

SCOMM

77:63

**TESTIMONY
OF
MR. THOMAS A. CAMPBELL
GENERAL COUNSEL
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE**

BEFORE THE

SENATE COMMITTEE ON THE EXXON VALDEZ OIL SPILL CLAIMS SETTLEMENT

APRIL 17, 1991

Mr. Chairman and Members of the Subcommittees:

I appreciate the opportunity to participate in this oversight hearing concerning the Exxon VALDEZ settlement. My name is Tom Campbell, and I am the General Counsel of the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. NOAA is the lead Federal trustee for the Exxon VALDEZ damage assessment, and I am here today on behalf of the other Federal trustees - the Department of the Interior and the Department of Agriculture and on behalf of the EPA who is coordinating the federal side of the restoration effort.

Under the Clean Water Act, NOAA, the Department of the Interior and the Department of Agriculture act as stewards for the Nation's natural resources. An equal grant of authority was granted Alaska for state resources. The spill of 11 million gallons of oil into the pristine environment of the Prince William Sound on a dark night in March 1989, brought our respective trust responsibilities into sharp focus. For the past year and 11 months, Federal and State trustees have done everything in their power to assess injuries to natural resources and determine the economic damage done to the Sound and other areas of Alaska, and to

prepare to present our claim in court.

NOAA first became involved in assessing injuries to marine resources and their habitats with the grounding of the AMOCO CADIZ which occurred in 1978. In that case the vessel AMOCO CADIZ, two, spilling 68 million gallons of crude oil on the coast of France, France. Claims arising from this environmental disaster have been in litigation for 13 years. On July 24, 1990, a Federal judge in Chicago order Amoco to pay \$105 million in damages to the French Government. Amoco has appealed, and the litigation process continues.

Litigation is wasteful and protracted. Litigation is like war and litigation like war should be avoided if reasonably possible. Litigation also represents failure -- failure of one party to properly assess his position in a conflict.

In the fall of 1990, NOAA was made the lead Federal trustee on the Exxon VALDEZ spill. Under the leadership of Administrator Knauss we have tried to act as the "honest broker." Our first responsibility was to fully assess the natural resource injuries and prepare for possible litigation. Our second responsibility was to explore the possibility of an equitable out of court settlement.

It is the Federal trustees' belief that the settlement achieved with Exxon represents a fulfillment of our stewardship responsibility. It provides us with money this year to do necessary restoration instead of 5 to 10 years from now.

As the trustees weighed the benefits of settling with Exxon and grappled with the proper range of negotiating values, we

considered a myriad of factors such as the extent of the injury demonstrated thus far, the likelihood of translating those injuries into provable damages, the value of beginning restoration now rather than 5 - 10 years later, and the estimated cost of restoration. The settlement that was announced last month falls well within the range of values estimated by the trustees.

Finally, let us not lose sight of the fact that this represents the largest environmental settlement in the world -- one billion dollars -- ten times that recovered in Amoco CADIZ, a spill that was six times larger. It is a very good deal for Prince William Sound, and it is an outstanding deal for the United States and Alaska. The State of Alaska and the Federal trustees have exercised their trusteeship responsibly and with considerable imagination in bringing these complicated negotiations to fruition.

Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions concerning the sett