

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1927 SCOMM 76: HOUSE SPEC. COMM. EXXON VALDEZ OIL SPILL. . 1991-92 144

4-12-91

Alaska Legislative Hearings on the Exxon Settlement.

Dear Legislators,

I want to tell you that the Exxon disaster had a large impact on me a native Alaskan subsistence user. I'm a parent of 4 children with a house to pay for and maintain.

I feel the settlement made between the State of Alaska and Exxon will not meet the amount of damage done and or to correct them.

The oil spill continued to impact us, I'm a hunter and rely on subsistence. The stocks of ducks the bottom fish, the herring and Tom Cods have been depleted or reduced and as a result I've not been able to hunt seal. Seal Chase there fish and there not coming into the bay due to lack of fish.

When the oil spill occurred I worried about how long or how many years will it take before all back to normal.

The studies released by the Federal government confirmed the native peoples concerns.

I worked on the oiled beaches in Windy Bay and I became ill. I was overcome by the fumes of the oil spill. I never had headaches and since then I have had many.

I saw in Windy Bay dead plants, animals and sea food, everything was dead from oil. I was concerned for the fry leaving the river, swimming in the thick oil and what will happen to the eggs and larvae this year.

The salmon cannery will not operate this year and as a result I will not probably have a job...

The substitute is more important now and the fear of eating it adds more conflict to me emotionally. With the reduced substitute and no income this is a great problem.

Simeon B. Krasnokoff - Sr.
Port Graham Alaska

THOMAS A. LAKOSH

P.O. Box 100648, Anchorage, Alaska 99510
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April 15, 1991

Max Gruenberg, Chairman
House Special Committee on the
Exxon Valdez Settlement

Dear Representative Gruenberg:

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 plaintiffs.

I am additionally a Pro Se plaintiff in State Superior Court before the Superior Court of Appeals Judge Milton Souter, case file number 3AN-89-9365 Civil. This action was brought in my effort to seek restitution for clean up activities which were required to abate: public nuisance; intentional invasion of protected lands; special injury sustained by all Alaska residents and subclasses of protected natural resource users suffering from tortuous activity 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

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Rosier, Alaska Department of Fish and Game, Commissioner Sandor, Alaska Department of Environmental Conservation, and Charles Cole, Attorney General. Accurate copies of 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, transshipment 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 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 A. Lakosh



ALASKA DISCOVERY

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April 18, 1991

The Honorable Max Gruenberg, Chair
House Special Committee on the Exxon Valdez
Oil Spill Claims Settlement
Alaska State Capitol, Room 216
Juneau AK 99801

Dear Representative Gruenberg:

On behalf of Alaska Discovery, Inc., I wish to comment on the State of Alaska's proposed settlement of civil litigation arising from the Exxon Valdez oil spill disaster. Alaska Discovery is an Alaska business that depends on tourism, primarily visitors interested in wildlife and other natural resources. We believe that the terms of the proposed settlement do not protect the public interest and that the settlement should not be accepted.

We support the concept that an adequate settlement is preferable to protracted litigation. However, the proposed settlement is inadequate because it fails to ensure restoration of injured natural resources in the areas affected and because it does not require payment substantial enough to serve as both compensation and assurance to Alaskans that operators such as Exxon will not simply externalize the costs of safety by burdening the public with the risk.

The Exxon Valdez spill killed more wildlife than any spill in history. The state-federal natural resource damage assessment studies show substantial damage to natural resources. The Summary of Effects of the Exxon Valdez Oil Spill on Natural Resources and Archaeological Resources (March 1991) estimates bird mortality at between 260,000 and 580,000 animals. (at p.8). The common murre, for example, may take decades to recover; the regional population suffered virtually total reproductive failure in both 1989 and 1990. Other species also show severe disruption of life cycles and population dynamics. Injury to marine mammals was documented, including "continuing injury to sea otters." (*Ibid.* at p. 5) The intertidal and nearshore ecosystem was "the most severely contaminated habitat". (*Ibid.* at p. 13) This was reflected in decreased biological productivity, reduced abundance of organisms, and disruption of ecosystem functions. "Contaminated clams and other invertebrates are a potential continuing source of petroleum hydrocarbons for sea otters and other species that forage in the shallow subtidal zone." (*Ibid.*) Strikingly, samples from pollock taken as far as 500 miles away from the site of the tanker grounding showed elevated petroleum hydrocarbon metabolite concentrations in their bile. (See *ibid.*)

Even without the release of all the scientific damage assessment information, it is clear that the Exxon spill caused serious long-term damage. If all the data on the intertidal and subtidal ecosystem were released, we believe it would reinforce this conclusion and document additional damage as well. The Summary of Effects also notes that "long-lived species such as bald eagles, murre, and sea otters may not manifest some effects until a number of years have passed." (at p. 15)

Harm to human communities also has been well-documented. Disruption to fisheries, to other natural resource based businesses, and to local government functions was widespread. While Exxon paid some damage claims, it has flatly refused to pay many others. Alaska Discovery is one of the businesses harmed financially by the spill. Exxon has simply refused to pay, correctly betting that the expense of litigation would make it impossible for us to pursue our claims against the company.

The Exxon spill caused serious injury beyond financial harm. For communities like Chenega Bay, it has disrupted residents' ability to use resources near the village; they have concluded that many traditional subsistence harvest areas are no longer suitable and village activities have either been discontinued or shifted to other areas, at considerably greater cost and risk. Some of these changes may be permanent. The spill has also torn apart community life in other towns and left lasting scars.

To be considered adequate, any settlement must be sufficient to restore damaged natural resources and services. In addition, however, a settlement must be substantial enough to show that Exxon is compensating the state for the many other harms to Alaskans resulting from the company's failure to prevent the spill and its failure to respond effectively and in accordance with the approved, site-specific oil spill contingency plan. Anything less will mean that Exxon has escaped without shouldering its full responsibility. If that happens, the affected public will know the State of Alaska has let an operator off the hook without clearly requiring it to take full responsibility for what its actions have caused and without establishing that industry operations must fully protect the public in Alaska.

It is important to note that the settlement is not as large as first reported. Exxon apparently is not being required to pay interest on the deferred payments. The present value of money received by the State of Alaska years in the future is much less than the face value of the debt, unless it is corrected by appropriate discounting and interest payments.

The Associated Press (March 22, 1991), citing projections by the Congressional Research Service and private companies specializing in deferred payment settlements of lawsuits, estimates that the actual cost to Exxon of the settlement may be as little as \$486.3 million -- less than half of the "one billion dollar" deal originally announced. This reduced value to the state is not merely theoretical. Every household paying a mortgage and every business facing operating loans pays interest on the deferred amount still owed; this agreement does not hold Exxon to the same standard. Even worse, Exxon would be free to set up its own annuity arrangement, using

investments and tax deductions to reduce the cost of the settlement still further.

The amount of money available for damage restoration is also reduced by the amount already expended in the response effort by the state and federal governments. Reimbursement of these expenditures will consume up to \$134 million. In addition, the costs of damage assessment studies now scheduled or planned could require another \$40 million. Together, these items will reduce the amount of the settlement actually available for restoration work by nearly \$175 million.

This settlement also lets Exxon escape all further cleanup responsibility. Additional cleanup costs will fall on the state. These expenses may total \$50 million in the short-term and another \$50 million in the future. As a consequence, the adequacy of the proposed settlement is directly and substantially reduced.

With respect to natural resource damages, the settlement does not provide for a payment large enough to cover all restoration costs. The ecosystems damaged by the spill desperately need a substantial recovery period during which they are free from further harm. Consequently, the highest priority should be prevention of additional stress on the ecosystems hurt by the spill. The most effective method is direct protection of areas that otherwise could be subject to further degradation. Examples include acquisition of timber harvest rights, land classifications to safeguard the area while recovery occurs, establishment of forested stream buffers to prevent siltation of salmon spawning beds, and protection of critical areas such as bald eagle nesting sites. These measures could easily cost \$200 to \$300 million in Prince William Sound alone and more than twice that amount if damaged areas outside the Sound are included.

Direct assistance to some plant and animal populations should be considered as well. Although the complete program depends on the results of the scientific damage assessment work and the restoration planning process, a partial list includes cleaning of affected spawning beds and bank gravels, building incubation boxes, enhancing stream channels for spawning, and replanting beach vegetation. In addition to these direct boosts to populations, it is necessary to manage fisheries harvests more precisely in order to protect wild stocks harmed by the spill. This requires expenditures for research and for better in-season management. Other techniques, such as shellfish mariculture projects, also should be considered -- especially in relation to village subsistence and economic needs.

Restoration of biological communities is not the only task remaining to be done, however. Shoreline areas used by Alaskans and visitors need substantial work. Many sites plainly need additional cleaning plus revegetation and other restoration measures. For example, recreational campsites remain badly damaged, archaeological and historical sites need attention, and areas used by village people for subsistence activities and other aspects of community life are still seriously degraded.

One other matter, equally important but more difficult to quantify, should not be neglected in evaluating the adequacy of the settlement. The Exxon spill violated Alaskans' trust and eroded our sense of confidence in the oil industry. Tremendous damage was done to the people who live in the areas hit by the spill. They and many other Alaskans experienced a strong sense of violation. The ineffective response by Alyeska and Exxon and their failure to follow the site-specific oil spill contingency plan exacerbated this feeling. Exxon's subsequent, and continuing, massive national public relations blitz, claiming that everything is clean and back to normal is further evidence that the company sees this as simply a transitory incident in its business enterprise. Exxon has spent a great deal of money in selectively releasing massaged "scientific" data, anonymously presenting airline in-flight video propaganda pieces that look like news reports, producing a torrent of glossy, misleading publications and many other items designed to convince the American public that there is no longer a problem.

This settlement does virtually nothing to vindicate the sense of violation and the sense of injustice engendered by the spill and its aftermath. The proposed deal requires Exxon to pay for things that it was required to pay anyway under applicable statutes. There is no overall compensation element to the settlement, showing that the uncompensated damage has been recognized, that the seriousness of this violation has been acknowledged, and that Alaskans can put this matter behind us with the assurance that Exxon has made a genuine commitment to safe, responsible operations.

A compensation element could take at least two forms: a monetary payment to the State of Alaska or concrete measures to provide greater protection against damage from future spills. The latter approach has the advantage of matching the compensation to the source of the harm and reducing the risks that Alaskans face from potential oil spills. For example, Exxon could fund a Marine Spill Response Center for Alaska (MSRC). Since Alaska does not now have the statewide response capacity that the MSRC would provide, Exxon's sponsorship of MSRC facilities and services would help demonstrate the company's commitment to strengthening spill prevention and response preparedness.

In summary, we believe the settlement is inadequate. The dollar amount is too low to cover the full range of restoration activities, Exxon has escaped further cleanup responsibility, and there is no overall compensation element to clear the air and reestablish confidence. In our view, the most appropriate course is to require the renegotiation of this proposed agreement. Recognizing, however, that the settlement may be approved even with these serious shortcomings, we offer the following recommendations for conditions or stipulations:

1. Exxon should be required to forego any deduction of settlement costs or cleanup expenditures from its state and federal taxes. With respect to the State of Alaska, such a deduction would amount to a direct subsidy by the people most damaged by the company's failures.

2. Use of the settlement proceeds should be explicitly limited to reimbursement of state response costs, damage assessment, and restoration. There is not enough money in the settlement to tolerate spending it for economic development projects, highway construction, or other collateral items.

3. The Alaska Legislature should exercise its oversight authority and structure the allocation of the settlement proceeds. The decision should not be left to state agency heads designated as natural resources trustees. A public process should be established so that affected Alaskans and their local governments are directly involved in making the decisions about how settlement proceeds are used. Simply commenting is insufficient; they must actually shape the decisions ultimately reached. The legislature has already created the Citizens Oversight Council on Oil and Other Hazardous Substances. This body is well-suited for implementing the kind of public process needed for decisions on how to use the settlement proceeds. Under no circumstances should the state administration be authorized to control the allocation of the funds or the appointments to any public process.

4. The legislature should direct that habitat protection and acquisition be given top priority in restoration efforts using settlement proceeds. This is the single most effective tool available to achieve lasting recovery of the natural resources damaged by the spill. Recent statements by some state officials have suggested that the administration may not give habitat sufficient priority. The legislature should not leave this crucial decision to the administration's discretion.

5. All parties should release their scientific and other studies, including economic studies. This information should include but not be limited to data generated in the natural resource damage assessment effort. Alaskans have a right to know the acute and long-term effects of the spill. Selective release of information by Exxon has skewed the public's understanding of the impacts. Honest scientific inquiry demands that the studies be subject to public and peer review.

6. The State of Alaska should not only release the scientific damage assessment studies, economic studies, technical analyses, and other information within its control, but also help the public understand the data. Public workshops to discuss the findings in the affected areas would be a useful approach. Although a legal justification for not releasing the information has been offered by the attorney general, there is a compelling public policy reason for full disclosure. The public is entitled to know what damage actually occurred, what risk still exists, and what restoration burdens may fall on local communities. The public also is entitled to know the basis used by the state to conclude that this settlement proposal was desirable.

Thank you for the opportunity to comment.

Sincerely,

Ken S. Leghorn
Ken S. Leghorn

Alaska Discovery, Inc.

testified

**TESTIMONY OF
MARILYN LELAND
EXECUTIVE DIRECTOR, CORDOVA DISTRICT FISHERMEN UNITED,
BEFORE THE ALASKA HOUSE SELECT COMMITTEE
ON EXXON VALDEZ SETTLEMENT
APRIL 14, 1991**

My name is Marilyn Leland. I am the Executive Director of Cordova District Fishermen United, also known as CDFU. I have been intimately involved with the Exxon Valdez oil spill since before 7:00 a.m. on March 24, 1989. More than two years later, the oil spill still dominates my life.

Gentlemen, first let me thank you for coming to Cordova to hear our comments on the proposed settlement with Exxon. Although we understand the need for comments at this time, the timing really couldn't be worse for Prince William Sound fishermen. As I am giving this testimony, there are roughly 1,000 herring fishermen, crewmen, tendermen and pilots who are not in town, but are on the fishing grounds. Because of that fact, I want to assure you that the sparse attendance today does not indicate a lack of interest in the settlement. Prince William Sound fishermen are very interested, but the herring are here now is when they must work to make a living.

As I see it, there are several basic problems with the settlement, some of which could have been avoided had the people who had been damaged been allowed to be a part of the process and much of which could still be cured by the release of the damage assessment data.

First, to the value of the settlement--at this time it is impossible for us to determine what the damages are worth or even if an actual damage figure can be determined now. We have not been privy to the state's damage assessment data. However, we have seen Fish & Wildlife's preliminary data this week, which indicates that there may be substantial injury to fishing resources in Prince William Sound, in particular salmon and herring. The report states: "The full extent of short term injury to pink salmon cannot be assessed until after the 1991 run returns to spawn in the summer." That statement, alone, causes us to question whether it is possible to set a value on the damage at this time.

The report also states that: "Preliminary analyses indicate a 70 percent greater mortality of pink salmon eggs laid in the summer of 1989 and a 50 percent greater mortality in the summer of 1990 in oiled streams as compared to control streams. Larvae from heavily oiled streams showed gross morphological abnormalities, including club fins and curved spines."

The report goes on: "Tagging studies have demonstrated that the annual mortality of adult Dolly Varden was 32 percent greater in oiled areas than in unoled areas." With respect to herring, it was reported that "Study results show a large increase in the percentage of abnormal embryos and larvae in oiled areas of Prince William Sound during the 1989 reproductive season. Larvae also had a greater incidence of eye tumors in oiled areas. These effects continued but at somewhat lower rates in 1990. Results also showed greater egg mortality in oiled areas as compared to unoled areas. Whether the adult population has been affected by these larval injuries will not be determined until the 1989 and 1990 cohorts return to spawn in 1992 and 1993."

While we agree that it would be good to settle the State's claims and begin to put the oil spill behind us, you cannot make a monetary settlement until the full extent of the damages are known. Exxon made partial settlements with some of the fishermen because of this same issue. Has the State explored that possibility with Exxon?

Further, with respect to the release of the damage assessment data, it is imperative that the information be made public so that reasonable plans for recovery can be made; or if it is determined that recovery is not possible in certain instances, that consideration be given for alternative enhancement projects.

We have been told that the damage assessment data cannot be released until a disposition has been made of all litigation because it could be used against the State. That's a legitimate concern. Except, the individual plaintiffs were not suing the State and did not want to sue the State, but were forced to because of this settlement. The individual plaintiffs even offered to waive all claims against the State, but that offer was declined. The individual plaintiffs asked for an extension of the statute of limitations so that the possibility for waivers could be fully explored. The extension was refused. We then filed against the State.

An argument that has been made for settlement at this time is the tremendous savings in attorneys' fees the State will realize by not having to continue the litigation against Exxon and Alyeska. However, in reality the State has traded those two defendants for thousands of individual plaintiffs. Not only will the State still have attorneys' fees, but they are also now facing exposure for actual payment of damages. The bottom line could be a greater cost to the State.

We would argue that not only is it too soon to determine the value of the injuries sustained, but the settlement figure is no doubt too small to be an incentive for the oil companies to correct deficiencies so that we could have a greater certainty that this sort of disaster will not happen again in Alaska. The total cost to Exxon, after tax, is less than \$425 million according to the federal government. The cost to Alyeska is nothing. Last year, Exxon's revenue was \$117 billion. Based on that figure, even if Exxon were to pay the total settlement in one year, it would total less than .004% of their total revenue. On the other hand, if a fisherman is caught making a set too early or drifting over a line, he is likely to be fined several thousands of dollars, be required to surrender fish he has in his hold and could potentially lose his vessel and his fishing permit, which is as it should be. The cost of the fine and the value of the surrendered fish would be significantly more than .004% of the fisherman's annual revenue and the loss of the boat and permit would most likely constitute a major chunk of his net worth. You can bet that fisherman will make better efforts to know exactly where the line is or have his watch set with Fish and Game's so that he doesn't repeat that mistake.

There are too many unanswered questions about how the settlement money will be spent. With three state and three federal officials, none of whom have been elected by the people, making up the trustees, the people who have been most impacted by the spill are likely to have little input on how those funds are spent. We still alternately hear both suggestions and denials that the funds should be spent to create a world class marine park in Prince William Sound, to complete the Copper River Highway and even to build a deep-water port at Fire Island. Random House Dictionary defines "restore" as "to bring back into existence, use, or the like; reestablish; to bring back to a former, original or normal condition; . . . to bring back to a state of health, soundness, or vigor." Because there has never been a world class marine park in Prince William Sound, the Copper River Highway has never been completed and there has never been a deep water port at Fire Island, none of these projects would fit the definition of "restore."

What is perhaps most frustrating is the fact that when this disaster began, the people most affected in the area tried to infiltrate the bureaucracy that was Exxon and Alyeska only to be told that we weren't needed, that we were amateurs and in Don Cornett's inimitable words that we should trust them and we would be made whole. Well, Exxon did find out that they needed us and we weren't amateurs, but we still haven't been made whole and we are still being treated by Exxon and now the State of Alaska as though the plans for clean up and restoration and the settlement are not any of our concern and that we should just trust you. Well, we've heard that for too long and it just doesn't work anymore.

We ask the legislature to postpone approval of the settlement until it has sufficient information and time to assess whether the settlement provides enough money to fix the long-term damage to the Alaskan environment; provisions are added to give the legislature, and the public, a voice in how the money is spent; and Exxon and Alyeska settle the compensatory and punitive damages claims of the people injured in the spill, or if that cannot be accomplished within 30 days, Exxon and Alyeska agree that they will not put the State on trial in absentia when those damage claims go to trial.



Alaska Center for the Environment

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-3621

April 24, 1991

Representative Max Gruenberg
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Representative Gruenberg:

The following comments are submitted on behalf of the Alaska Center for the Environment (ACE) regarding the proposed Exxon Valdez criminal and civil settlement agreements. ACE greatly appreciates the work done by the House and Senate Special Committees on the Exxon Valdez Settlement to provide opportunities to the public to testify before the Legislature regarding the settlement. As stated in verbal testimony, ACE considers the settlement presented to the people of Alaska by Exxon, the Governor, and the federal government to be flawed irreconcilably as currently proposed.

Release of Economic and Scientific Spill Data

ACE finds it ludicrous to be asked to evaluate the adequacy of the settlement without first being given the opportunity to review the biologic and economic study data measuring natural resource damages to Prince William Sound. Public monies paid for that data, and the public has a right to it. Attorney General Cole's argument that the spill data should not be released because it could potentially be used against the state in a lawsuit is horrifying in terms of public policy. If indeed the state was party to events leading to or causing improper response to the Prince William Sound spill (e.g. approval of a faulty spill contingency plan, failure to inspect response equipment, etc.), then the public has a right to know where the flaws were in order to evaluate how to correct them before a future spill occurs.

Review of the spill data is needed not only to evaluate the settlement, but also to help direct efforts towards restoration of Prince William Sound and prevention of future spills. How can we know where restoration is needed most, or what ongoing studies are needed without review of the spill data? Equally as important, little is currently known in "dollar for dollar" terms about the value of preventative measures compared to the costs of spill response and natural resource damages. The data from the Exxon Valdez spill could help provide answers to some of these questions. It would truly be a tragedy if another spill like the Exxon Valdez occurred in Alaska tomorrow because, for example, the arguments for prevention were outweighed by industry resistance to expending the upfront capital needed for a double-hulled tanker, or because the state did not want to pay the costs of maintaining adequate staffing of the Oil Spill Response Office in the Department of Environmental Conservation.

The summary of federal spill data recently released is not enough. Economic analysis is not included in the summary, and the report plainly states that it is "preliminary" and "available data are not fully analyzed and interpreted." The rest of the federal scientific and economic data, in addition to the state studies, must be released in order to be of value.

Public Participation

The public has been given no opportunity to participate in decisions about how settlement monies would be spent, were the settlement approved. The Trustees Council thus far has met behind closed doors, and has made no move towards soliciting public input on this matter. ACE would like to see the money spent on 1) purchase of timber rights along spill-affected coastlines to prevent further damage to these areas, 2) other restoration activities, and 3) ongoing studies of spill impacts in Prince William Sound.

ACE is disturbed to hear the Trustees Council part from the state administration's long stated intention to use the settlement monies to purchase timber tract lands. The statements against purchase of timber rights by members of the Trustees Council came forth despite the clear public support for timber buy-backs expressed in the legislative hearings on the settlement, and is further evidence of the Council's oblivion to public concerns.

Deterrent Value of Settlement

ACE is extremely pleased with Judge Holland's ruling that the \$100 million fine required of Exxon in the proposed criminal settlement is inadequate. A criminal penalty should both reflect the enormity of the crime committed by Exxon and should act to deter further crimes of this sort. The settlement fashioned by Exxon and the state and federal administrations accomplishes neither of these goals.

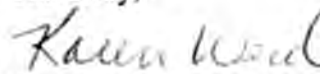
The entire settlement package clearly fails to send a message to polluters that egregious environmental crimes are unacceptable and will not be tolerated. The message it does send, however, is that polluters can make deals behind closed doors and buy their way out of messy pollution problems-- including the largest oil spill in North America.

Alyeska's Release from Culpability

ACE objects to the release of Alyeska Pipeline Service Company and its owner companies from any criminal charges, civil penalties or administrative penalties in the criminal plea, and release from natural resource damages in the civil settlement. 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 presented by Rep. George Miller, U.S. House of Representatives, in his letter to Judge Holland and Judge Sporkin dated April 8, 1991, Alyeska and its owners had advance knowledge of the company's inability to respond to an oil spill in Prince William Sound, and failed to take action to correct that situation. It is clearly not in the public interest for the state and the federal government to waive their rights to pursue charges against Alyeska for the Exxon Valdez oil spill.

Because of the major flaws inherent in the Exxon Valdez settlement agreement, the Alaska Center for the Environment strongly urges you to reject the settlement. We encourage you to consider these concerns and work to avoid the reemergence of the same problems in any potential future settlement proposals. Thank you for considering these comments.

Sincerely,



for
Sue Libenson
Executive Director

February 15, 1991

Dear *Representative Gruenberg*

I'm worried about our governor. He seems to think that all state decisions are his alone and constitutional checks and balances are for other elected officials, not him. This is a threat to legislative authority and really more importantly, to Alaska itself.

I am specifically concerned about Hickel's plan to settle out of court with Exxon. I urge you to do whatever is in your power to address the following points:

- * There must an opportunity for public input and consultation before the settlement is a "done deal".
- * All scientific and economic studies must be released.
- * Exxon must be required to fund scientific research into the long-term effects of the spill.
- * If there is a settlement, money should be used to restore the Sound and not fund development projects that could degrade the Sound such as Hickel's plan for a "world-class recreation area".
- * If there is a settlement, an independent, non-profit committee should be created to manage the fund. Exxon should have no say whatsoever as to how the settlement money should be spent.

I think there is still time to pull in the reins on Hickel's power trip.

Thank you for your attention to this important matter.

Sincerely,

W. Mark Luttrell

W. Mark Luttrell

Box 511
Seward, AK 99664

*Received
in Seward
4/12/91*

M-O

MARY MALCHOFF

Port Graham Corporation
P.O.Box P.G.M.
Port Graham, Alaska 99603-8998

April 12, 1991

Dear Legislatures:

With the lack of information of the scientific and economic studies done by the State regarding State damages, how can we fairly judge if the settlement is fair.

The settlement Monies will be used to repay the Federal and State Government and continuing studies. What will be left to restore the affected areas. To clean, restore the native foods-, to help the affected areas cope with crisis, heal from the ~~this~~ chaos it has caused with spill, lawsuits, grief over lost of lifestyle.

Please don't isolate the villages, keep us involved.

Sincerely,

Mary Malchoff

Mary Malchoff, Chairman
Port Graham Corporation

Sydney J. Robert

MM:cm

MELVIN MALCHOFF

4/12/91

To: Alaska Legislative Hearing
on the Exxon Settlement,

From: Village Public Safety Officer,
P.O. Box PGM
Port Graham, Alaska 99603-8998

Dear Sir:

I am the Village Public Safety Officer, of Port Graham for one year knw. With my work here in the Village, I have seen alot of Anger, Hunger and a lot of Alcohol and Drugs, also there has been a few divorces and Family's fighting, along with a couple of temp. suicides since the Oil Sill of the Exxon Valdez Oil Spill.

We have lost a lot of our Subsistance food's, that we always gather during the summer and winter minus tide's that we have here in the village.

The settlement from Exxon is not enough to restore what we have lost here in the village, there is no job's here, It has really effected our cannery that the Corporation has here in the village. The People here count on the cannery to open up during the summer time. For the last Two year's know the cannery has not opened up, the people have to leave there home town to find other job's. They do not like to leave there family's or there kid's behind. Thank you.

Sincerely yours,

Melvin Malchoff

Village Public Safety Officer

MARY JO McELROY

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 at this time -- decimation of fish runs in certain habitat destruction, etc.
- 4) How and where will the settlement money be spent?
- 5) What % of original claim will the State accept 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
Mary Joe McElroy

HARRIETTA MCGHAN

April 12, 1991

Sir.

I don't think the Government and State of Alaska are treating us Fair. not involving us Native Villages in what is going on.

Also not telling us whats going on with the Subsistences like our Fish, Seal, Cod, Halibut, Clams, Byrkes, snails, Mussels, and all the rest of our sea Foods.

I would like to know, Why we are not being involved.

Its is not Fair to keep information from us Native Villages / and Native People.

When I worked in the oil spill in 1989 I cryed because I know it would affect us for years and the sea Animals. I am very hurt, Mad, upset.

I am skard to eat sea food.

No one knows if they wont affect us. here.

How long will we go being skard to eat them years.

I can not afford to fly over to Homer to attend the Meeting so I'm righting this letter

Harrietta McGhan
Port Graham, Alaska

Annie Tomin

Apr. 12, 1991

Alaska Legislative Hearing on the Exxon Settlement

Dear Legislators

I feel the dollar amount of the State of Alaska settlement with Exxon is not enough to meet the needs and repair the damages of all the Areas affected by the oil spill.

The loss of employment due to closure of the Salmon Cannery here for 2 seasons now I've suffered from not being employed and loss of wages has impacted me and ^{also} the loss of subsistence foods. Normally we've relied on our subsistence to help us when our finances are low and now with our subsistence being affected, created a bigger impact on me. Where I use to go down on the beaches and gather mussels Steamer Clams, we ~~can't~~ ^{haven't} been able to do this anymore since 1989 oil spill, The mussels are disappearing, also we don't have anymore TomCods; The poisoning of our beaches & ^{sea} animals is a long term affect on ~~the~~ us people in the ~~areas~~ ^{where} the spill affected areas.

I worked 2 wks for Veco and didn't earn ~~the~~ nearly enough wages compared to the seasonal Cannery wages I earned before 1989

Annie Tomin Port Graham

JEFFREY McMULLEN

Dear Legislators,

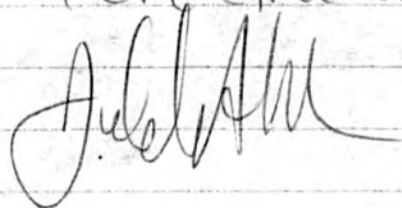
I am a Commercial fisherman and subsistence user. I am a little concerned about the settlement between the State of Alaska and Exxon. We were left out in the add on this settlement. The state obviously doesn't care about the people who were affected by the oil spill. On March 24, 1989. We have rights too. How are we going to get our subsistence back, since the oil has killed off most of the animals and beach life?

For the amount of ^{THE} settlement, how is our subsistence ways going to be restored?

I worked out there in the oil when it hit our land. We saw the devastation right in front of us. It wiped out most everything that it came into contact with. I was one of the many people that was medivact out of Windy Bay because of the toxins in the oil. We were able to get help - But what about the seahife -- THEY HAD TO DIE IN IT !!

I hope that you have been reading the newspapers. The truth about the damage to the wild life is finally coming out. Since our subsistence is going to be wiped out for many years to come and our commercial fishing. I feel that it is only fair to us, the subsistence users, to be

included in the settlement. After all,
we depend on awful lot on subsistence
foods to get through the winter.
Thank you for your time.

Jeffrey McMullen
P.O. Box PEM
Port Graham, Alaska
99803-8998


JOHN McMULLEN

testified
April 14, 1991
Cordova

TESTIMONY ON THE THE STATE'S OIL SPILL CLAIMS SETTLEMENT

I am John McMullen. I am employed by the Prince William Sound Aquaculture Corporation (PWSAC). I am representing myself because PWSAC's board of directors has been unable to meet to develop an opinion regarding the settlement of the state's civil claim resulting from the EXXON VALDEZ oil spill.

I wish to preface my comments by saying that I am relatively uninformed of the facts surrounding the achievement of this settlement. I have not seen the memorandum of understanding between the state, the federal government, and EXXON, and am unsure of the direction that the restoration process might take. As one of the multitude of "outsiders," I find it difficult to be wholly supportive of the settlement.

Several days ago, I read a news article which indicated that the public was unaware of the actual damage to fish and wildlife in the area impacted by the Exxon Valdez spill. What I read there concerns me, and causes me to wonder if a pre-spill data base was available to which the post-spill biological observations could be compared. I don't believe I could assess the reports of damage to wildlife based on an 18 page summary report, much less the news article which is the only information to which I have had access.

Thorough review of the damage assessment study results would be of great value to the assessment of future spills, here and elsewhere. I would ask the state to agree to the release of scientific studies for the purpose of building better data bases on oil spills.

I think the Governor and the Attorney General are to be commended for taking action on this issue. Without considering the politics of whether or not the settlement is a good thing at this time, I believe that it is preferable to years of drawn out, expensive litigation which would further impact the operations of state agencies like the Department of Fish & Game, which already faced with declining budgets over the next several years.

I do believe the state should use whatever leverage it has to convince the oil industry that all Exxon Valdez-associated claims should be settled expeditiously.

In Prince William Sound, oil spill prevention and response plans for the oil transportation industry are being upgraded under the direction of state and federal agencies and the participation of groups such as the Regional Citizens Advisory Council, the first such group in the United States to be certified by the federal government.

With those improvements being put into place, we can begin looking to the future to determine what should be done to restore and enhance the impacted area and its living resources.

My understanding is that a restoration trust fund is established within the terms of the settlement agreement. Being a states' righter, I am a little disturbed that decisions for use of recovered funds for restoration work will require the unanimous agreement of the federal and state trustees. I believe this will increase the level of political activity surrounding the trustees which will, of course, be based on philosophical differences of the various lobbying groups.

Therefore, it is essential that persons who live and work in the impacted area be appointed as the advisory group to the trustees.

I have heard that the trust fund can be used for projects not even located in the impacted area. I hope this is not true, and believe that the manner in which the fund is used is equally or more important than the amount of money in the fund.

I have not seen the list of criteria by which project proposals will be evaluated, and can only say that the trust fund must be used for restoration projects of immediate and continuing value.

PWSAC and its hatchery complex stands ready to participate in the rehabilitation of damaged wild salmon stocks in the Sound, and the interim replacement of those stocks in the sport and commercial fisheries.

Examples of restoration and scientific data base projects in progress are those conducted cooperatively by PWSAC, the Alaska Department of Fish and Game, and the University of Alaska. These oceanographic and fishery evaluation studies increase knowledge of wild salmon stocks, juvenile salmon

food supplies, and provide guidance to the salmon restoration and enhancement program.

State operational budgets are declining, and PWSAC is responding by assuming responsibility for the three state owned hatcheries in this region. One of those hatcheries, Main Bay, is of prime importance because the sockeye salmon which are hatched and incubated there are of Coghill and Eshamy Lake stocks, and will be used to rehabilitate those depleted wild stocks and the sport and commercial fisheries which have traditionally operated at those locations.

In addition, PWSAC has assumed responsibility for all the ADF&G sport fish, salmon stocking programs in the Sound, and is stocking king salmon smolts at Whittier, Valdez, and Cordova. Also, coho smolts are stocked at Whittier and Cordova for roadside sport fisheries.

So, my final comment is, if a plan is developed which is acceptable to the people who live, work, and otherwise use the impacted area, should we not begin restoring Prince William Sound now - rather than at some undetermined future date?

Thank you.

John McMullen
Cordova, Alaska
April 14, 1991

4-12-91

ROBERT McMULLEN

1

To Whom It Should Concern:

I am a registered voter of the village of Port Graham, Kenai Peninsula, State of Alaska, and the United States of America, just to remind you of where your bread is buttered.

On March 24, 1989, the Exxon Valdez struck the Bligh Reef in Prince William Sound causing one of the largest man made disasters in this hemisphere to date. This episode could have been either avoided or greatly minimized: if comprehensive joint planning had not been taken for granted; if the oil spill response equipment had been in readiness; if the oil companies were more strictly monitored and enforced; if the employee policies of Exxon regarding substance abuse had been more than just mere writing. But, I'm sad to say, reality wasn't sought till after. Within several days of the grounding, oil reached the lower Kenai Peninsula and Cook Inlet. If you recall state and Exxon officials stated publicly that the oil would never leave the sound.

As a result of the oiling, UECO, Exxon's

subcontractor, moved into the communities to respond. Directly carpet baggers and their Native American prejudice driven by greed imposed themselves upon us. Our people worked cleaning beaches while other crews remained anchored and aboard vessels until an Exxon official fly by was announced. They would thus head to the beaches to show their meager attempt. Our native people endured prejudice on the air waves as well as in person. But we were there to clean our beaches not just to collect Exxon subsidies.

The beaches and ocean is the spinal column of our existence. I perceive the beaches and ocean as a being like a mother and a wife, something close to my heart. Exxon has defiled her (ocean) and you expect me to believe that because Exxon's money boosted the economy and is repayment of the state and Federal expenditures that is enough. No, you are gravely mistaken.

It was my backyard that Exxon's dog

cropped in. Just because the oil was scooped up does not mean it is over. What about land water table damage, subsistence damage, effect of oil spill on the international Alaskan salmon market, the effect on foreign investment and joint ventures in fisheries? You don't have an answer yet, so don't let the sagging State and Federal pocketbooks rob us of our right to scientific studies to support our claims against Exxon. Without voters, you have no tax base and we are voters and tax-payers. It is our money you spent in these studies, so let us have access.

Access and support from the State of Alaska and the U.S.A, will help us and our local economies to restabilize. Our cannery is not running. Fish prices have decreased by 50% to 70% depending on the species since 1989. The effects of the oil spill on our community has been great, economically, socially, and mentally. Please don't add insult to injury by abandoning our needs now for more

votes at the next election.

Sincerely,

Robert McMillen

P.O. Box PGM

Port Graham, Alaska 99603-

April 12, 1991

Dear Legislators,

I am an Alaska native and a Subsistence user. My subsistence lifestyle has been affected. Subsistence is a very important part of my life and my families. I do not think our subsistence food is safe to eat and that we have lost something ~~very~~ that is a very important part of my life. I do not think the state or the Federal Government or Exxon will even try to restore our subsistence - how can they - they don't understand how much subsistence means to me or what subsistence is. I fear we have lost a lot of our subsistence foods such as clams, mussels, bivalves, snails, seaweed, Salmon, bottom fish and Crab - also our Seal. I feel they were destroyed by the Exxon oil spill. The studies released by the Federal government has shown me that our subsistence is very much affected. I want to see our subsistence restored, our beaches cleaned our fishing industry restored.

I do not think any of the settlement should go to the victims of violent crimes - that makes me mad and that is very unfair. The true victims are people of the Prince William Sound, Lower Cook Inlet and Kodiak.

The settlement is unfair and inadequate for the villages that are affected by the Exxon Oil Spill will never see any of the settlement or see our beaches cleaned, our subsistence and lands restored.

I would like to know why the Federal Government & the State Government left the affected villages to fight on their own. Are we not citizens of Alaska - Aren't you suppose to protect our rights and interests? Do we count? The state / Federal governments have neglected the villages long enough. How are you all able to sleep at night with a clear conscience?

I am concerned with the long term affects on our subsistence?

Will it be restored? Will ~~our~~ we ever feel its safe to eat our foods again?

The Exxon Oil Spill has caused me and our village a lot of mental stress, physical and spiritual stress. Will we ever heal from this disaster to our lifestyle?

I feel even though I am writing this testimony we will still go

unheard and we are writing to you
our legislators for nothing. Please
prove to me otherwise.

Sincerely,

Francis Norman
Impacted Subsistence User.

April 12, 1991

Dear Legislators,

My wife Luba and I were born in the Village of Port Graham and have lived here all our lives. We raised 11 children and now we have 30 grandchildren, I am 76 yrs. old and my wife ~~is~~ Luba is 69 yrs. old.

We have used subsistence all our lives, I am also a commercial fisherman. We are going to need subsistence now more than ever because the cash economics has been affected by the Exxon oil spill. The cash economics is almost nil in the Village of Port Graham. Our subsistence has been damaged because of the oil spill. I feel uncertain as to whether our subsistence food is safe to eat.

Our commercial fishermen have been affected which in turn affects the canneries, fish buyers and cannery workers because of the Exxon oil spill. It seems to me the Exxon Settlement offer is inadequate, but there is a need to start somewhere, use the Exxon Settlement offer as a starting point. I would go along with it as long as there is room for renegotiating at the end of 11 years then I suggest that we accept the agreement.

I might not live to see the result
but knowing Exxon will continue to take
care of the damages caused by the Exxon
oil spill - I will depart happily to
my happy hunting grounds.
Good luck.

Sincerely,

Walter R. Megawack, SR.

P.O. BOX PGM

Port Graham, Alaska 99603

JOHN NETZEL

April 26, 1991

REP. MAX GRUENBERG:

John Netzel
H.C.R. 70
Valdez, Ak. 99686
835-5940

I am writing to you today proposing one alternate to the oil spill settlement, that is both simple in format while being fair to all parties and solving the problem. A oil settlement should provide these 4 minimum services:

- (1) Money to repair damages to humans.
- (2) Money to repair the environment.
- (3) Money for scientific research for treatment and understanding.
- (4) Money for State interest in monitoring, prevention, treatment.

The exact amount of this money is unknown at this time therefore no single total charge could be the correct amount. The amount though should not be a direct burden on the Federal or State nor a punishment for Exxon. Exxon spent 2-3 billion dollars on cleanup over three summers and the criminal fine will be the punishment amount.

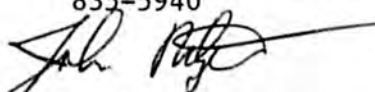
The above 4 items need funding both now and into the future. All transportation forms, like roads, air, rail, spread their total cost of doing business to all their users including auto wrecks, plane crashes, train wrecks. Lets spread the (4) costs from above, around to all the users of oil products, all users, not just Alaskan users. We can do this by having the oil company's, thru Alyeska Pipeline, lower the nearly \$4.00 per barrel charge to ship royalty oil thru there pipeline to say \$2.00 per barrel ~~for~~ State oil shipped thru, and freeze it at this rate for say 15 years. Shortly before the spill our charge per barrel was to be \$3.20 per barrel, but due to the unforeseen spill and the slow down due to tanker delay and escorting we got a \$0.50 increase in our rate, then another increase on top of this for \$0.50 for the new safety rule to boom all tankers while loading and unloading and some deployment of other boom. These two charges equal \$1.00 per barrel, this charge times the 170,000,000 barrels per year that is the States Royalty and tax share equals \$170,000,000 less dollars into the State Treasury. Because of the spill Alyeska has had to spend more and more money on items like skimmer ships, R.C.A.C., S.E.R.VS boats more booming equipment, storage yards, office buildings, and any new Federal or State required system of safety and all the huge cost for these things for labor and ongoing maintenance. All of this money drives up the per barrel charged the State thru the T.A.P.S., formula. If the charge was reduced to \$2.00 the remainder of the balance not paid by the State would be put on the oil companies who would pass it along to all

users, all users including Tesoro, Mapco, Mark Airs proposed refinery, people in the lower 48, etc. All these user groups would in a fair and equal way share the burden. Why should the people in the lower 48 pay a penny a gallon more per gallon of gas while a Alaskan pays the same penny plus \$170-500 million more ^{per year} thru the direct loss to the treasury. Exxon will pass on any costs including the original proposal of \$900 million, but under that agreement we have no T.A.P.S protection. Increased demands by Federal, State, Environmentalist, fishermen etc for more and more services that only Alaskans pay for, not Alyeska pipeline, which by law can not loose money but only make money on a cost plus type formula thru F.E.R.C., that all 7 oil companies share in those same profits, but not the State. It makes to economic sense to take in \$900 million with the right hand while handing out billions with the left. It further cost the State money to monitor the very complex T.A.P.S system and most of that could be saved thru a flate \$2.00 rate proposed.

Everyone would win something and everyone shares equally in the cost to have the energy that all Americans want. The money generated thru savings each year could be put into a Prince William Sound Trust to pay for the (4) goals outlined and could also be a safe guard for a future oil disaster like a earthquake that severly damage the line and caused huge damages in the interior. It would be State controlled not Federal and State controlled therefore it could be what ever you make it to be. There is a NEW AWARENESS of the Real cost to transport oil from this state lets not let this new cost be born by Alaskans alone, Alaskans when they buy a product made outside pay the REAL cost to make that product and get it here for us to use, so lower 48 should pay there share for our oil.

Thanks for your time and I hope you give this some thought because if we don't stop the growing T.A.P.S. cost there wont be any Alaskans to enjoy the sound.

John Netzel
H.C.R. 70
Valdez Ak. 99686
835-5940



p.s. I note in the paper that Alyeska will spend 50 million to put in Access rd. along the Dalton Hwy., as part of its new contingency plan; all 50 million will be charged against the T.A.P.S. Formula making 18 million less dollars to the treasury plus ongoing maintenance and security patrol cost Each and Every year. That's more money than the road to circumscribe the Yukon River

Native Village of Eyak
Box 1388
Cordova, Alaska 99574
April 11, 1991

Thomas A. Campbell
General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Room 5816
14th Street and Constitutional Avenue N. W.
Washington, D. C. 20230

and

Barbara Herman
Attorney General Office
State of Alaska
1031 West 4th Avenue
Suite 200
Anchorage, Alaska 99501

The Native Village of Eyak comments for the record an objection to the proposed settlement between Exxon, et al, and the state and federal governments.

The proposed settlement is inappropriate as it did not allow for the communities directly affected and damaged by the Exxon Valdez Oil Spill an opportunity to assess their damages and to have access to the scientific data.

Individuals have communicated among themselves and to the appropriate agencies concerning the severity of the damages and continued damages to the sound and other oil spill areas. It has been viewed that upon report that the information was ignored, discounted, or lost. It has been a common feeling that the reports of damages would be compiled for public review and comment. It has been commonly understood that the federal and state governments would provide a method to properly and scientifically acquire the data for use in assessing the damage and future health of the sound.

This has not been so. With the proposed settlement the raw data and summary data needs to be fully released. This would confirm that what we saw, what we reported, and what we know has been made available for the public good.

The proposed settlement is improper. To address the affected areas concerning the natural resource damages and to ignore the valuable input from us is in violation of democracy. The fiduciary responsibility that the

governments so often refer to has been ignored for the past twenty years or more. We depended on our elected and appointed officials to protect our resources from exploitation; yet this settlement would imply that the greater offenders were our leadership and their appointed agents.

We believe in the democratic process; the governments are choosing to ignore this in the proposed settlement.

The proposed settlement is inadequate in scope and monetary value. The monies would only aid the tax status of Exxon, et al, and provide an inadequate government-wide source of funds. The oiled areas need specific relief.

The scope of the proposed settlement is limited; it does not address the social, cultural, and community damages, nor does it recognize the need for remedies.

The natural resource damage value can eventually be quantified; yet the damage to the human element cannot. The disruption to our lives in 1989 is beyond description. It scared us and panicked the entire sound and oiled areas. The reaction of the controlling agencies (Exxon, etc., the state and federal governments) in ~~whom~~ whom we'd placed our trust was appalling. They wielded their authority and violated our faith and trust in them. We looked to them for assistance and guidance to help us ease the pain and had discovered that it was only their own self-interests that they were perpetuating.

The agencies continued to abuse our faith in 1990; the 1991 proposed settlement confirms our worst fears: our interests, our lives and our well-being were cast aside in favor of Exxon's, the state and federal governments' economic gain.

We strongly oppose the settlement for the above stated reasons. We request to be part of the negotiating process now and in the future.

Sincerely,

Agnes N. Nichols
Chair-person
Native Village of Eyak

THE FOLLOWING DOCUMENT MAY NOT FILM
LEGIBLY BECAUSE OF THE POOR QUALITY OF THE
ORIGINAL

April 12, 1991

Dear Legislators,

I am an Alaska native and a Subsistence user. My subsistence lifestyle has been affected. Subsistence is a very important part of my life and my family's. I do not think our subsistence food is safe to eat and that we have lost something ~~very~~ that is a very important part of my life. I do not think the State or the Federal Government or

Exxon will even try to restore our subsistence - how can they - they don't understand how much subsistence means to me or what subsistence is.

I fear we have lost a lot of our subsistence foods such as clams, mussels, bivalves, snails, seaweed, Salmon, bottomfish and crab - also our fish. I think they will destroy the Exxon oil spill. The studies released by the Federal government show that the subsistence is very much affected. I want to see the subsistence restored, the fishing closed and the fishing industry destroyed.

I do not think any of the settlement should go to the victims of violent crimes - that makes me mad and that is very unfair. The true victims are people of the Prince

The settlement is unique and irreplaceable
for the villages that are affected by
the Exxon Oil Spill and there will
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I would like to know why the Federal
Government & the State Government left the
affected villages to fight on their own.
Are we not citizens of Alaska - Aren't
you supposed to protect our rights
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the villages long enough. How are
we all going to sleep at night
with a clear conscience?

I am concerned with the long
term effects on our substance?
Will it be restored? Will ~~it~~
it ever really be able to get our
floods again?

The Exxon Oil Spill has caused me
and our village a lot of mental stress,
physical and spiritual stress. Will
we ever heal from this disaster to
our life style?

I feel even though I am writing

unheard and we are writing to you
our legislators for nothing. Please
write to me otherwise.

Sincerely,

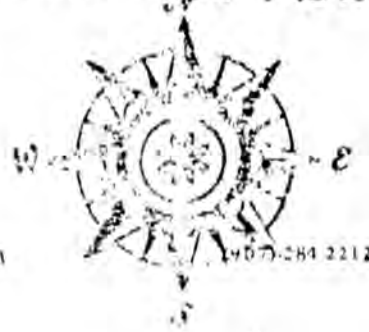
Francis Roman

Directed Assistant U.S.

PATRICK NORMAN

**PORT
Graham**
CORPORATION

VIA POST OFFICE BOX 5 • PORT GRAHAM • ALASKA 99603



April 12, 1991

Alaska State Legislature
Oil Spill Settlement Committee
P.O. Box V
Juneau, AK 99811

Dear Committee Members:

I am President of Port Graham Corporation, an Alaska Village Corporation which owns or has selected lands around lower Cook Inlet, the Gulf of Alaska and the Kenai Fjords area. Port Graham Corporation has approximately 190 shareholders, the majority of whom live in Port Graham and other communities on the Kenai Peninsula.

The oil spill has had a devastating effect upon our local economy. All seasonal jobs have been lost because the cannery has not operated in several years. We lost our lease on account of the oil spill. We have not been able to attract a new lessee, because of concerns over oil contamination.

Our shareholders are, for the most part, traditional and subsistence oriented. Port Graham Corporation, in order to fulfill its obligations as a village corporation, has not developed its lands, so that we can guarantee a subsistence base for our shareholders.

We have been involved in the oil spill litigation for two years. When Exxon settled with the processors, it would not settle with us. We have received no reimbursement from Exxon for the closure of our cannery, the resulting loss of jobs and pressure on the corporation's scarce resources to take care of its shareholders, the tremendous costs the corporation incurred over the first summer of the oil spill in attempting to protect our land, or for any of the other extraordinary costs on account of the oil spill.

We have worked closely with the state, our people have answered innumerable questionnaires, thrown open their doors

ALASKA LEGISLATURE
OIL SPILL SETTLEMENT COMMITTEE
Page 2

to the state scientist studying the effects of the oil spill, and we have coordinated with state and federal cleanup efforts to the point where that becomes virtually our sole occupation during the summer months. We are, of only two communities in the oil spill area which did not receive local response project funds. We did not receive those funds because the Kenai Peninsula Borough had its own plans for oil spill response, which did not include our lands within the Borough. Thus, even while other communities were able to provide some employment for their residents displaced by the oil spill, we were unable to do so, and at the same time we incurred enormous expenses.

The Rocky Bay, Windy Bay area in the Gulf, which we own, continues to be highly toxic, according to state and federal studies. Yet, even though Port Graham and its shareholders contributed to the study assessments, we have not been permitted any information as to the likelihood of recovery of the polluted ecosystems, ecosystems upon which we depend. The attorney general has said that the studies would not be released because of litigation. The only reason we can figure for not releasing the studies is that the damages assessments would indicate the state is settling for an amount which would mean that the ecosystem recovery and resource damages are not being adequately compensated, and ~~we~~ does not want either you or us to know this.

As citizens of the State of Alaska, we have a direct interest in the state's success in resource and ecosystem restoration. Yet, the State's settlement has not been shown to be adequate to compensate for those damages and restoration expenses into the future. It does not make sense to accept such a situation. Just as I must advise my board of directors by the use of the corporation's professionals, it seems to me that you, the Alaska Legislature, also have a duty on behalf of all of us to make adequate inquiry before agreeing to this proposed settlement. There are too many unanswered questions. My board would not let me get away with something like this. I encourage you not to let the Chief Executive Officer of the so called owner state not get away with it either.

Please make your inquiries. Please take the time you need, and if its another 120 days, try to get it. While you are performing your diligent inquiry, I also hope that you will remember the little people, the displaced residents of Port

ALASKA LEGISLATURE
OIL SPILL SETTLEMENT COMMITTEE
Page 3

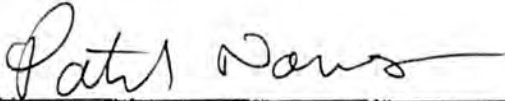
Graham, the fishermen, the cannery workers, area businesses, and the entire state which has been impacted negatively by this oil spill. Even if the state settles, that will not put the matter behind those of us who have suffered the most, but may push us into a closet with no escape.

Thank you.

Very truly yours,

FORTIER & MIKKO, P.C.

By:


Patrick Norman, President

PN:dea:573ltr

WAYNE NORMAN

Dear Legislators.

I am confused, frustrated and angered about how all the matters have been handled by most every one on the Exxon oil spill. Seems like every one doesn't trust the other guy and things aren't getting done the way they should be. If everyone would just sit down be honest with every one we probably wouldn't see all the jockeying around to see who gets richest the fastest.

and just concentrate on how to help the people that were affected and to try and help mother nature the best we can to rebuild itself and make our land back to what it was before. We know we won't make it back to what it was. But we can make it a better place to where everyone can enjoy its beauty, and its place in our lives where we live, and breathe its life and like its beauty.

So let's get together and work out a trust and work together for all Alaska.

Thank

Wayne Norman
Past Governor AK

DAVIS WRIGHT TREMAINE

LAW OFFICES
SUITE 1450 • 550 WEST 7TH AVENUE • ANCHORAGE, ALASKA 99501
(907) 257-5300

DAVID W. OESTING
(907) 257-5323

April 13, 1991

Via-Facsimile
(907) 235-3140

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

Re: The Exxon Valdez Oil Spill

Dear Representative Gruenberg:

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

The specific topic which Mr. Cowan asked me to address is framed by paragraph 13, subparts b. and c. of the proposed Agreement and Consent Decree intended by the United States, the State of Alaska and the Exxon defendants to settle the Oil Spill litigation pending between them. More specifically, the precise selection of words contained in these subparagraphs,¹ when juxtaposed to the actual nature of the physical damages to natural resources caused by the Oil Spill and the path of transmission of that injury to private plaintiffs dependent upon the physical condition and biological production of those natural resources for their livelihoods, is serious cause for alarm. The

¹ It should be noted that the same terms are exactly and carefully duplicated and reaffirmed at paragraph III, subparts C-2. & 3., of the proposed Memorandum of Agreement and Consent Decree for settling the litigation between the United States and the State concurrently with the tripartite settlement between the governments and the Exxon defendants.

FAX: (907) 257-5399

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

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

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

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

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

Very truly yours,

DAVIS WRIGHT TREMAINE

David W. Oesting

\\27510\\1\\Gruen491.ltr

P-R

April 13, 1991

My name is Karl Pulliam, a Seldovia resident, subsistence lifestyle family person, and a Cook Inlet waters fisherman.

Money does not make everything right. A lot of what must happen, must happen within each of us, our attitudes, our priorities; from a homeless person to the CEO of Exxon. This settlement is an opportunity for a degree of rightness. Exxon has offered a great deal of money, how we spend it will reflect our attitudes and priorities. In spill responses, I was told by oil experts, the #1-priority is containing the oil, keeping it off the beaches is #2. With the Exxon settlement, we have a chance to insure that those priorities are met. Many Alaskan coastal citizens have been voluntarily working overtime to address this issue of response. Adequate funding so response plans and equipment are in place is a MUST from this settlement. A tanker passes through Cook Inlet waters on the average about once every 1.5 days, yet, there is no escort vessel available for this tanker traffic! NONE! If a spill occurred right now, the trained SOS Team here in Seldovia has a paltry 2000 feet of boom for response. But, WE WOULD RESPOND! With this money from Exxon, response equipment and programs for training could be funded. The RCAC, Cordova's Oil Spill Recovery Institute, the SOS Team, and, similar planning and response organizations coast-wide could help provide response readiness. As a coastal citizen, I am one of the people that shoulders the brute force of the next spill, my whole lifestyle is at stake. I'm not here to stuff my pockets, I'm here to ask that you be sure to provide what we're working for, DOLLARS FOR RESPONSE. That would be a degree of rightness

In closing, for me, the only event that had the same feelings of betrayal, helplessness, and loss forever that the Exxon spill had, was the death of my Dad. He died from Alzheimer's...rather quickly...I was lucky according to other Alzheimer victims. Now, if someone came up to me with a million dollars and said, "Here, this is for your Dad's death, it's from the entity that had him die.". I couldn't accept that for myself... Go ahead, picture yourself in a similar situation, the drawn out death, the loss of control, of person... but... I would want that money to go to the people who were treating, preventing, or responding to Alzheimer's. Wouldn't you? Exxon settlement funds MUST provide for response!

Thank you for listening,

SELDOVIA

1. Mike Balough - less herring ... should be here by
no dollies now.
no salmon

We don't know impacts yet!

2. EXXON CLEAN-UP

\$35M

\$26M Survey

\$19M FOR CLEAN UP

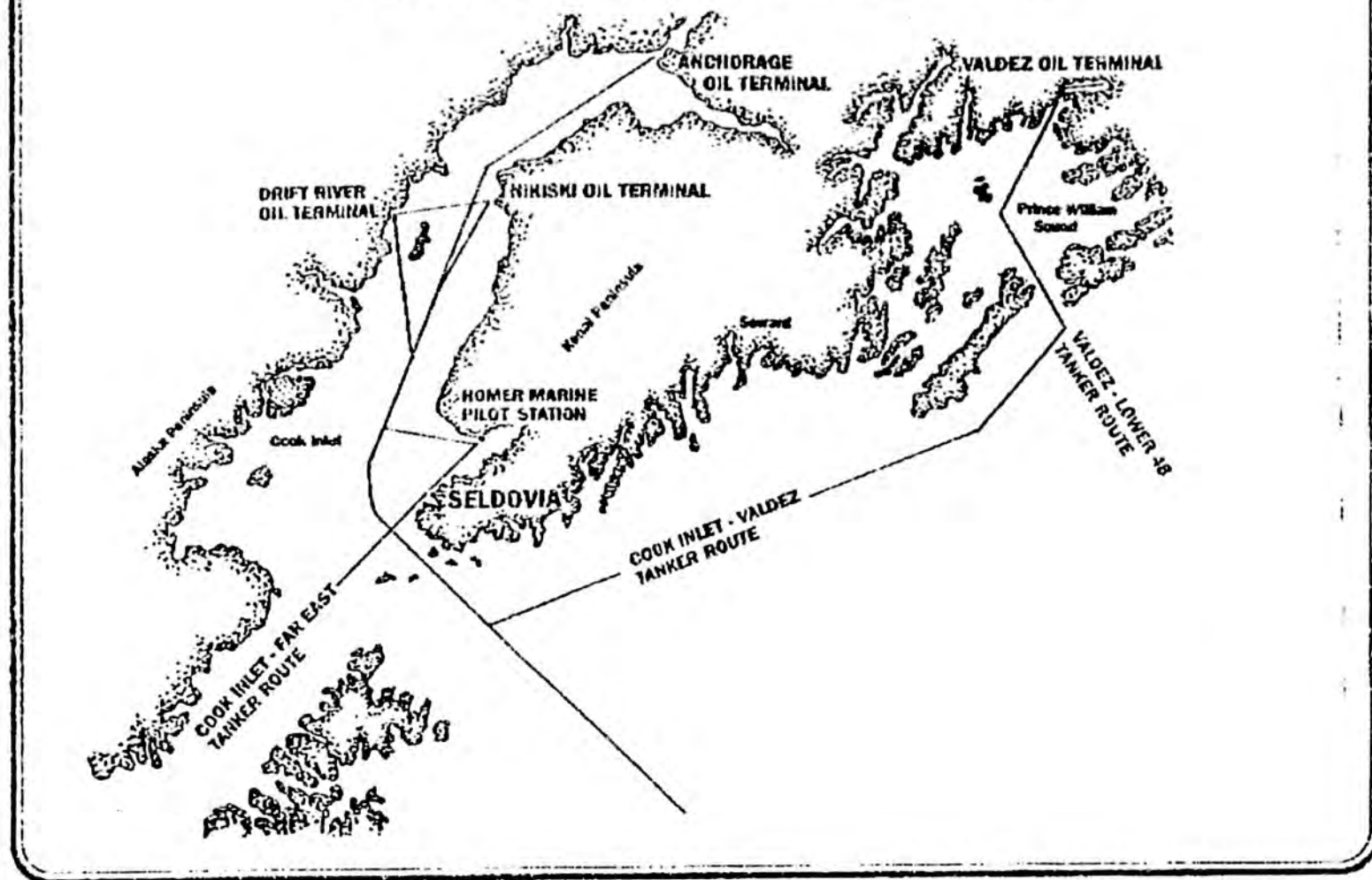
Meetings & Parties
at Capt'n Cook Hotel in Anchorage

This is other cut the beaches to be considered
on the Kenai Peninsula from 200 to 400.

Everyone knows there is still lots of oil in some beaches
out there.

SELDOVIA

MAP OF COOK INLET TANKER ROUTES



SELDOVIA

What the People of Seldovia Have Done...

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SELDOVIA

PROMISES NOT KEPT



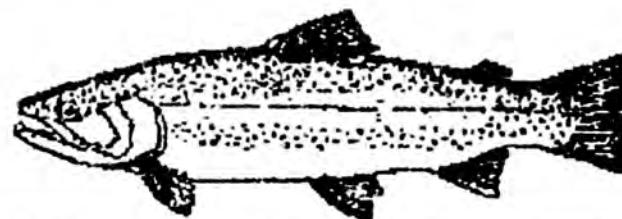
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- * EXXON PROMISED TO MAKE OUR ECONOMY WHOLE AGAIN

NOW YOU PROMISE THAT THE SETTLEMENT IS A GOOD DEAL FOR EVERYONE INVOLVED. CAN WE TRUST YOU?

SELDOVIA

CONTINUING IMPACTS

- * LOWER C.I. HAD WORST SALMON FISHING YEAR SINCE 1976
LESS THAN 1/2 AVERAGE HARVEST
25% OF ADF&G PRESEASON FORECAST
- * PRICE DECLINE IN SALMON IS RELATED TO EXXON VALDEZ
- * SUBSISTENCE - PEOPLE ARE STILL AFRAID OF CLAMS
- * CITIZEN'S CONFIDENCE IN GOVERNMENT AND INDUSTRY LOW
- * SOCIAL/CULTURAL IMPACTS CONTINUE
- * THE FEDERAL GOVERNMENT HAS RECENTLY ADMITTED
WHAT WE ALREADY KNEW, THE IMPACTS TO THE
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SELDOVIA

WHAT WE NEED?

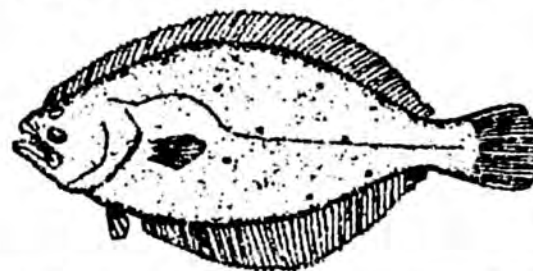


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SELDOVIA

CONTINUING RISKS

- * LOWER COOK INLET STILL HAS NO RESPONSE CAPACITY
- * ALMOST 200 TANKERS PASSED WITHIN 3 NM OF WHERE YOU ARE SITTING DURING THE PAST YEAR.
- * TANKERS IN LOWER COOK INLET CAN NOT ANCHOR IF THEY LOSE POWER
- * THERE HAVE BEEN FOUR TANKER INCIDENTS IN COOK INLET IN THE LAST TWO YEARS
- * THE FISHERMEN AND OTHERS THAT MAKE THEIR LIVING ON THIS COAST SHOULDER A DISPROPORTIONATE RISK COMPARED WITH OTHERS THAT BENEFIT FROM USING THE OIL THAT FLOWS BY THE COAST
- * THE RISK OF ANOTHER OIL SPILL IMPACTING OUR COAST IS REAL AND CONTINUING



Melyssa Rice
testified

TESTIMONY GIVEN IN CORDOVA, ALASKA
APRIL 14, 1991
MELYSSA L. RICE

My name is Melyssa Rice. I am an Alaska resident and a new resident of Cordova. I have spent four years in the fishing industry, and was employed in the State of Alaska's Oil Spill Response Center in Valdez following the Spill.

My job with the State was to process evidence gathered and generated by the State for use in it's lawsuit against Exxon and Alyeska. I viewed, read and absorbed virtually every piece of evidence in that office. You could say I have intimate knowledge of the State's case.

I took an oath of confidentiality and am bound by conflict-of-interest laws because of the legal nature of my position. I take them very seriously. But neither will prevent me from stating my point of view regarding this settlement, because I believe it is my duty as a resident of Alaska and as a citizen of the earth.

From what I learned, the State has an excellent case against Exxon and Alyeska. There is no doubt that the State was injured by the Spill. It is not a question of whether the State will win or not; the question is how much it will win. I would like to see the case go to trial. I believe anyone who worked on the case would like to see a trial, to see the fruits of their labor. But, there are other reasons I oppose the settlement, much more important reasons.

Number 1: WE ARE SELLING OURSELVES SHORT.

I believe, both from the evidence that I viewed, and from logical deduction and simple arithmetic, that a jury will award much more than the current settlement. Our loss has been far greater than the proposed amount. We have nothing to gain by settling now, and much to lose. Any additional attorney's fees will be covered in the verdict; that is a standard practice. Why settle for less than we deserve, and much less than we can get? I hesitate to speculate on the reasons why our officials gave in this early. Settling for this amount sells ourselves, our state, and the thousands of animals who died very, very short.

Number 2: THIS SETTLEMENT IS PREMATURE.

The NRDA summary predicts that 70% of eggs spawned in oiled streams won't survive to become mature pink salmon in 1991; it shows that hatchery fish returns decreased 50% in oiled areas last year; it shows deformities in salmon larvae. A worst case scenario is vastly decreased wild and hatchery stocks in 1991 and beyond, widespread deformities, and a ruined herring run every three years. There is potential

for an economic disaster in this state; such a disaster is not covered under the current settlement. The point is, really, that we just don't know yet. We won't even begin to know until this summer, when the first exposed species return to the Sound. Why settle now, right before the first real evidence of long-term effects comes in? Better yet, why is Exxon pushing for a settlement now? We could really slit our own throats by settling now. At the very least, we should wait until this summer's run is analyzed. Anything earlier than this fall is extremely premature.

Number 3: THIS LAWSUIT WILL MAKE LEGAL HISTORY.

If allowed to go to trial, this lawsuit will set a legal precedent, settling out of court does nothing to legal history. Beyond that, court proceedings will reveal invaluable evidence. A case of this magnitude has never been trial in environmental law. By bringing it to trial, the State, it's officials and it's people can make history in a very positive sense. Instead of Alaska being famous for the worst oil spill in the United States, it could be famous for safeguarding the environment - the place where justice was done. History would really be made if that evidence comes to light; I know. I read it. The State has a rare opportunity to expose the damaging evidence so that a disaster like this never happens again. Slapping Exxon on the wrist with a token fine teaches nothing; a searing, soul-searching investigation by trial into the heart of the beast would teach plenty. Yes, the same light will shine back on the State, and it may not always be pretty. But the little that the State will suffer should not prevent it from taking this opportunity to make history, to change environmental policy, and to influence environmental law throughout the world. It's a frightening, giant step toward saving this planet for our children. But, it's usually the most difficult projects that do the most good. It's the right thing to do.

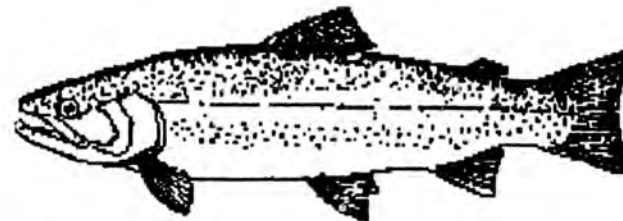
Thank you for your time.

From. Tim Robertson
President
S.O.S Team, Seldovia

SELDOVIA

CONTINUING IMPACTS

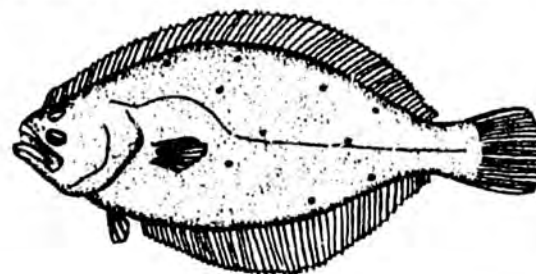
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Tim Robertson

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SELDOVIA

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SELDOVIA

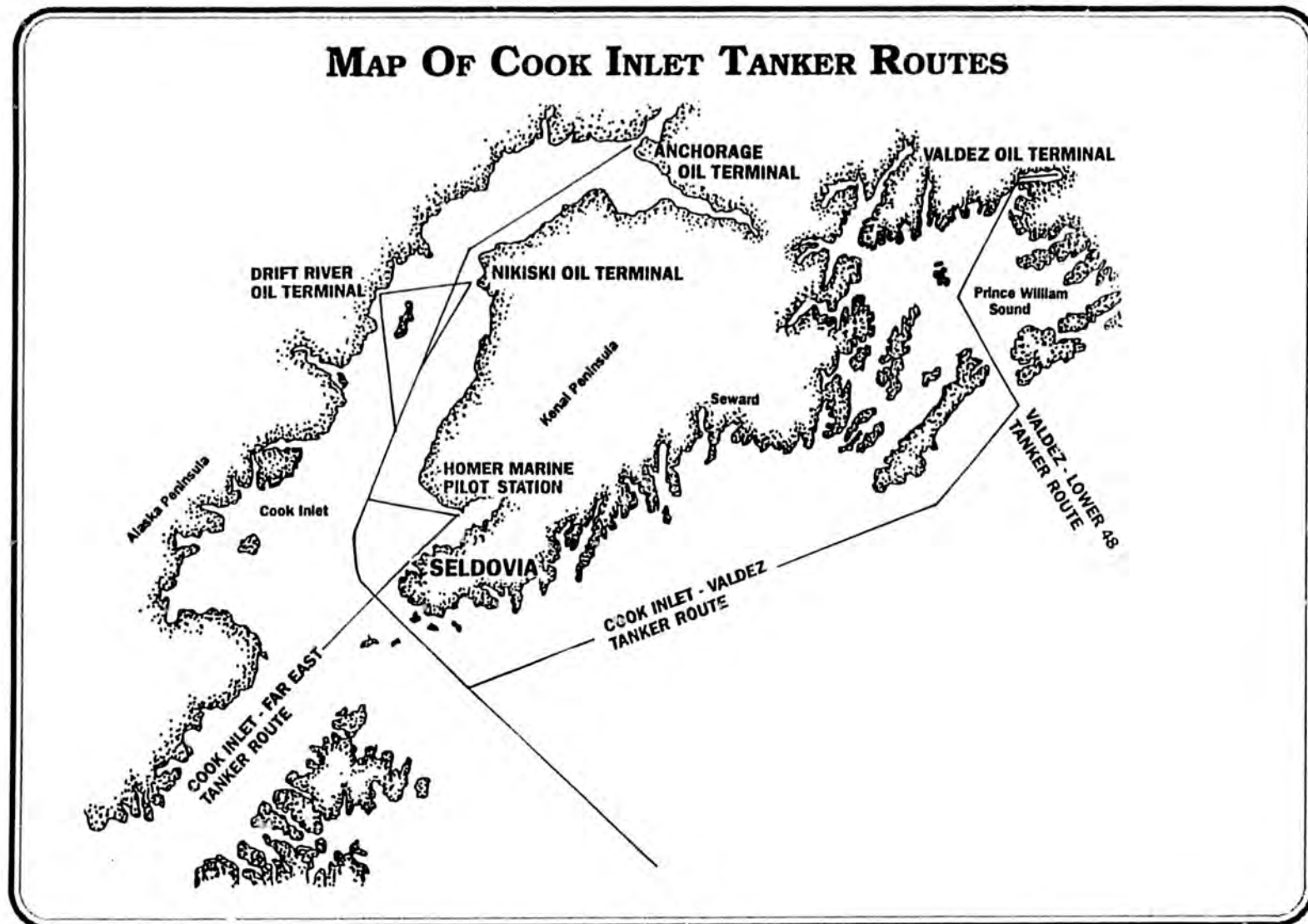
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SELDOVIA

MAP OF COOK INLET TANKER ROUTES



S-U

DR. SANDERS



AMERICAN INSTITUTE OF PROFESSIONAL GEOLOGISTS

11661 Rockridge Dr.
Anchorage, AK, 99516
March 21, 1991

House Oil Spill Committee
Pouch V
Juneau, AK 99811

Dear Sirs:

The Alaska Section, American Institute of Professional Geologists, a Certifying organization akin to your ABA, is strongly opposed to one of the conditions of the Federal/State-Exxon Valdez Spill Settlement Agreement, i.e. the provision to not release the scientific studies regarding the spill.

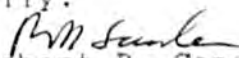
We feel that the spill studies contain extremely valuable data which MUST be available to the public. Some of the data in these studies may be critical in formulating a best response to the inevitable future events in similar environments. Most of the studies were undertaken on the basis of precisely such rationale.

Further, it should be noted that most of the studies were funded or supported by the federal government and as such would be subject to disclosure through the Freedom of Information Act. Others were conducted under NSF and private grants which contractually REQUIRE the publication of results. Finally, in the event of a lawsuit the "Discovery" process should effectively unmask these studies.

Rather than supressing these studies, NOAA would better serve the worldwide scientific community in sponsoring the dissemination of data gained through these studies. Happily, the U.S. Forest Service has already opened an office for such purpops, and at least one of NOAA's experts is already describing study results on the Lecture Circuit.

Whereas most of the studies involved would be of great value to the scientific community; were conducted with public funding; and would, in any case, eventually become public through various means; we feel that that portion of the settlement be deleted.

Respectfully,


Dr. Robert B. Sanders
Legislative Affairs Committee

Mr. Eric Opstad
President, Alaska Section

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



DARRYL Schaeffermeyer

- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Telecopier (907) 224-3248

February 13, 1991

*Seward
testimony*

Attorney General Charles Cole
Department of Law
P O Box K - Mail Stop 300
Juneau, Alaska 99811

VIA FACSIMILE
CONFIRMING COPY MAILED

RE: Settlement with Exxon

Dear Mr. Cole:

The rumors are flying about the settlement with Exxon and, at the risk of adding to the already complex matrix of issues you are confronting, I want to give you a local perspective from a community that has been careful to remain out of the process.

Early on in the oil spill the City Council of Seward decided, after much consideration, that the City of Seward would not be best served by actively pursuing litigation against the oil companies as a result of the EXXON VALDEZ disaster. Indeed, the "Seward approach" has been, we believe, a model for other communities and perhaps even the State to consider. We are very pleased that the new administration's first priority has been to re-align the State to Seward's approach.

The City was disappointed with previous representation of the local communities by the State, and we are encouraged that your efforts may lead to a resolution that is in the best interest of all Alaskans. Before the ink is dry on any agreement, we believe it is critical that the local communities be considered and consulted, at least on an informal basis to make sure overall State aims do not conflict with local interests and concerns.

To that end, we offer the following comments on issues that concern us.

1. Any "set-aside" of lands in Prince William Sound may have direct and long-term impacts on the economies of the local communities. In Seward, for example, the City has been active in providing lease land for the Chugach Alaska sawmill. It would be a shame for that investment in diversifying our economic base to be adversely affected by some resolution of the oil spill litigation. We fear some in Alaska may wish to lock Prince William Sound away and to do so will quite literally lock away Seward's future as well. We have seen too many instances of government "planning" that result in nothing more than placing our local community's future in the hands of some one else - usually some federal official!

2. Although we would prefer to be represented by state rather than federal government, we are frankly becoming distrustful of being "protected" by the state of Alaska. In our experience the biggest and most effective interest group is the state bureaucracy, and to a great extent local concerns received no more than condescension from state officials in dealing with the oil spill. The "oiled mayors" group was a desperate effort by local officials to politically force some participation in the aftermath of the oil spill. Only when all the affected mayors got together in front of the television were we able to get state representatives to meet with us. Even then, we were left on our own to try to get our out-of-pocket costs reimbursed by Exxon. Please don't assume that we have been consulted by those advising.

3. The city of Seward is committed to a long-term major effort to learn more about how responsible development and our Alaskan way of life can both be promoted. To that end, the City Council has provided financial and other support for the development of the research and scientific centers so necessary for this accommodation. Again, all we have to work from are rumors and speculation, but we are concerned that funding of long-range programs may also be "captured" by particular interests that are not as balanced as those in Seward.

4. Finally, our experience in developing a local diversified economy have taught us that a community with fishing, oil, industry and education interests can promote responsible development. Seward is the center for fishing, university research, vocational education, industrial, shipping and other businesses that are viewed by some, perhaps, as being incompatible with each other. Our experience is that a local community can provide accommodations for these different interests. We hope the State, in structuring a settlement, has the same goals in mind. We are concerned that the settlement process may be captured by a particular group of interests that are not representative of Seward.

The City of Seward does not really want to become involved in litigating over the oil spill. We think our time and efforts should be directed toward the future, not the past. We are very pleased that your efforts seem to be aimed in the same direction. All we ask is that you take our experiences and interests into account when mapping a settlement that will probably affect Seward as much, or more, than any other local community. Let's work together on this.

Very truly yours,


Darryl Schaefermeyer
City Manager

cc: Max Hodel, Chief of Staff

Greg Seider
RCD



UNITED FISHERMEN OF ALASKA

211 4th Street, Suit 112
Juneau, AK 99801
907-586-2820
Fax# 907-463-2545

April 26, 1991

MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fisherman's
Association
Alaska Trollers Association
Bering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area 'M' Fishermen
Cook Inlet Aquaculture Association
Copper River Fishermen's Cooperative
Cordova District Fishermen United
Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prince William Sound Seiners Association
Seafood Producers Cooperative
Southeast Alaska Seiners
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

Alaska State Legislature
P.O. Box V
Juneau, Alaska 99801

Dear Legislator:

The United Fishermen of Alaska is pleased with Judge H. Russell Holland's decision to reject the proposed criminal settlement in the Exxon Valdez oil spill case.

In addition, our organization is opposed to the proposed civil settlement as it now stands. We and our affected members believe there are items which must be included in a civil settlement offer before it would be acceptable to Alaska's fishers. These include:

- * the release of all spill data which have been financed by public funds;
- * payment for cleanup and restoration should originate from two different funds;
- * settlement funds should be used for restoration, rehabilitation and acquisition of equivalent resources, not for capital construction projects;
- * removal of clause which allows the use of settlement funds outside of Alaska;
- * retain state's right to pursue criminal and civil charges against Alyeska, including claims for natural resource damages; and
- * any monetary funds arising from a settlement should be paid in full or with interest.

This settlement offer, like most first offers, presents the Legislature a good starting point. We hope that future offers will include those items which we feel are currently lacking. In the meantime, the United Fishermen of Alaska remains available if we should be of assistance to you in any further negotiations.

Very truly yours,

Greg Seider _{mb}

Greg Seider
Executive Director

mb

Philip Shapland

*no address
no thank you written*

April 18, 1991

APR-18-91 THU 14:49

LAW OFFICES 330 L STREET

FAX NO. 9072786571

P. 01

Dear Senators and Representatives:

If the proposed settlement between the State of Alaska and Exxon Corporation over the damages stemming from the Exxon Valdez oil spill is approved by the legislature, it will be a tragedy of even greater proportions than the oil spill itself, and will be recorded by history as one of the greatest thefts of money rightfully belonging to the public -- specifically, to the citizens of Alaska -- of all time.

The proposed settlement is a sham, a fraud, and a "sell-out" by certain friends of the oil industry who happen to be in positions of political power at the moment.

If any of you or your families had sustained such grievous injury at the hands of one of the world's largest and wealthiest corporations, and you were advised by your attorney to accept a settlement proportional in amount and corresponding in terms to those proposed in the Exxon case, you would do well to run -- not walk -- to a new attorney who was truly interested in and capable of representing the interests of yourself and your family, as opposed to those of the party who had done the harm in the first place. Further, you might in good faith contemplate and initiate a malpractice action against the attorney who had given you such blatantly bad advice.

I urge you on behalf of all the citizens of Alaska to refuse to be party to this so-called "settlement", and further, urge you to see that justice is eventually done in this, one of the most outrageous cases in our history.

Signed,

Philip Shapland

Philip Shapland
Anchorage, Alaska

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 settlement 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 any 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 not have "advise and consent" power over Trustee spending, but may have advisory-only role.

Rep. Barnes says that some 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 constitu-

tional 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.

KRISTIN STAHL-JOHNSON

(Kodiak Testimony)

Kristin Stahl-Johnson
Kodiak Environmental Network
P.O. Box 2661
Kodiak, AK 99615

April 13, 1991

House Special Committee on
Exxon Valdez Litigation Settlement
Alaska State Legislature, Seventeenth Session
P.O. Box V
Juneau, AK 99811

Dear Representatives,

I am grateful for the opportunity to comment on the out-of-court settlement that the Hickel Administration struck with Exxon, but it is difficult to evaluate it without any substantive information on the true value of the damages. I seriously feel that the people of the State are being sold down the river in exchange for future amicable relations with the oil industry. The Legislature never makes budgetary decisions operating in a vacuum. Why are we being expected to make a major financial decision without the information needed to evaluate it?

Is Mr. Hickel aware of the mammoth amount of energy, emotional, financial, and physical, that the Exxon Valdez spill drew from the Alaskan people? It appears that he and his cohorts would like to label us as radical fanatics, placate us with this settlement and get on with the business of oil development. Does Mr. Hickel carry a mandate of the Alaskan people? Clearly not. Please let intelligent, rational processes prevail in Juneau. Insist on obtaining the results of the injury and economic studies that the public paid for before requiring us to make uninformed decisions about this settlement.

Beyond the lack of substantial data, there is circumstantial evidence pointing to the inadequacy of the settlement. The TAPS Fund has \$56 billion claimed against it, but the State's claim to the fund is confidential and therefore not included in that figure. \$900 million looks awfully insignificant in that company.

Furthermore, why are we reducing the amount of the settlement by allowing reimbursements and cleanup costs to come off the top instead of being paid as a separate item? Add those items to inflation over ten years and this settlement's value is reduced by nearly half its face value! The \$2.2 billion that Exxon squandered on the cleanup is a joke. There is case after case in Kodiak alone to prove that they wasted money at every turn, clearly for propaganda reasons. Why are they so willing to throw money away in some cases and then not pay honest reparations for criminal negligence?

And if you accept this settlement or a better one in the future, where is the public input on how the money will be spent? The Memorandum of Agreement between the federal government and the State looks like a bureaucratic black hole. The money could easily get lost in more classified studies that are unavailable to the public, not to mention the millions each trustee will garner for operating costs. The Agreement needs to include a citizens' committee with a vote.

After dealing with some of those same Trustees during the 1989 oil spill cleanup period I feel that it is imperative that a citizens' council with voting power be added to the Trustees. The agreement with the federal government is not in the best interest of the people of Alaska.

I realize that because the federal government has signed off on this agreement, the pressure is on the Legislature to acquiesce. I do pray that the Alaska State Legislature has more fortitude and integrity than that.

Please reject this Settlement and Agreement and send the negotiators back to the table with public input tempered by an adequate evaluation of public data.

Thank you.

Sincerely,



T-V

CHIP THOMA

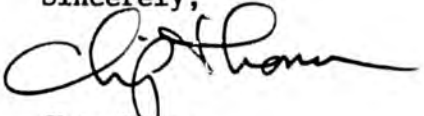
April 12, 1991

Alaska State Legislators
Pouch V
Juneau, Alaska 99801

Dear Legislator,

Attached is my submitted testimony to U.S. District Judge Holland on the proposed settlement of the federal and state charges against the Exxon Corporation, Exxon Shipping, and Alyeska Services Corporation. I hope you take the opportunity to review these comments and consider either new settlement terms or the pursuit of original and new charges through the court system, both federal and state. These are extremely important issues which, if allowed to be settled in present form, will only reinforce the understanding in Congress and the nation as a whole that Alaskans are willing to sacrifice the environment and the trust of many state residents for a very small monetary deposit in the treasury. Thank you for your time and consideration.

Sincerely,



Chip Thoma

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: Theodore P. Thoma
#2 Marine Way
Juneau, Alaska 99801

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 re-design 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.