and analyzed for hydrocarbon content. The second soil sample was sent to San Diego State University, San Diego, California and analyzed for microbial content.

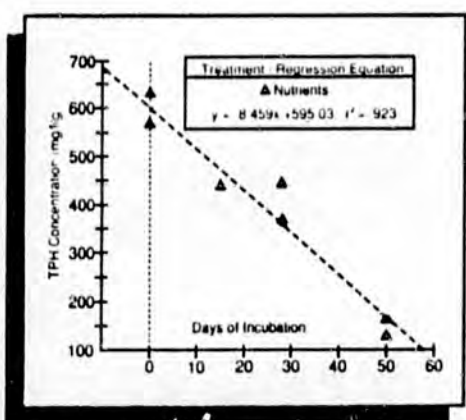
Approximately four and seven weeks after the soil treatments began procedures conducted for the two-week sampling interval were repeated, except that no microbial samples were collected for the final sampling interval. Therefore, hydrocarbon data were collected initially two weeks, four weeks, and seven weeks after soil treatments began, whereas microbial data were col-



Average Concentrations to Total Petroleum Hydrocarbons in Replicate Samples for Treated Soils Over Time for the Bioremediation Pilot Study.



Average Microbial Densities for Soils During the Bioremediation Pilot Study.



Regressions of TPH Concentration versus Time for the Medina® Soil Activator treatment used in the Bioremediation Pilot Study. Position of Arrows Along Time Axes Indicate Approximate Time Period Estimate for Treatment To Reduce TPH Concentration Below 100 mg/kg Target Level.

lected initially, two weeks, and four weeks after the treatments began.

Results

Soil Hydrocarbon Concentrations

The initial concentration in the soil before separation into treatment plots was 605 mg/kg. After two weeks, the concentration had declined to approximately 71% of the initial value in the Medina treatment. According to the study, the reductions in hydrocarbon concentrations from the initial concentration were significant. By day 51, the average concentration in the Medina treatment was 145 ± mg/kg (24% of initial).

Discussion

The results of the seven-week bioremediation pilot study indicate that enhancement of biological activity in the contaminated soil can produce significant reduction in the hydrocarbon contamination. The reduction in hydrocarbon concentrations with large fluctuations in microbial densities over the course of the study indicates that reduction was primarily induced by enhancement of microbiological processes in the soil. Because the original contamination was apparently poorly soluble and had low volatility, other forms of contaminant loss, such as leaching and volatilization, were not appreciable in the study. The fact that the largest degree of contaminant reduction occurred in the Medina treatment after seven weeks i.e., the treatment that did not include emulsifiers supports the hypothesis that leaching was not appreciable.

After seven weeks, Medina had reduced contaminant concentrations to at or below 200 mg/kg. The target level set for the study (so the soil could be disposed of in a Class III landfill) was 100 mg/kg. To evaluate the additional time necessary to treat the soil to an acceptable contaminant concentration, a regression analysis was performed relating hydrocarbon concentrations in the soil samples of each treatment to time. This analysis indicates that if the treatments were continued and treatment performances continued as observed during the study, soil hydrocarbon concentrations would have declined below the target level of 100 mg/kg in 58.5 days for the Medina treatment.

Since the Medina treatment produced the highest degree of contaminant reduction and because it is the least expensive treatment approach, it is the treatment approach of choice.

Conclusion

• All three treatment approaches produced significant reductions in the concentrations of the hydrocarbons in the contaminated soil in seven weeks. Final contamination concentrations in all three treatments were at or below 200 mg/kg (>66% reduction from the initial concentration). Biological reduction of the contaminant was indicated to be the major mechanism of contaminant loss;

• It is estimated that all three biological treatments could produce contaminant reduction below the target level of 100 mg/kg in approximately two months.

• The greatest degree of biological reduction of the contamination (76% of initial) occurred in the treatment in which only Medina Soil Activator was added. Based on economic considerations, this treatment approach is the treatment of choice.

• Addition of Medina alone eventually stimulated the indigenous microorganisms to degrade the contamination over seven weeks at a rate that exceeded the other two treatments approaches.

Manufacturer's Recommendations

• New Oil Spills - Since indigenous oil degrading bacteria may not be present, it is beneficial to add microbial degrading cultures to enhance the bioremediation process.

• High Contamination Levels - When contamination levels are high and soil nutrients are low, it is beneficial to add Medina Bio-D® Bioremediation Nutrients to properly balance the carbon-nitrogen-phosphorous ratio.



Medina Products Commercial Division

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(512) 426-3011

Medina® Bioremediation Products include:

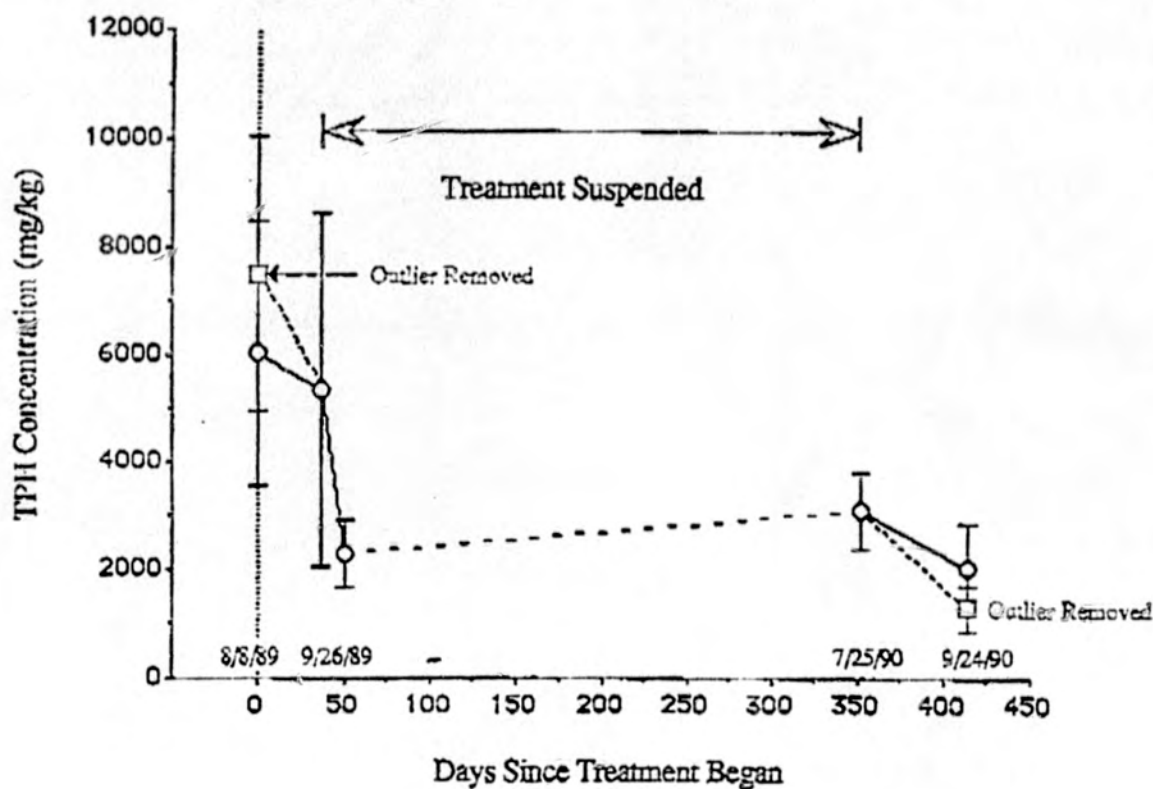
Bio-D® Bioremediation Nutrients
Medina® Soil Activator (microbial activator)
d-part® Waste Conditioner
plus, specific bacterial cultures

Bioremediation Plot Data from Alaska

The Land Farm plot was treated twice with Medina Soil Activator and also tilled each week for 6 weeks each season.

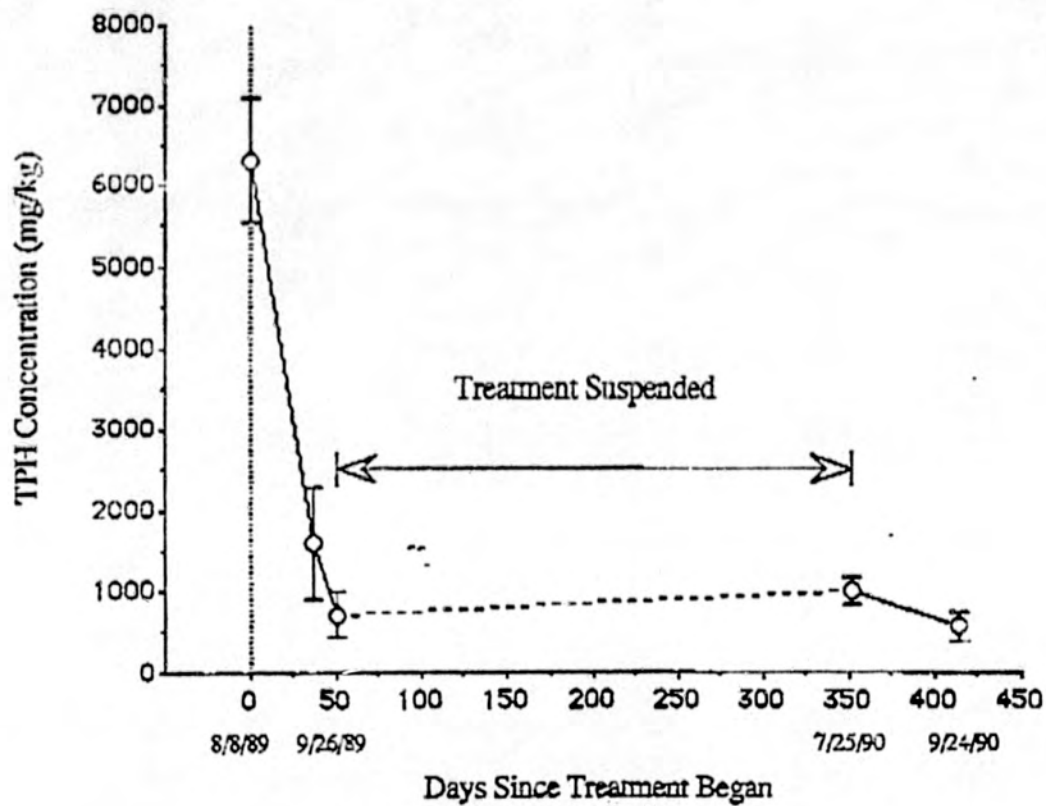
The Distrubed Tundra plot was tilled twice during the 6 week treatment period with 2 appplications of Medina during each tilling event.

The Native Tundra Plot was treated with Medina twice each season with a brodcast spray and not tilled.



**Bioremediation Pilot Study:
1989-90 Combined Results for Native Tundra
Total Petroleum Hydrocarbon (TPH) Concentrations**

Not Tilled -
Broadcast Sprayed
Medina Soil Activator
1 gal To 5 gal water

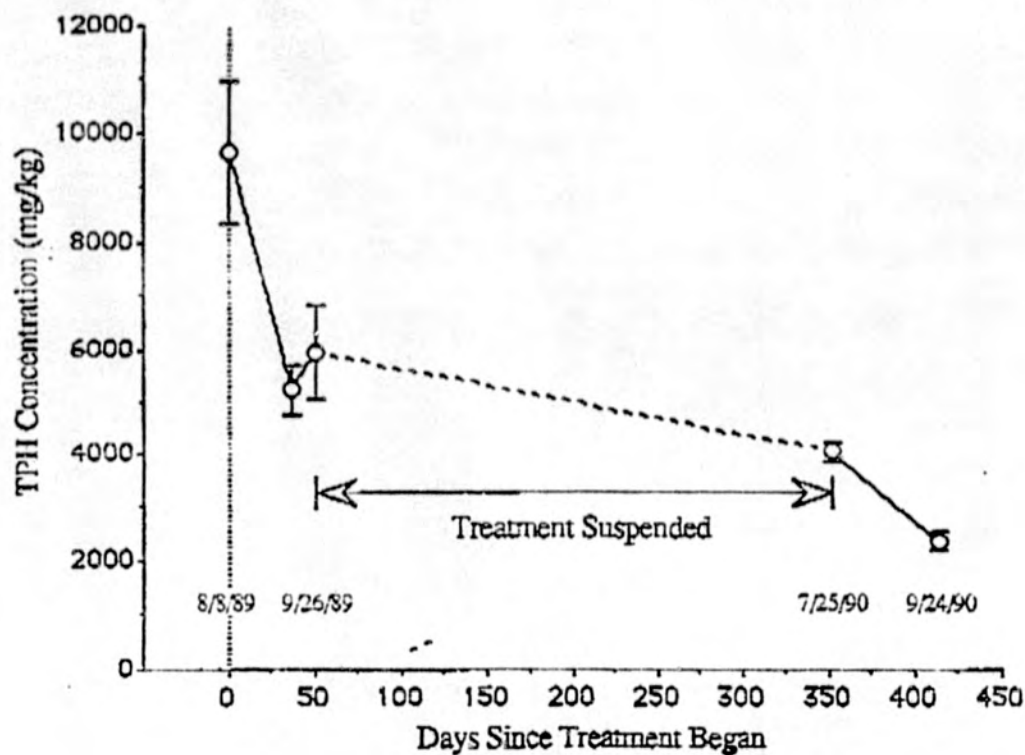


Bioremediation Pilot Study:
1989-90 Combined Results for Disturbed Tundra
Total Petroleum Hydrocarbon (TPH) Concentrations

Handwritten notes:

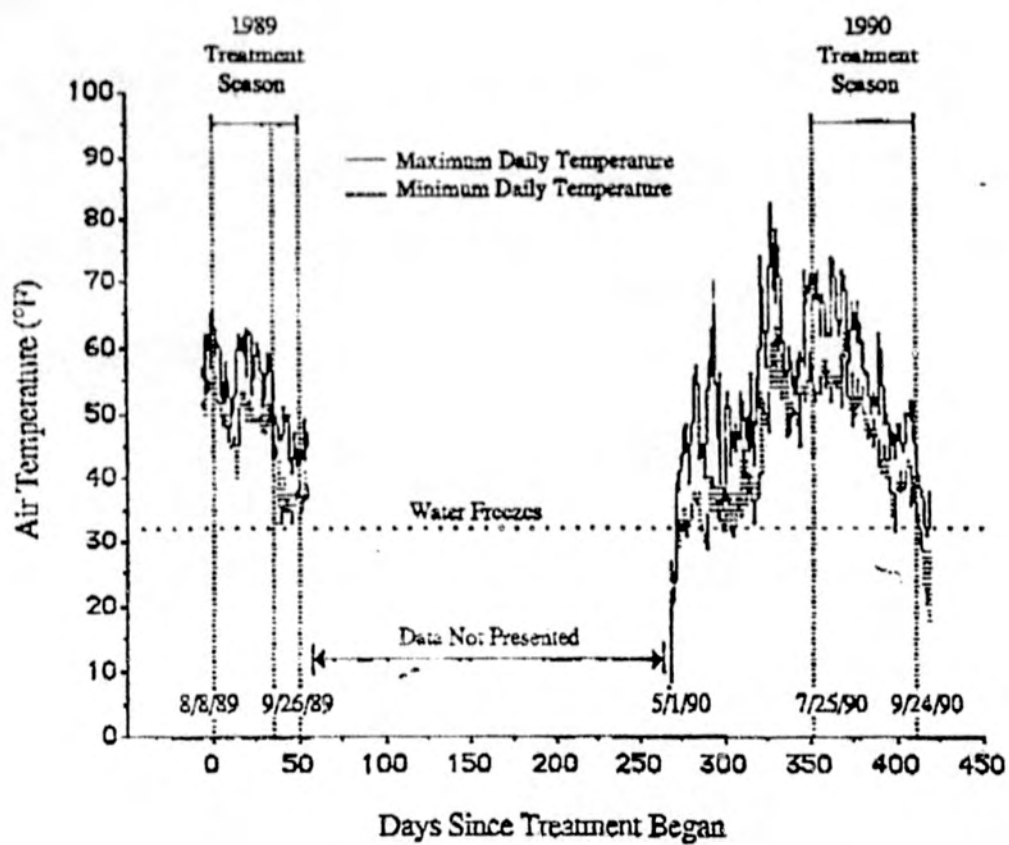
~~Tilled~~
~~2 1/2 weeks~~

Tilled In Place
 Medium Soil Activation
 1 gal to 5 gal water

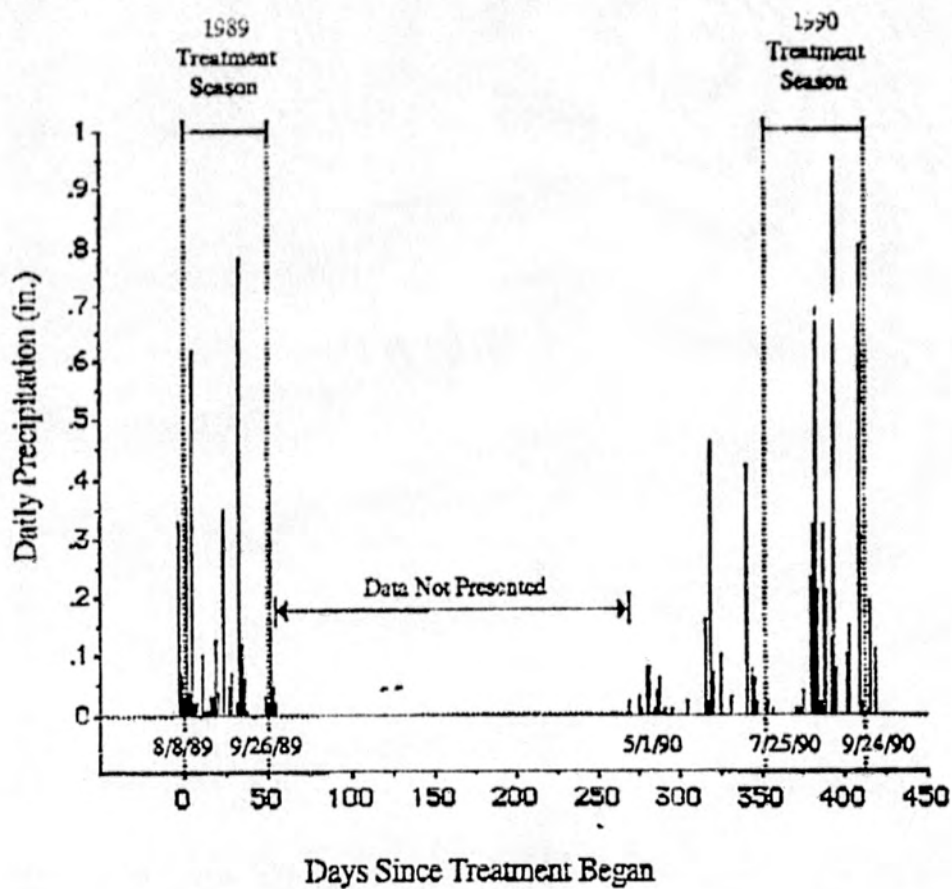


**Bioremediation Pilot Study:
1989-90 Combined Results for Land Farm
Total Petroleum Hydrocarbon (TPH) Concentrations**

Soiled Moved to Cement Pad
Land Treated on Pad
Media Soil Activator
1 gal to 5 gal water



Bioremediation Pilot Study:
Daily Air Temperatures (Maximum And Minimum)
During 1989 and 1990 Treatment Seasons
 (Vertical Dotted Lines Represent Dates of Sample Collections)



**Bioremediation Pilot Study:
Daily Precipitation During 1989 and 1990
Treatment Seasons**

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3716

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 24, 1991

G.L. Thomas, Ph.D.
Director
Prince William Sound Science Center
P.O. Box 705
Cordova, Alaska 99574

Dear Dr. Thomas:

Thank you for writing and sending me information on the Center's activities.

I have enclosed a copy of House Concurrent Resolution 29 which was introduced by the Committee and passed the House on May 2. Also enclosed is a copy of House Concurrent Resolution 38 which passed the Legislature.

Assuming a new settlement is reached and the Legislature appropriates the state's share to the trust (which I believe is constitutionally required), the Legislature will still have no power to direct how those funds will be spent. That will be a function of the trustees, with input from their advisory board. Hopefully, members of the scientific community will be appointed to the board and will be able to participate in those funding decisions.

I enjoyed talking to you in Cordova. I will be returning to Anchorage on May 27, and can be contacted at: Anchorage Legislative Information Office, 3111 "C" Street, Suite 440, Anchorage, AK 99503; phone 561-7621.

Cordially,

A handwritten signature in dark ink, appearing to read "Max F. Gruenberg, Jr.".

Max F. Gruenberg, Jr.
Chairman

Enclosures: HCR 29 and HCR 38



P.O. Box 705
Cordova, AK 99574
(907) 424-5800 FAX: (907) 424-5820

May 8, 1991

The Honorable Max Gruenberg
Alaska State House
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Gruenberg:

I appreciated the opportunity to discuss the Prince William Sound Science Center's plans with you. As we discussed, I was appointed as the Science Center's Director last October and have been working to build a quality research, monitoring, and educational program in Cordova. My foremost objective in the past six months has been to work with NOAA to establish the Prince William Sound Oil Spill Recovery Institute in accordance with the Oil Pollution Act of 1990.

Briefly, the Oil Spill Institute is dedicated to long-term damage assessments and research and development on oil spill clean up. It was formally endorsed by the state Hazardous Substance Spill Technology Review Commission and the Regional Citizens Advisory Council. I have attached a letter sent to Senator Stevens which summarizes my efforts to establish the Oil Spill Institute with the Hazardous Materials Division of NOAA in Seattle, Washington. I believe this demonstrates what a mistake it can be to route EXXON settlement funds through out-of-state branches of the federal agencies.

As we discussed, I believe the settlement funds need to be used to establish a permanent trust fund(s) that will provide for environmental monitoring of the Greater Prince William Sound ecosystem (comprising the drainages of Prince William Sound and the Copper River). The probability of establishing a permanent trust fund with monies from the EXXON settlement will be greater if the funds are appropriated by the State Legislature. Monitoring programs can provide essential baseline information for sustaining the use of natural resources and maintaining the integrity of the ecosystem. The Science Center's mission is to *contribute to the comprehensive description and ecological understanding of Greater Prince William Sound, its wetlands, river systems and drainage basin, and thereby serve as a source of information for the sustainable use of the ecosystem's natural resources.*

To carry out its mission, the Center will seek and provide support for monitoring programs to systematically describe the

Letter to Representative Gruenberg
May 8, 1991
Page 2

natural resources of the Greater Prince William Sound. The Center will serve as a repository for such baseline information which will assist resource managers in determining the levels of harvest and development that can be sustained in the region. The assessment of natural resources in Prince William Sound will require a cooperative interdisciplinary effort by research scientists. Fundamental to the Center's research efforts will be a dedication to technological advances which enable us to improve the resolution, accuracy, precision, and continuity of resource monitoring. The baseline information that we collect and collate on the Sound, and the research we conduct to improve this information, will provide the foundation for a better understanding of the ecosystem.

The Center seeks long-term support that will not require alignment with public regulatory agencies or private sector special interests. A position of independence is essential to assure credibility of our monitoring and research results within the scientific community. Such credibility will serve both the public and private interests for objective decision-making on environmental issues. No other research and public information entity of similar scope and focus presently exists. The Center's concept has received broad and enthusiastic endorsement.

The Center is currently positioning itself to play an important role in the future of the natural resources of the Greater Prince William Sound by the formation of a widely respected Board of Directors, Scientific Advisory Committee, Citizens' Advisory Panel, and National Advisory Council (present members of these groups are attached). We are involved in an effort to establish a geographical information system composed of baseline data on the natural resources of the Greater Prince William Sound ecosystem. This GIS will help identify the primary components and scale of measurement for our monitoring programs, as well as the areas where new measurements or research are needed to improve our understanding of the ecosystem.

We are working cooperatively with researchers at the University of Alaska to hold scientific workshops on critical natural resource issues and the use of remote sensing and satellite technologies to monitor the Sound. We are developing several proposals that collate the interdisciplinary expertise into remote and active acoustic and photo-video monitoring of the ecosystem. Such projects will involve advanced training opportunities for postdoctoral and graduate students serving as interns at the Science Center.

I believe that having good information is the key to establishing exploitation rates that will sustain our natural resources. There is ample talk of the clean-up and restoration of the Sound, but I

Letter to Representative Gruenberg
May 8, 1991
Page 3

doubt that we presently have the information or understanding to accomplish these objectives. Just look at the questions arising from our efforts to clean the beaches after the spill, or look at the disputes about restoring a wild run of salmon with hatchery fish. I do not believe that we have the quality or quantity of information needed to understand ecosystems, much less clean-up, restore and enhance them.

It is time for a major infusion of interest and support for environmental monitoring and research to improve existing monitoring technologies, if we wish to have sustained use of our natural resources. My aspirations for the Science Center are to have an opportunity to contribute to a better understanding of the Greater Prince William Sound ecosystem through large scale, long-term monitoring programs and to conduct research into new monitoring technologies.

I appreciate your support and thanks again for your time.

I will be available in Seattle at (206) 543-6475, 745-6557, FAX 685-7471, or in Cordova at (907) 424-5800, FAX 424-5820.

Sincerely,

G.L. Thomas (by NB)

G.L. Thomas, Ph.D.
Director

Enclosures

1. April 30, 1991 letter to Senator Ted Stevens
2. Regional Citizens Advisory Council Resolution # 91-6
3. Background information, PWS Science Center



P.O. Box 705
Cordova, AK 99574
(907) 424-5800 FAX: (907) 424-5820

April 30, 1991

Senator Stevens c/o Mr. Earl Comstock
Fax 202-224-1354
Washington D.C.

Dear Senator Stevens:

This letter is to inform you of my efforts to work with NOAA to establish the Prince William Sound Oil Spill Recovery Institute.

Last October, I became Director of the Prince William Sound Science Center (Science Center) after a nationally advertised search by the Board of Directors. At that time, I was given correspondence between Dr. John Harville, the Science Center's Interim Director, and Mr. Ron Dearborn, Director of Alaska Sea Grant, that discussed establishing the Prince William Sound Oil Spill Recovery Institute (Oil Spill Institute) within the Science Center in Cordova, Alaska, in accordance with the Oil Pollution Act of 1990 (OPA90). Subsequently, a \$100,000 first year appropriation to establish the Oil Spill Institute was given to the Hazardous Materials Division (NOAA-HAZMAT) in Seattle, Washington, instead of Alaska Sea Grant.

In December 1990, I presented to Mr. David Kennedy, NOAA-HAZMAT, a draft cooperative agreement between the Science Center and NOAA, so that we could begin the process of setting up the Oil Spill Institute. Upon presenting the draft cooperative agreement, Mr. Kennedy expressed a concern about the Cordova based Science Center's ability to comply with the OPA90. The next week in Washington D.C., I learned from Ms. Lisa Sutherland that you had spent significant time with Mr. Kennedy and had similar doubts about the Science Center's ability to comply with the OPA90.

Ms. Sutherland also told me that lobbyists for Native Corporations were against the Oil Spill Institute because they felt it to be a threat to their logging interests in the Sound. Subsequently, Mr. Stephen Rehnberg, CEO for the Eak Corporation, confirmed the effort against the Science Center and the establishment of the Oil Spill

Institute. As, I stated to Mr. Kennedy, Ms. Sutherland, Mr. Rehnberg, Dr. Herb Curl (NOAA-HAZMAT), and the public, the bylaws of the Science Center do not allow the Center to take a position of environmental advocacy, and the Oil Spill Recovery Institute has nothing to do with timber harvest.

Dr. Herb Curl was hired by NOAA-HAZMAT with the first year's appropriation for the Oil Spill Institute with the responsibility to work cooperatively with the Science Center. It was necessary for me to raise private funds for my role on behalf of the Science Center because Dr. Curl informed me that after his salary and benefits were encumbered from the appropriation that there was just enough left to set up the Advisory Board and have a meeting in Cordova (20-25K). We both agreed on the need to show progress setting up the Institute's Advisory Board in order to receive your support for a 1992 appropriation for the Institute. So, I immediately drafted a memorandum of understanding (MOU) between the Science Center and NOAA to get the process started. After minor changes were made by NOAA, Dr. Curl informed me that the MOU would be signed in the near-future at a ribbon-cutting ceremony in Washington D.C. As soon as this was done, we were suppose to work together to establish the first meeting of the Oil Spill Institute's Advisory Board.

On April 8th, I was told by Dr. Curl that you would not seek a 1992 appropriation for the Oil Spill Institute, and the funding for the Institute would have to come out of the EXXON settlement funds. After I expressed my concern for the delay in NOAA's approval of the MOU, in an April 11th, 1991 memorandum to Ms. Virginia Tippie, Assistant Administrator, NOAA, Dr. Curl pressed for a signature on the MOU and approval to proceed with establishing the Oil Spill Recovery Institute. In response on April 28th, Dr. Curl informed me that he was instructed by his supervisor in Washington D.C., Mr. Charles Ehler, Director, OMA, that he was to cease all efforts to establish the Oil Spill Recovery Institute.

I have worked in good faith on behalf of the Prince William Sound Science Center, without cost to NOAA, to establish the Oil Spill Recovery Institute. The Science Center viewed the Oil Spill Recovery Institute as the means to continue long-term research on the damage caused by the EXXON VALDEZ spill and support the development of new spill prevention and cleanup technologies. The Oil Spill Institute has been endorsed by Alaska's Hazardous Substance Spill Council and the Regional Coastal Advisory Council, as well as being authorized by the OPA90. The City of Cordova spent considerable time and funds in

support of the Oil Spill Institute because of it's desire to have a local source of qualified expertise on oil spill issues.

A loss of funding for the Oil Spill Institute threatens: (1) the community of Cordova with lost investment, loss of local technical development at the Science Center, and a loss of income to the area from the jobs and projects it would have created, (2) communities within the Prince William Sound Region, State of Alaska with less oil spill technology, future environmental damage caused by oil spills, cleanups, (3) the scientific community for lack of a funding organization with the unique support long-term damage assessments, and the natural resources of the Prince William Sound Region benefit from the research and development that was planned by the Institute in accordance to the OPA90.

I know that you worked hard to include the Prince William Sound Oil Spill Recovery Institute in OPA90, so these events must be as disappointing to you, as they are to me. I have written this letter to let you know first hand about my efforts to establish the Oil Spill Institute. I want you to know, that I did everything I could to cooperate with NOAA so that this effort could be successful.

I always believed that it would require full support and a lot of cooperative work with NOAA to establish the Oil Spill Institute. After reading the initial correspondence between the Science Center and NOAA-Alaska Sea Grant, I thought that there was a fighting chance for the Oil Spill Recovery Institute. This enthusiasm and positive attitude was lost when NOAA-HAZMAT became involved. Outside of Dr. Curl's one letter to attempt to get the MOU signed, which was swiftly rebuffed, I have no information to suggest NOAA-HAZMAT has done anything to establish the Oil Spill Institute.

The most distasteful part of my job has been to put up with the repeated accusations by NOAA-HAZMAT personnel and your aides that the Science Center has a hidden agenda. If this were true, I would have not taken the job of Director. The alleged statements made by private Citizens in Cordova are not the Science Center's business. When a Board Member or staff says that he or she represents the Science Center or uses Science Center affiliation to make a statement or issue correspondence then it is Science Center business and our bylaws must be complied with. The Science Center is very sensitive to this, and one Board member has already resigned just because of the perception

that his outside activities were in violation of the Science Center's bylaws.

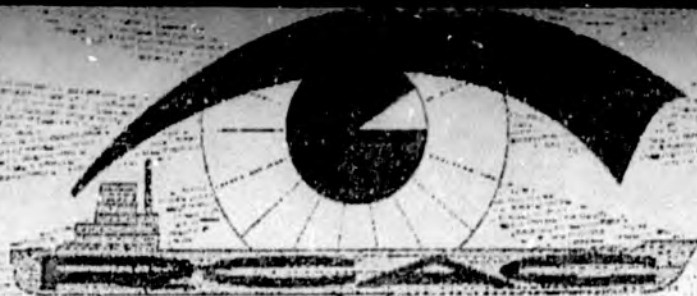
As the Director of the Science Center, I have recognized the need for expanding the Board of Directors to include distinguished citizens within the Alaskan community that have business, financial, and political expertise. The Science Center Board of Directors is currently expanding its membership to meet these needs. I have had direct discussions with Mr. Keith Gordaooff, President of the Chugach Corporation, and Dr. Rosita Worl, Juneau, in search of Alaska Natives that are interested and capable of assisting the Science Center's growth. I view the building of a strong Board of Director's as an essential step in the Science Center's progress in becoming a successful non-profit business.

I view the loss of the Oil Spill Recovery Institute as only a minor setback to the Science Center's development, but a major setback to Cordova, the Prince William Sound Region, and the State of Alaska. However, with- or without the Oil Spill Institute, I will continue to work on the development of a well balanced research program at the Science Center. I believe that the development of a solid science program at the Center in Cordova, will contribute something special to the Cordova community, Prince William Sound region, and the State of Alaska.

Thank you supporting the Science Center and I look forward to meeting you in the future.

Sincerely,

G.L. Thomas, Ph.D.
Director



REGIONAL CITIZENS' ADVISORY COUNCIL

Resolution 91-6

OIL SPILL RECOVERY INSTITUTE

WHEREAS, Section 5001 of the the Oil Pollution Act of 1990 established the Prince William Sound Oil Spill Recovery Institute; and

WHEREAS, The Congress of the United States approved the Oil Pollution Act of 1990 unanimously; and

WHEREAS, The purpose of the Prince William Sound Oil Spill Recovery Institute is to conduct research and educational and demonstration projects designed to:

a) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

b) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of the Exxon Valdez oil spill on the natural resources of Prince William Sound and its adjacent waters, and the environment, the economy, and the lifestyle and well-being of the people who are dependent on them; and

WHEREAS, It is imperative to the mission of the Regional Citizens' Advisory Council to understand the technology for oil spill response and prevention and to understand the long term effects of oil spills on the natural resources and communities in the region impacted by the Exxon Valdez oil spill;

THEREFORE, BE IT RESOLVED That the Regional Citizens' Advisory Council endorses the full appropriation for the Oil Spill Recovery Institute of \$23 million over a period of ten years as authorized in the Oil Pollution Act of 1990; and

BE IT FURTHER RESOLVED That the Regional Citizens' Advisory Council strongly recommends active and enthusiastic support for the appropriation by the Alaska Congressional Delegation, the Governor of the State of Alaska, the Federal Senate and House Appropriations Committees, the National Oceanic and Atmospheric Administration, the Secretary of Commerce and the Comprehensive Environmental Response Compensation and Liability Act Trustee Council.

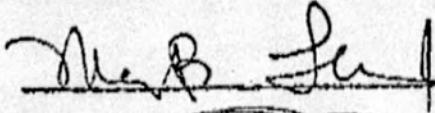
Certification

This resolution was duly adopted by the RCAC at an RCAC meeting held March 22, 1991 by the following vote:

Ayes 10

Nays 0

Abstain 0



Marilyn Leland, Secretary



Chris Gates, President



SCIENCE CENTER LOG

Volume I, No. 1

December 1990

Oil Spill Institute given \$100,000

This year's federal budget includes a \$100,000 appropriation to establish the Prince William Sound Oil Spill Recovery Institute, which will be located in Cordova and administered by the PWS Science Center. The oil spill institute was authorized in the Oil Pollution Act of 1990, signed by President Bush in August.

As stated in the Oil Pollution Act, the function of the oil spill institute will be to "conduct research and carry out educational and demonstration projects designed to:

- 1) identify the best available techniques, equipment and materials for dealing with oil spills in the arctic and subarctic marine environment; and

- 2) complement Federal and State damage assessment efforts and determine, document, assess and understand the long-range effects of the Exxon Valdez oil spill on the natural resources of Prince William Sound . . ."

An 18-member Advisory Board will direct the activities of the PWS Oil Spill Recovery Institute. The Chair of this advisory board will be a representative from the Department of Commerce. Other state and federal agency representatives to this Advisory Board will be appointed by the state Commissioners of Fish and Game, Environmental Conservation, Natural Resources and Commerce and Economic Development; and, by the Secretaries of Commerce, the Interior, Agriculture, Transportation and the Navy; and by the Administrator of the Environmental Protection Agency.

Four residents from the communities impacted by the Exxon Valdez spill will be appointed to the Advisory Board by the Secretary of Commerce; at least two of these individuals will be residents of Prince William Sound.

Three seats on the Advisory Board are reserved for Alaska Natives who represent Native entities affected

(Continued Page 3)

Thomas appointed director

Dr. Gary Thomas was officially appointed Director of the Prince William Sound Science Center at an October 26th meeting of the Board of Directors. This appointment followed a nationwide search, an initial screening of 20 applicants and personal interviews in Cordova of four finalists. Dr. Thomas is a research professor with the School of Fisheries at the University of Washington where he has served on the faculty since 1979. He replaced Dr. John Harville, who has served as Interim Director at the PWS Science Center for over a year.

Dr. Thomas is an internationally known researcher in the use of acoustics to measure the density and distribution of fish and other marine, estuarine, and freshwater biota. The use of hydroacoustics to assess natural resources is especially relevant to collecting baseline information for sound management practices.

Dr. Thomas has also served as Assistant Leader of the Cooperative Fishery Research unit at the University. In Alaska, Dr. Thomas has conducted research projects in the Beaufort Sea, Bristol Bay and on the Kenai Peninsula. He has experience with several commercial and sport fisheries in Alaska, Washington, California, Oregon and Mexico.

Dr. Thomas received a Bachelor of Arts degree from California Western University, a Masters of Science in Zoology from San Diego State, and a Ph.D. in Fisheries from the University of Washington. He is a member of the American Fisheries Society, the American Institute of Fishery Research Biologists, and the American Association for the Advancement of Science. Dr. Thomas is married and has four children.

The Prince William Sound Science Center was founded in April 1989 to establish a research program to expand

(Continued Page 3)

\$250,000 state appropriation upgrades science facility

Renovation work has begun at the Science Center's building, located at the entrance to Cordova's boat harbor. The Center received a \$250,000 appropriation from the state legislature to upgrade the facility.

The building now includes two offices for researchers, a large warehouse area and administrative offices. By April 1991, the facility will include a small laboratory -- in cooperation with the Prince William Sound Community College, a small bunkhouse and additional office space. A library/conference room will also be incorporated with the administrative offices.

(Continued Page 3)

Citizens Advisory Panel forms

Appointments were made October 26 to an advisory panel which will include regional leaders representing resource development companies, environmental groups, educational interests and the general public. Eight seats on the 25-member Citizens Advisory Panel (CAP) are designated for representatives from the cities of Valdez, Seward, Tatitlek, Chenega, Whittier and Cordova and from the North Pacific Rim Corporation and the Alaska Conservation Foundation.

The panel will be one of three advisory committees to the Science Center's Board of Directors. The CAP will meet once or twice per year and provide advice to the Board on the regional needs and practical relevance of the Science Center's research, education and information transfer services. The panel will serve as a vital link with local residents, private businesses and local communities.

The CAP -- as well as the two other advisory groups, the Scientific Advisory Committee and the National Advisory Trust -- will also submit nominations for the Board of Directors prior to annual board elections.

Appointed October 26 to several of the designated seats were: Robert Donald, City of Valdez; Christopher Gates, City of Seward; David Hall, Alaska Conservation Foundation; and Gary Kompkoff, Village of Tatitlek. The other four designated appointments will be made after recommendations are received from the cities of Cordova and Whittier, the village of Chenega and the North Pacific Rim Corporation.

Others nominated to serve on the CAP are currently being contacted. The first meeting of this advisory panel will be scheduled in early January. Please contact Nancy Bird if you have suggestions or are interested in serving on this panel.

Oil Spill Curriculum published

Teachers throughout Alaska and in about 12 other states were sent the Alaska Oil Spill Curriculum in July and August for use in their classrooms this year. The curriculum was developed by a group of Alaska teachers, many of whom reside in Cordova.

The Prince William Sound Science Center published the curriculum in conjunction with the Prince William Sound Community College. It is divided by age group into four sections: pre-school, kindergarten through third grades, fourth through sixth grades, and seventh through twelfth grades. The curriculum focuses on positive steps that individuals and groups can take to prevent future oil spills and on energy conservation and recycling.

Activities/lesson plans for each age group are included with a bibliography and other resource materials. Alyeska Pipeline Service Co. and ARCO contributed 1,000 copies of a videotape summarizing the preventive measures now in place

for tanker traffic; British Petroleum provided a Wildlife, Birds and Wildflower brochure to the curriculum; and Cordova District Fishermen United donated 500 copies of the video-tape "Voices of the Sound." Other resource material donations were received from the Alaska Exxon Response Team (oil absorbent pads), the Valdez Vanguard and Cordova Times (copies of their "Special Anniversary Issue" on the oil spill), The Seattle Times (copies of their "Tankers Full of Trouble" special section), and the Oil Reform Alliance (copies of the Alaska Department of Fish and Game magazine, "Special Oil Spill Issue").

Since mailing the first curriculums in mid-July, the Science Center has received over 100 requests for copies of the curriculum from teachers around the nation. Volunteers are needed to assist with updating the mailing list and responding to the requests. Please contact Penny Oswalt at 424-5800 if you'd like to help.

Joint project documents resources

A 16-page resource assessment document on the Prince William Sound/Copper River and North Gulf coast region is scheduled for publication this winter. The purpose of this document is to describe the Prince William Sound and Copper River region within the context of global resources and detail its important ecological, economic and cultural resources.

Developed in cooperation with the

Copper River Delta Institute and Conservation International, the document will feature six maps and several color photographs that illustrate the unique resources of the region.

The intent is to generate awareness of the resources within the complex of ecosystems and to help identify key gaps in our understanding of the region. The document will also emphasize the importance of resource management planning.

Oil Spill Recovery Institute

Continued from page 1

by the Exxon Valdez spill.

The Prince William Sound Science Center and the Institute of Marine Science (affiliated with the University of Alaska) will each appoint a non-voting representative to the Advisory Board.

The oil spill institute is authorized by Congress to receive \$23 million over a 10-year period, \$5 million for its first year of operation and \$2 million for the succeeding nine years. Unfortunately, this funding is subject to the annual appropriations process making it difficult to plan for long-term studies. The original intent in creating the PWS Oil Spill Recovery Institute was to set up a research organization with assured long-term funding that would provide independent scientific data on the impacts of the Exxon Valdez oil spill. Efforts continue this year to obtain the full amount authorized for the Oil Spill Recovery Institute.

Board elections scheduled

New elections for all seats on the PWSSC Board of Directors are scheduled for January 1991. The Board of Directors will accept nominations for board members from the Scientific Advisory Committee, the Citizens Advisory Panel and the Nominating Committee.

Thomas appointed. Continued from page 1

the scientific understanding of the Prince William Sound and Copper River ecosystems. The Center currently has a nine-member Board of Directors and two administrative staff. Two federally funded research projects on sea otters and bald eagles are currently housed at the Center. Financial support for the Center has come from a variety of public and private sources.

Dr. Thomas will take the lead in securing operational funds for the Science Center and will supervise development of the Center's scientific research program. The Center's Interim Director, Dr. John Harville, will continue to assist the staff during a transition period. Dr. Thomas is expected to move to Cordova with his family after securing an operational budget for the Center.

Renovation Continued from page 1

The laboratory addition will be used by community college students, and local and visiting researchers.

Six architecture firms were considered by the Board of Directors before Porath Architects was chosen in mid-October to complete drawings for the renovation project. The project will be advertised for bids in late December with construction to begin by March.

In November, repairs were made to the cross-bracing on the pilings under the building. Additional repairs to the heating and water systems are currently underway.

Contribute to a better understanding
of Prince William Sound.

Join the Science Center
and support our efforts to build
a strong base of scientific information
on the rich and diverse resources in the region.

As a Science Center member you will receive our enamel logo pin,
a semi-annual newsletter and other information on Center activities.

Name _____

Address _____

City/State/Zip _____

The PWS Science Center is a 501c3 non-profit organization.
All donations are tax-deductible.

Membership donations of \$1,000 or more will receive
special recognition at our permanent facility.

_____ \$ 10 Student/Senior
_____ \$ 15 Regular
_____ \$ 25 Family
_____ \$ 50 Donor
_____ \$100 Contributor
_____ \$1,000 Supporter
_____ \$2,500 Sustainer
_____ \$5,000 Patron
_____ Other

Pew Trust pledges \$120,000

On December 11 the Pew Charitable Trust announced a major award to the Science Center of \$120,000 over two years. This grant is in response to a proposal made by the Science Center last spring. The grant will support the organization of two conferences in 1991 and 1992 on resource management issues.

The Pew Charitable Trust is the second largest foundation in the United States. Their offices are located in Philadelphia. This is their first major grant to an Alaskan non-profit organization.

Donors and Supporters

The PWS Science Center gratefully acknowledges the following for their generous financial and in-kind support in 1989 and 1990:

City of Cordova
Davis Super Foods
John & Trish Wilson
Cordova District
Fishermen United
Prince William Sound
Aquaculture Corporation
Prince William Sound
Community College

ARCO Marine, Inc.
Alyeska Pipeline
Service Company
Conservation
International
Alaska State
Legislature
M.J. Murdock
Charitable Trust

Prince William Sound Science Center Mission Statement

To contribute effectively to the comprehensive description, sustained monitoring and more complete ecological understanding of Prince William Sound and its wetlands, river systems and drainage basin, and thereby to serve as an information resource for decision makers responsible for the conservation and development of these diverse and complex ecosystems.

Science education program planned

A science education program called Science Link was initiated by the PWSSC in late 1989 and 1990. Elements of the program include a monthly Science Lecture series for the general public; a very popular after-school Science Club for elementary school children; and coordination with a high school Science Club.

Additional plans for the Science Link program include a series of one-day field trips, workshops and short courses for adults and children; and, a biological technician training program for college and high school students.

Funding for these programs is currently being sought from a variety of private foundations. Parents or others interested in assisting with the Science Link are encouraged to contact the Science Center today!

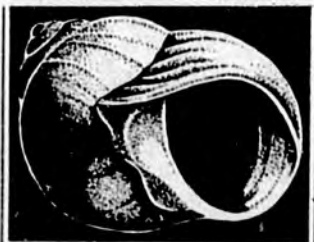
Board of Directors

Charles Monnett, Ph.D., President
Sam Sharr, Vice-President
Pete Mickelson, Ph.D., Secretary
Lisa Rotterman, Treasurer
R.J. Kopchak
Spencer Beebe
Rick Steiner

Staff

G.L. Thomas, Ph.D., Director
Nancy Bird, Admin. Coordinator
Penny Oswalt, Office Manager

John P. Harville, Ph.D.,
Founding Director



PRINCE WILLIAM SOUND
SCIENCE CENTER
CORDOVA, ALASKA

TO:

P.O. Box 705
Cordova, Alaska 99574
(907) 424-5800
Fax: (907) 424-5820



P.O. Box 705
Cordova, AK 99574
(907) 424-5800 FAX: (907) 424-5820

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President - Charles Monnett, Ph.D.
Research Associate
Prince William Sound Science Center
Cordova, Alaska

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Alaska Dept. of Fish & Game
Cordova, Alaska

Secretary - Pete Mickelson
Wildlife Ecologist
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Cordova, Alaska

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Cordova, Alaska

Spencer Beebe
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Ecotrust
Portland, Oregon

R.J. Kopchak
Commercial fisherman
Founding President, PWSSC
Cordova, Alaska

At its most recent meeting April 17, the PWSSC Board voted to expand their Board from the current six (6) to eleven (11) members. A number of prominent citizens, resident in Alaska and outside the state and active in business, education and science, are being contacted by Science Center Director Gary Thomas and several Board members. Their names will be announced following their acceptance of the invitation to serve as Board members.

Board meetings are open to the public. The next scheduled meeting will be in late July.

Scientific Advisory Committee
Prince William Sound Science Center

Harriet Christensen, Ph.D.
Director, Copper River
Delta Institute
P.O. Box 1460
Cordova, AK 99574

John P. Harville, Ph.D.
Founding Director, PWSSC
2430 S.W. Boundary St
Portland, OR 97201

John J. Goering, Ph.D.
Professor of Marine Science
School of Fisheries &
Ocean Sciences
University of Alaska
Fairbanks, AK 99775-1080

John C. Gordon, Ph.D.
Dean, School of Forestry &
Environmental Studies
Yale University
Sage Hall, 205 Prospect St.
New Haven, CT 06511

Ken Hill
Doctor of Veterinary Medicine
P.O. Box 1290
Cordova AK, 99574

Jerry Imm, Chief
Environmental Studies Section
Minerals Management Service
Alaska Outer Continental
Shelf Region
949 East 36th Ave., Room 110
Anchorage, AK 99508-4302

William J. McNeil, Ph.D.
Director, Cooperative
Institute for Marine
Resources Studies
Mark O. Hatfield
Marine Science Center
2030 S. Marine Science Drive
Newport, OR 97365

Jon M. Nelson
Assistant Regional Director
Fish & Wildlife Enhancement
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, AK 99503

Riki Ott, Ph.D.
Commercial Fisherwoman
P.O. Box 1271
Cordova, AK 99574

Stan Rice, Ph.D.
Habitat Investigations Program
Auke Bay Fisheries Laboratory
Alaska Fisheries
Science Center
P.O. Box 210155
Auke Bay, AK 99821

Donald B. Siniff, Ph.D.
Professor, Dept. of Ecology &
Behavioral Biology
University of Minnesota
109 Zoology-318 Church St. SE
Minneapolis, MN 55455

Lavern J. Weber, Ph.D.
Director, Mark O. Hatfield
Marine Science Center
2030 S. Marine Science Drive
Newport, OR 97365

George West, Ph.D.
Pratt Museum Board Chair
P.O. Box 841
Homer, AK 99603

Francis S.L. Williamson, Ph.D.
Director, Institute of
Arctic Biology
University of Alaska
Fairbanks, AK 99775-1080

Rosita Worl, Ph.D. A.B.D.
Research Associate
Smithsonian Institution
P.O. Box 21454
Juneau, AK 99802



P.O. Box 705
Cordova, AK 99574
(907) 424-5800 FAX: (907) 424-5820

Citizens Advisory Panel

Capt. Jerald Aspland
President
ARCO Marine, Inc.
Long Beach, California

Doug Miller
National Wildlife Federation
Anchorage, Alaska

Robert Donald
City of Valdez
Valdez, Alaska

Jerry Sanger
City of Whittier
Whittier, Alaska

Christopher Gates
Port Director
City of Seward
Seward, Alaska

Stan Stephens
Stan Stephens Charters
Valdez, Alaska

David Hall
Director
Prince William Sound
Conservation Alliance
Valdez, Alaska



P.O. Box 705
Cordova, AK 99574
(907) 424-5800 FAX: (907) 424-5820

Purposes for Advisory Groups

Scientific Advisory Committee

The Scientific Advisory Committee is composed of senior scientists and engineers from universities, governmental agencies, and the private sector from throughout the United States, who are actively engaged in or have demonstrated professional interests in Prince William Sound research. The Committee assists the Board of Directors and Science Center staff in setting research priorities, in developing requests for proposals, and in evaluating the qualifications of principal investigators.

Citizens Advisory Panel

The Citizens Advisory Panel is composed of regional leaders representing resource development companies, environmental groups, educational interests, and the general public. Eight seats on the Citizens Advisory Panel will be appointed by the President, with approval of the Board of Directors, from nominations received from 1) City of Seward, 2) City of Valdez, 3) City of Whittier, 4) City of Cordova, 5) Village of Tatitlek, 6) Village of Chenega, 7) the North Pacific Rim Corporation, and 8) the Alaska Conservation Foundation.

A total of 25 individuals may be appointed to the Citizens Advisory Panel. The panel assists the Board of Directors, assures practical relevance to regional needs of the Science Center's research, education and information transfer services. The panel is a vital liaison with the private and public sector.

National Advisory Council (yet to be formed)

The National Advisory Council is composed of business, educational or other leaders of recognized regional and national stature. The Council serves as a blue ribbon counseling body to provide national and international perspective and advice to the Board of Directors for long range program planning and development. A principal function of the Council will be to assist the Science Center to develop productive interactions with other research facilities in a national and global scale.

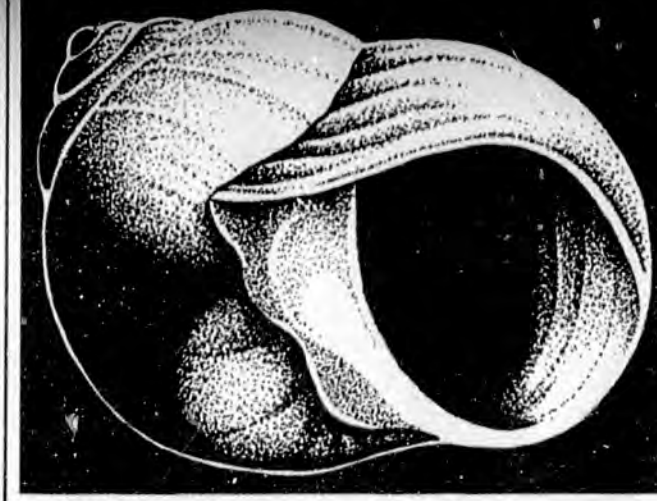
Cordova's Prince William Sound Science Center, centrally located on the southeastern shores of Prince William Sound, is a research facility established to conduct and assist basic and applied research in the Prince William Sound region of Alaska. Incorporated in April, 1989, as the Prince William Sound Science and Technology Institute, the Science Center is a private, nonprofit institution that provides an environment where scientists can work, discuss and exchange ideas in a creative and cooperative atmosphere.

For the past 15 years, Cordova-based researchers have promoted the concept of a centralized research institute in the Prince William Sound and Copper River Delta region to facilitate a deeper understanding of the biological processes at work in this unique diversity of subarctic habitats. Such a facility would serve as a base of operations, help identify research needs and act as an information repository for research conducted in Prince William Sound and the Copper River Delta.

The March 24, 1989, Exxon Valdez oil spill in Prince William Sound accelerated the need for basic and applied ecological research on the effects of oil spills in subarctic regions. Recognizing this need, a group of local scientists, representatives of the fishing industry, and city officials incorporated the Center in April 1989 as a research facility where scientists may conduct both non-oil and oil-related scientific studies. A Board of Directors provides overall policy and a Scientific Advisory Board formulates the scientific direction of the Center.

The purpose of the Center is the following:

- Provide laboratory space, equipment, and logistical and administrative support for research scientists and students.
- Assist development of a long-term environmental monitoring program for the accumulation of baseline data on Prince William Sound and its environs.
- Support other institutions and agencies conducting research in Prince William Sound and the Copper River Delta region.
- Facilitate and fund research projects in Prince William Sound and its associated drainage basins.
- Serve as a repository for scientific information resulting from research



PRINCE WILLIAM SOUND SCIENCE CENTER

C O R D O V A , A L A S K A

in Prince William Sound and the Copper River Delta region.

- Act as a host institution to the Prince William Sound Oil Spill Recovery Institute.
- Develop scientific information and education programs for students and the general public.
- Serve as an interpretive center for the general public.

The present Center, located on the dock on Breakwater Avenue, has two administrative offices, bunkhouse space for five to seven researchers, a kitchen, and a lunch room-meeting area. One-third of the 3,900-square-foot building is being converted into laboratories and a teaching facility.

Long-term, the Center plans to provide:

- Fully equipped laboratory and office facility
- Living and dining quarters for 30
- Central warehouse and smaller warehouse units for member institutions or projects
- Library
- Dock facilities
- Research vessels and field research equipment
- Classroom and other educational facilities, including an interpretive center and auditorium.

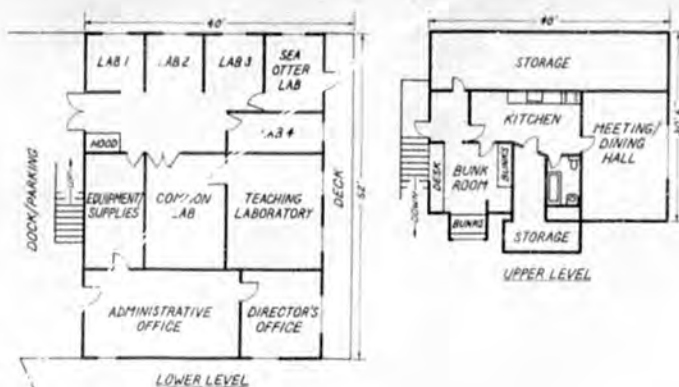
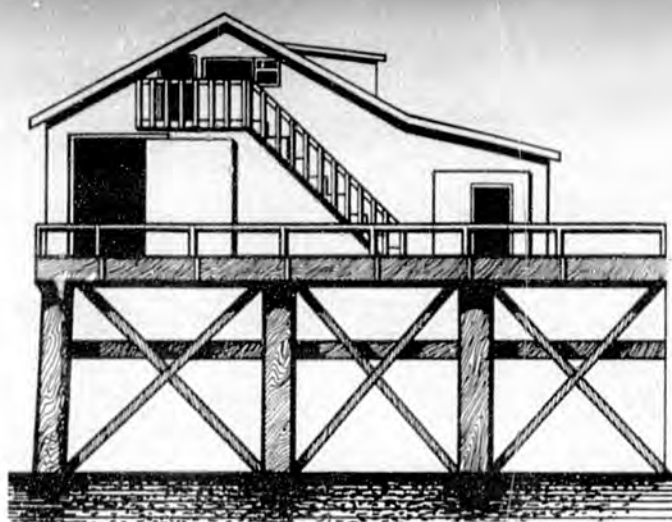
Although the Center's current emphasis is oil spill related, the original concept of creating a center to serve Prince William Sound and Copper River Delta research in perpetuity remains the pri-

mary goal, and will re-emerge as the Center's most important function as the need for oil spill-response research lessens in decades to come.

Cordova, a community of 2,650, is economically dependent on fishing which is in turn dependent upon a healthy ecosystem. The city strongly supports the Center, not only because scientific inquiry and technological development promise to help perpetuate high quality fisheries in Prince William Sound, but also because the Center itself represents diversity, and provides further economic stability to a community primarily dependent upon commercial fishing.

The Center has also received broad support from both private and public agencies, many of which are conducting post-spill research activities in Prince William Sound out of Cordova. These agencies have found Cordova to be the most logical base of operations because of its proximity to oil-impacted areas of the Sound, its proximity to the rich flats of the Copper River Delta, its role as a hub of commercial fishing activity (it is the nation's ninth largest fishing port by value), and its facilities, which include a modern airport and hospital.

The Prince William Sound area has long attracted researchers in both the basic and applied sciences because of its habitat diversity and natural resource wealth. At 15,000 square miles, Prince William Sound, a relatively deep, glacially-



Prince William Sound Science Center

carved fjord, is about 15 times the size of San Francisco Bay. In addition to being one of the world's richest herring and salmon fisheries, its waters and 3,000 miles of shoreline support tremendous numbers of sea birds and marine mammals.

In addition, PWS is adjacent to the Copper River Delta which is the largest contiguous wetland in the western United States. The two million acres of marshland, rivers, streams and ponds of the Delta are home to millions of waterfowl, shorebirds, salmon, trumpeter swans, moose, bear, wolves and many other species of wildlife. The Delta is the only known breeding area for dusky Canada geese and supports more than 11 percent of the world population of trumpeter swans. The USDA-Forest Service recognizes the need for researchers to study this rich wetland habitat and has established the Copper River Delta Institute in Cordova for that purpose. The Science Center will work closely with the Delta Institute to coordinate research and education efforts.

The waters of Prince William Sound support one of the nation's richest combination of salmon and herring fisheries, with an ex-vessel value of about \$85 million in 1988. Other important fisheries include dungeness crab, shrimp, halibut and other groundfish. Five major salmon hatcheries operate in the Sound. Three of

those are managed by Prince William Sound Aquaculture Corporation, including the world's largest hatchery at Esther Island.

The Sound is home water to some of the world's densest populations of sea otters and killer whales, which together with other cetaceans, seals and sea lions represent one of the more profuse populations of marine mammals anywhere.

Two hundred and forty species of birds — including waterfowl, raptors, seabirds, shorebirds and songbirds that aggregately number in the tens of millions, are found in Prince William Sound. The bird populations notably include about 3,000 bald eagles, and about a dozen major seabird colonies.

The Science Center's primary goal is to facilitate research that increases the understanding and knowledge of the biological, chemical and physical processes at work in the unique subarctic environment of southcentral Alaska. A better understanding of these processes will benefit resource managers and the general public by providing essential information for the continued health and diversity of Prince William Sound and the Copper River Delta.



Prince William Sound
Science Center
Box 705
Cordova, Alaska 99574
(907) 424-5800
FAX (907) 424-5820

Daily flights to Anchorage, Juneau and Seattle

Air miles to Anchorage — 250 miles/40-minutes direct flight

Air miles to Juneau — 411 miles/2-hour flight with one stop

Air miles to Seattle — 1,293 miles/7.5-hour flight, 2 stops

Cordova is also accessible by ferry from Valdez, year-round, and from Whittier in the summer months. The ferry operates 2-3 times per week.

Trustees for ALASKA

A Non-Profit, Public Interest, Environmental Law Firm

April 12, 1991

DEPARTMENT OF
NATURAL RESOURCES

APR 12 1991

COMMISSIONER'S OFFICE
ANCHORAGE

Commissioner Harold Heinze
Alaska Department of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801

PUBLIC RECORDS REQUEST

Will fax it. smh

Dear Mr. Heinze:

Trustees for Alaska, Alaska Center for the Environment, and Thomas Lokash hereby request information under the Alaska Public Records Act, AS 9.25.110. Please furnish us, within 10 working days of your receipt of this letter, with a copy of the following documents:

a. Any and all economic, sociological and scientific studies generated to assess the damage to Alaskan lands, waters, flora, fauna, or residents (the "Damage Assessments") as a result of the grounding of the T/V Exxon Valdez on March 24, 1989 (the "Spill"), including, but not limited to, the post-mortem examination of dead marine mammals, birds or fish;

b. Any and all correspondence, memoranda, and other documentation provided to the Alaska Legislature concerning the Spill settlement, including data describing those members of the Alaska Legislature to whom such information was distributed;

c. Any and all correspondence, memoranda, and other documentation regarding the detection of mutagenic, carcinogenic, or toxic substances in areas affected by the Spill;

d. Any and all correspondence, memoranda, and other documentation concerning the cost of removing the remaining oil from areas affected by the Spill; and

e. Any and all correspondence, memoranda, and other documentation concerning the cost of restoring the areas affected by the Spill.

We also request that you provide us with a catalogue of the above referenced documents so that this information will be readily accessible to the public and their Legislative representatives.

In determining whether to honor this request, we refer you to Anchorage School District v. Anchorage Daily News, 779 P.2d 1191 (Alaska 1989) ("[A] public agency may not circumvent the statutory

disclosure requirements by agreeing to keep the terms of a settlement confidential.")

If you withhold any portion of the requested documents, please identify the document and specify the exemption that applies and provide any guidance documents or legal opinions that support your interpretation.

If you determine that any of the requested documents, or portions of them, are exempt from release, please segregate those portions and release the remainder of the document.

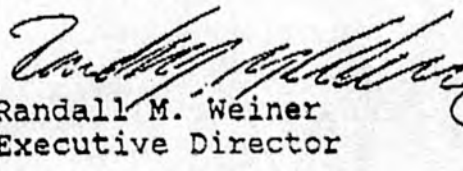
We also request that you waive any applicable fees for material search and duplication, since furnishing this material will benefit the public. Trustees for Alaska is a non-profit, public interest environmental law firm. We will make information requested available to our members and the general public upon request.

Trustees is not seeking financial gain through this request and does not anticipate using the information received for financial gain. In the event that charges in excess of \$100.00 are anticipated meeting this request, please notify the undersigned of the appropriate cost before filling this request.

Trustees is representing all of the groups and individuals making this request. Your response to this request should be made to the undersigned.

Thank you for your attention to this matter.

Sincerely,


Randall M. Weiner
Executive Director

Request made to below agencies
Commissioner Rosier
Commissioner Sander
Charles Cole

RONALD T. WEST, ATTORNEY AT LAW
A PROFESSIONAL CORPORATION

SPECIALIZING IN PERSONAL INJURY
AND MARITIME LAW

2360 LORD BARANOF
ANCHORAGE, ALASKA 99517

TELEPHONE
(907) 243-3376

Dear Max

I have two concerns about the
Exxon "settlement". One, third party rights
should not be prejudiced in any manner.

Second, spill related studies, whether paid
by Alaska or by Exxon should be provided.
As a lawyer, you know such material is
discoverable in litigation. The clause would
be poor public policy. Neither courts or
legislators should prevent the flow of
information to the public. Also, studies paid
with public funds should belong to the
public.

Ron West

Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 15, 1991

Ms. Carol Wilson
Chenega Bay, Alaska 99754

Thank you for taking the time to submit written testimony to the committee offering your comments on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through public hearings, letters, and public opinion messages were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4712
465-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

April 3, 1991

Dr. Glenn P. Juday
Assistant Professor of Forest Ecology and
Alaska Ecological Reserves Coordinator
Division of Forest Sciences
School of Agriculture and Land Resources Management
University of Alaska Fairbanks
Fairbanks, Alaska 99775-0080

Dear Glenn:

As we spoke today, enclosed is the following information:

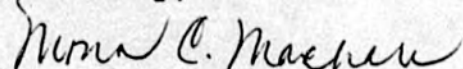
1. List of members of the House and Senate Special Committees on the Exxon Valdez Oil Spill Claims Settlement
2. House Special Committee Meeting Schedule
3. Legislation creating special committee and pertaining to Exxon Valdez settlement
4. Settlement legal documents
5. Chart on settlement cases
6. Fact Sheet on Exxon agreement
7. Overviews of four cases of settlement
8. Sectional Analysis of four cases of settlement
9. Information on spill related expenditures
10. Memo from Pamela Finley, re: conversation with AG
11. List of issues
12. Meeting minutes
13. Draft of federal 1991 Restoration Work Plan
14. Articles on Exxon settlement

As I had informed you, Andy Hemenway, our staff attorney, is now coordinating the Special Committee's work. If you have any questions, he should be able to assist you. Please feel free to contact him at 465-4945. I will share the information you have forwarded to us with him.

Dr. Glenn Juday
April 3, 1991
Page 2

Thank you again for contacting our office. Your independent information on the oil spill is very pertinent and extremely helpful. I am certain that together we will be able to ensure that Alaska receives a fair and just settlement for the past, present and future impacts from the Exxon Valdez oil spill. Thank you for your input.

Sincerely,


Mona C. Maehara
Legislative Assistant

Enclosures

A Preliminary Look at Effects of the *Exxon Valdez* Oil Spill on Green Island Research Natural Area

Glenn P. Juday * and Nora R. Foster **

In the early morning hours of March 24, 1989, the supertanker *Exxon Valdez*, full-loaded with more than 50 million gallons of crude oil, set a course outside the tanker lanes of Prince William Sound to avoid some ice in the water. After clearing some scattered, small icebergs the ship should have moved back into the southbound lane. It didn't.

The ship's crew, realizing their navigation error, attempted a last-minute course correction. But the enormous momentum of the tanker's full load carried it directly onto Bligh Reef, a shallow submerged shelf of hard rock. A huge gash ripped the tanker's hull, releasing nearly 11 million gallons of oil. For two days following the spill the *Exxon Valdez* and smaller tankers that were unloading the remaining cargo lay in a localized sludge of thick black crude oil. Slowly, the oil containment and clean-up effort began amidst unusually calm weather. But on March 27 a strong high pressure center moved across the arc of the Chugach Mountains that shelters maritime Prince William Sound from interior Alaska. Strong northeasterly winds pushed down from the mountains on to the water's surface and

started the oil on a wild, wind-whipped ride west across the sound under bright sunny skies.

The pristine island beaches of western and southwestern Prince William Sound stood in the path of the oil. Within two days they had received a very large dose of relatively unweathered crude oil. One of the islands on the southern edge of the massive oil slick was Green Island (fig. 1), where, in 1986, we had done some initial work in a long-term monitoring project along the beaches and in the intertidal zone. We did not originally intend to study an oil spill, but now that one has occurred we hope to learn as much as possible about changes in our area. What was the area like before the spill? Where did the oil arrive? What organisms did the oil affect?

The Study Area

The southeast half of Green Island and all of Little Green Island were proposed in 1981 as one of nine Research Natural Areas (RNA) in the Chugach National Forest (USDA Forest Service 1984). The nine RNA's were selected to include examples of plant communities, plant species, geological features, and animals that are either uncommon or characteristic of the Chugach National Forest (Juday, USDA Forest Service 1983). In this way all the elements of natural diversity in the forest are available for research, monitoring, and conservation. Because the living resources of the land and water

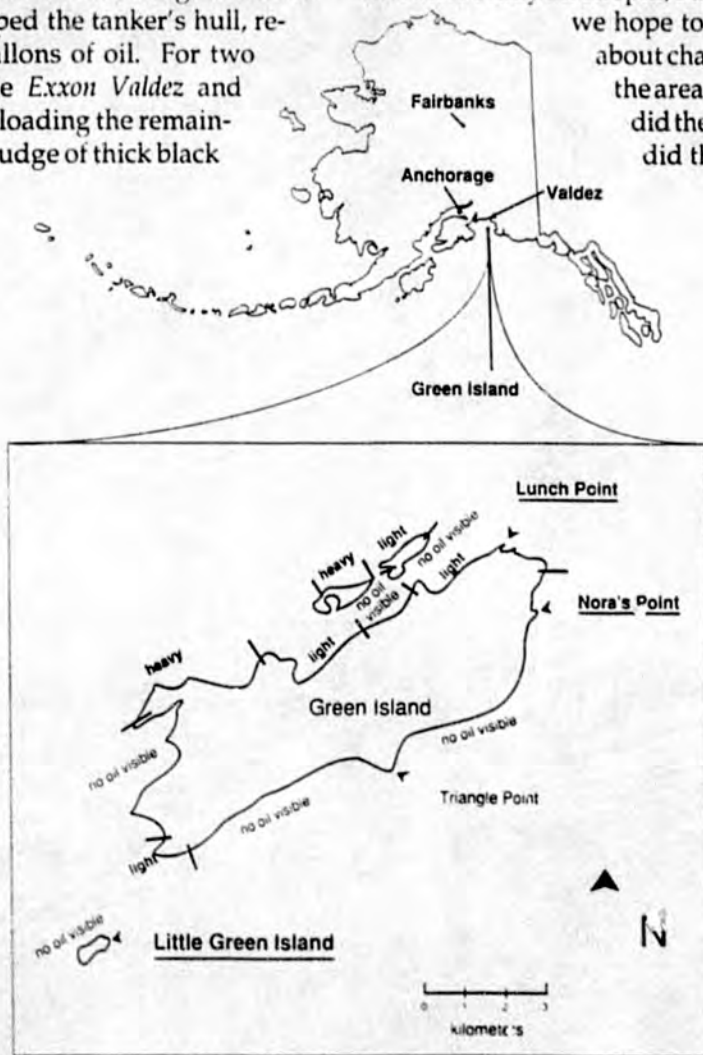


Figure 1. Location of Green Island and oil impact zones at Green Island, preliminary data as of April 21, 1989.

* Assistant Professor of Forest Ecology and Alaska Ecological Reserves Coordinator, School of Agriculture and Land Resources Management, University of Alaska Fairbanks.

** Coordinator of Aquatic Collections, University of Alaska Museum, University of Alaska Fairbanks.

along the shore are closely linked, we decided to document intertidal environments as well as terrestrial features at Green Island RNA.

There are relatively few ecological and systematic studies on the littoral (shore and shallow water) zone in Prince William Sound (for a review see Hood and Zimmerman 1987). Two studies provide a basic description of the abundance and distribution of intertidal plants and animals in our study area. In 1965 a team visited 33 stations in the sound, including the northeast end of Green Island, to investigate the effects of the 1964 great Alaska earthquake (Haven 1971). The Outer Continental Shelf Environmental Assessment Program sponsored baseline studies of two locations, McLeod Harbor and Zaikof Bay on Montague Island (O'Clair et al. 1978). These are similar to Green Island. Zimmerman and Merrell (1976) describe the abundance and distribution of organisms on the rocky shores of both locations.

In 1986 we visited the Green Island RNA to gather data for an Establishment Record and to document the island's initial condition for future monitoring. The goals of our intertidal reconnaissance were to:

1. Obtain a species list from the rocky intertidal zone adjacent to beach and forest study plots;
2. Identify and define intertidal zonation; and
3. Note any unusual animals or assemblages of plants and animals and note any new distribution records or rare species.

We visited three beaches for three to four hours each during the minus tide series of July 20-22, 1986. We took extensive notes on intertidal zonation, plant and animal taxa, and collected voucher specimens of intertidal and beach organisms for later identification. We lacked the time and funding to establish intertidal transects or permanently mark our study plots. Our notes, however, are accurate enough that our sampling localities can be revisited.

We identified 96 animals (invertebrates and fishes) and 39 plants (algae and seagrasses) in the field or from collections. Our observations included three species previously unrecorded in Prince William Sound (Foster 1987). Figure 2 shows an idealization of the zonation in the rocky intertidal areas of Green Island RNA based on our field work. Intertidal zones can be identified by either the dominant organisms or by height in relation to tidal level. Absolute height above or below tidal datum is given in meters. South coastal Alaska experiences a semidiurnal tidal cycle; two unequal high and two unequal low tides occur daily. We use the abbreviations MHHW for mean higher high water, MLLW for mean lower low water, MLHW for mean lower high water, and MHLW for mean higher low water.

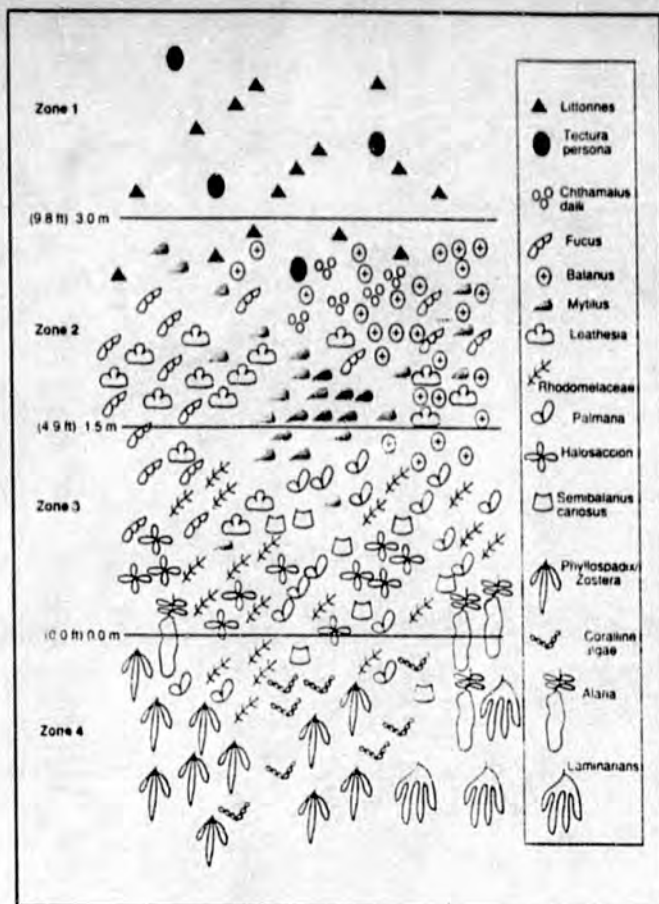


Figure 2. Zonation of intertidal plants and animals at Green Island.

The uppermost zone on the shore of Green Island RNA, about three meters above MLLW, has a black appearance caused by the lichen *Verrucaria*. Animal inhabitants of this zone include the littorinid snails *Littorina sitkana* and *L. scutulata*, and the limpet *Tectura persona*. Zone 2 (generally from +3.0 m to +1.5 m) is dominated by a band of either barnacles, including *Balanus glandula*, *Semibalanus balanoides*, and *Chthamalus dalli*, or by *Fucus gardneri* and *Mytilus edulis*. In Zone 3 (from +1.5 m to 0.0 m) the dominant species are several brown algae including *Fucus*, *Leathesia difformis*, and several species of *Alaria*, and the red algae *Palmaria* spp. and *Halosaccion glandiforme*. Zone 4 (below 0.0 m) is characterized by Laminarians (kelps) and seagrasses.

Methods - 1989 Visit to Green Island RNA

Alaska Department of Environmental Conservation gave us a map which designated the amount of oil that had arrived at Green Island (fig. 1). The estimates were from surveys made within weeks of the spill. We planned to revisit as many as possible of the locations where we had made observations and collections in 1986.

The goals of our 1989 study were to:

1. Look for evidence of oil on the beaches of the RNA;
2. Look for evidence of visible damage to plants and animals of the intertidal zone;
3. Establish permanent intertidal transects and beach vegetation transects for long-term monitoring; and
4. Note and document any transfer of oil from the water to beaches or uplands.

When we arrived on August 12, we conducted a reconnaissance to verify the presence of oil (we found it on all beaches) and to observe oil impact. We walked along about four km of shoreline on the north and northeast portions of Green Island. We selected three study locations, Lunch Point, Nora's Point, and Little Green Island (fig. 1). The last two were localities that we had studied in 1986. No oil spill clean up activity took place near Little Green Island and Nora's Point. At the time of our site visit clean up work had been completed west of Lunch Point, but there were no obvious indications that our plots had been directly affected.

At each site we established horizontal beach transects to map the extent and distribution of oil. Mapping extended from about MHHW (or three meters above tidal datum) inland to the line of alder shrubs which delineates the margin of the beach and the islands' wooded interior. The shoreline had a nearly continuous line of oil or tar. Patches of oil along the beach larger than 30 cm along either axis were mapped in their entirety. The extent of oil coverage along the beach was mapped as 1-10% (low), 10-50% (medium), and >50% (high). We chose unequal class boundaries because the presence of a small amount of oil appeared to be associated with a significant amount of change, and amounts greater than 50% were associated with relatively little additional

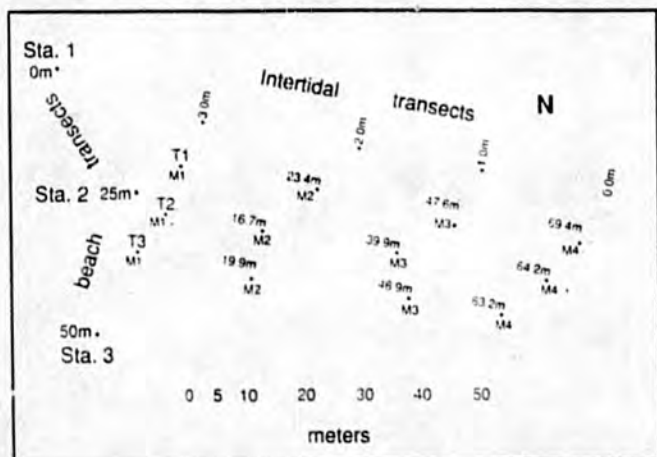


Figure 3. Horizontal beach transect and vertical intertidal transects at Little Green Island. Intertidal transects are labeled as T1, T2, and T3. Intertidal plots (0.5 m x 0.5 m) along each transect are labeled M1 - M4. Dashed lines indicate contours at 1 m intervals above tidal datum. Horizontal distances between plots are indicated.

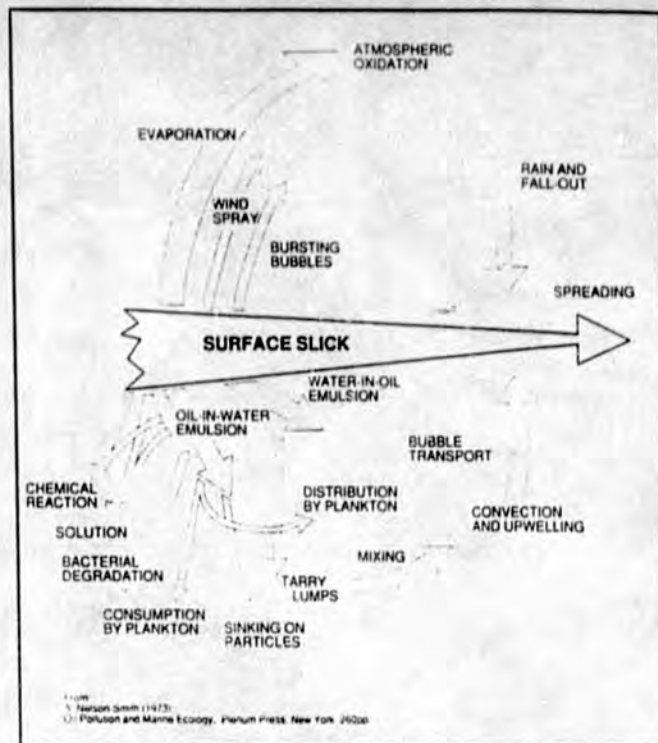


Figure 4. Fate of crude oil in the marine environment.

effect at the scale we were mapping in our area.

In the intertidal zone, we established three parallel transects oriented perpendicular to the shoreline. Along each transect line we established plots of 0.5 m x 0.5 m at vertical intervals of 1.0 m to determine the condition of marine organisms and communities (fig. 3). We photographed each intertidal plot, took notes and made collections of the plants and animals present, while noting the oiling condition. We made cover and abundance measurements from 8" x 10" black and white prints of the photos. Both the horizontal and vertical transects were permanently marked.

Results and Discussion

Oil: Figure 4 shows the natural physical and chemical processes that disperse and degrade spilled oil. Volatile components evaporate and are oxidized in the atmosphere. Emulsions—mixtures of oil in water or water in oil—may partially dissolve, react in seawater or sediments, be consumed by plankton or benthic organisms, or degrade by bacterial action. Insoluble particles and tar balls sink, and then become subject to chemical or bacterial degradation in the sediments (Nelson-Smith 1973).

Spilled oil is certainly most visible and perhaps most damaging when it washes ashore. Most studies of marine oil spills have been carried out in the intertidal zone (Sandborn 1977). Oil on rocky shores affects populations of susceptible organisms. Loss of key organisms affects, in turn, the structure of the intertidal community.

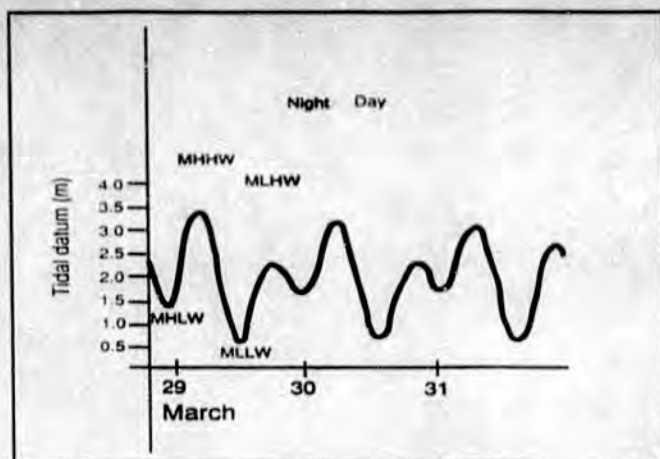


Figure 5. Tide range near Green Island, March 29 through March 31, 1989. (Adapted from Applegate Island station) © 1989 Zihua

Oil and oil mousse have obvious mechanical effects; they clog surfaces and suffocate animals. Also, the added weight of oil may cause sessile (attached) animals and attached plants to be torn off by wave action. Volatile fractions of oil are the most toxic. Volatile compounds kill individual animals and plants, damage living tissues, disrupt enzyme systems, and dissolve or penetrate cell membranes (Nelson-Smith 1973).

Oil and tar that have not picked up heavy debris float on the surface of water. As a result, the height of the tides in late March and early April determined where on the beaches and in the intertidal zone of Green Island the oil came into contact with living organisms. Figure 5 shows the tidal cycle at an area representative of Green Island for a three-day period starting March 29, the day oil arrived at Green Island. Figure 6 is our tentative interpretation of the relative effect of the oil at Green Island at different tidal heights. Our interpretation is fundamentally based on the duration the unweathered oil was in contact with organisms.

In the rating system we developed for this study, we assigned the highest relative effect to the zone from MLHW to MHHW. Any oil coming into contact with the shore on this tide would have been deposited and stranded at the upper range. It could not be refloated and removed by subsequent tides in the declining series of late March and early April at Green Island. We also infer that during the slow change of the tides fresh oil would have remained in contact with plants and animals near the height of the high and low tide stages. Oil also would have been temporarily stranded during declining tidal stages until the next MHHW stage refloated it. The least affected segments of the intertidal zone were within tidal heights that were coated with oil for a brief time between high and low tides and then washed clean as the tides rapidly continued to rise.

Our depiction suggests that oil effects should be most intense at Green Island in the tidal height range of

+2.0 to +3.4 m, with a secondary impact zone from +0.5 to +1.5 m. The higher range corresponds to the the Zone 1 and the upper part of Zone 2, dominated by *Fucus*, barnacles, and *Mytilus*. According to our depiction, the lower most zone of vascular plants on the beach, above the upper intertidal zone, should also be affected by oil.

Figure 7 shows a 25 m segment of the beach at Lunch Point. The entire RNA shoreline was marked with a stranded oil or tar line. In several cases in our study area oil coated the base of vascular plants. The main oil or tar line generally corresponds to tidal height of the maximum MHHW stage of +3.4 m of the March 29 tides or a slightly greater height. We infer that wave and wind action caused the oil to surge up the beach during the days following the spill, where it was stranded. Short segments of high energy beach were clear of oil and tar in August, either because deposition was low or subsequent wave action removed the oil. Wave acceleration zones or additive wave zones create high energy beaches. Much of the oil and tar was embedded in a matrix of *Fucus* or surfgrasses. Figure 8 shows the percentage of our three beach study sites not oiled and the percentage rated in the medium category. As indicated by these percentage numbers, we rate the severity of oiling in increasing order as Little Green Island, Nora's Point, and Lunch Point.

Organisms: Figure 9 shows the total cover of plants and animals on intertidal plots at the second vertical level, labeled as station M2, on the transects. These plots are in the middle of Zone 2 (fig. 2), ranging in actual tidal height from +1.75 m to +2.3 m, which is within the tidal range that we infer experienced the greatest impact of oil. Total cover is lowest at Lunch Point. This is consistent with our beach oil data that indicate it was the most heavily oiled site. We believe that the reduction in cover of organisms was real (not due to sampling error) and

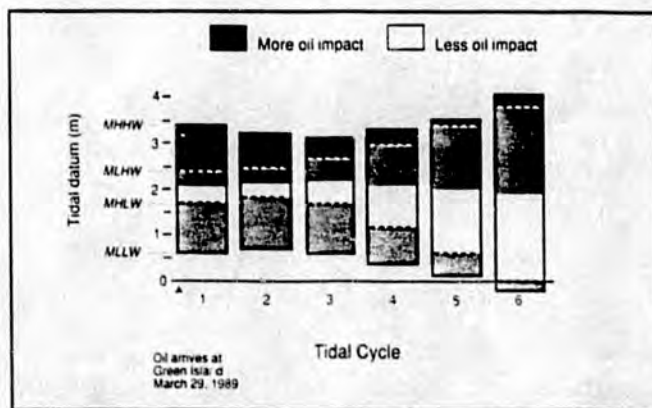


Figure 6. Oil impact at Green Island immediately following the Exxon Valdez spill. Each tidal cycle represents a complete sequence of two unequal high and two unequal low tides which occurred over a 24.6 to 26 hour period on the dates depicted here.

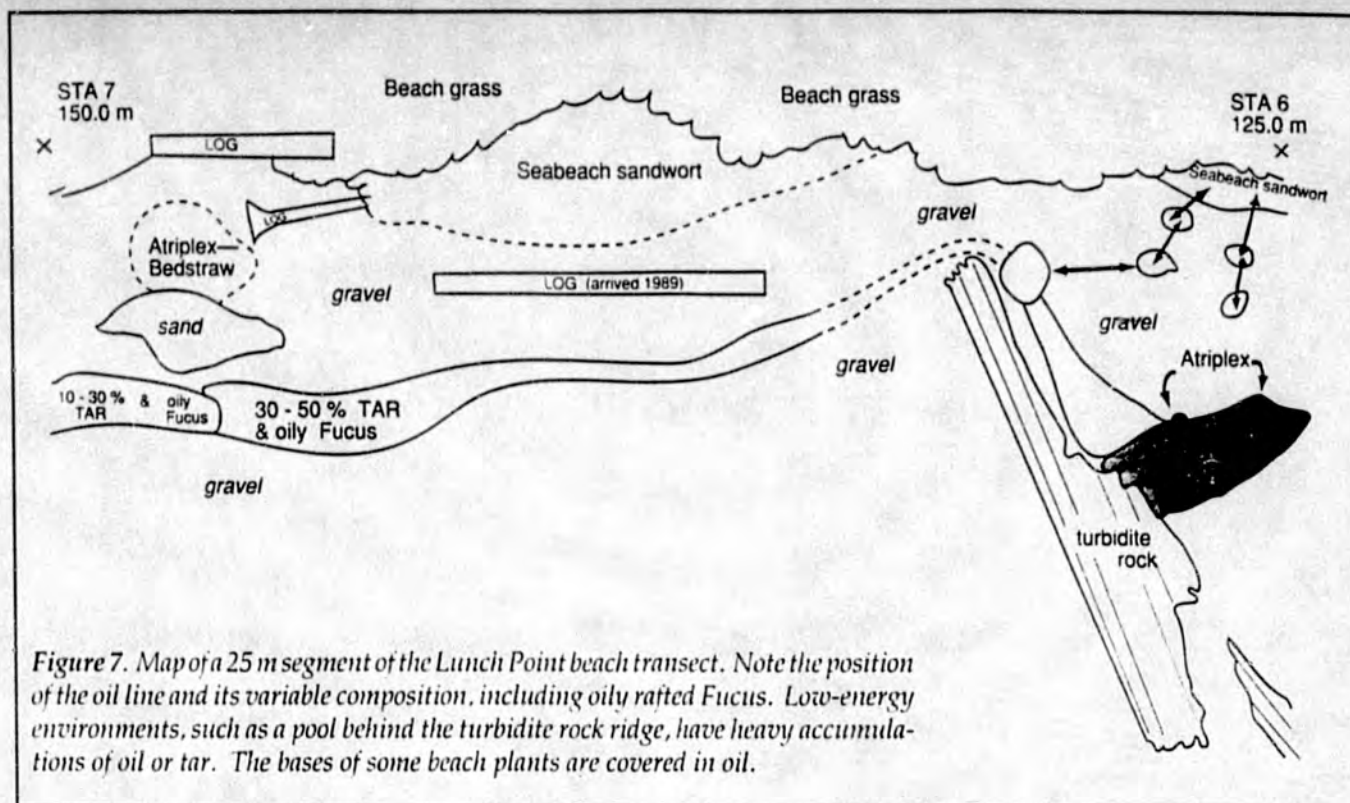


Figure 7. Map of a 25 m segment of the Lunch Point beach transect. Note the position of the oil line and its variable composition, including oily rafted *Fucus*. Low-energy environments, such as a pool behind the turbidite rock ridge, have heavy accumulations of oil or tar. The bases of some beach plants are covered in oil.

was an effect of the oil (fig. 9).

We identified 68 animals and plants during our August survey. In comparing the 1986 and 1989 collections, we note that 37 animals and 6 plants collected or observed in 1986 are not on our 1989 species list. The comparison provides a first list of potentially oil-susceptible or oil-affected organisms for our planned future research. However, we suspect that part of the difference in apparent species richness is due to a greater taxonomic search effort in 1986, and part of the difference is due to

the high rate of natural change typical of intertidal communities. We also identified 14 animals and two algae in 1989 that were not on our 1986 species list. We believe that our discovery of "new" species is largely explained by high natural rates of change between the sampling dates, and a certain number of species that were present but overlooked in 1986.

Figure 10 illustrates in quantitative terms the abundance and zonation of dominant plants and animals in the intertidal zone at our three stations. The

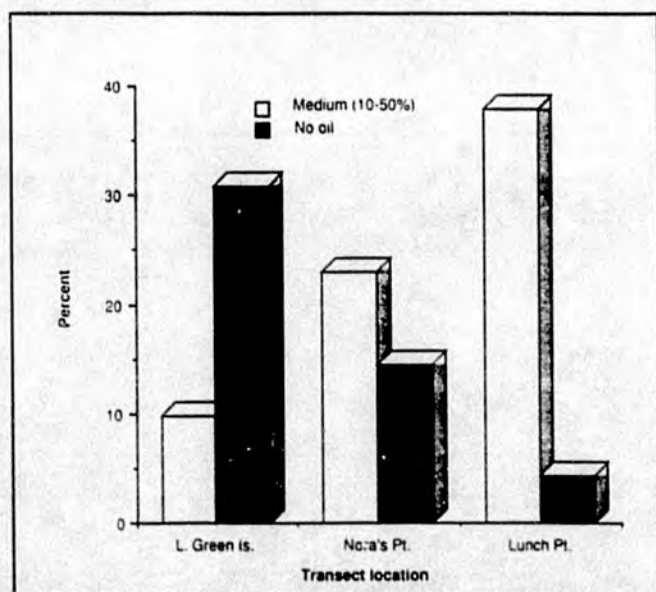


Figure 8. Beach segments affected by oil at Green Island Research Natural Area. Oil pollution increases left to right.

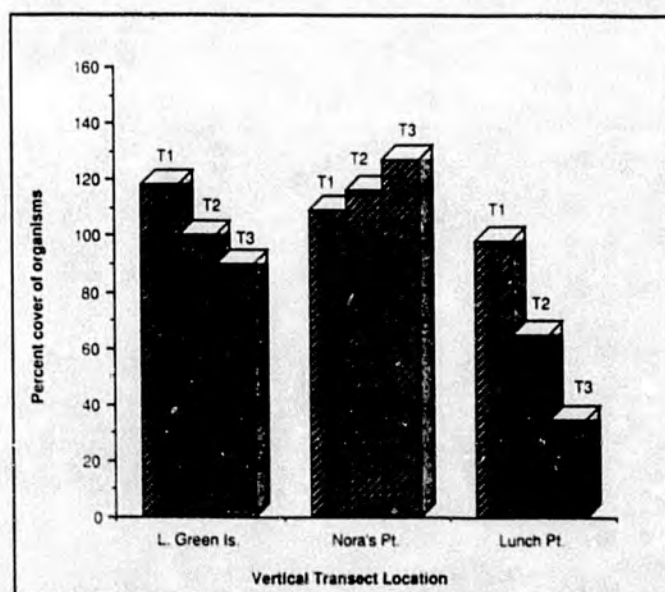


Figure 9. Total cover of organisms, vertical transect station M2. Note decrease at Lunch Point.

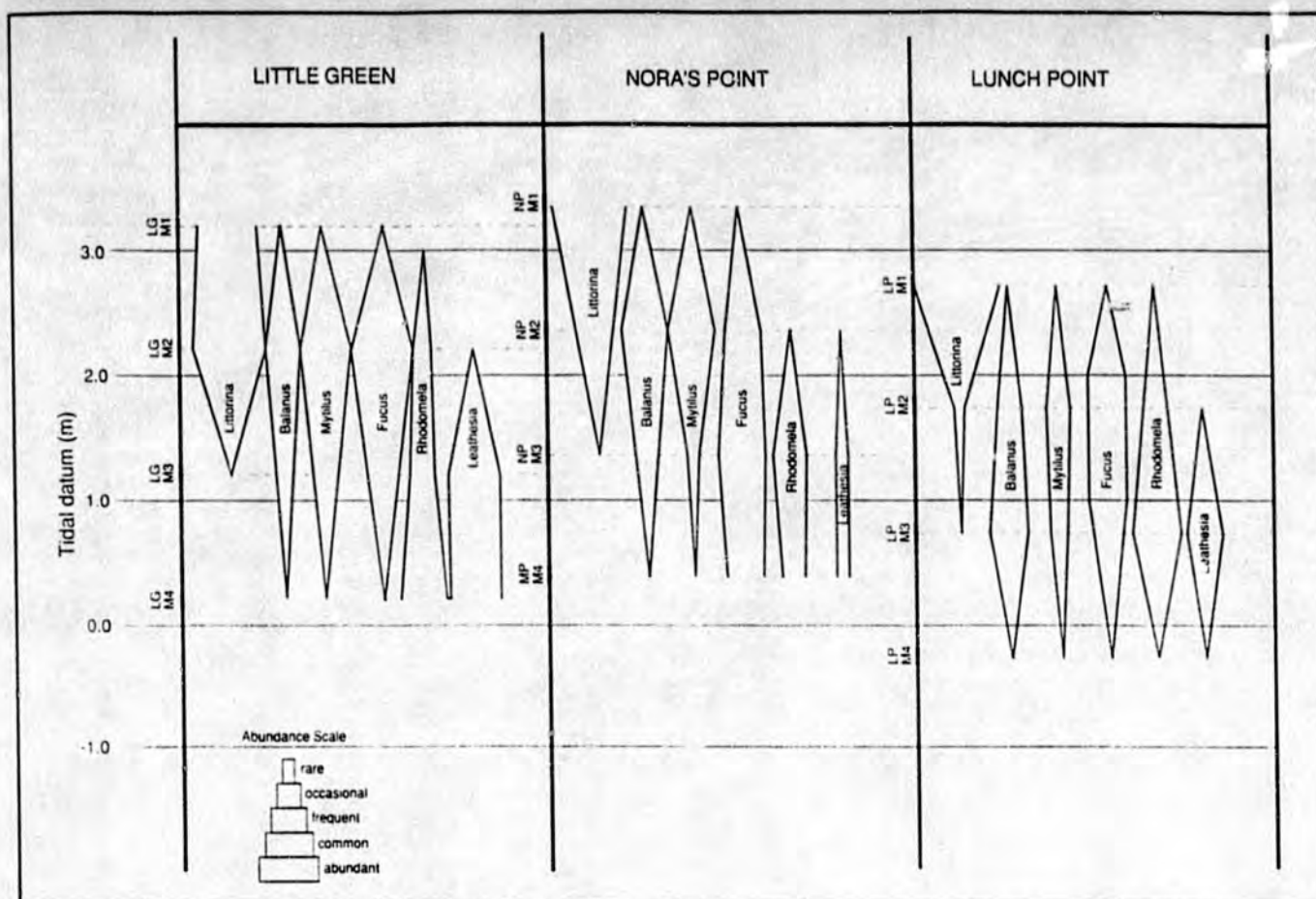


Figure 10. Distribution and abundance of dominant intertidal organisms on vertical transects at Green Island Research Natural Area. Species diagrams become thinner (species less abundant) with increasing oil pollution (left to right).

abundance scale is based on our measurements of percent cover using classes defined by Crisp and Southward (1958) and reported in Monk and Cowell (1977) and Crapp (1970). Such diagrams have been used to indicate the loss of cover by intertidal organisms after an oil spill (Nelson-Smith 1975). The species diagrams in figure 10 become thinner in the same order as our measurements of the amount of oil and tar on beaches increase, Little Green Island (low), Nora's Point (medium), Lunch Point (high). We believe this is a real effect due to oil pollution.

Two animals we observed in large numbers in 1989 but not in 1986 are of some interest. The seastars *Pisaster ochracea* and *Evasterias troschelli* were not seen in 1986. *Pisaster* is one of the most important predators in the intertidal zone along the Pacific coast, and therefore has an influence on intertidal community structure. Ricketts et al. (1985) note that "anything that can damage this thoroughly tough animal, short of the 'acts of God' referred to in insurance policies deserves respectful mention." Figure 11 shows a deeply ulcerated *Pisaster* typical of the more heavily oiled beaches in our area. Some of these seastars were so ulcerated from above and below that holes nearly penetrated their bodies. Although this type of injury would be consistent with oil

pollution (Nelson-Smith 1973), we are not yet certain of the cause of the injury in our study area.

Figure 12 shows an intertidal plot at Lunch Point, located in the zone most heavily impacted by oil. Barnacles here are covered with a greasy coating of oil residue. An oil film covers part of the bare rock surface. Many *Fucus* plants lack fronds ("leaves") and survive as stalks only.

Observations we can make about possible oil effects on organisms in our intertidal plots include the following:

1. Oily *Semibalanus cariosus* experienced mortality at all three stations, but especially Lunch Point and Nora's Point.
2. Surviving *Fucus* at Lunch Point were oiled and in particularly poor condition, as were *Balanus glandula* and *Semibalanus balanoides*.
3. Coralline red algae along heavily-oiled beaches, such as Lunch Point, were dead and bleached white.
4. Many *Halosaccion glandiforme* and *Palmaria* spp., discolored by loss of pigmentation, appeared to be in generally poor condition.
5. Blades of seagrasses, especially those below oiled beaches, were dead and bleached white.

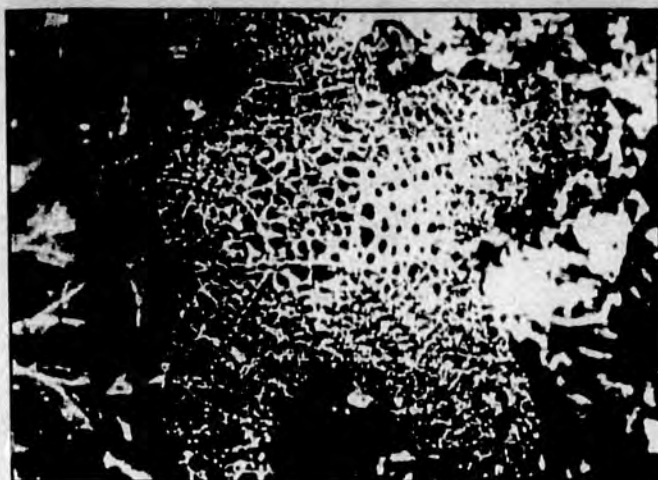


Figure 11. Close-up of an ulcerated *Pisaster* (purple seastar) from Nora's Point intertidal horizontal survey area, August 18, 1989. The holes at the top center of this seastar are not a normal condition.

6. Laminarians (*Hedophyllum sessile*, *Costaria costata*, and *Laminaria* spp.) appeared far less abundant in 1989 than in 1986. We observed Laminarian stems and holdfasts that were missing fronds in the lowest zones we surveyed.

One must be cautious in ascribing unusual conditions on the beaches or in the intertidal zone of Prince William Sound in 1989 to the *Exxon Valdez* oil spill. The intertidal environment is dynamic and susceptible to both natural and human-caused disturbances. For example, extreme cold during a series of minus tides has been known to produce damage similar to an oil spill (Nelson-Smith 1975); the Alaska cold snap of January 1989 may be partly responsible for the mortality of *Semibalanus cariosus* in our area. The 1969 Santa Barbara oil spill in California damaged intertidal seagrasses (Zeiman et al. 1984, Nicholson and Climberg 1971), but seagrasses and red algae usually become somewhat discolored late in the season. Responses of barnacles and mussels to oil spills have been variable, with both survival and mortality reported (see Nelson-Smith 1973 for summary).

A Direction for the Future

The response of public policy to the *Exxon Valdez* oil spill has been largely based on the immediate impacts of the oil spill. Scientific research on the spill has been hampered or largely ignored (Alaska Oil Spill Commission 1990). For example, in the year following the spill, public funds expended from the Comprehensive Environmental Response, Cleanup, and Liability Act (CERCLA) were strictly limited to damage assessment, which was narrowly defined to mean a simple count of damaged

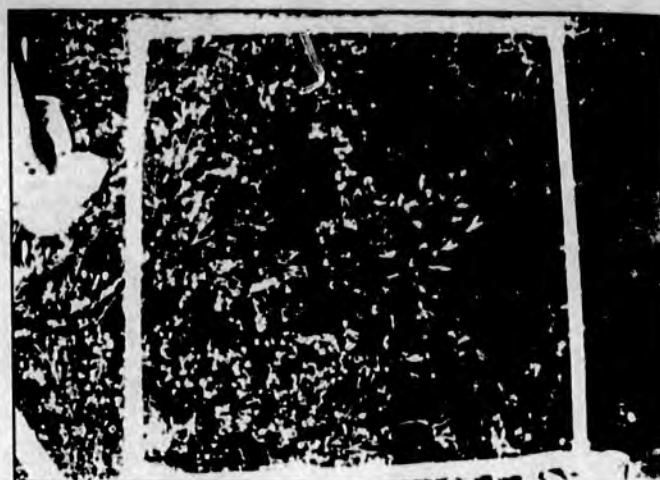


Figure 12. Lunch Point intertidal transect T2 plot M2, August 19, 1989. This plot is located in the zone most heavily impacted by oil. Barnacles here are covered with a greasy coating of oil residue and an oil film covers part of the bare rock surface. Note the *Fucus* plants (fan-shaped algae bent to the right) that lack a frond ("leaf") and survive as stalks only. About one third of the plot on the right supports a bloom of filamentous green algae (visible as a filmy mat surface).

INTERTIDAL ORGANISMS (in order of decreasing elevation)

Scientific Name	Common Name	Phylum
<i>Littorina</i> spp. or Littorines	sea periwinkle	mollusk
<i>Tectura persona</i>	mask limpet	mollusk
<i>Fucus</i> spp.	rockweed	brown algae
<i>Chthamalus dalli</i>	acorn barnacles	crustaceans
<i>Balanus</i> spp.	acorn barnacles	crustaceans
<i>Semibalanus</i> spp.	acorn barnacles	crustaceans
<i>Mytilus edulis</i>	blue mussel	mollusk
<i>Leathesia</i> spp.		brown algae
<i>Rhodomela</i> spp.		red algae
<i>Palmaria</i> spp.		red algae
<i>Halosaccion</i> spp.		red algae
<i>Corallinaceae</i>	coralline red algae	red algae
<i>Alaria</i> spp.	kelp	brown algae
<i>Laminaria</i> spp.	kelp	brown algae
<i>Phyllospadix serrulatus</i>	surgrass	vascular plant
<i>Zostera marina</i>	eelgrass	vascular plant

SHORELINE PLANTS

<i>Heracleum lanatum</i>	Cow parsnip	vascular plant
<i>Elymus arenarius</i>	Beach grass	vascular plant
<i>Lathyrus maritimus</i>	Beach pea	vascular plant
<i>Galium aparine</i>	Bedstraw	vascular plant
<i>Atriplex gmelini</i>	Atriplex	vascular plant
<i>Honckenya peploides</i>	Seabeach sandwort	vascular plant

Table 1. List of scientific and common names for common organisms at Green Island Research Natural Area.

resources that can easily be measured in dollars (Trustee Council 1989). Nearly all scientific research using CERCLA funding has been ruled out because it does not meet these criteria. If the plaintiffs and defendants choose to settle out of court, all CERCLA funding for investigations would cease immediately. The state of Alaska's special legislative appropriation for oil spill response measures can be released only for those projects whose costs are recoverable from litigation.

Given the high rate and many sources of change in intertidal environments, we feel that it is crucial to monitor key variables over the long term if damaging events such as the *Exxon Valdez* spill are to be fully understood. Principles for designing such scientific monitoring programs are available and need to be followed (Green 1979). We believe that, although not originally designed as an impact study, the monitoring Green Island RNA has already shown its value. □

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A Return to Green Island

Glenn P. Juday* and Nora Foster**

In August 1989 we investigated the effects of the Exxon Valdez oil spill on Green Island Research Natural Area (RNA) in Prince William Sound (Juday and Foster, 1990) as part of a long-term monitoring study. Our first-year findings at Green Island revealed that:

1. the natural background condition of shoreline and intertidal ecosystems is exceptionally dynamic; there is no stable background condition;
2. oil spill effects were concentrated in predictable portions of the intertidal and lower beach zone that relate to tidal heights on the day the oil arrived and the time shortly after;
3. the oil spill reduced the abundance (measured as cover) of live plants and animals in direct proportion to the amount of oil that coated the beaches; and
4. not all organisms have been affected equally by the spill.

In June 1990 we had the opportunity to go back to Green Island RNA. We wanted to find answers to several questions related to the oil spill. How had the area changed? Was the oil still visible? Had the shoreline, marine plants and animals started to recover?

Condition of Beaches in 1990

We found that most beaches exposed to pounding winter storms at Green and Little Green Island appeared dramatically cleaner in 1990 than the summer before. Few traces of oil or tar remained at the surface of these high-energy beaches. Quick removal of oil on high-energy beaches has been

seen in most spills (Baker et al., 1990; Gundlach and Hayes, 1978).

How was the oil removed? Figure 1 shows one of our permanent study plots at the upper intertidal range in 1989; Figure 2 shows the same location in 1990. We found three basketball-sized boulders—not present in 1989—on the plot in 1990. The winter surf bounces boulders such as these on

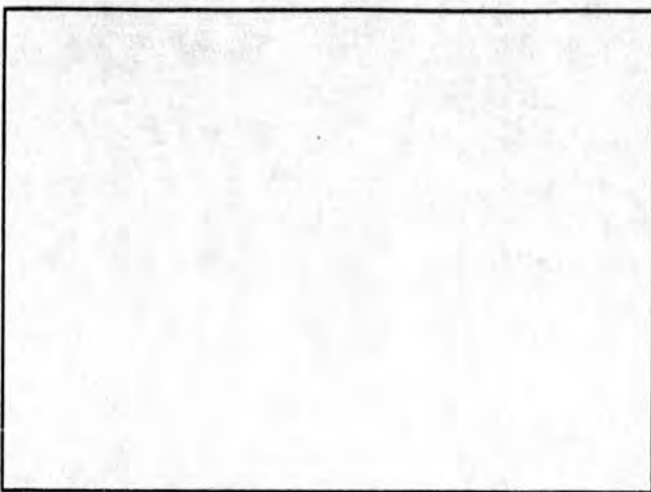


Figure 1. Study plot in 1989.

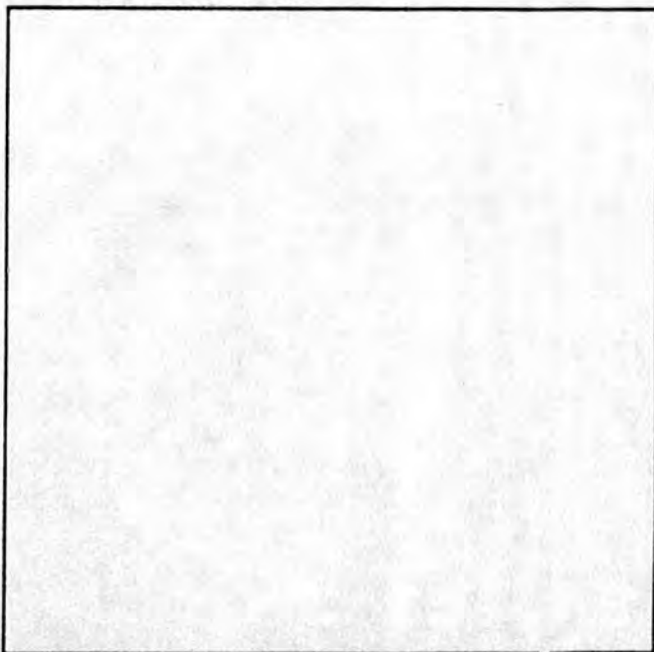


Figure 2. Study plot in 1990.

*Glenn P. Juday, Assistant Professor of Forest Ecology and Alaska Ecological Reserves Coordinator School of Agriculture and Land Resources Management University of Alaska Fairbanks.

**Nora Foster, Coordinator of Aquatic Collections University of Alaska Museum, University of Alaska Fairbanks.

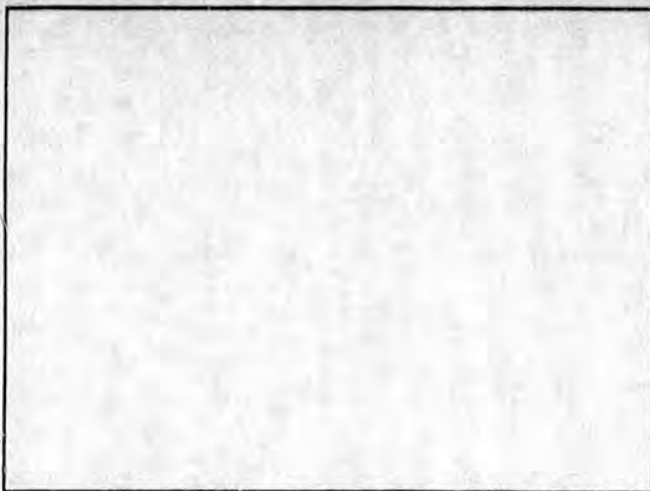


Figure 3. Black tar deposit is found buried at Lunch Point.

the bedrock shelf and grinds rock against rock on boulder-strewn beaches. The dried tar residue of the oil spill that coated the beach was probably pounded off in small flecks. The flecks are readily attacked by decomposer organisms in the well-oxygenated surf or buried in underwater sediments below the beachline.

At Lunch Point we searched for the oil and tar line that we had mapped on the gravel beach in late August 1989 and found that essentially it was not traceable at the surface. However, when we dug into the surface gravel we found shallow (2-9 cm [1-4 in] thick) tar deposits in all locations where our 1989 map depicted pools of oil from the spill. Figure 3 shows a typical puddle of the buried black tar, melted on a warm day at Lunch Point.

Why was the tar no longer on the surface? Each winter the beach is coated by a layer of gravel; the entire gravel beach at Lunch Point was built by natural forces since 1964 when the site was a bare bedrock shelf uplifted by the 1964 Great Alaska Earthquake (Plafker, 1965). The process by which oil and oil residues are sealed off from the oxygen-rich atmosphere, light, and energy at the earth's surface and preserved from decomposition is called sequestration. Sequestration can be very effective in preserving oil, as shown by the fact that sealed bedrock layers preserve oil for millions of years. Until humans drill oil fields and pump oil to the surface, crude oil remains essentially intact.

Death and Recolonization of Intertidal Plants and Animals

Remonitoring of our intertidal permanent

study plots revealed two processes happening. First, many attached intertidal plants and animals, especially those that occupy the zone from +2.0 to +3.4 meters (6-11 ft) tidal elevation, died between our August 1989 and June 1990 visits. Second, many of the common species had begun to recolonize the site. Figure 4 shows a blue mussel in June 1990 literally "hanging on by a thread." This species attaches itself to rock and other hard surfaces by a natural cement that is reinforced by strong natural fibers (Amato, 1991). Many blue mussels on and near our plots that were still relatively well-attached in 1989 were dead, removed, or in the last stages of losing their attachment and clung to rock only by a few remaining fibers in 1990. Nearly all these mussels had a flecked black varnish of tar residues on them.

On the other hand, most of our study locations supported colonies of tiny new barnacles (called barnacle sets) that had arrived since the oil spill in late March of 1989, and a vigorous growth of new small *Fucus* (rockweed) plants.

Risk of Further Oil Damage

One of the greatest risks of continuing damage from oil spills is the remobilization of buried oil. Crude oil that still contains volatile (easily evaporated) toxic components damages plants and animals. However, oil in the open atmosphere quickly loses many volatile components and the remnants are readily attacked by microscopic decomposer organisms. Buried oil that leaks out causes, in effect,



Figure 4. A blue mussel is in the last stage of losing its attachment to a rock.

a new spill. The risk of continuing damage from an oil spill, then, is a function of:

1. the timing and amount of leakage from buried deposits; and
2. the quality of the oil or oil residue that escapes.

We established that the high tide that placed oil on the shoreline at Green Island reached an elevation of about +3.4 meters (11 ft) above tidal datum (Juday and Foster, 1990); it appears that storms and surf action pushed the oil higher. We hypothesized that tides rising to +4.4 meters (14 ft) or higher would refloat buried oil and move a sheen of oil residue across the beach and intertidal community as the tide withdraws. During the highest tides of June 1990 we observed the surf washing over pools of oil, causing a sheen. Figure 5 shows the dates and frequency of high tides during 1990. There were 12 days with tides equal to or greater than the critical 4.63 meter (15 ft) elevation, including exceptionally high tides associated with the "blue moon" in early December.

We have established that oil has been remobilized by the processes we hypothesized at Green Island, but we do not know the effect the sheens will have on the plants and animals in our study area. However, even the buried oil at Green Island has been exposed and weathered into a tar-like residue, so the effects are unlikely to be as severe as oil leaking from fine sediment.

Conclusions

In summary, our 1990-season remonitoring work revealed that:

1. nearly all the beach oil and tar of 1989 was naturally removed or buried in accreting gravel zones;
2. the recolonization of intertidal organisms, especially barnacle sets and *Fucus* plants, was underway;
3. changes in the intertidal community, especially delayed mortality probably due to the oil spill, were still occurring in 1990, so that both recovery and oil spill effects were interacting; and
4. remobilization of buried oil may cause additional damage, although the risk in our study area would not be as great as leakage of unweathered oil sealed in fine sediments. □

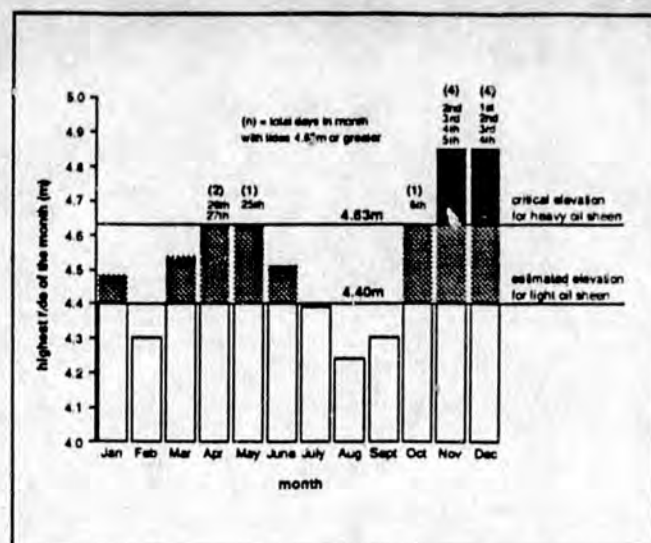


Figure 5. Critical high tides for re-oiling at Green Island, Alaska in 1990.

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