

SCOMM

138:22

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 1, 2006

FURTHER REFERRALS: Resources

Date of Committee Action: _____

The HOUSE SPECIAL COMMITTEE ON FISHERIES considered:

HJR 29

HOUSE JOINT RESOLUTION NO. 29

COLLECT MORE EXXON VALDEZ SPILL DAMAGES

Urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full \$100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry out these plans.

Recommends it be replaced with [] HCS or [] CS for _____ (_____)

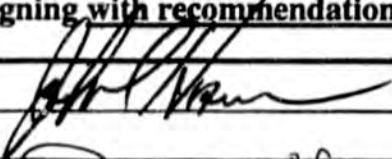
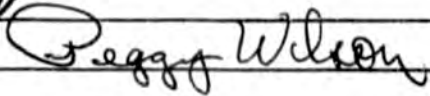
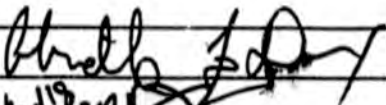
For Senate Bills with new title: ☐ *Technical Title* ☐ *New Title: HCR_____* ☐ *Same Title* ☐ *New Title*

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

**List of
Abbrev
for**

Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LEG
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
		HARRIS	✓			
		WILSON	✓			
Chair: 		LeDoux	✓			
Chair: 		Thomas	✓			



Representative Eric Croft

Memorandum

TO: Representative Bill Thomas
Representative Gabrielle LeDoux, Co-Chairs
House Special Committee on Fisheries

FROM: Representative Eric Croft *MS for ECC*

DATE: February 6, 2006

RE: Hearing Request, HJR 29

Please schedule HJR 29 for a hearing in the House Special Committee on Fisheries at your earliest convenience. I have attached a copy of the resolution and a sponsor statement.

Thank you.



Representative Eric Croft

Sponsor Statement

HJR 29 – Urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil corporation with a request for the full \$100,000,000 that is available through the “Reopener for Unknown Injury” clause of the 1991 civil settlement to carry out these plans.

HJR 29 urges the federal and state governments to request the \$100 million available for unforeseen and unanticipated damages stemming from the 1989 Exxon Valdez oil spill. The 1991 civil settlement contains a “Reopener for Unknown Injury” clause, which makes these funds available if additional impacts are discovered. Under the terms of the settlement, there is a limited window in which to apply for these funds, which closes on September 1, 2006. Plans for use of the funds must be submitted to Exxon 90 days in advance of the claim, or approximately June 1. This is unrelated to ongoing litigation regarding the punitive damages Exxon owes to individual Alaskans.

The resolution also requests an update from the Attorneys General of Alaska or the United States regarding the status of any reopener claim.

Since the spill and settlement, scientists funded by the initial payments have determined a number of unanticipated injuries to the spill zone. One major impact that did not become evident until after the settlement was the 1993 crash of the Prince William Sound herring population. Scientists have determined that crude oil affected the reproductive processes of the herring, which explains the delayed onset of the crash. Other significant discoveries regard lingering oil. A number of beaches in Prince William Sound still contain significant amounts of oil that has yet to biodegrade. Since the spill and settlement, scientists have also learned that they had underestimated the toxicity of crude oil to wildlife. These issues, among others, show the necessity of these additional restoration funds.

The Kenai Peninsula Borough, Kodiak Island Borough, and City of Cordova have passed resolutions in support of this action.

Introduced by:
Requested by:
Introduced:
Adopted:

Mayor Selby
Assembly
11/03/2005
11/03/2005

**KODIAK ISLAND BOROUGH
RESOLUTION NO. FY2006-17**

**A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY URGING
THE UNITED STATES DEPARTMENT OF JUSTICE AND THE STATE OF ALASKA
TO REOPEN THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ OIL SPILL AND
CLAIM THE FULL \$100 MILLION FOR
MITIGATION OF UNANTICIPATED LONG-TERM HARM**

WHEREAS, on October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the state of Alaska for damages to "natural resources" (publicly-owned wildlife and wild lands) from the Exxon Valdez oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to \$100 million) to restore oil-damaged populations, habitats, or species in the spill zone if the injury could not reasonably have been known nor anticipated at the time of the settlement; and

WHEREAS, unanticipated long-term harm from the Exxon Valdez oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS, unforeseen damage includes delayed recovery of: 5-6 years for pink salmon, about 8 years for black oystercatchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating areas (from slow replacement of losses after spill); and

WHEREAS, unforeseen damage includes species not recovered after 15 or more years such as: harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS, unforeseen damage includes indirect effects to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS, much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion; and

WHEREAS, because of the scientific finding that oil is more toxic than previously thought, it is critical to educate the public as to this finding and take measures to reduce risk of spills as well as to mitigate lingering harm; and

WHEREAS, none of the three parties to the settlement-Exxon, the federal government or the State of Alaska-have petitioned to reopen the settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT the Assembly hereby urges the United States Department of Justice and the State of Alaska to Reopen the 1991 Civil Settlement From the Exxon Valdez Oil Spill and Claim the Full \$100 Million for Mitigation of Unanticipated Long-Term Harm: and

BE IT FURTHER RESOLVED THAT the US Justice Department and the State of Alaska consider, at a minimum, the following potential mitigation projects:

Mitigation of lingering harm:

1. Monitor weathering and toxicity of residual oil under beaches
2. Monitor recovery of, and oil contamination in, subsistence foods on oiled beaches
3. Continue to monitor species that have not yet recovered
4. Establish, and compensate for, cost of unforeseen injury to species
5. Conduct a feasibility study and cohort epidemiology study on cleanup workers whose health may have been impaired by the EVOS cleanup
6. Study of treated and untreated beaches to determine if any treatment methods used during the EVOS cleanup actually worked; i.e., improved recovery of beach ecology over the long-term

Public education:

1. Fund an assessment of injured resources through the National Research Council
2. Fund a review and assessment of oil spill cleanup products that are not toxic to humans or the environment through the National Research Council
3. Develop and implement national education programs on new understanding that oil is more toxic than previously thought to humans and the environment (like tobacco industry settlement)

Measures to reduce risk of large spills:

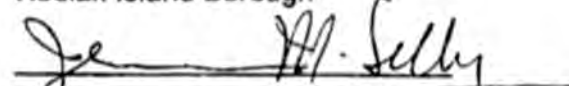
1. Endow citizen oversight council for the Trans-Alaska Pipeline System (estimated cost: \$25 million)

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS THIRD DAY OF NOVEMBER 2005**

ATTEST:


Judith A. Nielsen, CMC, Borough Clerk

Kodiak Island Borough


Jerome M. Selby, Borough Mayor

Introduced by:

Martin

Date:

12/06/05

Action:

Adopted as Amended

Vote:

7 Yes, 2 No

KENAI PENINSULA BOROUGH

RESOLUTION 2005-105

A RESOLUTION SUPPORTING REOPENING THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ OIL SPILL AND CLAIMING THE FULL \$100 MILLION FOR MITIGATION OF UNANTICIPATED LONG-TERM HARM

WHEREAS, On October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the State of Alaska for damages to "natural resources" (publicly owned wildlife and wild lands) from the Exxon Valdez oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that between September 1, 2002, and September 1, 2006, Exxon shall pay to the governments such additional sums as are required (up to \$100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement*; and

WHEREAS, unanticipated long-term harm from the Exxon Valdez oil spill has been clearly and conclusively demonstrated by scientists funded from the EVOS Trustee Council and separately through federal and state agencies, universities, and private foundations; and

WHEREAS, the severity and duration of the impact this oil spill would have on the native villages in Kachemak Bay, as well as the entire coastline of the Kenai Peninsula extending south from Seward to the west side of the Kenai Peninsula was not, and could not have reasonably been known as the above-described effects on species have drastically damaged these areas and the native village lifestyle, economics and populations; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of part per billion and trillion; and

WHEREAS, none of the three parties to the settlement - Exxon, the federal government, or the State of Alaska - have petitioned to reopen the settlement;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly hereby requests the United States Department of Justice and the State of Alaska to reopen the 1991 civil settlement and claim the entire \$100 million for mitigation projects; and

SECTION 2. That copies of this resolution shall be sent to Governor Frank Murkowski, Senator Thomas Wagoner, Senator Gary Stevens, Senator Con Bunde, Senator Albert Kookesh, Representative

Mike Chenault, Representative Kurt Olson, Representative Paul Seaton, Representative Mike Hawker, Representative Woodie Salmon, U.S. Attorney Timothy M. Burgess and Department of Natural Resources Commissioner Michael Menge.

SECTION 3. This resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF DECEMBER, 2005.

**CITY OF CORDOVA, ALASKA
RESOLUTION 12-05-51**

**A RESOLUTION OF SUPPORT BY THE CITY COUNCIL OF THE CITY OF
CORDOVA, ALASKA, TO REOPEN THE 1991 CIVIL SETTLEMENT FROM THE
EXXON VALDEZ SPILL AND CLAIM THE FULL \$100 MILLION FOR MITIGATION
OF UNANTICIPATED LONG-TERM HARM**

WHEREAS, on October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the state of Alaska for damages to "natural resources" (publicly-owned wildlife and wild lands) from the *Exxon Valdez* oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to \$100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement*; and

WHEREAS, unanticipated long-term harm from the *Exxon Valdez* oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS, unforeseen damage includes delayed recovery of: 5-6 years for pink salmon; about 8 years for black oystercatchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating orcas (from slow replacement of losses after spill); and

WHEREAS, unforeseen damage includes species not recovered after 15 or more years such as: harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS, unforeseen damage includes indirect effects to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS, much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion; and

WHEREAS, because of the scientific finding that oil is more toxic than previously thought, it is critical to educate the public as to this finding and take measures to reduce risk of spills as well as to mitigate lingering harm; and

WHEREAS, none of the three parties to the settlement—Exxon, the federal government, or the State of Alaska—have petitioned to reopen the settlement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cordova, Alaska, hereby requests the United States Department of Justice and the State of Alaska to reopen the 1991 civil settlement and claim the entire \$100 million for mitigation projects; and

BE IT FURTHER RESOLVED THAT the US Justice Department and the State of Alaska consider, at a minimum, the following potential mitigation projects:

Mitigation of lingering harm:

1. Monitor weathering and toxicity of residual oil under beaches
2. Monitor recovery of, and oil contamination in, subsistence foods on oiled beaches
3. Continue to monitor species that have not yet recovered
4. Establish, and compensate for, cost of unforeseen injury to species
5. Conduct a feasibility study and cohort epidemiology study on cleanup workers whose health may have been impaired by the EVOS cleanup
6. Study of treated and untreated beaches to determine if any treatment methods used during the EVOS cleanup actually worked; i.e., improved recovery of beach ecology over the long-term

Public education:

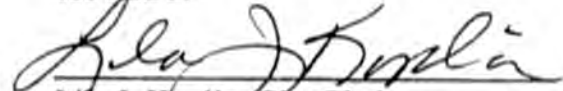
1. Fund an assessment of injured resources through the National Research Council
2. Fund a review and assessment of oil spill cleanup products that are not toxic to humans or the environment through the National Research Council
3. Develop and implement national education programs on new understanding that oil is more toxic than previously thought to humans and the environment (like tobacco industry settlement)

Measures to reduce risk of large spills:

1. Endow citizen oversight council for the Trans-Alaska Pipeline System (estimated cost: \$25 million)

PASSED AND APPROVED THIS 7TH DAY OF DECEMBER, 2005.


Timothy L. Joyce, Mayor

ATTEST:

Lila J. Koplin, City Clerk

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HJR 29
 (H) Publish Date: 2/22/2006

Revision Date/Time (Note if correction):

Title Collect More Exxon Valdez Spill Damages

Dept. Affected:

RDU

Component

Sponsor Representative Croft

Requester

Component No.

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No Fiscal Impact

Prepared by: Kimberly Wallace

Division: House Special Committee on Fisheries

Approved by: Co-Chair LeLoux & Co-Chair Thomas

Agency: House Special Committee on Fisheries

Phone 465-2487

Date/Time 2/22/06 9:05 a.m.

Date 2/22/2006