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April 15, 1991

Senator Dick Eliason, Chair
Senate Special Committee on the Exxon Valdez
Oil Spill Settlement Claim
Alaska State Senate
Juneau, AK

Dear Senator Eliason:

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

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

Thank you for the opportunity to comment.

Sincerely,

Wendy H. Arundale, Ph.D.
Research Associate

Enclosure



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

and

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

Dear Mr. Campbell and Ms Herman:

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

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

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

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

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

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

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

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

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

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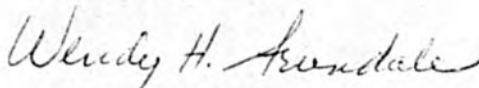
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restoration efforts. Such funding could play a significant role in preserving archaeological resources in the affected area for the future.

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

Thank you for this opportunity to comment.

Sincerely,



Wendy H. Arundale, Ph.D.
Research Associate

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