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HOUSE SPECIAL COMMITTEE ON EXXON VALDEZ
OIL SPILL CLAIMS SETTLEMENT

PUBLIC COMMENT LETTERS ADDRESSED
TO JUDGE HOLLAND ON THE CRIMINAL
PLEA AGREEMENT

4-19-91

M. Fitzgerald - James
Oil Spill Section
Dept. of Law

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2. **Fuller, Fletcher G.** Letter dated 3/24/91. Addressed to Judge Holland.

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4. **Conn, Stephen, Esq. Executive Director, Alaska Public Interest Research Group.** Letter dated 3/23/91. Addressed to Judge Holland.

5. **Reed, Edwina M.** Letter undated. Addressed to Judge Holland.

6. **Brewster, Kenneth.** Letter dated 4/3/91. Addressed to Judge Holland.

7. **Victors, John. President, Sanctuary Travel Services, Inc.** Letter dated 4/2/91. Addressed to Judge Holland.

8. **Brindley, James S.** Letter dated 3/31/91. Addressed to Judge Holland.

9. **Roderick, James.** Letter undated. Postmarked 4/3/91. Addressed to Judge Holland.

10. **Celey, Jerry.** Letter undated. Filed 4/5/91. Addressed to Judge Holland. (Attached 8/15/89 letter to Governor Cowper.)

11. **Konigsberg, Charles.** Letter dated 4/5/91. Addressed to Judge Holland. (Attached essay by Konigsberg entitled "Social Function of Catastrophe.")

12. **Village of Ivanof Bay. JoAnn Holmes, Technical Assistant.** Cover letter dated 3/27/91; addressed to Bill Maykoski, Clerk of Court, U.S District Court. 5-page comments attached.

13. **Grames, John J. G.** **Memorandum To Show Cause.** Dated 3/22/91. Attachments include Anchorage Times article entitled "Judge Flays Legislature for Meddling;" statement of his philosophy and political views; advertisement regarding the Alaska Judicial Council recommendations for retention of judges in the Third Judicial District; handwritten incomplete letter dated 3/29/91 to Executive Director William T. Cotton of the Alaska Judicial Council regarding phone conversation concerning expenditure of funds for the November retention of judges election.

14. Arnold, Mary Ellen. Postcard dated 4/5/91. Addressed to Judge Holland.

15. Moody, Wayne. Ahead of TIME Consulants. Letter dated 4/3/91. Addressed to Judge Holland. Incomplete copies of Part I and Part II of article entitled "Whatever He DOes to the Strand, He does to Himself; (U.S. vs. Exxon Corporation Through Metaphysical Gateways)" published in WTPE (?).

16. Abbott, W. Findlay. Comments of W. Findlay Abbott on the Proposed Plea Agreement. Dated 4/8/91.

17. Miller, George. U.S. House of Representatives, Vice Chairman, Committee on Interior and Insular Affairs. Letter dated 4/8/91. Addressed to Judges Holland and Sporkin. Attached as exhibits: (A) letter dated 4/18/88 from W. D. Howitt, Valdez Marine Terminal Superintendent, Alyeska Pipeline Service Company (Alyeska); (B) letter dated 4/28/88 from W. D. Howitt, Valdez Marine Terminal Superintendent, Alyeska; (C) briefing document dated 4/6-7/88 by Theo L. Polasek, Vice President of Operations, Alyeska; (D) list of Alyeska oil spill cleanup equipment dated 3/22/88 by Jeff Shaw, ARCO; (E) document describing the Dynamic Inclined Plan Oil Vessel; (F) telex dated 6/30/88 to Theo Polasek, Alyeska from Roger A. Gale, Manager, Marine Operations, Sohio Oil, Cleveland; and (G) telex dated 7/6/88 to Roger A. Gale, Sohio Oil from Stanley Factor, Vice President, Chartering & Evaluations, ARCO Marine, Inc.

18. Baldwin, Robert L. Letter dated 4/10/91. Addressed to Judge Holland.

19. Deitz, Teresa E. Letter dated 4/10/91. Addressed to Federal Court Clerk's Office.

20. Soileau, Don. Letter dated 4/10/91. Addressed to Judge Holland.

21. Schliesmann, Sally. Letter dated 4/9/91. Addressed to Judge Holland.

22. Tobussen, Sonja. Postcard dated 4/4/91. Addressed to Judge Holland.

23. Armstrong, Vern H. Letter dated 3/24/91. Addressed to Judge Holland. Included as attachments are copies of newspaper articles on the oil spill, a certificate of service from the U.S. Merchant Marine, and a certificate of Honorable Discharge from the U.S. Coast Guard.

24. Stewart, Saundra. Ahead of TIME Consultants. Addressed to Judge Holland.

25. McKay, Thomas W. Letter dated 4/7/91. Addressed to Judge Holland.

26. Clarke, Ronald G. Letter dated 4/3/91. Addressed to Judge Holland.

27. Gruenberg, Max F., Jr. Alaska House of Representatives, Chairman, House Special Committee on the Exxon Valdez Oil Spill Claims Settlement. Letter dated 4/10/91. Addressed to Judge Holland.

28. Gigler, Robert A. Greenpeace Action International. Letter undated. Addressed to Alaska Legislature.

29. McElroy, Mary Joe. Letter undated. Addressed to Clerk of the Court. Attached is copy of letter dated 4/5/91 to House or Senate Special Committee on Exxon Valdez Litigation Settlement.

30. Ford, Carl F. Letter dated 4/10/91. Addressed to "Your Honor."

31. Thompson, Glenn F and Gladys W. Thompson Printing Service. Letter undated. Addressed to Judge Holland. Attached is a copy of letter dated 4/10/91 addressed to Governor Hickel.

32. Thompson, Gladys W. Letter dated 4/11/91. Addressed to Judge Holland.

33. Bachman, James. Letter dated 4/10/91. Addressed to Judge Holland.

34. National Audubon Society and other conservation groups (see list below). Hope M. Babcock, General Counsel. Letter dated 4/11/91. Addressed to Judge Holland.

The comments were filed 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.

35. Malesic, J.R. Letter dated 4/11/91. Addressed to Judge Holland.

36. Lakosh, Tom. Letter undated. Addressed to Judge Holland.

37. The Traditional Dena'ina Tribe. Mary Ann Mills, Council of Elders. Letter dated 4/11/91. Addressed to Judge Holland.

38. Chickaloon Native Village. David Harrison, Tribal Administrator, Chief Fish and Game Officer. Letter dated 4/11/91. Addressed to Judge Holland.

39. Thoma, Theodore P. Letter dated 4/10/91. Addressed to Judge Holland.

40. Schafer, Laura M. Letter dated 4/11/91. Addressed to Judge Holland.

41. Metzger, Yale H. Letter dated 4/10/91. Addressed to U.S. District Court.

42. Holder, Tim. Letter dated 4/10/91. Addressed to Judge Holland.

43. Sonneman, Joe. Alascom message dated 4/11/91. Addressed to Judge Holland.

44. Alaska Conservation Foundation. Jan Konigsberg, Executive Director. Letter dated 4/9/91. Addressed to Judge Holland.

45. Burrell, T.P. Letter dated 4/?/91. Addressed to Judge Holland.

46. Morton, Kenneth V Letter dated 4/11/91. Addressed to Judge Holland.

47. Prestridge, Mark L. Letter dated 4/10/91. Addressed to Judge Holland.

48. Williams, Catherine L. Letter dated 4/10/91. Addressed to Judge Holland.

49. Beck, Michael E. Letter dated 4/10/91. Addressed to Judge Holland.

50. Sindelar, Scott. Letter undated. Addressed to Judge Holland.

51. Wallan, Garry J. Letter dated 4/10/91. Addressed to Judge Holland.

52. Cole, Charles E. (signed by Craig J. Tillery). Attorney General, State of Alaska. Letter dated 4/11/91. Addressed to Judge Holland.

53. Chavasse, Chris. Letter dated 4/9/91. Addressed to Judge Holland.

54. Parker, Geoffrey Y., Adler Jameson & Claraval (on behalf of the Alaska Sport Fishing Association and approximately 500 other claimants in the EVOS litigation.) Letter dated 4/11/91. Addressed to Judge Holland. Attachments include article entitled "Magnification of Secondary Production in Kelp Detritus in Coastal Marine Ecosystems" by D.O. Duggins, C.A. Simenstad & J.S.

Estes; and pages from report entitled "Resource Damage Assessment of the T/V *Puerto Rican* Oil Spill Incident; April 1986 by James Dobbin Associates Incorporated, Coastal and Ocean Planners for NOAA.

55. Cole, Brent D. Letter dated 4/10/91. Addressed to Federal District Court. Attachments include graph of "Alternate ELF" and "Technical Note on ARCO's Kuparuk Example."

56. Kimm, Jack. Letter dated 4/10/91. Addressed to Judge Holland.

57. Fortier, Samuel J. Letter dated 4/11/91. Addressed to Judge Holland.

58. Port Graham Corporation. Patrick Norman, President. Letter dated 4/11/91. Addressed to Judge Holland.

59. Daniels, Chris. Letter dated 4/11/91. Addressed to Judge Holland.

60. Olympic, Martha M. Letter dated 4/11/91. Addressed to Judge Holland.

61. Davis, Wyndeth V. Letter dated 4/10/91. Addressed to Judge Holland.

62. Jesperson, Michele M. Letter dated 4/11/91. Addressed to Judge Holland.

63. Estep, Connie. Letter dated 4/11/91. Addressed to Judge Holland.

64. Griffin, Kristen. Letter dated 4/10/91. Addressed to Judge Holland.

65. Harritt, Roger. Letter dated 4/11/91. Addressed to Judge Holland.

66. Lohr, Robert A. Letter dated 4/10/91. Addressed to Judge Holland.

67. Scott, G. Gordon. Letter dated 4/11/91. Addressed to Judge Holland.

68. Frost, Paul. Letter dated 4/10/91. Addressed to Judge Holland.

69. McKee, Charles E. Letter dated 4/11/91. Addressed to Judges Holland and Sporkin. Attachments include a page from a dictionary showing a geological time scale; and an advertisement for Spirulina Pacifica.

70. **Green Party of Alaska. Jim Sykes, Spokesperson.** Letter dated 4/12/91.

71. **Comments of the National Wildlife Federation on the Plea Agreement of the United States, Exxon Shipping, and Exxon Corp.** by Erik D. Olson, Esq. Filed 4/12/91. Submitted with cover letter dated 4/12/91 to the Clerk of the Court.

72. **Quinley, Constance K.** Letter dated 4/11/91.

73. **Civil Plaintiffs' Comments on Proposed Sentence.** Signed by Lloyd Benton Miller, Plaintiffs' Liaison Counsel. Dated 4/11/91.

74. **Wardock, Paul T.** Letter dated 4/10/91. Addressed to Judge Holland.

75. **Jefferson, Donna.** Letter dated 4/9/91.

76. **Harris, Dennis.** Telegram dated 4/11/91. Addressed to Judge Holland.

77. **Lewis, Judith.** Letter undated. Addressed to Judge Holland.

78. **Strand, Martina.** Letter dated 4/10/91. Addressed to Judge Holland.

79. **Leeper, Karlene B.** Memorandum dated 4/11/91. Addressed to Judge Holland. (Incomplete - page missing.)

80. **Fabing, Keith F.** Letter dated 4/10/91. Addressed to the Clerk of the Court.

81. **Harrison, David C., Captain, F/V Rachel II.** Letter dated 4/10/91. Addressed to the President Eliason of the Alaska Senate, Speaker Grussendorf of the Alaska House of Representatives, Bruce Kendall, Office of the Governor, and Judge Holland.

82. **Trush, Charles E., M.D.** Letter dated 4/10/91. Addressed to Judge Holland.

83. **Malchoff, Mary.** Letter dated 4/9/91. Addressed to the Clerk of the Court.

84. **McMullen, Elenore. Chief, Port Graham Native Village Council.** Letter dated 4/8/91. Addressed to the Clerk of the Court.

85. **Nelson, Jennifer.** Letter dated 4/9/91. Addressed to Judge Holland.

86. **Comments of the Alaska Native Village Corporations and Regional Corporation Concerning the Proposed Settlement and Plea Agreements by Attorneys for Plaintiffs: Terrence Gargan, Hill Betts & Nash; Kenneth F. McCallion, Bernard Persky, James W. Johnson, Summit Rovins & Feldesman; Christopher B. Kende, Holtzman, Wise & Shepard; Samuel J. Fortier, Fortier & Mikko.** Dated 4/12/91. Attached is The New York Times article dated 4/10/91 "U.S. Says Harm From Valdez Spill Is Much Worse Than Was Thought."

87. **Hertel, Dennis M., Chairman, Subcommittee on Oceanography, Great Lakes and the Other Continental Shelf, Committee on Merchant Marine and Fisheries; Gerry E. Studds, Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment, Committee on Merchant Marine and Fisheries; William J. Hughes, Chairman, Subcommittee on Intellectual Property and Judicial Administration, Committee on the Judiciary.** Letter dated 4/12/91. Addressed to Judge Holland. Attachments include letter dated 3/26/91 to U.S. Attorney General Dick Thornburgh from Hertel and Studds; letter dated 4/9/91 to Studds and Hertel from U.S. Assistant Attorney General W. Lee Rawls, U.S. DOJ Office of Legislative Affairs; and memorandum dated 3/19/91 to House Committee on Merchant Marine and Fisheries from Bernard A. Gelb and Jane G. Gravelle, Congressional Research Service.

88. **Peirce, R. Merrick.** Letter dated 4/10/91. Addressed to Judge Holland.

89. **Lewis, Stephen W.** Letter dated 4/10/91. Addressed to Judge Holland.

90. **Saulitis, Eva L. Institute of Marine Science, University of Alaska-Fairbanks.** Letter dated 4/10/91. Addressed to Judge Holland.

91. **Straley, Jan.** Letter dated 4/10/91. Addressed to Judge Holland.

92. **Lakosh, Thomas A.** Letter dated 4/15/91. Addressed to Judge Holland.

93. **Humane Society of North Pinellas, Florida. Joan Platt.** Letter dated 4/11/91. Addressed to Judge Holland.

94. **Parsons, Gail.** Letter dated 4/12/91. Addressed to Judge Holland.

95. **Cammisa, Raymond.** Postcard filed 4/15/91. Addressed to Judge Holland.

96. **O'Callaghan, Lydia and Michael.** Letter dated 4/9/91. Addressed to Judge Holland.

97. Byrne, Tracey and (?) Ortman. Letter dated 4/10/91. Addressed to Judge Holland.

98. Port Graham Corporation. Patrick Norman, President. Letter dated 4/11/91. Addressed to Judge Holland.

99. Balkus, Elizabeth. Letter dated 4/13/91. Addressed to Judge Holland.

100. Sonneman, Joseph A., Ph.D., Esq. Letter dated 4/11/91. Addressed to Judge Sporkin.

101. (?), Dave (cannot read handwriting). Postcard filed 4/16/91. Addressed to Judge Holland.

102. The National Parks and Conservation Association. Mary Grisco, Alaska Regional Director. Letter dated 4/10/91. Addressed to Judge Holland.

103. Donalds, Nancy. Letter dated 4/11/91. Addressed to Judge Holland.

104. Werner, Holly L. Letter dated 4/14/91. Addressed to Judge Holland.

105. McCowan, Brent W. Letter dated 4/12/91. Addressed to Judge Holland.

106. Sonneman, Joseph A., Ph.D., Esq. Letter dated 4/16/91. Addressed to NOAA General Counsel Thomas Campbell and Barbara Herman, Office of the Attorney General.

107. Jones, Julia. Postcard filed in U.S. District Court on 4/17/91. (Illegible.)

108. Moriarty, Michele. Postcard filed in U.S. District Court on 4/17/91. Addressed to Judge Holland.

109. Barrett, Anne. Letter dated 4/10/91. Addressed to Judge Holland.

110. Kunz, Katherine A. Letter dated 4/15/91. Addressed to Judge Holland.

111. Janka, David P. Letter dated 4/16/91.

112. Luttrell, W. Mark. Letter dated 4/11/91. Addressed to Judge Holland.

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RECEIVED
MAR 29 1991
CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

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H. Russel Holland
United States District Judge

Comments concerning plea agreement between the United States of America vs. Exxon Corporation and Exxon Shipping Company

I'm a 32 year resident of Alaska during which time I've lived in both Anchorage and Fairbanks. I'm not sure what the qualifications for a "true Alaskan" really are, however; I certainly qualify as a member of the public who really gives a damn about this state.

By their very nature, negotiations (in this case a plea agreement) are very complicated. I trust that the public officials on both the state (Mr. Charlie Cole) and those representing the federal government represented my interests as an Alaskan and an American more than adequately. Favorable negotiations cannot occur from a position of weakness; clearly the state and federal government held a position of strength.

In essence, I'm fully in favor of the plea agreement between Exxon and the federal government.

My biggest disappointment in the way that the Exxon Valdez proceedings have progressed two years since the spill has been the arrogance and absolute stupidity exhibited by the Alaska State Legislature. The Legislature has levied punitive damage against all those doing business in Alaska's oil industry, they've pointed the finger of guilt at everyone but themselves and they've shown a complete lack of understanding as to how the plea negotiations have transpired or what their ramifications are. The high point of my week recently was when Judge Holland chastised the Alaska Legislature. Good job!

In conclusion, the plea agreement is fair and just . ~~let's get on with~~ living our lives again.

Jerry Foster

Jerry Foster
4241 Bridle Circle
Anchorage, AK 99517

March 26, 1991

ACE
COPY

ACE 1744221

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24 March 1991

H. Russel Holland
United States District Judge

Honorable Judge Russel Holland,

I am taking the time to write to you regarding imposition of sentence to EXXON, and its reflected impact on my life, my feelings and how it affects my own perceptions of what it means to the future.

First, there is no words strong enough to overcome the grief we as Alaskans feel toward the event that happened at the helm of the EXXON ship, spilling its cargo, operating under a corporate mandate where money rules the sea.

WE are appalled, discouraged, unhappy, outraged, betrayed, lied to, and at the mercy of people who sit in board rooms, isolated from their decisions by layers of accountants. Their decisions are based on how much money is at stake, how much it takes to buy a favorable situation in the form of money, and almost nothing to the effects that those decisions have on people whose lives depend on a sound principle of pure water, clean land and a healthy environment in Alaska...

There is the very possibility in our laws, and our appeals process, that not one of the perpetrators will ever see, or smell the sickness on the beaches of our fisher persons, and that the impact will continue to be one of the accountant's ledger sheets, buried for the future, warranting nothing except another journal entry decimal point.

I would ask for justice...

Pure, and simple...

...The high up, mighty of mighty tycoons, would service the beaches under the supervision of the people who live on these lands, and they would smell the destructive power, and feel the grime of oil misplaced, and they become oily in the process...

...and the justice sought would have nothing to do with the millions of dollars in fines, justly deserved, but rather would be criminal in nature, with the guilty (...or innocent, as the trial may declare) doing a court handed down discipline. I simply don't believe EXXON's bottom line should be the law of the land, nor do I believe corporate America will listen long to court findings that allow cash payments to replace accountable responsibilities...

I recommend, (if this be appropriate...), that this decision, yours to make, do justice for our land in going forward with a

trial, to effect a jury mandated decision, and that we go this extra mile toward bringing a final resting place for the case of the United States of America vs. EXXON Corporation, and EXXON Shipping Company.

Thank you for making the opportunity available to comment, taking the time to listen, and placing some interest in the little people who cannot do media blitz, fight mega-corporations, or even afford the luxury of attending courts...

Fletcher G. Fuller

6630 Askeland Drive
Anchorage, Alaska 99507

907 349 1755 home
265 5639 work

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MAR 27 1991
CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

> Bill
re Exxon Ck

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GEORGE A. MOERLEIN
7300 O'MALLEY ROAD
ANCHORAGE, ALASKA 99516

907-346-3784

March 25, 1991

Judge H. Russell Holland
U.S. District Court
222 West 7th Ave,
Anchorage, AK 99513

Re: EXXON

Dear Judge Holland:

It is my opinion that no useful purpose will be served by continuing the EXXON case. I urge you accept the plea bargain and let all parties get on with directing their efforts to more useful purposes. The spill happened. It cannot be undone. I believed we have all learned a lesson. Further nitpicking is nonproductive.

Yours very truly,

Geo A. Moerlein

Bill

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MAR 26 1991
CHAMBERS OF U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

ACE 1744224

(2)

AKPIRG
ALASKA PUBLIC INTEREST RESEARCH GROUP
Post Office Box 10-1093 / Anchorage, Alaska 99510 / (907) 278-3661

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APR 03 1991

U. S. DISTRICT COURT

March 23, 1991

United States Federal District Court
Judge Russell Holland
222 West Seventh Ave., Room 261
Anchorage, Alaska 99513

Dear Judge Holland:

I am responding to your request for public comment on the proposed plea bargain between Exxon Corporation and Exxon Shipping Company and the United States of America. I will limit my remarks to three related points.

First, in remarks in open court you reminded members of the Alaska State Legislature that criminal law prosecutions should not be used as leverage to induce favorable civil law outcomes, this a violation of the code of professional responsibility as embodied in Alaska court rules and the rules governing the activity of the state and federal bar.

If public accounts, as the attached from the New York Times, are to be believed, the plea bargain before you has precisely that genesis. The proposed fines are part and partial of a process which generated simultaneously the civil law settlement between the defendants and the Federal and state governments and the instant plea bargain.

If, as I believe, you have a deep conviction regarding the use of criminal law prosecution as a prod to induce civil law settlements, you are empowered to determine whether the plea bargain was indeed the fruit of these conjoint negotiations. If your finding is in the affirmative, you can honor the code of professional responsibility and the legal process by rejecting the proposed plea bargain and ordering the parties to trial.

The fundamental purpose of criminal law is to deter future law violations by the defendants and other would-be law violators. In the present instance, the proposed plea bargain does not place such constraints on the defendants or on other similarly situated persons. Instead it telegraphs a different message, that environmental crimes of immense scale may be committed by anyone who can absorb the penalties as another cost of doing business. What may seem to be a penalty of overwhelming significance in the abstract or to a lowly sports hunter is for the defendants far less

significant.

Finally, deterrence and the principle of equal justice under law is served by public trials of defendants. Both victims and would be offenders are served through the ritual of scrutiny of evidence and legal accountability. Alaska has confirmed this point with its unique ban of plea bargains. Although there can be no question that the cost of trial for the Federal government and the defendants would be high, there are few instances in the annals of American law where a public trial would serve the cathartic role envisioned by our founding fathers than in the instant case.The public scrutiny of damages inflicted by the defendants has been denied the public by concealment and termination of efforts to disclose fully the damages inflicted. Such exposure could motivate lawmakers and the public to revise the state of criminal law statutes so as to better address such acts in the future. The plea bargain would deny such a result.

For these reasons, I urge you to reject the proposed plea bargain.

Sincerely,

Stephen Conn

Stephen Conn, Esq.
Executive Director

3/13/91 RJ

EXXON WILL ADMIT TO CRIMINAL WRONG IN '89 ALASKA SPILL

FINE OF $100 MILLION SET

Plea and Payment Included in $1.1 Billion Settlement in Valdez Disaster

By KEITH SCHNEIDER
Special to The New York Times

WASHINGTON, March 12 — The Exxon Corporation has agreed to plead guilty to a criminal charge arising from the 1989 Exxon Valdez oil spill and pay a $100 million fine, officials of the Environmental Protection Agency said tonight.

The $100 million would be part of the $1.1 billion Exxon is to pay over the next 10 years to settle civil and criminal cases arising from North America's largest oil spill, Alaskan and Federal authorities said today.

Final arrangements for the guilty plea were being worked out tonight, the E.P.A. officials said. The arrangements included a review of the agreement by the E.P.A. Administrator, William K. Reilly. It was not clear this evening what charge Exxon would plead to. The company had faced two felony charges and at least three misdemeanor counts stemming from the March 24, 1989, accident and could have been fined up to $900 million if convicted on all counts, Attorney General Dick Thornburgh said after the company was indicted a year ago.

As for the overall $1.1 billion settlement, Federal and state officials have agreed to the arrangement. Although a Federal District Court judge at first seemed to raise another hurdle today when he said he would review the settlement to insure that the rights of 5,000 Alaskan villagers were protected, a state official said early this evening that the final obstacles appeared to have been overcome.

Exxon would pay $100 million immediately to settle criminal charges brought by the Department of Justice. That would be one of the largest, if not the largest, criminal fine ever paid for pollution. A trial on the charges had been scheduled for April 19 in District Court in Alaska.

Effects Would be Studied

The villagers had filed suit last week, asserting that they had been locked out of negotiations between Exxon, the State of Alaska and the Federal Government. The villagers said they feared that a settlement would prevent them from recovering financial damages caused by the spill on March 24, 1989.

The settlement, which has been under negotiations for months, would not end Exxon's legal troubles in Alaska. At last count, 330 separate suits were pending against the company. But the settlement would end the major suits, brought by the State of Alaska and the United States.

In addition, the company would pay

Continued on Page A12, Column 3

Obstacles Cleared, Exxon Is Ready to Pay $1.1 Billion in Oil Sp

Continued From Page A1

$90 million this year into a fund administered by three Federal agencies and three state agencies. The money would be used for scientific studies of the Prince William Sound region, which suffered great damage, and for projects to continue scrubbing the shoreline of oil left when nearly 11 million gallons of crude oil spilled from the hull of the Exxon Valdez after the tanker ran aground in the sound.

The tanker's skipper, Capt. Joseph J. Hazelwood, was convicted in April 1990 of the relatively minor charge of negligently discharging oil but acquitted of piloting the vessle while drunk and other charges. He was sentenced to spend 1,000 hours in the cleanup operation and was ordered to make $50,000 restitution.

Exxon said in April 1990 that it had spent $2 billion on the cleanup and had paid another $200 million to settle claims.

The agreement made final today also called for payments into the fund of $150 million in September 1992, $100 million in September 1993, and $70 million annually from 1994 until 2001. The proposed settlement also calls for Exxon to contribute $100 million more to the fund if additional damage from the oil spill is discovered.

Economists noted that Exxon would be able to claim tax deductions for every payment except for the $100 million criminal penalty, to be paid this year.

The agreement would not affect some 300 other lawsuits filed by environmentalists, fishermen and Aleuts asking Exxon to pay for damages these groups say they suffered after the spill.

The proposed settlement was applauded by Gov. Walter J. Hickel of Alaska but strongly criticized by environmental groups and some state officials who said, essentially, that Exxon would be paying too cheap a price in settling the case.

Bottom of the Pockets?

"It seems like a good deal for Exxon," said Eric Jorgenson, a lawyer for the Sierra Club Legal Defense Fund in Juneau, which has a separate suit pending against the company in the aftermath of the spill.

But Governor Hickel said: "I am very happy with the settlement. It allows us to get to the bottom of Exxon's pockets."

Lance Lamberton, a spokesman for Exxon in Irving, Tex., declined today to say whether Exxon would sign the agreement and said the company would make no comment about the situation for the time being.

"If and when things break and we have come together for a proposal to be signed, there will be extensive notification," said Mr. Lamberton.

The settlement contains provisions to make public a wealth of scientific studies conducted after the spill by the Department of the Interior, the Environmental Protection Agency and other Federal agencies. But studies sponsored by the State of Alaska and the United States Coast Guard are to remain private pending the outcome of court cases brought against the state and the Coast Guard.

"Keeping the data secret is a major problem," said Mr. Jorgenson. "All of the data available from the spill should be released. The public paid for it. It's public information."

Although the terms would make the settlement the most expensive ever for damages caused by an environmental disaster, the pact is certain to raise a stir in Alaska and in Washington. The negotiators will open the pact to public comment for 30 days after it is signed. Officials with the state and two Federal agencies said the pact could be altered as a result.



The spill near Valdez fouled much of the Gulf of Alaska.

Economists who have studied the spill for the state and Federal governments said today that the $1.1 billion settlement represents only a portion of the actual value of the damage to fisheries, water, wildlife and land. The economists said the Exxon Valdez disaster will have caused $2.5 billion to $5 billion in damages from the time of the spill before midnight on March 24, 1989, through 1994.

Several state officials who asked not to be identified today said they had hoped that Exxon would be required to pay $1 billion in a one-time payment that could generate permanent income through annual interest payments. Thus, the annual payments, spread out over 10 years, are much less valuable to the state's efforts to clean up and study the effects of the spill.

Senator Frank Murkowski, a Republican from Alaska, said today that Alaska was fortunate to have gained a settlement. The alternative was years of litigation that would have cost Alaska millions of dollars in legal fees without any assurances of success.

"I think this agreement, if it is resolved, is going to have to stand the light of day by the Legislature, the Governor and Exxon shareholders," said Senator Murkowski. "The alternative is litigation. I certainly am inclin think a bird in the hand is worth the bush. The cost of litigation wo very substantial."

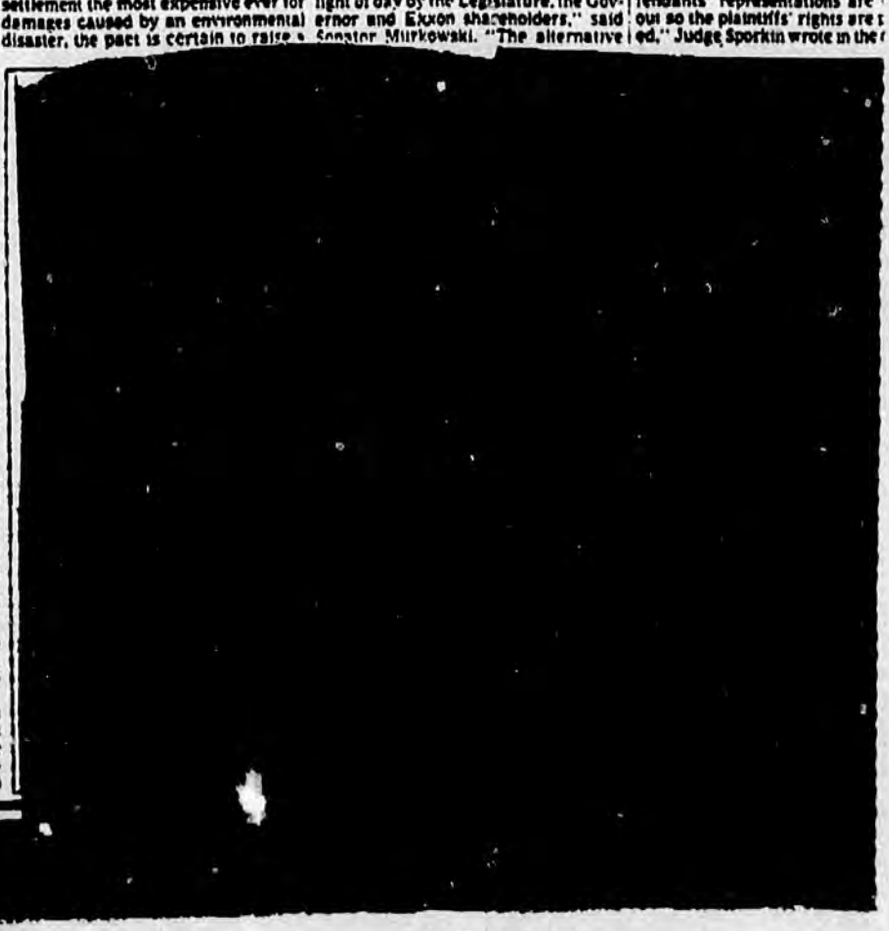
The settlement also calls for an sory group made up of members public to help oversee how money the settlement is spent. The D ment of Justice scheduled a new ference for Wednesday to ex provisions in the settlement.

The last obstacles to the settle were crossed this afternoon Judge Stanley Sporkin lifted an here that prevented the pact being signed, and a District Judge Alaska, H. Russell Holland, apr the agreement. Judge Holland have presided over the crimina next month.

Last week, Judge Sporkin b the settlement from being signe the state and Federal Governm sured more than 5,000 Alaskan villagers that their right to gain cial damages from Exxon would harmed by the pact.

Today, Judge Sporkin said h satisfied that the rights of the villagers to fully prosecute thei had not been harmed by any ment between Exxon, Alaska a Federal Government and lifted junction.

"The court shall retain juris over this matter to ensure that fendants' representations are out so the plaintiffs' rights are ed," Judge Sporkin wrote in the



ACE 1287340

Washington at Work

In Exxon Deal, Transportation Chief Wins Another One for the President

By KEITH SCHNEIDER
Special to The New York Times

WASHINGTON, March 20 — A week ago Tuesday, Lawrence G. Rawl, the chairman of Exxon, flew to Washington. In an informal ceremony at the Justice Department just before midnight he signed a $1.1 billion settlement that he hoped would put the nation's worst oil spill, and the two years of civil and criminal cases that followed, behind him and his company.

Standing with Mr. Rawl, Gov. Walter J. Hickel of Alaska and the lawyers for the Department of Justice was Transportation Secretary Samuel K. Skinner.

Once again Mr. Skinner had pulled it out for the White House, bringing to a successful conclusion talks that by all accounts could easily have tipped the other way.

"I viewed my job as a facilitator," said Mr. Skinner, a former United States Attorney from Chicago. "You had a huge amount of egos and interests that had to be blended together.

"In my experience I've found that if the principals don't want to settle they look for an opportunity to get out. In this case everybody wanted a deal because they knew the alternatives didn't make sense."

A 53-year-old lawyer and protégé of James R. Thompson, the former Governor of Illinois who at one time was considered as a potential national Republican figure himself, Mr. Skinner has made his career in the capital handling domestic political issues without embarrassing the President. His background as a litigator has helped. So has his instinct for the spotlight and his good feel for the Washington social circuit.

In Response to Disasters

When the tanker Exxon Valdez struck a reef in Prince William Sound in Alaska on March 24, 1989, spilling 11 million gallons of Alaska crude into the sound and turning beaches into a chaos of oil-soaked birds and dying otters, it was Mr. Skinner who was dispatched to supervise the Government's response.

Earlier that month, when machinists at Eastern Airlines went on strike, President Bush tapped Mr. Skinner instead of Elizabeth Dole, then Secretary of Labor, to handle the strike. Mr. Skinner's advice to the President: stay out of the struggle.

In September 1989 Hurricane Hugo swept through the Caribbean and struck the mainland in South Carolina, killing 26 Americans and causing immense property damage. A month later a powerful earthquake hit the San Francisco Bay area, killing 59 people. In both disasters Mr. Skinner was called in.

Now ther[illegible] deal. With his compan[illegible] criminal trial in April and civ[illegible] afterwards facing prepared by the Justice De-



Mary Knox for The New York Times

"I viewed my job as a facilitator," said Transportation Secretary Samuel K. Skinner of Exxon's Justice Department settlement. "You had a huge amount of egos and interests that had to be blended together."

partment, Mr. Rawl had been ready for months to talk. "It's been a burden to us," the Exxon chairman said in a news conference on March 13 in Irving, Tex.

Eager for a Settlement

Governor Hickel, an independent, wanted a consistent source of money to continue recovery work in Prince William Sound, the source of a prosperous fishing and tourism industry.

The Federal Government was eager to settle, too. The civil case against Exxon was expected to take at least five years to litigate, and in the criminal case, scheduled to begin April 10, the Justice Department was going to be testing new applications of environmental law. Nobody knew how a jury would respond.

"The cleanup efforts Exxon had made in the sound made a significant difference," Mr. Skinner said. "Nature had also done a tremendous job there. Scientists were telling everybody this was not a multibillion-dollar damage suit."

Mr. Rawl and Lee R. Raymond, Exxon's president, flew to Juneau, Alaska, on Jan. 15 at Governor Hickel's invitation. The state and the Federal Government had agreed three weeks earlier to work together, he told them. Mr. Raymond called Mr. Skinner and told him that the Governor was seeking an agreement.

An experienced litigator finds a way to satisfy everybody.

Mr. Skinner said he believed that a successful negotiation was possible, but only if it was conducted at the Cabinet level. "I said this case will not be settled by lawyers," Mr. Skinner said. "First of all, they don't know how to settle it. Second, they have a built-in conflict of interest. This could go on for years."

The Chairman Cools His Heels

On Feb. 5 Mr. Rawl and Mr. Raymond were asked to come to Washington for a meeting at the Commerce Department with the Federal and state negotiators: Mr. Skinner; Manuel Lujan Jr., Secretary of the Interior; William K. Reilly, Administrator of the Environmental Protection Agency; John Knauss, Administrator of the National Oceanic and Atmospheric Administration; Governor Hickel and Charles E. Cole, the Alaska Attorney General.

Mr. Rawl, a combative executive whose four-year tenure as Exxon's chairman had been marred by the oil spill, was in a dour mood, several negotiators recalled. After being asked to wait outside a conference room for 30 minutes while the government officials finished a meeting, Mr. Rawl became furious.

"I went out twice and asked them to please be patient," said Thomas A. Campbell, general counsel of the National Oceanic and Atmospheric Administration, who organized the meeting. "Rawl said: 'Just tell them they don't need to take much time. What I'm going to say is short and sweet.' He was going to tell them he's had it, he'll see them in court."

Mr. Skinner said that when the Exxon chairman entered the room he lashed out at the negotiators, saying he was sick and tired of how the company had been treated by the Government, the news media and the people of Alaska. Exxon had spent $1 billion to help clean up Prince William Sound, Mr. Rawl said, more than had ever been spent by any company for [illegible] environmental restoration project, [illegible] and received no credit.

[illegible]body responded until Mr. Skinner disarmed Mr. Rawl, according to participants.

"Look, Larry," said Mr. Skinner, whose department includes the Coast Guard and who has developed a personal relationship with Mr. Rawl in the two years since the spill. "Let's not relive it. If we do, we'll never get past it."

'Reopener Clause' Is a Snag

Over the next 90 minutes, participants say, the broad outline of a settlement of the civil claims was established. Following Mr. Hickel's lead, the state and the Federal Government said they were looking for at least $1 billion. Mr. Reilly insisted that the settlement include $300 million more to be put into a special fund if more damage was found, a provision that came to be known as the "reopener clause."

Mr. Rawl and Mr. Raymond said that they wanted the settlement to make Exxon immune to any more state and Federal claims, that they did not want to pay the money in a lump sum and that they hated the reopener clause.

Three more meetings were held in Washington in February and early March before lawyers were dispatched on March 3 to put the agreement into legal language. With Washington gripped by the Persian Gulf war, the group was able to work undistracted by reporters or environmental groups or other interests.

"This had to be handled by the principals only, and it had to be handled in a short period," Mr. Skinner said.

Through February, the talks were never far from collapse. "We knew the longer the discussions went on the harder it would be to put it together," the Secretary said.

Justice Department lawyers and other participants credit Mr. Skinner with keeping Exxon and government officials at the table.

When Mr. Rawl and Mr. Raymond almost walked out because of Mr. Reilly's insistence that the agreement should have a reopener clause, Mr. Skinner told them the E.P.A. administrator's signature on the agreement was vital politically. Without it, the Secretary said, the Bush Administration and Exxon would have a hard time justifying the settlement to environmental groups.

And when Exxon insisted that Mr. Reilly be barred from attending a meeting on Feb. 24, Mr. Skinner assured Mr. Reilly that the Government would not negotiate something the E.P.A. administrator was unable to accept. In the end, Exxon and Mr. Reilly accepted a provision that called for the company to spend up to $100 million after the year 2001 if more work in the sound was needed.

Mr. Skinner also kept the White House informed. During a meeting at the White House, John H. Sununu, the President's chief of staff, remarked that the $1.1 billion deal sounded "like an awful lot of money," Mr. Skinner said. But he assured Mr. Sununu that the agreement between the Government, Alaska and Exxon would be a good deal for everybody.

Exxon and its shipping subsidiary pleaded guilty to four criminal misdemeanor violations of environmental law and agreed to pay a $100 million fine. It was the largest penalty ever assessed in a pollution case, more than three times higher than the $29.7 million that the Government collected in 1990 for all environmental crimes. Even more, from the White House point of view, it makes good on Mr. Bush's campaign promise to penalize polluters.

From the state's point of view, the cost of the settlement, $1.1 billion, will keep Exxon involved in the restoration of Prince William Sound for at least a decade.

Exxon, like any corporation (or person, for that matter), would have preferred not to spend any money. But Mr. Rawl said last week that he thought the settlement was good for the company. Paid out annually over 10 years, the payments reach a maximum of $190 million this year, and then drop to $70 million each year from 1994 to 2001.

To a corporation with an annual revenue of $100 billion, the cost of the settlement each year is roughly the same as drilling two different [illegible]re wells. "It will not ch[illegible]r plans," Mr. Rawl said.

Samuel Knox Skinner

Born: June 10, 1938.

Hometown: Chicago.

Education: B.S., University of Illinois; J.D., DePaul University.

Career Highlights: 1961-68, various positions with I.B.M.; 1968-75, served in the Office of the United States Attorney for the Northern District of Illinois; 1975-77, United States Attorney for that district; 1977-89, private practice with law firm of Sidley & Austin; 1984-88, chairman, Regional Transportation Authority of Northeastern Illinois; 1988, named Secretary of Transportation.

Hobbies: Flying, golf.

TOTAL P.09
ACE 1287341

5

Judge Russel Holland
U.S. District Court
Anchorage, Alaska 907

Dear Judge Holland:—

Please do not allow the Exxon corporation to plead guilty to a misdemeanor charge for the oil spill.

Federal felony charges must not be dropped.

The oil spill damaged the water, land, all wild life — plants, animals, fish, birds. The damage will effect the land, water, wild life, people who live there and people who come to work there. Effect them not only now, but long after all people, plants and animals, birds, etc. long after the people now living are gone.

Companies and people must realize that our Earth is fragile and if companies can cause this kind of pollution and not be punished, they will continue to do damage and soon our planet will be like the other planets in our solar system — no living things on it.

Sincerely,

Edwina M. Reed
5743 N. St. Louis
Chicago, Ill. 60659-4405

I'm a senior citizen and in my life time I have seen permanent changes that can never be reversed.

(8)

ACE 1287334

ACE 1287335

E.M. REED
5743 N. ST. LOUIS
CHICAGO, IL 60659-4405



Judge Russel Holland
U.S. DISTRICT COURT
ANCHORAGE, ALASKA 99501

~~703 K~~

6

1632 Beaver Place, Apt. 3
Anchorage, Alaska 99504
April 3, 1991

Honorable Judge Holland
U.S. District Court
222 West Seventh Avenue
Anchorage, Alaska 99513

Dear Judge Holland:

Please reject the proposed State/Federal/Exxon oil spill settlement. The settlement is not in the best interests of Alaska or of the American people. The oil spill was partly the fault of the State government, along with Exxon and Alyeska. It appears that the State's primary motive in negotiating the settlement was to protect itself from damaging lawsuits. The Hickel administration, therefore, sacrificed the public interest.

I urge that you not accept a settlement until the State has released the oil spill damage assessments for public scrutiny.

Grace & peace--

Kenneth Brewster

Kenneth Brewster

cc: Senator Pat Pourchot
Senator Rick Uehling
Representative Terry Martin
Representative David Finklestein

APR 03 1991
U.S. DISTRICT COURT

ACE 1287336

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1

SANCTUARY TRAVEL SERVICES, INC.

4/2/91

Dear Judge Holland,

I am very concerned about the proposed settlement regarding the 1989 oil spill of the Exxon Valdez. The thing that is the most disturbing is the fact that, while public funds were used in assesment of damage done by the spill, those reports are not being made public. That spill had a very negative effect on individuals and businesses alike. The tourism business in general and tourism in the Sound in particular was delt a hard blow and Alaskans will be paying the price for a long time to come. Please take these few thoughts into account when it comes time to make what I'm sure will be some very tough decisions.

Sincerely,

John Victors, President

ACE 447517

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ACE 447518

TOTAL P.07

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RECEIVED
APR 04 1991
CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

H. Russel Holland
United States District Judge
U.S. District Court of Alaska.

Dear Sir:
May I suggest that in the case of EXXON CORPORTION and EXXON SHIPPING COMPANY No.A90-015 that you consider imposing the sentence of, that they must search out and make whole all persons who suffered losses from the VALDEZ OIL SPILL.

Thank you for your consideration.
Cook's Inlet Drift fisher
James S. Brindley
3-31-1991

37035 Nicholas Lane
Soldotna, Alaska. 99669
ph. 907 262-4388

ACE 447515

(12)

JIM & JONI BRINDLEY
37035 Nicholas Ln, Soldatna, AK 99669

ANCHORAGE, AK
PM
1 APR
1991

CLERK of COURT
ROOM 261
222 WEST SEVENTH AVE.
ANCHORAGE AK. ~~99669~~

RE.
NO A90-015
CRIMINAL

ACE 447516

James Roderick
Box 916
Homer, Ak. 99603
235-4070

9

Honorable Judge Holland
U.S. District Court
222 West 7th. Ave.
Anchorage, Ak. 99501

Dear Judge Holland:

Thank you for considering the State/Federal/ Exxon Oil Spill Settlement question.

I beleive that no settlement can be honest or valid intil all damage assessment data has been made available to the public. At this point, I feel that the public can only make an emotional judgement on this subject. We cannot function as a rational and informed electorate making a prudent decision. I hope that you will not allow this premature settlement to occur.

Sincerely Yours,
James Roderick
James Roderick

ACE 447513

(11)

James Roderuck
Box 916
Homer, alaska
99603

ANCHORAGE, AK 995
PM
3 APR
1991



ACE 447514

Honorable Judge Holland
U.S. District Court
222 West 7th. ave
anchorage, alaska
99501.

oil spill Settlement

APR 5 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Jerry Celey
6766 Double Tree Court
Anchorage, Ak 99516
(907) 346-2800

10

(ILL)

CRIMINAL DOCKETING

Holland
urt

th Avenue
Anchorage, AK 99513

Dear sir,

I hereby submit my comments concerning the proposed Exxon plea agreement in regard to the Exxon "Valdez" incident.

As you can see by the attached letter, I have always felt that the State of Alaska was more at fault for the spill damage than Exxon was. The Alaska Department of Environmental Conservation is the State's front line defense against, among other things, oil spills.

This Department, under the direction of Dennis Kelso, bungled their responsibilities so badly that it was pathetic. In turn, the lawsuit against Exxon was so ill prepared that it was embarrassing. If you have never read the lawsuit, you should. It will prove to be very enlightening.

Therefore, based on the present condition of Prince William Sound, and based on the terms of the plea agreement, I think the State and the Federal Government "made out like bandits", and should grab the money and run.

Very truly yours,

Jerry Celey

ACE 447538

(14)

AUGUST 15, 1989

GOVERNOR STEVE COWPER
P.O. BOX A
JUNEAU, AK 99811

IN REGARD TO THE LAWSUIT FILED BY THE STATE OF ALASKA TODAY AGAINST ALYESKA ETAL, THIS IS TO ADVISE THAT IT WAS NOT FILED ON MY BEHALF, IT WAS NOT FILED FOR THE GOOD OF ALASKA, IT DOES NOT HAVE ANY LEGAL MERIT AND IT IS A TOTALLY IRRESPONSIBLE ACT DONE IN AN ATTEMPT TO DRAW ATTENTION AWAY FROM THE STATE'S RESPONSIBILITY. BOB LERESCHE'S TERM 'SHAM' WAS CORRECT BUT IT WAS DIRECTED AT THE WRONG SUBJECT. THIS LAWSUIT IS TRULY A 'SHAM' AND I RESENT BEING NAMED A PARTY TO IT EVEN BY INFERENCE AND DEMAND TO BE SPECIFICALLY EXCLUDED.

THEREFORE, MY FAMILY AND I REQUIRE TO BE IMMEDIATELY AND PROPERLY NAMED AS NOT BEING A PARTY TO THIS LAWSUIT.

THE PARTIES SHOULD BE LISTED AS FOLLOWS:

JERRY C. CELEY
6766 DOUBLE TREE COURT
ANCHORAGE, AK 99516

SANDRA K. CELEY
6766 DOUBLE TREE COURT
ANCHORAGE, AK 99516

JAMES N. PRICE
6766 DOUBLE TREE COURT
ANCHORAGE, AK 99516

APRIL R. CELEY
6766 DOUBLE TREE COURT
ANCHORAGE, AK 99516

SIGNED: _____
JERRY C. CELEY

_____

ACE 447539

SANDRA K. CELEY

JAMES N. PRICE

APRIL R. CELEY

CC: SEE ATTACHED LIST

10441 Birch Road
Anchorage, Ak 99516

April 5, 1991

Hon. H. Russell Holland
U.S. District Court
Anchorage, AK

Your Honor:

In the matter of the proposed EXXON oil-spill plea bargain, I respectfully urge your rejection thereof.

The magnitude and persistence of the Prince William Sound oil-spill tragedy call for far more legal consideration and severity of penalty than the provisions of the plea bargain allow. Judicial proceedings are clearly in order. I believe that they are imperative.

It is being argued that the plea bargain "beats going to court" and that "we must get (the spill) behind us." Neither view is valid. The fundamental virtue of action through the Court is that of judgement rendered through argument and counterargument ... the educative value of which is foremost and beyond calculation, either numerically or monetarily. Moreover, the level of awareness and sensitivity appropriate to the profundity of the issues can only be nurtured by court proceedings, a forum which cannot be equalled by any other agency of the people or by academic discussion.

I ask that you read the essay on the "Social Function of Catastrophe" which I am enclosing with this letter.

Respectfully,

Charles Konigsberg

Charles Konigsberg

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APR 05 1991
CLERK U. S. DISTRICT COUR

ACE 447541

(15)

by Charles Konigsberg

The Social Function of Catastrophe

We have been reversing the evolutionary process which made our world safe for life...

We can now understand that — given our nature as the human species — catastrophe serves the function of reawakening us to the fundamentals of our existence, and of placing all else in that crucial perspective. The catastrophic nature and magnitude of the Prince William Sound oil spill thus serves to reveal the shallowness and superficiality of so much in our daily lives — our preoccupation with and enslavement to means, to the neglect of ends — while at the same time exposing the pattern of myths which underlies that cultural malaise and its destructive consequences.

Perhaps the most dominant component of that mythic pattern has been the notion that the economic (how we make our living) factor is the most essential element in our lives, the one with respect to which all other factors must take a subordinate place. But this notion assumes, above all, that the economic factor can be understood as separate from all other important elements of our lives. Clearly, that is not so.

Is the Exxon/Alyeska oil spill (with its antecedents and its consequences) but an economic matter? Or is it really political? Scientific/technological? Psychological? Environmental? Cultural? It is all of these, and more. Each and all are strands of that whole we call life on earth. That we have given these parts different names does not mean that they are separate from the functioning of the whole.

In this perspective, it is clear that we can no longer tolerate the myth that the economics of how we make our living can somehow be separated from the health and integrity of the natural world which makes our very lives, not just our living, possible. It's equally clear, therefore, that neither Exxon/Alyeska nor the oil industry collectively have any right to the power they have so arrogantly assumed and exercised over our lives (and world) under the mythic cloak of economic separability and priority.

We can now see what a profound misconception it has all been. The notion that the power of the industry applies only to and within the economic sector and that it can and should be considered apart from

and unrelated to all other important aspects of our lives has been a subterfuge, a deliberate misconception.

In this light, two related myths of that supposed self-contained economic world have also been exposed for all to see: the notion that private/corporate business activity is inherently more efficient than that of public agencies, and that the private/corporate personnel involved are necessarily socially responsible citizens. Exxon/Alyeska have laid those myths to rest for all time. Not only did they fail in their planning and readiness for such an incident' but they also had — in the usual way of those who exercise illegitimate power — carefully concealed their failure and pulled the strings of their governmental allies to deny funding and personnel to our public protection agencies. They hid themselves behind their state and federal surrogates and the hired guns of their PR-hype campaigns.

It seems clear enough that the failure and its concealment were consciously pre-calculated and deliberate. They occurred because of the distortion of perspective from the bottom line... leading to the financial decision to accept any costs of potential errors, human or otherwise, which could then be carried, like any cost, as just another cost of doing business.

To be sure, our public agents also had their responsibilities. These personnel cannot perform as required, however, if the necessary resources are not funded and if the (manipulated) climate of opinion discourages enforcement — and if, in the ultimate sense, the people continue to be blinded and misled by the PR-hype incessantly disgorged by the industry and its camp followers. The crucial consideration in understanding this issue of responsibility is that responsiblity and accountability lie, must lie, always, with those who have and use the power which eventuates in the catastrophe.

We can now see that the operative power in our society often rests not with our public institutions and public authority but with those private and corporate holders of power, whose exercise of power is concealed from our view and protected by continuously repeated myth. Because they believed their power to be hidden, Exxon/Alyeska played recklessly with Prince William Sound — not only with the Sound itself but with us, our lives and our world. Their behavior has been irresponsible in its worst sense.

Given the pattern of thought and behavior by Exxon/Alyeska reflected in the oil spill catastrophe, can we ever again afford to take them and their industry at their word? We cannot. Some years ago,

the industry's war cry of "A nation which runs on oil can't afford to run short!" unintentionally defined itself as an essential public utlity. Can we afford any longer to entrust the control and management of an energy source so important to our societal well-being to such corporate groups?"

These questions lead to the consideration of yet another basic myth exposed by the oil-spill tragedy, a myth which forms the framework which underpins the success of the others. And that is the myth that "numbers-dollars-things" are the language of life. We have allowed that myth to dominate virtually every hour of our waking life and, for many, even the life of dream-fantasy.

Once articulated, and we become aware, the gross absurdity of this myth is readily apparent...which is why those persons and groups whose interests such language serves have ever been quick to turn every issue of public policy and socio-ecological concern into a discussion of numbers-dollars-things: to forestall awareness.

But numbers-dollars-things is not the language of life. It is the language of those who put their economic interests above all else while obscuring and minimizing all other considerations, however important. It is the language of power in our society. It is not surprising, therefore, to observe that Exxon/Alyeska — having allowed time for our most deeply felt reactions to the oil-spill to subside — are pursuing a PR campaign to recapture the terms of discussion of the catastrophe: numbers of people, length of booms, miles of coast, numbers and size of boats, equipment, contracts, hourly rates, calendar dates, etc., etc....all instantly translatable into impressive numbers of dollars. And let's be sure to spotlight that $1 million penned on the back of a business card. Numbers, dollars, things — and "Hey, enough emotionalism already!"

What is most important to understand in all this is that whoever controls the terms of discourse or discussion of any public issue also controls the outcome. Numbers-dollars-things automatically and instantaneously diverts attention and concern from the cultural and ecological, life-threatening dimension of this tragic catastrophe — while also fostering dissension and conflict among workers, fishermen, businessmen, and others seeking compensation. (And "No talking to the media people!") It's divide and conquer — the industry's expertly-practiced tactic of turning any situation to its advantage.

ACE 447544

ne basic power over others lies, however, in reconstituting that attitude of mind in which numbers-dollars-things are the unquestioned perspective in which to view all concerns. Once accomplished — if they are permitted to do so — the industry will have re-established their power over our lives and world.

They do, indeed, know what they must plan for and do. We may contrast Exxon/Alyeska's practiced PR with their failure at spill response. "Damage control" was sought in the word not in containment of the crude.

Once we understand the manner and extent to which myth and language can give illegitimate power to those who wish to control others — to dictate how we shall live and for what purposes — we can then begin to take back that power, our power, and make it visible through public authority... public authority which, as the oil spill catastrophe demands, must rededicate itself to democratic principles, among which it is now clear, the maintenance of cultural and ecological integrity must be given a position of the first rank and priority.

That is the most valuable lesson we can learn from Prince William Sound's tragedy and our own suffering. If we do not, or if we fail to act accordingly, then we are surely the least deserving of species.

— Charles Konigsberg
Anchorage

12

RECEIVED
APR 01 1991
CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

March 27, 1991

Clerk of Court
United States District Court
222 West Seventh Ave., Room 261
Anchorage, Alaska 99513

Subject: United States of America v. Exxon Corp and
Exxon Shipping

Attention: Bill Maykoski

Enclosed is a five (5) page comment regarding the plea agreement entered into between the United States of American and Exxon Corporation and Exxon Shipping Company.

Please contact me if you have any questions or wish further information.

Sincerely,

JoAnn Holmes

JoAnn Holmes, Technical Assistant
Ivanof Bay Village Council
601 West 13th
Anchorage, Alaska 99503

Phone: (907)258-5523

In the case of the United States of America v. Exxon Corporation and Exxon Shipping the following is submitted on behalf of the village of Ivanof Bay for the court's consideration in rejectionof the plea agreement entered into by the parties.

On the south side of the Alaska Peninsula, in a relatively protected bay, lies the small Aleut village of Ivanof Bay. The 45 full-time residents of this community rely on the sea to provide subsistence foods and cash incomes, the sole basis of their economy. The local government has always operated as a traditional council. The village is recognized by state and federal government for the purposes of grants that support local government services. In 1989 the Lake & Peninsula Borough was formed: village leaders felt that it would be to their benefit provided they continued to receive all monies they received as the local governing body. Ivanof Bay was entitled to receive an annual payment directly from the State of Alaska a grant for local government assistance.

There is neither village commerce nor commercial tax base with which to fund the operation of the community facilities. Diesel power generation system, water and sewer facilities, sanitary landfill, road/trail/runway maintenance, health care, and public safety are either maintained through tenuous state or federal funds or do not exist at all. The problems that exist in village government administration, subsistence and commercial fisheries preservation can be very difficult for a community of this size and are compounded by a lack of a local tax base.

The additional problems created by the grounding of the Exxon Valdez and ensuing spill of 11 million gallons of crude oil during the spring of 1989 are frightening. Ivanof Bay is nowhere

near Prince William Sound and at the time no one realized that the spill would travel 650 miles from Bligh Island in Prince William Sound, down the Kenai Peninsula, across Shelikof Straits to Kodiak and down the Alaska Peninsula to Ivanof Bay. This mindless mass of crude oil closed commercial fisheries, fouled traditional subsistence use areas and sent the Ivanof Bay Council into chaos. Archie Kalmakoff, Council President, stated that several residents, in quiet panic, were preparing to leave to look for work in either Anchorage or Seattle. The people had no money to purchase winter food supplies and did not know if their traditional subsistence resources were contaminated. They disposed of questionable foods gathered and supplemented their diets with caribou from a rapidly-dwindling Caribou herd residing on the lower part of the Alaska Peninsula. This herd, as speculated by the State Dept. of Fish and Game, is extremely small in size and number because of starvation due to over-grazing. It may not continue to be a supplemental food source.

The village residents did not participate in oil-spill clean-up which supplemented the incomes of many of the other villages in the path of the spill. The village also did not participate in any subsistence food exchanges or Exxon's generous donation of unused leftover food from their summer clean-up effort.

During June of 1989, the Village of Ivanof Bay emptied out, as usual, for their annual trek 50 miles northwest to Chignik Bay, another coastal Aleut community on the Alaska Peninsula. The Chignik commercial fishing industry supports 100 fishing boats and one cannery. Its permanent population is less than 200; however, Chignik provides support facilities for an annual

summer influx of approximately 500 people (Chignik Bay Village Profile). In 1982 the salmon fishing industry alone was responsible for a total catch worth over $22 million. with the average income per boat estimated at $215,000 gross. The people of Ivanof Bay fish, work in the cannery, or care for children here during the summer months.

The Chignik River drainage produces the largest wild stock of red salmon and the only wild stock king salmon run on the south side of the Alaska Peninsula. The salmon spawn during the summer months, the eggs hatch during the winter, and the fry emerge from their gravel beds in the spring. These communities also rely on halibut, bottom fish, crab and herring as other sources of sustenance and income. The adult fish of all species congregate at great depth, but migrate to near-shore spawning and rearing habitats at various times of the year. The fry spawned by the "humpies" will not return until 1992. The fry spawned from the red salmon will not return until 1993 and 1994. The fry spawned from the silver salmon will also not return until 1993. The total damage is unknown.

Members of the Ivanof Bay Village Council have stated that these critical habitats have been damaged by the Exxon Valdez oil spill. The contamination of these areas could affect the survival of the off-spring of all species in the area-- which include subsistence as well as commercial fishing resources.

The residents believe that it is impossible at this time for anyone to comprehend the magnitude of the damage done during the spring of 1989 and that further damage is occurring. It is their belief that as the storms churn the waters and clean Prince William Sound during the winter months and as the water warms in

the spring that critical habitat is still being polluted. The spring is the time when life emerges anew from all species of sea life. The new-borns are small and easily-harmed. As the habitat was destroyed in areas where sea-otter's thrive, they move on to other areas. On March 24, 1991 the residents of Ivanof Bay counted at least 30 sea-otters in the small sheltered bay where they live. The village residents generally do not see more than two or three at a time. The life-cycles and habitat is changing.

During the peak salmon fishing season the summer of 1989 the area fished by the Ivanof Bay villagers was closed. I pened during the month of September for a very brief period of time. The people of Ivanof Bay did not do well.

Another concern is the affect of the oil spill on the red king crab resource rehabilitation taking place in this area. This resource has been closed to commercial fishing since 1982 due to commercial over-harvesting (Quota Doubles for Bristol Bay King Crab: Other Areas Depressed. King, 18). The effect of the il spill on this already stressed resource could be devastating and may guarantee that no commercial fishing of red king crab will take place any time soon. The Ivanof Bay Village Council reports that piles of three to four hundred dead crab washed-up on the beaches near the village during the latter part of September, 1989. On the shores of the coast outside Ivanof Bay is Humpback Bay where residents observed a mass of feathers, crude oil, and other unidentifiable matter that was one foot deep and twelve feet wide for as far as they could see.

These people have been deprived of their jobs and of traditional alternatives to provide foods for their families when no jobs exist. The Court must realize what the total impact of

the crime has been, and will continue to be, upon the victims. Remissions of the amounts considered to be appropriate by the parties in the plea agreement are not adequate even though:

(a) defendants recognize their responsibility with respect to the grounding of the "Exxon Valdez" and resulting oil spill. This admission was unnecessary considering its obviousness.

(b) defendants have expended in excess of $2 billion in response to and clean up of the oil in Prince William Sound. There were no clean-up efforts in Ivanof Bay or its environs.

(c) defendants have paid in excess of $300 million to claimants allegedly injured by the oil spill. The amount of money actually received by the Ivanof Bay villagers is minuscule regardless of this fact.

(d) defendants cooperated in the federal criminal investigation of the grounding of the "Exxon Valdez" and resulting oil spill. Though cooperation in all criminal investigations is exemplary, little weight can be given to this consideration. Public outcry was such that the defendants had no viable alternative.

Acceptance of the plea bargain by the Court will not ensure the reprehensible conduct of the defendant adequately reflects the level of harm to the victims. Let the punishment fit the crime.

Respectfully submitted.

JoAnn Holmes

JoAnn Holmes, Technical Assistant
Ivanof Bay Village Council
901 W. 16th
Anchorage, Alaska 99503

Phone: (907)258-5523

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Public Comment
Exxon Settlement
John Grames
13

JOHN J. G. GRAMES,	)	No. 90-35883
Plaintiff-Appellant,	)	DC# CV-90-0371-H Alaska (Anchorage)
vs.	)	
STATE OF ALASKA, et al.,	)	MEMORANDUM TO SHOW CAUSE
Defendants-Appellees.	)	

1. Thank you for a clear and concise order, plus an extension of time to show cause.. Nevertheless, your decision that this case likely is "moot" is an oversimplification and more likely wishful thinking on your part.

2. While my original demand was simple, thereafter it became progressively more complicated when neither defendants, nor Judge Holland, would place my name on the ballot. They stonewalled my pleas to allow this plaintiff to participate in representative democracy and ignored my constitutional rights. This complaint got more involved through no fault of my own.

3. I asked the Clerk of the Court if the Ninth Circuit judges had all of the A-90-371 file to look at since your view was "this case does not present extraordinary circumstances", "that the federal courts cannot give appellant effective relief" and "that election is now over." She showed me the whole file had been sent to appeals.

4. In my motion, signed December 12, 1990 (filed January 9), asking for more time and co-counsel, appellant states the appellees

"should be compelle to run a fair and equitable election over again." This was my way of asking for relief--that a special reelection of State Senate Seat H be held--that the Division of Elections, State of Alaska, be ordered to bring my candidacy before the voters so that The People can rule.

5. Plaintiff/appellant has complained in both this case, and a companion obstruction of justice case, A90-370 Civil Grames v. Supreme Court, State of Alaska, before Judge Kleinfeld, that I must argue against the very same judges who dismiss my arguments rather than adversarial lawyers of the defendants,who never have to make an appearance for the other side,in court.

6. At the risk of being redundant, if I received 6% of the vote--which I did (late); then I could easily obtain 1% of the registered voters' signatures. The defendants admitted in State court that the August 1 deadline was "arbitrary," "unconstitutional" and "of no compelling interest." Then, why did they and Judge Holland put me through this ordeal?

7. Because there was no penalty; and they were protecting their vested interest in secret government of, for and by the judge and lawyer members of the Alaska Bar Association from any outside opposition like myself: the public is held in contempt and pro se litigants beneath their contempt.

8. Judge Holland also belongs to the private Anchorage Bar Association. The President of the Anchorage Bar Association is Assistant U. S. Attorney Addingham, who suppressed any federal

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Bar Association colle[illegible]

the law library and clerk's office; funds used to propagandize the legal profession and have parties for this powerful, elite group.

9. One man, one vote, his imperial highness, H. Russ Holland, wants to dictate the oil spill cleanup. Enclosed is a newspaper article showing his low opinion of the people's elected representatives, public debate and environmentalists like myself. This judge has already made up his mind. He is what we call an oil company judge, like Judge James Fitzgerald who threw out the well written and strongly perceived State Tanker Insurance Law, which went through the complete Democratic process. His reward was a lifetime federal judgeship, although he single handedly ended up causing the Exxon Valdez disaster when the oil-company-controlled legislature and administration did not pursue an appeal of his decision to a higher court.

10. I am issue oriented; this is my principal political motive. This means that I do not run for office as a politician, to win or lose necessarily, but to increase public awareness--as a good citizen of the Republic. Same in court. My opponent, Rick Uehling, had 60% of the vote and hundreds of thousands of dollars to campaign in the General Election, but I provided another voice for the voters.

11. The point is, it seems judges and lawyers can do anything they want above the law and the governed cannot do anything about

ACE 447629

torate, but a Bar Association conspiracy prevented me.

12. In the General election news coverage, the Anchorage Times and Daily News would not even mention my name. I ran on the Green Family ticket. The Green Party of Alaska is now an alternative political party for sensitive change and reform. Family law in this state discriminates against fathers, non-custodial parents, and second families. For the health of the basic unit of society, and the nation, this must be rectified, broken family ills cured by everyone encouraged to work together.

13. Please consider, on the home front, what we fought the Gulf War for: Justice. Rule of Law. Democracy. Due process. Equality. Liberation from oppression. Freedom.

15. Give meaning to these words by our political leaders so that these principles become worthy. Overrule Judge Holland. Call a new election: Including the retention of judges where the Judicial Council gave the voters misinformation and used government funds to perpetrate themselves in the Judicial Branch of government, not mentioning that I was demonstrating and complained against the retention of corrupt judges who break the Law.

DATED this 22nd day of March, 1991, at Anchorage, Alaska.

John Grames

ACE 447630

Judge flays Legislature for meddling

By JAY CROFT
TIMES WRITER

U.S. District Judge H. Russel Holland has kept quiet since the Exxon Valdez oil spill, but Friday he lashed out at Alaska lawmakers after Exxon pleaded guilty in his courtroom to environmental crimes stemming from the 1989 disaster.

The Legislature on Thursday asked Holland to delay until May 3 consideration of the plea agreement worked out between Exxon and the government. Lawmakers said they needed time to review the deal.

Holland said he was angered that the Legislature notified him of its action by a telefaxed message and that he was concerned legislators were trying to use the federal criminal case to their advantage in a state lawsuit against the oil giant.

Attorney General Charles Cole quickly tried to distance the Hickel administration from the Legislature's action.

"It wasn't from the state, I guarantee you," Cole said. "Not from the Hickel administration did it come."

Holland later refused to discuss the case or his remarks concerning the Alaska Legislature.

A lawyer who asked not to be identified said Holland was angered by the Legislature's meddling in a criminal case to affect the state's lawsuit.



Russel Holland

Such manipulation would violate legal ethics, he said.

Holland's words and his later silence were indicative of the quiet jurist, who began his legal career in Anchorage humbly and has gained a solid reputation as a thorough, inconspicuous judge.

He received a bachelor's degree in business administration in 1958 and got his law degree in 1961 from the University of Michigan. He moved to Alaska and was a clerk with the Alaska Supreme Court.

Holland joined the Alaska Bar Association in 1963 and was an assistant U.S. attorney in Anchorage from 1963 to 1965, when he entered private practice with Ted Stevens.

Holland worked for the firm of Stevens, Savage, Holland, Erwin and Edwards, and later with Stevens alone. The partnership ended when Gov. Walter J. Hickel appointed Stevens to fill the unexpired term of U.S. Sen. Bob Bartlett, who died in 1968.

Holland was recommended to become a U.S. District Court judge in 1983. Mary Kay Hughes, then president of the Alaska Bar, said, "Russ is very competent, very reasonable. He has what I would call a judicious attitude."

In July 1984, at age 47, Holland was sworn in as Alaska's fifth federal judge. He was to handle cases involving Native claims, endangered species preservation, mineral leases and resources management.

At his swearing-in, speakers described Holland as "a sound craftsman who knows his profession" and a man of "compassion, uncanny good sense, courage, who also is free of any arrogance."

When he was appointed, Holland described the federal judgeship as "sort of the ultimate goal" in the career of an attorney. "I'm kind of excited about it," he said.

Before his appointment, he had worked in partnership with George Tretry, and had handled commercial cases.

Of the seven lawyers who applied for the federal post, Holland was ranked third in the "extremely well-qualified" category by nearly 800 members of the Bar. State Superior Court Judges Douglas Serdahely of Anchorage and Thomas Schutz of Ketchikan were ranked higher.

Anchorage lawyer Edgar Paul Boyko described Holland as conservative, cautious and principled.

"He's going to interpret the law and not make national policy," Boyko said.

"If I were a liberal environmentalist, I would feel a little nervous about his natural conservatism. But I think that would be a needless worry because I feel in the end he would be fair to everybody.

"The one comforting thing about him is you can be sure he's not going to go off the deep end on either side. At times (he's) a bit naive about the world, but learning."

ACE 447631

My philosophy of life is: live and let live: leave alone. Everything begins at home. Alaskans respect each other's privacy-this life long Alaskan, more than most. My sons give drug-free message without criminal records.

Representative Democracy is based on mutual trust between the people and their politicians. People who know me know I'm ready to bring honesty, intensity and sensitivity to my single term.

The greatest expense of government is corruption and abuse of power. Everyday, lay-people will have an open invitation to influence their government and political issues. Citizen oversight and review encouraged everywhere. More Legislative Public hearings, then action taken on the findings, will help all the people involved do something about their testimony. Town meeting get-togethers.

Alaska is one of the wealthiest places on the planet, yet our economy has been on a long, downhill cycle in a fast changing world. We are giving our resources away to uncaring multi-national corporations, with little in return to turn the economy around. We must get a better deal from our share; as well as, keep control of the resources we own. My office will provide the new political leadership to foster in-state business, labor, manufacturing, and consumer interests.

The issues I will bring to Juneau:

*State comprehensive health plan, with affordable premiums, run by private companies, underwritten by the State of Alaska as the Reinsurance Company.
*Wilderness and wildlife belong to everyone. Everybody should be able to buy l'ving licenses priced the same as hunting licenses (resident or out of state). All licenses would equally go into a lottery, either to let live or harvest, all proceeds to Democratic Game management.
*Tribal Native rights and subsistence. A Native Welcome Canter downtown Anchorage run by Village Councils.
*Minority hire on new pipeline work according to Alaska Pipeline Act.
*Revive AKPIRG for consumers and citizen government.
*Lower local energy costs, price of gasoline from State in-kind oil.
*Permanent Fund Checks to permanent residents. Investigation of Election and Voter Registration fraud.
*DMV substation downtown.
*Cure social ills rather than dumping them on Fairview.
*Impeachment trial for Superior Court Judge Carlson based on Senate Family Law Review Task Force evidence.
*Separation of powers-three branches of government: Judiciary stop making laws, lobbying the Legislature and Executive.
*Open courthouse to public scrutiny. Audit sweetheart, no-bid copiers contract between Law Library and Bar Assoc. (monies to public libraries.). ISER research price per litigant. UAA seminars on alternatives to court system. More voter information for retention of judges. Citizen law enforcement Boards (i.e. Gressett case). The politicizing of Justice breeds corruption: Judges and lawyers can get away with anything-in-house.
*Family Commission: Equal rights for fathers, mothers, children and second families. End discrimination against heterosexual males.

Alaska Judicial Council Recommendations

The Alaska Judicial Council, an independent citizens agency created by the Alaska Constitution, has evaluated the judges who will be on the ballot on November 6 and recommends they be **RETAINED.** In making this recommendation, the Council reviewed:

- Peace Officer Surveys
- Attorney Surveys
- Juror Surveys
- Conflict of Interest Statements
- Court Records Check
- Disciplinary Records Check
- Interviews
- Written Public Comments
- Courtwatching
- Anchorage Citizen Retention Advisory Committee Recommendations
- Court Watch Evaluation
- Public Comments at 15 Communities Statewide, including Anchorage, Seward, Homer, Wasilla/Palmer, Valdez, and Kodiak

While there was some controversy about a few of the judges who decided to retire, information about the judges who will be on the ballot (all of those listed below) was overwhelmingly positive. Refer to your Official Election Pamphlet for more information.

Vote YES To Retain

JUSTICE WARREN W. MATTHEWS, Supreme Court

Third Judicial District

JUDGE CHARLES K. CRANSTON, Superior Court
JUDGE J. JUSTIN RIPLEY, Superior Court
JUDGE BRIAN C. SHORTELL, Superior Court
JUDGE ELAINE M. ANDREWS, District Court
JUDGE MARTHA BECKWITH, District Court
JUDGE MICHAEL L. WOLVERTON, District Court

Paid for by the Alaska Judicial Council, 1029 West Third Avenue, Suite 301, Anchorage, 99501. 279-2526.

ACE 447633

Z. 5321 John Cravez
P.O. Box 100827, Anc. AK 9951
March 29, 1991

Alaska Judicial Council
1029 W. 3rd Ave, 201
Anchorage, AK 99501

Dear Ex. Dir. William T. C
I called today and asked you directly whether federal funds were used to buy Ads for the November retention of Judges election? Serious business. Your answer was a firm, "no!"
Then I quizzed you if any visitation mediation Project monies were co-mingl with the budget of the Judicial Counci without a separate accounting? Don't v call your reply, except you accused me of being abusive, but did not deny it.
This spells the end of any conversatio between us, since the Ombudsman believes Court officials over a no attorney. Litigants are not allowe on the hand-picked Citizens Advisory Boa to the Bar Assoc. controlled Council.
The women's Commission placed th Project in The Council (from OPA). We could not afford to Lobby in Junea We could also not afford to buy ads to counter your misinformation to uc and to The Governor e.g. Judge Andrew

TOTAL P.15

04/08/91

BILL - CRIMINAL DOCKETING.

14

RECEIVED

APR 8 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

4/5/91

Honorable Judge Holland,

I am writing to you c[illegible] the Exxon oil spill settlemen[illegible] I strongly protest. Due to t[illegible] damage to our state by the o[illegible] and Exxon's negligence, I feel that further litigation is preferable to agreeing to this deal (especially in light of the fact that the damage study of the Sound is not available to the public). I feel the deterrent value of the settlement is totally inadequate. Sincerely

Mary Ellen Arnold RN, PHN

ACE 447636

15

AHead of TIME Consultants
637 "P" Street
Sacramento, CA 95814

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DOCKETING

RECEIVED
APR 8 1991
CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

April 3, 1991

Judge Russel Holland
United States District Court
222 W. 7th Ave.
Anchorage, AK 99513

RE: Public Notice and Call for Comments
U.S. v Exxon Corp. & Exxon Shipping Co.

Honorable Judge Holland:

I protest the conditions of the plea agreement signed and filed March 13, 1991 by government officials and counsel for Exxon Shipping Company and Exxon Corporation.

I do not believe the Public is served well by cutting off a Public Debate of such importance with a guilty plea by industry to the least harmful charges. The fine being considered appears to be insignificant to Exxon's leadership. Lawrence Rawl, Exxon President, had an opportunity, when the spill first occurred, to display some sensitivity to the harm done a national treasure. He did not. On the occasion of the settlement he again displayed a particular hubris in his comments to the national press.

The message presently out is that Exxon can afford an Exxon Valdez disaster. This message has been circulated "prime time" to tens of millions by the media.

Leadership in business and government serves the public welfare best when it takes the vast resources of information at its disposal and leads. Given this trust requires that the public be well served and not led down the primrose path of rose-colored scenarios and easy choices.

A public debate (trial) is owed the Nation. People should know the results of the scientific inquiries as to the long term consequences of the March 24, 1989 oil spill disaster.
The billion dollar price tag being proposed in fines is not the point. Nature and her spirit destroyed by the oil is priceless. This point must be made - and the environmental destruction illustrated unquestionably. Industry and the Public should not be left with a message that Nature can be despoiled for a price.

Whether this message is supported depends upon two judges. Please reject this message to our Nation and provide another, setting America on a higher path. Give our children seven generations into the future, the same Alaska you are able to experience now.

Sincerely,

Wayne Moody

Wayne Moody

WM:ss

"Whatever He Does to the Strand, He Does to Himself"

(U.S. vs. Exxon Corporation Through Metaphysical Gateways)

Part I

by Wayne Moody

[Editor's Note: Part II of this feature will appear in next month's WTPE. Wayne wishes to thank S.S. for "atomic fuel" in making this article possible.]

A great statue's symbolism will ring the human soul. Its vibration will carry in the memories of future generations communicating messages on multiple levels, even to the metaphysical/psychic realms. Often these messages can be verbalized and written down in a flood of words. But frequently some things seen with the eyes can only be spoken with the lips with great difficulty. This difficulty suggests that there are metaphysical reasons (having to do with powerful forces) why certain things seen should not be spoken lightly. In truth, symbols have the power to transform.

A recent example of how hard it can be to articulate a statue's message involves a memorial statue designed for installation at the site of one of America's greatest environmental calamities, Bligh Reef, Prince William Sound, Alaska. On March 24, 1989 the supertanker, Exxon Valdez, ran aground on Bligh Reef spilling 10 million gallons of crude oil into the Sound.

A public Alaskan debate has broken out over the choice of symbols making up the proposed statue. The debate rages as oil is intentionally spilled as part of the horrors of the War in the Persian Gulf. This war focuses upon one of the key points of the debate, on the symbolism of oil. What human and environmental price are Americans willing to pay for oil energy? The Peace movements around the world opposing this war believe the cause of the Persian Gulf War is because of oil and the struggle over control of essential oil deposits found not just in Alaska but in distant places like the Persian Gulf.

What should a statue erected at the site of this domestic catastrophe say? Almost half of the nation's elected officials and tens of millions of their constituents belive the war is over oil and that the war represents misplaced values. How can the statue not be written in blood when it is joined at the hip to a bloody war?

At stake in this public debate over symbolism are important messages. What memories will the statue's symbolism release in the minds of future generations of Americans? Will we leave messages valuing oil (or any wealth wrested from the Earth) as worth war or the ruination of Earth's environments?

The model of the proposed statue (a 30 foot bronze, Neptune-like figure, astride a killer



whale) will be presented synchronistically with the beginning of the trial (U.S. v. Exxon Corp.). Hopefully this trial will adjudicate responsibility for the oil spill catastrophe and help establish the nation's values in a clear way.

It is my personal hope that this landmark trial's judgment will result in an enlightened America imbued with a new vision of the Earth. These words of wisdom taken from America's original inhabitants epitomize that vision. . .

> **"For example, Americans began protecting fur seals with an international treaty in 1911. Limits on whaling and wiser salmon fishing practices have also been acquired over the years. Now we face the oil challenge."**

"Man does not own the Earth, the Earth owns man. Man did not weave the web of life: he is merely a strand in it. Whatever he does to the strand he does to himself."

Any memorial monument built on Bligh Reef should reflect the internal and external war of values going on within the American and world psyches. At present the people most interested in promoting the symbolic statue come from the Alaskan tourist industry, perhaps motivated only by economic survival. News of the project has not yet reached the world beyond Prince William Sound. However, one religious group located close to Bligh Reef and claiming to represent other religious philosophies, feels the suggested symbolism inappropriate. They are offended that the Neptunian figure above a killer whale may suggest that man's clean-up efforts of the Sound were the major force for recovery and not nature's thunderstorms during the winter months following the spill. The same hubris, that set up the conditions for the spill, continues to [illegible] arrogantly—boastful in its power. Others feel some creative statement would be appropriate but disagree what form it should take. Additionally, it is their hope that the statue will attract state-wide interest among the Native Alaskans participated in the clean-up. They hope to finance this statue through public donations. The completed statue is expected to draw an international audience, similar to Copenhagen's "Little Mermaid."

The greater issue of international oil consumption has drawn dozens of countries into the War in the Persian Gulf.

Returning to the statue's controversial symbolism, it is clear that reading symbols requires great skill. Reading symbols is not usually done in a conscious way. Most people respond to symbols subconsciously, usually speaking out about them as a result of intuitive promptings received or expressed through the emotions. This form of insight is normally considered prophetic and is part of the religious history of many cultures. Symbolism is the stuff of our dreams, reflections and memories capable of releasing energies into the world far greater than that produced by oil. The choice of the statue's symbolism must be done in an informed manner.

Techniques for understanding symbolism can be studied and mastered, as the works of the late Joseph Campbell documented. One technique used by astrologers is called correspondence. These correspondences illuminate relationships between our language symbols revealing startling insights into such things as oil and all those things connected to oil, e.g. the Exxon Valdez oil spill disaster, the upcoming U.S. v. Exxon Corporation trial, the proposed statue for Bligh Reef and the Persian Gulf War. Such insights are valuable and worth pursuing. They can be tremendously helpful when the nation is faced with questions about its values. Our nation's founding fathers knew this and set the country's cornerstone with this knowledge. We should do no less as we build modern day monuments revitalizing our values.

Continued on page 25

ACE 447639

"Whatever He Does to the Strand, He Does to Himself"

(U.S. vs. Exxon Corporation Through Metaphysical Gateways)

Part II

by Wayne Moody

[Editor's Note: This is Part II of Wayne Moody's USA Vs. Exxon feature. Part I appeared last month. Wayne's references to March 1991 were written in Jan/Feb 1991.]

The Name Gateways

Prince William Sound (Bay) Gateway

The psychic conditions assigned the Prince William Sound are discoverable in the Sound's history. Unveiling the pattern of America's oil addiction provides very numinous connections to a different age and to some famous historical personalities. There are remarkable synchronicities revealed through the astrological lens. The energy in these stories are talismanic, i.e. capable of focusing the transformative and correspondence energies through symbols.

As you metaphorically step through the gateway to the Sound, you find yourself simultaneously amidst the American Revolution, in King George III of England's Court, on board Captain James Cook's ship Resolution and in the boardrooms of Exxon Oil Corporation in Houston, Texas, and British Petroleum (BP) in London or on Kuwait's Wall Street. Time is dissolved into an amorphous mass: April, 1778 becomes the day before March 24, 1989, 200 years of time simply lose their distance. The Sound simultaneously becomes linked to: Yorktown, Virginia; Tahiti in the South Pacific; St. Petersberg, Russia; and London, England.

King George III sent Captain Cook to map the Western Coast of America and proceed north in search of the Northwest Trade Passage over the North Pole; Alaska belonged to Russia, England was at war with the newly born United States over the control of North America's people and resources. A Northwest Passage promised to change completely the geopolitical realities of that time. Today one looks at the war over profits from oil and the possible changes in geopolitical realities existing in the Persian Gulf after January 15, 1991.

Captain Cook named the Sound after the third son of George III, Prince William (who was destined to become known as the Sailor King).

There are contrasts and correspondences between Captain James Cook and Captain Joseph Hazelwood. Each was a precocious genius and later garnered a reputation for professionalism. But it is Captain Cook's creed that sets the standard:

"The profession James Cook had chosen did offer one supreme reward. In that reward lies the clue to the remaining mystery. The basic



fact of survival was daily bought at the price of skill. If you learned quickly enough the seaman's arts, you lived. If you didn't or if you grew clumsy or forgetful, you died." (Taken from *Great Sailor* by Vandercook.)

Captain Cook stayed the course of this creed until the end of his illustrious life. Captain Hazelwood, on the other hand, grew clumsy, because he, unlike Captain Cook, abused alcohol. Both grew up in an age which had social problems with consumption of alcohol.

Vandercook wrote:

> "Until the supply ran out, usually after a month at sea, Cook like every man aboard was issued one gallon of beer a day. At noon and again at night, he was entitled in addition to one-eighth of a quart of West Indies Rum diluted with half its volume of water, sometimes spiced with a little lemon and dash of sugar. The mixture was called 'Grog.'
>
> "The crews, when their routine duties aboard ship were done, were quietly miserable when sober, and noisily miserable when drunk."
>
> —*Great Sailor* by Vandercook

Despite these cultural temptations Captain Cook chose sobriety. It is noteworthy that Cook instead of falling into this pattern reached deep into the space of himself and chose to study the heavenly bodies through astronomy. He used its teachings on space and time to become a nautical surveyor and master mapmaker of the Earth. It is no small coincidence that alcohol and astronomy both correspond to Neptune.

There are choices, and there are choices.

Captain Cook chose to leave a sterling reputation as a nautical surveyor . . . Captain Hazelwood chose "Grog."

Will America choose oil?

It should be clear that Neptune signatures in Prince William Sound took fortunate and unfortunate forms. Choosing the "Grog" drew Hazelwood in inexorably and magnetically towards his destiny at Bligh Reef.

The Bligh Gateway

Captain Hazelwood's sad misadventure corresponds to one that occurred 200 years before. Let's go for this one. Rex E. Bills' correspondence list doesn't include reef, but the mind moves metaphorically to terminus, wall, consequences, conclusion, rude awakening and obstacles as possible correspondences for Bligh Reef. The following gets closest: In 1778 Bligh was the Ship's Master to Captain Cook's ship, Resolution, on Cook's third and final voyage. Bligh put ashore in the Cook Inlet at a place Cook named "Turnagain." On June 1, 1778 at 2 AM, after searching for the existence of a Northwest Passage, Bligh made the announcement that was to become the "end" for any faint hope in the matter. Just as the reef named for Bligh (by Captain Cook) was the "end" of the career of Captain Hazelwood, so it seems, that it was the end of the business as usual attitude of the multi-national oil industries.

This gateway further transports one thousands of miles down the 146-147 West longitude line to the waters slightly east of the Tahitian paradise where 11 years after his voyage through the sound, Bligh became the archvillain (an erroneous label) in the mutiny on the ship Bounty. The truth was one of addiction. The Bounty's crew, the dregs of English society at the time, without the experience of beauty in their lives found Tahiti a venerable paradise and mutinied to stay in this paradise. One taste of the lifestyle there had them hooked. This has honest parallels in America's taste for the oil lifestyle which Americans refuse to renounce even in the face of visible destruction of the Earth around them.

At Cook Inlet, June 1, 1778, Bligh simply closed the book on whether there was a Northwest Passage. There was no Northwest Passage. There was not to be a paradise for the mutineers, nor for the Americans in Alaska in the late 20th century.

Good Friday Gateway

This reoccurring symbol corresponds to the anniversary of Christianity's greatest symbol. The crucifixion of Christ is at once a great death and rebirth symbol. The disaster in the

Continued on page 14

ACE 447640

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APR 0 8 1991
CLERK, U. S. DISTRICT COURT

W. Findlay Abbott
Yukon Island, Kachemak Bay
P.O. Box 2454
Homer, Alaska 99603

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA : Plaintiff, vs. EXXON CORPORATION and EXXON SHIPPING COMPANY, Defendants.	Case No. A90-015 CR

COMMENTS OF W. FINDLAY ABBOTT ON THE PROPOSED PLEA AGREEMENT

1. Because of the magnitude, extent, and continuing damage of the EXXON VALDEZ oil spill, a plea bargain settlement at this time or in the near future would be improper and adverse to the public interest.

2. There should be no linkage with ANWR allowed. "Putting this behind us" quickly, so we can sooner open another wilderness for oil is callous and probably illegal. A few development minded politicians cannot properly assess the effects and legal implications of this accident. A better business climate is not accomplished by quick resolution but rather by a just and fair resolution that motivates industry to prevent such an accident in the future. This Court is the final guardian of the public interest.

3. Because of the complexity and magnitude, something more than an ordinary jury should be empaneled for this case. This special jury should be large, meet periodically not continuously, be structured and empowered to take immediate actions, and operate under rules which require consensus on certain issues and majorities on other issues.

4. The jury or juries must investigate the abundant and growing

number of allegations against defendants of bribery, fraud, waste, and misrepresentation or suppression of material facts about the oil spill and clean-up. On page five of my own complaint against the defendants (Case No. 3AN91-02280 Civ.) I recount an incident of significant fraud and waste which I observed first-hand. A review of the clean-up by this Court is in order. The excessive secrecy being maintained by defendants over all aspects of the spill and clean-up deprive the public of the right to learn from this tragic mistake.

5. The proposed plea agreement does not encourage industry to improve safety practices. All of the costs of the oil spill are being written off of taxes: the deeply indebted U.S. Treasury is paying the costs of this grossly negligent accident by one of the richest corporations in the world.

6. This criminal case should not be closed until the civil cases are settled or finished. The Court should examine all oil spill expenses and damage payments which defendants write off of income taxes. The criminal fines should be increased by like amounts.

7. The formidable legal resources of the defendants should not be reason to avoid prosecution of this case. In association with State Courts, this Court can require cooperation and compliance from the Defendants. We can prohibit EXXON from operating ships or transporting oil on State waters. The judiciary must oppose with courage the many political forces which are attempting to marshal and direct this case.

Respectfully submitted this 8th day of April, 1991.

W. Findlay Abbott

W. Findlay Abbott

COMMENTS OF W. FINDLAY ABBOTT ON CASE NO. A90-015 CR

ACE 447642

TOTAL P.08

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U.S. House of Representatives

Committee on
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17

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DANIEL P. BEARD
STAFF DIRECTOR
RICHARD MELTZER
GENERAL COUNSEL
DANIEL VAL KISH
REPUBLICAN STAFF DIRECTOR

April 8, 1991

Honorable H. Russel Holland
United States District Judge
U.S. District Court
222 West 7th Avenue No.4
Anchorage, Alaska 99513

Honorable Stanley Sporkin
United States District Judge
U.S. Court House
3rd and Constitution, N.W.
Washington, D.C. 20001

In Re:

United States of America v. Exxon Shipping Company and Exxon Corporation (No. A90-015 CR.) [Criminal Plea Agreement]

United States of America v. Exxon Corporation, Exxon Shipping Company, and Exxon Pipeline Company, in personam, and the T/V Exxon Valdez, in rem (A91082 Civil) [Agreement and Consent Decree]

State of Alaska v. Exxon Corporation, Exxon Shipping Company and Exxon Pipeline Company, in personam, and the T/V Exxon Valdez, in rem (A91083 Civil) [Agreement and Consent Decree]

United States of America v. State of Alaska, and The State of Alaska v. United States of America (A91081 Civil) [Memorandum of Agreement and Consent Decree]

State of Alaska v. Exxon Corporation, et al., (3AN-89-6852 Civil)

The Native Village of Chenega Bay, et al., v. Manuel Lujan, Jr., et al. (91-483 SS Civil) and Chenega Corporation, et al., v. Manuel Lujan, Jr., et al. (91-484 SS Civil)

Gentlemen:

For purposes of your review of the pending cases cited above and other claims arising from the Exxon Valdez oil spill of March 24, 1989, I want to bring to your attention some significant evidence concerning Exxon Corporation's and the Alyeska Pipeline Service Company's culpability.[1]

ACE 447552

[1]The owner companies of Alyeska Pipeline Service Company ("Alyeska") are B.P. Pipelines Alaska, Inc. (50.01 percent); Exxon Pipeline Company (20.34 percent); Arco

As Chairman of the Subcommittee on Water, Power and Offshore Energy Resources, I have conducted an investigation of matters related to the Exxon Valdez oil spill, including the cleanup response, damage to natural resources, and operation of the Trans-Alaska Pipeline System.[2] The Committee on Interior and Insular Affairs was a principal author of the Trans-Alaska Pipeline Authorization Act (P.L. 93-153) and has broad jurisdiction concerning public lands and natural resources in Alaska and a special interest in issues affecting Alaska Natives.

In the course of this investigation, Alyeska has provided me with documents which indicate that **Exxon and the other owner companies which control Alyeska: (1) knew that Alyeska could not effectively respond to an oil spill in Prince William Sound; (2) failed to make necessary improvements in Alyeska's oil spill response capabilities; and, (3) secretly decided that Alyeska would not respond to an oil spill in Prince William Sound in the manner prescribed by Alyeska's Oil Spill Contingency Plan.**

Alyeska's Promises

Before the Pipeline Was Approved

In 1971, during the consideration of the trans-Alaska pipeline project, Alyeska's pollution control specialist R.L. Benyon promised the public in testimony before the Department of the Interior that:

> "The contingency plan which will be drawn up will detail methods for dealing promptly and effectively with any spill which may occur, so that its effect on the environment will be minimal. We have adequate knowledge for dealing with oil spills and improvements in techniques and equipment are continuing to become available through world-wide research. The best equipment, materials and expertise which will be made available as part of

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Pipe Line Co. (20.34 percent); Mobil Alaska Pipeline Co. (4.08 percent); Amerada Hess Pipeline Corp. (1.5 percent); Unocal Pipeline Co. (1.36 percent); and Phillips Alaska Pipeline Corp. (1.36 percent).

[2]"Investigation of the Exxon Valdez Oil Spill, Prince William Sound, Alaska," Oversight Hearings before the Subcommittee on Water, Power and Offshore Energy Resources of the Committee on Interior and Insular Affairs (Serial No. 101-5, Parts I to V) (hereinafter "Investigation of the Exxon Valdez Oil Spill").

ACE 447553

> the oil spill contingency plan, will make operations at Port Valdez and in Prince William Sound the safest in the world. [Emphasis added.]"

On April 10, 1973, the President of Alyeska, E.L. Patten, in testimony urging approval of the pipeline project, promised Congress that the very best technology would be in place:

> "In safety [sic] superior American tankers the light traffic between Valdez, Alaska, and the west coast involves hazards of less magnitude than any other tanker run of which I have knowledge. The most modern loading equipment and proposed vessel designs will reduce even these modest risks before pipeline authorization begins."[3]

In the Right-of-Way Agreements

In exchange for the right to build the Trans-Alaska Pipeline System on public lands, Alyeska signed right-of-way agreements with both the United States and the State of Alaska.

In the section on oil spill contingency plans in the right-of-way contract with the United States, Alyeska promised to control and clean up any oil spill:

> "It is the policy of the Department of the Interior that there should be no discharge of Oil or other pollutant into or upon lands or waters. Permittees must therefore recognize their prime responsibility for the protection of the public and environment from effects of spillage.... Permittees shall demonstrate their capability and readiness to execute the [contingency] plans....If during any phase of the construction, operation, maintenance or termination of the Pipeline, any Oil or other pollutant should be discharged from the Pipeline System, the control and total removal, disposal and cleaning up of such Oil or other pollutant, wherever found, shall be the responsibility of Permittees, regardless of fault. [Emphasis added.]"[4]

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[3] "Oil and Natural Gas Pipeline Rights-of-Way," Hearings before the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs (Serial 93-12) at p.526.

[4] Stipulation 2.14 to Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline, January 23, 1974, between United States of America and Alyeska owners. As used in Stipulation 2.14, Oil Spill Control is defined as: (1) detection of the spill; (2) location of the spill; (3) confinement of the spill; and (4) cleanup of the spill.

ACE 447554

At the time of the Exxon Valdez spill

According to the "purpose" section of Alyeska's Oil Spill Contingency Plan (the "contingency plan") which was in effect on March 23, 1989, Alyeska promised rapid and effective response to any oil spill using state-of-the-art technology:

> "The objective of the Alyeska Oil Spill Contingency Plan is to minimize damage to the environment...in the event of an oil spill...the resources of [Alyeska] are organized in a preplanned manner to assure rapid and effective response to any oil spill emergency. This manual outlines the techniques which will be in accordance with state-of-the-art oil spill cleanup technology. [Emphasis added.]"[5]

In section 102 of the contingency plan, Alyeska promised that it is the policy of the owner companies to fully comply with the laws and to take "every reasonable action" to minimize environmental damage from oil spills:

> "It is the policy of the eight owner companies, constituting the Permittees under the Federal Right-of-Way Grant and the Lessees under the State Right-of-Way Lease and represented by their agent, Alyeska Pipeline Service Company, to take every reasonable action to prevent oil spills and, if they occur, to minimize environmental damage. Alyeska will comply with the relevant pollution laws for the protection and conservation of environmental resources. [Emphasis added.]"[6]

Alyeska also promised in section 102 of the contingency plan that it will be fully prepared to implement the contingency plan even in the event of a major oil spill:

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[5] Section 101, Alyeska Pipeline Service Company Oil Spill Contingency Plan General Provisions (January, 1987).

[6] The "relevant pollution laws" according to Alyeska are: "Alaska Statute Title 46, and 18 AAC75, and the National Oil and Hazardous Substances Pollution Contingency Plan, and any revisions thereof, as issued by the Council on Environmental Quality (CEQ) under the authority of the Federal Water Control Act [sic], as amended (Public Law 92-500). Alyeska Policy and these plans are intended to be written and executed so as to comply with the Grant and Agreement of Right-of-Way and the Right-of-Way lease with the United States of America and the State of Alaska, respectfully. Alyeska Pipeline Service Company will ensure that the National Contingency Plan is followed during any spill event." p.1-1

> "Regularly scheduled training programs will be conducted....The objectives of this training program are:....To maintain the Plans as fully operable working documents [and] To update the Plans to reflect state-of-the-art capability....Full scale, company-wide field exercises will be held at least once per year to insure overall readiness for response to large scale oil spills.... [Emphasis added."

Alyeska further promised in section 102 of the contingency plan that, as agent for the owner companies, it will effectively direct and conduct cleanup operations, including those related to any spill in Prince William Sound:

> "[C]leanup operations within the areas of liability and responsibility [imposed by law] will be conducted by Alyeska as Agent for the Owner companies and will be conducted in a manner as not to require assumption of control of such cleanup operations by federal or state officials....Alyeska will direct cleanup operations of spills resulting from...[O]peration, involving tankers carrying or destined to carry crude oil transported though the Trans-Alaska Pipeline System, occurring at Valdez terminal, in Port Valdez, Valdez arm or Prince William Sound. [Emphasis added.]"

Promises Versus Performance

In an addendum to its Oil Spill Contingency Plan in 1982, Alyeska informed the Alaska Department of Environmental Conservation that, in the event of a spill in Prince William Sound, the "[e]stimated time of completion of spill cleanup of a 100,000 barrel spill would be less than 48 hours."[7]

At the urging of the State of Alaska's Department of Environmental Conservation, Alyeska reluctantly included a response scenario for a 200,000 barrel spill in the 1987 Oil Spill Contingency Plan for Prince William Sound. "Alyeska believes it is highly unlikely a spill of this magnitude would occur."[8]

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[7]Letter from B.L. Hilliker, manager, environmental protection and government reports, to Alaska Department of Environmental Conservation, dated June 22, 1982, reprinted in "Investigation of the Exxon Valdez Oil Spill," Part I at p. 894.

[8] Oil Spill Contingency Plan Prince William Sound (January 1987), p.3-54. By letter to the Alaska Department of Environmental Conservation dated October 23, 1986, Alyeska predicted that the probability of a 200,000 barrel spill occurring in Prince

This Prince William Sound response scenario assumed that the spill would occur 30 miles from the Valdez terminal and that weather conditions would be conducive to oil spill cleanup. The contingency plan called for equipment, including a barge, to be in place within 5 hours after the spill.

Alyeska's Prince William Sound contingency plan predicted that 35 percent of the oil would be recovered from the water (70,000 barrels), 30 percent recovered from shoreline cleanup, 30 percent to disperse naturally or evaporate, and only 5 percent to remain in the environment.[9]

Yet when the Exxon Valdez spilled some 260,000 barrels on March 23, 1989 the cumulative total of oil recovered within the first 72 hours was less than 3,000 barrels. As one example of the response failure, the equipment barge which the contingency plan relied upon was damaged and unloaded at the time of the spill. The barge did not reach the spill site for more than 14 hours, even though the contingency plan called for it to be on the scene within five hours. Based on my investigation, there were clearly not sufficient quantities of dispersants or application equipment available to make up for the utter failure of the mechanical recovery effort.[10]

Even under extraordinarily good weather conditions for the first three days, Alyeska did not have equipment or resources to contain and collect even a fraction of the amount specified in the contingency plan. The failure of Alyeska's cleanup response in the first 72 hours significantly contributed to the ultimate environmental impacts of the spill, since winds of over 70 miles per hour spread the slick completely out of control (more than 40 miles from Bligh Reef) by the fourth day.

The Exxon Valdez spill would eventually soil over 1,000 miles of Alaska's coastline, inflict one of the worst wildlife disasters in our nation's history, and disrupt the lives of thousands of Alaskans who depend on the natural resources of this region.

William Sound would be once in 241 years. "Investigation of the Exxon Valdez Oil Spill," Part I at p. 834.

[9]Oil Spill Contingency Plan Prince William Sound (January 1987) at p. 3-56.

[10]"Investigation of the Exxon Valdez Oil Spill, Prince William Sound, Alaska", Part I at p. 303.

As the Alaska Oil Spill Commission concluded, "[p]ublic pronouncements by Alyeska and its owners that the company employed the best available technology and committed adequate resources to safety purposes turned out to be false."[11]

Exxon and the Alyeska Owner Companies Knew That Alyeska Was Not Equipped to Effectively Respond To An Oil Spill in Prince William Sound.

My investigation revealed that Alyeska was on notice in 1984 that its own personnel believed they were incapable of effectively responding to an oil spill in Prince William Sound. James K. Woodle, former commander of the U.S. Coast Guard's Marine Safety Office in Valdez, and marine superintendent at the Valdez terminal, informed Alyeska's President George M. Nelson that:

> "Serious doubt exists that Alyeska would be able to contain and clean-up effectively a medium or large size oil spill....Response to any spill beyond the limits of Valdez narrows should not be attempted with present equipment and personnel. [Emphasis added.]"[12]

A series of documents, which I have enclosed, reveal that Alyeska by 1988 -- one year prior to the Exxon Valdez oil spill -- had reached the same conclusion as James K. Woodle: it was seriously unprepared for an oil spill in Prince William Sound.

On April 18, 1988, W.D. Howitt, then Alyeska's Valdez Marine Terminal Superintendent, wrote to the Marine Services Subcommittee -- comprised of representatives of the owner companies, including Harvey Borgan of Exxon Shipping -- to inform them of a meeting in Bellingham, Washington on May 18, 1988. "Oil Spill Response Equipment" was listed on the agenda [Exhibit A].

On April 28, 1988, Howitt wrote to the Marine Services Sub-committee members with additional information for the May 18 meeting [Exhibit B]:

> "The first part of the information package contains the T.L. Polasek briefing that was presented to the Operations Subcommittee on April 6-7, 1988, at the quarterly meeting. The briefing is the result of an action item from January's meeting during which a concern was raised by ARCO on

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[11]Final Report of the Alaska Oil Spill Commission (February 1990) at p.135.

[12]Letter from James K. Woodle dated April 15, 1984 concerning operations of the Marine Department, Alyeska Marine Terminal, Valdez, Alaska, reprinted in "Investigation of the Exxon Valdez Oil Spill," Part I at p. 179 and 890.

> Alyeska's capability to respond to oil spills at midpoint of Prince William Sound. [Emphasis added.]"[13]

Theo L. Polasek's (Alyeska's Vice President of Operations) briefing on April 6-7 for the Operations Subcommittee was entitled "Oil Spill Issues -- Status of Action Items from January Owners Meeting." [Exhibit C] The topic of "Alyeska's Response Capability to Spills at midpoint of Prince William Sound" is included under the heading "ARCO/Alyeska Response Equipment Discussions." What follows is a comparison of the equipment available to the "Clean Sound" Cooperative in Puget Sound, Washington. According to the document, Clean Sound's spill cleanup methodology is "immediate, fast response to spill, at any location, with boom to contain, exclude, and/or divert oil."

By contrast to the equipment available to Clean Sound, Polasek's briefing on "Present Alyeska Prince William Sound Capability" notes that "no new skimming vessels purchased since 1977." The list of Alyeska equipment is clearly deficient by comparison to Clean Sound.

Polasek's briefing on Alyeska's Prince William Sound cleanup response equipment includes the following indictment of Alyeska's capability to meet its obligations under its own Oil Spill Contingency Plan:

> "Immediate, fast response to mid-point of Prince William Sound not possible with present equipment complement." (emphasis added)

Exxon and the Alyeska Owner Companies Failed to Improve Alyeska's Oil Spill Response Capabilities Before the Exxon Valdez Spill on March 23, 1989.

Theo Polasek's briefings to the owner company representatives in April and May 1988 outlined the deficiencies in Alyeska's equipment including the fact that "no new skimming vessels had been purchased since 1977."

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[13]Howitt's letter also states that purchases of clean-up equipment for Alyeska, as recommended by Jeff Shaw of Arco, would be discussed at the May 18th meeting. In a document with the heading "Alyeska Equipment Project (for oil spill cleanup)" dated March 22, 1988, Jeff Shaw recommends: 1) a large oceangoing skimmer; 2) a 10,000 barrel barge; 3) an adds pack; 4) fast spill response vessels; 5) a destroil skimmer with power pack; and 6) an additional 5,000 feet of sea quality boom. [Exhibit D] In addition, a separate document indicates that the marine subcommittee members discussed an advanced skimmer recovery system which could operate in open waters, the "Dynamic Inclined Plan Oil Vessel." [Exhibit E]

ACE 447559

When Polasek testified, under oath, at a hearing I chaired in Valdez on May 7, 1989, he acknowledged that: "the equipment in this plan was similar to the plan in 1977. We increased the amount of boom and take [sic] other actions, but essentially that was the same equipment decided upon."[14]

Polasek's briefing includes a reference to the planned acquisition of a 10,000 barrel tank barge by late 1988. In fact, this oil spill barge -- the "Betty-K" -- was stored in Washington state for the winter of 1989 and was not available in the Exxon Valdez cleanup.

Moreover, Polasek's briefing refers to a "mobile contingency command center with communications repeaters" which would be installed by "mid 1988." In fact, such a system was not in place at the time of the Exxon Valdez spill.

Exxon and the Alyeska Owner Companies Secretly Decided that Alyeska Would Not Respond to an Oil Spill In Prince William Sound in the Manner Prescribed in the Contingency Plan.

According to a June 30, 1988 telex from Roger A. Gale, Manager, Marine Operations, Sohio Oil (now BP) to Polasek of Alyeska, the Marine Services Subcommittee decided to make five recommendations to the Owners Committee as part of an "acceptable compromise" [Exhibit F]:

First, the "current stockpile of clean up equipment is adequate" for spills at the terminal, but "should be maintained to the highest state of readiness."

Second, for spills in Prince William Sound, additional equipment should be purchased of the "type best suited for near shore and beach operations."

Third, a large barge (50-100,000 barrel capacity) equipped with ocean boom and skimmers was needed.

Fourth, a "study of the best and quickest methods of moving the barge around" including predeployment in Prince William Sound.

Fifth, that Alyeska and the owners "press" state and federal officials for "preapproval to use chemicals on a widespread basis."

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[14]"Investigation of the Exxon Valdez Oil Spill, Prince William Sound," Part I at p. 155.

However, on July 6, 1988, Stanley Factor, Vice President, Chartering and Evaluations, Arco Marine, Inc., objected to Roger Gale's recommendations because the owners had already decided that Alyeska would not respond to spills in Prince William Sound in the manner required by the Oil Spill Contingency Plan [Exhibit G]:

> "Arco Marine Inc. does not agree with this telex nor do we concur that this represents the thoughts of the subcommittee.
>
> **"At the owners committee meeting in Phoenix, it was decided that Alyeska would provide immediate response to oil spills in Valdez Arm and Valdez Narrows only. Further efforts in the Prince William Sound would be limited to the use of dispersants and any additional effort would be the responsibility of the spiller.** [Emphasis added.]"[15]

Conclusion

At my subcommittee's hearing on May 7, 1989 in Valdez, Theo Polasek testified under oath on Alyeska's behalf that "[w]e fulfilled our promises in that [oil spill contingency] plan. We have not broken our promises to the people of this State."[16]

But the evidence I have set forth indicates that Alyeska broke the law as well as its promises to the State of Alaska and the Congress.

For example, section 309(c)(4) of the Clean Water Act (33 U.S.C. section 1319(c)(4) provides that substantial criminal penalties may be imposed upon any corporation or responsible corporate official that files information with Federal authorities with knowledge that the documents contain material misstatements.[17] In addition, criminal penalties may be imposed on any person who knowingly submits false information to any agency of the United States under 18 U.S.C. section 1001.[18]

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[15]The Chairman of the Owners Committee at the time was Darrell Warner, President of Exxon Pipeline Company.

[16]"Investigation of the Exxon Valdez Oil Spill," Part I at p. 169.

[17] A fine of up to $10,000, or a prison term of up to two years or both may be imposed under this section.

[18]A fine of up to $10,000, or a prison term of up to five years, or both, may be imposed under this section.

ACE 447561

Thus, since Alyeska knew that it could not and would not respond to an oil spill in Prince William Sound as required by its oil spill contingency plans, Alyeska and any responsible officer could be exposed to substantial criminal penalties.

However, the Department of Justice has not even filed any criminal charges against Alyeska or its owner companies other than Exxon. Furthermore, in the proposed Criminal Plea Agreement, the United States would waive its rights not only to pursue any criminal charges against Alyeska and its owner companies, but also waive its rights to pursue civil or administrative penalties against Alyeska and its owner companies.[19]

The proposed Agreement and Consent Decree also provides generous protection for Alyeska. The United States and the State of Alaska both waive their rights to raise claims against Alyeska for natural resource damages in Paragraph 20. In addition, should either government recover any amount from Alyeska for claims of any kind, Exxon is entitled to be reimbursed for 20.34 percent of the governments' recovery (this figure represents the percentage ownership by Exxon of Alyeska). Yet Alyeska, including its shareholders and owner companies other than Exxon Pipeline, expressly reserves their rights to sue the United States or the State of Alaska in Paragraph 19 of the proposed settlement agreement.

In my view, the inclusion of Alyeska in the proposed Criminal Plea Agreement and in the proposed settlement Agreement and Consent Decree is contrary to the public interest. Based on the evidence, it is inconceivable that the Department of Justice would waive its rights to pursue criminal claims, and virtually all civil claims, against Alyeska.

In sum, the proposed Exxon settlement fails to hold Alyeska accountable to the public for its wrongdoing and fails to serve as a deterrent for similar conduct in the future.[20]

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[19] Section III.A. of the Plea Agreement states that "[t]he United States agrees not to seek additional criminal charges or any civil or administrative penalties.... against Alyeska Pipeline Service Company or any of its shareholders or owner companies or present or former shareholder representatives, for any violation of federal law arising out of the grounding of the 'EXXON VALDEZ,' the resulting oil spill, the containment or cleanup of that spill, or its or their conduct in connection with the preparation or submission of oil spill contingency plans or related, by Alyeska Pipeline Service Company to the federal or state government...." p.5.

[20] Under Alaska law, punitive damages are awarded for the public policy reasons of punishment and deterrent when the defendant's conduct was outrageous, reckless, or malicious. In this instance, there is clear and convincing evidence that Alyeska's conduct merits the award of punitive damages.

After extensive debate about the environmental risks, the Trans-Alaska Pipeline System was approved in 1973 by only a one-vote margin in the U.S. Senate. In exchange for access to environmentally sensitive public lands, the Congress was assured by Alyeska and the owner companies that the pipeline system would be operated in a safe and environmentally sound manner, using state-of-the-art technology.

The oil industry betrayed its own promises and deceived the Congress with respect to operations of Alyeska and the Exxon Valdez oil spill. Without a commitment by the Department of Justice to prosecute this intentional deception, how is it that Congress and the people of the State of Alaska can rely on such assurances in the future?

Sincerely yours,

George Miller

GEORGE MILLER
Vice Chairman

cc:

The Honorable Walter J. Hickel, Governor, State of Alaska
The Honorable Ben Grussendorf, Speaker, Alaska House of Representatives
The Honorable Richard Eliason, President, Alaska Senate
The Honorable Senator Ted Stevens
The Honorable Senator Frank Murkowksi
The Honorable Representative Don Young
The Honorable Richard L. Thornburgh, Attorney General, U.S. Department of Justice
The Honorable Manuel Lujan Jr., Secretary, U.S. Department of the Interior
The Honorable Samuel K. Skinner, Secretary, U.S. Department of Transportation
The Honorable Edward R. Madigan, Secretary, U.S. Department of Agriculture
The Honorable William K. Reilly, Administrator, U.S. Environmental Protection Agency
The Honorable John A. Knauss, Undersecretary for Oceans and Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce
Members, Committee on Interior and Insular Affairs

ACE 447563

EXHIBIT A

Alyeska pipeline
SERVICE COMPANY

VALDEZ MARINE TERMINAL P.O. BOX 300 VALDEZ, ALASKA 99686 TELEPHONE (907) 835-7911

April 18, 1988

ATTN: Capt. Johnson

Capt. Roger Gale
Standard Oil of Cleveland
200 Public Square
Cleveland, Ohio 44114-2373

Capt. Ken J. Fullwood
Mobil Oil Corp
Marine Transportation Dep.
150 East 42nd Avenue
New York, N. Y. 10017

Capt. D. R. Ferguson
Phillips Petroleum Co.
Marine Branch
897 Adams Bldg
Bartlesville, OK 74004

Mr. Stanley Factor
ARCO Marine, Inc
Box 22617
Long Beach, CA 90805

Capt. C. H. Erikson
West Coast Shipping Co.
911 Wilshire Blvd
Los Angeles, CA 90017

Mr. Harvey Borgan
West Coast Fleet Office
Exxon Shipping
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S. J. Crain
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200 Public Square
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Jeff Shaw
ARCO Marine, Inc.
Long Beach, CA. 90805

Jeremy Croxson
SOHIO Pipeline
200 Public Square
Cleveland, Ohio 44114-2375

John Weichert
Clean Sound Co-op.
Seattle, Washington

Theo L. Polasek
Alyeska Pipeline Service Company
1835 South Bragaw
Anchorage, Alaska 99512

Gentlemen:

A meeting of the Marine Services Sub-Committee will be held May 19, 1988, in Bellingham, Washington.

Present agenda items are:

ACE 447564

- Oil Spill Response Equipment (including a demonstration of large skimmer vessel by John Weichert of Clean Sound Co-op.)
- Port Information Manual status.
- Berth Equipment and Repair and Upgrade Schedule.

An information package will be mailed to confirmed attendees for review prior to the meeting.

The meeting will be held at Nendel's Hotel in Bellingham, the Compass Room, commencing at 8:00 am. The skimmer demonstration will commence at 1:00 pm, departing from the small boat harbor.

Roger Gale has informed me that there will be a joint meeting of the Operations Sub-Committee and the Marine Services Sub-Committee on the previous day, May 17th, at the same location. The agenda for this meeting will be advised separately.

Rooms have been blocked for May 17th at Nendel's Hotel, (206)671-1011, and must be confirmed by individual attendees. Arrangements have been made for a continental breakfast and luncheon buffet to be served in the meeting room on May 18th.

For travel planning; Bellingham is approximately 2 hours North of Sea-Tac airport by car or is served by commuter airlines, PSA, Horizon Air, and San Juan Air.

Please reply to C. F. (Chuck) O'Donnell (907)835-6526, indicating attendance or additional agenda items.

Regards,

W. D. Howitt
Valdez Marine Terminal Superintendent

EXHIBIT B

Alyeska pipeline SERVICE COMPANY

[redacted]

April 28, 1988

Capt. Roger Gale
Standard Oil of Cleveland
200 Public Square
Cleveland, Ohio 44114-2375

Capt. Ken J. Fullwood
Mobil Oil Corp
Marine Transportation Dept.
150 East 42nd Avenue
New York, N. Y. 10017

Capt. D[illegible]. Ferguson
Phillips Petroleum Co.
Marine Branch
897 Adams Bldg.
Bartlesville, OK 74004

S. J. Crain
SOHIO Alaska Pipe Line
200 Public Square
Cleveland, Ohio 44114-2375

Jeremy Croxson
SOHIO Pipe Line
200 Public Square
Cleveland, Ohio 44114-2375

Alex McGilvary

Mr. Stanley Factor
ARCO Marine, Inc.
Box 22617
Long Beach, CA 90805

Capt. C. H. Erikson
West Coast Shipping Co.
911 Wilshire Blvd.
Los Angeles, CA 90017

Mr. Harvey Borgan
West Coast Fleet Office
Exxon Shipping
3400 East Second Avenue
Benicia, CA 94510

Jeff Shaw
ARCO Marine
Box 22617
Los Angeles, CA 90805

Stuart McRobbie
West Coast Fleet Office
Exxon Shipping
3400 East Second Avenue
Benicia, CA 94510

Theo L. Polasek
Alyeska Pipeline Service Co
1835 South Bragaw
Anchorage, Alaska 99512

Subject: Meeting Agenda and Information Package

Gentlemen:

As referenced in my April 18, 1988 meeting notification, an information packag is enclosed concerning the agenda items for the upcoming Marine Servic Subcommittee Meeting in Bellingham, Washington on May 18, 1988.

The first part of the information package contains the T. L. Polasek briefing that was presented to the Operations Subcommittee on April 6-7, 1988, at the quarterly meeting. The briefing is the result of an action item from January's meeting during which a concern was raised by ARCO on Alyeska's capability to respond to oil spills at midpoint of Prince William Sound. The specific concern stated was the use of the Terminal tugs for the response effort, thereby directly affecting the Terminal's ability to continue vessel loading operations. Alyeska and ARCO personnel visited the Clean Sound Oil Spill Cooperative because of the similarities/comparability of Puget Sound and Prince William Sound operating environments. The briefing summarizes the group's findings.

You will note that the briefing makes no recommendations with regard to additional equipment purchases. Mr. Jeff Shaw, ARCO, is prepared to discuss his specific recommendations during the meeting.

The Marine Services Subcommittee has been requested to review the alternatives, and recommend a course of action to the Operations Subcommittee.

The second agenda item covers the present status of the revised Port Information Manual. Enclosed you will find the financial responsibility statements that were presented to the Owners Committee and the Legal Subcommittee for incorporation into the revised manual. A final version of the statement that will be used in the manual will be issued before our meeting, and a distribution schedule of the new manual will be discussed at that time.

The third agenda item covers the Berths and Ballast Water Treatment Plant repair and upgrade schedule for this coming summer. Enclosed you will find a defination of scope and a implementation schedule for each of these projects.

Very truly yours,

W. D. Howitt
Superintendent
Valdez Marine Terminal

CFOD/WDH/pkk

cc: C. F. O'Donnell
L. D. Shier
T. L. Polasek

enclosures

EXHIBIT C

OIL SPILL ISSUES

ACE 447568

T. L. Polasek

April 6-7, 1988

OIL SPILL ISSUES

Status of Action Items from January Owners Meeting

- Pursue Advance Approval for Dispersant Use
  - Regional Response Team (RRT) has issued first Draft of "Prince William Sound Guidelines" for review.
  - Most of Port Valdez and all of Tanker Lanes included in "Zone 1" where dispersant is approved for use, with consent of senior Federal official, USCG Captain of Port.
  - Follow up meetings scheduled.

- Expedite "ADDS Pack" AFE
  - AFE sent to Owners on March 4, 1988.
  - Approvals received from ARCO, Exxon, and Mobil.
  - Procurement package being prepared.

ACE 447569

OIL SPILL ISSUES

- Conduct Survey of Commercial Ships Available for Oil Spill.
  - Preliminary Survey completed.
  - Several Hundred fishing vessels, fleet tenders, and supply boats available in Valdez and Cordova (45 ft. to 120 ft. lengths)
  - Several "Rig Tender" oil platform supply and service boats available in Kenai/Homer area (18 to 25 hours travel).
  - Four tour boats in Valdez (85' to 100') available for personnel support.
  - Availability of all dependent on season.
  - Private operators.
  - Will pursue negotiating rates for "on season" and "off season".

ACE 47570

OIL SPILL ISSUES

- Desk Top ARCO/Alyeska Drill
  - Drill scheduled for May 3 and 4, 1988.
  - Located at Valdez Civic Center and other contingency sites in area.
  - Federal/State agencies will participate.

- Expeditious Clean-up Cost Reimbursement Procedures.
  - Proposed language and section revisions to the Port Information Manual sent to Legal Subcommittee.

- USCG Spill Take Over if Responsible Party Unwilling.
  - Informal discussions held with Valdez Coast Guard.
  - Coast Guard has no problem with concept
  - Would continue to use Alyeska as prime "Contractor".
  - Discussions with Alaska DEC will be necessary and revision to approved contingency Plan may be required.

- Discuss Oil Spill Response Equipment List with ARCO.
  - Discussions held.
  - Joint tour of "Clean Sound" facilities and equipment during March
  - Report follows in this presentation.

ACE 447571

ARCO/Alyeska
Response Equipment Discussions

ACE 447572

T. L. Polasek

April 6-7, 1988

Response Equipment Discussions

- Alyeska Response Capability to Spills at midpoint of Prince William Sound.
  - Amount/Type of containment of boom.
  - Oil skimming vessels.
  - Fast response boats.

- Equipment and Operating Plan Developed by "Clean Sound" Cooperative for Puget Sound.

- Similarities/Comparability of Puget Sound and Prince William Sound Operating Environments.
  - Weather
  - Sea states and currents
  - Environmental sensitivity
  - Distances and access
  - Spill volume history/exposure

ACE 447573

ACE 447574

Response Equipment Discussions

Clean Sound

- Non-profit, unincorporated organization of Oil and Oil Transportation Companies.

- All expenditures by Co-op funded wholly by the member companies.

ARCO	Union	SPC Shipping
Mobil	US Oil & Refining	Olympic Pipeline
Shell	Foss Maritime	Trans-Mountain Pipeline
Texaco	Chevron	Four others

- Clean Sound owns equipment and employs small staff.

- Contractors utilized for equipment maintenance and operation.

- Agreements with contractors assure supply of qualified operators and maintenance personnel

- Equipment staged at commercial facilities in five locations: Bellingham, Anacortes, Seattle, Port Angeles, and Tacoma.

Response Equipment Discussions

Clean Sound

- Major Equipment and Materials

  - 6 each fast response boats (27' to 34'): Each equipped with 1000 foot "Zoom" Boom, sorbent materials, and radar. May be equipped with small, portable hydraulic skimmers.

  - 1 each 42' fast response boat: Equipped with "Destroil" skimming system and 600 gallons recovered oil storage. Has bow door and is capable of beach landing.

  - 3 each 30' work boats: Medium speed response with 1000 foot "Zoom" boom and portable disk skimming units.

  - 1 each tank barge: 12,000 BBL capacity with 60' reach deck crane, 2 diesel powered pumps and tankerman's office/shelter.

  - 10 each highway trailers/vans (32' to 40'): Stocked with booms, sorbents, tools, skimmers, bird scare cannons.

  - 1 each Mobile Command Post: 34' Trailer with charts, maps, contingency plans and communications equipment.

ACE 447575

Response Equipment Discussions

Clean Sound

Major Equipment (continued)

- 3 each "Belt Type" skimmer vessels (34' to 40'): Self-powered, twin hull units rated at 300 to 350 gpm recovery rates.

- 1 each 60' skimmer vessel: Catamaran hull with two each 3 foot belt recovery units rated at 600 gpm total. Designed for all weather operations in all areas of Puget Sound.

- 1 each 75' skimmer vessel: Seagoing vessel designed for sustained operations with minimum crew. Has debris recovery and handling devices. Recovery is 500 gpm with 12,000 gallons on board storage.

- 6000 feet of Kepner "Sea Curtain".

- 30,000 feet of Bennett "Zoom Boom" compactable boom.

ACE 447576

Response Equipment Discussions

Clean Sound

- Spill Cleanup Methodology
  - Immediate, fast response to spill, at any location, with boom to contain, exclude, and/or divert oil.
  - After boom deployment, immediately begin light skimming operations with small units carried on response boats.
  - Follow up with large, self-propelled, high efficiency skimmers as required.
  - If necessary, deploy land-based support equipment to spill site for continued work.
  - Use contracted helicopters for spill recon and direction of vessel operations.

ACE 447577

Response Equipment Discussions

Present Alyeska Prince William Sound Capability

- All equipment and material staged at Valdez Terminal.

- Alyeska employees are prime operators with back-up manpower from Northland Maintenance.

- Alyeska equipment maintenance contractor performs maintenance.

- Expenditures funded by Owner Companies.

- Mission: To immediately respond and perform initial cleanup of oil spills from vessels in the TAPS trade in Prince William Sound.

Exposure magnitude: Approximately 940 tankers per year, from 30,000 to 265,000 DWT, transiting and loading in a non-congested area with high environmental concern.

ACE 447578

Response Equipment Discussions

Present Alyeska Prince William Sound Capability

- No new skimming vessels purchased since 1977.
- Work boat upgrade/replacement program in progress.
- Response Complement:
  - Fast response boats with sorbent boom and light duty skimmers.
  - Medium capacity self-propelled skimmer vessels.
  - Deck barge with sea skimmer and boom.
  - 10,000 BBL tank barge (late 1988)
  - Airborne dispersant delivery (late 1988)
  - Contracted tug boats.
  - Mobile contingency command center with communications repeaters (mid-1988).

ACE 447579

Response Equipment Discussions

Alyeska

- Present Major Equipment and Materials.
  - 5 each fast response boats (21' to 26'): Equipped with sorbent booms. May be equipped with portable hydraulic skimmers.
  - 2 each 26' work boats: For support and supply delivery.
  - 2 each "Belt Type" skimmer vessels (36' and 45'): Self-powered, twin hull units rated at 300 GPM recovery.
  - 5 each Vikoma Sea Pack units: 8000 total feet inflatable boom. Units must be towed to site by tugs.
  - 1 each deck barge: 16,000 foot harbor boom packed in containers and Vikoma 240 BBL/hr sea skimmer. Must be towed to site by tugs.
  - 3 each 19' work platforms: Powered by small outboards for calm water use.

ACE 447580

Response Equipment Discussions

Alyeska

- Prince William Sound Cleanup Methodology
  - Immediate, fast response to mid-point of Prince William Sound not possible with present equipment complement.
  - Dispatch available aircraft for recon and spill cleanup direction.
  - Dispatch equipment sets pulled by Crowley tugs and line boats.
  - Obtain additional USCG and commercial resources to continue cleanup and relieve Crowley tugs.
- Turn over spill to responsible party or USCG after initial activities complete.

ACE 447581

ALYESKA EQUIPMENT PROJECT
(for oil spill cleanup)

RECOMMENDED PURCHASES

1. LARGE OCEAN GOING SKIMMER, SIMILAR TO THE CLEAN SOUND VESSEL THE NORTH SOUNDER. THIS VESSEL SHOULD BE LARGE ENOUGH TO KEEP THE CREW OUT OF THE WEATHER. THE VESSEL SHOULD HAVE RADAR, BUNKS, GALLEY AND A HEAD, CAPABLE OF A FEW DAYS OF OPERATION WITHOUT RETURNING TO PORT.

   THE NORTH SOUNDER IS A BELT TYPE SKIMMER WHICH EVIDENTLY WORKS WELL, I SUGGEST THE SYSTEM THAT McLORI MAKES BE INVESTIGATED.

2. 10000 BARREL BARGE IS NEEDED TO HANDLE OIL THAT IS PICKED UP DURING A SPILL. A SPILL > 5000 bbls, ADDITIONAL BARGES WOULD BE REQUIRED. THE ADDITIONAL BARGES COULD COME FROM SEATTLE, AND BE ON SCENE IN 96 HOURS.

   THE DESIRED BARGE SHOULD HAVE CLEAR WORKING SPACE SIMILAR TO CLEAN SOUNDS, CLEAN ONE. ROOM FOR A HELICOPTER PAD WOULD BE USEFUL. SOME "BUNK HOUSE" SHELTERS WOULD BE HANDY FOR EXTENDED CLEANUPS TO HOUSE THE CREWS.

3. ADDS PACK NEEDED, I UNDERSTAND THAT ALYESKA HAS ALREADY STARTED THIS PURCHASE.

4. FAST SPILL RESPONSE VESSELS ARE NEEDED, SUCH AS SEEN AT THE MUNSON BOAT YARD. ALSO, IT IS IMPORTANT TO HAVE A SHELTERED CABIN AND RADAR.

5. DESTROIL SKIMMER WITH POWER PACK, TO BE ABLE TO QUICKLY GET A SKIMMER ON SCENE OR SET UP IN AREAS WHERE THE VESSEL SKIMMERS CANNOT APPROACH. THIS HAS THE CAPABILITY TO USE FROM THE FAST SPILL RESPONSE VESSELS.

6. ADDITIONAL 5000 FEET OF SEA QUALITY BOOM.

JEFF SHAW 3/22/88

EXHIBIT E

JBF DIP Model 5001A

Dynamic Inclined Plane
Oil Recovery Vessel

ACE 447583

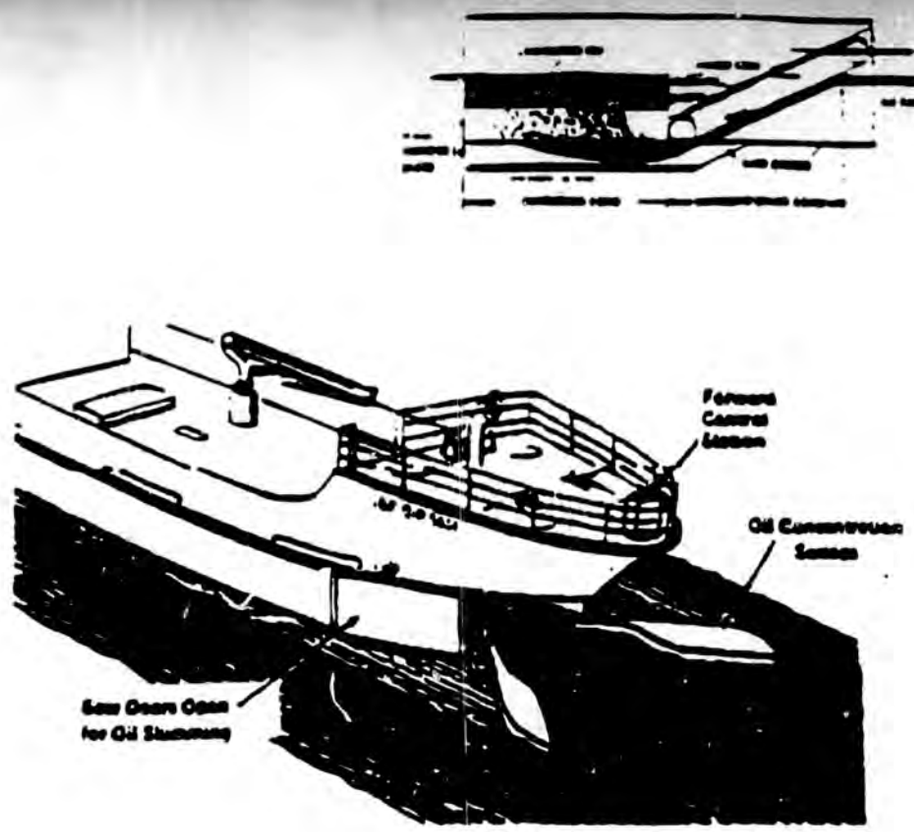


Figure 1-1. JBF DIP Concept and Oil Concentration Sweeps

1-1 PURPOSE OF SYSTEM/DIP CONCEPT

The JBF Model 5001A recovery system is designed to pick up spilled oil and debris from the water's surface. A conveyor forward of the oil recovery system first removes floating debris while water and oil flow through the open-mesh conveyor belt. The oil collection system then collects the oil, separates it from the water, and collected oil can then be pumped into on-board storage tanks from which it can subsequently be pumped to barges or to dockside receiving tanks. The cargo pump and valving system are also designed to allow collected oil to be pumped directly from the collection well to a barge or tank alongside. The vessel is self-propelled and is equipped with a complete and independent power system to drive all collection and pumping systems.

The DIP Model 5001A system is based on the concept (Figure 1-1) of collecting oil under the surface of the water, thus reducing the effect of waves. As the system moves through the water, the oil is forced to follow the surface of a moving inclined plane to a collection well underneath the hull. Buoyant forces cause the oil to surface in the well, forcing water out the bottom. When a sufficiently thick oil layer has collected, it is pumped into storage tanks. Separation occurs automatically and no water is collected.

The vesssel can be used in both protected waters and in the more open waters. It can be used in a wide variety of operating modes that require stationary or self-propelled oil-skimming capability. The wide aperture formed by the sweep system makes it extremely effective against oil slicks in open waters. The skimmer can also be used successfully as a link in boom harvesting systems or as a means of picking up oil contained within a boomed-off area.

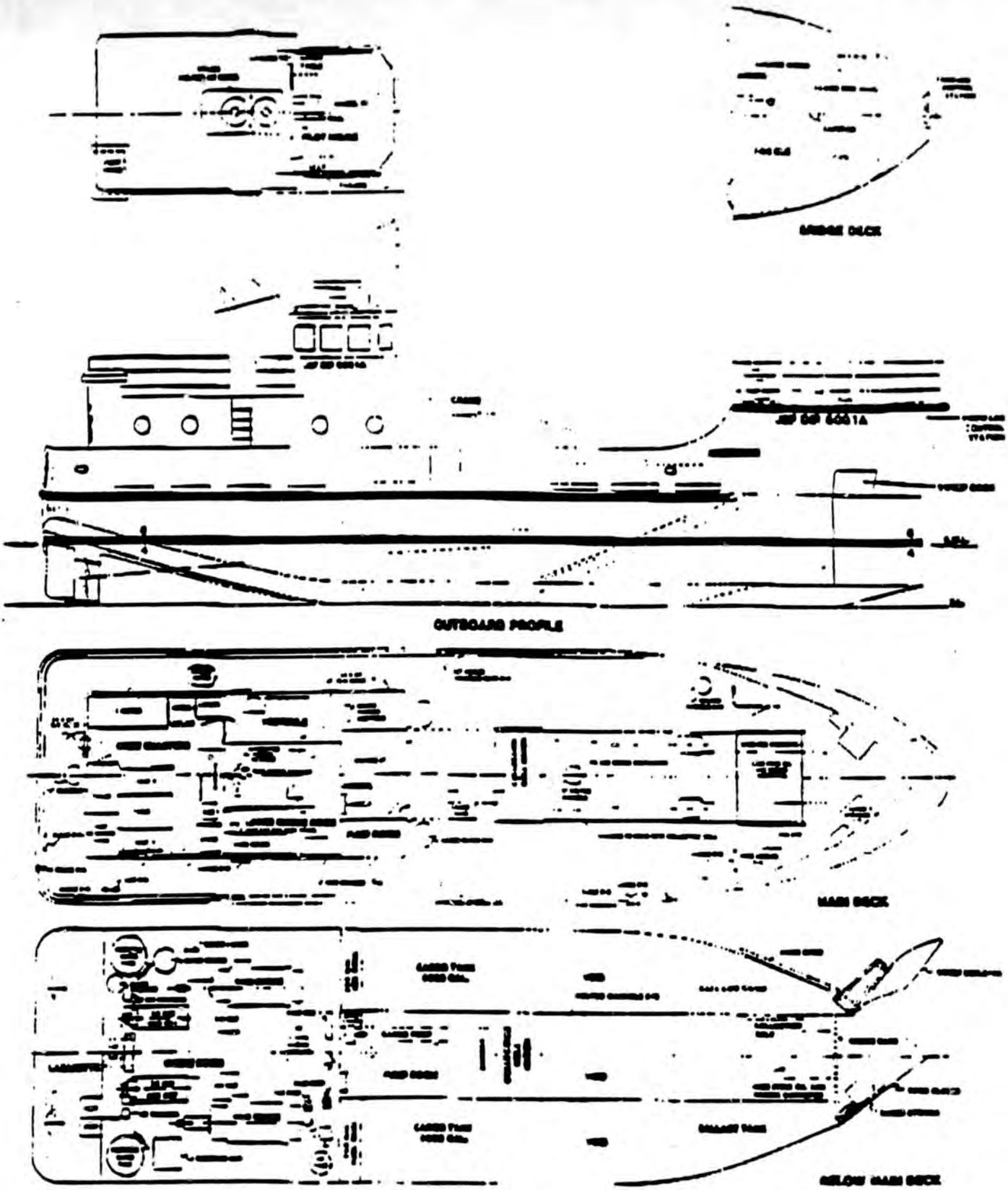


Figure 1-2. DIP 5001A Profile and Arrangements

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9452

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EXHIBIT F

MR. THEO POLASEK
ALYESKA
ANCHORAGE, ALASKA

RE: ALYESKA OIL SPILL EQUIPMENT

AS YOU KNOW THE MARINE SUBCOMMITTEE WAS ASKED TO PROVIDE THE OWNERS COMMITTEE WITH ITS THOUGHTS AND RECOMMENDATIONS REGARDING THE UPGRADING OF ALYESKA'S OIL SPILL RESPONSE EQUIPMENT FOR USE BOTH AT THE TERMINAL AND IN PRINCE WILLIAM SOUND.

A REVIEW OF THE HISTORY OF OIL SPILLS AT THE VALDEZ TERMINAL LEADS THE COMMITTEE TO THE CONCLUSION THAT THE CURRENT STOCKPILE OF CLEAN UP EQUIPMENT IS ADEQUATE. FROM THAT CONCLUSION, THE MARINE SUBCOMMITTEE'S FIRST RECOMMENDATION SHOULD BE THAT THE CURRENT STOCKPILE OF EQUIPMENT MUST BE MAINTAINED TO THE HIGHEST STATE OF READINESS, AND SHOULD BE REPLACED WITH SIMILAR EQUIPMENT AS AND WHEN APPROPRIATE. PRIOR TO ANY ACTUAL EQUIPMENT RENEWALS, A CAREFUL REVIEW OF ALL TECHNOLOGICAL IMPROVEMENTS SHOULD BE UNDERTAKEN. APPROPRIATE REPLACEMENT EQUIPMENT SHOULD THEN MEET BEST AVAILABLE TECHNOLOGY STANDARDS.

WHEN CONSIDERING ADDITIONAL EQUIPMENT FOR THE PURPOSES OF IMPROVING SPILL RESPONSE AND RECOVERY IN PRINCE WILLIAM SOUND, THE TOTAL LACK OF PRIOR SPILL EXPERIENCE IN THE SOUND IS BOTH A CURSE AND A BLESSING. WHAT SORT OF CASUALTY AND SIZE OF SPILL SHOULD BE PLANNED FOR? ANY SPILL IN PRINCE WILLIAM SOUND IS MOST LIKELY TO RESULT FROM EITHER A COLLISION OR A STRANDING. THE RELATIVELY LOW LEVEL OF TRAFFIC, THE TRAFFIC SEPARATION SCHEME AND THE U.S. COAST GUARDS VESSEL TRAFFIC SERVICE ALL CONTRIBUTE TOWARD LOWERING THE POSSIBILITY OF A COLLISION. A STRANDING AS A RESULT OF THE TOTAL LOSS OF POWER OR STEERING, IS IN THE COMMITTEE'S VIEW MUCH THE MORE LIKELY EVENT TO TRIGGER A SPILL.

WHILE THE ISSUE OF WHETHER A SPILL IS MORE LIKELY TO OCCUR AS A RESULT OF EITHER A COLLISION OR STRANDING IS A VEXING ONE, IT IS QUITE CLEAR THAT A DIFFERENT TYPE OF CLEAN UP EQUIPMENT WOULD BE REQUIRED IN EITHER CASE.

IT IS NOT UNREASONABLE TO ASSUME THAT ANY COLLISION LIKELY TO RESULT IN AN OIL SPILL WOULD MOST PROBABLY OCCUR IN MID-CHANNEL AND, THEREFORE, BE IN RELATIVELY OPEN WATER. WHEREAS A STRANDING BY DEFINITION WOULD PROBABLY BE ON A LEE SHORE, WHERE EQUIPMENT DESIGNED PRINCIPALLY FOR OPEN WATER WOULD BE OF LIMITED VALUE. THEREFORE, THE MARINE SUBCOMMITTEE'S SECOND RECOMMENDATION SHOULD BE THAT ANY ADDITIONAL EQUIPMENT PURCHASED BY ALYESKA FOR THE PURPOSE OF ENHANCING SPILL RESPONSE AVAILABILITY IN PRINCE WILLIAM SOUND SHOULD BE OF THE TYPE BEST SUITED FOR NEAR SHORE AND BEACH OPERATIONS.

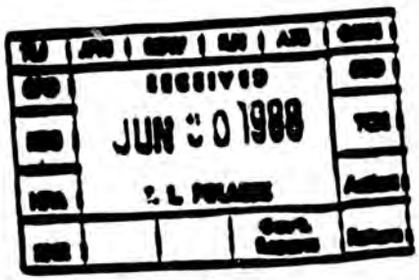
CONSIDERING THE LACK OF REAL BEACH THROUGHOUT PRINCE WILLIAM SOUND. THE NEED FOR A STABLE WORKING PLATFORM AND FLOATING STORAGE FOR RECOVERED MATERIAL MAKES THE ACQUISITION OF BARGE WITH SUBSTANTIAL DECK SPACE AND TANK VOLUME A PRIORITY. AGAIN. BECAUSE THE CLEAN UP ACTIVITY IS LIKELY TO BE CLOSE INSHORE WITHOUT A BEACH. WORK BOATS MOUNTED ON THE BARGE WILL BE REQUIRED FOR DEPLOYING BOOMS AND SKIMMERS. ETC.

THE MARINE SUBCOMMITTEE'S THIRD RECOMMENDATION SHOULD BE THAT A BARGE (50-100 MBLS.) OUTFITTED WITH VARIOUS LENGTHS AND TYPE OF BOOM (INCLUDING OPEN WATER BOOM). SKIMMERS (LARGE. SMALL AND VISCOUS). CRANE AND WORKABOUTS BE ACQUIRED. DEPLOYMENT AND/OR PRE-STAGING OF THE BARGE ARE REALLY SEPARATE ISSUES. BUT ISSUES THAT SHOULD BE ADDRESSED AT THIS TIME IF A PURCHASED BARGE IS TO BE EFFECTIVE. OUR FOURTH RECOMMENDATION SHOULD BE THAT ALYESKA UNDERTAKE A STUDY OF THE BEST AND QUICKEST METHODS OF MOVING THE BARGE AROUND AND WHETHER THE BARGE SHOULD BE PRE-DEPLOYED IN A SAFE COVE SOMEWHERE BETWEEN ROCKY POINT AND THE NARROWS. THE STUDY SHOULD ALSO DETERMINE WHETHER OR NOT PERSONNEL FROM MIDDLE ROCK. INC. (THE PILOT BOAT SERVICE) COULD BE EFFECTIVELY AND ECONOMICALLY EMPLOYED IN MAINTAINING THE PRE-DEPLOYED BARGE.

THE IMPORTANCE OF CHEMICAL DISPERSANTS SHOULD NOT BE IGNORED AND THE SUBCOMMITTEE'S FINAL RECOMMENDATION SHOULD BE THAT ALYESKA. AIDED BY THE OWNER COMPANY'S AS APPROPRIATE. CONTINUE TO PRESS STATE AND FEDERAL AUTHORITIES FOR PRE-APPROVAL TO USE CHEMICALS ON A WIDE SPREAD BASIS. THE OWNERS COMMITTEE HAS APPROVED THE PURCHASE OF AN ADDS PACK AND DISPERSENTS CONTINGENT ON OBTAINING STATE AND FEDERAL PRE-APPROVAL.

I BELIEVE THE FOREGOING REPRESENTS AN ACCEPTABLE COMPROMISE OF THE SLIGHTLY DIFFERING VIEWS EXPRESSED BY THE TASK GROUP MEMBERS. THE OPERATIONS COMMITTEE IS DUE TO MEET ON JULY 6 AND THEREFORE I WOULD APPRECIATE YOUR ADVISING ME BY TELEX. COPIED TO THEO POLASEK (TELEX: 09025127 — ANSWER BACK: TRANSPIPEAMG) AT ALYESKA. NO LATER THAN JULY 5 THAT YOUR COMPANY CAN SUPPORT ALL FIVE RECOMMENDATIONS.

ROGER A. GALE
MANAGER. MARINE OPERATIONS
SOHIO OIL. CLEVELAND



CC: F. G. GARIBALDI
J. P. G. CROXSON

COLLEEN WALLENHORST
X5597

TRANSPIPE AMG

IIC

TRANSPIPE AHG

ARCOMAR 8 LGB
1515 PDT 07/06/88

— EXHIBIT G —

ROGER A. GALE
SOHIO OIL.
CLEVELAND. OHIO

MSG NBR 016

REF: YOUR TELEX 6/30/88 - ALYESKA OIL SPILL EQUIPMENT

ARCO MARINE. INC. DOES NOT AGREE WITH THIS TELEX NOR DO WE CONCUR THAT THIS REPRESENTS THE THOUGHTS OF THE SUB-COMMITTEE.

AT THE OWNERS COMMITTEE MEETING IN PHOENIX. IT WAS DECIDED THAT ALYESKA WOULD PROVIDE IMMEDIATE RESPONSE TO OIL SPILLS IN VALDEZ ARM AND VALDEZ NARROWS ONLY. FURTHER EFFORTS IN THE PRINCE WILLIAM SOUND WOULD BE LIMITED TO THE USE OF DISPERSANTS AND ANY ADDITIONAL EFFORT WOULD BE THE RESPONSIBILITY OF THE SPILLER. THE DELAY IN PURCHASING THE ADDS PACK IS INEXCUSABLE: NO FURTHER APPROVAL WAS REQUIRED.

THE OWNERS ALSO DIRECTED ALYESKA TO REVIEW ITS ADMINISTRATIVE AND EQUIPMENT PLANS TO MEET THE INITIAL RESPONSE. IN OUR OPINION THE ADMINISTRATIVE PLAN MEETS ALL CRITERIA FOR A SUCCESSFUL CLEANUP. ON THE OTHER HAND. THE FINDINGS WERE THAT SOME ADDITIONAL EQUIPMENT WAS NEEDED TO MEET THE INITIAL NEEDS OF SPILL CLEANUP. IN PARTICULAR ADDITIONAL LARGER WORK BOATS. ALYESKA HAS REVIEWED THEIR EQUIPMENT NEEDS AND SUBMITTED A PROPOSAL. ARCO MARINE. INC. SUPPORTS ALYESKA'S RECOMMENDATION AND NOT THOSE AS OUTLINED IN THE TELEX.

STANLEY FACTOR.
VICE PRESIDENT. CHARTERING & EVALUATIONS
ARCO MARINE. INC.

CC: THEO POLASEK

CC Copied SW

RECEIVED
JUL 6 1988
T. L. POLASEK

ARCOMAR 8-LGB

TRANSPIPE AHG

19

Robert L. Baldwin
700 West 58th Avenue, Suite J
Anchorage, Alaska 99518

April 10, 1991

Judge Russell Holland
United States District Court
222 West Seventh Avenue, Room 261
Anchorage, Alaska 99513

Subject: U.S.A. vs. EXXON, Case No. A90-015 Criminal

Dear Judge Holland:

It is my understanding that the plea agreement in this case will permanently remove from public access, all scientific data taken to evaluate oil spill impacts.

I strongly believe that oil spill data must not be locked away, for the following reasons.

1. Public resources were used to study a disaster involving high value public areas and ecosystems.

2. The scientific data taken is invaluable for oil spill and ecosystem research purposes, in Alaska and elsewhere.

3. This data serves as baseline information for tracking the natural and artificial restoration of damaged areas and ecosystems.

4. Without this data there is no way to for the public to objectively judge adequacy of cleanup efforts.

5. Many will believe a coverup of inadequate cleanup efforts has taken place.

The use of public resources to acquire the data would appear to fundamentally allow public access. The data literally belongs to the public. I object to selling the data to EXXON in exchange for a criminal plea or a consideration in a civil settlement.

Thank you for the opportunity to comment on this vital public issue.

Sincerely,

Robert L. Baldwin

APR 10 1991
CLERK U. S. DISTRICT COURT

19

Teresa E. Deitz
7011 Altoona
Anchorage, Ak 99502

April 10, 1991

RECEIVED
APR 10 1991
CLERK, U. S. DISTRICT COURT

Federal Court Clerk's Office
222 W. 7th
Anchorage, Ak 99513

Attention: Judge H. Russel Holland

Dear Judge Holland,

I have been listening to and reading various comments in reference to the proposed settlement between Exxon and various Federal and State agencies since last month. As a matter of fact, the Exxon Valdez Oil Spill has been a major topic of radio, television, newspapers, conversation and controversy since March 24, 1989. I would now like to add my comments to the fray.

I would like to first state that I was born and raised in Alaska, so I feel I can comment on this legitimately. All the people who live Outside, who have not been up here and involved, can not realistically give an opinion on this issue, and should leave it to the people - Alaskans - who are involved.

Yes, I too feel that Exxon has an obligation to Alaskans concerning the Spill. Yet at the same time, I am of the opinion that Exxon has gone out of it's way to make retribution in the last two years, and that a final, negotiated settlement is not out of line.

In all of the articles that give reference to Alaska Natives, there is never any reference to the fact that any of the Councils/Associations that asked were given money, food and equipment (that they probably could not afford on their own). This is in addition to the many Councils/Associations that rented a small piece of wilderness, usually at the top of some distant mountain, at very high prices for Exxon to use for telecommunications sites.

As far as the State and Federal agencies go, they also got their piece of the action. They had a lot offices set up, equipment bought, flights taken and studies done, just to mention a partial list, all on Exxon money.

And let's not forget about the slump that Alaska was in economically. A lot of people were paid excellent wages to help with the cleanup, and there are quite a few who are still collecting these wages.

Granted, there was damage done, but the most of that has been cleaned up. And it's not like Exxon did the damage on purpose. I don't think that there is a business running that would intentionally bring on the extreme cost, not to mention the extensive bad press, that is associated with any oil spill.

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I'm quite sure that they could have found a willing market for the crude versus spilling it throughout Prince William Sound.

If the State and Federal agencies in Alaska don't get their collective stuff together and go ahead and settle with Exxon, there is the chance that they won't get all the money they would now to finance the studies and projects they want to do in regards to this spill.

It's not like Exxon hasn't paid out the nose for this already. And if it were a less financially stable company, who would have been paying for this but the fine residents of Alaska. I think greed is blinding a lot of people on this issue, and that we should take the monies being offered, keep in mind the lessons learned during this period, and move on.

Sincerely,

Teresa E. Deitz

cc: Governor Walter J. Hickel
Anchorage Daily News
Anchorage Times

20

Don Soileau
505 W. 2nd Ave. #104
Anchorage, AK 99501

April 10, 1991

Judge Holland:

I would like to take this opportunity to urge you to reject the Exxon Valdez Oil Spill Settlement. In light of recent revelations, I believe that Exxon is criminally responsible for this catastrophe and should be tried for it in court. The proposed monetary settlement is insufficient for rectifying the damage that was inflicted upon the Prince William Sound - Gulf of Alaska ecosystem, and it has only been in the past couple of days that the true extent of that damage has been revealed. At the very least, I would ask that you extend the comment period since the scientific studies relating to the spill are just now being released to the public. If those of us effected by the spill are expected to make informed comments, we will need some time to examine these studies.

Thank you for accepting public comment on this matter.

Sincerely,

Don Soileau

RECEIV
APR 10 1991
CLERK, U. S. DISTRICT COUR

ACE 447592

21

SALLY SCHLIESMANN. Ph.D.
CLINICAL PSYCHOLOGIST
(907) 278-1200 • 2600 Denali, Suite 701 • Anchorage, Alaska 99503

~~204~~
21

April 9, 1991

Honorable Judge Holland
US District Court
222 W. 7th
Anchorage AK 99501

To the Honorable Judge Holland

I am writing to protest the current State / Federal / Exxon bill settlement. An accurate monetary damage from the spill is not publicly available. However, it is clear that the deferrent value of the settlement is totally inadequate. If any disagreement arises between the state + federal representatives over the fine, Exxon is not required to pay the discrepancy. I strongly urge you not to honor the current proposed settlement. Further litigation is preferable to agreeing to this deal.

Thank you for your consideration of this very important matter.

RECEIVED

Sally Schliesmann

ACE 447593 1

(22)

JT JUDGE
H. RUSSEL HOLLAND

223

RECEIVED

APR 10 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

4/4/91

Dear Judge Holland,

I'm writing to urge you not to support the State + Fed Exxon Oil Spill Settlement.

The proposed $900 million settlement, when viewed in light of the tax write offs for Exxon and the no interest pymt plan, actually amounts to only $450 million! If any disagreement arises between State + fed. courts, Exxon is not required to pay the $100 million criminal fine! Also public funds were used to study damage done to the Pri Sound, and those results are being withheld from the public by the Hickel admin. Alyeska Co. owes the State compensation! Further litigation is preferable to agreeing to this deal. thank you. Tomasson

ACE 447594

(23)

MARCH 24th 1991
NOON
STOCKTON, CALIFORNIA

23

"FINAL ANALYSIS, AND, SYNOPSIS,"
"OF CAPT. JOSEPH, J, HAZELWOOD"
"S.S EXXON VALDEZ, TRIAL" AND "EXXON CORP.

HONORABLE U.S. DISTRICT COURT JUDGE, H. RUSSEL HOLLAND. & TO WHOM IT MAY CONCERN,
DEAR SIRS & GENTLEMEN,—

"THIS is MY FOLLOW UP" FROM JULY 25, 1990
I AM THE SON OF A MARINE ENGINEER WHO IS DECEASED IN 1963. I WAS BORN IN SAN-DIEGO CALIFORNIA 12-12-16. I WENT SEA FOR OVER (40) YEARS MYSELF, IN THE ENGINE DEPT. TO MAKE A LONG STORY SHORT, IN MY SPARE TIME AT SEA, I STUDIED ADMIRALTY LAW FOR OVER (11) YEARS.

IT WAS MORE OR LESS, A CORRESPONDENCE COURSE, IN A ADMIRALTY LAW SCHOOL, IN LONDON, ENGLAND. I HAD TO RETIRE IN JANUARY, 1975, AS I HAD AN ACCIDENT WHILE SAILING ABOARD A VESSEL, IN THE PORT OF BREMER HAVEN, GERMANY.

WHEN THE "EXXON VALDEZ" WENT AGROUND IN MARCH OF 1989, I DID NOT REALIZE, AT THAT TIME, I KNEW CAPT. JOSEPH, HAZELWOOD, ALTHOUGH I HAD NOT SEEN HIM FOR MANY YEARS, HE DID BECOME A CASUAL FRIEND OF MINE, WHAT I KNEW OF HIM, TO ME, IN EVERY WAY, I WILL EXPRESS MYSELF IN THIS LETTER.

WHEN THE "EXXON VALDEZ" WENT AGROUND, I STUDIED AND WROTE ABOUT THE CASE, FOR (10) MONTHS IN THE

CONFINDS OF MY APARTMENT AND IN A LOCAL LIBRARY HERE IN STOCKTON.

WHEN MY FINDINGS WERE COMPLETE IN EVERY DETAIL AND BEFORE THE TRIAL GOT STARTED IN ANCHORAGE, ALASKA, I SENT LETTERS TO EVERYONE INVOLVED IN THE CASE AS FOLLOWS. THE FOLLOWING GOT MY FINDINGS 7-25-1990 -- COPIES TO:

1/ CAPTAIN, JOSEPH & HAZELWOOD'S, ADMIRALTY LAWYER, MICHAEL CHALOS, IN NEW YORK, N.Y.

2/ BOARD CHAIRMAN OF EXXON CORP, NEW YORK, NY MR. LAWRENCE RAWL.

3/ EDITOR OF AN ANCHORAGE NEWSPAPER IN ALASKA.

4/ MUNICIPAL COURT JUDGE, JOHN STONE, THE PRESIDING JUDGE OF THE TRIAL, AT ANCHORAGE.

THIS IS MY TRUE, AND CORRECT FINDINGS, OF THE CASE, FROM START-TO-FINISH - 7-25-90.

"AS FOLLOWS"

WHEN THE "S.S. EXXON" VALDEZ" WAS FULLY LOADED AND READY TO SAIL, CAPT' JOSEPH HAZELWO. CAME ABOARD ON HIS OWN STEAM LONG BEFORE SAILING TIME, HIS FIRST ACTIONS WERE, THE SAFTY OF THE CREW, THE VESSEL ITSELF AND PROTECTING

THE EXXON SHIPPING COMPANY AND THEIR INSURANCE COMPANY. HE KNEW THE WEATHER CONDITIONS WERE FOUL, AND HAZARDOUS IN PRINCE WILLIAM SOUND AND THE VISIBILITY WA NASTY, PLUS, THERE WAS ICE FLOATING IN THE SOUND AS WELL, "BERGS" MORE OR LESS. HE THEN CONVENED WITH HIS OFFICERS AT ONCE. HE HAD ORDERS TO SAIL THE VESSEL REGARDLE OF THE PORT AUTHORITY, COAST GARD AND PILO ASSOC; AND WHAT THEY HAD TO SAY ABOUT SAILIN THE VESSEL WITH NO PILOT ABOARD.

AT THIS POINT, CAPT. JOSEPH HAZELWOOD WA A "VICTIM OF CIRCUMSTANCES," IN OTHER WORDS "HE WAS UP AGAINST A BRICK WALL, AND BEING "THE DEVIL AND THE DEEP BLUE SEA," AND RESPONSIB FOR A LOADED TANKER TO SAIL THE VESSEL WITH ONE MAY SAY, "UNDER PROTEST AS WELL".

AFTER CONSULTATION WITH HIS OFFICERS, HE HAD THR (3) CHOICES TO MAKE, ALSO, HE HAD NO RIVER PILO ABOARD THE VESSEL. HIS CHOICES WERE ITS FOLLOWS, "HAVE A PILOT TO TAKE THE VESSEL TO A SAFE ANCHORAGE FOR BAD WEATHER CONDITIONS AND HAZEDOUS TO SAIL THE VESS IF NOT THAT, HE COULD HAVE TOLD THE CHIEF MATE, RADIO OPERATOR AND THE CHIEF ENGINEER, THATHE IS REFUSING TO SAIL TH VESSEL. ALL HE HAD TO DO, FOR EVERY ONE PROTECTION, INCLUDING THE VESSEL ITS SE WAS TO ENTER HIS PROTEST IN THE OFFICIA

4/

>G BOOK, SIGN IT, THEN TAKE THE SHIPS
RTICLES AND HIS MASTERS LICENCE AND
NOT SIGN A SAILING ORDER, "AND HE HAD A
PERFECT RIGHT TO DO SO UNDER MARITIME
AND ADMIRALTY LAWS, WITH NO QUESTIONS ASK

I HAVE BEEN IN AND OUT OF PRINCE WILLIAM SO
MANY TIMES AND I KNOW, HOW BAD THE WEATHER CA
GET THERE IN THE WINTER MONTHS AND WHA
CAPT. JOSEPH HAZELWOOD WAS UP AGAINS
HE ACTUALLY SAILED THE VESSEL UNDER =
PROTEST, AND AGAINST HIS, OWN WILL AN
THE CREW OF THE VESSEL ITS SELF. .

ITS ALMOST IMPOSSIBLE TO MANUEVER A VESS
OVER "900 FT. LONG" A FULLY LOADED
TANKER" IN A SOUND FULL OF ICE, AND BERGS
ALSO, ITS IMPOSSIBLE TO MANUEVER A VESSE
LIKE A MOTER CYCLE IN AND OUT OF TRAFFIC
PLUS, DODGE ICE BERGS, AS WELL.

CAPT. JOSEPH HAZELWOOD KNEW HE WAS
TAKING A DIRE CHANCE AS WELL AS SAILIN
THE VESSEL UNDER PROTEST TO GET THE
VESSEL OUT OF PRINCE WILLIAM SOUND INTO DE
WATER, ESPECIALY WITH NO RIVER PILOT AN
FINDING FOUL AND HAZEDOUS WEATHER
CONDITIONS AS WELL.

ITS A PROVEN FACT. THAT CAPT. JOSEPH
HAZELWOOD KNEW EXACTLY WHAT HE WAS

DOING, AND WHAT HE WAS UP AGAINST AT TH
TIME WHEN HE SAILED THE VESSEL,
THEREFORE, THE BLAME FALLS ON THE
S. COASTGARD, VALDEZ PORT AUTHORITI
AND THE PILOT'S ASSOCIATION FOR LETT
CAPT. JOSEPH HAZELWOOD SAIL THE
VESSEL UNDER THE CONDITIONS THAT HE
DID AS MENTIONED IN THIS LETTER.

CAPT. JOSEPH HAZELWOOD, EXXON CORP.
AND THEIR SUBSIDIRY, EXXON SHIPPING COM
IN HOUSTON, TEXAS ARE NOT TO BLAME FOR
ANYTHING AT ALL. THE VESSEL'S R.P.M
AND STEERING MANUEVERING POWER AT TH
TIME WAS NOT CAPABLE OF SHIFTING THE
VESSEL FROM PORT TO STARBOARD AN
VISE-VERSA IN HAZARDOUS WEATHER
CONDITIONS AND THE VISABILITY WAS BAD
WHICH DID NOT HELP MATTERS EITHER, CAPT.
HAZELWOOD TOOK A CHANCE, AND A GAMBLE AN
LOST THROUGH NO FAULT OF HIS OWN OR THE
CREW OF THE "EXXON VALDEZ".

HONORABLE RUSSEL HOLLAND, YOU SHOULD
UNDER MARITIME AND ADMIRALTY LAWS ACCE
A CHANGE OF PLEA AGREEMENT AND IMPOS
NO SENTENCE AND DROP ALL CHARGES THA
EXISTS AGAINST EXXON CORP. AND CAPT
JOSEPH HAZELWOOD.

6

EXXON CORP. HAS ALREADY FULL FILLED THEIR COMMITMENTS AND OBLIGATIONS AND SPENT AN ENORMOUS BUNDLE CLEANING UP THE OIL SPILL, THAT ALONE SHOULD BE SUFFICIENT ENOUGH UNDE MARITIME & ADMIRALTY LAWS TO DROP THE CASE, ANY MARITIME AND ADMIRALTY LAW JUDGE WOULD "HAVE DROPPED THE CASE ON THESE FINDINGS WHIC ARE TRUE FACTS, NOT HERE "SAYS OR FALSE FINDINGS OF ANY KIND WHAT SO EVER."

UNDER MY FINDINGS, UNDER MARITIME AND ADMIRALTY LAWS, THIS WHOLE CASE SHOULD HAVE BEEN TRIED IN A MARITIME COURT UNDER ADMIRALTY LAWS, NOT IN A MUNICIPAL COURT IN ANKORAGE WITH JUDGE JOHNSTONE AND BRET COLE, PROSOCUTIN THE CASE. THEY BOTH KNOW NOTHING ABOUT MARITIME OR ADMIRALTY LAWS WHAT SO EVER AND THE WHOLE CASE WAS TRIED LIKE IN A CITY TRAFFIC COURT, AS IT WAS, IT TURNED OUT TO BE LIKE A FARCE IN THE CITY OF ANCHORAGE AND THE WHOLE STATE OF ALASKA.

BRET COLE, THE PROSOCUTOR IN THE CASE AND THE PRECIDING JUDGE JOHNSTONE WERE USING CAPT. JOSEPH HAZELWOOD AS A SCAPE GOAT AND THE JURY KNEW IT AND SO DID A COUNTY SHERIFF THAT WENT ABOARD THE VESSEL ON THE DAY OF THE GROUNDING AND FOUND CAP, JOSEPH HAZELWOOD, COOL, CALM, AND COLLECTIV. AND SOBER AS A JUDGE, NOT WHAT A BUNCH OF FOOLS SAID ABOUT HIM,

4/

A RECKLESS AND MALICOUS DRUNKEN CAPTAIN, "NO WAY."

EXXON CORPORATION AND THEIR SHIPPING COMPANY IN HOUSTON TEXAS DO NOT HIRE THAT KIND OF CAPTAIN IN THE FIRST PLACE. WHEN THE SHERIFF THAT WENT ABOARD TH VESSEL AT THE GROUNDING SITE ASK CAP JOSEPH HAZELWOOD, "WHAT WENT WRONG, HE SAID, "YOU'R LOOKING OUT THE WINDOW" AND I HAVE TO TAKE THE CLAM BACK. AL THE SHERIFF AGREED WITH HIM ONE HUNDRED PERCENT, 100%.

CAPTAIN JOSEPH HAZELWOOD IS A FINE GENTLEMAN AND A SCHOLAR IF I EVER SA ONE AND A RELIABLE MERCHANT TANKER CAPTAIN, YOU MIGHT SAY, AS GOOD AS ANY AND BETTER THAN MOST IN MY BOOK.

WHEN I FOUND OUT THE TRUE FACTS AN MY FINDINGS IN THE "EXXON VALDEZ" CASE, IT TOOK ME ALL OF TEN MONTHS TO SOL THE TRUE AND PROVEN FACTS OF THE CASE. I KNEW RIGHT THEN AND THERE THAT CAP JOSEPH HAZELWOOD WAS BEING USED AS A SCAPE GOAT AND I PROVED IT AND DID MY BEST TO HELP HIM AND HIS ADMIRALTY LAWER, MICHAEL CHALOS AS WELL. IF I COULD HAVE BEEN AT THE TRIAL IT WOULD HAVE TURNED OUT AN AQUITAL,

N ALL COUNTS, AS IT TURNED OUT, CAPTAIN JOSEPH HAZELWOOD HAD HIS MASTERS LICENCE SUSPENDE FOR NINE MONTHS, AND SOME COMMUNITY WORK,-- THESE TWO PUNISHMENTS, WHAT YOU MIGHT CA SILLY, AND UNCALLED FOR, ALSO, AND A ADMINISTRA LAW JUDGE, HARRY J. GARDNER, ALSO PLACED CAPTAIN JOSEPH HAZELWOOD ON PROBATION FO ONE YEAR.

AS IT IS NOW, THE MOST IMPORTANT PART OF THIS CASE, AND AS IT LOOKS TO ME, THE CASE IS UNDER YOUR JURISTICTION THAT CAPTAIN JOSEPH HAZELWOOD, EXXON SHIPPING CORP, AND THE EXXON SHIPPING COMPANY IN HOUSTON, TEXAS SHOULD HAVE ALL CHARGES DROPPED, AND CAPTA JOSEPH HAZELWOOD SHOULD BE COMPENSATED FOR A THE THINGS THAT PEOPLE SAID HE WAS, AND HE IS ABSOLUTLEY NOT THAT, AND UNFOUNDED FO

UNDER MARITIME AND ADMIRALTY LAWS, HE AND THE CREW OF THE "EXXON VALDEZ", ARE ABSOLUTLEY INNOCENT OF ALL CHARGES CAPTAIN JOSEPH HAZELWOOD AND HIS CREW ABOARD THE "EXXON VALDEZ" WERE ABSOLUTL CONFIDENT AND RELIABLE.

THE U.S. ATTORNEY GENERAL, MR. THORNBURG SHOULD BE QUESTIONED ABOUT ALL THIS A HE TOO SHOULD REVERSE AND DROP AN PLEA AGREEMENT, DROP ALL FELONY CHARG AND ALL OTHER CHARGES, AND GIVE

4

CAPTAIN JOSEPH HAZELWOOD A CLEAN BILL OF HEALTH, AS WELL AS EXXON CORP;. EXXON CORP, HAVE FULFILLED THEIR OBLIGATION AND CLEANED UP THE OIL SPILL FAITHFULLY AND CAPTAIN JOSEPH HAZELWOOD WAS THE FALL GUY, FOR A BUNCH OF FOOLS THAT DON'T KNOW ANYTHING AND ABSOLUTELY NOTHING ABOUT MARITIME AND ADMIRALTY LAWS, THIS INCLUDES MUNICIPAL COURT JUDGE, JOHNSTONE AND THE PROSECUTOR BRET COLE.

IN WINDING UP THIS LETTER AND UNDER ALL RESPECTS SHOULD MAKE GOOD SENSE TO YOU AND ITS ALL TRUE AND HONEST FACTS, ONE HUNDRED PERCENT 100%, NOT HEAR-SAY. ALL THE BEST TO YOU,

SINCERLY YOURS
Vern H. Armstrong
MR. VERN H. ARMSTRONG

U.S. MERCHANT MARINE SERVICE
RETIRED - ADMIRALTY LAW ~~BAMER~~ BY PROXY FROM THE LONDON SCHOOL OF LAW LONDON ENGLAND.

("PLEASE TRY AND SET ASIDE AN APRIL 11 TH. DECISION, AND CONSIDER MY TRUE FACTS AND FINDINGS, ITS THE HONOR TO DO")

10/

P. S.

SEATIME, 43 YEARS AND SEVEN MONTHS, WORLD WAR 2, KOREA AND VIETNAM, AND FROM THE 1934 SEAMAN'S STRIKE IN SAN-FRANSICO. I GUESS I AM ABOUT THE ONLY ONE LEFT FROM THAT STRIKE.

I HAVE A FINE WIFE FROM ENGLAND AND MARRIED 40. YEARS.

I STUDIED MARITIME AND ADMIRALTY LAW BY CORROSPONDENCE SCHOOL, LONDON UNIVERSITY, LONDON ENGLAND FROM 1947 TO 1958, 11 YEARS IN ALL AND A FRIEND OF JAKE ERLICH, MARITIME AND ADMIRALTY LAWYER-DECEASED 1977 50 YEARS IN LAW. HE WAS THE BEST, AND NONE OTHER.

V. H. A.

TEL. NO. 1-209-474-6912

RECEIVED
10 1991
CHAMBERS OF
DISTRICT JUDGE
HOLLAND

BILL

ACE 447604

CRIMINAL DOCKETING.

A Gannett Newspaper



AZELWOOD: Wants job back.

Exxon captain acquitted of major charges

The Associated Press

ANCHORAGE, Alaska — A jury on Thursday acquitted Exxon Valdez skipper Joseph Hazelwood of being drunk and reckless in connection with the nation's worst oil spill but convicted him of a minor charge of negligent discharge of oil.

After deliberating for just 10½ hours, the jurors absolved Hazelwood of one felony and two misdemeanors stemming from the disaster, in which his tanker ran aground and spilled nearly 11 million gallons of oil into Prince William Sound on March 24, 1989.

The misdemeanor charge on which he was convicted carries a maximum sentence of 90 days in jail and a $1,000 fine, far less than the 7¼ years and $61,000 fine he could have faced if found guilty on all four charges.

Superior Court Judge Karl Johnstone set sentencing for today at 2:30 p.m. PST.

There were bursts of applause in the courtroom as the judge read the first three verdicts of "not guilty."

Hazelwood's New York lawyer, Michael Chalos, a former classmate of Hazelwood's at the Maritime Academy at Fort Schuyler, N.Y., clapped the skipper on the shoulder and hit the counsel table with his hand at the first "not guilty" verdict.

The normally taciturn defendant smiled broadly for the first time in the 2-month-long trial and commented briefly to reporters, saying, "I'm just relieved. I was nervous."

"I'm going to try to get along with my life. ... I'd like to go back to sea," Hazelwood told reporters at a news conference later. "That's what I do."

His lawyer said he would begin negotiations with Exxon to get back the former skipper's job and would fight expected efforts by the Coast Guard to revoke Hazelwood's captain's license.

Exxon sues Coast Guard

ANCHORAGE, Alaska — Exxon Corp. and its shipping subsidiary have filed notices of claims against the Coast Guard totaling more than $2 billion in connection with the Exxon Valdez shipwreck and oil spill.

Exxon spokesman Les Rogers said the Sept. 21 filings satisfy an administrative requirement that preserves options for Exxon and Exxon Shipping Co. to sue the Coast Guard over the spill.

ACE 447605

Exxon pleads guilty to misdemeanors

The Associated Press

ANCHORAGE, Alaska — Exxon Corp. and its shipping subsidiary pleaded guilty Friday to misdemeanor violations in the nation's worst oil spill under a plea agreement with the federal government.

U.S. District Judge Russel Holland allowed the pleas but delayed sentencing until he gathers public comment on the plea agreement.

"I will accept a change of plea," he said. "We will not impose any sentence. I will not decide today whether I will or will not accept the plea agreement."

If Holland rejects the agreement, the nation's third-largest corporation can withdraw its pleas. If he accepts it, federal felony charges against the oil company will be dropped.

"I intend to solicit information about the impact of the spill from individual victims," the judge said. The court will advertise for comment in newspapers and accept written remarks from the public until April 11. Holland set sentencing for April 24.

Guilty pleas were entered to a misdemeanor violation of the Migratory Bird Treaty Act and three misdemeanor violations of the Refuse and Clean Water acts.



AP p

SUSPENDED: Former Exxon Valdez Capt. Joseph Hazelwood is surrounded as he leaves a hearing in Long Beach.

Hazelwood blood tests possibly botched

The Washington Post

LONG BEACH — Documents apparently kept secret for more than a year by a California laboratory indicate that blood samples taken from former Captain Joseph Hazelwood were mishandled and that charges of his drunkenness before the disastrous Exxon Valdez oil tanker spill may have had no legal foundation.

Hazelwood's license to operate a ship was suspended Wednesday for nine months after he pleaded no contest to charges of negligently leaving the tanker bridge in dangerous waters and violating a rule against drinking less than four hours before sailing. Administrative law Judge Harry J. Gardner also placed Hazelwood on probation for one year.

In what Hazelwood's attorneys said was a response to the new evidence, the Coast Guard dropped allegations of drunkenness and improper procedure against Hazelwood and agreed to recommend that his license be suspended for no more than a year.

Hazelwood's attorneys released two 1989 chain-of-custody forms kept by ChemWest Analytical Laboratories Inc. They said the forms suggest a cover-up of vital evidence by the Sacramento-based laboratory, and possibly also by the Coast Guard, the National Transportation Safety Board and Alaska prosecutors.

One form shows that the laboratory noted receiving three "red-stoppered" tubes of Hazelwood's blood on March 28, 1989, not the one red-stoppered and two gray-stoppered tubes prepared by a Coast Guard health technician on boa the oil tanker about 10½ hours after ran aground on a well-marked Alask reef.

The different colors suggest a break the chain of evidence needed to pro the samples were Hazelwood's and c into question the testing process, b cause red-stoppered tubes lack a chem cal needed to keep blood alcohol fr fermenting.

The second form shows that a lab ratory employee changed the notati four days later to show two gray-sto pered and one red-stoppered tube, b neither form was given to defense att neys despite their requests.

Michael A. Peat, director of the lab ratory, said, "There was no tamper done with the specimens."

ACE 447606

Exxon efforts to avoid spill trial unsuccessful



HAZELWOOD

The Associated Press

ANCHORAGE, Alaska — A federal judge rejected arguments that Exxon Corp. shouldn't be put on trial for the Exxon Valdez spill and has ordered the oil giant to stand trial in April.

U.S. District Judge H. Russel Holland refused the company's request to dismiss a five-count criminal indictment stemming from the wreck of the tanker in March 1989.

The ship, skippered by former Exxon Capt. Joseph Hazelwood, was sailing through icy waters of Prince William Sound when it struck a charted reef and dumped more than 11 million gallons of crude oil into Alaska waters.

Thousands of birds and marine mammals died, fishing seasons were disrupted and miles of shoreline were oiled. It was the worst spill in U.S. history.

At Friday's hearing, defense lawyers said federal pollution laws weren't intended to be used to prosecute shipowners for the acts of a vessel's captain and crew.

Exxon lawyer Patrick Lynch also argued that because the tanker was owned and operated by Exxon Shipping, it was wrong to name the parent company in the indictment along with the subsidiary.

"It's a case of mistaken identity," Lynch said.

Exxon Corp. and the shipping subsidiary are charged with criminal violations of the federal Clean Water Act, the Refuse Act, the Migratory Bird Treaty Act, the Ports and Waterways Act and the Dangerous Cargo Act.

Lynch said Exxon Shipping is a separate company controlled by an independent board of directors. Drawing the parent company into the criminal case would needlessly complicate things, he said.

"It will turn this trial from a straightforward trial on maritime issues ... into a business school seminar on how corporations are managed."

But federal prosecutors say Exxon dominates its subsidiary and makes all the important decisions for Exxon Shipping, which the government called "a corporate puppet on a carefully calibrated string."

Holland denied the motions to dismiss as well as a series of other technical arguments by the companies, including Exxon Shipping's claims that crude oil is not a pollutant under the federal Clean Water Act.

ACE 447608

Valdez skipper faces Coast Guard hearing

LONG BEACH — Joseph Hazelwood, who was acquitted four months ago of most criminal charges in the nation's worst oil spill, faces a Coast Guard hearing that could strip him of his license as a ship's master.

In a hearing scheduled to start today, an administrative law judge will decide whether the former Exxon Valdez skipper was guilty of negligence and should lose his license.



HAZELWOOD

A Gannett Newspaper ... 35 cents



ZELWOOD: Wants job back.

Exxon captain acquitted of major charges

The Associated Press

ANCHORAGE, Alaska — A jury on Thursday acquitted Exxon Valdez skipper Joseph Hazelwood of being drunk and reckless in connection with the nation's worst oil spill but convicted him of a minor charge of negligent discharge of oil.

After deliberating for just 10½ hours, the jurors absolved Hazelwood of one felony and two misdemeanors stemming from the disaster, in which his tanker ran aground and spilled nearly 11 million gallons of oil into Prince William Sound on March 24, 1989.

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Superior Court Judge Karl Johnstone set sentencing for today at 2:30 p.m. PST.

There were bursts of applause in the courtroom as the judge read the first three verdicts of "not guilty."

Hazelwood's New York lawyer, Michael Chalos, a former classmate of Hazelwood's at the Maritime Academy at Fort Schuyler, N.Y., clapped the skipper on the shoulder and hit the counsel table with his hand at the first "not guilty" verdict.

The normally taciturn defendant smiled broadly for the first time in the 2-month-long trial and commented briefly to reporters, saying, "I'm just relieved. I was nervous."

"I'm going to try to get along with my life. ... I'd like to go back to sea," Hazelwood told reporters at a news conference later. "That's what I do."

His lawyer said he would begin negotiations with Exxon to get back the former skipper's job and would fight expected efforts by the Coast Guard to revoke Hazelwood's captain's license.

Valdez gets new name, transfer

The Associated Press

SAN DIEGO — The tanker involved in the nation's worst oil spill will have its name changed from Exxon Valdez to ExxonMediterranean and be transferred to foreign service in August, the vessel's owners said Friday.

The ship has become a symbol of environmental disaster since it fouled Alaska's Prince William Sound with 11 million gallons of crude oil 16 months ago, but the change in name and duty was presented as a business decision.

"Due to declining Alaskan crude oil, the vessel will enter foreign service, most likely loading crude in the Mediterranean or the Middle East," said Gus Elmer, president of Exxon Shipping Co.

"It is consistent with our policy that the vessels be named according to their location," he said.

Elmer declined to say that the oil spill was a major factor.

"It is strictly an economics decision," he said.

The 987-foot Exxon Valdez ran onto a reef on March 24, 1989, gouging huge holes in its hull. Oil poured out and fouled hundreds of miles of shoreline. Scores of wildlife were killed.

The 30,000-ton ship has been undergoing repairs since last August at the National Steel and Shipbuilding Co. yard where it was built in 1986.

Three thousand tons of new, inch-thick steel were used to replace mangled sections of its hull.

The $30 million repair in drydock is almost complete and sea trials are expected to begin July 20. A Coast Guard inspector will be aboard to determine if the ship can be certified as seaworthy.

Exxon Shipping Co.'s former president, Frank Iarossi, said last summer the tanker might be renamed and put to work elsewhere in the world but the company kept the final decision secret until Friday.

Elmer said the Exxon Valdez is one of the largest ships in the company's fleet and was bein underutilized because it coul only enter two West Coast port Los Angeles and San Francisco.

"Its cargo capacity can be mor fully utilized in foreign service. he said.

It will remain registered in th United States and carry a U.S crew.

The Exxon Valdez was buil with a single hull and the compa ny said in March that it would no be retrofitted with a double hull.

Environmentalists advocat double hulls to guard against bi spills.

In January, Exxon Shipping Co paid a $1,000 fine to settle a pol lution claim by the Coast Guar concerning a pair of slicks an spillage of about 356 gallons of oi as the ship awaited clearance t enter San Diego Bay.

The company denied any wrongdoing and Exxon said the that the discharges from the shi were actually organic materia that washed free from carg holds.

Board spreads blame for Valdez spill

The Associated Press

WASHINGTON — Federal investigators spread blame for the Exxon Valdez oil spill Tuesday, citing the captain, his third-mate

Judge limits claims from Exxon oil spill

United States Merchant Marine



Certificate of Service

This is to certify that

VERN HERBERT ARMSTRONG

is a

U.S. Merchant Marine Veteran

having served aboard oceangoing merchant ships in service to the United States during World War II.

ACE 447610

Captain Warren G. Leback

MARITIME ADMINISTRATOR

Honorable Discharge



from the Armed Forces of the United States of America

This is to certify that

VERN HERBERT ARMSTRONG

was Honorably Discharged from the

United States Coast Guard

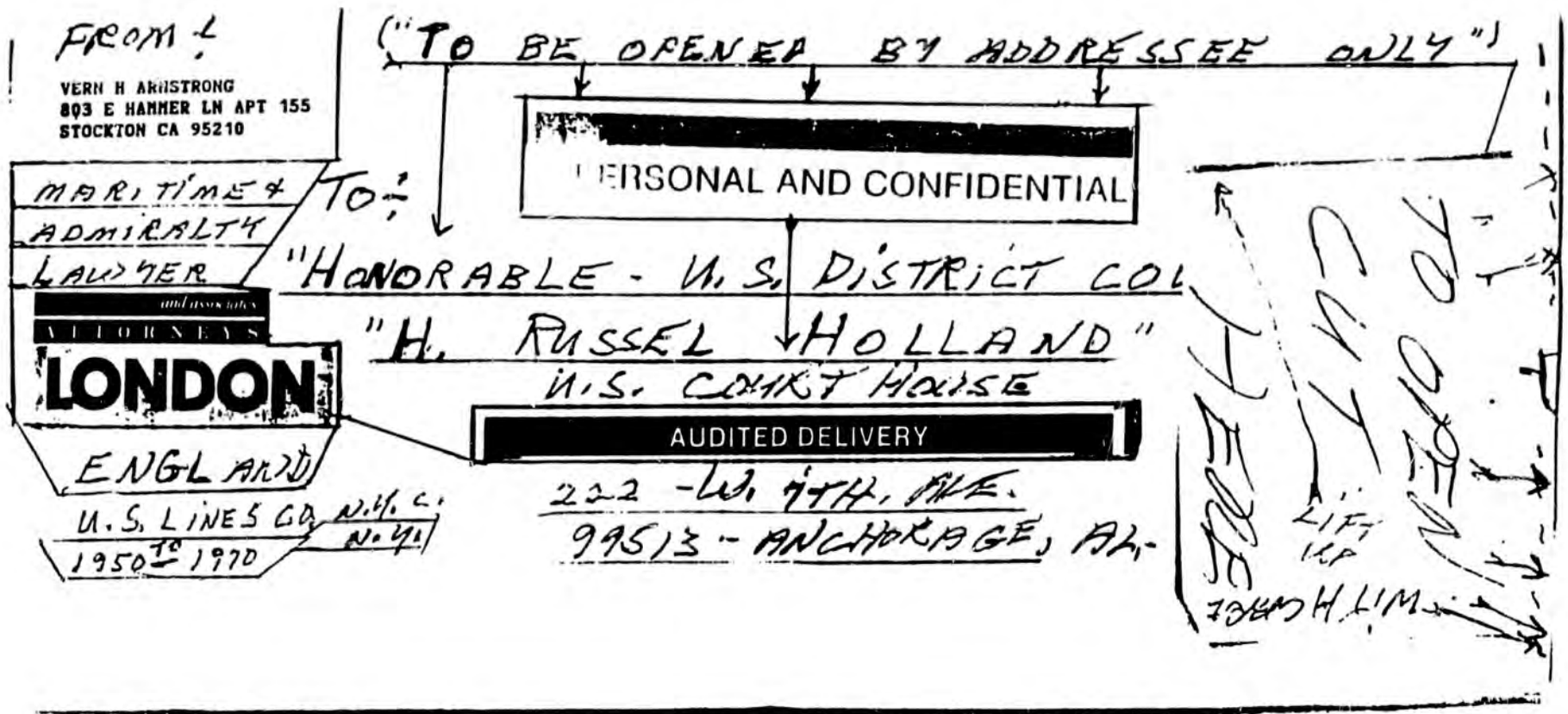
on the 02 day of AUGUST 1945. This certificate is awarded as a testimonial of Honest and Faithful Service

Issued pursuant to P.L. 95-202 for service in the 'American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941, to August 15, 1945.'

Frederic J. Grady

Captain, U.S. Coast Guard

ACE 447611


FROM:
VERN H ARMSTRONG
803 E HANMER LN APT 155
STOCKTON CA 95210
("TO BE OPENED BY ADDRESSEE ONLY")
PERSONAL AND CONFIDENTIAL
MARITIME &
ADMIRALTY
LAWYER
TO:
"HONORABLE - U. S. DISTRICT COU
"H. RUSSEL HOLLAND"
U.S. COURT HOUSE
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April 3, 1991

RECEIVED
APR 9 1991
CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Judge Russel Holland
U. S. District Court
222 W. 7th Ave. Box #4
Anchorage, AK 99513

RE: Public Notice and Call For Comments
U.S. vs. Exxon Corp. & Exxon Shipping Co.

Honorable Judge Holland:

This letter is my personal protest against the proposed settlement in the U.S. vs. Exxon case before your bench - before the Nation.

While the disaster initially shocked the country, it has been swept under the carpet, in a sense, by the world crisis situation in the Gulf. Comparisons between the crude spilled as a result of the War conflagration and the Valdez debauchery seemed a tragedy. Being served up to the public as minor in comparison to the War, the Valdez incident became ripe for settlement it appeared.

The most unsettling aspect of the entire scenario seems to be the denial of the facts and figures regarding the devastation delivered Nature. I feel the American public should be allowed the chance to hear the entire story. Cloaking the ever present threat to the environment in this quick and what seems easily resolved monetary settlement for Exxon, is a travesty.

"What you don't know can't hurt you", is the strong and dangerous message given here. I strongly urge consideration be given in bringing the case to public view; releasing the real figures regarding the damage caused; and, enlightening the public as to the ever present danger which obviously has not even begun to be dealt with by Exxon.

Sincerely,

Saundra Stevart

Saundra Stevart

25

April 7, 1991

Honorable H. Russel Holland
United States District Court Judge

c/o Clerk of Court
Room 261
United States District Court
222 West Seventh Avenue
Anchorage, AK 99513

Re: Exxon Spill Testimony
No. A90-015 Criminal

Dear Sir:

I hereby submit my comments regarding the proposed settlement of the lawsuit involving the Exxon Corporation and the State of Alaska.

As a citizen of Alaska, I have always been extremely frustrated with the manner in which our State Government has handled the Exxon Spill and all subsequent actions. I feel that the current settlement proposed by Governor Walter J. Hickel is the first positive step anyone in Alaskan State Government has taken to resolve this matter and allow the citizens of this State to move forward.

From the very first day the spill occurred, the State has bungled their responsibilities. Recall that the State approved the Oil Spill Contingency Plan that Alyeska was operating under. The State failed miserably to enforce the Plan. Second, recall that the State had "pre-approved" the use of dispersants and open burning of oil as measures to be taken in the event of a major spill problem. When the time came to expeditiously "approve" the use of these techniques during the first few, critical hours of the spill, the State failed miserably again by procrastinating.

From that point on, the State assumed a completely adversarial approach to their working relationship with Exxon. Under the "leadership" of Governor Cowper and Department of Environmental Conservation Commissioner Dennis Kelso, the spill cleanup plodded along with Exxon receiving constant criticism on the front pages of our local, liberal, outside-owned newspaper, with no positive recommendations to Exxon from our State "leaders" regarding spill cleanup activities.

There has been a great deal of anguish and distress expressed by the coastal communities affected by the spill. I believe part of this can be substantiated, but I believe more often than not, much of this "noise" is politically motivated grand-standing.

But there is another group of Alaskans who have suffered in the wake of this spill, and that is the employees and contractors who work in the Alaskan oil industry. We have been subjected to continual media harassment, our children have been "stoned" at schools, and the State has seen fit to raise oil taxes as a punitive measure to "punish" the industry for this unfortunate accident.

These tax increases (Economic Limit Factor, May 1989) have forced cancellation of numerous industry projects which countless families in this state rely on for jobs and necessary income. Much of the spill legislation which was passed because of the spill is causing many companies to shut down their operations in Alaska and leave the state.

A prime example of this is Chevron's recent announcement to close their Nikiski Refinery because of stringent spill legislation. This type of fallout only hurts our local economy and causes job loss and "brain-drain" from our state since our young people are unable to seek career opportunities in Alaska.

I firmly believe that the State should accept the settlement and resolve this issue promptly. It is entirely possible that the State could end up paying fines itself if the matter were taken to court. A courtroom trial could easily end up revealing gross imcompetence in State Government, causing Exxon's fines, etc... to be further reduced, if not completely forgiven. Personally, I would like the State to take the matter to court, but I don't think the outcome would serve the citizens as well as the proposed settlement.

There are other reasons the State should accept this settlement. First, as time passes, the damage caused by the spill will only fade on the beaches of Prince William Sound as well as in the minds of Alaskans and Americans also. Now is the time that the State can gain the most from this situation. Also, the recent intentional spill in the Persian Gulf is estimated to be ten (10) times larger than the Exxon Valdez spill. As more information is revealed by the news media regarding this unfortunate situation, the damage caused by the Valdez accident will pale in comparison to the monstrous environmental crimes committed by one, Saddam Hussein.

In closing, I believe our current Governor, Walter Hickel, deserves special thanks for his assertiveness and initiative in attempting to settle this matter and allow the Alaskans like myself who are interested in moving forward to build our futures in this great state, the chance to do so. I greatly appreciate the opportunity to prepare and submit this testimony to your office.

Thomas W. McKay

Thomas W. McKay
3170 Marathon Circle
Anchorage, AK 99515
(907) 265-6890 (W)
(907) 349-9380 (H)

cc: Governor Walter J. Hickel
P.O. Box A
Juneau, AK 99811

Attorney General Charles Cole
P.O. Box K
Juneau, AK 99811

Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510

Honorable Frank Murkowski
United States Senate
709 Hart Building
Washington, D.C. 20510

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CHAMBERS U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Honorable Donald Young
House of Representatives
2331 Rayburn Building
Washington, D.C. 20515

Anchorage Times
P.O. Box 40
Anchorage, AK 99510-0040

Anchorage Daily News
P.O. Box 14-9001
Anchorage, AK 99514-9001

26

Ronald G. Clarke
P.O. Box 22372
Juneau, AK 99802
(907) 463-5377
(907) 465-4992 (work)

April 3, 1991

Judge H. Russel Holland
United States District Court
222 West Seventh Avenue
Anchorage, AK 99513

Dear Judge Holland:

Thank you for sending me a copy of the proposed plea agreement between the United States of America and Exxon Corporation and Exxon Shipping Company in criminal case No. A90-015. After reviewing this document thoroughly, I have come to believe that you should reject this proposal.

As a biologist (M.S., Zoology, UAF 1984), I feel that sufficient grounds to reject the proposal exist simply because data from investigations into the effects of the oil spill will remain secret under the terms of this agreement. Considering the tremendous damage wrought upon coastal communities, especially those dependent upon subsistence hunting, fishing and gathering, it is unconscionable to me to agree to any settlement without provisions for complete release of biological and socioeconomic data. After wreaking such massive devastation, Exxon could at least allow Alaskans access to information that could lead more quickly to their economic, cultural and psychological recovery.

I am puzzled by the fact that the United States chose to prosecute Exxon and Exxon Shipping under the terms of the Migratory Bird Treaty Act, but not the Marine Mammal Protection Act. Surely, the oil killed many protected and/or endangered marine mammals -- those responsible for the spill should not escape punishment for their actions in that regard.

U.S. Attorney General Thornburgh touted the proposed settlement as a major penalty to Exxon, but an Anchorage writer put it into perspective. Exxon cleared $117 billion in profits last year. Fining them $100 million is like charging a $40,000 a year employee $34.19. Big deal. Considering what they spent on advertising to polish up a soiled public image, money seems to be no object. I'd prefer to see Lawrence Rawl and his boardroom colleagues behind bars. Jail time might constitute a real deterrent to other potential polluters.

Clearly, Exxon and Exxon Shipping want to avoid further public discussion of their actions. As I see it, that's all the more reason to reject the proposal and hold a trial. Don't let them buy their way out of responsibility for their deeds.

Thank you for considering my thoughts. I realize you face a mountainous task in evaluating information concerning such a pivotal event in Alaskan history, and appreciate your careful deliberation. Please send the participants back to the drawing board.

Sincerely yours,

Ronald G. Clarke

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CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Alaska State Legislature
House of Representatives

Official Business

P.O. Box V
State Capitol, Rm. 215
Juneau, Alaska 99811
(907) 465-3715

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

April 10, 1991

Honorable H. Russel Holland
United States District Judge
District of Alaska
222 West 7th Avenue #4
Anchorage, Alaska 99513

Dear Judge Holland:

The House Special Committee on the Exxon Valdez Oil Spill Settlement has received and reviewed a copy of Congressman George Miller's letter to you dated April 8.

The matters raised in the letter present significant new issues regarding the propriety of the Plea Agreement pending in your court. The allegation by Congressman Miller that Alyeska knowingly disregarded the requirements of its own contingency plan indicates a level of culpability on the part of both Exxon and Alyeska that could go well beyond the criminally negligent conduct previously alleged against Exxon.

The Committee believes that the Plea Agreement must be considered, not solely in light of its impact on Exxon and Alyeska, but also with respect to its impact on the State of Alaska. Our report to the House, scheduled to be issued prior to April 24, will reflect that aspect of the case.

We respectfully renew our request, embodied in HCR 19, that you delay final action on the Plea Agreement until after May 3, when the legislature will have considered this issue and the remainder of this committee's report.

FILED

APR 10 1991

CLERK, U. S. DISTRICT COURT

Sincerely,

Rep. Max F. Gruenberg, Jr.
Chairman

cc: John F. Clough III, Counsel for Exxon Corporation
Charles A. DeMonaco, United States Department of Justice

ACE 447621

(29)

28

ROBERT A. GIGLER
7447 O'Brien Street
Anchorage, Alaska 99507

Dear Member of The Alaska Legislator:

On March 13, 1991, I met with Governor Walter Hickel and Special Assistant James Rockwell to discuss public concerns regarding the EXXON Valdez Oil Spill.

Mr. Rockwell said he spoke with the underwater survey company contracted by EXXON to assess vessel damage. He gained information which suggested that the EXXON Valdez struck Bleign Reef twice. If this is true, the public was misinformed by the initial report released by EXXON's underwater construction company.

Based on their report the following article appeared on Page A-8 of the March 27, 1989 Anchorage Times. The Starboard side of the EXXON Valdez collided with a pinnacle rock following this the tanker turned westward while sliding toward the South. Afterwards it struck the second pinnacle, at midship. Both strikes occurred approximately 2 miles apart. The President of the EXXON Corporation said the tankers speed was unknown at this time. (This is another inconsistent fact).

Page A-10 of the March 27, 1989 Anchorage Daily News. Spill Archives Reference said this collision occurred at 11:50 p.m. and the vessels speed was estimated at 8 knots. The impact ruptured three holes in the starboard side causing the tanker to turn to the west. Inertia kept it moving in the southerly direction of the first Pinnacle. This forced the vessel to travel more than a mile from the shipping lane and ground on the second pinnacle of Bleign Reef at 12.03 a.m. on March 24, 1989.

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ANCHORAGE, ALASKA

ACE 416910

National Transportation Safety Board hearings on May 16-19, 1989 identified the following. From the Archives of the Anchorage Daily News May 17 1989, page A-10 included the following comments from the May 1989 NTSB hearing

The EXXON Valdez left the shipping lanes to allegedly possibly avoid impact with ice bergs. The tanker headed west 200° at 12 knots with speed increasing to 15 knots. The course was changed to 180° and the tanker was placed on auto pilot. Afterwards the Captain left the bridge. At 11:57 p.m. March 23, 1989 Constat calls from New Jersey EXXON Valdez began and continued for 33 minutes. Captain Hazelwood did not report the new heading to the Coast Guard radio operator. After the collision, the vessel's main engine was shut down at approximately 1:45 a.m., according to engine log.

The impact was identified by Gregory Cousins in the National Transportation Safety Board hearing room in his testimony May 17, 1989. Deck watch observed the following: The Busby Island red light was viewed from the dangerous waters of Tatitluk Narrows. The 1st strike was located approximately 4000 yds northerly from Bleigh Reef. The Loran location at: 7960X 14337. 7960Y32162. The Loran location was documented by a witness to the grounding in Tatitluk Narrows (Bud Hall) commercial fisherman.

From the evidence shown we believe the grounding of the EXXON Valdez to be deliberate and intentional.

What is the truth?

(WATER 174' DEEP AT POINT OF 1ST IMPACT ANCHORAGE DAILY NEWS ILLISTRATION MAR. 29-1989

Sincerely,

Robert Gigler

Robert Gigler
Greenpeace Action International

ACE 416911

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ANCHORAGE, ALASKA

State of Alaska)
) ss:
Third Judicial District)

The foregoing was acknowledged before me this 10th day of April, 1991, by Robert Gigler.

Marshall K Coryell
Notary Public in and for Alaska
My commission expires: 1-11-92

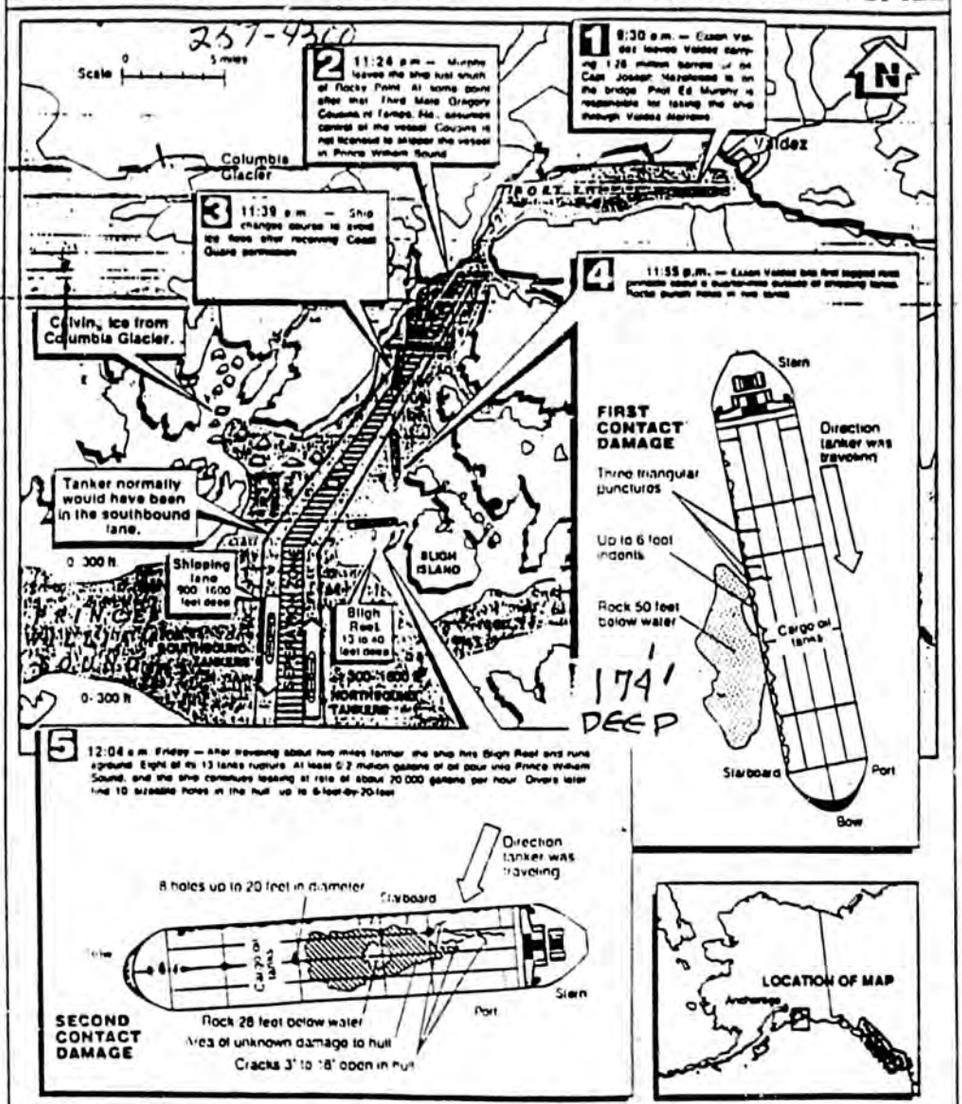


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ANCHORAGE, ALASKA

ACE 416912

NEWS REPORTER C. WOHLFORTH ANCHORAGE DAILY NEWS MAR 29. 1989

TIMELINE OF EVENTS SURROUNDING TANKER AND OIL SPILL



LATER — OTHER KEY EVENTS

12:28 a.m. — Ship notifies the Coast Guard it has run onto the reef.

4:30 a.m. — Coast Guard asks State Trooper Mike Fox to go aboard Exxon Valdez because of suspicions the captain had been drinking.

7:00 a.m. — Fox arrives on board to assist from Coast Guard contingent in the investigation.

8:00 a.m. — Blood samples taken from Capt. Hazelwood, Third Mate Cousins and the helmsman. Robert Kagan, to test for alcohol or drug use. (Other reports place the time of the tests at 11 a.m.) Coast Guard closes Port Valdez to tanker traffic.

Friday afternoon — Final oil containment booms are deployed, at least 12 hours after the spill was reported.

Friday evening — State environmental officials estimate 285,000 barrels spilled, about 11.5 million gallons. Slick covers about 30 square miles. Efforts begin to pump oil off the Valdez and onto the tanker Exxon Baton Rouge.

Saturday morning — Exxon announces 175,000 barrels spilled, later raising that to about 240,000 barrels. At noon, official estimates place the spill at 260,000 barrels, about 11 million gallons.

Saturday afternoon — Exxon Shipping President Frank Iarossi says the accident investigation is focused on the actions of Hazelwood, Cousins and Kagan and rules out mechanical problems.

Saturday evening — Weather remains calm, but currents spread the slick and an oceanographer says fouling marine creatures.

Sunday — Gov. Steve Cowper declares Prince William Sound a disaster area, freeing state resources for cleanup and paving the way for a federal disaster declaration. He says it "may well be the greatest disaster to hit Alaska since the Good Friday earthquake 25 years ago."

Sunday afternoon — The slick now covers about 100 square miles in the shape of a crooked hair. Only about 126,000 gallons have been recovered of the water. State, federal and company officials plan to use dispersants, fire and skimmers in a full attack on the spill Monday.

Monday morning — High winds hit cleanup. Aircraft are grounded, small boats cannot operate. The spill, now smeared into a brownish froth, spills [illegible]

ACE 416913

STANDARD MARINE CHART

ACE 416914

29

RE: Exxon Valdez Oil Spill Civil Settlement

HC 2 Box 705
Kasilof, AK 99610
April 10, 1991

Clerk of the Court
Room 261, U.S. District Court
222 W. Seventh Ave.
Anchorage, AK 99513

Dear Sir:

I don't have enough information to decide "yes" or "no" on the proposed Exxon Valdez oil spill settlement, but I do have positive comments on one aspect of settlement and retribution -- the most important as far as I see it. So much of the damage done to environment in 1989 could have been prevented had the oil companies come forth within the first six to twelve hours with equipment to contain the spill and thence start immediately removing the heavy oil from the water. We watched with heavy hearts the first 24 hours after the spill, the weather in the area was quite calm, and no major effort at all was achieved in containing the spill. Once the oil spread and broke up, all efforts were like the proverbial chasing feathers when the pillow seam tears. With the technology available today and the clean-up effort in PWS (too late) to learn from, the oil industry first and foremost should install equipment in Alaska which can be moved rapidly to any spill area and all plans should be ready to implement IMMEDIATELY when a spill occurs. The large boat brought from the Soviet Union had much promise, I have heard, but it was brought in after the spill had spread.

It deeply grieves me that Exxon did indeed spend much money in clean-up which did absolutely NOTHING to improve the environment, but only made one company (VECO) hit the TOP FIVE money-making concerns in AK, caused never-to-be-settled conflicts in Alaskan communities among those who were given clean-up-jobs and those who were not, changed forever the fishing fleet in some areas (due to ability of those earning clean-up money to upgrade), and once more allowed many non-resident Alaskans to make a quick trip North and go home with pockets loaded. Now I am pleading with the Court -- PLEASE force the oil industry to put in place equipment and plans to avoid a repeat of all the mistakes made in PWS because as surely as we know the spring eventually will come again, we know there will be oil spills in the future. Don't just let the State bureaucrats receive a big bundle so they can play "Favorites"; instead insist on equipment and plans to handle the next spill. To help with the planning, I call your attention to the outstanding creative thought and projects of individuals who on their own tried to clean up the oil spill. Maybe community planning groups could contribute to the final plan.

Thanks for reading my comments.

Sincerely,
Mary Sue McElroy

P.S. Attached is ... letter to Senator ... Mo...

ACE 416915

32

HC 2 Box 705
Kasilof, AK 99610
April 5, 1991

House or Senate Special Committee on Exxon Valdez
Litigation Settlement
P.O. Box V
Juneau, AK 99811-3100

Greetings:

Thanks for the opportunity to comment on Exxon Valdez oil spill civil settlement and the criminal plea agreement; however, please give the public more facts and as much info as possible so we can make reasonable comments. Below are some of my questions, the answers to which would enable me to comment.

1) Is the State settlement pressing only civil charges or also criminal charges? 2) Will the settlement forever deny the State the right to press criminal charges against Exxon? 3) Does the settlement provide for future claims not known at this time -- decimation of fish runs in certain areas, permanent habitat destruction, etc. 4) How and where will the State spend the settlement money? 5) What % of original claim is the State accepting in settlement? 6) Are individual fishermen and village claims (through TAPS) affected by the State settlement and in what way? For instance, since State action will set precedent, will each individual claim only be settled for same or less % of original claim as State accepts?

Thanks for supplying further information through the media. We need to know the terms of settlement.

Yours truly,

Mary Joe McElroy

ACE 416916

30

Alaska oil spill settlement.

Your Honor, 10 April, 1991.

I am a private Alaskan citizen. I had a claim against Exxon that was denied and I presently have a claim against the Trans Alaska Pipeline Fund pending.

I believe the agreement should be approved and settled at the earliest possible date.

I have no knowledge of the Law but I think other parties are culpable in the grounding and subsequent litigation. If others are culpable, as it seems to me, the entire guilt shouldn't rest on Exxon as it does now.

First is the claim Captain Hazelwood, an Exxon employee, was "drunk" in Valdez and then went to his ship in this condition and caused the grounding. I have never heard the question asked why there was no screening or testing before he was allowed on the ship. The lack of testing on Exxon's part shows gross negligence in the control of it's employees.

My contention is that the Alaska Civil Liberties Union, with the vocal backing of our press, was the reason for no testing on "Constitutional" grounds.

Immediately after the grounding Exxon and the other Companies, working on the spill, initiated testing programs that are still in place today. There has been total silence from the [illegible] press on the issue of testing ever since.

[illegible] the adversary policy versus negotiations.

[illegible]rnor, a lawyer, set the adversary stage by publicly stating he would shut down the [illegible]nt to the Lower 48 and hired lawyers, on a no bid contract, to prepare Alaska's

[illegible]ortly after the Spill Exxon put paid notices in the paper that they were sorry for the accident, they apologized and said they would be financially responsible. Later they opened claim offices to grant relief for legitimate claims (without lawyers if desired). My personal claim was denied but the newspaper ads and the claims offices show Exxon was working in the field of negotiations versus the Governor's litigation.

In the last few months Alaskans have negotiated this settlement and if it is approved it will benefit Alaskans with no lawyer fees deducted.

The papers said the Lower 48 lawyers had benefited by 11 million dollars so far in the adversary role. When, and if, the State of Alaska settles going this route all the claiments will see at least one third of their settlement going to other lawyers. So this boils down to a lawyer - lawyer case some distant time in the future as opposed to the present Governor's settlement now.

I have to put all my cards on the table.

The present Governor says he is going to develop Prince William Sound with part of the settlement money. I have submitted a boating safety program for Prince William Sound that will stand a fighting chance if there is a settlement. If there is no settlement I'll be back to square one.

The open door for the "drunken" Captain and pouring millions of dollars into the Lower 48 show me that Exxon isn't standing alone in the dock.

Coast Guard regulations spell out the duties of a Lookout but we never heard a word about the lookout's actions, or lack of them.

The Governor mandated a Show Trial for the Captain. The Prosecutor's office had to come up with a "Chinese Wall" strategy that was hilarious. It may have been succeeded by the "expert" who was trying for a new record in exterpolation.

Even if the settlement isn't adequate at least it will stop the lawyer hemorrage and put some money back in the State of Alaska (possibly Prince William Sound).

Sincerely,

Carl F. Ford
P.O. Box 103130,
Anchorage, Alaska
99510

APR 1 1 1991

ACE 416918

EHR 31

7216 Lake Otis Pkwy
Anchorage, AK 99507

Judge Russell Holland
222 W. 7th Ave, room 261
Anchorage, AK 99501

Dear Judge Holland:

Attached is my letter to Governor Hickel, sent earlier today, expressing my non-acceptance of the Alyeska oil spill agreement, as it has been presented by the media.

We believe there was too much secrecy in arriving at the agreement, not enough information divulged to the public, and the public input period is far too short. We believe the amount of money Alyeska is being assessed for clean-up and fines is far too low, and the 10-year payment period is far toogenerous.

We hope your decision will be to reject the present agreement, to require that the public be informed of what went on in the negotiating process, and that the input period be lengthened considerably. We hope that all of the facts of the settlement will be forthcoming.

Thank you for your consideration of our input.

Sincerely yours

Glenn F. Thompson

Glenn F. Thompson

Gladys W. Thompson

Gladys W. Thompson

ACE 416919

APR 11 1991

(34)

31

THOMPSON
PRINTING
SERVICE

TELEPHONE (907) 344-2015
7216 LAKE OTIS PARKWAY • ANCHORAGE, ALASKA 99507

April 10, 1991

Walter J. Hickel
Governor of Alaska
501 C Street, Suite 758
Anchorage, AK 99503

Dear Governor Hickel:

Please do not accept the Alaska oil spill settlement for Alaskans in its present form as it has been described to us through the media.

We need **ALL** the facts revealed to us before we can make a decision.

Many of us have reason to suspect that the reason for so much secrecy in the negotiations can be that too many of the negotiators on the State of Alaska side are more pro-oil than pro-Alaska, and are therefore afraid to reveal all of the details to impartial examination by all interested Alaskans.

I thought that shutting out the public from decisions about crucial negotiations of vital interest to everybody, by discussing and concluding them behind closed doors was a thing of the past.

True, we are being given the opportunity to give input now, but only **after** the negotiations have been completed, as a take-it-or-leave-it proposition. On that basis I would reject it, and I hope that most other Alaskans will do likewise.

Onebillion dollars is not much compared to the enormity of the damage. I am sure that Alyeska would be most happy to get off that easily for its carelessness. In fact, with the proposed 10-year payment period, it could very well **make** money on the deal.

I vote **NO** on acceptance of the secrecy and the probable over-generosity of the State's negotiators.

Thank you for listening

Glenn F. Thompson

Glenn F. Thompson

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April 11, 1991

Judge Russell Holland
Federal Court
222 W. 7th St.(Box 4)
Anchorage, Ak 99501

c/o Clerk's Office Rm. 261

Dear Judge Holland:

In view of oil spill information made public only three or four days ago, and hopefully with more to come, I ask that you extend the period for public response for at least another 30-60 days. (Also give more publicity to the correct name and address where the response should be sent.)

We need to read and digest this very important material before responding, as all facts should be known before making an intelligent decision.

Meanwhile, as expected Exxon and its cohorts, continue lying all the way to the banks. Their profits are at all time highs, particularly after gouging the public by raising the costs for gas to cover their own during the "War".

How can a just settlement be made until all facts are in and digested by the people?

If and when settlement is made, let us and everyone else get the repayments (fines, etc.) up front, not in the future. What would happen to the repayments if EXXON merges, is bought out, goes bankrupt, gets a Ch. 7,11,13, etc. BEFORE we were paid (during a waiting period)? How much interest, even at 2% could an entity make on $660,000,000. million during an 11 year period? Why shouldn't that money be given to the victims, rather than left with the agressive, unconscionable predators?

Our democracy is "hanging out there" and needs strengthening for it to endure in spite of the grievious assaults by greedy, money-hungry corporations or individuals.

Let's give the people an extended chance to speak!

Thank you for listening and doing your best!

Sincerely,

Gladys W. Thompson

Gladys W/ Thompson

APR 11 1991

FRK. U. S. DISTRICT COURT

ACE 416921

35

334

Judge H. Russel Holland
U.S District Court
Re: Plea bargain by
the Exxon Corp.,
concerning Exxon Valdez
oil spill.

April 10, 1991

Dear Judge Holland:

It appalls me to have to address you about this case. That the State of Alaska and the federal government are so willing to settle this suit, with so little pain to the Exxon corporation, is disgusting. I thank you for at least allowing the public to address this issue.

In 1977, I purchased a three acre spot of land on Peterson Bay (directly across Kachemak Bay from the Homer Spit). Since it is boat access, a number of my friends raised their eyebrows, but I said, "Look, it's beautiful there, peaceful, and I know that if I ever fall on hard times, one thing is certain — that a man would have to be a fool to starve to death by the sea". At that, they laughed and one said, "Yeah, that's right. That's right."

Oil did not wash up on my beach, or most of Kachemak Bay. I cannot say that my precious claim to survivability was disrupted. But I know that that of hundreds, if not thousands, was. Their ability to live from the sea is no longer a laughing matter.

However, even though I was not directly "oiled", that does not mean that I was not directly affected. The immediate destruction of the spill was bad enough (via TV, of course). But what little time I have been able to spend on Kachemak Bay the last two summers after the spill, has at times been

ACE 416922

(37)

horrific, particularly as my staff passes by the thousands of sea birds that nest on "Gull Rock", knowing that they represent a fraction of the birds killed by the Exxon Valdez oil spill, and that these creatures could be totally eliminated by a spill of far less magnitude than that of the Exxon Valdez.

Please, Judge Holland, do not allow the Exxon Corporation - run by rich men - to be held, essentially, unaccountable. I believe there are shareholders in the Exxon Corp. who are deeply concerned about company practices. I also believe they are pitifully few. The Money God is too strong; Witness Chairman Rawls says the public will pay anyway. At least make him like the devil after-burner.

Please do not allow the State of Alaska - presently run by rich men more governed by development than by concern - to prevail. They are an elected minority so deeply connected to the oil industry that there should be conspiracy charges being considered.

Please do not allow the federal government - run by the biggest oil besotted bunch of the three - to take the final control of this issue. The dearth of news about the huge spills in the Persian Gulf and the fall out from the Kuwaiti oil-field fires is, non-the-less, enough to make the Exxon Valdez oil spill in Prince William Sound appear a pittance.

indirect quote, of course > "sort of makes you feel warm inside that the Prince William Sound spill was so small." A classic de ja vu whitewash all over again.

Judge Holland, you, sir, will have been exposed to far more information concerning the Exxon Valdez oil spill than most Alaskans

ACE 416923

and, certainly, most other criminals will be.

Please, before you rule, consider what the primary motivating factor is in the three citizen's responses. If Exxon has the 'yep, it's a good deal.', glint in their eye, then it's money. If the state says 'yep, Prince William Sound will be a great theme park.', then it's money. And if the Federal government says, 'yep, onward and outward.', then conservation and preservation and a minimal amount of reason give way to money.

Please, Judge Holland, if that is the case, then let us start the process of sentencing them to eat money. Because if companies of any sort that are in the position to destroy the environment and not be held accountable to the extent that they are criminally liable, then there may only be money left to eat.

That, or let them eat oil-soaked clams, or PCB-laden fish or just drink chemically saturated sea water that could preserve a thirsty sinking dromedary. That is what the rest of humanity may face if we do not take action against those who do not care.

Sincerely,

James Bachman

JAMES BACHMAN
905 MULDOON Rd. Sp.:
ANCHORAGE, ALASKA 99
338-0257

APR 11 1991
U.S. DISTRICT COURT
ACE 416924

National Audubon Society

NATIONAL CAPITAL OFFICE 801 PENNSYLVANIA AVENUE, S.E. WASHINGTON, D.C. 20003 (202) 547-9009

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

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Not included are the results of various economic studies. Without this information, the impact of defendants' conduct cannot be quantified.

[2] At miminum, 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,

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[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'

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[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 Envt'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 remdial 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.

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[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,

Hope M. Babcock
General Counsel
National Audubon Society

On behalf of Conservation Groups

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CLERK, U. S. DISTRICT COURT

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RECEIVED

APR 11 1991

CLERK, U. S. DISTRICT COURT

April 11, 1991

Honorable Russell Holland
Federal Court House
Anchorage, Alaska 99501

Dear Sir:

I imagine that you will be receiving and reading through many letters in the next few days. I watch the news and read the paper regularly, yet Wednesday was the first time that I heard you were requesting statements from the public in regards to the Exxon Valdez disaster. This happening one day before your deadline.

I do not envy your position, for there will always be those that will not be satisfied. But sir, you are not here to satisfy. You are here to do the right thing, which is uphold the laws of our land and dispense justice.

In some ways our jobs are alike. I am a youth counselor for the State of Alaska. I can write release papers at any time for my counselees, or hold them until their institutional order expires. To them, their freedom is many times more important than the 11,000,000 gallons of oil that washed ashore in Alaska. My job is to find out as much information as possible, to develop a treatment plan, to work with my resident until he either proves his ability to act responsibly and obey our laws, or until his institutional order expires at which time I am forced to release him. How can I make the right decision if I do not have the facts in front of me? How can I release a resident if he is merely surface conforming in front of me, yet behind my back he is bragging to his fellow juveniles about how he is "getting over" on the system? I take as much time as is needed before I make my decisions. I observe the behavior of my resident very closely to find out just what is his real behavior.

The public does not know enough of the facts leading up to or after the spill to make correct decisions. We can only go by what we see or hear in the news, which is opinionated one way or another. As we approach the deadline, more information is surfacing and none of it appears to be good.

Why are we in such a haste to settle this? This will affect the people of Alaska for at least 10 to 20 years into the future. Everyone has made promises, from the oil companies to state and federal governments. Yet what promises have been kept? Only under pressure has anything been done. What does this behavior show me?

It has been shown that Exxon will not be losing much in the settlement; they will even be able to deduct some of their expenses through their taxes! If I was found guilty of a criminal act, would I be afforded the same luxury? Where is the justice? Would the average citizen have the same opportunity to plea bargain to such a degree? What message is going to be sent around the world?

In my opinion, big business and the government are in bed together. They both have much to lose so they are making their deals behind closed doors. Already the general public couldn't care less about politics because of the feeling that they as voters have little or no control. Here again is another classic case of the public saying one thing and the government doing another. Government is supposed to be protecting the public, yet the politicians are busy protecting themselves. If I had the facts to make the correct decision, I would know who I could trust during election time, and cast my vote accordingly. If the politicians knew the public was more active in their districts, and monitoring their behavior, then perhaps they would be less willing to make deals with big business - deals that their constituents often pay the price for.

I am against this settlement! I want to know who knew what and what part they played, so I can hold them accountable, as I would be held accountable for my actions and behavior. No more deals, no more plea bargains. Please send a message of truth, responsibility, and above all JUSTICE FOR ALL throughout our land. This is the only way we can prevent disasters such as the Exxon diaster from happening again.

Please do not rush into your decision just so our "honorable" Governor Hickel can begin "his" gas pipeline and the oil companies can begin drilling in even more environmentally sensitive areas. Their behaviors are proven - their track records speak for themselves. They need to earn the public's trust before they are ever allowed to work in our back yard again.

I'll be here twenty years from now - it's very likely that they will not.

Most sincerely,

J.R. Malesic

JM:kf

3624

APR 11 1991

CLERK U. S. DISTRICT COURT

Tom Lakosh
Box 100648
Anchorage Ak 9951

Honorable H. Russel Holland

Having only recently been informed of your request for comments on the settlement of Criminal charges against Exxon I am submitting an abbreviated response to your request.

If I were to offer money to a DA to avoid criminal prosecution I would be charged with bribery. Why isn't Exxon?

If I were to take water fowl illegally I would be fined heavily for each bird I so took. Why isn't Exxon?

If I were to take marine mammal illegaly I would be fined heavily and probably thrown in jail for years. Take in this case refers to simple harassment of those animals.

If I were to illegally dispose of hazardous waste heavy fines and jail time would be probable.

If I were to kill or harrass Bald Eagles, much less 200 of them, I would have permanent revocation of hunting privileges.

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(39)

If I were to engage in the above actions in a deliberate manner, fraudulently, recklessly

my intentions I would be criminally liable for fraud and civilly liable for punitive damages probably treble damages. If I bombed a Church I would be criminally liable for wanton destruction and violation of the civil liberties of the persons seeking to freely express their religion.

Your honor the sound is my church the wanton destruction of my church is the only reason I have cried in 22 yea

Sincerely
Tom Laposh

TRADITIONAL DENA'INA TRIBE
Council Of Elders
Box 143
Sterling, Alaska 99672

To: The Honorable H. Russel Holland
United States District Judge

From: Mary Ann Mills, Council Member
Traditional Dena'ina Tribe
Kenai Peninsula

Subject: Exxon Valdez Oil Spill

Date: April 11, 1991

The Traditional Dena'ina Tribe is requesting you to rule against the State of Alaska from making a settlement with Exxon on the Exxon Valdez oil spill. We request all withheld information pertainent to the damage caused by the Exxon Valdez oil spill be made public and submitted to the Traditional Dena'ina Tribe, Council of Elders. This is the only way the Traditional Dena'ina Tribe, Council of Elders can assess the effects (damage) the oil spill has and will continue to have upon our people, land, and resources. We will submit our claim after perusal of such documents, and we may request monitary value compensation.

We ask you to peruse the Overview presented to you at the Northern Justice Conference (1990), as it is the bases of federal and state (entities) in the dealing with the Indigenous People.

We request no third party interference from Native Corporations, as in accordance to the CERCLA & SERA Amendments to the Clean Waters Act; which prohibits corporate interference, but mandates tribal involvement and tribal consent.

Thank you for your assistance in these matters of law.

Mary Ann Mills
Council of Elders
Traditional Dena'ina Tribe

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CHICKALOON VILLAGE
CHICKALOON VILLAGE FISH AND GAME
CONSERVATION COUNCIL
HC04 BOX 9880
PALMER, AK 99645
(907) 745-0505

April 11, 1991

Hon. Judge H. Russel Holland
U.S. Federal District Court
Anchorage, AK

Hon. Judge Holland,

This letter is to put Chickaloon Village, a federally recognized Tribal Government in South Central Alaska, on record as strongly opposing the proposed oil spill settlement negotiated between the Federal Government, the State of Alaska and the Exxon Corporation.

Information recently released to the public has revealed what many of the Alaska Native Villages have feared --that the documented effects of the spill are far worse than previously revealed, and the long-term effects on subsistence (and therefore Native culture, way of life, and economics), the environment (our sacred Mother Earth) and the health of the people of Alaska (Native and non-Native) are not yet known;

The lack of involvement in the negotiations for this proposed settlement by Traditional Alaskan Tribal Governments, both those effected directly due to their location on Prince William Sound, and those inland who, like Chickaloon, also depend for our survival on fish, game and fowl which will suffer long-term effects from the oil spill (please refer, for example, to the latest study released regarding the huge mortality rate of pink salmon adults and roe).

When both the state and the federal governments are persecuting and imprisoning Alaska Natives for subsistence fishing and hunting, in other words the taking of fish and animals to feed our families according to our traditional way of life, it outrages us that Exxon, the killer of countless fish, birds and mammals, is let off with nothing more than a handslap (one Anchorage reporter stated that the fine proposed for Exxon was the equivalent of fining person who makes $40,000.00 a year $ 34.19). Recent revelations regarding the irresponsibility of the Alyeska Pipeline Corporation must also be addressed before all criminal charges are dropped in exchange for what amounts to chump change for these corporate giants.

While no amount of money, or jail time for corporate

executives, can make up for the suffering of our fish and animal relations, who are still dying horrible deaths as a result of Exxon's negligence, or the loss of our subsistence way of life which has sustained us since time immemorial, it concerns us deeply that they (and we) have been determined to be worth such a paltry price.

Federal law mandates that Native Peoples give their consent before their resources and lands can be appropriated (25 USCA 177). Not only did this never occur in Alaska, but the Native Peoples directly effected by the spill were not allowed to be included in the negotiations. (The CERCLA and SERA amendments to the Clean Water Act specifically prohibits the so-called Alaska Native Corporations created by ANCSA from participation in any such negotiations on behalf of Alaska Native Peoples, although they do provide that the Traditional Tribal Governments in Alaska shall be participatory in all such proceedings, negotiations and settlements.)

Our sacred lands, waters and way of life have been seriously threatened and damaged by the Exxon Valdez oil spill. The suffering continues and the long term effects are only now coming to light. Why the need to act so quickly to "bury the hatchet" at the expense of truth, justice and human rights? Who will really benefit by such as quick and easy resolution to this matter? Chickaloon Village does not believe its best interests (nor those of the other traditional Native Villages) have been reflected in this proposed settlement, and we know that a great many Native Peoples throughout Alaska feel the same. When, if ever, will our voices be heard, here in our homeland?

Sincerely,

David Harrison

David Harrison
Tribal Administrator,
Chief Fish and Game Officer
Chickaloon Native Village

ACE 416937

•••END•••

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TO: Honorable H. Russel Holland

United States District Judge
U.S. District Court
222 W.Seventh Avenue, No.4
Anchorage, Alaska 99513

April 10, 1991

RE: A 90 - 015 CR

FR: Theodora P. Thoma
#2 Marine Way
Juneau, Alaska 99801

APR 11 1991

CLERK, U. S. DISTRICT COURT

RE: CRIMINAL PLEA BARGAIN PROCEEDINGS
concerning EXXON CORPORATION, EXXON SHIPPING, ALYESKA SERVICES

For the record, I am a self-employed environmental lobbyist and have been closely involved in Alaska resource issues for over 20 years. As such I was a chief proponent for the redesign of the Alyeska pipeline, for an all land route through Canada, and for full environmental safeguards to protect state and national/international waters connected with the eventual marine terminal and tanker route emanating from Valdez. As you are aware, the pipeline and marine route escaped full NEPA court review as a result of Congressional action instigated by the Alaska delegation in 1973. I still believe that NEPA review would have addressed the basic environmental safety and compliance responsibilities that were the root cause of the EXXON VALDEZ disaster, and subsequent inadequate response. My direct comments follow:

1) I oppose the agreement to drop the FELONY criminal charges against Exxon Corporation and Exxon Shipping Company (A90-015). I strongly believe that the pursuit of these grand jury charges and probable convictions are the only way to reform the inadequate staffing and competency levels aboard U.S. tankers that service Valdez and the West Coast to Panama. From the week-long live broadcast of the National Transportation Safety Board (NTSB) hearings in the summer of 1989, it was obvious that:

A) Mr. Frank Iarossi, former chairman of Exxon Shipping, knowingly cut back the number of crew members aboard the EXXON VALDEZ, compromising safety, stretching the physical ability of crew to competently man this carrier of dangerous, toxic material;

B) That Mr. Iarossi, Exxon Shipping, and Mr. Hazelwood, the ship's master, allowed Mr. KAGAN, a known incompetent, to serve aboard the EXXON VALDEZ, against the wishes and counsel of competent crew members who knew of his mental and physical problems, and caused KAGAN to steer the vessel through dangerous, ice-choked waters, resulting in the crash of the EXXON VALDEZ and resultant spillage of 11 million gallons of oil;

C) That Mr. Iarossi, Exxon Shipping, and Exxon Corporation knowingly allowed Mr. Hazelwood to operate the EXXON VALDEZ without monitoring his acute alcoholism, and in fact fabricated the small amounts of paperwork in Exxon files relative to Hazelwood's condition. These two reports were without dates or signatures, yet purported to show that monitoring of Hazelwood did occur;

Consequently, I believe that counts IV & V (A90-015) should be reinstated and litigated, and actively pursued by the federal government, as these circumstances were the BASIS of state testimony before the NTSB. The agreement to bring these charges for litigation by the federal government was done in lieu of applicable state laws covering crew safety and competence.

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2) Additionally, I strongly believe that the MISDEMEANOR criminal charges against Exxon Corporation and Exxon Shipping Company are being settled far too cheaply for the great, extensive damages to wildlife over a 700 mile region. It is my understanding that the ALLIED CHEMICAL case was the largest, previous U.S. settlement for environmental damages, at $13 million. However, this was also 10% of Allied's earnings for that year. EXXON's yearly SALES are over $100 BILLION; their reported net, yearly earnings are $5 BILLION; and their NYSE traded stock has gone up 13 points in the last two years, at a estimated value of $1 BILLION per point. This huge corporation is in effect being given a pittance fine by the plea-bargain, and it in no way should be viewed as a properly negotiated fine for either the extent of damages or the worth of the corporation. Also, as you may be aware, Mr. Lawrence Rawl of Exxon has repeatedly stated to the press that the fines and settlement will in no way impair or harm his company, and that all costs will be immediately passed on the consumer in pump prices. Finally, the overall terms of the settlement, payments over ten years, are an affront to Alaskans and the nation as a whole; once Mr. Rawl 'passes on the costs', consumers will in effect be paying over and over for Exxon's corporate liabilities, while the corporation makes token payments for it's environmental assault on the nation's common resources.

3) Finally, I strongly believe that civil and criminal charges, both felony and misdemeanor, against Exxon, Exxon Shipping and ALYESKA should be reinstituted and pursued by the federal and state governments, based on the complicity, culpability and liability of Exxon and the owner companies of Alyeska to secretly plan non-compliance with terms of agreements struck with the federal and state governments to immediately respond and clean up ANY spill in Prince William Sound. The documents obtained and verified by U.S. Congressman George Miller amply demonstrate that collusion on the part of Exxon and Alyeska to ignore the existing contingency plan was commonplace, and an active topic of discussion among the owner companies in 1987-88, even to the point of written, internal memos that materials, personell and marine transport were not on-hand to address but the most minor spills in Port Valdez and Valdez Arm. The June, 1988 owners meeting of Alyeska in Phoenix, Arizona, as referenced by Stanley Factor, Vice-President of Arco Marine, Inc., states clearly the Alyeska HAD NO INTENTION of responding to a spill in Prince William Sound, except with dispersents that were not on hand, with no properly fitted aircraft to utilize them. On March 24, 1989, in the early am hours, one of the first calls made by Mr. Iarossi, upon hearing of the spill in Houston, was to Southern Air Transport of Miami, for a C-5 aircraft, specially fitted for dispesent application, to be airborn, fly to New Mexico to pick up the dispersent ("ADDS PACK") and proceed to Anchorage. As the record shows, dispersent was not on-hand in Alaska, the plane was in Miami. The Valdez personell were not trained or available, the barge was empty, and whatever small booms and skimmers on-hand were buried in snow. I term these circumstances as criminal acts on the part of Alyeska and owner companies who were far more interested in tanker turn-around times and under manning than taking any responsibility for the consequences.

In summary, I trust you take these points into consideration, and I do appreciate the opportunity to comment. The Alaska Legislature is holding daily hearings on these vitally important issues, and I hope you are able to see the wisdom in recommending rejection of these present settlement terms, as a judicial officer responsible for determining the fairness of the settlement for immediate and long-term damage to national resources.

Sincerely,

Theodore P. Thoma

ACE 416939

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APR 11 1991

CLERK U. S. DISTRICT COURT

April 11, 1991

HAND DELIVERED

The Honorable Judge Russel Holland
U.S. District Court House
222 West 7th Avenue
Anchorage, Alaska 99501

RE: EXXON SETTLEMENT AGREEMENT

Dear Judge Holland:

I respectfully urge you not to approve the Exxon Settlement Agreement. The recently released studies clearly indicate environmental and economic damage far in excess of what was originally calculated. There are estimates of Three to Eight Billion Dollars in provable damages. A settlement figure of 900 Million Dollars (approximately 500 Million in real terms) obviously is not in the public interest.

As to the 100 Million Dollars in settlement of criminal charges, I would suggest to you that this is also a grossly inadequate figure. Your Honor, I know you are aware that in order to be an effective deterrent penalties for crimes must be adequate. Do you honestly believe that 100 Million Dollars constitutes a significant punishment and deterrent for a corporation like Exxon? I would strongly suggest to you that it does not.

I have little faith in the wisdom and fortitude of the Alaska Legislature; therefore my hope lies with you. Your Honor, I urge you again, please, in the best interest of everyone, disapprove this agreement.

Respectfully Submitted,

Laura M. Schafer

LAURA M. SCHAFER
P.O. Box 877569
Wasilla, Alaska 99687
Telephone: (907)373-3195 Home
(907)376-2414 Work

ACE 416940

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YALE H. METZGER
1102 C Street
Anchorage, Alaska 99501
(907)277-7245

April 10, 1991

United States District Court
Federal Building U.S. Courthouse
222 W. 7th Avenue
Anchorage, Alaska 99501

Re: Public comments regarding proposed settlements in M/V EXXON VALDEZ criminal prosecution.

Dear Judge:

I am a frequent user of Prince William Sound as the sailor of a pleasure boat. Accordingly, I have followed the press reports of the settlement discussions between Exxon and the government carefully. I have no financial interest in the outcome of your decision regarding the proposed settlement of the criminal charges against Exxon. However, I believe that financial interests are not the only interests which should influence your decision in this matter. Perhaps those with no financial stake in the outcome of this case have the clearest view of the monumental implications of the proposed settlement.

The acceptance of the proposed settlement would remove the defendants' conduct from public scrutiny. Although Exxon's conduct may come under scrutiny in the litigation of civil suits, these could easily be settled out of court; forever closing the doors on the public's view of the defendants' conduct leading to this disaster. As a practical matter, the exposure of the defendants' conduct to the public's scrutiny in a criminal trial would seem to substantially reduce the amount of discovery necessary in the multitude of civil law suits resulting from the spill.

Ideologically, informed public opinion is the best basis for public policy. The criminal trial of the defendants seems to provide the only assurance that the public will be provided both sides of the story on which to base its opinion. Presently, public opinion is based in part on the allegations of the parties as reported in the press, and in part on information leaked from the closed-door negotiations leading to the proposed settlement. I believe that the impact of closing the doors on the information which would be exposed at a criminal trial is obvious and an important factor weighing in favor of not accepting the proposed settlement.

My second concern regarding the proposed settlement is the impression that it will leave on industry interests if approved. I am concerned that the ratification of the settlement would reinforce the belief that industry can solve its problems by spending money. Early in the effort to respond to the spill, Exxon officials vowed to leave Prince William Sound the way they found it. Anyone who ever walked the beaches of Prince William Sound knew that this promise was impossible to fulfill. Despite being impossible to fulfill, this is an understandable corporate reaction to the public's pressure at the time. Exxon's naivete about the environment in which they did business probably lead to their frivolous vow. Perhaps if the spill occurred on Wall Street or in the hallways of an office building in Houston, Exxon officials would have been better prepared to responded to public pressure. Allowing the defendants to, in effect, buy their way out of the present case, reinforces the same flawed reasoning that lead to such statements and (1) discounting the possibility that a catastrophic spill would occur; (2) failure to adequately prepare for a catastrophic spill; (3) failure to recognize and understand the uniqueness and delicacy of the environment in which they did business; (4) failure to realize, or acknowledge, the social, economic and aesthetic impact of their corporate decisions; (5) failure to recognize the ramifications of leaving irresponsible people in positions of great importance; and (6) failure to fulfill the promises made back when Exxon undertook to make Prince William Sound its place of business.

The other side to the above argument is that it would be expensive to try the defendants and that the government may end up recovering less than the amount agreed upon in the proposed settlement. However, I believe that the cost to the public to try this case, combined with the risk of recovering less than specified in the proposed settlement, is outweighed by the benefit of placing the defendants in the limelight of a fair criminal trial.

The roughly one billion dollars which the defendants would pay pursuant to the proposed settlement comes with no enforceable assurances that it will be used to offset the damage caused by the defendants' conduct. In fact, some of the State of Alaska's proposed uses of the settlement funds are quite controversial and may result in further damage to Prince William Sound. I refer to the plans proposed by the present state administration to improve access to the area.

I believe that the influence on public policy from the exposure of the defendant's conduct leading to the spill is the only outcome which can be reasonably calculated to deter board room policies based on oversights or unacceptable risks. The premiss for public opinion should be facts. I do not believe that the public presently has enough facts on which to base an informed opinion. Our lawmakers cannot even seem to obtain the necessary information with which to draft laws and regulations. More recently, a release of information by NOAA suggests that

information currently compiled about the results of the spill is incomplete. The proposed settlement appears to be premature in light of our inability to adequately measure the damage caused by Exxon. The proposed settlement may obviate much of the need for future study of the effects of the spill.

The recovery of the dollar value of damages caused to Prince William Sound is only one of many public benefits which could be realized by the trial of the defendants in this case. There is no guarantee that any fines contemplated by the proposed settlement will support the objectives of our criminal justice system. This leaves the proposed settlement even less significant in view of the broad goals of our criminal justice system.

In short, I am concerned that the economic impact from the proposed settlement is not enough of a deterrent to prevent future flawed policy making like that which lead to the spill and not enough information is presently available with which to measure an appropriate punishment in the form of a fine should Exxon be convicted of a crime.

The above comments are respectfully submitted for your consideration.

Sincerely,

Yale H. Metzger

C:\WP51\EXXON.LTR

ACE 416943

APR 11 1991
CLERK, U. S. DISTRICT COURT

42

1040 Bench Ct.
Anchorage, AK 99504
April 10, 1991

Judge Russel Holland
Federal Court
222 West 7th
Anchorage, AK

Re: Exxon Valdez Oil Spill

Dear Judge Holland:

I understand from a newspaper article that you have made a call for public comment on the plea bargain proposed for the Exxon Corporation and its shipping subsidiary in the case of the Exxon Valdez oil spill. The following are my comments.

I understand from news media stories that a settlement of one billion dollars is proposed and that this figure was arrived at as a "reasonable" figure by Governor Hickel without the benefit of any analysis about what the actual costs are. A wide range of studies have been initiated the "Trustees" in 1989 and 1990 for the purpose of determining what the environmental costs of this oil spill are. The Trustees include representatives of the State of Alaska and the Federal government. I understand that Governor Hickel did not take these studies into consideration in determining the one billion dollar settlement amount. While those studies have not been completed, indications are that the costs would be well in excess of one billion dollars. If those costs are not paid by Exxon, it is the public that will bear the burden. The value of lost wildlife and other effects on the environment are difficult to determine. But it is only fair that those costs are determined as scientifically as possible through the studies that have been initiated and that Exxon pay the full amount. I think it is unfair and unjust that the case be settled without the benefit of the studies. Governor Hickel wants to settle the suit as quickly as possible and not go into protracted legal proceedings. If the issue were mere technicalities, quick settlement would be a good idea. But technicalities are not at issue. Quantifying the dollar value of damage to the environment is at issue. This proposed settlement has strong potential for making it easy for industry to violate the environment grossly and not pay for it. People should be good stewards of the land and water. Industry, the State of Alaska, and the Federal government should all be good stewards. I think they would be bad stewards if settlement is based on only a vague notion of what the costs are rather than the best scientific information available. This one billion dollar settlement could set a poor legal precendent that would set back the cause of protecting the environment considerably.

Thank you for the opportunity to comment and for your consideration.

ACE 416944

(45)

Sincerely,

Tim Holder

Tim Holder

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APR 11 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

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CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

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PMS HONORABLE H. RUSSEL HOLLAND, U.S. DISTRI
U.S. DISTRICT COURT DLR
222 WEST 7TH AVE RM 261 000297
ANCHORAGE AK 99513

THE EXXON PLEA AGREEMENT IS PART OF A PACKAGE THAT INCLUDES CONSENT DECREE, MEMORANDUM OF AGREEMENT. THAT PACKAGE IS NOT IN THE PUBLIC INTEREST, BECAUSE NEGOTIATORS INTENTIONALLY STRUCTURED SETTLEMENT TO EXCLUDE LEGISLATIVE BRANCH, BOTH CONGRESS AND ALASKA LEGISLATURE, FROM ANY INFLUENCE OR CONTROL OVER SPENDING. DESPITE CONSTITUTIONAL PROVISIONS REQUIRING ALL MONEY BILLS TO ORIGINATE FROM CONGRESS, LEGISLATURE. STATE ATTORNEY GENERAL TESTIFIED TO LEGISLATIVE COMMITTEES AS TO THAT EXCLUSIONARY INTENT BY SETTLEMENT NEGOTIATORS. JUST SAY NO.

JOE SONNEMAN TEL.463-2624
324 WILLOUGHBY
JUNEAU AK 99801

ACE 416946

(46)

Alaska Conservation Foundation

430 West 7th Avenue, Suite 215 • Anchorage, AK 99501 • (907) 276-1917 • Fax 274-4145

April 9, 1991

Honorable H. Russell Holland
U.S. District Court
District of Alaska
222 W 7th Avenue, #4
Anchorage, AK99513

Re: Exxon Settlement

Your Honor:

For eleven years, Alaska Conservation Foundation, a 501(c)(3) tax exempt, public foundation has been supporting Alaska's environmental community. It has made more than $2,500,000 in grants for a wide range of activities. It would be fair to say that its emphasis has been support of local citizen activities for a clean and better environment.

Alaska Conservation Foundation helps citizens who are working to improve human habitat and the natural environment without relying on government assistance, not because they are opposed to such assistance, but because the responsible government agency has either refused to help or has had to be prodded to help, often after protracted litigation. This is not the way things should be, but it is the way they are.

Alaska Conservation Foundation's strength is its trust in ordinary people to better their lives. Surely, it would make a great deal of sense to apportion some of the Exxon settlement to the foundation's grantmaking in support of citizen oversight of the actual restoration and rehabilitation of Prince William Sound. With the blessing of former Governor Cowper, Alaska Conservation Foundation received contributions from individuals across the country to assist citizen cleanup and oversight after the Exxon Valdez spill. The Foundation has already granted more than $250,000 to citizen based efforts to cleanup the sound and to insure better oil spill contingency planning and preparedness. Although we should really be able to count on our representative form of government to protect the public interest, the spill proved that without continuing citizen oversight the public interest inevitably suffers.

For this reason and in addition to an "independent" board of trustees to administer the settlement fund, citizen oversight of fund implementation should be required as a condition of any settlement. Alaska Conservation Foundation is an appropriate and

responsible public interest institution to insure effective citizen oversight, and is qualified to receive funds for that purpose.

Sincerely,

Jan Konigsberg

Mr. Jan Konigsberg
Executive Director

JK:sd

RECEIVED
APR 11 1991
CHAMBERS. U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

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APR 11 1991

CLERK, U. S. DISTRICT COURT

3710 Wesleyan Dr.
Anchorage, Alaska
99508
April 9L , 1991

Judge Russ Holland
U.S. District Court
222 West 7th Street#4
Anchorage, Alaska

Your Homor Regarding the State of Alaska/Exxon agreement:

I do not support the agreement for the following reasons:

1. Possible SERIOUS CONFLICT OF INTEREST.

The Govenor has appointed Mr. Heinze, an ex-Arco official. Mr. Heinze is acting as prime mover, consultant, and decision maker for the State of Alaska, whereas in 1988 he was active with the opposing party or parties.

Cole, our State Attorney, has possible undisclosed interests in oil leases; or may be disposed to accomodate the opposing party through previous partnerships, employment, or allignment. The public does not have information if there is a conflict or not.

Release of Aleyeska from charges is not understandable since it delivered the damaging oil and is part of the consortium, including Exxon.

2. There should be no unilateral settlement between the State and Exxon. There should be the combined interest with the State and its harmed residents and the damages should reflect all of Alaska. In this agreement Exxon and the State will settle and as I understand it, the State will join with Exxon to fight suits filed by residents of Alaska, against the State and Exxon. The State should present a position of " all for one, and one for All" to the people of Alaska. The State is in a better position to obtain damages for its people, in conjunction with the agreement of the residents not to sue the State.

3. The State of Alaska is not bargaining from a position of Strength, or usuing the States ability to gain just rewards.

The State caims it cannot afford a long expensive Court case--it needs a quick end to the suit.
The negotiations have been secret in that known damages have not been made public. The State representative claim the State needs money now.

The State has the means to sustain itself while persuing just settlements by re-imposing State Income Taxes(deductible on Federal Income taxes), by restructering or imposing other severence taxes on timber, monerals and fish. The State is obligated not to make Education and Social Services decline inorder to accomodate one industry.

4. :The Settlement, if made, should be in a "lump " sum with the Total amount up front. The present terms do not take into account of inflation over the pay-out years, nor lost interest.

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4. cont;

The lump sum could invest the principle and spend only the interest to clean up the environment and insure implementation of Safety and Security. This endowment would be protedted from political manipulation.

The State has reportely spent $900,000.00. The public does not know how much we actually have paid throught the system. Rather than one billion, it appears that three billion would be reasonable claim. Also, the additional end expenses whould reflect 100 % of actual cost.

5. Punitive damages should be awarded for criminal neglect and distruction. The residents of Alaska and its flora and fauna are innocent victims of long lasting harm.

I have always advocated we can have both oil and gas development and a safe environment. Alaskan need a fair settlement inorder to go foreward and to develop future plans with caution and confidencee. We need a just decision, from the Court.

Your Honor, I have been a resident for about 32 years. I own joint propeety in the Seldovia Bay. The City of Seldovia was begging for oil containment booms to protect our Bay, there were none for Seldovia. The City asked for money to buy floater logs, across the Bay in Homer, there was nothing at that time and time was short. I immediately sent the City of Seldovia one of my first entire Social Security Ceecks, $300.00. I was proud of the workers in Seldovia. I never want to see this death and distruction again or suffer the tears of anguish.

Sincerely,

T.P. Burrell

46

3942 Turnagain Blvd.
Anchorage, Alaska 99517

H. Russell Holland
C/o Clerk of the Court
Room 261
U.S. District Court
222 West 7th Avenue
Anchorage, Alaska 99513

April 11, 1991

Dear Sir;

I am writing to express my opposition to the proposed settlement of criminal charges against Exxon regarding the Exxon Valdez oil spill. As a professional land use planner in private practice and as a former worker in the commercial fishing industry, I have known the Sound before and after the spill. In light of the long record of neglect on the part of Exxon, and the magnitude of the damage, I cannot believe that the proposed penalty is adequate. The penalty should send a clear message to the industry that their neglect will cost them. The proposed penalty does not do this. The proposed penalty is nothing more than a slap on the wrist and will do little or nothing to encourage greater care on the part of the industry. The penalty must be sufficiently large to hit them where it hurts, in their profits.

Thank you.

Very truly yours,

Kenneth V. Morton

APR 11 1991

ACE 447648

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3531 Perenosa Bay Drive
Anchorage, Alaska 99515
April 10, 1991

Honorable H. R. Holland
United States District Court Judge
United States District Court
c/o Clerk of Court, Room 261
222 West 7th Avenue
Anchorage, Alaska 99513

Subject: Exxon Spill Testimony
No. A90-015 Criminal

Dear Judge Holland:

I would like to make the court aware of my feelings as a citizen of Alaska concerning the proposed settlement of the lawsuit involving the Exxon and the State of Alaska.

To be very specific, I am in favor of the proposed settlement. I think it is the most positive outcome from the entire catastrophe.

Money can never buy back the condition of Prince William Sound. Only nature through its own processes can restore the Sound. And since we cannot stop natural forces, the sound will be restored one day no matter what we do.

Today we think that what we did immediately in response to the spill may have been the wrong thing to do. There is no reason to think today's best logic may also change with time. As long as this argument goes on as to what was the right thing to do, the stronger Exxon's case is that they did what they were supposed to do at the time. Since natural restoration is lessening the effect of the spill, as time that passes, the more public sentiment and pressure will lessen toward Exxon.

What if the size of the settlement had been double the present amount? Public perception of Exxon is that they could afford any amount. I don't think that is true. But even if the settlement amount were double, I believe the same detractors to the agreement would be saying the same things that they are saying today. Where will it end?

It needs to end here and now. The State of Alaska should take this opportunity to put this whole thing behind us. Let's get on with our future and quit crying about what might have been!

Mark L. Prestridge

APR 11 1991
CLERK U. S. DISTRICT COURT

ACE 447649

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April 10, 1991

3210 Wyoming Drive
Anchorage, AK 99517
(907) 277-5840
(907) 263-4806 (W)

Judge H. Russel Holland
c/o Clerk of the Court
222 W. 7th Ave Room 261
Anchorage, AK. 99513

APR 11 1991

CLERK, U. S. DISTRICT COURT

Dear Judge Holland:

I noticed in the Daily News this morning that you are accepting testimony on the EXXON settlement. Naturally, the California News makes the 14 letters you received to date seem like a million, with overwhelming negative response. No surprise there, as they have come out in editorials condemning the settlement and sensational journalism is their trademark. But I am glad they made mention of the letters so I could relay my thoughts to you on the settlement [before the deadline].

As a 27 yr. resident of Alaska, a certified Alaskan fanatic, and an avid outdoor enthusiast I consider myself a slight victim of the spill. I spend most of my vacations here (once every 4-5 yrs have to visit the relatives for a week). I'm just as PO'd out about the spill as anybody, maybe more so than most. It holds some of my favorite places in the State. It was a terrible, unfortunate accident, but that's all, just an accident. Its not like the spill in the Persian Gulf, ten times larger, intentionally created by a madman. At least I think there was a spill in the Gulf, didn't the press report something about one once back in January? Anyway, getting back to the PWS spill, I guess its safe to assume the State and the oil industry were fairly unprepared to tackle such a large one. I feel confident they are now. And the Sound is recovering very nicely from what I can tell.

Basically it sounds like just a few points are a question in peoples minds as to whether this is a good deal and whether we should accept it. The first being whether the State and Federal Governments could get more money by taking EXXON to court for 5-10 years. I'm not a gambler and I'm more tune to a bird in the hand is worth two in the bush. More than likely the lawyers will end up getting rich. The jury didn't hang Hazelwood like people expected and I doubt that they will find EXXON guilty of any "gross negligence". A hundred million plea bargain sounds pretty good. A billion total dollars (or 750 million real or whatever dollars) spaced out over 10 years so the money isn't wasted foolishly also sounds pretty good. Is the damage worth more? Is the new Star Trek better than the old one ? Depends on who you ask.

Another point is who gets to spend the settlement. Anybody but the State of Alaska Legislature would be okay with me. I'd rather they didn't have

anything to do with it . . . period. My understanding is there would be a committee of 3 State and 3 Federal representatives that would decide. I guess I wouldn't mind having a few more folks representing the State but I can accept the committee as is. I hope the Legislature doesn't have anything to do with picking out the State representatives. Certainly the residents of Alaska should be allowed to provide input to the committee on how to use the money. Citizens of the USA could comment on the 100 million criminal fine if it's used toward restoration.

That's pretty much all I wanted to say. I support the settlement as is and hope it is accepted. It's about time we put the PWS spill behind us and move forward. Quite honestly, while its EXXON oil that spilled, I place most of the blame for the environmental damage on the Alaska State Government, and in particular Steve Cowper, Dennis Kelso and the bumbling idiots at the DEC. By not allowing EXXON to use cleanup techniques from the pre-approved spill response plan immediately, they could (and should) be blamed for much of the damage. This semi cover-up will be coming out in court and I have a feeling a lot of jury's will come to that conclusion too. In light of this, damages by taking EXXON to court could very well be less than those of the settlement.

In summary I say accept the settlement and take the money. But before I close, I'd just like to say that I for one appreciate the time and effort Attorney General Cole and Gov. Hickel put into this deal. Thanks for your time.

Sincerely,

Michael E. Beck

Michael E. Beck

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APR 1 1 1991

April 10,1991

Judge Russel Holland
U.S. District Court
Anchorage, Alaska

Your Honor,

I am writing in response to your call for public opinion on the out of court settlement with Exxon Corp. over the Exxon Valdez disaster.

I, as an active registered Alaskan voter, **urge you not to consider an out of court settlement.** I feel the comedy of errors and gross negligence that led to the disaster must be prosecuted.

Unfortunately, I do not represent any big money concerns in the state. But, as a student at UAA, an avid outdoor adventurer, a cold water SCUBA diver and sport fisherman, I feel I do represent a large cross section of the state. All this prompts me to write this letter.

I have been researching a paper on the out of court settlement with Exxon. That research has led me to the studies of probable cause of the oil spill conducted by the US Coast Guard and the State of Alaska and the Alaska State Oil Spill Coordinator. I have also looked at the original Alyeska Oil Spill Contingency Plan for 1989. These are all published reports and available to the public at the Alaska Resource Library in the Federal Building. The gross personal and corporate negligence on record is overwhelming.

I have reviewed the verdict and sentencing in the Joseph Hazelwood trial. Although Hazelwood is popularly viewed as a scapegoat, I believe a captain is ultimately responsible for what happens on his ship. There are so many departures from standard

ACE 447650

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and required procedure that they cannot be overlooked. Those in the Exxon Shipping Company are as much to blame for keeping him in his position as he is for failing in it. Justice was not served in that case.

Alyeska's part in compounding the initial errors certainly cannot be overlooked. Alyeska did not live up to its contract with Exxon or its understanding with the State of Alaska. Although Exxon Shipping Company assumed control of clean-up efforts it was not its jurisdiction to do so. The real heroes in the early response are the Cordova Fishermen.

It is evident that Alaska State government and the oil industry are necessary, yet strange, bedfellows. We have energy that the entire country requires and we are handsomely compensated for it. But the kind of negligence that led to the grounding of the Exxon Valdez cannot be tolerated, on a personal, state, or national level. We should not let ourselves be bought off by the money lavishly thrown at the ineffectual "clean-up" or the 500 million dollar offer.

The terms that allow them to take 10 years to pay the settlement and the tax deductibility of it are absurd. Ultimatly we, the little people, wind up paying the settlement and the taxes on Exxon's profit with this plan. Exxon is a company that reported in excess of 10 billion dollars profit the year preceding the oil spill.

A more equitable arrangement than money would be to make Exxon restore the Sound to the way it was. This is not possible therefore, the chain of command responsible for the neglectful way in which the Exxon Shipping Company and Alyeska were run

should be held up to public consternation through a public trial, hopefully with adequate prosecution by the state this time.

I know that the bottom line in corporate responsibility is money. I have been told by several North Slope workers that the 2 billion dollars Exxon already paid for "clean-up" efforts has put the fear of God into the entire industry. The oil industry will avoid environmental damage because it is not cost effective. Perhaps that is the best we can expect.

And yet, I, like Judge Johnstone, would have liked to hear an apology, an acknowledgment of Exxon's role in creating the conditions that allowed this to happen. Although Exxon acknowledges its responsibility after the fact, something Captain Hazelwood never did in court, they also proved that no amount of money will clean up the Sound. The industry does not have the technology to do so, and is in fact, not required to develop it.

I have to wonder what NOAA general counsel Tom Campbell meant when he said in Wednesday's Daily News that, "The federal government thinks it is getting enough money from Exxon to restore the waterway." I have not read any reports that credit anything but time with restoration of habitat after an oil spill. We are dealing with effects that can last up to 10 years. How can we settle in just two years? The herring harvest, the first commercial enterprise to be affected by the spill, will not return for two more years. It is unconscionable to make a final settlement when the overall results are not close to being known.

I know we cannot compare apples and hubcaps, like wildlife habitat vs money. I know that many people would find it naive to try, but someone must stand up for that which cannot defend

itself. That is one principle that law is based on, isn't it? We must balance the rights of indigenous species with the encrouchment on their shrinking habitat.

In as much as time is the only cure for the wounded sound and money is all Exxon can offer, PLEASE, DO NOT SETTLE OUT OF COURT! Hold Exxon and Alyeska morally and legally responsible. We should demand ten rimes what they offer. If a tap on the pocketbook is all industry can feel, then make it feel it in a big way. We have a chance to send the message out that negligent polluting of our environment will not be tolerated. Industry must act responsibly as well as cost effectively. And where prevention is the best cure, response and restoration should also be required.

I have thought about this issue a lot and feel very strongly about it. I thank you for your time and consideration.

Sincerly,

Catherine L. Williams

Catherine L. Williams
2200 Gambell #151
Anchorage, Alask 99503

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Judge H. Russel Holland
c/o Clerk of Court
Room 261
222 W. 7th Ave.
Anchorage, Ak
99513

APR 1 1 1991
CLERK, U. S. DISTRICT COURT

Judge H. Russel Holland,

In response to your request for public comment on Exxon's plea bargains, I am putting forth my comment. I agree with the attached article. The charges against Exxon are absurd and make no sense what so ever. If anyone believes that Exxon intentionally grounded a multi-million dollar vessel to intentionally lose a multi-million dollar cargo, they should have their head examined. I believe that the real criminals in this incident are the idiots that were running the state at the time - Kelso & Cowper. If they had been doing their jobs, they wouldn't have hobbled Exxon. So my comment, for the record, is in favor of the plea bargain.

Scott Sindelar
7700 Upper DeArmoun
Anchorage, AK. 99516

Hm. 345-5203
Wk. 263-4376

Scott Sindelar

personnel department, run down to the bars along the waterfront and find a few derelicts to man this huge ship. Furthermore, we should not forget in the heated hysteria that no official proof at this writing exists that either the captain or the crew were not competent.

Accidents do happen. Perfectly qualified and credentialed people make mistakes. Competent drivers get killed by the thousands because compentence doesn't mean you can't have lapses of attention or make errors in judgment. So the criminal charges are political baloney, an attempt to shake down Exxon and win a cheer from the environmental mob.

When are the rest of us going to accept our chare of the responsibility for the Valdez oil spill? After all, Alaskans love to sell the oil. We love to burn it. If you want oil, you must move it on the high seas. Capt. Eddie Rickenbacker was fond of saying that as long as you have movement, you are going to have crashes.

Let's dampen down the utopian heifer dust. There are no systems, plans or schemes that will prevent future oil spills. Given the volume of oil being moved, the uncertainty of nature, the fallibility of all humans,

The U.S. Justice Department has turned the guns on Exxon

By Paul Craig Roberts

Paul Craig Roberts, an economist at the Center for Strategic and International Studies, is a columnist for The Washington Times.

Americans have been taught to be fearful of the U.S. budget deficit, which allegedly is "mortgaging our future." We have been pummeled with charges of "imperial overreach" — a claim that our military strength is sapping the life from our economy. And we have been terrorized by hysterical claims that our food and environment are unsafe.

All the while, the United States has enjoyed one of the smallest deficits in the world when measured in proportion to income and wealth. Our military rival, the Soviet Union, crippled by socialism and an inefficient economy, is cracking up before our eyes. Americans remain the healthiest people with the safest food and least polluted environment in the world.

The unfounded hysterias that tyrannize us are calculated to serve special interests, whether those of government wanting more taxes, pacifists wanting less military or environmental groups wanting more power.

Moreover, the scare stories blind us to the real threats to our future. The most serious of these threats is the hostile attitude toward business that is being taught in our universities and law schools. Today the U.S. government is full of brainwashed young lawyers who believe that doing good in the world and destroying U.S. businesses are one and the same thing.

For example, exultant from its destruction of our nation's most innovative financial firm, Drexel Burnham, the U.S. Justice Department has how turned its guns on Exxon, our largest oil company.

It is absolutely certain that Exxon did not run its Valdez oil supertanker aground off the coast of Alaska on purpose in order to pollute the water and kill migratory birds. Yet, the Justice Department's criminal indictment assumes that it did.

The trumped-up indictment relies on two laws designed to punish polluters, the Clean Water Act and the Refuse Act. These acts make it illegal to discharge hazardous substances and refuse without a permit. They are designed to stop unwanted pollutants and garbage from being dumped in waterways.

It is absurd for the Justice Department to claim that the accidental spill of $150 million of valuable oil in Prince William Sound was "refuse matter" "thrown, discharged and deposited" by Exxon without a permit.

It is equally absurd to charge Exxon with violating the Migratory Bird Treaty Act, which prohibits the killing of migratory birds without a permit. The Justice Department's lawyers need psychiatric care if they really believe that Exxon wasted $150 million worth of oil plus $2 billion in cleanup costs and $180 million in damage claims paid to fishermen in order to go bird hunting without a license.

The other two indictments are drawn from the Ports and Waterways Act and the Dangerous Cargo Act, which require tankers to be manned by competent personnel. The government is charging that Exxon "willfully and knowingly" employed people incapable of performing the duties assigned to them.

That's about the stupidest charge imaginable. How could the attorney general possibly believe that one of the world's largest companies purposely hired incompetent people to squander its profits and jeopardize its existence?

It seems clear that the captain of the Valdez supertanker didn't do his job. But he always had in the past. It is not as if he had a record of running oil tankers onto reefs while remaining in Exxon's employ. That would imply negligence on the part of the company.

In its front page story, The New York Times, no friend of oil companies, acknowledges that "the government faces a risky criminal trial based on untested legal principles." Actually, Josef Stalin tested these principles in the 1930s when he invented make-believe crimes in order to destroy people.

It is unsettling to watch the Justice Department practicing law the way Stalin did. Attorney General Dick Thornburgh declared that "by pursuing criminal charges in this case, the federal government is sending a strong signal that environmental crimes will not be tolerated." If the government has its way with Exxon, in the future anyone involved in a car accident that results in gasoline spilling into a stream or waterway will be subject to prosecution for an "environmental crime."

What we are witnessing is the extortion of an oil company by the Justice Department. (If Exxon will admit to "serious charges" and pony up $550 million more for a fund to please favored environmental interest groups, the government will let the oil company off with a plea bargain. If nothing else, this shows that it is environmental groups and not large corporations that pull the strings of justice.

Criminal prosecution of Exxon must puzzle America's economic allies

By Jerry Heaster

Jerry Heaster is a columnist for the Kansas City Star in Kansas City, Mo.

The criminal prosecution of the Exxon Corp. for last year's Alaskan oil spill must come as a puzzlement to America's economic allies around the world who look to this nation for leadership.

The conventional wisdom of [illegible] United

tional light.

A criminal charge should be based on criminal intent. Given this, is it rational to assume that Exxon executives would have knowingly done anything that would have caused such an accident to happen?

Hardly. The accident was horrendous not only in

and no doubt will spend much more.

Despite the spill's obvious accidental nature and Exxon's good faith cleanup efforts, the attorney general says the criminal prosecution signals that "environmental crimes will not be tolerated."

Not so. What it really reveals should be concerned because prosecuting Exxon makes it that much easier for government to deprive you of the law's protection when it suits a powerful person's political purpose.



447657 ACE 44

Judge Holland:

When I heard of the proposed settlement between Exxon Corporation , the Federal Government, and the State of Alaska concerning the Exxon Valdez incident, I was incensed. After the incredible magnitude of environmental harm this company, or rather consortium of companies, inflicted on our state, I find a "billion dollar" settlement, spread out in convenient installments over many years, akin to slapping John Hinkley's hand for trying to shoot President Reagan, or saying "Shame on you!" to Saddam Hussein.

Exxon's apparent abrasiveness and indifference during the early hours of the spill, coupled with Alyeska's lack of *promised* spill response capabilities were ingredients in a sick recipe for disaster. The damage caused by this spill to wildlife and associated ecosystems will be evident far into the future. Punishment for the results of Exxon's poor judgement and apparent lack of ecological morals should carry similar long-term affects for their organization.

The settlement is far too little for a corporation of Exxon's resources, and the installment plan makes it far to easy for Exxon to escape from this incident with a minimum of wear and tear. It is my opinion that Exxon Corporation should pay 5% of their gross annual income, before expenses, for the next 30 years at the very least. This would provide a corporate punch that will be felt for the lifetimes of the people involved in the events which lead to the spill. The effects of the spill will be felt for the next millennium. It is only fair that Exxon feel some pain as well.

APR 11 1991
CLERK, U. S. DISTRICT COURT

ACE 447658

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Now for a little perspective on the person who has just vented his spleen. Until December 1990 I worked for Chevron U.S.A., and I parted company on friendly terms. I have no deep animosity towards "Big Oil" or large corporations per se. I worked for ten years at Chevron's Anchorage Terminal, and spent the last 3-1/2 years at Chevron's Point Arguello Facility near Santa Barbara, California. I recently relocated to Anchorage to pursue a career in the computer industry in the state I have come to love very deeply.

While working as a Programmer/Analyst for Chevron in California, I watched as they and their project partners waded through adverse public opinion and incredible bureaucratic muck trying to get their oil processing facility up and running. To this day, after expending nearly 2.5 billion dollars on the project, not a drop of oil has moved through the plant, and not a penny of positive cash flow has entered the pockets of the members of the project consortium.

So, I have witnessed one end of the spectrum; "Big Oil" trying to get their raw materials but dealing with people who want the benefits of petroleum technology, but don't want the material obtained from their "back yard." The frustration of trying to get the oil safely and cleanly while being pre-judged by the public is incredible.

On the other hand, I can see the need for some kind of regulation, some method of checking-up on companies which are performing environmentally sensitive work, to ensure that they are capable of handling emergencies of magnitudes commensurate with their projects. When I heard of the Exxon Valdez spill, I was sickened that such a thing had happened, especially to an area as beautiful and bountiful as Prince William Sound. As the drama unfolded I was amazed at the poor initial response to the spill and wondered why the companies had not complied with their promises.

Here was the other end of the spectrum; "Big Oil", gambling that they could slide by and not attend to their responsibilities as expected by the general public. Indeed, Exxon and Alyeska gambled, and we all lost. It is time for those who played the game, and blithely danced around their promises, to pay until it hurts. They should not get off lightly and, in my opinion, the current settlement is *far too light!*

Thank you for the opportunity to comment on this issue.

Garry J. Wallan

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ACE 447660

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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

APR 11 1991

CLERK, U. S. DISTRICT COURT

April 11, 1991

The Honorable H. Russel Holland
Judge of the United States District Court
222 West 7th Avenue, Room 4
Anchorage, Alaska 99513

Dear Judge Holland:

On behalf of the State of Alaska, I am submitting the following brief comments on the Plea Agreement between the United States and Exxon Corporation and Exxon Shipping Company currently pending imposition of sentence. These items are those of most concern to the State.

The State of Alaska has a paramount and continuing interest in seeing that parties found criminally responsible under federal law for the discharge of crude oil in the Alaska environment are deterred from future conduct which could lead to similar catastrophes. It is also important that others in the oil and marine transportation industries are similarly deterred. The proposed disposition, when viewed in light of all of the events surrounding the Exxon Valdez oil spill, is of sufficient magnitude to call to the attention of Exxon and the industry at large the need to assure that all necessary precautions must be taken to guarantee the safe transportation of crude oil over the land and waters of our state.

The Plea Agreement provides for a $100 million fine, remitted to $50 million dollars based upon Exxon's efforts to clean up the spill and to pay for some of the damages caused by the spill. The Agreement further provides for the immediate payment of $50 million in restitution to the State of Alaska to be used for restoration purposes. In addition to these payments, the Agreement recites that Exxon has expended in excess of $2 billion in response and cleanup costs and paid more than $300 million in damages to private parties to date. Simultaneously with filing of the plea agreement, Exxon entered into a civil settlement agreement with the United States and the State of Alaska which, if approved, calls for as much as $1 billion dollars to be paid over the next ten to fifteen years. These payments, in conjunction with the guilty pleas to be entered by Exxon and the public censure which accompanied the spill, are sufficient to establish an adequate level of deterrence.

The remittance provision is beneficial to this State as it should serve as an incentive to those who might in the future be responsible for the discharge of oil to take responsibility for its clean up and to take affirmative voluntary steps to compensate victims of oil spills.

The $50.0 million restitution payment to the State of Alaska required by Part IV of the Agreement for restoration of natural resources is an especially appropriate condition of the sentence. It provides the Alaska State Legislature immediate

access to significant funds to commence the restoration of Prince William Sound. These restoration activities will ultimately benefit all of the user groups who appear as plaintiffs in the myriad civil actions, including Alaska natives, commercial fishermen, recreationists, property owners and businesses.

In sum, the proposed sentence outlined in the Plea Agreement adequately addresses the State's concerns about long term industry-wide deterrence. In addition, although the $50.0 million restitution payment is not in itself adequate compensation for all of the State of Alaska's damages, it is a significant down payment on those damages to be recovered under the civil settlement or in subsequent civil litigation. Most importantly, the amounts are available immediately and are dedicated to restoration of the environment which in turn will redound to the benefit of all Alaskans who live, work and recreate in Prince William Sound and other areas affected by the oil spill.

Thank you for the opportunity to comment on the pending Plea Agreement and sentencing proceeding.

Sincerely,

Craig J. Tillery
for CHARLES E. COLE
ATTORNEY GENERAL

CEC:bkn

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Chris Chavasse
P.O. Box 15003
Fritz Creek, Ak
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April 9th, 1991

The Honorable Judge Holland:

In the light of the recent disclosure of the summary of the federal assesment I believe that not only do we as the residents of the State of Alaska, but also the residents of the Nation, have the inherent right to examine this document prior to accepting a politically motivated out of court settlement with Exxon Corp. Therefore, I must request that the Judicial System extend the comment period on the proposed settlement and also provide copies of the released summary of damage to all communities in the State of Alaska and the Nation at large.

Having personally participated in the clean-up effort after the spill, and having seen and appraised the damage to the communities and natural resources of the State I do not consider that the current settlement amount is appropriate, nor the terms thereof.

In the light of the accumulated damage, planet wide, caused by Industry, this is not the time to be releasing the perpetrators in a political settlement. Exxon and Aleyeska, both, should be held accountable for their negligence and criminal disregard for the Life and Liberty afforded the State and its peoples.

Sincerely,

Chris Chavasse

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U.S. DISTRICT COURT

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April 11, 1991

Honorable H. Russell Holland
United States District Judge
U.S. Courthouse
Anchorage, Alaska 99501

Re: Comments on Criminal Plea Agreement in United States of America v. Exxon Corporation and Exxon Shipping Company, No. A90-015 CR

Dear Judge Holland:

These comments in opposition to the proposed criminal plea and settlement are submitted in behalf of our clients, the Alaska Sport Fishing Association and named individuals who are recreational plaintiffs, the Area Business Class, and approximately 500 other claimants in the civil litigation arising from the Exxon Valdez oil spill. Those plaintiffs represent a variety of recreational, commercial, subsistence and other pursuits involving consumptive and nonconsumptive use of the fish, wildlife, lands and waters affected by the spill. The Association is the largest fishery conservation organization in Alaska and has through political, legislative, administrative, and litigatory efforts achieved conservation of more than a dozen areas, totalling nearly 7 million acres of fish and wildlife habitat in Alaska since the enactment of ANILCA in 1980.

Because the Association and these class and individual plaintiffs are concerned for the conservation of fish and wildlife habitat, and because the monies from this plea and settlement may be used for such purposes, the criminal plea and settlement are of particular concern. The proposed fine is inordinately low, particularly when combined with the inordinately low settlement of civil damages. The manner with which they were reached erodes confidence.

A. This Court Should Not Allow the Governments to Settle Without Encouraging the Governments to Provide an Opportunity for Public Interest Litigants, and Probably Also Private Class Litigants, to Participate in Settlement of Negotiations.

Fundamentally, this is a political case that goes to the heart of how our judicial, executive, and legislative branches of government, as well as our corporate institutions, deal with environmental injuries of great magnitude that affect natural resources and the public in innumerable and complex ways. Here, the executive branch has chosen to operate and settle in isolation, without any opportunity for public interest litigants and private interest litigants to participate.

In a case of this nature, where the science, injuries and damages involve complex relationships between public and private claims, that should not be encouraged. It erodes confidence in the settlement, our corporate institutions and government in general. The importance of such confidence reaches far beyond this spill. By allowing public comment, this court has commendably sought to allow the public to be heard. But informed comment has been thwarted by the long silence on science and the continued silence on damage calculations. That history of silence, isolation and the need for confidence warrants rejection of this settlement. That is essentially the point reached by Congressman George Miller, when he concludes that without

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confidence in the Department of Justice, "how is it that Congress and the people . . . can rely on (governmental or corporate) assurances in the future?"

B. This Court Should Apply the Alternative Fines Act, 18 USC Section 3571(d).

In imposing sentence, this court should apply the Alternative Fines Act for purposes of determining the appropriate criminal penalty. The Act provides that the court may impose up to twice the pecuniary loss resulting from the offense. In this case, the defendants have already paid out approximately $300 million in damages for pecuniary losses occurring in just 1989 and for the most part to just the commercial fishing industry. There are as yet outstanding in excess of $56 billion in claims filed against the TAPS Fund, much of which is for pecuniary loss. This court should not hesitate to conclude that the pecuniary losses resulting from this spill vastly exceed the $300 million already paid out.

Therefore, this court is faced with the problem determining an appropriate fine based on only partially determined pecuniary losses. These plaintiffs urge this court to impose a fine as follows: $600 million (for twice the pecuniary losses already determined) plus $400 million (not twice, but to address pecuniary losses yet to be determined) with a remittance of any portion of the latter that is not determined.

C. The Court Should Not Accept the Plea Agreement Until the Court Has Received a Summary of the Damage Calculation Studies, and Acceptance of the Plea Agreement Should Be Contingent Upon Scientific and Economic Studies Being Made Public and Being Continued.

It has been impractical for the public, this court, or state and federal officials and legislators to evaluate this settlement or the criminal plea without scientific and economic data being available. While the recent federal release of scientific information shows the injuries to be long lasting and worse than Exxon claims, more importantly, the release shows that the entire ecosystem has been attacked from the lowest to the highest trophic levels.

The signs of this are: (1) the decline in species diversity, abundance and recruitment of benthic organisms that are important to predator-prey relationships and the food chain, (2) the widespread loss of kelp, which has been conservatively documented in similar Alaskan ecosystems to provide 58.3 percent of the organic carbon load into the environment (see Attachment A), and (3) the widespread incidence across many higher trophic species of continuing lethal and sublethal effects such as lost reproductivity, debilitating lesions, mutagenic effects, MFO induction (multi-function oxidases which attack testosterone and estrogen), behavioral and territorial disruptions, low body weight, and decreased growth rates. In general, these are the types of (post-initial mortality) injuries to be expected at higher trophic levels when the lower trophic levels are severely disrupted by oil spill contaminants. Furthermore, these injuries are most prevalent among organisms that more often that not have non-market (and often nonconsumptive) use and intrinsic value, such as marine birds, harlequin ducks, eagles, sea otters, dolly varden, killer whales, harbor seals, and intertidal benthic life, as well as among marketed and non-marketed harvested species such as salmon and shellfish.

Of greater importance are the damage calculation studies. Neither the state or federal governments has released the studies that measure the value of market and non-market losses, including commercial, subsistence, recreational, and intrinsic losses. Various reports in the press, based on interviews with economic experts, have placed the natural resources damages at multiple billions of dollars. A range of $3 - 10 billion has been mentioned in several recent reports as

coming from economic studies conducted by the State of Alaska that were designed to measure the non-use and intrinsic values associated with the injured natural resources.

To reach a reasonable decision on this settlement, this court needs those studies, particularly the intrinsic value study, every bit as much as it needs the scientific summary. To obtain a summary of the intrinsic value damage study, this court should subpoena the testimony and any summaries prepared by the following experts who, by information and belief, were retained as expert witnesses by the Alaska Department of Law and performed the intrinsic value study: Dr. Richard Carson, Associate Professor of Economics, University of California, San Diego; Dr. Robert Mitchell, Professor of Sociology, Clark University, Worcester MA; Dr. Michael Hanemann, Associate Professor of Agricultural & Resource Economics, University of California, Berkeley; and Dr. Raymond Kopp, Director, Quality of the Environment Division, Resources for the Future, Inc. Washington, D.C. In addition, this court should subpoena Dr. Norman Meade, Chief Economist in the NOAA Damage Assessment Branch, Rockville, MD, who managed the federal studies of recreation damages and intrinsic values, and the following experts who, by information and belief, were retained as expert witnesses by the U.S. Department of Justice to perform those studies: Dr. Alan Randall, Professor of Agricultural Economics, The Ohio State University, Columbus; Dr. John Hoehn, Assistant Professor of Agricultural Economics, Michigan State University, East Lansing; and Drs. Nancy Bockstael, Kenneth McConnell and Ivar Strand, Professors of Agricultural & Resource Economics at the University of Maryland, College Park.

The federal and state studies of intrinsic value employed the contingent valuation approach that was recently upheld by the U.S. Court of Appeals for the District of Columbia Circuit. By information and belief, these studies had been under way for a period of about eighteen months at the time the settlement was submitted to this court and they had reached preliminary conclusions indicating a range of $3 - 10 billion for the non-use component of the natural resources damages. The range arises from the fact that, by design, the studies sought only a lower bound on the damages and reflects differences due to the use of willingness to pay versus willingness to accept, differences in the payment vehicle and the period of time over which payments would be made, and -- most importantly -- differences in the extent and duration of the natural resources injuries. In the light of the scientific information concerning these injuries that has just been released by the federal government, it is more than likely that a final analysis of the contingent valuation data will place the value of the non-use damages near the high end of the $3 - 10 billion range.

We urge this court not to accept this settlement and plea agreement until such information is before it and that any acceptance be contingent on release and continued assessment of damages for loss of commercial, subsistence and recreational use of natural resources, as required by 43 C.F.R. 11.83. By information and belief, including statements of Attorney General Cole at the April 6 legislative hearing, we believe those studies are not complete and that the governments have effectively turned their backs on their citizens.

D. <u>The Settlement Represents a Gross Violation of the State and Federal Governments' Fiduciary Obligations as Trustees for the Natural Resources Injured by the Oil Spill</u>.

From numerous press accounts of the settlement, it is abundantly clear that it was a political decision on the part of a few key players in the state and federal governments who by-passed the entire natural resource damage assessment process. By information and belief, the amount of the settlement was in no way grounded in the information developed by the scientists and economists working on the damage assessment. The idea of settling for around one billion dollars originated with Governor Hickel a few weeks after the election, if not earlier -- well before he had taken office or had obtained access to the information developed by the damage assessment.

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At the federal level, the settlement was promoted by Secretary of Transportation Skinner, who i not a trustee and who, by his own account, was not conversant with the findings of the damag assessment.

The final agreement calls for payment of $900 million for natural resource damages ove a period of more than 10 years without interest. The trustees' decision to forego interest on th natural resource damages violates the decision of the DC Circuit Court of Appeals upholdin payment of interest at a rate of 10%, and reduces the costs of conducting the damage assessmen and the costs of restoration, which would be fully recoverable with interest accruing from the tim that they were incurred. When these costs are subtracted from the amount of the settlement an the remainder is converted to present value terms, recognizing the time value of money, th settlement for loss of use value, non-use value, option value, amenity value, bequest value, existenc value, consumer surplus, economic rent and related natural resource values amounts, at best, t about $450 million.

By information and belief, this trifling sum is grotesquely out of proportion to an reasonable estimate of these damages and bears no relation whatsoever to the informatio developed by the state and federal damage assessment teams. Indeed, the trustees would hav reached a figure considerably larger than $450 million if they had merely taken the estimated kil of fish and wildlife immediately after the spill and multiplied this by replacement cost figures tha have been used in earlier cases to value a very limited set of natural resources damages.

For example, in the case of the T/V Puerto Rican oil spill off the coast of San Francisc in 1984, NOAA published a damage assessment report in 1986 valuing the birds killed in the incident at from $575,000 to $1,528,000 using the replacement cost method, based on estimates from zoological institutions and supply houses of what it would cost to obtain replacement specimens o the birds affected. (See Attachment B.) This case was subsequently settled for about $750,000. The Exxon Valdez spill involves many of the same species of birds. NOAA's estimate of the replacement cost for these birds was from $200 to $500 per bird at 1986 prices. When these replacement costs are applied to the estimates of bird losses just released by the federal government for the Exxon Valdez spill, and when similar replacement costs are applied to the many other wildlife and fish losses and the injuries to land, it is evident that a damage estimate of well over $1 billion would be obtained for just initial effects.

It is widely recognized, including by the NOAA Attachment, that estimates of replacement cost from supply houses significantly understate the true cost of replacing of wildlife, quite possibly by an order of magnitude because it is impossible to buy a half million wild birds, let alone other wildlife. Furthermore, because of delays before restoration can be effected, there are additional, interim, losses to the fish and wildlife populations that would have to be added to this $1 billion of damages. One would also have to add the loss of recreation and other use values. The resulting total damage would be compounded at 10% interest from the time the damage occurred until the time that payment was received by the trustees. All of this is added to the state and federal governments' other expenses for damage assessments, cleanup and restoration that are fully recoverable under existing law.

By settling for an amount that is so much lower in present value terms, and by failing to provide a credible explanation of the settlement or to relate it in a meaningful way to any theory of damage valuation, the trustees have cast aside their fiduciary obligations to determine the magnitude of natural resources damages and account for them to the general public. If this court does not intervene, it will send a signal that such wanton misconduct by trustees can become the norm in all future natural resource damages cases.

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Furthermore, the gross imbalance between the actual settlement of $450 million for natural resource damages and any reasonable accounting of such damages makes a mockery of the re-opener clause. Under this clause, an amount no more than $100 million is payable in 2002 for injuries that could not reasonably have been known at the present time. According to press reports, William Reilly, the Administrator of the EPA had recommended that $300 million be set aside for this purpose. When viewed as a proportion of the likely natural resource damages that already are known to the trustees --if they choose to consult their damage assessment -- even this amount seems small. By failing to provide any rationale for capping the re-opener at $100 million, the trustees have violated their fiduciary obligations and set a bad precedent for future natural resource damages cases.

E. This Court Should Strike the Prohibition on Judicial and Administrative Review in Paragraph IV B.

Paragraph IV B provides that the State of Alaska may spend monies from the criminal plea without public objection, challenge, or judicial or administrative review. This prohibition is unconscionable. It allows the State of Alaska to spend in any manner whatsoever and should be stricken from the agreement.

F. Alyeska Should Not be Excused From Criminal Liability.

Congressman Miller has described Alyeska's broken promises regarding its ability to prevent or respond to a spill of this magnitude. The merits of any criminal case or civil penalties against Alyeska cannot be determined without court proceedings, but to foreclose that possibility erodes confidence that government diligently prosecutes major corporate perpetrators of environmental crimes. The exculpation of Alyeska should be stricken.

CONCLUSION

The political nature of this highly public case demands that the court scrutinize carefully the secretive process and evidence behind this settlement. Private litigants, particularly public interest litigants, should not have been foreclosed from that process. This court can redress that process by rejecting this criminal settlement and effectively urging the governments to pursue a more open settlement of civil aspects of this case brought by both governments and numerous public interest and class litigants. By so doing, this court will be sensitive to its own vital role in sustaining public confidence in public institutions.

Respectfully submitted,

ADLER, JAMESON & CLARAVAL

Geoffrey Y. Parker

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to 32%, K_2O ≈8 to 9%, and CO_2 ≈2? to 32% (3–5, 15). Analyses of fresh samples, which were sealed before complete cooling, indicate that the 1988 lavas were almost water-free. The volatile contents of F (2.5 to 4.5%), Cl (3.5 to 5%), and SO_3 (4 to 5.5%) are higher than reported previously for the 1960 lavas (15). Such high volatile concentrations no doubt contributed to the lower solidus temperature of the lava at Oldoinyo Lengai compared with that of the synthetic system studied by Cooper *et al.* (12).

The temperature measurements on natural lava flows are in good agreement with experimental melting-temperature determinations carried out on samples from the same flows. The rock powder of the natural lava melted easily at temperatures of 500° to 550°C. The melting temperature at 1 atm was determined by differential thermal analysis (DTA) and differential thermal gravimetry (DTG). A pronounced DTA endotherm, representing the onset of melting, began at 490°C (±5°) and had its maximum at 510° to 520°C. This range (490° to 520°C) is similar to the range of the temperature measurements of the lava flows. Dissociation of CO_2 from the carbonate melt began at 660°C.

The observed temperatures are several hundred degrees lower than the lowest 1-atm temperatures of silicate lavas. Significant cooling must have occurred from temperatures of possible partial melting in the mantle (6). Concomitant crystallization can account for the distinctly fractionated composition of natrocarbonatites (5, 6, 15).

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17. The DTA and DTG analyses were carried out at the [illegible] Institut, University of [illegible]. V. Kümmel is thanked for his help. We [illegible] the members of the expedition, K. Krafft, C. Ne[illegible], C. Hug-Fleck, and A. Dennison for [illegible] assistance. We also thank the Peterson bros. Arusha, and our local porters for their help in [illegible].

27 February 1989; accepted 26 April 1989

Magnification of Secondary Production by Kelp Detritus in Coastal Marine Ecosystems

D. O. DUGGINS, C. A. SIMENSTAD, J. A. ESTES

Kelps are highly productive seaweeds found along most temperate latitude coastlines, but the fate and importance of kelp production to nearshore ecosystems are largely unknown. The trophic role of kelp-derived carbon in a wide range of marine organisms was assessed by a natural experiment. Growth rates of benthic suspension feeders were greatly increased in the presence of organic detritus (particulate and dissolved) originating from large benthic seaweeds (kelps). Stable carbon isotope analysis confirmed that kelp-derived carbon is found throughout the nearshore food web.

ALTHOUGH PHYTOPLANKTON IS UNdoubtedly the primary source of organic carbon in much of the world's oceans, benthic plants are thought to be important contributors to food webs in estuarine and coral reef habitats (1). In the early 1970s, Mann and others (2–4) showed exceptionally high productivity in benthic macrophytes belonging to the order Laminariales (kelps) and inferred that kelp-derived organic carbon could play a significant role in temperate coastal (nearshore) secondary production. We assessed the significance of kelp-derived organic carbon to secondary production by a natural experiment involving islands in the Aleutian archipelago (Alaska) with and without sea otters, and thus with and without extensive kelp forests (5). We show that growth rates of benthic suspension feeders are two to five times as high at kelp-dominated islands as at those without kelp beds. Stable carbon isotope ($\delta^{13}C$) analyses show that kelp-derived carbon contributes significantly to the carbon assimilated by secondary consumers at these islands.

Kelps are a dominant feature of many exposed and semiexposed temperate coastlines, where they frequently form dense stands from the low intertidal zone to depths approaching 40 m. Individual kelps can achieve large biomass and rapid growth even at high density, thus forming one of the world's most productive habitats (3, 6). Benthic marine herbivores such as sea urchins (Echinoidea) can retard the growth of kelp populations and occasionally decimate extant populations, but most kelp biomass is not consumed directly (7). This has led to speculation that kelp biomass enters the nearshore food web through indirect (detrital) routes. By releasing particulate as well as dissolved organic matter (POM and DOM, respectively) as they grow and senesce, kelps could provide a significant organic carbon source for the diverse and abundant assemblages of nearshore suspension feeders, pelagic as well as benthic. Even the considerable quantity of kelp biomass deposited on beaches adjacent to kelp stands ultimately may reenter the nearshore food web as POM and DOM after decomposition.

The reestablishment of sea otters in the Aleutians after their near extinction in the 19th century and the subsequent resurgence of otter predation upon sea urchins allow us to compare secondary production between areas that differ greatly in kelp biomass but are otherwise similar. Oceanographic data indicate that the pervasive influence of the westward-flowing Alaskan Stream accounts for relatively uniform physical conditions among the central and western Aleutian Islands (8). Neither the few prior studies nor our surveys provide evidence for significant differences in species composition (including phytoplankton) along this segment of the archipelago (9).

The mid- and low-intertidal zone throughout the Aleutian Islands are dominated by kelps belonging to the genera

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Attachment A

ACE 447670

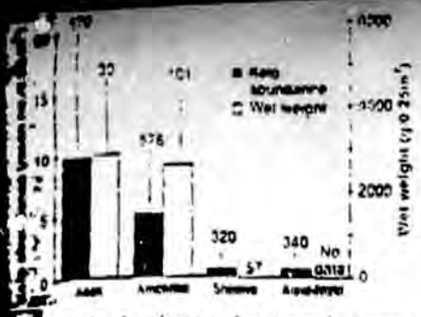


Fig. 1. Kelp abundance and wet weight (means ± 1 SD of quadrat counts and sample weights) from islands with sea otters (Adak and Amchitka) and without otters (Shemya and Alaid-Nizki). Biomass at Shemya = 0. Sample size is given above each error bar.

Laminaria and *Alaria*, which exist in a refuge above the foraging range of sea urchins. Rocky subtidal habitats at islands with sea otters are characterized by low urchin biomass and large stands of both understory and surface canopy kelps; however, islands where sea otters have not become reestablished are characterized by large urchin biomasses and few kelps (*5*). This nearshore community variation allowed us to assess (by comparison) the importance of kelp carbon to the production of nearshore consumers. Between 1985 and 1987 we conducted benthic surveys, experiments, and stable isotope analyses at Adak and Amchitka Islands (otters abundant) and at Shemya and Alaid-Nizki Islands (no sea otters) to determine whether growth (as an indicator of production) and $\delta^{13}C$ of consumer organisms were related positively to kelp biomass.

Systematic benthic surveys verified differences in kelp abundance and biomass between islands. At each island, transects were established at 16 to 30 randomly selected sites along the 6-m contour. All sites were on the Bering Sea side of each island and were judged subjectively to be of similar wave exposure. Along each transect, 20 randomly selected 0.25-m^2 quadrats were censused by divers for kelp abundance. The resulting data (Fig. 1) show orders of magnitude differences in subtidal kelp abundance and biomass between islands with and without sea otters. Although abundance and biomass are not synonymous with production, research on similar kelp assemblages suggests that benthic production should be significantly different among these islands (*2*, *10*). If kelp-derived organic carbon is available to nearshore suspension feeders, detritivores, and (indirectly) their predators, and if phytoplankton alone is a limiting resource, then secondary production should be significantly different between island groups. We used two analyses to determine whether suspension-feeding organisms

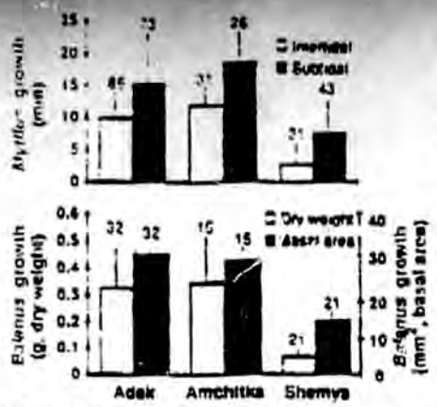


Fig. 2. Results of translocation experiments: means and 1 SD of growth in length (mussels, *Mytilus*) or dry weight and basal area (barnacles, *Balanus*). Sample size is given above each error bar.

grow faster in kelp-dominated than in urchin-dominated environments. First, we translocated two species of suspension feeders (the mussel *Mytilus edulis* and the barnacle *Balanus glandula*) from a common source (Puget Sound, Washington) into cages at six intertidal and six subtidal sites at Adak, Amchitka, and Shemya' islands. Mussels were translocated in 1985 and 1986 and barnacles in 1986. Mussels were individually tagged and measured (maximum valve length) (*12*); barnacles were allowed to settle on fiberglass plates, thinned to minimize competition, and measured in four dimensions (length and width of operculum and base). Barnacle locations were mapped for individual identification and the plates were placed in the same cages with the mussels. All animals were remeasured after 1 year. Mussel valve elongation, barnacle final dry weight (*13*), and change in barnacle basal plate area were the parameters used to compare growth among islands.

Growth rates were significantly different (*14*) among islands. Mussels in kelp-dominated habitats (Adak and Amchitka) grew approximately two (subtidal) to four (intertidal) times as fast as mussels in urchin-dominated habitats (Fig. 2). Likewise, barnacles (intertidal) grew up to five times as fast in kelp-dominated environments (Fig. 2; barnacles from subtidal cages did not survive).

As a second, independent verification of the translocation data, age-size relations were analyzed for intertidal mussels collected from six sites at each of four islands (*15*). Mussel valves were sectioned and age determined by the methods of Lutz (*16*). For year classes 2 to 5, mussels were significantly larger at islands with substantial subtidal kelp forests (Fig. 3) (*17*).

Our results do not exclude the possibility that a carbon source other than that derived from kelps accounted for differences in mussel and barnacle growth among islands. We employed $\delta^{13}C$ analyses to determine the extent to which consumers were using kelp-derived organic carbon and if such use differed among islands as predicted (*18*). The Aleutian nearshore food web lends itself well to such analyses for several reasons. Unlike other habitats such as estuaries where diverse autotrophs (phytoplankton, benthic algae, and marine and terrestrial angiosperms), each with a distinctive $\delta^{13}C$ signature, contribute POM and DOM to nearshore waters, the Aleutians have only two principal sources of organic carbon: benthic algae and phytoplankton (*19*). Furthermore, at high latitudes, phytoplankton is more depleted in ^{13}C than at low latitudes (*20*) and thus the difference in signatures between kelps and phytoplankton is large, leading to less ambiguous interpretation of the origins of organic carbon in nearshore consumers. In addition, because islands differ greatly in the potential input of kelp carbon, we could incorporate the measured consumer $\delta^{13}C$ enrichment at kelp-dominated islands in a simple mixing model to assess quantitatively the magnitude of kelp carbon input to the nearshore food web.

To characterize predominant carbon sources, $\delta^{13}C$ was determined from samples of the dominant kelps (*Laminaria groenlandica*, *L. longipes*, and *Alaria fistulosa*) collected at Adak and Amchitka islands. Six suspension feeders, two detritivores, and three

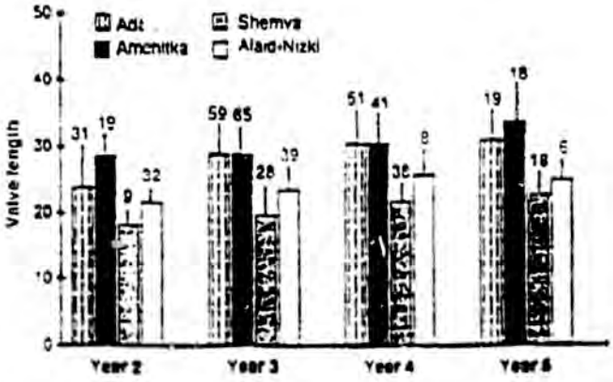


Fig. 3. Age-size relations for *Mytilus edulis* at four Aleutian Islands: means and 1 SD of valve length. Sample size is given above each error bar.

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predator taxa were collected at each island as indicators of the islands' nearshore consumers (21). Phytoplankton isotopic values were derived from cultures incubated on board the R.V. *Alpha Helix*. Cultures inoculated from ambient seawater were used rather than net tow samples because of the inevitable problem of contamination by non-phytoplankton carbon in plankton net tows. These cultures were made up primarily of *Chaetoceros* and *Thalassiosira*, which were the dominant genera in net tows at all islands as well as the most common genera reported for the region (9). The mean phytoplankton isotopic value (−24.0 per mil ± 1.0 SD, $n = 5$) corresponds with published values (−22.9 to −24.4 per mil) for this region and surface water temperatures. Kelps were considerably enriched in ^{13}C relative to phytoplankton, and values were relatively consistent among taxa and islands (overall mean of −17.7 per mil ± 2.3 SD, $n = 162$).

Differences in consumer $\delta^{13}C$ between kelp-dominated islands and urchin-dominated islands support the hypothesis that carbon fixed by kelp is found throughout the nearshore food web and may even be consequential at islands with comparatively low kelp abundance. For each of 11 consumers tested, with the single exception of *Mytilus edulis* (22), mean $\delta^{13}C$ values for animals from kelp-dominated islands (Adak and Amchitka pooled) were more enriched than mean values for animals from islands without kelps (Shemya and Alaid-Nizki pooled) (23). On the basis of a simple mixing model (24), primary consumers at kelp-dominated islands average, conservatively, 58.3% kelp-derived carbon (Fig. 4), whereas at urchin-dominated islands they average only 32.0%. This was the case despite all consumers being collected in midsummer during periods of peak phytoplankton abundance, when $\delta^{13}C$ values should be indicative of maximum phytoplankton influence. The moderate percentage of kelp-derived carbon in consumers at urchin-dominated islands is probably the result of input from intertidal kelps and kelps existing in subtidal refuges from urchin grazing. The relatively consistent enrichment of consumers at Adak and Amchitka, regardless of feeding type or trophic level, argues for the pervasive occurrence throughout the nearshore food web of organic carbon originally derived from kelp photosynthesis.

Both the transplant translocation experiments and age-size analysis show that suspension feeders grew at a significantly higher rate at islands with extensive subtidal kelp forests than at those without. The $\delta^{13}C$ data indicate that this difference in growth rate most likely results from the use of organic carbon photosynthesized by kelps, rather than from differences among islands in phytoplankton production or some other variable. Isotopically enriched signatures of organisms such as mysids, rock greenling, and pelagic cormorants at kelp-dominated islands further indicate that use of kelp-derived organic carbon is not restricted to benthic organisms.

The ecological role of kelps in the nearshore region is multifaceted. Strong evidence exists that they provide habitat (as stratum and canopy) for a wide range of benthic, epibenthic, and pelagic organisms and alter the hydrodynamic environment of the nearshore region (25). Here we report a strong trophic link between kelps and a wide range of organisms of varied feeding strategies and trophic levels, extending beyond the obvious kelp-grazer-predator food chain. The common occurrence of extensive, highly productive kelp forests along the temperate to subpolar coastlines suggests that our results are not specific to the Aleutian Islands. The relative trophic contributions of kelp detritus and phytoplankton may vary with latitude, habitat, or season, particularly given the punctuated nature of phytoplankton production. The role of kelp production may actually be greatest in winter, when phytoplankton production is at a minimum, and kelp standing stock is either senescing (annual species) or being physically degraded during storms (annual and perennial species).

Our data support quantitatively the suggestions of Mann (2, 3) and others that kelps contribute significantly to coastal secondary production, perhaps ultimately establishing limits to the abundances of food-limited populations. Factors affecting kelp occurrence and production such as the recolonization or extinction of sea otters, sea urchin disease, catastrophic storms, nutrient depletion during El Niño events, or oil spills and other pollution are thus likely to have wide-ranging and often long-lasting influences on the productivity of coastal ecosystems.

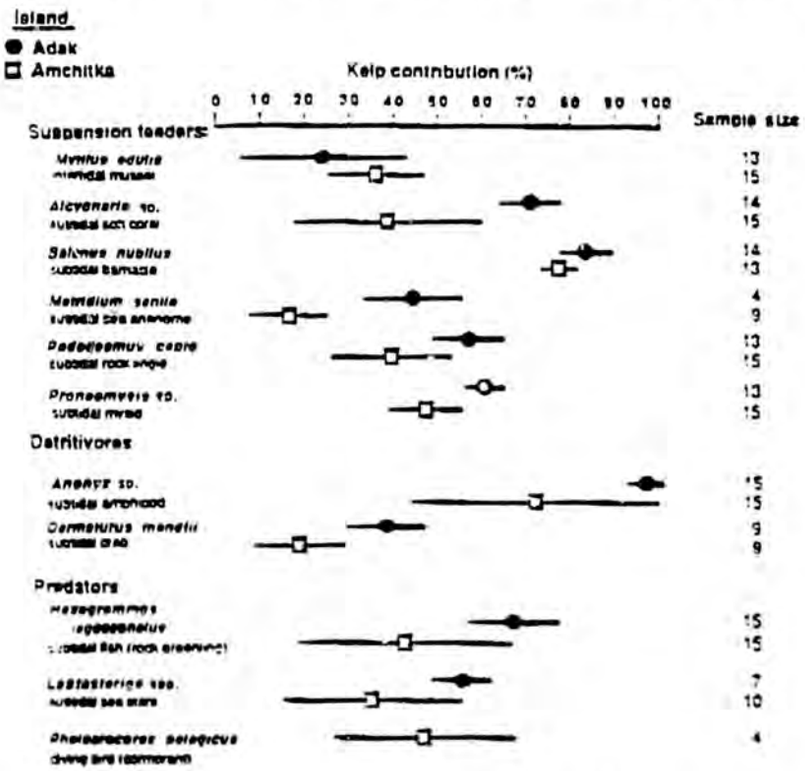


Fig. 4. Percentage of carbon photosynthesized by kelps found in tissues of consumers at islands with extensive subtidal kelp beds. Values are means and 1 SD. Three to five samples were collected and analyzed from each of three sites at each island.

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D. O. Duggins, thesis, University of Washington, Seattle (1980).

...photosynthesis production in the Aleutians is comparatively low (38 to 243 mg of carbon per square meter per day) concentrated during a relatively short growing season and primarily restricted to bays rather than the exposed coast with vertical water mobility (9).

...mussels were similar of equal size and were assigned to cages randomly. We could not reproduce the "no kelp" treatment of this experiment because we were unable to visit Attu-Nizki Island until the summer of 1987.

All barnacles recruited on the settling plates within a span of several weeks and were of similar size. Barnacle principal dimensions were measured within 48 hours of placement in cages; at that time there was no statistically significant difference in mean basal plate area among islands ($n = 4$) for those individuals that survived to the experiment's conclusion (Kruskal-Wallis, $P > 0.1$). Final dry weight was measured on animals removed from the plates and dried at 50°C for 24 hours.

...Kruskal-Wallis ANOVA on mean growth of individuals at a site (cage) were mussel intertidal, $\chi^2(2) = 19.3$, $P < 0.0001$; mussel subtidal, $\chi^2(2) = 17.2$, $P < 0.0002$; barnacle dry weight, $\chi^2(2) = 6.4$, $P < 0.05$; barnacle basal plate area, $\chi^2(2) = 6.2$, $P < 0.05$.

...Mussels were collected from equivalent tidal heights at sites of equivalent wave exposure. Spatially isolated mussels were chosen to reduce the possible confounding consequences of intraspecific competition.

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...Complete random block ANOVA for age-size analysis with age (2 to 6 years) as the blocking factor; $F(3,11) = 202$, $P < 0.001$. Such a random block analysis allows us to examine island effects (kelp-dominated compared to urchin-dominated) for all four age classes simultaneously.

...B. Fry and E. B. Sherr (*Contrib. Mar. Sci.* 27, 15 (1984)) for comprehensive discussion and critique of the application of $\delta^{13}C$ techniques to ecological studies. The ratio of ^{13}C to ^{12}C is fixed at the time (and according to the pathway) of photosynthesis. With minor modification (+0.5 to 1.5 per mil per trophic level), this ratio is maintained through consumer trophic levels. Thus consumer signatures reflect those of key primary producers.

...Terrestrial input of organic matter to nearshore coastal waters was presumed to be insignificant primarily because most terrestrial vegetation is mainly tundra of grasses and lichens, which decrease in size; there is no woody vegetation that would produce large amounts of exportable detrital matter. T. McConnaughey and C. P. McRoy, *Mar. Biol.* 53, 257 (1979); M. R. Fontaine and J.-C. Dutilleul, *Oceanol. Acta* 4, 85 (1981); G. H. Rau *et al.*, *Deep Sea Res.* 29, 1035 (1982).

...Five whole (above holdfast) kelp specimens per species were collected at each of three randomly selected sites at each island and subsampled systematically by taking a number of plugs uniformly along the length of the blade. Three to five specimens of each consumer taxon were collected at the same sites as the kelps and were used whole (mussel, amphipod, sea urchin) or subsampled (muscle tissue of otters).

...The single exception to the pattern of greater consumer enrichment at islands with kelps was *Mytilus edulis*, which was the only consumer we collected from the intertidal zone, where kelps are abundant at all four islands. *Mytilus* $\delta^{13}C$ values showed no pattern between kelp and no kelp islands.

...Differences between kelp and no kelp islands were significant in a random-block ANOVA (with species as blocks, thus allowing analysis of all species simultaneously) considering all subtidal consumers pooled [$F(1,22) = 7.96$, $P < 0.0001$] or only suspension feeders [$F(1,14) = 11.64$, $P < 0.0051$].

...A simple mixing model based upon that of T. ...

...JULY 1980

McConnaughey and C. P. McRoy (*Mar. Biol.* 53, 263 (1979)) was possible because of the near-complete source system. Percentage contribution from kelp is calculated as ($\delta^{13}C$ sample − $\delta^{13}C$ phytoplankton − f · ($\delta^{13}C$ kelp − $\delta^{13}C$ phytoplankton)) × 100, where f represents a non-environmental isotope fractionation and was empirically derived for each species or calculating the difference in $\delta^{13}C$ between the most depleted sample of that species ("pure" phytoplankton diet) and the mean phytoplankton value (−24.0). In cases where the most $\delta^{13}C$ depleted value for a species was less than our phytoplankton value, the mean of our measured enrichment values (2.3 per mil per trophic level) was used. This method makes our model conservative in favor of phytoplankton (reducing the percentage of carbon from kelp) in that our calculations indicate that even the most ...depleted consumers incorporate some kelp-derived carbon.

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26. Supported by NSF grant DPP-8421862. We sincerely appreciate the discussions and comments of our associates M. Dethier, B. Fry, T. Michaels, and G. VanBlaricom, and the assistance provided by a small army of divers plus the U.S. Coast Guard (17th District), the U.S. Navy (Adak Naval Station), the U.S. Air Force (Shemya Air Force Base), and the U.S. Fish and Wildlife Service (Alaska Maritime Refuge), during our surveys, collections, and experiments in the Aleutians. We thank P. Hansen, L. Johnson, A. Sewell, and J. Watson who were particularly helpful in the field or laboratory.

28 November 1988; accepted 16 May 1989

A 48-Million-Year-Old Aphid–Host Plant Association and Complex Life Cycle: Biogeographic Evidence

NANCY A. MORAN

Biogeographical and paleobotanical evidence suggests that the aphid subtribe Melaphidina has been associated with its sumac host plant since the early Eocene when these plants were continuously distributed across the Bering land bridge. Transfer experiments indicate that the American species, *Melaphis rhois*, shows an unusual complex life cycle, similar to that known in Chinese melaphidines, with some generations feeding on mosses as alternate host plants. As with the association with sumac, this complex life cycle may have been established in the melaphidine lineage before the southward retreat of sumac from Alaska 48 million years ago. This example suggests that the interactions and life histories shown by modern populations may be determined, in large part, by evolutionary commitments made in the distant past.

DESPITE THE LARGE AMOUNT OF attention paid to possible coevolutionary interactions between herbivorous insects and their host plants, the ages of interactions between specific insect and plant lineages have been estimated in only a few cases (*1*, *2*). These ages are difficult to obtain from fossils of damaged plant tissues since the damage must be distinctive enough to be definitely associated with a modern insect group. The ages of life cycle phenomena observed in modern animal species are even more difficult to establish, because these are rarely documented by any fossil evidence. I have used biogeographic evidence to establish the antiquity of an association between an aphid and a plant lineage and of a peculiar complex life cycle.

The aphid subtribe Melaphidina (Homoptera: Aphididae: Pemphiginae: Fordini) consists of four Asian genera and a monospecific American genus (*3*, *4*). All known species form galls on sumac species (Anacardiaceae, *Rhus* L., subgenus *Rhus* (*3*, *4*)). These galls are induced by aphid feeding and are inhabited by three generations of parthenogenetic females. Galls are closed, sac-like structures with a structure and composition very different from leaves from which they are derived (*5*). Eclosion of the final winged emigrant generation is synchronized with opening of gall exit slits. Although this level of intricacy suggests that a sumac-Melaphidina association is ancient, more definite evidence concerning the age of the interaction is provided by biogeographic considerations.

The current distribution of the Melaphidina implies that use of sumac was established before the geographic separation of the ancestors of modern hosts in Asia and America. The occurrence of the subgenus *Rhus* in both the Old and New Worlds is attributed to dispersal across the Bering land bridge during or before the early Eocene, an explanation strongly supported by fossil evidence (*6*) (Fig. 1). The vicariance between Asian and American plant lineages resulted when climatic changes pushed plant distributions southward during the Tertiary (*7*). For sumac, this occurred about 48 million years ago, as judged by the distribution of leaf fossils in Alaskan Tertiary floras (*6*, *8*). The sumac-Melaphidina association must be

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Resource Damage Assessment of the T/V *Puerto Rican* Oil Spill Incident

April, 1986

Prepared for:

United States Department of Commerce
National Oceanic and Atmospheric Administration
National Ocean Service
Office of Ocean and Coastal Resource Management
Sanctuary Programs Division
Washington, D.C. 20235

Under Contract Number
50-DGNC-6-00102

Prepared by:

James Dobbin Associates Incorporated
Coastal and Ocean Planners
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Alexandria, VA 22314

Attachment B
ACE 447674

commercial fishery of the area depends. Thus, not only would many of the larvae have been valuable in themselves if they had lived to become adults, but the entire commercial fishery would have been more productive. Unfortunately, current ecological theory will not support an estimate of the total injury done to the commercial fishery as a result of the destruction of a part of the food chain upon which it depends.

Replacement Costs

222
A replacement cost approach can avoid many of the problems involved in attempting to estimate the use value of biological resources. Under the replacement cost approach the resource is valued at what it would cost to replace it. If the resource is replaced, the problems of identifying all its uses, the monetary value of these uses, and the users affected by the resource loss are eliminated, except for the period between the initial loss and the replacement.

223
Twenty-three institutions were asked to estimate the cost of obtaining specimens of the birds killed in the Puerto Rican oil spill, or the price at which they would be willing to sell members of each species (Sterling Hobe Corporation 1985; and California Department of Fish and Game 1985). Nine institutions responded and their estimates are shown in Figure 23.

224
One problem with most of these estimates is that they are not true replacements costs, but rather the cost of collecting already existing specimens from the wild and redistributing them to the Gulf of the Farallones area. This does not represent true replacement, since true replacement requires a complete recovery of the species population. This can be most clearly assured by using only captive breeding programs for replacement.

FIGURE 23

ESTIMATES OF SEABIRD SPECIES VALUE/PRICE FROM VARIOUS SOURCES

(In dollars per one specimen)

SPECIES	SOURCE								
	Seattle Aquarium	Sea World	Los Angeles Zoo	Mystic Marine Life Aquarium	New York Zoological Park	Busch Gardens	International Zoological Distributors	International Animal Exchange	Boston Zoological Gardens
Common Loon		200	300		1500		200	800	250
Arctic Loon		200	500		1500		500	800	250
Red-throated Loon		200	500		1500		500	800	250
Loon spp.		200			1500			800	250
Western Grebe	75	200	150		1000		25	800	250
Red-necked Grebe	75	200	300		1000		25	800	250
Horned Grebe	75	200	300		1000		25	800	250
Eared Grebe	75	200	250		1000			800	250
Grebe spp.					1000			800	250
Northern Fulmar					500			800	250
Sooty Shearwater		100	200		500			800	250
Brandt's Cormorant			75	200		500			800
Pelagic Cormorant		75	200		500			800	150
Cormorant spp.		75	200		500			800	
Northern Pintail	20			50	200	35	15	800	50
Ruddy Duck	150	75		90	300	75	90	800	100
Greater Scaup		37	150		100	50	15	800	50
Scaup spp.			150		100			800	
Black Scoter					500		150	800	250
Surf Scoter	228	1000	700		500		150	800	250
White-winged Scoter	228	1000	100		500		150	350	800
Scoter spp.					500			800	
American Coot			30		300		10	800	50
Red Phalarope		50	100		150			800	150
Western Gull			50		50			800	50
Common Murre	228	100	200		500			800	250
Pigeon Guillemot	228	100	250		500			800	250
Cassin's Auklet	228	100	250		500			800	250
Marbled Murrelet	228	100	250		500			800	250
Rhinoceros Auklet	228	100	200		500			250	800
Ancient Murrelet									
Alcid spp.		100	200		500			800	
Red-tailed Hawk	50				500		150	800	100

Source: Sterling Hobe Corporation 1985

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However, most of the species in this list are not and probably cannot be bred in captivity (Briggs, pers. comm.). Therefore, true replacement from captive breeding is probably impossible. It is absurd to value them at 0 since they cannot be replaced. Therefore, this section presents some calculations on the assumption that they could be redistributed or replaced.

225
Figure 24 presents a range of calculations, multiplying the number of dead birds times the second lowest and the second highest replacement costs given in Figure 23. The second lowest and highest costs were selected in order to eliminate extreme values. Using this approach, the total replacement costs for the birds estimated to have been killed in the Puerto Rican incident amount from $574,692 to $1,528,050.

226
An alternative approach to estimating replacement costs is to estimate the cost of creating new habitat or enhancing existing habitat to support enough nesting pairs of each species to replenish the population. Again, to represent true replacement costs, this should be new or enhanced habitat, not just the cost of acquiring already existing habitat. Research on estimating replacement costs based on this alternative approach is currently being conducted and will be concluded within the next several months. Upon completion of this research, the estimates of habitat replacement or enhancement will be included in a supplement to this report.

227
If replacement of the birds were attempted, it would take several years to accomplish. In the interim, there would be a loss of use which would have to be included to derive the total cost of a replacement strategy. Most of the birds destroyed in the Puerto Rican incident require three to twelve years to mature. Assuming no natural regeneration and that the replacement effort began immediately after the spill and all the replacement birds were released three years later, there would be three years lost use in addition to the

FIGURE 24

REPLACEMENT COST FOR MARINE BIRDS

SPECIES	TOTAL DEAD BIRDS *	LOW ESTIMATE		HIGH ESTIMATE	
		Cost/Bird	Total Cost	Cost/Bird	Total Cost
Common Loon	19	200	3,800	800	15,200
Arctic Loon	176	250	44,000	800	140,800
Red-throated Loon	6	250	1,500	800	4,800
Loon spp.	-	-	-	-	-
Western Grebe	109	75	8,175	800	87,200
Red-necked Grebe	2	75	150	800	1,600
Horned Grebe	7	75	525	800	5,600
Eared Grebe	25	200	5,000	800	20,000
Grebe spp.	1	75	75	800	800
Northern Fulmar	-	500	-	500	-
Sooty Shearwater	3	200	600	500	1,500
Brandt's Cormorant	2	200	400	500	1,000
Pelagic Cormorant	3	150	450	500	1,500
Cormorant spp.	2	150	300	500	1,000
Northern Pintail	1	20	20	200	200
Ruddy Duck	5	75	375	300	1,500
Greater Scaup	2	37	74	150	300
Scaup spp.	-	-	-	-	-
Black Scoter	-	250		500	-
Surf Scoter	25	228	5,700	800	20,000
White-winged Scoter	10	228	2,280	800	8,000
Scoter spp.	-	-	-	-	-
American Coot	13	30	390	300	3,900
Red Phalarope	10	100	1,000	150	1,500
Western Gull	33	50	1,650	50	1,650
Common Murre	1856	200	371,200	500	928,000
Pigeon Guillemot	2	228	456	500	1,000
Cassin's Auklet	548	228	124,944	500	274,000
Marbled Murrelet	1	228	228	500	500
Rhinoceros Auklet	4	200	800	500	2,000
Ancient Murrelet	1	200	200	500	500
Alcid spp.	7	200	1,400	500	3,500
Red-tailed Hawk	1	100	100	500	500
TOTALS	2874		$575,792		1,528,050

* November 20, 1984 to May 30, 1985

To: Federal District Court
Federal Building
Anchorage, Ak. 99501

From: Brent D. Cole
551 Kimberly
Wasilla, Ak. 99687

55

4/10/91

RE: Settlement of the Exxon Valdez Oil Spill.

I would like to protest the fact that pertinent information was not made public in time to allow response. I hope this letter will provide a voice for many who would have responded if more time had been allowed.

There seems to be an attitude that settlement money be allowed to be spent as the State and Federal Government see fit. I submit there is a responsibility to insure that such funds shall be spent for the compensation of victims and restoration of the environment.

No amount of money can restore what has been taken from Alaskans and all U.S. citizens. It will be many years before the effects are known, and there will be many hidden costs. The market for our fish has suffered, as well as much of Alaska's best fishing waters destroyed. What is the loss of subsistence, and medical problems which will arise because of the contamination worth? I have lost about $60,000, but will never be compensated because I can not substantiate the loss. The court is well aware of the difficulty a cancer patient will have proving their condition resulted from the spill.

I believe that the amount of money which is being offered is not enough to compensate the losses incurred, and it is insufficient to release Exxon from liability for all future damages! Furthermore, Exxon's record of numerous large oil spills throughout the world, before and after the Valdez, is evidence that there has not been enough deterrence to cause Exxon to act responsibly toward the environment.

APR 11 1991

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I have heard it suggested that Exxon deliberately created the Valdez spill, and I can not dismiss this as a possibility. It was notable that large price increases were seen at the pump nation wide within a couple of days of the Valdez grounding. The increases were enough to account for several billion dollars in increased profits. This might have been motive enough to deliberately create the spill!

I have worked for the oil companies at Prudhoe Bay, and for oil-field service companies for over 8 years. In that time I have come to understand the thinking and lack of ethics by which the Oil Companies operate. A prime example is the under-reporting of oil flowing through the pipeline. I asked several of Arco's field production supervisors how much oil was flowing through the pipeline while working at Prudhoe in 1987 and 1988. Every one of them told me that it was well in excess of 2 million barrels a day. 1.7 million barrels a day was the amount reported according to information submitted to the State of Alaska for tax purposes. Another favorite practice is to shuffle many millions of gallons of gasoline and crude oil to other oil companies immediately before taking inventory. Of course there is nothing in writing anywhere.

Before the Valdez grounding it was commonly believed among the field hands that in the event of a large spill in Alaskan waters, the policy would be to "wait for it to flush out to sea". That is exactly the policy that was followed! There was never a serious attempt to contain or pick up the oil, it was just a big show. Since that time pertinent information has been withheld from the public in an effort to make things look better than they are and reduce the settlement.

I believe it is contrary to the public interest to allow the proposed settlement to be ratified.

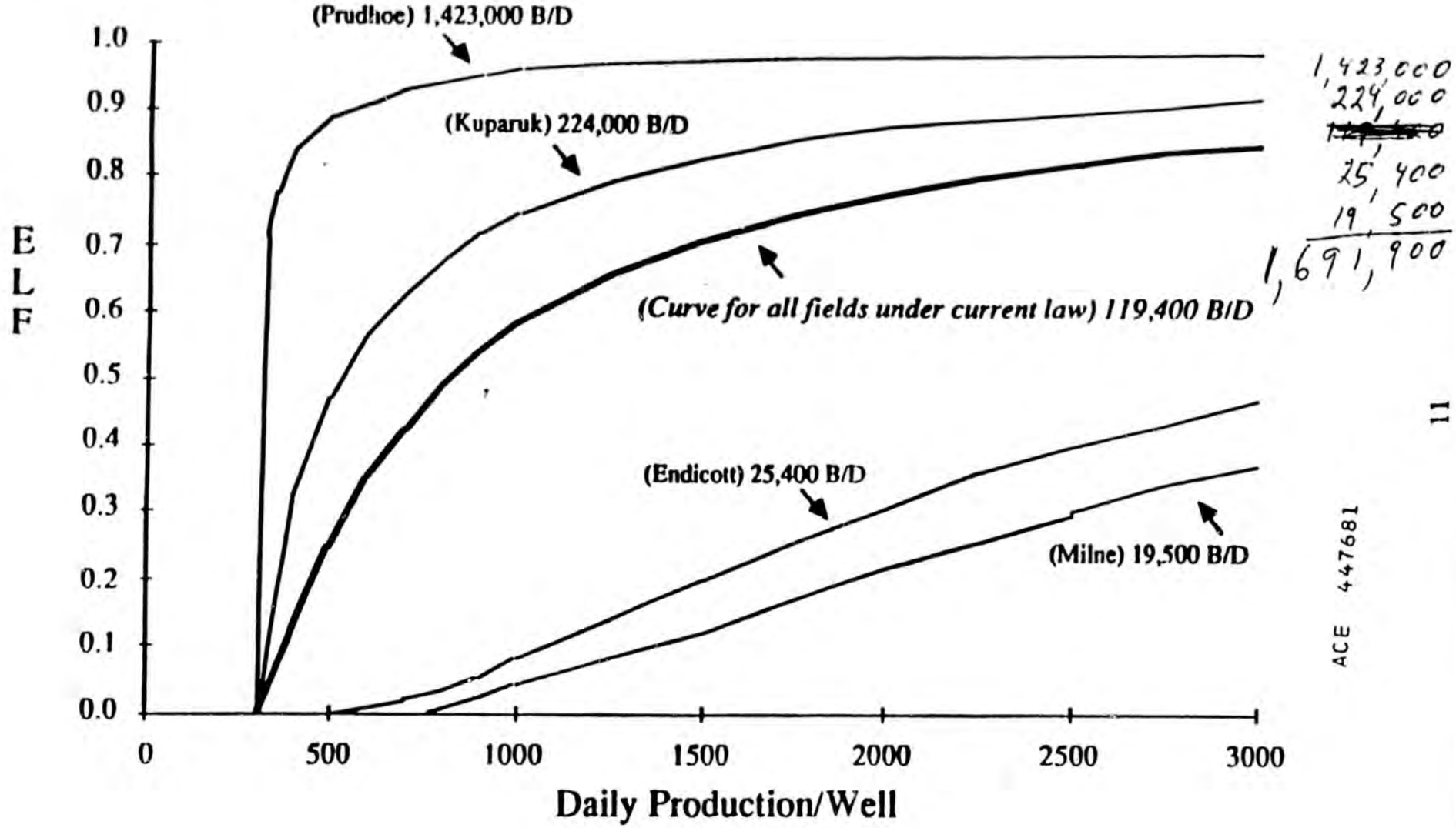
Sincerely,

Brent D. Cole

April 21, 1987
Office of The Governor

Alternate ELF

Constant At 55,000,000



1,423,000
224,000
~~119,400~~
25,400
19,500
1,691,900

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ACE 447681

TECHNICAL NOTE
ON ARCO'S KUPARUK EXAMPLE

Tax Effects of Drilling an Additional Well Under Current Law

Mr. James Weeks, Kuparuk Unit Manger for ARCO, provided testimony to the House Finance Committee on March 27, 1987. Examples of severance tax effects (see following page) accompanied his testimony. The examples compare the severance tax effects of adding one additional well in the Kuparuk field under the current ELF and under the proposed ELF (CSHB 154 fin.). The examples show that the addition of one well producing just under 300 barrels per day would increase output from 90,168,000 barrels of oil per year (BOPY) to 90,277,000 BOPY. At the $9.00 per barrel price assumed in ARCO's example, annual gross revenue to the owners increases by $981,000.

(90,277,000 BOPY - 90,168,000 BOPY)*($9/barrel) =
(109,000 BOPY)*($9/barrel) = $981,000

The first of ARCO's two examples shows how under current law the owners would collect an annual severance tax *rebate* of $37,846 on this additional revenue. The effective severance tax rate on the new production is thus -3.9 percent. The effect is analagous to a personal income tax where the effective tax rates become lower as increasing income moves the taxpayer into a higher bracket.

The second ARCO example illustrates how this will be changed under the proposed law. Instead of giving the owners a $37,846 windfall, the proposed law will collect $58,611 (6.0 percent) of the incremental $981,000 for the state in severance tax. The table below summarizes the effects under the current and proposed severance tax laws, as shown in the ARCO examples.

TAX EFFECTS OF DRILLING ONE ADDITIONAL WELL
(ARCO Kuparuk Example)

	Change In Annual Gross Revenue	Change In Annual Severance Tax	Tax Rate On Incremental Production	Average Tax Rate Before Drilling	Average Tax Rate After Drilling	Percent Change In Average Tax Rate Due To Drilling
Current Law	$981,000	($37,846)	-3.9%	7.820%	7.806%	-0.180%
Proposed Law	$981,000	$58,611	6.0%	10.944%	10.938%	-0.055%

ACE 447682

Jack Kimm

P. O. BOX 7
ANCHORAGE, ALASKA 99510
USA

April 10th 1991

The Hon. Russel Holland
Hearing Exxon Valdez spill-case
Federal Court
Anchorage, Alaska

HAND CARRY

APR 11 1991
FOR U.S. DISTRICT COURT

Your honor,

Thank you for your labor over this matter.

The day the spill happened I was in Japan trying to drum up bookings for summer tourist season. When the big headlines hit the street, there were droves and droves of cancellations: "Alaska is too dirty now" they seem to think.

An old gent in his 80s told me, " I am so sorry for you." It is like this, he said.

"There was a pretty daughtor of 17 in the old days. "The family was poor. So to eat, we had to let her go work in a bar as a drinking - serving waitress. She brought in money. So we could live, everyone had enough to eat. Then one day a drunk came in and prcpositioned her. She politely refused. She was an unkissed virgin, the old timer said. The drunk whipped a knife and brutally scarred her pretty face. Scarred for life."

About the same thing happened to your unkissed, unmolested innocence, didn't it? he said.

xxxxx

Exxon is a grown up. An adult corporate citizen. Like all adults in this country, they must make restitution fully where they cannot bring it back "as was".

Lax control of personnel with drinking problems! What would have happened if a Jumbo pilot so drunk crashed with 400 people? But this damage is much worse. Damage in many places permanent.

(59)

ACE 447683

Such a thigg as this cannot be over-looked, or condoned. One may run a business, make money, etc but one may never hurt your country or fellow citizens in the process.

This is a horrible crime, this neglect, this callousness. Alaska - America's God's country - scarred by their neglect, their irresponsibility.

Their responsible officials should be checked for their life-long citizenship education.

Thank you, Judge Holland

Jack Kimm
A long timer

FORTIER & MIKKO
A PROFESSIONAL CORPORATION
Attorneys at Law

DENALI TOWERS NORTH
2550 DENALI STREET
SUITE 604
ANCHORAGE, ALASKA 99503

SAMUEL J. FORTIER
DAGMAR C. MIKKO
CARLENE M. FAITHFUL

TELEPHONE (907) 277-4222
FAX LINE (907) 277-4221

April 11, 1991

The Clerk of Court
U.S. District Court
Federal Building
U.S. Court House
222 W. 7th Avenue #4, Rm. 261
Anchorage, AK 99513-7564

Hand Delivered

Dear Judge olland:

I am writing this letter in a personal capacity, and not as a lawyer for any particular group. However, my law firm is primarily engaged in Alaska Native Law, particularly the representation of Village Corporations.

I have represented Chenega Corporation and Port Graham Corporation for over seven years. In my representation, I have also become very close, personally, to each of the Communities. My personal relationship with each of the Communities is a deeply enriching and rewarding experience for me; I have learned more from those relationships than from any other single experience of my life.

I was in Chenega on March 31, 1989, as the battle for Saw Mill Bay began. That battle had to do with saving a hatchery, not with protecting a peoples' way of life. For the past two years, the images of my friends at Chenega Bay struggling with the impact of that trauma continues to haunt me. The air was thick with oil fumes, the Island upon which Chenega Bay is located was surrounded by oil, helicopters and airplanes were continuously taking off and landing, Crab Bay was filled with vessels from Cordova and Valdez, and my friends were reduced to obtaining their food from an Exxon boat docked at the Chenega Bay dock.

ACE 447685

APR 11 1991

(60)

When I returned from Chenega Bay, I was shaken and ill, realizing that I had witnessed the complete destruction of a way of life, which destruction occurred overnight. Several years later, one of my dear friends, an elder from the Village, Paul Kompkoff Sr., appeared on national television, his image video taped at Sleepy Bay, once one the most beautiful areas in Prince William Sound. He said that Exxon was calling him a liar but he had lived in the area all of his life (some seventy years) and he knew what there was before the oil spill; there were otters and seals and the lands and seas were rich. Now there was nothing. Exxon called him a liar because, according to Exxon, the Sound was restored. A few days ago, a damages assessment released by the Federal government established that Paul was right; the sea birds were virtually wiped out of his homelands; the entire otter population had been destroyed in and about traditional Chenega lands and there are no seals.

I traveled to Port Graham as the oil was hitting the beaches surrounding their lands in April 1989. My friend, Mary Malchoff, served me bidarkis, a favorite food. I was eating as many as I could, because in Anchorage you can't get bidarkis . One of Mary's children told me that I could be eating the last of the bidarkis in Port Graham for a long time, because the oil spill would inundate where mollusks lived, the seacoast. I haven't eaten a bidarkis since. Port Graham lands are considered the most highly toxic, the entire mollusk population the most deadly to eat in the entire spill area, now.

I have learned that subsistence is not merely food gathering; it is sharing, love, and culture all wrapped into an ability to survive handed down for centuries. In both Chenega and Port Graham, subsistence is not possible. In 1989, Villages from Southeast Alaska to Tyanelc shared salmon with Port Graham and Chenega. That was a sharing of food resources. Subsistence ia a way of life, sharing <u>within</u> the Village. And that is impossible today.

I witnessed the victimization of my friends. Exxon brags that the settlement, including the criminal sentencing, is insignificant, and is probably tax deductible, and Exxon apparently needs lots of tax deductions. My friends don't need any tax deductions; they don't have any income, anyway. However, their way of life has been destroyed by Exxon and they, as victims of extreme economic violence, receive no compensation.

The victim of a robbery may apply through the violent crimes compensation fund; my friends applications to TAPPA, as you ordered, are rendered meaningless by the claims of Exxon against that very same fund.

Exxon ought to know that it is being punished, in order to deter such criminal conduct by others, and to isolate Exxon as a danger. Society as a whole, and the microsocieties at Chenega Bay and Port Graham in particular, are entitled to retribution, which the court should exact from Exxon. Exxon Company U.S.A. and Exxon Shipping are responsible for the largest oil spill in North American history, in an area of unsurpassed beauty. Chenega, the worst hit lands and community in the spill area, is the oldest continually inhabited settlement in all of Prince William Sound. The way of life has withstood many centuries, including the largest recorded earthquake in North American history but it cannot survive the destruction of the environment. And that is what happened. Port Graham, similarly, continues to struggle.

Under the sentencing guidelines, the Court is to consider the impact on the victims. In this case, the U.S. Probation office did not prepare a sentencing report. Exxon is riding on its tax deductible cleanup effort which has not restored and cannot restore the resources or the lifestyles of my friends in Chenega Bay or Port Graham. Not in our lifetime or perhaps in their childrens lifetimes.

The plea agreement is not fair, nor just. It does not isolate, condemn, or rehabilitate Exxon. No restitution is required to be paid to the victims. The plea agreement does not conform with the sentencing guidelines, nor with the pattern of illegality in which Exxon and Exxon Shipping engage. The simple fact is this tragedy could and should have been avoided, but for the criminal acts of the defendants.

This is not a simple misdemeanor case. It is a felony case and should be treated as such.

Very truly yours,

FORTIER & MIKKO, P.C.

By: _____
Samuel J. Fortier

SJF:cbs (4/11.1:cc3)

PORT GRAHAM CORPORATION
VIA POST OFFICE BOX 8 • PORT GRAHAM • ALASKA 99603

April 11, 1991

Judge Holland
222 W. 7TH Avenue #54
Anchorage, Alaska 99501

Dear Judge Holland:

In reference to the Exxon Criminal settlement we make the following comments:

We feel that the settlement of one hundred Million dollars is too lenient on Exxon because of the damage done to the state and federal land. The natural resource damage to the animals such as the seals, seaotters and fish according to the Federal governments study is beyond what we expected it to be. Additionally there is no statement on how the state is to use its portion, and we strongly disagree with the Federal Government agreement to put its portion in to the violent crimes compensation fund. This money was for crimes in the state of Alaska and the money should be spent on the citys, and villages that were traumatized emotionally and physically by the oil spill and the clean up efforts.

In closing it is wrong in our minds that smaller companys that spill oil are fined the full amounts under the law and a large company such as Exxon can negotiate to lower its liability under the law. When this ability is not available to the smaller companys that are fined similar circumstances.

Sincerely,

Patrick Norman, President
Port Graham Corporation

PN:cm

APR 11 1991
ACE 447689

April 11, 1991

Judge Holland,

Though it had been my intention on making a list of all the problems I see in the proposed settlement with Exxon Shipping Company (ESC), I realize that with only hours left till the deadline, I've cut myself short on time. However, I would like to ask that you reexamine the question concerning Exxon s double standards

Two years ago, Exxon Shipping Company (ESC), while in a pre-settlement conference hearing, offered to pay me a sum of money in exchange for my dropping a suit against them. In accepting this offer, it was my understanding that the payment was in lieu of all the stress that I had been put through. It was for this reason that I was shocked some six months latter upon receiving a letter, along with a tax statement from them, claiming that they had reported this payment to the Internal Revenue Service as taxable wages. It turns out that many fisherman that I've talked to have also felt duped by (ESC)'s deceptive practices.

The question I would like to put forth is why is it ok for Exxon to expect others to pay taxes on their misfortunes of pain and suffering, while they themselves turn things around one hundred and eighty degrees and expect the American people to pickup nearly half of the proposed billion dollar settlement, through (ESC)'s write-offs. Through examining the just released oil spill studies, it is obvious that (ESC) is still up to their neck in practicing intentional subterfuge. That is, of down playing all that has happened throughout Alaska. Has our nation elapsed to the standard of

"might is right" and since (ESC) is so powerful, they can be permitted to twist things any which way that suits them?

May I suggest that if you feel compelled to accept the billion dollar settlement, at least refuse to give Exxon any more tax breaks in regards to their contemptible behavior. In closing, may I just say that I hope those hip boots have helped you in your travels, to pass through the knee deep quagmire of litigations.

Sincerely yours

Chris Daniels

APR 1 1 1991

ACE 447691

8211 HENRY CIR.

ANCHORAGE, AK 99507

APR 1 1 1991

U. S. D. CT COURT

APRIL, 11 1991

CLERK OF COURT

U.S. DISTRICT COURT

222 W. 27TH AVE RM 261

ANCHORAGE, AK 99513

HONORABLE JUDGE H. RUSSEL HOLLAND

DEAR SIR;

I AM A PRIVATE CONCERNED CITIZEN WORRYING ABOUT THE EXXON SETTLEMENT. I FEEL THAT CULTURAL RESOURCES SHOULD BE INCLUDED IN THE SETTLEMENT. FOR THE DAMAGE AND INJURIES OF ARCHAEOLOGICAL SITES CAUSED

ACE 447692

(63)

BY THE SPILL. AND DAMAGE THAT NO ONE IS HELD ACCOUNTABLE FOR.

IN MY UNDERSTANDING OF THE PLEA AGREEMENT CULTURAL RESOURCES IS BEING EXCLUDED, IN THE CIVIL AND CRIMINAL SUITES.

AS A CITIZEN OF THE UNITED STATES AND RESIDENT OF ALASKA I THINK CULTURAL RESOURCES IS ONE OF OUR IMPORTANT LINKS TO THE PAST HISTORY, PRESENT AND FUTURE YEARS TO COME.

SO PLEASE HELP IN ANY WAY YOU CAN TO INCLUDE CULTURAL RESOURCES IN THE SETTLEMENT. IT WILL BENEFIT ALL CITIZENS,

THANK YOU FOR YOUR TIME

Sincerely
Martha M. Olympic

ACE 447693

61

Wyndeth V. Davis
2513 La Honda Drive
Anchorage, Alaska 99517
April 10, 1990

H. Russel Holland,
United States District Judge
United States District Court
222 West 7th Avenue
Anchorage, Alaska 99513

APR 11 1991
CLERK, U. S. DISTRICT COURT

Justice Holland,

I am writing in response to your call for comments on the plea agreement in the criminal suit against Exxon Corporation and Exxon Shipping Company. As a citizen of the United States and a resident of the state of Alaska, the plea agreement is of great interest to me. I understand that the acceptance of such a plea is to the advantage of the people in that it assures timely compensation for some of the damaged resources. I also understand the need for the court to process cases not only justly, but swiftly, and that a case of this magnitude, if tried, would monopolize a great deal of the court's time with an unknown outcome.

My concern with the content of the plea agreement stems from the court's apparent lack of concern for cultural resources damaged by the spill of oil from the Exxon Valdez. The proposed criminal and civil plea agreements construct a condition in which all legal avenues for seeking damages to be used for the restoration/mitigation of cultural resources are closed to federal agencies.

-Cultural resources are clearly, repeatedly named in federal legislation as valuable property of the people of the United States (in the National Historic Preservation Act, the Archeological Resources Protection Act, and others). Was this taken into account when discussing settlement of criminal charges against Exxon and the Exxon Shipping Company?

-The Archeological Resource Protection Act (ARPA), 16 U.S.C. Sec. 470aa, prohibits the unauthorized removal of archeological resources from federal lands. Such removal was clearly noted in incident reports relating to the activities of Exxon clean-up crews working on archeological sites. Are these violations being ignored or forgiven?

-Section 106 of the National Historic Preservation Act, 16 U.S.C. Sec. 470f requires study and consultation with the Advisory Council on Historic Preservation regarding avoidance or mitigation of impact, including the impact of activities such as cleaning and damage assessment (either of which may further impact the resource). Have these factors been considered? If so, why are they not reflected in the plea agreements?

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-As I understand it, the current criminal plea agreement precludes any future suit for civil or administrative penalties against those involved (IIIA). This disallows even the consideration of the existing legislation (ARPA, NHPA) in collection of damages for assessment/repair of cultural resources (even section IIIB does not allow for such litigation, despite initial appearances).

-The current civil plea agreement, based on the Comprehe... Environmental Response, Compensation and Liabilit... (CERCLA), under the current Justice Department interpre... does not recognize cultural resources as natural r... (despite a constant debate with the Trustee's Coun... other concerned parties that cultural resources are, in ... covered under CERCLA...as they are under other environmental legislation). Therefore, cultural resources are overlooked in the plea agreement as well.

-It is my understanding that the federal Injury Assessment of damage done to cultural resources has not yet <u>begun</u>. Are we willing to write off a damage of which we know neither the nature nor the extent?

-In spite of the lack of a federal Impact Assessment, the state of Alaska, in published response data, clearly notes that cultural resources <u>have sustained damage</u> (in terms of looting, our ability to date the materials, or clean them to the point where they can be dated, impacts during cleaning, plus further damage expected as erosion of site areas increases due to local vegetation die-back, and as publicity makes the sites more accessible to looters. During the response process, <u>AT LEAST ten (10)</u> damaged archeological sites were discovered <u>ON FEDERAL LAND</u> (and I believe 15-16 more in the general Prince William Sound area).

The point in voicing these observations has its foundation in the recognition that, 1) Cultural resources <u>are</u> the valued, nonrenewable property of the citizens of the United States, and that, 2) Cultural resources have clearly been damaged, to an extent we do not know, and cannot know until an actual Impact Assessment is carried out. Where is our responsibility to the citizens of the U.S., when we choose to penalize individuals and corporations for the destruction of complex ecosystems, but not the equally complex and valuable cultural resources we are <u>also</u> mandated to protect?

I urge you to consider the impact of the criminal plea agreement in terms of the precedent it sets with regard to damage of cultural resources in environmental disasters. If no compensation is required (or even asked for) in the case of the Exxon Valdez, what is to discourage the exclusion of cultural resources in other cases involving crimes against the environment (natural <u>and</u> cultural)? Why should we have preservation legislation at all, let alone spend federal and state monies to enforce it on the level of the individual, while corporations and other bodies are allowed to flout these same laws, on a large scale, with no penalty?

Please realize that the oiled archeological sites, documenting the complex heritage of Native Alaskans, as well as the historic sites which hold the secrets of the mining period in Alaska, are just as significant as some of the battlefields, homes and institutions which also grace our National Register. As much as the pueblo sites of the Southwest, they belong to us, and not only deserve but require our attention.

Thank you,

Wyndette V. Davis

62

4/11/91

The Honorable Judge H. Russell Holland
United States District Judge
United States District Court
222 West Seventh Avenue
Anchorage, Alaska 99513

APR 1 1 1991

CLK. U S. DISTRICT COURT

Your Honor:

Presented below are my comments and concerns regarding the plea agreement entered into between the United States of America and the Exxon Corporation and Exxon Shipping Company.

First of all, I am very concerned with the fact that when environmental catastrophic disasters occur, brought about by actions of major corporations we simply point our fingers at them. We are not even slapping their wrists. Considering the magnatude of the damage to the environment, cultural resources and the subsistence lifestyles of Alaskan people, the negotiations allowing Exxon to plead guilty to misdemeanor charges dropping the felony charges are a slap in our face. Not being privy to the negotiations, I realize there are many variables determining this plea agreement not available for public scrutiny, thus impeding to some extent our perspective. However, it appears that a general feeling of public impotence prevails when it comes to matters of restitution.

Secondly, I believe there has been an oversight by the Department of Justice for excluding cultural resources as a natural resource under CERCLA. Cultural resources are the property of the people of the United States as well as representing the ancestral ties of the Native and Indian peoples of Alaska. To ignore the damage to this irreplacable resource is an affront to the heritage of the American people. The possiblity of addressing restitution via charges under the Archaeological Resource Protection Act in the criminial case have further been nullified in paragraph III A (civil or administrative penalties). Furthermore, why is the Department of Justice the only party allowed to bring civil and administrative penalties against Exxon (III B)?

In essence, these are my concerns and I appreciate the oppurtunity to comment on these issues and especially appreciate your willingness to listen. Thank you.

Sincerely,

Michele M. Jesperson

Michele M. Jesperson

ACE 447697

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631 E. 22nd Ave #B-8
Anchorage, AK 99503
11 April 1991

The Honorable H. Russell Holland
U.S. District Court
222 W. 7th Ave.
Anchorage, AK 99513

APR 1 . 1991

Dear Sir:

It is with grave concern that I read of the pending settlement between EXXON/EXXON SHIPPING and the United States of America. A part of our cultural heritage, specifically archeological sites, lie on and beneathe those beaches. These cultural resources have been totally ignored in this settlement, and they belong to all of us.

Cultural resources would have been protected by the Archeological Resources Protection Act (ARPA), but this is considered an administrative penalty and as such may not be imposed in the criminal case (Section IV.C.). Cultural resources have also been excluded from the civil case: due to a major oversight the Comprehensive Environmental Responsibilities Compensation & Liability Act (CERCLA) excludes injury to cultural resources.

At this point the archeological sites have not even been assessed for damage. The object that were oiled in this disaster have been found non-datable by carbon-14 methods. Additional damage is unknown and without funds provided by this settlement may remain unknown. Ten archeological sites were found within the National Park Service areas, additionally sixteen sites were said to be found on other oiled beaches.

As a museum registrar I have worked with Alaska archeological collections for two years. The information from these sites is of interest to the scientific community worldwide in establishing the passage of early man into the western hemisphere. The EXXON settlement must include funds for a complete damage assessment study of archeological sites within the affected area, funds for studies of methods to clean artifacts of oil, and funds to rectify and ameliorate damage caused in this most unnatural disaster.

Sincerely,

Connie Estep

Connie Estep

ACE 447698

(606)

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Kristen Griffin
1819 Juneau Drive
Anchorage, Alaska 99501

H. Russel Holland
United States District Judge
U.S. District Court
222 West 7th Avenue, Room 261
Anchorage, Alaska 99513

APR 1 . 1991

U. S. DISTRICT CT

April 10, 1991

Dear Sir:
I have only one comment regarding the criminal settlement in the Exxon Valdez oil spill. Although it has been reported that the events related to the oil spill and the spill cleanup did impact cultural resources on federal lands, the settlement completely excludes cultural resources from consideration. Cultural resources are important enough to the American people to be protected by the federal government through legislation. Why is our government willing to overlook both their value and existing legislation in this case?

I feel strongly that the criminal settlement has inadequately considered injury to cultural resources and that a formal assessment of injury should precede any settlement. At the very least, the criminal settlement should, based on existing information, make the same admission of injury to cultural resources that was made for migratory birds.

Regarding federal lands in particular, the settlement (in sections IA and IIIA) should not rule out application of the Archeological Resources Protection Act. Most importantly, I think it is inappropriate for the United States to agree (as stated in section IIIA) not to seek additional civil penalties for the injury. Thank you for the opportunity to comment.

Kristen Griffin

Kristen Griffin

ACE 447699

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11 April, 1991

APR 1 : 1991

U. S. DISTRICT COURT

The Honorable H. Russel Holland
United States District Judge
c/o
Court Clerk
U.S. District Court
222 W. 7th Ave., Rm. 261
Anchorage, Alaska 99513

Dear Sir:

The following are comments I wish to present regarding the Plea Agreement in the case of the United States versus the Exxon Corporation and the Exxon Shipping Company (No. A90015 CR.):

1.) Considerations for the recovery of, or restitution for, damaged cultural resources present along oiled shorelines are absent from the Plea Agreement in its present form. Such an omission is inconsistent with normal federal policy in environmental impact assessments as preventive measures related to construction or other environment altering activities undertaken by entities on public lands or those whose projects are funded with federal monies. In addition, this omission appears to contradict previous interpretations of the Clean Water Act with respect to the inclusion of cultural resources (including prehistoric human remains and other archaeological remains, and historic cultural features) with natural resources as elements of the environment that the Act is designed to protect. In essence, the federal government appears to be grossly inconsistent in its interpretation of federal laws, and is neglecting a resource of critical importance to Alaska Natives.

2.) Studies of "Archaeological Injury" by the Department of Agriculture are not given consideration in the Plea Agreement, because such studies have only recently been initiated (RFP's are still out). This presents a circumstance in which the degree or amount of the injury is undetermined at the time the agreement may be accepted, and acceptance closes the door on future legal consideration of the injury and possible lawsuits by federal agencies against Exxon, in spite of potential for future discovery of invaluable cultural remains that are now damaged by North Slope crude oil. This circumstance applies to biological resources as well, and has future ramifications for the lifestyles of Alaska Natives, commercial fishermen as well as parties with other interests in the area of the oil spill damage. Acceptance of the agreement closes the door for legal recourse by injured parties to recover losses in the future that are presently unquantified.

Thank you for the opportunity of commenting on this case.

Sincerely,

Roger Harritt

Roger Harritt
626 W. 21st
Anchorage, Alaska 99503-1848
(907) 272-7560

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10831 Trails End
Anchorage, Alaska 99516

APR 11 1991

April 10, 1991

Honorable H. Russell Holland, Judge
U.S. District Court
Anchorage, Alaska 99501

Ref: A90-015 CR.

Dear Judge Holland:

Thank you for providing the public with the opportunity to comment on the proposed Plea Agreement filed March 13, 1991 in U.S. v. Exxon and Exxon Shipping, A90-015CR. I urge you to reject the proposed plea agreement. If accepted, it would fail to deter criminal conduct by Exxon, Exxon Shipping and other potential oil spillers in the future. The amount of the fine is small compared to either: 1) the damage caused by the spill; 2) or to the amount necessary to deter this conduct by defendants or others faced with a similar situation in the future.

The minimum fine upon conviction under one of the charges against Exxon Shipping, under the Refuse Act, 33 USC 411, is $500. An average person convicted of one violation of Section 407 of this Act and sentenced to the minimum fine, earning a typical median family income of, say $16,500, would pay 3.03% of his/her income in fines. Applying this benchmark to Exxon's profits, the minimum fine should be at least $150,000,000.

Of course, Exxon and Exxon Shipping are entitled to the presumption of innocence on these charges until proven otherwise. However, dismissal of the felony charges without some sort of preliminary hearing by the Court to determine whether probable cause exists is not appropriate.

In return for four misdemeanor pleas, defendants would be immunized from prosecution by the Department of Justice on all other criminal charges related to the EXXON VALDEZ oil spill in the past and presumably into the future, as long as they are engaged in activities related to the cleanup. Immunity from future conduct which would otherwise be charged as criminal, seems an unduly generous plum in a plea agreement.

Why should Alyeska Pipeline Service Company be protected from possibly criminal liability? Exxon's minority interest (20.34%) in Alyeska Pipeline Service Company is apparently considered sufficient justification to prevent

the Department of Justice from bringing criminal charges or civil or administrative penalties against them:

> for any violation of federal law arising out of the grounding of the "EXXON VALDEZ", the resulting oil spill, the containment or cleanup of that spill, or its conduct in connection with the preparation or submission of oil spill contingency plans or related documents, by Alyeska Pipeline Service Company to the federal or state government." (Plea Agreement, pp. 6-7)

This despite the fact that Alyeska is not even charged in the above-referenced case.

The summary of scientific studies released this week indicates that the damage to Prince William Sound is more serious and long-lasting than previously believed. This must be taken into account. Although the plea agreement asserts that "The defendants have cooperated in the federal criminal investigation of the grounding of the "EXXON VALDEZ" and the resulting oil spill." (page 7, Plea Agreement), Exxon has lied by dramatically understating the number of birds killed in the oil spill and has declined to release its scientific data which would be of great value in developing restoration measures.

Nothing in the proposed plea agreement would deter similar behavior to that alleged in the indictment by Exxon, Exxon Shipping or others who face a choice about how much effort to put into reducing the risk of future oil spills. Since the Court is prohibited from imposing stricter terms than those offered in the proposed agreement without a trial, the trial should proceed.

It is possible that an agrement could be fashioned which would put this issue behind us and also serve as required deterrent. However, the March 13, 1991 effort falls far short of the mark. I urge you to reject it.

If, despite this advice, you are inclined toward accepting the proposed Plea Agreement, please require a pre-sentence investigation and report. This would allow time for scientific data to be provided to the Court for its review in deciding whehter the sentence proposed is appropriate or not. The record before you is certainly not complete concerning any prior criminal convictions of defendants, their financial condition, or the circumstances affecting their behavior.

Sincerely,

Robert A. Lohr

APR 1 1991

U.S. DISTRICT COURT

G Gordon Scott
Box 747
Girdwood Ak 99587

(67)

April 11, 1991

Re: Exxon Valdez Settlement

Judge Holland

From what I've heard, seen, and read; it seems like Exxon and Alyeska are getting off the hook lightly if this plea agreement is accepted.

The only thing we gain by this is closing the book on this issue.

It sounds like if we press charges the monetary damages would be far greater than this settlement if Exxon, Exxon Shipping, and Alyeska had the book thrown at them.

It was plainly obvious to me and others that Exxon and Alyeska were continually trying to cut back on their planning for oilspills and the response to the grounding of the Exxon Valdez. They deliberately tried not to be effective at capturing the floating oil by holding back their contractors; whilst mounting a PR campaign to say all the wonderful things they were doing and that there had been little damage done. If we close the book it eliminates any chance of bringing to justice and/or embarrassment the people of Exxon and Alyeska who were responsible for the bad decisions

The oilspill and resultant defiling of Alaska's wild shoreline and ecosystem was similar to rape of a defenseless virgin. It will never be the same. Do we let our convicted rapists pay a meager fine and go free?

Gordon Scott

ACE 447704

(10)

I made this copy from a 1972 Funk & Wagnalls Standard Encyclopedic Dictionary of this geological time scale that I make connection to to be gospel!

and finaly recovery (ie) settlement of this litigation there should be no undue influence to conceal the facts as well as the gospel, can't you see the connection, own the lack of the connection due to the undue influence so fare to date. will you please take charge of these lawsuits and say that recovery (ie) settlement will be no less than the age of the oldest dated rocks $3 billion 5 hundred million year old, so starte at $3.5 billion dollars because that's what they know, they by there own use's of undue influence is a very strong connection that they know the value of the dollar and not of life

signed 4-11-1991

Charles Edison McKee

1 of 2

ge·ol·o·gy (jē·ol′ə·jē) *n.* *pl.* **·gies** 1. The science that treats of the origin and structure of the earth, including the physical forces which have shaped it and its physical and organic history, esp. as known by rocks and rock formations. 2. The structure of the earth in a given region. — **ge·o·log′ic** *n.*

ge·o·met·ric (jē′ə·met′rik) *adj.* 1. Pertaining to or according to the rules and principles of geometry. 2. Forming, consisting of, or characterized by straight lines, bars, crosses, zigzags, etc., as in painting or sculpture. Also **ge′o·met′ri·cal**. — **ge′o·met′ri·cal·ly** *adv.*

ge·o·pol·i·tics (jē′ə·pol′ə·tiks) *n.pl.* (*construed as sing.*) The study of political and economic geography, etc., of Nazi Germany, advocating aggressive ... Also *German* **Ge·o·pol·i·tik** (gā′ō·pō·lē·tēk′). — **ge′o·pol′i·ti·cal** (-pə·lit′i·kəl), **ge′o·pol′i·tic** *adj.* — **ge′o·pol′i·ti·cian** (-pol′ə·tish′ən) *n.*

Geor·gian (jôr′jən) *adj.* 1. Of or pertaining to the period of the first four Georges in England, 1714–1830, or George V, 1910–36. 2. Of or pertaining to Georgia or Georgians. 3. Of or pertaining to the language of Georgia.

GEOLOGICAL TIME SCALE

Read from bottom to top.

ERAS	TIME PERIODS ROCK SYSTEMS	TIME EPOCHS ROCK SERIES	APPROX. DURATION MILLION YEARS	APPROX. PERCENT TOTAL AGE	LIFE FORMS
CENOZOIC	QUATERNARY	RECENT PLEISTOCENE	1	2	Rise and dominance of Man.
	UPPER TERTIARY	PLIOCENE MIOCENE	65		Modern animals and plants.
	LOWER TERTIARY	OLIGOCENE EOCENE PALEOCENE			Rapid development of modern mammals, insects, and plants.
MESOZOIC	UPPER CRETACEOUS		75	6	Primitive mammals; last dinosaurs; last ammonites.
	LOWER CRETACEOUS				Rise of flowering plants.
	JURASSIC		45		First birds, first mammals. Diversification of reptiles; climax of ammonites; coniferous trees.
	TRIASSIC		45		Rise of dinosaurs; cycadlike plants; bony fishes.
PALEOZOIC	PERMIAN		45	9	Rise of reptiles. Modern insects. Last of many plant and animal groups.
	PENNSYLVANIAN (CARBONIFEROUS)		75		First reptiles. Amphibians; primitive insects; seed ferns; primitive conifers.
	MISSISSIPPIAN (CARBONIFEROUS)				Climax of shell-crushing sharks. Primitive ammonites.
	DEVONIAN		50		First amphibians, first land snails. Primitive land plants. Climax of brachiopods.
	SILURIAN		20		First traces of land life. Scorpions. First lungfishes. Widespread coral reefs.
	ORDOVICIAN		70		First fish. Climax of trilobites. First appearance of many marine invertebrates.
	CAMBRIAN		50		First marine invertebrates, including trilobites.
PROTEROZOIC (PRECAMBRIAN)			About 3000	84	First signs of life. Algae.
ARCHEOZOIC (PRECAMBRIAN)					

Age of oldest dated rocks: about 3,500,000,000 years.

3,540,000,000

You have to connection to table, paragraph!

ge·om·e·tri·cian (jē·om′ə·trish′ən, jē′ə·mə-) *n.* A specialist in geometry. Also **ge·om′e·ter** (-ə·tər).

geometric progression *Math.* A sequence of terms of which each member is greater than its predecessor by a constant ratio, as 2, 4, 8, 16, 32, 64.

ge·om·e·try (jē·om′ə·trē) *n.* *pl.* **·tries** The branch of mathematics that treats of space and its relations, esp. as shown in the properties and measurement of points, lines, angles, surfaces, and solids. [< OF < L < Gk. < *gē* earth + *metrein* to measure]

ge·o·phys·ics (jē′ō·fiz′iks) *n.pl.* (*construed as sing.*) The study of the earth as the product of complex physico-chemical forces acting upon it internally and from outer space, esp. with reference to exploration of its less accessible regions. — **ge′o·phys′i·cal** *adj.* — **ge′o·phys′i·cist** *n.*

2.). — *n.* 1. A native or inhabitant of Georgia. 2. ... an ancient mountain people native to the Caucasus. 3. ... Caucasian language of the Georgians of the Soviet Un...

ge·o·stat·ics (jē′ə·stat′iks) *n.pl.* (*construed as sing.*) ... statics of rigid bodies in relation to balanced forces on or ... neath the earth's surface. — **ge′o·stat′ic** *adj.*

ge·ra·ni·um (ji·rā′nē·əm) *n.* 1. A plant with showy ... or purple flowers: also called *cranesbill*. 2. A closely re... plant, originally from South Africa. 3. A very deep ... almost red, color. [< L < Gk. *geranos* crane]

ger·fal·con (jûr′fal′kən, -fô′l-, -fô′-) *n.* A large falcon of ... aretic regions, with feathered shanks: also spelled *gyr...* [< OF < OHG *gir* vulture + OF *faucon* falcon]

ger·i·at·rics (jer′ē·at′riks) *n.pl.* (*construed as sing.*) 1. ... branch of medicine that deals with the structural chan...

ACE 447711

1 of 1

THIS BOTTLE CONTAINS:

100% ***SPIRULINA PACIFICA***, American grown in unpolluted waters. This dried whole food contains an array of important minerals, balanced amino acids, essential fatty acids (incl GLA), chlorophyll, Beta-Carotene and other important plant pigments, vitamins B-1, B-2, B-12, D, E, H & K, glycogen and rhamnose, RNA &DNA and many other essential nutrients commonly lacking in today's "fast food" diets.

SPIRULINA PACIFICA is an alkaline food, simple in structure and very easily utilized by the human body. The nutrients are bio-chelated by the process of photosynthesis and are quickly assimilated into the human body where they help to cleanse (detoxify) and rebuild (nourish). Many users report significant improvements in energy levels and enhanced well-being. Others notice improvements in mental capacity and a strengthening of the immune system. Being a whole food results of this product are nutritional only, and no claims are made towards healing.

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#22 ONE POUND NET WEIGHT POWDER

HOW TO USE:

SPIRULINA PACIFICA is best used as a staple food, one teasp. to three Tblsp per day as desired or needed. This versatile, high quality food can be:

- Blended into fruit or vegetable juices
- Stirred into salad dressings and sauces
- Used to make green guacamole
- Sprinkled on popcorn
- Mixed into ice cream or yoghurt
- Dipped with chips or bread sticks
- Added to energy shakes and smoothies

SPIRULINA PACIFICA is used by people the world over for energy, weight control, metabolic balancing, immune system support and all-around nutritional assistance. Newcomers to this food do best to begin their consumption slowly, giving their body time to adjust to this lively concentrated food. We recommend an initial serving of one teasp., and after a few days at this quantity, increasing steadily to the desired level.

Use daily to ensure balanced energy, stable metabolism and high mental activity. Use *Spirulina Pacifica* as you would any staple food, enjoy its numerous blessings and participate in the efforts to heal mankind and resore balance to the planet.

ALOHA, and PEACE!

ACE 447712

(61)

4-11-1991

APR 11 1991

To: U.S. District Judge's H. Russel Holland of Anchorage, and Stanley Sporkin of Washington, D.C.

I Charles E. McKee urge the rejection of this settlement because I consume on a daily base's Algae grown in unpolluted water's off of Honolulu Hi, The same blue/greene Algae consumed by the many marine invertebrate's, fish, mammal's, insect's and coral reef's in Prince William Sound and ~~the~~ throughout the world

Now considering the allegations by Gov. Walter J. Hickel "I appreciate Congressman Miller's continuing concern for the state of Alaska: however, if there's one thing I learn in the Exxon Valdez tragedy, it is that you cannot take any man's word as gospel, including oilmen and congressmen Well, what about this geological time scale that I make connection too, from my nutritional need to other life form's on this earth and there nutritional needs.

(72)

THE FOLLOWING DOCUMENT MAY NOT FILM
LEGIBLY BECAUSE OF THE POOR QUALITY OF THE
ORIGINAL

April 10, 1991

APR 1 1 1991
U. S. DISTRICT C

Federal Court
Clerk's Office

Re: public comment on the Exxon Valdez oil spill.

Honorable Judge Russel Holland;

This mornings Anchorage Daily News has printed the responses of some people and reminded all of us, that we have until tommorow to comment on the worst tragedy to beset Alaska.
As I sit and wonder about the essence and real consideration that my comment will receive in the overall picture of your decision, this empty feeling of hopelessness begins to overtake me.
My name is Paul Pratt and I was born and raised in Alaska. I have studied the history of development in Alaska and personally witnessed the cause and effect of greed and money on this great country of Alaska. To observe and allow yourself the perspective gaze upon the changes of Alaska through the eyes of five generations of family, would bring your spirit to tears.
Many years ago in another civilization, a man named Aristotle wrote a story about someone who was tied to a chair in a cave. This man faced the back end of

of the cave with head blinds strapped to his head, so he could only look straight ahead. There was a fire behind him that another person, who never spoke, kept lit and during certain hours made shadow figures on the wall. To make the long story short, the shadow figures projected into the cave wall was the bound man's entire defined world of existence. One day the imprisoned man was suddenly released. As he groped his way to the cave entrance and after much adjustment within his bodily senses, he realized there was life. He looked out, listened to natures sounds, smelled the wilderness and wondered about Gods creation. What was once thought to be life, the shadow figures, he realized was an illusion.

The average common person of common sense, such as myself, without scientific degrees or in possession of studies done by people with masters degrees, don't believe in exxon's illusion. They are guilty.

Todays cave wall is newspaper and the television screen. The pupeteers, or image makers, who project this masquerade by the light of their fire, fueled by the profit greed, will be consumed. Unfortunately, in their blind pursuit of profit the children of this world will suffer and die.

Some people, such as yourself, have earned the right to mediate what is truely in the publics best interest & do not envy your honorable and most responsible position to judge what is right. I am most thankful and very appreciative of the time you are allowing me, by reading my comments

Exxon is guilty of the following:

1. During the late 1960's and early 1970's when oil interests, through their newly formed Dept. of Energy, via President Nixon, began their marriage with the State Department, the public was told there would be responsible development.

2. The oil companies made many promises and assurances that they would closely monitor and continuously provide the latest technologically advanced clean-up response team and equipment.

3. As indicated in the Morning Times newspaper dated April 10th, over a year earlier, the oil companies willfully and knowingly with intent disregarded their promises and systematically reserved their ability to respond adequately to any oil spill in Prince William Sound.

4. Exxon knew of Joseph Hazelwoods drinking problem for years before the tragic incident - not accident. They knowingly and willfully failed to monitor his alcohol problem recovery.

5. Once exxon, through their agent Joseph Hazelwood, in collusion with the State Dept., began spilling all the oil, they responded in a confidential low manner

[illegible]

financial interests in placing foreign interventionist representatives in power to open new markets for their oil products. It was this same greed that led to oil spills in the pristine Gulf Coast by the repeated economic attempts of the oil spill Task Force team of using State money, at many and many cents of the money to avoid [illegible]

[illegible] and [illegible]. [illegible] [illegible] [illegible] [illegible] to transport the gas to [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] the [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

70

GREEN PARTY OF ALASKA
P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

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Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

April 12, 1991

Honorable Russel Holland
U.S. District Court
222 W. 7th Avenue
Anchorage, AK 99501

Dear Judge Holland,

The Green Party of Alaska requests that the proposed settlement in the Exxon case be denied. There are a number of problems which need to be considered before such a settlement should take place.

There is the question of Alaska's indigenous peoples. Although they have the right to pursue their claims independently of this proposed settlement, there is a clear question whether the State of Alaska is operating in the best interest of its citizens when it excludes the concerns of citizens most affected. There is also the question of jurisdiction with the tribal governments that represent people who suffered damage as a result of the Exxon Valdez spill.

There are many inadequacies in the settlement that throws open the question of public interest. There appears to be no justification for negotiating the settlement behind closed doors and then providing a very short time for the public to comment with almost no information available. If the public was really destined to participate, facts and information could have been provided to the public for the past four months. The public comment period is closing today. Important information is just beginning to emerge that the public needs to understand in order to make reasonable comments on the case. It seems reasonable to the Green Party that the public should have additional time to consider information recently released by the Federal Government entitled "Summary of the Exxon Valdez Oil Spill on Natural Resources" dated March 1991. Serious allegations were also raised by U.S. Representative George Miller of California in a letter to the court dated April 8, 1991. The State and Exxon have not released their studies. Alaskans in general have not had an opportunity to consider adequate information.

If the settlement were to go forward, Alyeska Pipeline Service Company would be absolved for potential wrongdoing associated with the damages caused. It would be a legal and moral travesty to let Alyeska off the hook before discovery could illuminate their role in the case. As Representative Miller said, it would tell corporations they can lie because there will be no effective punishment.

ACE 447713

Paid for by the Green Party of Alaska. Tim Feiler, Treasurer

APR 11 1991
U. S. D

The financial aspects of the proposed settlement are very unsettling. It begs the question of how can the judicial system actually punish a corporate offender. Please consider that tax write-offs combined with the spread of payments over 10 years essentially allows Exxon to pay as little as 330 million dollars. Add in the fact that Exxon's stock has gone up approximately five dollars per share during the last month, in anticipation of getting the settlement off their books, increasing the value of the company approximately 6 Billion dollars. There will be no noticeable drop in dividends to shareholders. There is no effective deterrent to offenders.

What can be done? Should the corporate executives go to jail? Since the damages are many times more than originally anticipated, should the settlement price be raised to $4 Billion with 1 Billion up front immediately? Should the settlement include a percentage of all oil Exxon takes from Alaska in the next 20 years? These are the types of things that would make potential offenders take notice. It seems clear that it is almost impossible to punish Exxon for the wrongdoing they have admitted. Even if they didn't have write-offs, prices of their products would simply be passed on to consumers to cover the costs. How can justice be done?

The Coastal Coalition had proposed a 2 Billion dollar trust fund that emphasized acquisition of equivalent resources such as buying timber rights to assure future protection. The Coastal coalition proposal also included direct restoration, research, education, and sustainable economic development--reasonable ideas, processes and implementations.

The proposed agreement has the appearance that the State, and its poorly communicating arms of bureaucracy, is setting itself up together with large oil companies and against the very citizens it is supposed to represent. Of course people will argue that it's better to take a little money now rather than continuous litigation that may net the State of Alaska very little in the end. We are talking about justice here, and it doesn't appear that the money offered is adequate compensation for even a small portion of the damages, and it doesn't appear that the wrongdoer suffers any serious consequences for one of the world's largest oil disasters. I believe that given enough time, Alaskans could reach consensus on what a fair settlement would be. The quick and secretive nature of the proposed settlement has prevented this type of approach. Two corporations might settle out of court in the proposed manner, but the State of Alaska is not a corporation, and a different approach should be considered.

The 10 Key Values of the Green Party of Alaska, (grassroots democracy, personal and social responsibility, global responsibility, respect for diversity, nonviolence, ecological wisdom, post-patriarchal values, decentralization, community based economics, and future focus), are values most people hold in high esteem. The responsibility of Exxon as a corporation is not reflected in the proposed settlement. The lack of information and public input really makes it very difficult for a democratic society and a free press to help find a solution.

What will the settlement teach us about personal, social and global responsibility?

The Green Party of Alaska believes that the Exxon proposed settlement is inadequate, not in the public interest, and leaves the court without all the facts relevant to the balance of justice. We urge you to postpone settlement, allow the cash damage award to be substantially raised based on the emerging evidence showing greater damage. We also ask that the proposed settlement be reconsidered with the addition of widespread public input after significant information becomes freely available.

Most sincerely,

Jim Sykes

Jim Sykes, Spokesperson
Green Party of Alaska

LATE

Working for the Nature of Tomorrow.

NATIONAL WILDLIFE FEDERATION

750 W. Second Ave., Suite 200, Anchorage, AK 99501 (907) 258-4800

71

April 12, 1991

Clerk of the Court
United States District Court
222 W. 7th Avenue
Anchorage, AK 99513

Dear Sir:

On Thursday, April 11, 1991, the National Wildlife Federation submitted comments on the proposed plea agreement in United States v. Exxon Shipping Co. and Exxon Corp,. No. A90-015 Cr. Those comments were prepared by counsel in NWF's Washington, D.C., office, faxed to NWF's Anchorage office, and hand-delivered to the Clerk's office. Due to facsimile transmission problems, line 5 in footnote 11 on page 4 ("Exxon were convicted ...") did not appear in the document delivered to your office.

A complete, re-transmitted copy of our comments is herewith submitted for the Court's information. The only difference between this copy and that submitted yesterday is that footnote 11 herein is complete. We apologize for any inconvenience to the Court.

Sincerely,

Debra L. Donahue
Staff Counsel

cc: Douglas Wolf
National Wildlife Federation

ACE 447114

APR 12 1991

(84L)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA vs. EXXON SHIPPING COMPANY, AND EXXON CORP.	No. A90-015 CR.

COMMENTS OF THE NATIONAL WILDLIFE FEDERATION ON THE PLEA AGREEMENT OF THE UNITED STATES, EXXON SHIPPING, AND EXXON CORP.

Erik Olson
Douglas Wolf
National Wildlife Federation
1400 16th Street, N.W.
Washington, D.C. 20036
April 11, 1991

INTRODUCTION

The National Wildlife Federation ("NWF" or "the Federation"), the nation's largest private conservation education organization with 5.6 million members and supporters, welcomes this opportunity to comment on United States of America v. Exxon Shipping Company and Exxon Corporation (No. A90-015 CR.) (the plea bargain)[1]. Such public comment is particularly appropriate given the overwhelming public interest in and concern with this oil spill and the important legal and public policy issues this plea bargain raises.

NWF is very concerned that the proposed plea bargain would let Alyeska Pipeline Service Company (Alyeska) off the hook entirely. This deal in Alyeska's favor was struck despite recent evidence of what a Congressional investigation has suggested was criminal behavior by Alyeska. NWF urges that the Court strike all provisions in the plea agreement which shield Alyeska from punishment. In addition, NWF urges the Court to require a magistrate investigation, or to name an independent counsel or special master to investigate the recent allegations of Alyeska's alleged criminal conduct, and recommend to the Court whether the plea agreement's immunization of Alyeska from criminal prosecution is justified and in the public interest.

NWF also urges that this Court order the government and Exxon to release all scientific and economic data documenting the extent of damage caused by the crimes, in order to assure the public and this court that the fines and restitution are appropriate to the offenses committed. These comments will discuss these and other concerns.

ALYESKA SHOULD NOT BE MADE IMMUNE FROM FUTURE PROSECUTION

In a very unusual provision which may be without precedent, paragraph III A of the Plea Agreement specifically waives the United States' right to prosecute a third party, Alyeska, which is not a defendant in this or any related criminal action, for any criminal violation of federal law arising out of the Valdez spill, the cleanup, or its preparations for a cleanup. This unusual promise was made without any plea, fine, restitution, admission, or extraction of any other benefit to the public or to the government from Alyeska. Our research has been unable to

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[1] NWF, with the Wildlife Federation of Alaska and the Natural Resources Defense Council, and represented by the Trial Lawyers for Public Justice, has sued Exxon and Alyeska Pipeline in state court in Alaska to seek creation of a trust fund which would help restore the natural resources damaged by this catastrophe. NWF has actively commented on the natural resource damage assessment process in response to the Valdez spill.

document any previous case in which a corporate defendant has been provided a promise of no prosecution for environmental or other crimes as part of a plea bargain with some other legally separate company, particularly when that third party corporation has failed to provide any benefit to the government for such a promise.

This provision is particularly troubling in light of recent evidence of Alyeska's alleged criminal conduct. If Alyeska is not punished, the fundamental retributive, rehabilitative, and deterrent goals of criminal law with respect to Alyeska's alleged criminal behavior will not be served.

Documents recently submitted to this Court by the U.S. House Interior and Insular Affairs Committee Vice Chairman George Miller (collectively, "the Alyeska materials") establishes that eleven months before the Exxon Valdez spill, Alyeska knew that it could not adequately respond to a major spill in Prince William Sound.[2] In fact, these documents show that Alyeska unilaterally decided that it would only respond to spills in the Valdez Arm and Valdez Narrows and that it would rely on dispersants and cleanup efforts by the spiller to attempt to take care of any other spills[3]. In other words, Alyeska unilaterally abdicated a large part of its responsibility to protect the environment[4].

The outrageous nature of this conduct becomes even clearer when one compares these internal statements with those Alyeska made in many public forums[5] and makes in its Contingency Plan for Prince William Sound. In the Contingency Plan, Alyeska asserts that it can and will respond to all spills, no matter where they occur in the Sound and no matter what size[6]. The Congressional

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[2] T.L. Polasek, [Alyeska] "Oil Spill Issues," (April 6-7, 1988)(filed with this Court with Alyeska materials).

[3] See Cable from Stanley Factor, ARCO Marine, to Roger Gale, Sohio (July 6, 1988)(in Alyeska materials). Further, this document indicates that the Alyeska owner companies were unable to agree to even this incredibly low level of commitment.

[4] In fact, Alyeska didn't even acquire and deploy the additional equipment that the documents indicate they were planning to purchase. Rep. Miller's April 8, 1991 letter to the Court, at 8-9.

[5] Id. at 2-3 The misstatements made before the pipeline was approved are particularly significant as the pipeline was ultimately approved by only one vote in the United States Senate, with then-Vice-President Spiro Agnew casting the deciding vote.

[6] Id. at 3-6.

investigators suggest that these were willful misstatements and probably were criminal violations of Alyeska's duty under the Clean Water Act and other laws.[7]

The plea bargain, in section III A, specifically exempts Alyeska from any criminal liability for any acts associated with the grounding of the Exxon Valdez as well as any "conduct in connection with the preparation or submission of oil spill contingency plans or related documents, by Alyeska Pipeline Service Company to the federal or state government." The plea bargain exacts nothing from Alyeska in return for this beneficance. Plea bargains often are described as contracts; Alyeska has been given all of the benefits of such a contract without having provided any consideration.

NWF invites the Court to examine its law books to find a similar example of a third-party, legally separate from the accused, gaining the benefit of the plea bargain without suffering any detriment. The governments appear to have surrendered all criminal charges for Alyeska's incredible conduct because Exxon insisted.[8] The record before this Court at a minimum suggests that Alyeska likely is an appropriate target of a criminal investigation. The record is completely devoid of any support for the promise not to prosecute Alyeska. This Court, therefore, has insufficient information for it to evaluate, pursuant to its obligations under Federal Rules of Criminal Procedure 11 and 32, whether the plea is in the public interest and whether the sentence fits the crime.[9] NWF urges the Court to

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[7] The Act makes "[a]ny person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter," such as the Contingency Plan, liable for fines and/or prison. 33 U.S.C. §1319(c)(4). See also 18 U.S.C. §1001 (penalties for knowingly submitting false information to any agency of the United States).

[8] In public testimony before several of the House Merchant Marine and Fisheries Committee's Subcommittees, which met in joint session on March 20, 1991 to examine the proposed settlement, United States Assistant Attorney General, Richard Stewart, asserted that the negotiators for the governments added Alyeska to the plea bargain and the consent decree between the United States and Alaska governments and Exxon Corp. and Exxon Shipping, simply because Exxon insisted they do so.

[9] See generally, J.E. Bond, Plea Bargaining and Guilty Pleas § 6 (1983 & Supps.); W. R. LaFave & J.H. Israel, 2 Criminal Procedure: Criminal Practice Series § 20 (outlining rights and duties of court in reviewing plea bargain).

ACE 447118

strike these unjust provisions from the plea bargain. Alyeska's cavalier and criminal actions must not go unpunished.

THE COURT SHOULD APPOINT A MAGISTRATE, SPECIAL MASTER, OR INDEPENDENT COUNSEL, TO REVIEW ALYESKA'S ACTIONS

The Court should request that a magistrate, special master, or independent counsel[10] review the allegations of Alyeska misconduct. The results of such an investigation would inform the Court's determination regarding whether the plea's provision exempting Alyeska from criminal prosecution is in the public interest and should be approved.

OTHER CONCERNS

1. Important Scientific Data Must Be Released

The plea agreement requires Exxon Corp. and Exxon Shipping to pay a total of $100 million in criminal fines and restitution payments. However, there is no way the public or this Court can meaningfully assess the amount of restitution needed or economic impacts of the spill, to measure against this figure. The federal government's scientific study summary released this week regarding the biological impacts of the spill fails to include any estimates of the economic impacts of the spill or of the restoration costs. None of the numerous economic studies conducted by the government have been released, no information on the findings of Exxon's studies has been made available, and the public, independent experts, and this court are in no position to judge the accuracy even of the summary of biological impacts filed by the government since the studies themselves and all underlying data remain secret.[11]

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[10] See, Bond, Plea Bargaining and Guilty Pleas § 6.18(c)(court may name special prosecutor in rejecting plea bargain as contrary to public interest); United States v. Cox, 342 F.2d 167, 179 (5th Cir.)(en banc), cert. denied, 381 U.S. 936 (1965) (Judge Griffin Bell and dissenters in part suggesting that where government decision not to prosecute is in bad faith or "irrational," court may be authorized to appoint counsel to prosecute case); United States v. Cowan, 381 F.Supp. 214, 223 & n. 11 (N.D.Tex. 1974), rev'd on other grounds, 524 F.2d 504 (5th Cir. 1975), cert. denied, 425 U.S. 971 (1976)(to same effect).

[11] What we do know is that Exxon says it has spent "in excess of $300 million to claimants allegedly injured by the oil spill," Plea Agreement paragraph III C(3)(c), suggesting that under the Alternative Fines Act, 18 U.S.C. section 3571(d), if Exxon were convicted it could be subject to over $600 million in fines, in addition to providing restitution. Thus, there is already substantial evidence of widespread injury from Exxon's actions, and there is suggestive evidence that the adequacy of

ACE 447119

The Court should require that all these studies -- and not just the vague and conclusory summaries just released by the government -- be revealed by Exxon and the government so that the public can intelligently comment on this aspect of the plea bargain, and so that this Court can meaningfully exercise its duties to evaluate the grounds for and adequacy of this plea bargain, and the associated fines and restitution suggested in it.

3. Court Should Impose Prevention Measures

We hereby join in the comments of other conservation organizations before this court calling for the use of creative probation and other requirements requiring Exxon to take actions to prevent other environmental pollution and disasters.

4. Public Should Be Able to Challenge Use of Money

Paragraph IV B of the Plea Agreement purports to provide that Alaska can spend the restitution money it receives under the agreement "without objection, challenge, or judicial or administrative review." As much as the state and United States governments may want to insulate their actions from judicial or other review provided for under the Administrative Procedure Act and other laws, the governments simply cannot enter into a contract with Exxon that purports to eliminate the statutory and other legal rights of third parties to challenge government actions. Thus, this provision must be struck from the agreement as an ultra vires act that is contrary to law and public policy.

Respectfully Submitted,

Douglas Wolf /ozd
Douglas Wolf, Esq.

Erik D. Olson /ozd
Erik D. Olson, Esq.

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the plea bargain can be questioned with respect to Exxon itself. This is particularly true in light of Exxon's widely reported statements in the wake of the settlement's announcements that the deal would have no effect on Exxon's financial position, suggesting the Company's management has no remorse for its actions and that there will be little or no deterrent effect from the fines imposed.

ACE 447120

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April 11, 1991

The Honorable H. Russel Holland
U.S. District Court
Anchorage, Alaska

Dear Judge Holland:

I am writing to respond to your call for public comment on the plea bargain proposed for Exxon Corporation and its shipping subsidiary.

Based on the information released regarding the settlement, I am opposed to accepting it for the following reasons:

--the damage from the spilled oil now appears to be much greater than previously reported, per the federal government's recent release of its studies. It was tough enough for me to swallow the settlement given Exxon's rosiest scenario; given the facts now, the settlement's become totally unpalatable. The damage from the oil is widespread and long-lasting according to the studies; $1 billion no longer seems like such a great deal.

--pleading guilty to misdemeanor charges doesn't send a clear enough message to others in the oil industry. Criminal charges, with a heftier fine, might help.

--$1 billion barely makes a dent in Exxon's profits. If Exxon can't fix the problem (and it's obvious no one can) they should at least feel the monetary consequences.

--I don't like the fact that accepting the settlement offer means Alyeska's off the hook for prosecution. Clearly Alyeska didn't fulfill its mandated obligation to be prepared for a spill; they were negligent and should be prosecuted. Simply because Exxon doesn't want to write two checks and owns twenty percent of Alyeska doesn't mean those owning the remaining eighty percent shouldn't be held responsible.

I am 32 years old, the mother of two small children, a weekend kayaker, and a responsible citizen. As an individual, I feel impotent against the power and size (and money) of Exxon but remain hopeful our justice system can speak for me and others who feel as I do.

Sincerely yours,

Constance K. Quinley

Constance K. Quinley
1812 Bowdoin Circle
Anchorage, AK 99508
907-563-8569

APR 11 1991

ACE 447721

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APR 11 1991

U. S. D[illegible]

Lloyd Benton Miller
SONOSKY, CHAMBERS, SACHSE, MILLER & MUNSON
900 West 5th Avenue, Suite 700
Anchorage, AK 99501
(907) 258-6377

Honorable H. Russell Holland

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

EXXON CORPORATION AND
EXXON SHIPPING COMPANY,

Defendants.

NO. A90-015-1CR
NO. A90-015-2CR

SONOSKY, CHAMBERS, SACHSE & MILLER
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CIVIL PLAINTIFFS' COMMENTS ON PROPOSED SENTENCE

All plaintiffs in Case No. A89-095 Civil (Consolidated) before this Court, and the plaintiffs and the classes they represent in Case No. 3AN-89-2533 Civil (Consolidated) in the Superior Court for the State of Alaska, Third Judicial District (hereinafter referred to as "the Civil Plaintiffs"), pursuant to this Court's Order of March 22, 1991, hereby submit their comments on the sentence specified in the Plea Agreement entered into by the United States and Defendants Exxon Corporation and Exxon Shipping Company.[1] Civil Plaintiffs urge the Court to defer

[1] Civil Plaintiffs continue to ask the Court, as they did in their motion dated March 21, 1991, to enter an Order to Impound or Otherwise Preserve All Grand Jury Documents, Subpoenae and Transcripts. Civil Plaintiffs also support the assertions and positions set forth in the letter of U.S. Representative George Miller addressed to this Honorable Court

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accepting the Plea Agreement, pursuant to Rule 11(e)(2), F.R.Crim.P., until such time as complete record is before the Court on the impact of the offenses committed by Defendants an their history of violations of the environmental laws.

The Proposed Sentence Cannot Be Properly And Adequately Assessed By The Court Without (1) Full Disclosure Of The Scientific Data and Analyses Accumulated But Withheld By The United States; And (2) After Such Disclosure, Providing An Opportunity For Non-Government Experts to Comment On The Sentence In Light Of The Data.

The Sentencing Reform Act of 1984, as amended, 18 U.S.C. §3553(a), mandates that the Court consider before sentencing: "(1) the nature and circumstances of the offense...." and "(2) the need for the sentence imposed– (A) to reflect the seriousness of the offense, t promote respect for the law, and to provide just punishment for the offense...." To make these determinations in this case the Court will need an extensive assessment by the scientific community of the nature, circumstances, and seriousness of the effects of the oil spill at issue

That inquiry is not possible now because the government has failed to provide the scientific community, the Civil Plaintiffs who are victims of defendants' offenses, and the public in general with the significant and relevant data and analyses which the government has had in its possession for months. The import of the granite barrier to scrutiny that has been maintained by the government, despite persistent requests for disclosure, is described in detail in the Affidavits of eminent scientists Drs. Capuzzo, McElroy, and Teal, and Bruce W. Tripp, whose affidavits were submitted to the Discovery Master, the Honorable David B. Ruskin, as Appendices F through I to "Plaintiffs' Memorandum in Support of Motion for Disclosure of All Scientific Data on the Impact of the Oil Spill on Natural Resources" in Case No. 3AN-89-2533 in the Superior Court for the State of Alaska, Third Judicial District of Anchorage. Because of this barrier, experts

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and dated April 8, 1991.

ACE 447723

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outside the government have been unable to provide a full assessment to the Court on the nature, circumstances, and seriousness of the effects of the oil spill at issue. The Court should clearly desire to have such expert opinions in light of the gravity of the offenses, the victims' right to provide comments, and the fact that the government is not acting solely as the enforcer of the law, free of non-prosecutorial bias, but rather is also pursuing this Plea Agreement as part of an overall settlement in which it is a settling defendant.

Perhaps recognizing that this Court could not perform its duties in this criminal proceeding without such information, the U.S. Justice Department, only three days before these comments were due, lodged an 18-page *summary* of 58 scientific studies (reportedly costing $70 million) with this Court in Civil Action A91-002. This Court should require the government to disclose the complete scientific record, and not just a purported summary. Accordingly, the Court should defer sentencing until: (1) the United States makes available to the Court, the Civil Plaintiffs, and the public the *complete* scientific record needed to appraise "the nature and circumstances of the offenses" involved and "the need for the sentence imposed to reflect the seriousness of the offense...and to provide just punishment for the offense;" and (2) the Court affords the opportunity for comment on the sentence in light of that record. In any event, the Court should defer sentencing until the victims of the offense and experts provide comments in response to whatever the government has released and whatever it and Exxon submit on April 16.

The Fine Agreed To Is Insufficient To Serve The Needs Of Deterrence.

In deciding on the adequacy of the sentence, the Court must decide on the impact of that fine. 18 U.S.C. §3553. Here, the impact of the proposed fine on Exxon will be minimal and few if any purposes of the sentencing statute will be met.

ACE 447724

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Numerous statements have already been made by Exxon officials observing th the criminal fine (indeed the overall settlement) will have no appreciable effect on the Company earnings. *See, The New York Times*, Thursday, March 14, 1991, page A16. With the ***relative*** small size of this penalty, the sentence is unlikely to "afford adequate deterrence to [Exxon's criminal conduct" or "to protect the public from further crimes of the defendant." 18 U.S.C §3553(a) (2)(B) and (C).[2] This point is reinforced by the fact that the proposed penalty pales comparison to the maximum penalty under the proposed Sentencing Guidelines. Under thos Guidelines, Exxon's sentence could have been four times the overall loss to the victims of th spill.[3] At a minimum, the Justice Department's conservative figure of $600 million (2 times th victim loss as repeated by the defendants) would have been a much more appropriate penalt Accordingly, the Court should reject this plea agreement.

Exxon's History of Offenses Must Be Evaluated Before The Court Rules On This Plea Agreement.

The history of defendants' offenses must be evaluated in deciding the appropriate ness of the sentence and the Plea Agreement. Civil Plaintiffs urge the Court to obtain a full repo on the defendants' history of violations of environmental laws given the considerable record c offenses that is already known:

A. Destruction of Wetlands in Arthur Kill Waterway Caused By Criminally Negligen Pipeline Rupture

On January 1, 1990, an underwater pipeline ruptured from Exxon's Bayway Refinery near Newark, New Jersey, causing approximately 570,000 gallons of refined oil to pollute

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[2] It is noteworthy that the cost of the government's scientific studies, reported as $70 million, constitutes 70% of the total fine, $100 million, stipulated in the Plea Agreement.

[3] Indeed, if the sentences on all five charges were to be imposed consecutively, the aggregate statutory maximum for each defendant would be $3 billion, not $600 million, again without considering the damages in excess of the $300 million paid by Exxon to date.

ACE 447725

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miles of shoreline and kill hundreds of birds. A guilty plea to criminally negligent discharge of o under the Clean Water Act was entered on March 20, 1991 and a criminal fine of $5 millio (including $4.8 million restitution) was imposed. Exxon admitted that it was negligent in trainin its employees and maintaining the pipeline.

B. *Exxon Corp. v. Yarema*, 516 A.2d 990 (Md. Ct. Spec. App. 1986)

A punitive damage award was upheld based upon the negligent discharge o gasoline from underground storage tanks.

C. *In the Matter of Exxon Corp.*, No. 84-0914AG (Tennessee Dept. of Health an Environment)

Exxon was adjudged to have violated solid waste regulations through improp storage of hazardous wastes.

D. *Exxon Co., U.S.A., v. State of Texas*, 646 S.W. 2d 536 (Tex. Ct. App. 1982)

Exxon was found to be criminally liable for the discharge of catalytic dust from it refinery.

E. *Exxon Co. U.S.A. v. Dunn*, 474 So. 2d 1269 (Fla. Dist. Ct. App. 1985)

Exxon was found liable for personal and property damage caused by sulphurou gas emission and vibrations.

Once a full record on defendants' history of environmental violations is developed the Court will be in a position to examine the extent to whic the violations evidence a pattern c corporate indifference toward environmental issues. Only by engaging in such an inquiry will th purpose of 18 U.S.C.§3553 be served.

DATED at Anchorage, Alaska this 11th day of April, 1991.

SONOSKY, CHAMBERS, SACHSE, MILLER & MUNSON

By: _____

Lloyd Benton Miller
Plaintiffs' Liaison Counsel

ACE 447726

COHEN, MILSTEIN, HAUSFELD & TOLL

DAVIS, WRIGHT & TREMAINE

STOLL, STOLL, BERNE & LOKTING

WILLIAMS, TRINE, GREENSTEIN & GRIFFITH

CASEY, GERRY, CASEY, WESTBROOK, REID & HUGHES

DICKSTEIN, SHAPIRO & MORIN

SONOSKY, CHAMBERS, SACHSE & MILLER

Macon Cowles
TRIAL LAWYERS FOR PUBLIC JUSTICE

ON THE BRIEF:
H. Laddie Montague, Jr.
Janice Siegel
BERGER & MONTAGUE, P.C.

Charles S. Crandall
MILBERG, WEISS, BERSHAD, SPECTHRIE & LERACH

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ACE 447727

4-10-91

74

Dear Judge Holland,

Thank you for taking public comment on the Exxon Valdez litigation settlement. I have a few comments.

Prince William Sound is a conglomarat of uses and activity. Besides everything that humans do there is the base of what makes the Sound, the natural ecosystems. The Spill damaged all this, so do I think that any settlement should try to address all of these activities? No amount of money could. So any settlement should try to address certain basic problems

caused by the spill which can be corrected.

1. Release the Scientific Data. If nothing else comes out of this disaster we ought to at least learn something.

2. The public, not special interests (including state agencies) should have input into any money coming from the settlement. I notice not one directly elected official is part of the Trustees. (Extend public comment period)

3. Limit spending the money to directly benefitting Research & Restoration of the sound (Includes Preservation for Research needs).

I've had to work hard to learn about this issue, but don't pretend to half of it. I wish you the best of luck.

Paul Twardock

Paul Twardock
Box 544
4101 University Dr.
Anchorage AK
99508

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APR 11 1991
CHAMBERS. U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

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DONNA JEFFERSON
BOX 393
TALKEETNA, AK 99676

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APR 11 1991
CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

4/9/91

LIKE MANY ALASKANS, I FEEL THE PWS OIL SPILL SETTLEMENT NEEDS FURTHER LITIGATION; EXXON GETS A SLAP ON THE HAND, ALYESKA PIPELINE CO. GETS LET OFF THE HOOK FOR ITS' NEGLIGENCE, AND MOST DISCOURAGING OF ALL, RESULTS OF ALL THOSE PUBLIC FUNDED STUDIES ARE BEING WITHHELD FROM THE PUBLIC!! UNTIL THE ABOVE THREE POINTS ARE ADDRESSED WITH JUSTICE, I PROTEST THE SETTLEMENT AND URGE YOU TO LOOK AT IT WITH GREATER SCRUTINY.

SINCERELY,
Donna Jefferson

ALASCOM Telegram

76

APR 91 11:47

03001 JUNEAU ALASKA 29 04-11 1145A ADT

PMS 000298

HON. H.RUSSELL HOLLAND, U S DIST JUDGE DLR

US DIST COURT 222 WEST 7TH AVE RM 261

ANCHORAGE AK 99515

BT

IN LIGHT OF EVIDENCE PRESENTED IN CONGRESSMAN MILLERS LETTER, DISMISSAL OF CRIMINAL CHARGES WOULD BE MISCARRIAGE OF JUSTICE. CIVIL SETTLEMENT IS TOO LOW TO PROVIDE DETERENT AGAINST FUTURE SPILLS.

DENNIS HARRIS

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RS, U.S. DISTR...
H. RUSSEL HOLLAND

ACE 447732

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U.S. District Court
Judge Russell Holland
222 W. 7th Avenue
Anchorage, Alaska 99513

Dear Honorable Judge Hollard,

I am writing because I do not like the settlement Exxon has given to we Alaskans. I was born and raised in Alaska and have been here in Alaska for over 47 years. I am a working woman, and have been active in the community. My husband is also.

The damage that was done will NEVER be repaired in yours or my lifetime. The distruction to the environment, not to mention the death to all the birds and animals. That part of Alaska is tainted for many years to come.

I feel the damage that is done is damage to each Alaskan. To every Alaskan. We and our children and their children will be effected. I feel 4 billon would be more of a likely settlement. 3 billon put into the permanent fund dividend to be shared with each Alaskan. This is most fair, for it includes not only adults but the children of Alaska, its their future. The other billion would go to the State.

If we let Exxon off with such a small amount, others will not have to take much percaution. Aleyska Pipeline should be in some ways held responsible for their share of neglect. They were neglectful! (1 billion is a small amount compaired to damage done, for the most part, permanent damage)

My husband and I plan to live the rest of our lives in Alaska. Our grandchildren will live here. If we do not stand up for our State, our enviornment, our animals, our birds.....for Alaska who will? The policitions for the most case, will not be around they will leave to a warmer climate.

So, your HONOR, I will have to trust that you will think this entire matter through, for each of us, when you decided what it is we should do. I trust that you will think of the damage done for lifetimes to come.

Respectfully,

Judith Lewis

Judith Lewis

JL

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H. RUSSEL HOLLAND

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APR 11 1991
CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

April 10, 1991

Judge Holland
U.S. District Court
222 West 7th Ave. #4, Room 261
Anchorage, Alaska 99513-7564

RE: Exxon oil spill plea bargain
negotiated by Governor Wally Hickel

Dear Honorable Holland:

I would like to submit the following comments regarding the Exxon plea bargain for the damage done in Prince William Sound area by the Exxon Valdez. I **oppose** this "plea bargain" for just that reason--it's a bargain for Exxon and a rip-off for the Alaskan people, especially those directly affected in and around Prince William Sound. Exxon will get off "scott-free" if this "bargain" is struck. Exxon is a multi-billion dollar profit-making company who has a lot of power and strength because of their wealth. Someone so strong could potentially have the power to replenish the now-ruined environment. Who will end up cleaning up their mess?--The State of Alaska. Our Governor wants to take the basement "bargain" price of $1 billion dollars! This is an outrage and it should not happen! What is $1 billion dollars to Exxon? and where will they come up with the monies to pay for the Alaskan environment? I know where they will get the

monies--from the Alaskans who buy their gas! Now what kind of "bargain" is that? Sounds like a big scam to me! Exxon would lose $1 billion but would simply hike prices at the gas pump to cut their losses while at the same time taking a tax write off!

As far as I'm concerned, Exxon should be down there right now in Prince William Sound cleaning the area and making the area safe again for marine mammals, mollusks, fish, plants, and the rest of the life that was washed away with oil! In addition, the Marine Mammal Act needs to be addressed in any plea "bargain." What kind of action will be taken on behalf of marine mammals? The whole food chain has been affected and one species should not be left out of any plan to replenish or make safe the areas affected.

I support the people who have to live in the areas affected by the oil spill in their efforts to get some kind of compensation out of Exxon and Alyeska. Both of these companies, along with the State of Alaska are at fault. If a plan had already been devised for such an "accident" why did they <u>not</u> use it? Were they trying to cover up the fact that there was a drunken captain on board the Exxon Valdez? I just don't understand. Anyway, the people affected are not happy with this settlement because I grew up in a rural community where a majority of people depend on the natural resources living around our island, and not only for food but for our culture. I know if I were living there, I would feel very betrayed because my own

livelihood (whether it be subsistence or commercialized) had been taken away by an oil company who could afford to pay back the environment but got off with a slap on the wrist and a small fine to be recovered via their customers (the very people affected)! It's unfair, unjust and just not a "bargain" for the Alaskan people or for anyone who has to pay their prices at the gas pump. Not only the people living in the oil affected area have been or will be affected. Just because the oil was seen in certain areas, does not mean other areas and the whole food chain in general was not affected. When a species has been nearly wiped out in an area, it's hard for them to naturally replenish themselves. So if the fish in the area have been contaminated and die a lot younger, there will not be as many fish to go around and this will cause a whole chain of catastrophic events to occur. Let's theoretically say there are 500 fish in the Prince William Sound area (after the spill) but had been reduced to be 500,000 strong. This means the people who fish in the area (be it subsistence or commercial) will have less and will be forced to fish other areas in Alaska where there are more fish. But then there will be more people overfishing the areas which were not overfished last year and so on and so on. What about the animal life who depended on the 500,000 fish and now only have 500 fish to work with? Now that this number has been reduced and contaminated, where will the animals go and how will they cope with the people who are trying to use the same 500

fish? Sounds like a lot of trouble for a long time until the fish come back to their original 500,000 if at all. And what if the 500 fish that swim back to Prince William Sound are intercepted before they even get back by the Taiwanese illegal fisherman? And I've only singled out the fish. The same questions would apply to all species affected by the oil. The environment is in a delicate balance and you can't take several species out a food chain and expect the environment to recuperate with only $1 billion dollars to work with! I have no idea just how much should be paid, but it ought to be a lot more than $1 billion dollars! The price should also state that Exxon cannot bill their customers these costs or take a tax write-off and cut their losses because they will win in the end. The only winners in this game (if the "bargain" price is accepted) will be Exxon and Alyeska. Don't they care that our Mother earth will only tolerate so much? Do they want to live on the earth or would they rather we shot them into space as a form of punishment so they would appreciate the earth? Big corporations like Exxon need to be taught a lesson--money can't buy-off real Alaskans; but since they have the money, let them try to buy our earth back and spend as much as they can.

Sincerely,

Martina Strand

Martina Strand
A Concerned Alaskan

-79

APR 1 1 1991

U. S. DISTRICT COURT

Memorandum

Date: April 11, 1991

To: United States District Judge H. Russel Holland

From: Karlene B. Leeper, 1652 Sunrise Drive, Anchorage, AK 99508

Subject: Comments on United States of America vs. Exxon Corporation and Exxon Shipping Company Plea Agreement No. A90-015 CR.

My main concern is that cultural resources, especially archeological sites are not addressed in the Plea Agreement. Some items from the Agreement which I would like to see addressed include:

-Paragraph IIIA of the Plea Agreement seems to preclude actions by U.S. government agencies under several laws protecting cultural resources including the Archeological Resources Protection Act (ARPA), the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). I feel that the Plea Agreement should include criminal charges under acts regarding cultural resources.

-As administrative actions, penalties by U.S. government agencies under the Archeological Resources Protection Act are excluded.

-Paragraph IIIB limits the right of U.S. government agencies other than the Department of Justice to seek civil or administrative actions against Exxon and Exxon Shipping. Why does the Justice Department have this sole power to leave out considerations of other agencies and departments such as the Department of the Interior, the Department of Agriculture and the Department of Commerce?

-Paragraph IV states that payments of $50 million to the State of Alaska are to be used for restoration, replacement, enhancement and monitoring of affected resources. It is not stated that these include cultural resources. This needs to be specified in the agreement.

-In addition to the impacts of the oiling and shore cleaning methods, the extensive work on the shores of southern Alaska by oil spill workers has exposed locations of archeological sites to the public and has increased potential damage by looting. Increased monitoring and legal assistance is needed to protect the cultural resources on public lands from looting.

-Cultural resources lost and affected by the oil spill are valuable and irreplaceable representations of Alaska's heritage. They seem to have been left out of the criminal plea agreement and the civil settlement. The plea agreement should be revised to include the assurance that a portion of the fines will be set aside for the

(missing rest of document)

LATE 80

Keith F. Fabing
Box 112021
Anchorage, ALASKA
99511-2021

10 April 1991

The Clerk of the Court
222 West 7th Ave.
Box 4
Anchorage, AK 99513

To whom it may concern,

I wish to express my opposition to the proposed plea agreement between the United States of America (Plaintiff) v. Exxon Corporation and Exxon Shipping Company (Defendants).

My personal feeling on this issue is that the citizens of the United States and, more importantly, the citizens of the State of Alaska and those in the areas directly and indirectly impacted by the illegal and chronic discharge of oil in the waters of Alaska and the United States by the above stated defendants, have been largely and purposely excluded from the overall process of arranging this plea agreement.

I also feel that the proposed fines against Exxon Corporation and Exxon Shipping Company do not begin to approach the level of punitive compensation due to the citizens of the United States and the State of Alaska when weighed against the overwhelming loss of life within the impacted areas, the long term lifestyle changes that have been forced upon the citizens within these areas, and the emotional impact upon all of those citizens who value the few areas that have been spared the impacts of toxic pollutants that have already compromised most of the waters of the United States.

When one considers the economic position of the Exxon Corporation and their family of companies and subsidiaries within the world, I am forced to question the impact that the proposed fines will have on their organization, particularly when a large portion of their sentence will be passed over onto the backs of the American Taxpayer.

Yes, I am opposed to the adoption of this proposed plea agreement. Regardless of the costs in terms of time and legal fees, I feel that broader participation must be encouraged from all affected parties in this overall process.

Thank you.

Sincerely,

Keith F. Fabing

APR 12 1991

U.S. DISTRICT COURT

ACE 447741

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TOTAL P.02

U.S. DEPARTMENT OF JUSTICE
ENVIRONMENTAL CRIMES SECTION
ANCHORAGE, ALASKA
(907) 258-7001 (VOICE)
(907) 278-6904 (FAX)

FACSIMILE TRANSMISSION COVER SHEET

DATE: 4/12/91

TO: Mary Fitzgerald Jones
Dept of Law

PHONE NUMBER: (907) 269-5274

FAX NUMBER: (907) 278-7022

SUBJECT: Exxon Plea Agreement+Comments

IF ANY QUESTIONS REGARDING THIS TRANSMISSION, PLEASE CONTACT Vivien

COMMENTS: One late comment.

THIS TRANSMITTAL CONSISTS OF THIS COVER SHEET PLUS 1 PAGES.

ACE 447742

Dr. David C. Harrison
1057 W. Fireweed Ln. 220
Anchorage, Alaska 99503

RACHEL II

LATE 81

APRIL 10, 1991

TO: PRESIDENT ELIASON - STATE SENATE JUNEAU

SPEAKER GRUSSENDORF - STATE HOUSE JUNEAU

MR. BRUCE KENDALL- OFFICE OF THE GOVERNOR

Judge Holland - Federal Judge Alaska

* (PLEASE ACCEPT THE EXXON SETTLEMENT) AND GET ON WITH THE BUSINESS OF STATE AND OF PROTECTING OUR ANADROMOUS FISH ON THE HIGH SEAS.

FOREIGN HIGH SEAS INTERCEPTIONS HAVE DONE MORE DAMAGE TO ALASKA'S ECONOMY THAN THE OIL SPILL. YOU ASK HOW I KNOW? SINCE AND PRIOR TO 1937, FOREIGN INTERCEPTIONS OF OUR ANADROMOUS FISH ON THE HIGH SEAS HAVE COST HUNDREDS OF BILLIONS OF DOLLARS - TO THE STATE REVENUE - TO THE RESIDENT COMMERCIAL FISHERMEN OF ALASKA and TO LOCAL GOVERNMENTS THROUGHOUT ALASKA.

I KNOW MOST OF YOU HAVE HAD A LITTLE HISTORY OF THE ALAMO. BUT DO YOU REMEMBER HJR 27 AS INTRODUCED IN 1988 by REP. JIM ZAWACKI. YES, I KNOW, YOU HAVE FORGOTTEN RESIDENT COMMERCIAL FISHERMEN. IT IS TIME TO STOP FORGETTING - OK! GOV. HICKEL HAS DONE WHAT CAN BE DONE AND PLEASE ACCEPT THE EXXON SETTLEMENT AND GET ON WITH MORE IMPORTANT THINGS. OH! ONE OTHER THING, SUPPORT GOVERNOR HICKEL'S EFFORTS TO GET ALASKA MOVING AGAIN. WE HAVEN'T HAD A 'DOER' IN THE GOVERNOR'S OFFICE SINCE I KNOW WHEN. I CALL UPON ALL OUR FISHERMEN LEGISLATORS TO STAND UP AND BE COUNTED FOR RESIDENT COMMERCIAL FISHERMEN. YOU CAN DO IT BUT WILL YOU - TIME WILL TELL.

David C. Harrison, Capt. F/V Rachel II 33 years resident fisherman
State Senator 1963-67 Western Alaska

Alaska Resident Commercial Fishermen Help You Live Better

* For Judge Holland - Federal Judge 9th Court District (85L)

ACE 447121

April 10, 1991

LATE 82

Judge Russel Holland
U.S Federal Courthouse
Anchorage, Alaska
99501

Dear Judge Holland,

Reviewing past and present revelations on the Oil Spill, I do not think the deal pending with Exxon is a good one. With the new information on loss of wild life, I feel the amount of settlement should be 3-4 billion dollars, and perhaps tied entirely To restitution of wild life and preventive programs for future accidents and corporate atrocities.

Additionally, if the situation is to end with dropped charges, at least Exxon and the responsible Coast guard officials should be given some meaningful public reprimand for their carelessness.

Sincerely yours,
Charles E Trimble M.D.

ACE 447122

(86L)

Mary Malchoff
P.O. Box PGM
Port Graham, Alaska 99603

LATE 83

April 9, 1991

RECEIVED
APR 12 1991
CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

Clerk of Court
U.S. District Court
Federal Bldg. U.S. Courthouse
22 W. 7th Avenue #4 Rm 261
Anchorage, Alaska 99513-7564

Clerk of Court,

Why couldn't have the U.S. Government & State of Alaska stood with us on our lawsuits? Or even have come and said to us in open communication and say- We are going for a settlement with Exxon and we are not going to involve you and why? As a resident of Alaska and affected by the Exxon Oil Spill it really makes me wonder who we are and where do we stand, are we a part of the State and the U.S. Government?

Oil Spill Settlement Monies:

Will all the monies be spent on studies that they won't release to the public? As a subsistence user we really do wonder if our food is safe if they won't release any studies.

I'm afraid the monies will be used to do studies and nothing will be done to clean the affected areas nor to restore the subsistence fish and foods.

Also something ought to be done to retract the maps that identify archeology sites on Native lands (corporation and allottments).

Will monies be set aside to help the affected areas with coping skills in crisis situations (big corporation takeover). Somehow trust levels need to be worked on.

Any monies that were collected on lands still pending ownership should be put in escrow.

Please don't isolate the villages, village corporations and native allottment owners for we are a part of the U.S. Government and State.

Sincerely,

Mary

Mary Malchoff, Resident

(87L)

LATE

84

Elenore McMullen, Chief
Port Graham Village Council
P.O. Box PGM
Port Graham, Alaska 99603

RECEIVED
APR 12 1991
CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

April 8, 1991

Clerk of Court
U.S. District Court
Federal Bldg. U.S. Courthouse
22 W. 7th Avenue #4 Rm 261
Anchorage, Alaska 99513-7564

Clerk of Court,

We the members of the Port Graham Council who are made up of five (5) Alaskan natives who participate in the activities of Subsistence are concerned over whether the 100 million dollars of the criminal case will be adequate. With one half to the State as a tax deductible payment of restitution only 50 million is a real criminal fine.

We're of strong feelings that the $50 million criminal fine is very inappropriate for the nature of the crime, the Exxon Disaster brought on damages to every aspect of the native peoples of the Prince William Sound and Lower Cook Inlet and Kodiak area. We feel there needs to be a greater punishment for the crime, Exxon earns several billions of dollars and have caused billions of dollars in damages.

What might have been the fines had Exxon been convicted? We're sure they'd be much greater.

We as Native Subsistence Users have never been considered in any monies paid the State and Federal governments.

I don't feel the 50 million fine monies should be spent on Violent Crime Victims Fund. This is not fair! It should be paid to us the true victims of the Exxon Disaster.

Sincerely,

Elenore McMullen

Elenore McMullen, Chief

ACE 447124

88L

LATE

April 9, 1991

RECEIVED 85

APR 12 1991

CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

Jennifer Nelson
5100 Spruce Ck. Cir.
Anchorage, Ak 99516

Honorable Russell Holland
Federal District Court
222 W. 7th
Anchorage, Alaska

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

ACE 447125

89L

TOTAL P.13

96

COMMENTS OF THE ALASKA NATIVE VILLAGE CORPORATIONS AND REGIONAL CORPORATION CONCERNING THE PROPOSED SETTLEMENT AND PLEA AGREEMENTS

The Alaska Native Village Corporations and Regional Corporation listed below, by and through their counsel, submit the following comments concerning the Plea Agreement, Agreement and Consent Decree, and Memorandum of Agreement and Consent Decree, dated March 12, 1991, made and submitted by the United States of America and the State of Alaska (collectively, the "Governments"), Exxon Corporation and Exxon Shipping Company (collectively, "Exxon"), and Exxon Pipeline Company ("Exxon Pipeline") in United States of America v. Exxon Corp. and State of Alaska v. Exxon Corp., Civ. Nos. A91081, A91082 and A91083 (D. Alaska).

These comments are submitted on behalf of the Chugach Alaska Corporation, which is an Alaska Native Regional Corporation, and the Tatitlek Corporation, Chenega Corporation, The Eyak Corporation, Port Graham Corporation, and English Bay Corporation, which are Alaska Native Village Corporations (collectively, the "Alaska Native Corporations"). The Alaska Native Corporations are plaintiffs in federal and state suits against Exxon, Exxon Pipeline and others, resulting from injuries caused by or arising from the grounding of the T/V EXXON VALDEZ on March 23-24, 1989 and discharge of approximately 11 million gallons of crude oil into Prince William Sound (the "Oil Spill"). These Alaska Native Corporations are the largest landowners, apart from the State of Alaska and United States, adversely impacted by the Oil Spill.

ACE 1286622

The following comments derive from, and are based on, the Alaska Native Corporations' unique property interests in and to lands which have been validly selected by them under the Alaska Native Claims Settlement Act, 43 U.S.C. §1601 et seq. (1990) ("ANCSA"). In connection with the settlement by the Governments, Exxon and Exxon Shipping of claims relating to such lands arising from the Oil Spill, it appears that these parties have purported to encumber, compromise and settle certain of the Alaska Native Corporations' claims, or portions of such claims, arising from the Oil Spill, in direct contravention of federal law and applicable regulations and the United States' representations to Judge Stanley Sporkin of the United States District Court for the District of Columbia.

The unique claims of the Alaska Native Corporations are evidenced by and reflected in: Pub. L. 94-204, 89 Stat. 1146, as amended, which provides that any proceeds of the settlement of claims, including claims arising from trespass and loss of wildlife, related to land withdrawn for selection by Alaska Native Corporations, must be held in escrow by the Secretary of Interior for the Alaska Native Corporations until the land is conveyed to the corporation; Pub. L. 101-380, section 8301, August 18, 1990, 104 Stat. 572, which demonstrates Congress' intent to provide that, for purposes of asserting or recovering for claims arising from the Oil Spill, the Alaska Native Corporations may elect to be vested with both legal and equitable title to all lands selected by them, whether or not title has passed or the land has been formally conveyed; and 43 C.F.R. §2650, et seq., which provides that

the Alaska Native Corporations' views shall be obtained and considered prior to the execution of any contract, including settlement contracts, relating to such lands.

The following comments seek revisions of or amendments to the settlement agreements in order to cure the violations of federal law and regulations discussed herein.

1. Inclusion of Exxon Pipeline Company

The Agreement and Consent Decree is made and entered into by the Governments and, among others, Exxon Pipeline (Agreement, p. 3). The parties to the Agreement subsequently acknowledge that Exxon Pipeline has a 20.34% participation in Alyeska Pipeline Service Company ("Alyeska") (Agreement ¶ 23, p. 20). However, the Agreement is silent as to what effect, if any, Exxon Pipeline's execution of the settlement will have on Alyeska or on claims against Alyeska in pending lawsuits against Alyeska. Since the Governments excluded Alyeska from the complaint and subsequent plea agreement and settlement papers, the issue merits clarification by the parties.

2. The Definitions of Natural Resources and Natural Resource Damages Encompass Plaintiffs' Claims

The definitions concerning "natural resources" and "natural resource damages" (Agreement ¶ 6(c) and (d), p. 5; MOA ¶ II(F) and (G), p. 6-7) specifically include resources "held in trust by" the Governments, and damages obtained by the Governments in their respective capacity as Trustees of selected lands in interim jurisdiction. For example, the definition clearly encompasses lands heretofore

ACE 1286624

selected by Port Graham Corporation and English Bay Corporation in the Kenai Fjords and lands selected by Chenega Corporation but not conveyed in the Chugach National Forest. In sum, any natural resource damage recoveries obtained by the Governments relate, in part, to lands and resources legally and equitably owned by the Alaska Native Corporations. Accordingly, contrary to the Governments' repeated representations, the settlement purports to settle claims of the Alaska Native Corporations.

3. The Exclusion of Alaska Native Corporations

Both the Agreement and Memorandum provide that the settlement shall not affect or impair "the rights and obligations, if any, of Alaska Native villages to act as trustees for the purpose of asserting" claims related to natural resource damages to village lands. (Agreement ¶ 13(b), p. 15; MOA ¶ III(c)(1), p. 9). (emphasis added). No explanation is provided as to why the settlement has not similarly excluded the claims of the Alaska Native Corporations. There is a significant legal difference between tribal village organizations and ANCSA Corporations.

Concomitantly, the following subparagraph of the Memorandum (MOA ¶ III(c)(2), p. 9), appears to exclude from the settlement Alaska Native Corporations' claims for natural resources damages for lands not otherwise in interim jurisdiction. However, the Agreement, even if construed most favorably, clearly affects the Alaska Native Corporations' claims for natural resource damages for lands in interim jurisdiction. Simply stated, the Alaskan Villages, as referred to in the Agreement and

ACE 1286625

MOA, have no legal or other right to act as trustees for natural resource damages to lands in interim jurisdiction; such rights are vested solely in the Alaska Native Corporations created under ANCSA.

Accordingly, the Agreement and MOA must be amended to include a clear statement by the Governments that the natural resource damages claims of the Alaska Native Corporations remain unaffected by this settlement whether or not such claims affect lands in interim jurisdiction.

4. Scientific Studies

The MOA (¶ II, p. 13) provides that the Governments "shall continue to work cooperatively to conduct all appropriate scientific studies relating to the Oil Spill, including specifically the scientific studies approved by the Trustees for the 1991 field season." This language is deficient for two reasons.

First, the Governments should be required to share with the Alaska Native Corporations all scientific and evaluative material that, at minimum, relate to Alaska Native Corporation's lands in the Prince William Sound area. Indeed, the Alaska Native Corporations provided the Governments with access to their lands in order to permit such vital studies affecting their lands to be conducted. Since the Corporations have previously been denied access to this material, they are unable to assess whether or not the settlement contracts with regard to lands, either owned by the Alaska Native Corporations or in interim jurisdiction, are fair and reasonable. For example, chemical fertilizers were used on lands either owned by Chenega Corporation or within the interim jurisdiction of the United States in Prince William

ACE 1286626

Sound; however, the National Park Service refused to permit bioremediation agents on land still within the interim jurisdiction of the Park Service. Land managers from Port Graham and English Bay were not allowed access for the purposes of the survey and study. There is, therefore, a significant uncertainty as to how the cleanup activities in the past or restoration activities in the future will be handled in the Kenai Fjords selection area. The critical importance to the Alaska Native Corporations of obtaining this information is graphically highlighted by the Government's release of summaries of the findings of these scientific studies on April 9, 1991, as reflected in a front-page article in The New York Times, a copy of which is attached. In addition, the Governments should be required to release this information in fulfillment of their fiduciary and other legal duties to the Alaska Native Corporations, as set forth in Federal law and regulations, as Trustees of their lands.

Second, this general provision does not explicitly require the Governments to continue funding all scientific studies now underway. Such continuity of funding is important in order to fully assess the extent and nature of damages to the natural resources.

5. Allocation of Settlement Monies in General

The MOA does not require the Governments to allocate the monies relating to Alaska Native Corporations' lands, nor are they obligated to appropriate the monies in any given time period. (MOA ¶ V (D)).

ACE 1286627

6. Allocation of Monies Held in Trust for the Native Village and Regional Corporations

The Agreement and MOA provide that the Governments shall jointly use the settlement monies "for purposes of restoring, replacing, enhancing, rehabilitating or otherwise acquiring the equivalent of natural resources injured as a result of this oil spill." (MOA ¶ V(A), p. 12). However, the federal government is purporting to settle rights and interests of the Alaska Native Corporations with regard to natural resources damages with respect to Alaska Native Corporations' lands still in interim jurisdiction without setting up or in any way referring to any escrow provisions. Thus, this portion of the settlement plainly and unmistakably violates 43 CFR 2650.1. See Pub. L. 94-204, as amended by Pub. L. 96-487; Pub. L. 99-396, Sec. 22, and Pub. L. 100-581, which provides, in part:

> During the period of withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts . . . ., or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands. . . . shall be deposited into an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation. . . .

Accordingly, the settlement must establish a mechanism pursuant to which portions of the settlement funds to be received shall be allocated to Alaska Native Corporations' lands which have been or will be withdrawn for selection by them. After such funds are allocated, appropriate escrow arrangements, in conformity with applicable federal regulations, should be made for the benefit of the Alaska Native Corporations.

ACE 1286628

8. Public Participation

The MOA provides that the "Trustees shall establish procedures providing for meaningful public participation in the injury assessment and restoration process, which may include establishment of a public advisory group to advise the Trustees with respect to the matters" concerning injury assessment, restoration activities, or other natural resource damage recoveries obtained by the Government. Again, this provision ignores the specific recoveries obtained by the Government as Trustees for the Alaska Native Corporations' lands in interim jurisdiction. Federal law and regulations require the involvement and input of the Alaska Native Corporations in the allocation and use of these recoveries affecting lands in which they have such a vital property interest. Treating them like any other member of the public is not only unfair and unjust, it is patently unlawful.

9. Covenants Not to Sue

The MOA provides, in the provisions concerning Covenants Not to Sue (MOA ¶ VIII(B), p. 14-15), that the State of Alaska acts as trustee of resources of lands in interim jurisdiction. The purported representation violates ANSCA and is otherwise legally unauthorized.

10. Judicial Review Provisions

The MOA provides that it "creates no rights of action on the part of any persons not signatory to this MOA and shall not... be subject to judicial review." (MOA ¶ XII, p. 18). This provision is ridiculous to the extent it purports to bind the Alaska Native Corporations and to foreclose their right to seek appropriate legal

ACE 1286629

redress, including judicial review. Moreover, since the settlement purports to settle, compromise and otherwise encumber valuable legal rights of non-parties (i.e., the Alaska Native Corporations), it raises serious constitutional questions which amply justify searching judicial scrutiny.

Dated: Washington, D.C.
April 12, 1991

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ACE 1286630

The New York Times

Copyright © 1991 The New York Times NEW YORK, WEDNESDAY, APRIL 10, 1991 [illegible] miles from New York City.

U.S. Says Harm From Valdez Spill Is Much Worse Than Was Thought

By KEITH SCHNEIDER
Special to The New York Times

WASHINGTON, April 9 — In the most comprehensive public account of the damage caused when oil spilled from the Exxon Valdez two years ago, the Government said today that far more wildlife had been killed and that environmental damage would persist much longer than scientists had originally thought.

The Government said the number of otters, seals, bald eagles, sea birds and other once-abundant animals had plummeted after the Exxon Valdez ran aground and spilled nearly 11 million gallons of oil into Prince William Sound in Alaska. And it said it did not expect the animal populations to recover for years.

The enormous toll on wildlife in the sound, catalogued in a summary of 58 scientific studies, also includes losses of killer whales, extensive reproductive defects in salmon and herrings, and widespread and lingering damage to sea grasses and other plants in tidal zones along 1,200 miles of the western boundary of the sound and down the coast in the Gulf of Alaska, which were coated by oil for months.

Better Left Alone

Government scientists also said today that efforts to clean 400 miles of the sound's shorelines with pressurized and heated sea water caused more damage to shellfish, sea grasses and other organisms in the tidal zone than if the shorelines had been left alone.

Thomas A. Campbell, general counsel at the National Oceanic and Atmospheric Administration, said the studies were used as the basis for negotiating the deal the Government and the State of Alaska reached last month with the Exxon Corporation. The $1.1 billion agreement would settle civil and criminal claims from the spill, which occurred after midnight on March 24, 1989.

Two Federal judges are reviewing the settlement, and their rulings are expected next month. Although Government officials said they were releasing the studies to bolster their assertions that the settlement with

Continued on Page A18, Column 4

ACE 1286631

LONG-TERM HARM IS SEEN IN SPILL

Continued From Page A1

Exxon was fair, critics said the same information could be used as evidence that the settlement was not adequate.

Government officials said the assessment of the environmental disaster in the Alaskan sound matched, and in some cases exceeded, what scientists predicted from the earliest days of the disaster. Officials said the detailed report confirmed that the disaster had taken a heavy toll on wildlife and would produce environmental damage that in some cases would be permanent.

"Exxon has not had time to study the summary in detail," said Karlene P. Redvik, a company spokesman in Anchorage. "We will withold comment on it until we have had time to do so.

"However," he went on, "we can say that on the basis of our own and published studies and reports that Prince William Sound is an advanced state of recovery. Little oil remains on the shoreline. The water is clean. Fish are abundant and safe to eat, and wildlife is thriving. Everything we are seeing suggests the biological community is healthy and thriving."

Shoreline Was Hard Hit

The Government's study said that 300,000 to 390,000 sea birds died after the spill and that colonies of one of the most abundant species, the common and thick-billed murres, lost 60 to 70 percent of breeding birds. Because the murre colonies live on islands where hydrocarbons and chemicals lingering from the spill are still killing them, and because murres instinctively return to their same breeding sites, scientists fear these colonies could be wiped out.

The habitat most heavily damaged by the oil spill, the study showed, was the shoreline and shallow areas along the western boundaries of Prince William Sound that are affected by the tides. For weeks, tides washed oil in and out of bays and up and down the rocky shores, killing sea grasses, clams, suffocating bay bottoms and playing havoc with almost all the living creatures in the region.

The spill occurred just weeks before spring, when birds, mammals and fish species are giving birth. Scientists found that Pacific herring, which were spawning in the shallow eelgrass and algal beds at the time of the spill, showed large increases in the number of abnormal embryos and larvae. Larvae collected in oil-soaked areas had unusual numbers of eye tumors, said one study.

Mussels found in oiled areas were smaller than mussels in unaffected bays, a study said. Scientists also found that clams and other shellfish absorbed hydrocarbons from the oil and posed a continuing source of poison to sea otters and other species that forage in the tidal zones. A study also found that pollock caught 500 miles from the scene of the accident had elevated levels of hydrocarbons in their bile, evidence that the sea and food supply was affected at great distances from the spill.



George Tames for The New York Times

Dr. Sylvia Earle, the chief scientist at the National Oceanographic and Atmospheric Administration, and John Robinson, the director of the agency's hazardous materials program, during a news conference yesterday detailing the wildlife loss in the Exxon Valdez oil spill in Alaska.

Sterilized Beaches

Perhaps the most surprising finding was made by the National Oceanic and Atmospheric Administration, which concluded that spraying beaches with highly pressurized hot sea water, which was widely used in the spill, proved to be more destructive than the blanket of oil. Scientists said the hot water sterilized beaches, killing marine life and changed the character of beaches by washing sand and rocks down the beaches into oily sediments in shallow waters.

Scientists with the oceanic administration said today that Exxon came up with the idea of washing beaches with hot sea water and they approved. And the beach washing began within weeks of the spill. In November 1989, the agency received preliminary evidence from its scientists about the damage caused by the practice, and three weeks ago it notified the Coast Guard that the washings should be discontinued on nearly all beaches.

"At the time it made sense," said Dr. Sylvia Earle, the chief scientist at the oceanic administration. "You had a great desire to do something. People were running around with towels wiping rocks.

Dr. Earle added: "Sometimes the best and ironically the most difficult thing to do in the face of an ecological disaster is to do nothing."

The damage to Prince William Sound is worse than thought.

Mr. Campbell of the oceanic administration, who helped to negotiate the settlement with Exxon, said it was in the Government's interest to allow the public a partial look at the scientific studies so that they would feel more comfortable about the $1.1 billion settlement. "We put it out because we wanted the public to know what lay beneath the claims of loss," Mr. Campbell said. "If we felt like the settlement was not strong, we wouldn't have put our cards on the table."

But the new information could also stir new concerns among critics of the settlement, among them Representative George Miller, a California Democrat who is acting chairman of the House Interior Committee.

Mr. Miller questioned the terms of the settlement today, asserting in a letter to Federal District Court judges in Washington and Alaska that the Justice Department had acted improperly in exempting the Alyeska Pipeline Service Company from prosecution and Federal or state damage claims. The protection for Alyeska, which is owned by Exxon and seven other oil companies, was part of the criminal plea agreement that the Justice Department reached with Exxon on March 13.

Mr. Miller said in his letter that his staff had found that 11 months before the Exxon Valdez ran aground, Alyeska's owners met in Bellingham, Wash., and determined that the company was not ready to respond effectively to an oil spill.

But, Mr. Miller told the judges, Alyeska had told the State of Alaska in its oil spill contingency plan that it was ready to respond to any spill with state-of-the-art equipment and techniques.

The Coast Guard and other agencies have criticized Alyeska's performance, saying the company's failure to mobilize emergency equipment and quickly contain the spill contributed to making the accident the worst domestic environmental disaster of the 1980's.

ACE 1286632

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 15, 1991, I caused a copy of the foregoing to be served by hand-delivery upon:

Richard B. Stewart
David A. Carson
Environnmental and Natural Resources Division
United States Department of Justice
Tenth and Pennsylvania Avenue, N.W.
Washington, D.C. 20530

and by Federal Express, overnight mail, upon:

Charles Cole
Attorney General
State of Alaska
Pouch K
State Capital
Juneau, Alaska 99811

Barbara Herman
Office of the Attorney General
State of Alaska
1021 West Fouth Avenue
Suite 200
Anchorage, Alaska 99501

Gary E. Mason, Esq.

ONE HUNDRED SECOND CONGRESS

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RANDY "DUKE" CUNNINGHAM, CALIFORNIA

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

CHIEF COUNSEL
RICHARD S. WELCH

CHIEF CLERK
BARBARA F. CAVAS

MINORITY STAFF
DIRECTOR/CHIEF COUNSEL
GEORGE B. PERCE

LATE

April 12, 1991

Dear Judge Holland:

We are writing to express our views regarding certain aspects of the proposed settlement of Federal and state civil claims arising from the EXXON VALDEZ oil spill.

These views are based on the ongoing effort of our Subcommittees to monitor the response to the oil spill, particularly by Federal agencies, including the assessment of injury to natural resources and plans for restoring the environment of Prince William Sound. In this capacity, our Subcommittees conducted an oversight hearing on the proposed settlement on March 20, 1991. Prior to that hearing, we asked the Department of Justice to prepare and make public a summary describing and quantifying the scope and severity of injuries caused by the EXXON VALDEZ spill to natural resources. That summary was prepared and submitted to Congress and the Court on April 8th.

Following the hearing, we asked the Justice Department to provide "all documents summarizing or estimating the dollar value of injuries done to natural resources by the spill and the costs of restoring those damages", while offering, if requested, to maintain the confidentiality of those documents. That request was denied in a letter to us on April 9th. A copy of the correspondence is enclosed.

We believe there is a strong general argument to be made in favor of settling the pending Federal and state claims now, thereby avoiding prolonged litigation and making funds immediately available for restoration purposes. But we also believe that no settlement should be accepted unless it serves the public interest and meets the requirements of Federal law. We are unable at this time to determine if the proposed settlement satisfies these criteria. We therefore respectfully recommend that you not approve the proposal unless and until certain fundamental issues are clarified.

RECEIVED
APR 15 1991
CHAMBERS, U.S. DISTRICT JUDGE
ANCHORAGE, ALASKA

ACE 459936

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Specifically, we believe that the following three actions should be taken prior to approval of the settlement: 1) disclosure to the court of enough information to permit a fully informed judgment about the monetary sufficiency of the proposed settlement; 2) a commitment by the trustees to release all damage assessment and restoration studies and related documents to the public after the settlement is approved; and 3) clarifications by the trustees concerning the manner in which the recovered funds will be spent and the extent of public participation in the restoration planning and decisionmaking process. Each point is discussed below.

1. THE TRUSTEES HAVE FAILED TO PROVIDE THE INFORMATION NEEDED TO ASSESS THE MERITS OF THE PROPOSED SETTLEMENT.

a. How much will restoration cost?

Section 311 of the Clean Water Act requires the United States to recover from Exxon sufficient funds to cover the costs of replacing or restoring the natural resources under its trusteeship that were damaged or destroyed by the oil spill. At this point, only the trustees--and perhaps not even they--are in a position to judge whether or not the amount of the settlement is sufficient to meet this statutory obligation. This is true because the trustees have not disclosed to the court, and have refused to disclose to Congress and the public, the detailed information necessary to assess the severity of damage and the anticipated costs of restoration or replacement.

Although we do not know how large the settlement should be, we do know that it is not as large as some of its proponents have encouraged the public to believe. Last month, we asked the Congressional Research Service to review the proposed agreement to determine its net value to the Federal and state governments in real terms, taking into account the effects of inflation and Exxon's ability to deduct civil payments from its taxes. That study, a copy of which is enclosed, placed the estimated net value of the settlement at between $421 million and $524 million.

The difficulty of judging the adequacy of the settlement is further complicated by the facts that the damage assessment process is, according to the Administration's April 8th summary, still in a "preliminary" stage; the degree of injury to some important species, including salmon, will not be known for years; injuries to several other species are continuing; and specific restoration plans have not been made, nor costs estimated.

b. Should restoration funds be used to pay cleanup costs?

Today, more than two years after the spill, oil remains trapped in sediments and gravel. More cleanup may occur this summer. Under the proposed agreement, any future cleanup activities (and certain past cleanup costs) will be paid for by the Fund established to finance restoration activities. This will create a direct tension between cleanup funding and restoration funding -- an "either-or" senario even though the Clean Water Act requires both.

The adequacy of this arrangement depends upon the sufficiency of funds to cover both obligations. Once again, no good conclusion can be made about this aspect of the agreement without better information on projected cleanup costs and restoration costs.

We, like the public, are not able to make a good judgment about the monetary adequacy of the proposed settlement. That is important, but it is far more important that the court have access to all the documents it needs to make that judgment. Those documents must include more than a summary of the injuries to natural resources that have occurred, but also an expert evaluation of the cost of restoring those injuries, acquiring equivalent resources, if necessary, and providing compensation for lost use and other values pending restoration. We urge you to withhold approval of the settlement unless and until that information has been provided to the court.

2. THE PUBLIC'S NEED TO KNOW.

As mentioned above, the trustees have refused to release their evaluations of the scope and severity of the injury to natural resources resulting from the spill. This refusal is based on the claim that disclosure would jeopardize the proposed settlement and is covered by a loosely construed attorney-client privilege.

We agree that the trustees are entitled to maintain the confidentiality of a limited amount of detailed information gathered or prepared specifically to assist the prosecution of a pending case and that would, if publicly revealed, seriously undermine their legal position. That entitlement is an extremely narrow one in our judgment, however, and should never again be interpreted as broadly as it has been by the trustees in the present case.

The fact is that the trustees in this instance developed a virtual obsession about secrecy. That obsession undermined the effectiveness and coordination of oil spill response and damage assessment efforts and unnecessarily limited public access to information on matters as important as public health. The sharing of scientific data and the dissemination of expert opinions is vital to maintain public confidence and ensure the effectiveness of response actions. In this case, the trustees operated with a degree of secrecy for which there was no practical or legal justification.

It is important to remember that the information available to the Executive branch concerning natural resource injuries in the EXXON VALDEZ case was gathered pursuant to public law, by public personnel and at public expense. The information pertains to resources that are publicly managed, publicly owned and subject to public trusteeship under federal law. Accordingly, we believe that citizens deserve access to the information whether they desire simply to assess the merits of the deal worked out by the trustees or to make a more informed judgment about their own legal options.

Consequently, we urge you to solicit an enforceable commitment from the Federal Government that all information available to it concerning the scope and nature of injuries done to natural resources as a result of the oil spill, including documents that place an estimated dollar value on those injuries and the costs of restoration, will be made public promptly subsequent to approval of any proposed settlement.

3. **THE TRUSTEES MUST CLARIFY VAGUE COMMITMENTS ABOUT HOW THE FUNDS WILL BE SPENT.**

The proposed settlement and Memorandum of Agreement between the Federal and state trustees provide only a vague and inadequate description of the purposes for which the recovered monies will be spent and the manner in which decisions about spending priorities will be made. We therefore recommend to the court that it seek substantial further clarifications from the trustees on these matters.

The effect of the consensus decisionmaking approach proposed for the Trustee Council will be to allow each Federal and state representative to veto any proposal by any participant. In the event that the obligations of the Federal and state trustees under Federal and state law are not identical, the Trustee Council may be operating under a set of dual and potentially conflicting obligations. Under section 311 of the Clean Water Act, recovered funds must be used to solely to restore,

rehabilitate or acquire the equivalent of the damaged natural resources. We encourage the Court to make it clear that this limitation must be strictly adhered to by the trustees. The restoration fund is not to be viewed as a general fund to finance favorite projects or to conduct assessments in perpetuity.

We also urge you to solicit a clearer commitment from the Federal and state trustees for public participation in the natural resource damage restoration process. As you know, the proposed Memorandum of Agreement and Consent Decree provides that the Trustees shall ensure "meaningful public participation", including the "possible" establishment of a public advisory group. We believe a more detailed commitment should be made before the agreement becomes final.

CONCLUSION

We appreciate the opportunity to provide the court with our recommendations on the proposed settlement. While we value and applaud the attempt by the litigants to settle their differences, we believe that certain clarifications are necessary before the proposed settlement is approved. We respectfully urge the court to seek those clarifications prior to taking final action on the agreement.

Respectfully Submitted,

Dennis M. Hertel, Chairman
Subcommittee on Oceanography,
Great Lakes and the Outer
Continental Shelf
Committee on Merchant Marine
and Fisheries

Gerry E. Studds, Chairman
Subcommittee on Fisheries and
Wildlife Conservation and the
Environment
Committee on Merchant Marine
and Fisheries

William J. Hughes, Chairman
Subcommittee on Intellectual Property
and Judicial Administration
Committee on the Judiciary

The Honorable H. Russel Holland
U.S. District Judge
U.S. District Court
222 West 7th Avenue
Anchorage, Alaska 99513

Enclosures

ACE 459940

ONE HUNDRED SECOND CONGRESS

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

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EDWARD S. WILEY

CHIEF CLERK
BARBARA L. CAVAS

MINORITY STAFF
DIRECTOR/CHIEF COUNSEL
GEORGE D. PENCE

March 26, 1991

Mr. Dick Thornburgh
Attorney General of the United States
Department of Justice
Constitution Avenue and Tenth Street, N.W.
Washington, D.C. 20520

Dear Mr. Thornburgh:

We are writing to re-state our interest in obtaining information concerning the recently negotiated proposed settlement of certain civil and criminal liabilities resulting from the EXXON VALDEZ oil spill.

We understand that your Department is currently preparing a summary of information describing and quantifying the scope and severity of injuries to natural resources caused by the spill and that this summary will soon be available to the Committee and the public.

We also request that documents, studies and memoranda be made available to us for the purpose of allowing us to make an informed judgment about the reasonableness of the settlement that has been reached. These materials need not include raw scientific data, but they should include all documents summarizing or estimating the dollar value of injuries done to natural resources by the spill and the costs of restoring those damages. If requested, we will agree to maintain the confidentiality of these materials. We ask that the materials be provided no later than the close of business on Thursday, March 28.

If you have any questions about these requests, please let me know or ask a member of your staff to contact Bill Woodward or Will Stelle of the Subcommittee staff at 226-3533.

We look forward to your continued help and cooperation.

With kind regards.

Sincerely,

Dennis E. Hertel, Chairman
Subcommittee on Oceanography and Great Lakes and the Continental Shelf

Gerry E. Studds, Chairman
Subcommittee on Fisheries and Wildlife Conservation and the Environment

cc: Mr. John Knauss, Administrator
National Oceanic and Atmospheric Administration

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 9, 1991

Honorable Gerry E. Studds
Chairman
Subcommittee on Fisheries and
Wildlife Conservation and
the Environment
Committee on Merchant Marine
and Fisheries
U.S. House of Representatives
Washington, D. C. 20515

Honorable Dennis M. Hertel
Chairman
Subcommittee on Oceanography and
Great Lakes
Committee on Merchant Marine
and Fisheries
U.S. House of Representatives
Washington, D. C. 20515

Dear Chairman Studds and Hertel:

This responds to your letter to the Attorney General, dated March 26, 1991, requesting documents prepared in connection with the pending criminal and civil litigation arising from the Exxon Valdez oil spill. These are United States v. Exxon Corporation, et al. (Nos. A90-015-1CR; A90-015-2CR) and United States v. Exxon Corporation, et al. (No. A-91-082 Civ. D. Alaska).

The Department has endeavored to obtain appropriate criminal penalties and civil remedies for the wrongdoing and injuries related to the oil spill. The court is scheduled to sentence the defendants who have entered pleas in the criminal case during the next month. A proposed settlement and consent decree are pending before the court in the civil case and we expect that the court will rule on them at the end of the current notice and comment period. We believe, based upon the available information, that the proposed settlement is adequate, proper and would serve the best interests of the United States. If, however, the court decides not to accept the pretrial resolution of one or both of these actions, then they could proceed to trial. In that event, the United States would be forced to litigate the criminal and civil claims against Exxon, which litigation would run for years. Also, additional litigation has recently been filed alleging that the United States bore some responsibility for the Valdez spill.

We have prepared and filed with the court a summary of our scientific studies relating to natural resource damage from the spill in order to assist the court in evaluating the civil consent decree and the criminal plea. A copy of the summary is enclosed. We also can furnish some of the raw scientific data, which will not have a material affect on our litigation position, gathered by the federal trustee agencies in connection with damage assessment and restoration planning, which will be placed in the Oil Spill Public Information Center (OSPIC) in Anchorage. We believe that these documents, and the extensive materials already on file at the OSPIC, examples of which are listed in the enclosed bibliography, will provide an ample basis for evaluating the proposed plea agreement and civil settlement.

We regret that we cannot provide additional documents which were developed during the course of the pending litigation. Some of these documents, which include information furnished by expert consultants on a confidential basis, have not been disclosed outside of the Department and its federal agency clients. They also include materials that would not be available to an opposing party in the litigation. After careful consideration and despite our appreciation of the interests of your Subcommittees, we have concluded that the production of additional documents at this time would be inappropriate and pose an unacceptable risk to the pending litigation.

We appreciate your understanding of the importance to the United States of these proposed criminal and civil resolutions relating to the Valdez spill and the litigation sensitivity of the considerations that have gone into the proposed resolutions of these matters. We also appreciate your understanding that we must protect the exercise of fiduciary responsibilities by the natural resource trustees, who are among our client agencies, in achieving the best resolution of these claims. At the same time, we appreciate the Committee's oversight role in these matters. Once the litigation is resolved, we would be pleased to discuss the possibility of providing additional information.

Sincerely,

W. Lee Rawls
Assistant Attorney General

Enclosures

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
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CHIEF CLERK
BARBARA L. CAVAS

MINORITY STAFF
DIRECTOR/CHIEF COUNSEL
GEORGE S. PENCE

CRS Estimates Value of Settlement

The attached memorandum from the Congressional Research Service (CRS) estimates the current value of the Exxon Valdez settlement at a low of $421 million and a high of $524 million.

The estimate takes into account the deductibility of the civil payments and discounts future payments to current value.

Majority Staff
House Fish and Wildlife
Subcommittee

Congressional Research Service • The Library of Congress • Washington, D.C. 20540

March 19, 1991

TO : House Committee on Merchant Marine and Fisheries
Attention: Will Stell

FROM : Bernard A. Gelb
Specialist in Industry Economics
Economics Division
and
Jane G. Gravelle
Senior Specialist in Economic Policy

SUBJECT : Net Present Values of the Exxon Valdez Settlement

This memorandum is in response to your request for a calculation of the present value of the recent settlement of the Exxon Valdez case to the U.S. Government and to Exxon Corporation. (Such a "value" would be negative in the case of Exxon.) The gross amount received (or paid) can differ from the net cost to the firm depending on tax liabilities, and values could differ with choice of discount rate. Because of uncertainties we have prepared several alternative scenarios.

One uncertainty is the ultimate amount to be paid. The agreement provides for a $100 million criminal penalty, which we assume will be paid May 1, 1991, and for a series of civil payments tentatively payable on September 1 of this and the following ten years. These payments are set at $90 million in 1991, $150 million in 1992, $100 million in 1993 and $70 million for the next eight years. These amounts total to $1 billion. There also is, however, the possibility of up to $100 million more being payable after the year 2001, if additional environmental damage is discovered. In this alternative, we assume the $100 million will be paid in two installments in the two years following.

Undiscounted, the payments will sum to $1 billion and $1.1 billion in the two payment scenarios. The net cost to Exxon will be smaller, however, because the civil payments can be deducted from income for purposes of both State and Federal taxes. The Federal tax rate is set at 34 percent; and we add three percentage points to account for State income taxes net of the

ACE 459946

deductibility against Federal taxes.[1] Thus, the combined tax rate is set at 37 percent. As a result, the net cost to Exxon (net receipts to the Government) will be $655 and $716 million, respectively, without discounting.

A second major uncertainty is the discount rate. The present value of both net and gross costs depend on the discount rate used, and the proper discount rate is not entirely clear.

We consider several. The Forestry Service uses a 4 percent real return, while the Office of Management and Budget (OMB) suggests a 10 percent real return. (The regulations on evaluating natural resource damages, 43 CFR 11, direct the use of the OMB rate). The General Accounting Office (GAO) suggests using a nominal rate of return similar to a Treasury security for the same maturity. The 4 percent rate of return is closer to a riskless rate; it is also quite similar to the Government bond yield for three to ten year maturities assuming an inflation rate of around 4 percent. The 10 percent rate seems quite high, and would be associated with a relatively risky investment. Our understanding is that this rate was based on an attempt to estimate the pre-tax real return on physical capital investment. We would estimate that the average pre-tax return on private capital investment is lower than these numbers, at around 7 percent.[2]

Since the payments are in nominal dollars, these real returns should be converted to nominal returns. Assuming an inflation rate of 4 percent, the nominal rates would be 8.16 percent for the Forestry Service number (and consistent with the GAO approach), 11.28 percent to correspond to the average pre-tax return on private capital, and 14.4 percent to correspond to suggested OMB rates.

Using the three discount rates with the two payment scenarios, we obtain the following results:

(1) For the 8.16 percent rate, the present value to the Government ranges between $734 million and $773 million. The cost net of taxes to Exxon would be $499 to $524.

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[1] This adjustment was suggested to us by Andy Yood of the American Petroleum Institute, who indicated that an add on of two to three percentage points was a typical rule of thumb to obtain a combined Federal and State income tax rate.

[2] To estimate the pre-tax return requires a measure of yields on debt and equity and an estimate of the effective tax rate. See Jane G. Gravelle, Differential Taxation of Capital Income: Another Look at the 1986 Tax Reform Act, National Tax Journal, December 1989, pp. 441-464 for a discussion of the methods used to derive this number.

(2) For the 11.28 percent rate, the present value to the Government ranges from $666 million to $694 million. Exxon's cost net of taxes would be $456 million to $474 million.

(3) For the 14.4 percent rate, the present value ranges from $611 million to $631 million. The cost net of taxes would be $421 million to $434 million.

While we would consider the discount rate in (3) as probably too high, the choice between (1) and (2) is less clear. Since the stream of payments is fixed, there is some justification for using a relatively riskless rate of return. On the other hand, the present value using the estimated pre-tax return rate represents the quantity of actual physical capital that would be necessary to generate the stream of future payments.

Please contact us (at 7-7300) if you have further questions on this matter.

LATE 88

R. Merrick Peirce
175 Blue Fox Run
Fairbanks, AK 99712
(907) 457-2600

Judge Holland
222 W. 7th Ave. Federal Building
Box 4
Anchorage, AK 99513

Re. Proposed criminal plea bargain for Exxon Corp.

APR 15 1991
CLERK, U. S. DISTRICT COURT

Apr. 10. 1991

Dear Judge Holland:

If I were the federal Judge that was to decide whether to accept, or reject the proposed plea bargain between the United States and Exxon. I would consider the following:

Does a 100 million dollar fine adequately penalize Exxon for their conduct, and will it deter them from engaging in the type of conduct that allowed the Valdez oil spill to happen? The answer to both questions is no.

The 100 million dollar fine is a substantial amount of money to the average individual or company, but Exxon is one of the largest corporations in the U.S., if not the world. By way of a rather crude analogy-100 million to Exxon is like $10.00 to you or me. The Statement by Exxon Chairman L. Rawls that the fine can be paid without significantly affecting his company attests to this. For this reason alone the fine is not adequate. Further, another oil spill as disastrous as the "Exxon Valdez" spill could occur tomorrow because the industry continues to engage in shipping practices that are little- better then they were on the night the Exxon Valdez slammed into Bligh Reef. During periods of bad weather (6' high seas, etc.) it is impossible to conduct a oil spill cleanup, yet Exxon and the others refuse to halt tanker traffic during inclement weather. Dennis Kelso, the former head of the ADEC, requested a suspension of tanker traffic for this reason, but was rejected. A substantial fine would induce Exxon (and the others) to halt tanker traffic during bad weather.

The Exxon Valdez spilled aprx. 258,000 gallons of oil, yet the spill cleanup capability of Alyeska (of which Exxon is an owner) is only 200,000 gallons. If we recognize that oil spills are inevitable, shouldn't the oil companies have the ability to clean them up when they do happen? I think so, and I believe they will assume that responsibility if they know they will receive fines for their misconduct that will significantly effect their financial profitability. Judge Holland, 100 million dollars is not enough. A fine of 1.5 Billion would be much more appropriate.

Finally, allowing a criminal to negotiate the fine <u>they would like to pay</u> is repugnant. Justice would be better served if the courts, not Exxon, determined the criminal penalties in this, and all other cases.

I believe that the judicial branch of the government is in the best position to influence positive, constitutionally appropriate and constructive change within our society. Judge Holland, by rejecting this terrible plea bargain you will be following in the

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footsteps of the great judges who, through their intelligent decisions, have made this country better, fairer, and stronger.

Sincerely,

R. Merrick Peirce

P.S. It is easy to forget, but the reckless actions of Exxon caused the needless suffering and death of 100's of thousands of animals. I hope you keep this in mind.

ACE 459951

R. Merrick Peirce
175 Blue Fox Run
Fairbanks, AK 99712
(907) 457-2600

APR 1 8 1991

FBK. U. S. D[illegible] RICT COUR

Judge Holland
222 W. 7th Ave. / Federal Bldg.
Box 4
Anchorage, AK 99513

Re. Correction of my previous letter, regarding the Exxon Inc. proposed settlement.

Apr. 10, 1991

Dear Judge Holland:

In my last letter I mistakenly stated the Exxon Valdez spilled 258,000 *gallons* of oil, and that Alyeska had a spill clean-up capability of 200,000 *gallons*. I meant to write that the Exxon Valdez spilled 258,000 *barrels* of oil, and that Alyeska's present spill cleanup ability is limited to 200,000 *barrels*.

In the rush to get my comments to you before the deadline I didn't adequately proofread my letter. I apologize for this error and hope that this letter of correction will accompany my comments.

Sincerely,

R. Merrick Peirce

(110L)

LATE 89

April 1[illegible] 1991
Room 21[illegible] irving-UAF
Fairbanks, AK 99775

APR 15 1991

CLERK, U. S. DISTRICT COURT

Judge Holland
222 W. 7th Ave.
Federal Building - Box 4
Anchorage, AK 99513

Dear Judge Holland:

This note is in regards to the proposed settlement of the state and federal litigation with Exxon.

I do not feel that the proposed settlement is in the best interests of anyone but Exxon. The cost to Exxon, although it sounds large to us as individuals, is a mere pittance to such an immense corporation, especially when spread out over a ten year period. It is also likely insufficient to fund any recovery efforts necessary to alleviate damage from the spill.

This last point is critical. The public has not been given access to any of the data that has been gathered to assess damage from the oil spill. Recent summaries of results released by the US Fish and Wildlife Service certainly point to much graver damage than many previous estimates had showed. Life cycles of salmon and other marine life require several more years before we even have a hint of how severely they have been damaged. Recent record returns of salmon only show that good conditions existed prior to the spill.

Perhaps when all the data is in the proposed settlement will prove to be fair. However, present sketchy evidence, and the desire by state authorities to keep data under wraps until after a settlement has been finalized point to a desire for a politically motivated settlement rather than one that is fair to the peoples of Prince William Sound, coastal Alaska, Alaska, and the United States.

I urge that the proposed settlement be scrapped until the public has had a chance to see the results of the millions of dollars of scientific studies that have been conducted on the spill, and until enough time has elapsed for these studies to truly determine the real damage to our coast.

Sincerely,

Stephen W. Lewis

ACE 459952

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Institute of Marine Science
University of Alaska
Fairbanks, Alaska 99775
April 10, 1991

Judge Holland
222 West 7th Avenue
Federal Building
Box 4
Anchorage, Alaska 99513

APR 15 1991

CLERK U. S. DISTRICT COURT

Dear Judge Holland:

As a resident of Alaska, and as a biologist conducting research in Prince William Sound, I would like to submit to you my comments regarding the proposed settlement of criminal charges against Exxon for damage caused by the oil spill of 1989.

I have been working in Prince William Sound since 1986, and since 1987 have been taking part in a long-term study of the population of killer and humpback whales in the Sound. Since the oil spill I have been part of a damage assessment study funded by the National Marine Fisheries Service. Since the spill, we have documented the disappearance of 13 members of a 36 member pod of killer whales that is seasonally resident in the Sound. Like other scientists conducting spill related research, we are not allowed to discuss our findings, though we are allowed to publicize the numbers that I have stated here. I strongly feel that the proposed settlement does not (and cannot, because of restrictions on scientific data) adequately take into account the impacts of the Exxon Valdez oil spill on the biological integrity of Prince William Sound. Millions of dollars were spent following the spill for the purpose of assessing the damage to the marine environment. These data were to be used in litigation that would have sought to hold Exxon accountable for the damage that was done. It seems ridiculous to me that this data is now not even being considered in the settlement. Alaskans have a right to know the full impacts of the spill before they agree to let Exxon off with a fine.

Judge Holland, I am sure you are aware that the settlement, as it stands, does little to encourage Exxon and other oil companies to prevent future spills. After all, these companies make billions of dollars in profits every year. Being in close proximity to the entire oil spill cleanup made it very clear to me that spending tremendous amounts of money was of little object to Exxon. I am very concerned that the payment of the settlement over ten years will be of even less consequence to Exxon, and will hinder restoration efforts. For example, one proposed restoration effort would be the protection of fish, wildlife, and marine resources in the Sound from logging. Buying up timber sales will require a more substantial sum than could be attained in any given year under the current settlement.

As a part-time resident of the Sound, I can attest to the psychological damage of the oil spill. The proposed settlement is a slap in the face to all who suffered from the spill. The oil companies are walking away with the message that throwing alot of money at environmental damage that they cause will make

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consequences to them go away. Alaskans are left with little faith that federal and state agencies will hold oil companies accountable for their actions.

Please do not allow this settlement to be carried through. It is an insult to all Alaskans, to science, and to Prince William Sound.

Sincerely,

Eva Saulitis

Eva L. Saulitis

Federal Courthouse
Box 4
Anchorage AK 99513

LATE

Jan Straley
PO Box 273
Sitka AK 99835

91

attn: Judge Holland

Re: oil spill settlement

10 April 91

APR 15 1991

CLERK, U. S. DISTRICT COURT

Dear Judge Holland,

I am concerned about the proposed settlement. I agree an amicable agreement will benefit all parties. It seems, though, that the amount Exxon needs to pay should be larger. A billion dollars can't be enough money to assure quality restoration of Prince William Sound. In addition, there should be money enough for baseline studies all along Alaska's coast. In the event of another spill (from Barrow to Ketchikan) we would be in exactly the position PWS was in March 1989: There just isn't enough scientific information to adequately make sound judgements as to the effect of a devastating oil spill anywhere along our coast! I would like to see the oil companies and the State of Alaska really pay for the cost of developing an oil industry - that includes knowing what was present prior to any oil-related accident.

I propose the following:

1) Assure all scientific information be publically released. This should allow all data to be published and all data released back to the investigators.

2) Include enough money to study the Prince William Sound ecosystem on a long-term basis and to purchase proposed logging inholdings.

3) Include money to make baseline studies of other areas possible from Barrow to Ketchikan. This is critical

Thank you for your time

Jan Straley

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ACE 459955

LATE

APR 15 1991

THOMAS A. LAKOSH
P.O. Box 100648, Anchorage, Alaska 99510
(907) 258-5767

92

April 15, 1991

Honorable H. Russel Holland, Judge
U.S. District Court of Alaska at Anchorage

Dear Judge Holland:

Thank you for the opportunity to provide testimony on the Exxon Settlement at hand. My name is Thomas Lakosh. I am a resident of Whittier, Alaska, Senate District E, House District 6 in this great state of Alaska. I am a commercial fisherman, subsistence user, and recreationalist in Prince William Sound. In addition, the sacred and holy lands of the Prince William Sound have inspired me to religious insight available at no other place in my 36 years of travel among 42 states of the United States and 5 Provinces of Canada.

I am presently litigating claims for damages caused by the grounding of the T/V Exxon Valdez on behalf of myself and all others similarly situated. My civil action in U.S. Federal District Court, District of Alaska at Anchorage as a named Pro Se Class Action Representative is filed under Case No. A89-140 Civil/A89-95 Civil. I am, as well, a Pro Se named Class Action Plaintiff in the Consolidated Class Action Plaintiffs interlocutory appeal to the 9th Circuit Court of Appeals concerning Order No. 38 of District Court Judge H. Russel Holland concerning maritime tort as the only actionable tort claim available to consolidated plaintiffs, allegedly applicable to both Federal and State p[illegible]

I am additionally a Pro Se plaintiff in State Superior Court before th[illegible] of Appeals Judge Milton Souter, case file number 3AN-89-9365 Civil. Thi[illegible]t in my effort to seek restitution for clean up activities which were requ[illegible]ic nuisance; intentional invasion of protected lands; special injury susta[illegible]ska residents and subclasses of protected natural resource users suffering fro[illegible]tivity proximately caused by the grossly negligent grounding of the T/V Exxon Valdez.

I am also requesting as a resident of Alaska, bound by fiduciary relationship with the State and its agencies, all data within the possession of the State which materially affects our fiduciary contract of representation by the Legislature and Attorney General as it relates to this tragic environmental disaster and the related constitutional statutory and common law crises resulting from it. This request was made on April 12th 1991 on behalf of myself and the Alaska Center for the Environment by the Trustees For Alaska, Randall M. Weiner, Executive Director. The Public Records Request was served directly on Commissioner Harold Heinze, Alaska Department of Natural Resources, Commissioner Rosier, Alaska Department of Fish and Game, Commissioner Sandor, Alaska Department of Environmental Conservation, and Charles Cole, Attorney General. Accurate copies of

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ACE 459956

the aforementioned Public Records Request were also faxed to the Senate Special Committee on the Exxon Valdez Settlement and the House Special Committee on the Exxon Valdez Settlement. The Request cites AS 9.25.110 as authority and is supported by Anchorage School District v. Anchorage Daily News, 779 P.2d 1191 (Alaska 1989) where the opinion of the court states, ("[A] public agency may not circumvent the statutory disclosure requirements by agreeing to keep the terms of a settlement confidential.")

This concept of full and fair disclosure of all relevant scientific and economic spill studies is likewise supported in House Concurrent Resolution 8, House Joint Resolution No. 25, House Bill No. 213 and public testimony presented on this issue to Alaska Legislative Committees by those Alaskans who have been subject to the heinous environmental crimes of Exxon and the fraudulent withholding of material evidence by the Executive Branch of Alaskan government. I therefore request the Legislature and/or all courts of jurisdiction to immediately resolve and order a restraint of all Legislative voting upon or court-approved settlement of these civil and criminal claims. It is clearly illegal by judicial decree to restrain public access to the materially relevant information regardless of the existence of a negotiated settlement. It is therefore an abuse of the civil liberties and right to informed consent of the residents of Alaska to proceed with any voting or any court-approved settlement conference unless and until the residents of Alaska are afforded their rights to informed consent.

Moreover, any settlement or plea bargaining must consider defendants' liability as promulgated by the False Claims Act of 1946, 31 U.S.C. §3729 et. seq.. Under this statute, any contractor submitting or conspiring to submit false claims to the United States Government or its agencies is criminally liable for fraud and civilly liable for double the damages sustained by the U.S. Government and the associated costs in prosecuting the public interest. All Exxon subsidiaries associated with the exploration, production, trans-shipment and indemnification activities associated with the transportation of crude oil as contracted with the United States Government and Alaska have sworn to abide by all environmental laws and regulations promulgated to protect Alaskan resources. The clear violation of laws and regulations before, during and after the grounding of the Exxon Valdez by defendants establishes a prima facie cause of action of fraudulent claim against the government by the unauthorized and illegal appropriation of natural resources for the private, inferior purposes of Exxon subsidiaries and their subcontractors. The defendants, with full knowledge, fraudulently failed to disclose material facts to its fiduciary partners: United States Government, State of Alaska, residents of Alaska, and citizens of the planet. These material facts only now being released indicate that the "Seven Sisters" knew full well that adequate response to an oil spill of the magnitude experienced, was unavailable at any time subsequent to the initial flow of oil to the present day.

Additionally, defendants conspired to deny the rights of all injured parties to seek compensation from the statutorily established Trans-Alaska Liability Fund through construction and concealment of illegal and unauthorized contracts between the Fund and defendant Exxon Shipping. The plan, according to a Fund employee and other sources, was to create a contract which would allow Exxon Shipping to falsely make claim for its disbursements to damaged parties against the Fund. Pursuant to my motions before Judge Holland, the U.S. District Court declared that fraudulent contract invalid and instructed defendant, Exxon Shipping, that such claim against the Fund was inappropriate. These fraudulent misrepresentations and claims were premeditated with intent to obtain unjust

ACE 459957

enrichment at the expense of our: sacred trust; holy lands; subsistence lifestyle; religious beliefs; commercial interests; recreational interests; and national symbols of the bald eagle and whale populations in the affected areas.

Such premeditated heinous criminal activity should be prosecuted to the fullest extent of the criminal law with appropriate punitive civil and actual damages awarded to discourage any future conspirator. Criminal fines should be calculated for each animal illegally killed or harassed in violation of federal and state statutes. These fines should be commensurate with those levied against persons not entitled to take animals within the state, i.e., non-resident, non-licensed trespassers. Civil penalties should be assessed in a manner commensurate with the standard applicable to the most grossly negligent and intentionally invasive trespass upon public property, private property, or special injury interest.

All judicial administrative and legislative agencies empowered by the public mandate hold our sacred trust in protecting these interests and are obligated to undertake all reasonable and considerable extraordinary efforts to fully investigate and inform the public and their democratically elected representatives as to the intent and affect of defendants criminal, fraudulent, negligent, conspiratorial, and unconscionable abrogation of the fiduciary duty which they promised to undertake in good faith as a condition of their considerable financial gain to be reaped from the natural resources owned by and with each individual resident of the State of Alaska and the citizens of the United States. The Department of Justice of the United States and the Attorney General of the State of Alaska have the statutory duty and mandate to investigate and protect pursuant to the aforementioned innumerable violations of statute, tort, and common law.

Additionally, there should be no relaxation of the defendants' liability pursuant to the Clean Water Act, the Resource Recovery and Conservation Act, CERCLA, or Alaska Statutes creating strict liability for all pollution abatement and resource restoration. By no means should Exxon or other culpable defendants be relieved of funding the most cost-effective and technologically advanced clean up activities required to remove the remaining threat to the public health, safety, and sense of decency. This strict liability for implementation of the best available technology should likewise apply to all restoration activities.

Let it be known that on this day I request those legislative and administrative representatives of our will be pallbearers at the burial of my heart in Prince William Sound where it will lie in torment with the remaining five million gallons of crude oil in the beaches, in the water, and on the ocean floor of this sacred land. We are caught in the Devil's bargain and we must get ourselves back to the Garden.

Sincerely,

Thomas Lakosh

Thomas A. Lakosh

ACE 459958

Humane Society of North Pinellas
3000 State Road 590 Clearwater, Fl 34610
(813) 797-7722

93

LATE

April 11, 1991

U.S. District Judge Russel Holland
222 W. 7th Ave., Room 54
Anchorage, Alaska, 99513-7545

Dear Judge Holland:

I am writing for the membership of the Humane Society of North Pinellas, Florida.

We understand that Exxon Corporation pleaded guilty in March, 1991, to misdemeanor violations in the nation's worst oil spill, under a plea agreement with the federal government. Also, we understand you are waiting for sentencing until public comment can be gathered. Even though Exxon will pay $100 million in criminal charges, and $900 million over 11 years to clean up Prince William Sound. We feel this is only MONEY THAT WILL BE ADDED ON AT THE PUMP...THE PUBLIC WILL PAY THEIR FINE. Therefore, we ask you WHO IS CRIMINALLY RESPONSIBLE?

We await your reply!

Sincerely,

Joan Platt

Mrs. Joan Platt
Legislation Chair

ACE 459959

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12 April 1991

PO Box 2397
Homer, Alaska 99603

Judge H. Russel Holland
c/o Clerk of the Court
Room 261 U.S. Dist. Court
222 W. 7th Avenue
Anchorage, Alaska

Dear Judge Holland:

In the wake of the Exxon Valdez Oil Spill there has been much suffering. This suffering comes in many forms, but it has been here with us every day since that terrible tragedy...that careless terrible tragedy! The pain of watching so many beautiful creatures endure unspeakable deaths, the anger and frustration of participating in a clean-up effort with no equipment and the fear that our livelihood of fishing has been severely damaged these are but a few of our continuing nightmares.

With these things in mind I request that you suspend a determination until the scientific and economic data has been released and the public and legislature have the opportunity to review it.

This issue is gravely important! I urge you to allow it to be done with great care and consideration.

Sincerely,

Gail Parsons

Gail Parsons

cc: Barbara Herman Office of the Attorney General
Thomas A. Campbell General Council, NOAA
Senator Paul Fischer
Rep. Mike Navarre
Rep. Gail Phillips

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APR 15 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Judge Holland —

You must suspend a determination of the Exxon Settlement until the scientific data has been released and the public and the legislature have had an opportunity to review it.

This is not a JUST Settlement —

Charlie Cole is wrong and does not speak for the people of Alaska —

Raymond Commisa
310 Stewart ST.
Anch AK 99508.

ACE 459961

(99L)

Dear Honorable Judge Holland

We find the Exxon settlement unacceptable 4/9/91

The people of the state of Alaska would not receive due compensation for the damage to their once pristine Prince William Sound from this settlement. In addition, the one billion dollar settlement in view of tax write offs and no interest payment plan amounts to a $780 million which is totally inadequate as a deterrent for such gross negligence on Exxon's part in the rounding of the Exxon Valdez. Also, we find the immunity granted to Alyeska Pipeline Co. repugnant. Alyeska is the spill clean up contractor with the State of Alaska and should be held accountable for their lack of response to the spill.

Please approach this decision with thoughtfulness and the desire for just resolution.

We hope that you will reject this settlement.

Thank you for your consideration.

Sophia & Michael Kallhoff

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LATE 4/15/91

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Honorable Judge Holland,

This letter is regarding the Exxon Oil Spill Settlement. We do not support the proposed $900 million settlement, and would like to see further litigation and appropriate compensation for the State of Alaska.

Please consider a punishment that would at least act as a deterrent – the extent of damage is still unknown, and results of the studies have not been released.

We feel Exxon and Alegeska Pipeline Company should be required to pay more than the proposed $100 million criminal fine. Also, we believe that Algeska should NOT be granted immunity and that if a disagreement arises between ~~state and feds over the fine~~ that Exxon should still be required to pay regardless.

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APR 16 1991
CHAMBERS, U.S. DISTRICT JUDGE

Sincerely

Tracey Byrne

Byrne ACE 459963

Ortman

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LATE 98

PORT GRAHAM CORPORATION
VIA POST OFFICE HOMER • PORT GRAHAM • ALASKA 99603 907/284-2212

April 11, 1991

Judge Holland
222 W. 7TH Avenue #54
Anchorage, Alaska 99501

Dear Judge Holland:

In reference to the Exxon Criminal settlement we make the following comments:

We feel that the settlement of one hundred Million dollars is too lenient on Exxon because of the damage done to the state and federal land. The natural resource damage to the animals such as the seals, seaotters and fish according to the Federal governments study is beyond what we expected it to be. Additionally there is no statement on how the state is to use its portion, and we strongly disagree with the Federal Government agreement to put its portion in to the violent crimes compensation fund. This money was for crimes in the state of Alaska and the money should be spent on the citys, and villages that were traumatized emotionally and physically by the oil spill and the clean up efforts.

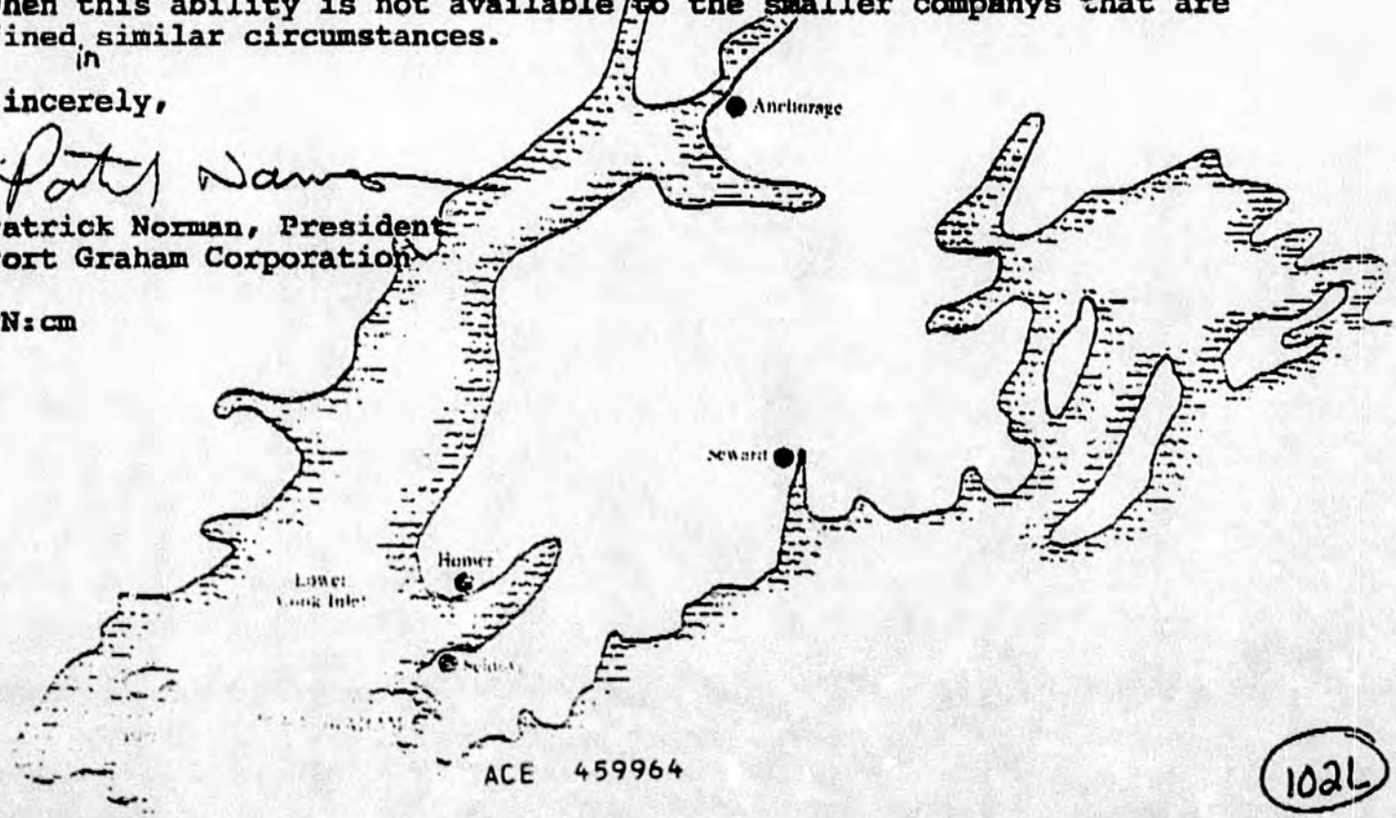
In closing it is wrong in our minds that smaller companys that spill oil are fined the full amounts under the law and a large company such as Exxon can negotiate to lower its liability under the law. When this ability is not available to the smaller companys that are fined in similar circumstances.

Sincerely,

Patrick Norman

Patrick Norman, President
Port Graham Corporation

PN:cm



ACE 459964

102L

LATE 99

P. O. Box 2993
Homer, Alaska 99603
April 13, 1991

Judge Russel Holland
United States District Court
222 West 7th Avenue
Anchorage, Alaska 99501

Dear Sir:

Thank you for inviting public comment on the Exxon-Valdez oil spill settlement. I would like to recommend an extension of the time period allowed for input from the public in order for everyone to have time to analyze the results of the scientific study and, hence, make informed decisions.

My personal opinion, without having studied the document, is that the settlement is woefully inadequate. It makes provision for very little of the very real damages, expenses and inconveniences incurred by the spill and its continuing effects. And it is far from over. I would like to see the entire case restudied and renegotiated.

Thank you again for the chance to comment. Best wishes in your deliberations.

Sincerely,

Elizabeth Balkus

103L

Law Office of Joseph A. Sonneman, Ph.D., Esq.
324 Willoughby, Juneau, Alaska 99801
PH: (907) 463-2624 FAX: (907) 463-3802

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JUDGE HOLLAND

LATE

The Honorable Stanley Sporkin
United States District Judge
U.S. Court House
3rd & Constitution, N.W.
Washington, D.C. 20001
FAX (202) 426-5079
PH (202) 535-3573

April 11, 1991

Dear Judge Sporkin: re: **Exxon Valdez Settlement**

I am an attorney not representing anyone in this case, but have been a reporter covering the Alaska Legislative hearings regarding the Exxon Valdez and other settlements. So my comments are made in the public interest, not in the interest of a client.

I sent the following telegram today to Judge Holland in Anchorage:

> The Exxon plea agreement is part of package that includes Consent Decree, Memorandum of Agreement. That package is not in public interest, because negotiators intentionally structured settlement to exclude Legislative branch, both Congress and Alaska Legislature, from any influence or control over spending, despite Constitutional provisions requiring all money bills to originate from Congress, Legislature. State AG Cole testified to Legislative Committees as to that exclusionary intent by settlement negotiators. Just say no.

Because your court accepts FAXes for public comments, but because Judge Holland's court does not, I can also send you what I could not send him, a copy of my testimony Saturday to the Joint Alaska House and Senate Settlement Review Committees.

The basic thrust of that testimony is that the settlement format of setting up a trusteeship independent from Legislative branch control is not accidental, but was done deliberately. The Clean Water Act was not the only avenue open to the State to seek recovery, but it was the avenue chosen. Citizens of Alaska will be deprived of any ability to determine spending through their elected officials, despite Constitutional guarantees backed by court decisions that only the Legislature may appropriate funds, and spending decisions unduly limited, despite a clause in Alaska's Constitution attempting to ensure unlimited Legislative discretion in spending by prohibiting dedicated funds.

The entire settlement package is flawed and not in the public interest because of these constitutional problems.

Sincerely,

Joe Sonneman

ACE 459966

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TESTIMONY OF JOE SONNEMAN TO JOINT SETTLEMENT REVIEW COMMITTEES
OF THE ALASKA LEGISLATURE, April 6, 1991

Thank you and good morning. My name is Joe Sonneman. I have a varied background, and I'll tell you just a little bit of it. I earned a Ph.D. in Government and a law degree as well. I am also working as a reporter for a number of newspapers, which is how I have come to attend many of the meetings not only of the Settlement Committees but also the House Judiciary Committee, which earlier took testimony on legislative involvement in the settlement.

I have previously sued the State over a case involving legislation from last year, in which I believe the Legislature violated the "no dedicated funds" clause of the Constitution. I'm not going to discuss that now; that's for the courts to decide. I just want to let you know, that some people think--I'm certainly one of them--your staff attorney, Pam Findley, has suggested, that anybody can sue if they feel that the Legislature is not doing what the Constitution requires that the Legislature should do.

I am not representing anybody other than myself in my testimony here ....

I think my main concern about the settlement is not about the fact of the settlement, nor even about the amount, but about its effect, its effect on government. And I think its effect on government takes it out of the public interest. Its effect on government is essentially to create one branch of government.

And this was, I believe, not an accidental effect.

I know that your own rules, in the Legislature, you tend to avoid looking into motive or purpose, to avoid arousing personality opinions, I guess, but I think some of that has to be done here, and I will try and show some of that through circumstantial evidence as well as direct evidence.

Circumstantial evidence was best explained to me as, when you look out of the window after it's been snowing, and you see a rabbit footprint, you know the rabbit's been there, even though you haven't seen the rabbit. So, even if the rabbit should happen to come by later and say that it hadn't been there, you would still have circumstantial evidence to know that it had.

That's what, some of what's going on.

Basically, having watched government here for about twenty years, people who come to government from the private sector believe in this one branch of government. It's not that they're evil, it's just that they are not experienced in the ways of government; they think there is only one branch, the executive, that's how you get things done.

Governor Hickel, despite his previous experience as governor, his previous involved in government, has that sort of philosophy, let's get it done, can-do government, strong executive--the Legislature, well, if we have to, well, okay.

At a private meeting for the press, Governor Hickel did say to me, this was a conversation between us, that, well I had told him what many of you folks say routinely about every governor, and that is "the governor can cut, but he can't add." [The Governor has line-item veto powers, including budget line items, but only the Legislature can put items <u>in</u> the budget].

And Governor Hickel's response was to say, something to the effect that maybe he could find a way to

ACE 459967

multiply. And I think that he has found such a way to multiply in creating this, this trusteeship which is not really subject to the will and control of the Legislature.

In addition, Governor Hickel also made the comment, he had been told, years before, that he was "the foreman of the ranch." He really liked that metaphor about Alaska, and that the Legislature, that means you, were just hired hands, whom he could tell what to do.

Now we all know, or some of us know, the Speaker of the House discoursed upon this metaphor, that the Governor may be a foreman, but you are more like the Board of Directors. Again, I think that's the important point to talk about here.

The Attorney General, I believe, also shares this view, that you are just hired hands. You should give advice, but you shouldn't control. Control should be left within the hands of the trustees.

The Attorney General, for example, said to the House Judiciary Committee, words to the effect that federal negotiators did not want the Legislature to have the ability to appropriate money to <u>any</u> purpose, they wanted it restricted to natural resource damage restoration.

However, to one of your Review Committees, the Attorney General said there was no substantive discussion of the Legislature's power to appropriate.

On the other hand, yesterday, to the House Review Committee, he said, "There are some--who shall remain nameless--who did not want Congress to be involved."

Today, earlier, almost in his opening remarks, in reply to the gentleman from Homer, the Attorney General, when talking about the reason for the settlement, said he wanted the money to go for restoration, because of the fear that the Legislature might want to spend the money for education or some other purpose.

That's, the whole point, the whole point is, it's up to the Legislature, the Constitution gives the power to the Legislature to decide appropriations, to decide where the money shall be spent.

The Attorney General instead considers that the Legislature should be advisory only. To the House Review Committee yesterday, when Rep. Hudson asked if the Legislature could have some sort of an advise and consent power over the direction of trustee spending, the Attorney General said "No," however he thought [you] could be advisory only.

So that's sort of where the Attorney General is coming from, this one-branch concept of government that ignores the role of the Legislature in determining appropriations. And you know, these are little phrases here and there, but when you add them up, that is circumstantial evidence of that.

Now I suggested to members of both Review Committees that there might be some problems in truthfulness and completeness in getting statements from the various witnesses. You chose not to take sworn statements from subpoenaed witnesses; I still recommend that to you.

Let me see, on, for example, the Attorney General has been saying recently that it was his, it was his initiative, as it were, that he stood up for the right of the Legislature to be involved in the settlement process. Now of course he also testified that even if the Legislature says "no", the Governor could sign the agreement anyway. Of course, he testified that the Governor <u>will</u> not do so, but he has testified that the Governor <u>may</u> do

so.

So, again, you are seeing, you don't really have the power under the agreement that was set up this way; it's merely that the Attorney General and the Governor by their grace give you that power. Is that the way the Constitution works? I don't think so.

And in addition, to the House Judiciary Committee on March 7, the Attorney General said--and here I am reading not from a verbatim transcript but from the official minutes of that meeeting--the Attorney General "felt that any Legislative involvement in the settlement process and the approval of such settlements was highly ill-advised public policy."

So that's inconsistent with his more recent testimony that he is the champion of Legislative involvement. He isn't.

Now, also on truthfulness and completeness, Representative Gruenberg [Chair of the House Settlement Review Committee] twice yesterday had to ask the Attorney General on whether or not there had been any discussion of separating the [resource damages? settlement recovery money?] between the State and the Federal government. The second time ... the Attorney General made the answer very specific: he said that <u>he</u> had not had such a discussion with Richard Stewart.

That was not entirely a responsive answer. [It begs the question of whether anyone else had such a discussion with Stewart or with any other person]. I asked him about that afterwards, and he said that there had, that in essence there had, that the sovereign claims of Alaska and the United States, were so important to them that they would not reach agreement on it; they had had litigation on it going on for 12 or 13 years.

My question is, why not even ask? If you have a settlement that is settling everything else, why not settle, why not have a discussion, why not even ask about settling the difference between the two governments, about whose resources, how the money is to be divided?

There's no absolute necessity for setting up a trusteeship, unless one intends to exclude the Legislative bodies, both Congress and the Legislature.

And I think that is a fair reading of what's been happening, of why things were set up as they were.

I see I have several other comments here; I will skip most of them because I've taken up so much time, but I have, I guess, two, two more.

One is a short comment that you might want to ask your own attorneys about, and that has to do with release of information.

The Attorney General is correct in his statement of the general rule about withholding that information, but there are exceptions to that rule as well, and you might like to ask your attorneys to look at some of those exceptions, for example, can you get the information if that information is not available from any other source, and since the condition of the land has changed, it may be impossible ... not available from any other source, that might ... information subject to [discovery].

And, finally, those of you who know Rep. Barnes, and those of you who know me, know that we very rarely agree. And so, it's somewhat to my own surprise, that I find that we do agree here.

Her, Representative Barnes is of the opinion that almost by necessity, there must have been <u>some</u> State assets involved. You can

debate how many and how much, but [there must have been] some State assets involved for the State to receive anything. And if State assets were involved, then [the money paid for damages to those State assets is itself a State asset, and] it is up to the Legislature to decide how those State assets should be appropriated.

It's a point that she cannot escape and I think the Governor and the Attorney General cannot escape [it], but they try to, because they believe in this one branch form of government.

And again, I don't think they are evil, I think it is because they come to us from the private sector. Perhaps with more experience, they will understand the Legislative role better, but this agreement is not now in the public interest, because it contradicts the three-branch form of government that we have.

Thank you.

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APR 16 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Dear Judge Holland,

I am writing to you concerning the proposed settlement over the Exxon Valdez oil spill. I am outraged that the spill data has not been released. The legislature must pass a resolution requiring release of the state's economic and scientific data. There must also be clear opportunities for public participation in determining how settlement monies should be spent. This should include a legislative appointed public advisory group with members from the environmental community and spill effected communities whose comments legally bind the Trustees Council. The money should be spent on: buy back of timber rights along spill affected coastlines to prevent further damage; restoration activities; and ongoing studies in the Sound.

Judge Holland should suspend a determination on the settlement until the scientific data has been released and the public and the legislature have had opportunity to review it.

Sincerely,

Dan Mosy

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National Parks
and Conservation Association

PO Box 202045
Anchorage, AK 99520
April 10, 1991

The Honorable H. Russell Holland
US District Court
222 W. 7th Avenue, Room 261
Anchorage, AK 99513

Re: United States v. Exxon Corporation and Exxon Shipping Company
No. A90-015 Criminal

Dear Judge Holland,

I am writing on behalf of the National Parks and Conservation Association, 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 public understanding of our nation's National Park System through diverse activities. We appreciate this unusual opportunity to submit comments regarding the plea agreement entered into between the parties listed above.

Central to the 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.

Given the recent release of "Summary Of Effects Of The Exxon Valdez Oil Spill On Natural Resources And Archaeolotical Resources March 1991" by the federal government without any paid or projected costs, it was difficult to evaluate the adequacy of the proposed fine. We ask that the Court order public disclosure of the financial information which provides the basis for the $100 million proposed fine and that an opportunity then be given for the public to offer supplemental comments.

Exxon Corporation has yet to acknowledge any culpability nor demonstrate any remorse. Corporations, particularly one with assets as large as Exxon's, pose interesting challenges with respect to imposing sentences for criminal behavior. Corporations do not go to jail. Corporations can often absorb fines and

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

ACE 459972

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redistribute their impacts, due in part to our tax laws. Exxon has likened the entire proposed settlement costs, not just the criminal fine, as a typical cost of doing business. High fines often achieve the goals of fairness and deterrence. The structure of corporations however, is such that fines, while necessary and important, may not lead to rehabilitative changes in management.

Creative sentencing can be drafted and tailored to meet this challenge. For example, the Court could also require Exxon to undertake a comprehensive environmental audit of all their facilities engaged in the extraction, refinement and shipment of oil. Besides setting timelines for reporting, the Court could also mandate public involvement in this audit. It is our water, air and land that is at risk when Exxon extracts, refines and ships oil. Requiring Exxon to complete this and perhaps other "community service projects" could effect corporate management behavior.

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 the various agencies and companies. The opportunity to ascertain whether Alyeska's conduct warrants criminal and/or civil penalties should not be foreclosed.

Finally, while we are pleased that half the proposed criminal fine will go to the State of Alaska for restoration projects, we think the public has a right to review the proposed activities and to challenge any that may seem inconsistent with the specific language of the settlement. The State should not be given unilateral authority to resolve disagreements nor to insulate itself from public debate and scrutiny.

We appreciate your consideration of our comments.

Sincerely,

Mary Grisco
Alaska Regional Director

LATE 103

Miss Nancy Donalds
835 Bonifant Street
Silver Spring, Maryland 20910

April 11, 1991

H. Russell Holland, Chief Judge
U.S. District Court
222 West 7th Avenue, Box 12
Anchorage, Alaska 99513

Dear Judge Holland:

You must make Exxon pay for that oil spill, which they deliberately caused, as I perceive it. This incident is just one evil of "world unity." Communism's only concern is world domination. They could care less about the world that our Lord Jesus Christ created for us, and which is our responsibility to care for.

Cordially yours,

Nancy Donalds

Nancy Donalds

LATE 104

April 14, 1991

Judge H. Russell Holland
c/o Clerk of the Court
Room 261, U.S. District Court
222 West 7th Avenue
Anchorage, AK 99513

RE: Exxon Valdez Settlement

Dear Judge Holland:

Respectfully, I am writing to ask you to consider suspending a determination on the Exxon Valdez Settlement until scientific and economic data has been released and the public and the legislature have had an opportunity to review it. I am not at all convinced that the acceptance of this settlement will benefit the state and the people of Alaska.

This is a precedent setting case and we the people need time to make the right decision. With all the catastrophic pollution problems today, specifically concerning oil, we need to send a message to polluters to clean up their act and prevent spills.

Sincerely,

Holly L Werner

Holly L. Werner

[redacted] Holly Werner
1500 Russian Jack Dr. #40
Anchorage, AK 99508

(108L)

LATE 105

Brent W. McCowan
560 N. Gower St.
Los Angeles, CA 90004

April 12, 1991

H. Russel Holland
Clerk of the Court
Rm 261, U.S. District Court
222 W. 7th Ave.
Anchorage, Alaska 99513

Dear Judge Holland,

I understand that the state of Alaska has refused to release scientific and economic damage information regarding the Exxon oil spill in Prince William Sound which would provide key answers for a comprehensive public evalution of the problem. The withholding of any information to the concerned public about a public matter is not only unwise, but irresponsible if that matter were to have public repercussions in the future. It remains good business and political sense to involve well-informed public participation in such grave and far reaching matters.

Therefore I call for a public advisory group with members from the environmental community and spill affected communities to participate in discussions with the proposed Trustees Council to insure the proper spending of settlement monies. It is important that any determination on the settlement be suspended until the scientific data has been released and the public and the legislature have had adequate time to review it.

You have an opportunity to insure that the state of Alaska does not fall victim to the same downturns that have affected other states in the lower forty-eight. Please take the time to make the right decisions.

Sincerely,

Brent W. McCowan

ACE 459976

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Law Office of Joseph A. Sonneman, Ph.D., Esq.
324 Willoughby, Juneau, Alaska 99801
PH: (907) 463-2624 FAX: (907) 463-3802

LATE 106

General Counsel Thomas A. Campbell
National Oceanographic and Atmospheric Administration
Department of Commerce
14th & Constitution, N.W., Rm. 5814
Washington, D.C. 20230

JUDGE HOLLAND
COPY, W/ ORIGINAL SIGNATURE

Barbara Herman
Attorney General's Office
State of Alaska
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501

16 APRIL 91

Dear Mr. Campbell and Ms. Herman: re: **Exxon VALDEZ Settlement**

Following are my comments on the proposed settlement.

Credentials and Disclaimer:

I earned an M.A. and Ph.D in Government at Claremont Graduate School and a J.D. (cum laude) at Georgetown. I passed bar exams in Alaska, Massachusetts, Hawaii, and New York and hold membership in the bars of Alaska and Masschusetts [only paperwork pending in the other states]. I came to Alaska to live in 1971.

However, I am representing only myself and, hopefully, the public interest here and am representing no other client. I am a pro se plaintiff in public interest litigation against the State of Alaska on a Marine Highways case involving the dedicated funds question.

I have been working as a reporter for five small Alaskan weekly newspapers, which is how and why I happen to have attended many of the Exxon VALDEZ settlement events. I am not representing any newspaper in this letter or in prior testimony.

I am a member of the Juneau Democratic Precinct Committee and chair a Democratic luncheon speakers' club, the Bill Egan Forum, but represent neither the Precinct nor the Forum here. In fact, I discussed and sought approval for my letter and testimony with no one else. So I am representing no one else, other than myself and the public interest, in these comments.

Not in Public Interest: One Branch of Government Intent

The settlement is not in the public interest because it intentionally creates or tends to create a one-branch form of government in which only the Executive has power, even though both State and Federal governments have a tripartite form of government.

The settlement in fact creates a one-branch form of government because only Trustees, who are appointed Executive branch officials, will control the spending of the bulk of the money recovered under

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the settlement, because both Legislative branches--Congress and the Legislature--are removed from the appropriation, allocation function despite constitutional and court requirements that all money bills originate with the Legislative branch only, and because the settlement avoids the Judicial branch decision, except as a rubber stamp upon the Executive branch settlement itself and not upon the merits of the case.

This emphasis upon and factual creation of one-branch government is intentional and not accidental, as shown by the following direct and circumstantial evidence.

1. In late January or early February, Governor Hickel, responding to my report to him of a common legislative saying about all governors, that "a governor can cut, but he cannot add" [meaning that Alaska's governor has a line-item veto but only the Legislature can put items into the budget], said that he would try to find a way "to multiply." He made this comment in his offices in Juneau during a 'meet the press' session, but no one other than I heard the Governor's remark. Still, I did hear it.

The settlement, by creating a $1 billion money pot administered by Executive branch officials not subject to Legislative branch oversight and direction, does 'multiply' Hickel's powers as Governor.

2. Attorney General [AG] Charles Cole, testifying to the Alaska House Judiciary Committee March 7,

a. when asked if his repeated failure to answer Committee questions about the settlement, on deadlines he chose, was an attempt to stall the Committee until after he had completed the settlment negotiations, said, "What difference would that make?"

b. said that legislative involvement in the negotiation process or in settlement approval would be "highly ill-advised public policy."

3. AG Cole also told the House Judiciary Committee that there were negotiators who did not want the Legislature to have the ability to make appropriations for any purpose. [Alaska's Constitution prohibits "dedicated funds" in order to let the Legislature make unrestricted judgment calls about each year's budget.]

4. AG Cole told the House Settlement Review Committee on April 5 that some settlement negotiators "who shall remain nameless" did not want Congress to control settlement funds.

5. AG Cole told Rep. Hudson and the House Settlement Review Committee April 5 that the Legislature could not have "advise and consent" powers over Trustee spending, but could be advisory only.

6. AG Cole admitted to the House Settlement Review Committee

that he had had no discussion with U.S. Assistant Attorney General [?title?] Richard Stewart over the possible division of natural resource damage claims between the State and the Federal government. [Remember this one; we come back to it later].

This is significant, because, if the governments had reached agreement on this division, then the State could have pursued its own claims in State court and any damages it won there clearly would have been General Fund monies clearly subject to the plenary power of the Legislature to appropriate as it saw fit. By failing even to have such a discussion, AG Cole acted consistently with an intent to withhold from the Legislature even the chance that it could exercise its constitutional power over appropriations.

7. AG Cole admitted to the Senate Settlement Review Committee that, even though regulations promulgated under the Clean Water Act required the deposit into the Federal Treasury of all damages recovered under the Act, "the Governor and I were unwilling to permit that deposit into the Federal Treasury," in part, because "it takes an Act of Congress to get money out of the Federal Treasury."

This is significant, because it shows both a willingness to violate Federal regulations, agreed to by both State and Federal negotiators, and an intentional effort to avoid Congressional control of settlement monies Exxon paid.

8. Alaska Representative Niilo Koponen said that the Hickel Administration "was relying on the settlement as a way of keeping payments out of the Legislature's hands." April 6-9 period.

While Koponen's saying so does not make it so, the fact that he said so means that I am not the only person to think it so.

9. On April 12, at a press conference that I did not attend but an uncut videotape of which I watched later, another reporter asked Governor Hickel a question I had not 'planted', namely, was it Hickel's intent to shift the balance of power from the Legislature to the Executive. Governor Hickel answered that he did have such an intent, that he was doing his accustomed role of giving increased Executive direction, that it was a counter to Legislative control during the late '70's, and that he expected to be at least partly successful at encouraging that shift that was trying to happen.

This is significant because now the Governor's intent to increase Executive branch control was made public--not just confided in me--and not at my instigation or suggestion.

So, therefore, the settlement is not in the public interest because Governor Hickel and others actively intended to--and did act to accomplish their intention to--create a large sum of money subject only to Executive branch control, taking acts both of comission and omission to accomplish this improper end.

Illusory Benefits of Settlement

The settlement is not in the public interest because it does not end litigation the way a properly-structured settlement would do. Because ending litigation is the primary advantage of a settlement, the continued existance of outstanding litigation means that the proposed settlement does not achieve the ends for which it was created. That is, the benefits of settlement are illusory.

1. Settlement benefits are illusory, according to former AG Doug Baily, because now individuals who sued Exxon will also have to sue the State of Alaska. Thus, said both Baily and Assistant Revisor of Statutes Pamela Findley to the Juneau Bar Association luncheon April 12, Alaskans will be suing Alaska, leading in Baily's words to "legal civil war." Findley and Baily forsaw difficult political decisions for legislators who would be asked to fund litigation against their own constituents.

2. Settlement benefits are also illusory, because public interest litigants [who need not pay their governmental opponents' costs, because under Alaska law it is in the public interest to get public answers to public interest questions] have, under Alaska's Constitution, a right to a legislature which itself exercises its sole right to make appropriations.. See Kenai Lumber.

3. Settlement benefits are also illusory, because under Alaskan law, citizens can intervene in a government case merely by showing that **possible non-feasance** occurred. see McCormick v. Smith, a 1989 Alaskan case in two parts [see both].

NOW go back to the AG's failure even to ask Richard Stewart about the division of natural resource damage claims between the two governments. Because Cole failed even to ask that question, the legislature was excluded even from the chance of getting the appropriation power due it under Alaska's constitution.

And that "possible non-feasance" is enough to permit intervention of right by a public interest litigant(s) who want to enforce their constitutional right to a Legislature that makes appropriations.

Alyeska Received Too Great a Release from Liability

1. AG Cole for the first time testified April 13 in Kodiak that Exxon had insisted that Alyeska be released from liability, because, Cole said, Exxon did not want to settle ITS claim only later to become liable for Alyeska, which it partly owns.

2. But, said Cole, that release was so broad that Alyeska was also released from liability to Alaska for natural resource damages even if Alyeska had either acted independently from Exxon or acted on behalf of another 3rd party, most likely another owner.

3. And, given Congressman Miller's letter showing that Alyeska and its owner companies most likely in fact intentionally violated promises to Congress, there would be reasons for someone to bring suit against Alyeska.

So, for these three reasons good and true, I urge you to "just say 'no'" to the settlement.

Violating State Right to Appropriate Funds Without Restriction

Once again, however, let me explain, adopting Rep. Ramona Barnes' analysis, the argument for State control of some portion of Exxon payments.

1. Although it may be difficult to draw the line exactly which separates Federal from State natural resources damaged, nevertheless it is a virtual certainty that there are some damaged natural resources that would belong to the State; i.e., that are State assets.

2. If there are even any State assets, then the part of the recovery which applies to those State assets is itself in reality a State asset, albeit in financial rather than in natural resource form, and however differently denominated. But, thought the form may differ, nevertheless the recovery from Exxon is to that degree a State asset.

3. Alaska's constitution and court cases here give ONLY to the Legislature the right to make appropriations of State assets.

4. The Alaska Constitution further prohibits "dedicated funds," i.e., funds spent for a special purpose. Therefore, funds in the General Fund are subject to the general appropriation power of the Hickel Administration.

5. So, therefore, the Legislature is intended by the constitution specifically to consider all possible State needs, not just natural resource damage restoration needs. Alaska has an abysmal infant mortality rate and some of the nation's worst per-capita rates for alcoholism, drug abuse, homicide, suicide, accidental death. The U.S. may differ; still, that is Alaska's view: the legislature should be able to balance needs for one more deer along the north slope against needs for a clean water drinking system in a rural area.

I hope this all makes sense. I am including a fact sheet and calendar or diary of Settlement talk events.

Sincerely & cordially

Joseph A. Sonneman

15 APR 1991

A PARTIAL 1991 CHRONOLOGY OF EXXON SETTLEMENT EVENTS

by Joe Sonneman

GOVERNOR MEETS PRESS, Jan-Feb. ?

Responding to 2nd floor saying that "a governor can cut, but he can't add," Gov. Hickel says perhaps he can find a way to "multiply."

HOUSE JUDICIARY, February dates

AG repeatedly refuses to answer Committee questions about settlement progress and clauses, alleging incomplete answer-preparation process.

HOUSE JUDICIARY, 3/7

Asked if his repeated failure to answer Committee questions, on deadlines he chose, was an effort to stall the Committee until after the settlement was complete, the AG says "What difference would that make?"

AG says legislative involvement in negotiation process or settlment approval would be "highly ill-advised public policy."

HOUSE JUDICIARY, Feb-March??

AG says some settlement negotiators do not want Legislature to be able to appropriate to <u>any</u> purpose.

HOUSE SETTLEMENT REVIEW COMM., ??

AG says negotiators had "no substantive discussion" of Legislature's power to appropriate.

AG does not answer Rep. Gruenberg question re: any discussion of dividing the damaged resources between Alaska and U.S. governments. Gruenberg asks again if "any discussion." AG then says he did not discuss that with U.S. Asst. AG Stewart.

AG says Hickel got idea for $1.2 billion figure from "intuition."

SENATE SETTLEMENT REVIEW COMM. ??

AG says Hickel got idea for $1.2 billion figure from analysis.

HOUSE SETTLEMENT REVIEW COMM, 4/5

AG says some settlement negotiators "who shall remain nameless" do not want Congress to control funds.

AG tells Rep. Hudson that the Legislature can <u>not</u> have "advise and consent" power over Trustee spending, but may have advisory-only role.

Rep. Barnes says that <u>some</u> damaged natural resources were State assets, that money recovery for that damage must thus also be a State asset even if not so called, and that only the Legislature can appropriate State assets. "So I have a constitutional problem" with the proposed settlement's Executive branch trustee control of most settlement money.

SENATE SETTLEMENT REVIEW COMM., 4/6

AG says he considered alternative, that Legislature might want to fund restoration, would need half of Exxon money and Legislature might want to spend it on education.

Private lawyer questions settlement amount as inadequate, especially upset that no trial means no chance of punitive damages.

AG says he would consider releasing data if Legislature asked him to do so by a joint resolution. Sen. Eliason asks why the Legislature would want to take Cole off the hook and put themselves on it.

CONG. MILLER LETTER, 4/8

U.S. Rep. George Miller writes Judges Holland & Sporkin that: "Exxon and the other owner companies which control Alyeska: (1) knew that Alyeska could not effectively respond to an oil spill in Prince William Sound; (2) failed to make necessary improvements in Alyeska's oil spill response capabilities; and (3) secretly decided that Alyeska would not respond to an oil spill in Prince William Sound in the manner prescribed by Alyeska's Oil Spill Contingency Plan."

Cong. Miller includes photocopy telex evidence as proof, asks the judges not to accept plea bargain.

SENATE MEMORANDUM, 4/8

Findley writes that possible constitutional issues exist, both as to dedicated funds--because settlement receipts mostly for special purposes, though "federal programs" exception may apply--and as to the power only of the Legislature to appropriate--because Trustees, not Legislature, disburse Exxon settlement payments.

FEDS RELEASE STUDY SUMMARY, 4/9

U.S. Govt. releases summary of scientific studies, showing spill damage as reportedly twice the level previously known.

LEGISLATOR COMMENTS, 4/6-9

Rep. Sharp observes that if State & Federal trustees are not unanimous, a single Federal judge

decides, and "our batting average is not good before Federal judges."

Rep. Koponen says Hickel administration was "relying on the settlement as a way of keeping payments out of the Legislature's hands."

Rep. Kubina says settlement "a poorly-negotiated contract, but what's the alternative?" He "won't vote 'No' lightly," because of the District 6 money, likes idea that all settlement funds limited to natural resource restoration purpose, but still has "many questions."

GOVERNOR'S PRESS CONFERENCE, 4/12

Gov. Hickel publicly admits an intent to try to shift the balance of power from the Legislature to the Executive branch.

Gov. says he will stand by DNR Comm'r Heinze as State Trustee, even though Heinze may have acted for ARCO in agreeing not to provide Alyeska the oil spill response capabilities required under the Contingency Plan.

JUNEAU BAR ASSOCIATION LUNCHEON, 4/12

Former AG Baily questions the public policy decision of election to proceed only under the Federal Clean Water Act, rather than advancing some State claims under State law, so that recovery for those claims could flow to the General Fund.

Baily & Asst Revisor of Statutes Findley agree that settlement puts the State on the same side as Exxon, against Alaskan citizen-litigants. They forecast political, public policy problems as legislators are asked to fund litigation against their own constituents. Baily: legal "civil war;" doubts that the State avoids litigation through settlement, if result is only to join State with Exxon defense against many plaintiffs,

Baily says that "the greater the rapidity by which the Exxon VALDEZ spill recedes, the sooner it is politically possible to consider ANWR development." A relationship exists.

Findley says that Clean Water Act limits recovery on a $/bbl.basis, to much less than under proposed settlement. She says this means either settlement is not wholly under CWA or else Exxon knew it had much bigger liabilities for non-CWA claims.

HOUSE SETTLEMENT REVIEW COMM.,4/12

AG admits to Rep. Brown that no village by village assessment of damages was made.

AG also admits to Rep. Brown that subsistence opportunities were not evaluated.

AG tells Rep. Brown that best-available damage assessment techniques were used.

AG tells Rep. Gruenberg that the "reasonably anticipated" language of the re-opener clause is mutually exclusive with "reasonably known".

AG tells Rep. Gruenberg that language excusing restoration if costs are "grossly disproportionate" to results is "like any other legal test."

AG refuses, despite repeated requests, to provide Rep. Gruenberg and the Committee with a "contractual history" of the whole settlement, offers to provide such a history only for requested parts of the settlement. Rep. Gruenberg says the "re-opener" section would be one such requested part.

HOUSE REVIEW COMM.--in Kodiak, 4/13

AG explains that Alyeska's release from liability was a "deal-breaker" requirement of Exxon, who did not want to settle its own liability only to find itself liable for its part ownership of Alyeska. Rep. Gruenberg notes that this is first time AG said this.

AG tells Rep. Gruenberg that the State would be unable to sue Alyeska for natural resource damages due to Alyeska's independent action, or due to Alyeska's actions on behalf of non-Exxon Alyeska owners, even despite Congressman's Miller's allegations of owner company intentional violations, because of the settlement clause intended to release Alyeska for liability for its actions on behalf of Exxon only.

Aquaculture Assn. says funds promised it by Exxon were not paid.

HOUSE REVIEW COMM.--in Cordova, 4/14

Mayor says, "Don't ask us to trust you; we prefer it in writing, backed by a letter of credit."

Oil Spill Response Center worker says "continue suit;" good evidence exists; Exxon pays costs, fees; you set environmental law precedent.

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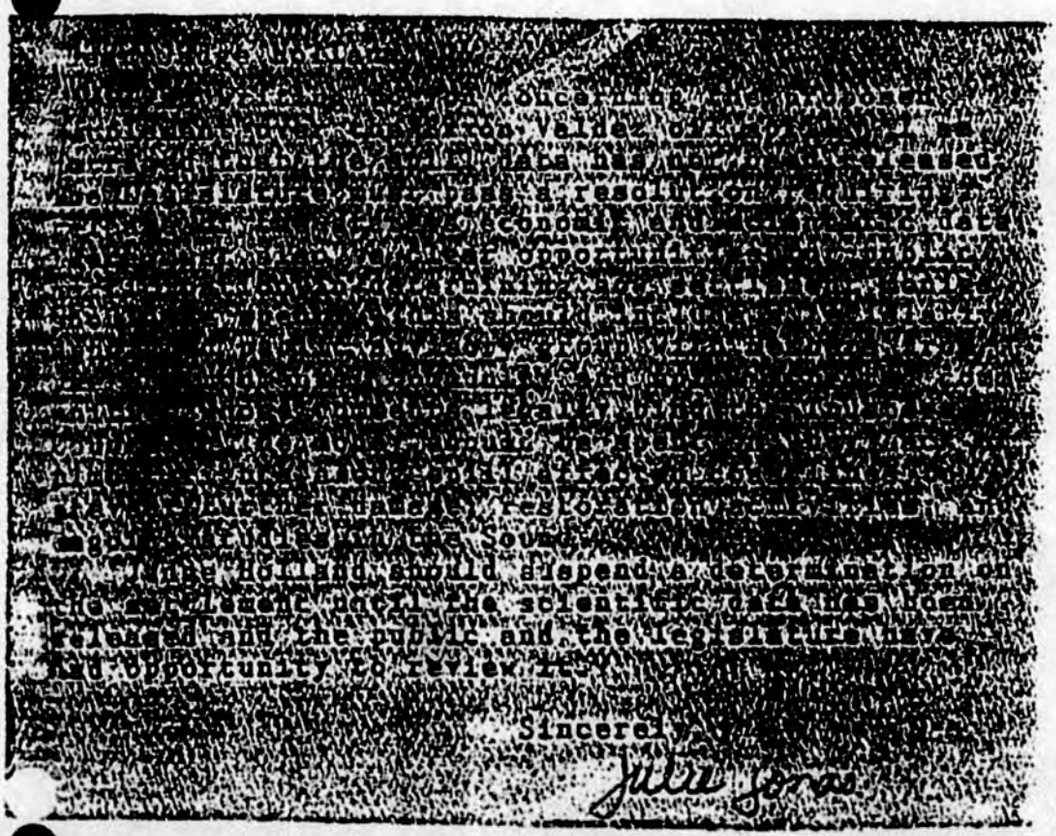
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APR 17 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND



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APR 17 1991

CHAMBERS, U.S. DISTRICT JUDGE
H. RUSSEL HOLLAND

Dear Judge Holland,

I am writing to you concerning the proposed settlement over the Exxon Valdez oil spill. I am outraged that the spill data has not been released. The legislature must pass a resolution requiring release of the state's economic and scientific data. There must also be clear opportunities for public participation in determining how settlement monies should be spent. This should include a legislative appointed public advisory group with members from the environmental community, and spill affected communities. Those comments legally bind the Trustees Council. The money should be spent on: buy back of timber rights along spill affected coastlines to prevent further damage; restoration activities; and ongoing studies in the Sound.

Judge Holland should suspend a determination on the settlement until the scientific data has been released and the public and the legislature have had opportunity to review it.

Sincerely,

Michele Moriarty

ACE 460018

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LATE 109

4015 N. Hermitage Avenue
Chicago, IL 60613
April 10, 1991

U. S. District Judge
H. Russell Holland
Clerk's Office
Anchorage, Alaska
99513

Dear Judge Holland:

Exxon must adhere to a basic vlaue -- you did it, you fix it!

Powerful companies must not be allowed to destroy the environment because of profit. Double-hulled ships must be mandatory.

Probability of accidents is not a factor is providing solutions to oil spills. Accidents of this magnitude must never be allowed to happen.

Sincerely,

Anne Barrett

Anne Barrett

ACE 460019

(114)

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P.O. BOX 100105
ANCHORAGE, AK 99510
(907) 276-2656

April 15, 1991

Judge H. Russel Holland
c/o Clerk of the Court
Room 261, U.S. District Court
222 West 7th Avenue
Anchorage, Alaska 99513

Dear Judge Holland:

I am writing to request that you suspend a determination on the Exxon oil spill settlement until the scientific data has been released. The public and legislature must have an opportunity to review the information for a satisfactory resolution. I thank you for your attention to this matter.

Sincerely,

Katherine A. Kunz

Katherine A. Kunz

ACE 460020

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DAVID P. JANKA
P.O. BOX 1022
VALDEZ, ALASKA 99686

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4-16-91

GREETINGS,

I AM A 15 YEAR RESIDENT of PRINCE WILLIAM SOUND, ALASKA. I HAVE KAYAKED, SAILED, POWER BOATED, FLOWN, RESEARCHED, HIKED, WORKED, ENJOYED AND AM RAISING A FAMILY HERE.

I HAVE BEEN INVOLVED AT TIMES WITH OIL SPILL RESPONSE AND HAVE FOLLOWED ALASKA LEGISLATIVE HEARINGS RELATED TO THE EXXON VALDEZ SETTLEMENT.

I <u>DO NOT</u> FEEL THIS SETTLEMENT IS IN THE PUBLIC INTEREST OR DOES IT EVEN MEET THE NON-PUBLIC INTERESTS. IT IS CLOSE TO BEING A GOOD SETTLEMENT though! THE CONCERNS RAISED OVER THESE PAST WEEKS COULD BE SATISFIED WITHIN A SHORT PERIOD OF TIME (< 1 YEAR I BELIEVE) WITH A REWORKED SETTLEMENT.

PLEASE WITHDRAW FROM/OPPOSE THIS SETTLEMENT AND COME BACK TOGETHER WITH A COMMITMENT TO WORK OUT A GOOD, WELL REPRESENTED SETTLEMENT BASED IN REALITY WITH PUBLIC AND LEGISLATIVE PARTICIPATION THROUGHOUT THE PROCESS.

THANK YOU FOR ALLOWING US TO COMMENT. I ONLY WISH WE WERE BROUGHT INTO THE PROCESS EARLIER.

DPJ

cc: BARBARA HERMAN - ST. OF ALASKA
THOMAS A. CAMPBELL - NOAA WASH. D.C.
H. RUSSEL HOLLAND - US DIST. COURT AK.
EUGENE KUBINA - AK. LEGISLATURE
KURT MENARD - AK. LEGISLATURE
JAY KERTULLA - AK. LEGISLATURE
CHARES COLE - ATTORNEY GENERAL, ALASKA
WALTER HICKEL - GOVERNOR, ALASKA

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April 11, 1991

LATE

Honorable H. Russel Holland
U.S. District Court
222 W. 7th Ave.
Anchorage, Alaska 99513

Dear Judge Holland:

I have thoroughly read the **Settlement Agreement Concerning the Exxon Valdez Oil Spill Between the United States, the State of Alaska and the Exxon Corporation** as published in the March 19, 1991 federal register and wish to make the following comments:

John Knauss of the National Oceanic and Atmospheric Administration (NOAA) referred to the settlement between the federal government, the state of Alaska and Exxon Corporation as "a good deal for the nation" and Secretary of Transportation Samuel Skinner called it a "tough but fair settlement."

I disagree with them. It is neither good nor fair.

It is neither good nor fair to the citizens of Alaska and the United States directly or indirectly affected by the spill. It is neither good nor fair to the hundreds of thousands of sea birds and the uncountable marine life killed by the oil from the *Exxon Valdez*. It is "tough" but not for Exxon as Skinner implied. Exxon Chairman Lawrence Rawl said that the settlement "will not have a noticeable effect on our financial results." Consequently, it is anything but tough.

There are other problems with this settlement that I wish to outline for you. As an Alaskan affected by the oil spill, it is my hope that you will seriously consider my concerns and agree that many of the provisions of the settlement are "improper, inadequate and inappropriate."

I have four concerns: money, secrecy of scientific information, public participation, and legal matters.

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First of all, the money is insufficient. The $1 billion seems like a lot, but it is reduced by:

* $100 million in fines, half of which will be remitted;
* $134 million to reimburse the state and the federal governments for clean up costs already incurred;
* an estimated $40 million for cleanup by the state in 1991;
* an unknown amount for cleanup by the federal government in 1991.

That leaves $726 million for restoration. That figure is further reduced to approximately $370 million after you take into account the ten year payment schedule (which amounts to an interest-free loan to Exxon). It is unclear how much money it will take to restore the Sound to a near-original state (if that's possible) since the state and federal government have not released scientific studies documenting the damages. Figures quoted in the Anchorage Daily News (March 31, 1991) suggest the cost of restoration could be as high as $8 billion. Therefore, I feel the financial provisions for restoration as described in the settlement are inadequate and should be increased substantially.

The fines imposed on Exxon are too low also. Since half of the $100 million is to be remitted, only $50 million remains as a punishment for crimes committed by a corporation that earns $177 billion a year. This fine is equivalent to $34.19 for a person earning $40,000 a year. That is a flaccid penalty at best. Yet, U.S. Attorney General Dick Thornburgh said the fine "represents a clear and unmistakable signal to those engaged in environmental crime" that they will be punished. Hardly. Because this figure is so low, I feel it is inadequate and inappropriate. The amount of the fine does not match the crime.

To the credit of the architects of the settlement, there is a provision for reopening the settlement in the event of discovery of unknown damages (paragraphs 17 And 18 of the Settlement Agreement). In light of the many ecological and social unknowns related to the spill, this is a very good idea. Unfortunately, the maximum amount is again too low - $100 million. I believe we should set no limit on the amount of damages that can be recovered in the future. Perhaps a time limit could be set such that after 20 years, for example, Exxon would be no longer responsible for paying damages. This limit as written is improper and inadequate.

If the figure of $900 million remains as the amount paid to the governments I believe it is best spent completely on restoration, replacement, rehabilitation, and/or enhancement of the damaged or injured natural resources and not on cleanup costs. Better to consider restoration and cleanup as separate actions with separate effects. Cleanup should be thought of as an emergency measure, a bandage to stop the bleeding. Restoration should be thought of as techniques designed to rehabilitate and revive. The governments should be reimbursed for the costs of cleanup, but the reimbursement should be in addition to and separate from restoration money. For this reason, I consider it inadequate and improper.

The second area of concern is the release of scientific studies. On Monday, April 8, an 18-page federal summary of scientific studies so far was released which indicated the spill was far more lethal than previously thought. In light of this, it is critical that we have all the data *before* a settlement is agreed upon. The state must release the studies in complete form, not just a summary. I urge you to disapprove the settlement because of this enormous and inexcusable inadequacy.

If the studies were released, we'd have a firm idea of how much money is needed for restoration. Instead, we have the figure of $1 billion which is a fabrication of Governor Hickel's mind. Where did he get that number? On March 13, 1991 he said "I have had a boat down there for 30 years. I know the Sound". That's ludicrous. When we are dealing with large sums, as we are here, we need to have more evidence than one man's memory of water recreation.

There are other reasons to release the information:

* Taxpayer's money has funded the studies;
* they concern public resources;
* other scientists need and want the studies in order to understand the spill;
* the information could help other Alaskans harmed by the spill to get a fair settlement from Exxon.

One other reason to release the studies: the state should own up to its responsibilities. If it was in error somewhere along the line it should be

held accountable. Witholding the studies is improper and undermines the entire settlement.

The third area of concern is the public participation process. State Attorney General Charlie Cole, referring to what he believes is public disinterest in the spill said " I don't think it's of great consequence to the store owner in Galena how many eagles were killed as a result of the spill". I disagree. The spill hurt people everywhere on this planet, not just fishermen or native subsistence users. I recall a woman from Massachusetts who quit her job and sold her house to come to Alaska to help the injured animals after the spill.

Such a response does not indicate apathy as Cole would like us to believe. Interest in the spill and the settlement is still high and every citizen of the United States, and especially Alaska, should have the opportunity to take part in a complete, well-publicized and effective public participation process. As it is written in the settlement, the public has 30 days to comment (as I am doing here), an insufficient and inadequate amount of time. I urge you to suggest to the appropriate authority an extention of the public comment period. There is no need to rush through this sensitive and critical issue.

Unfortunately, even if there was ample public participation, it would fall on deaf ears. As the settlement is written, there is no wording that forces the governments to respond to the comments, only the courts can force them.

Especially deficient is the wording in paragraph 37 of the settlement agreement concerning the legislature. It reads, in part: "Each Government reserves the right to withdraw its consent to the Agreement within fifteen (15) days following the close of the public comment period... if before the end of that 15 day period, the Alaska State Legislature has not approved the Agreement as written." The operative term here is "reserves the right to withdraw". That does not mean that each government must withdraw. But I think it should. It does mean that either government need not be responsive to the legislature.

The Memorandum of Agreement (MOA) between the United States and Alaska states that "the public will be given meaningful opportunities to participate in the restoration process. Public comment is invited..." I

think the opportunities provided thus far are inadequate. I suggest the following:

* Allow the legislature to approve, disapprove or modify the agreement as if it were any other piece of legislation. The public, then, could comment through elected representatives.
* Publish all scientific studies. Then provide public workshops and hearings within a 90 day comment period.

A related concept involves the way in which the money is to be spent if the Agreement is signed off. Within the MOA, it is written that the "Trustees shall establish procedures providing for meaningful public participation in the injury assessment and restoration process, which may include establishment of a public advisory group..." I suggest that the wording be changed from "may" to "must" and further that the public advisory group be The Regional Citizens Advisory Council (RCAC).

The fourth concern is legal matters. I feel that a reopener clause similar to paragraphs 17 and 18 is needed that allows the governments to sue Exxon if unknown damages are discovered or criminal or civil evidence arises in the future. It is foolish to think that all is currently known. We need to have the door open if in the future we need it.

Alyeska should not be immune from prosecution. On April 9, Rep. George Mitchell, acting Chairman of the House Insular and Interior Affairs Committee, said "Alyeska Pipeline Service Co. decided a year before the 1989 Exxon Disaster not to prepare for a spill of it's kind" thus further misrepresenting their capabilities, preparedness and commitment. Perhaps this allegation is not true, but until this is settled, we must not close the door on litigation against Alyeska. Because of this issue and the lack of a reopener clause against Exxon, I feel the settlement is inadequate.

I'm all for avoiding a lengthy and costly court battle, so I think a settlement is a good idea. But as the settlement is now written, it is inadequate. What's needed is more time for all parties, including the public and third party interests, to work cooperatively on its shortcomings. I urge you to disapprove the settlement.

Thank you sincerely for taking the time to read my comments.

With respect,

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TOTAL P.20