

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1943 SCOMM 76: HOUSE SPEC. COMM. EXXON VALDEZ OIL SPILL. 1991-92

160



Oil Reform Alliance



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Representative Kay Brown

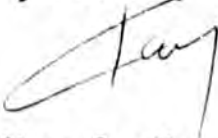
ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

During Session
P.O. Box V
Juneau, Alaska 99811
(907) 465-4998

TO: Representative Max Gruenberg, Chair
Special Committee on the Proposed Exxon Settlement

FROM: Representative Kay Brown

DATE: April 17, 1991 

SUBJ: Questions Regarding the *Exxon Valdez* Settlement

As we discussed, I would like to have Attorney General Cole provide a written response to the following questions:

1. Is it the administration's policy to fully determine the natural resource injuries caused by the spill?
2. The plea agreement and the memorandum of agreement define restoration to include "enhancement of affected resources" [Plea Agreement p. 8], or "enhancement of resources" [MOA, p. 8]. In contrast to the rest of the definition, these words are not found in the Clean Water Act. Where did the added language come from? Why was it included? Please explain how natural resources "enhancement" differs from or enlarges on the definition of restoration contained in the Clean Water Act and related regulations (see, for example, see 42 USC. sec. 9607: "Sums recovered by a State as trustee...shall be available for use only to restore, replace or acquire the equivalent of [injured] natural resources.")
3. How much state funds have been spent on economic studies related to this case?
4. What valuation (dollar value) of the damages from the *Exxon Valdez* spill was determined by the contingent valuation analysis conducted by the economists hired by the state? [See the Washington

DISTRICT 12

Downtown • Fairview • City View • Bootleggers Cove • Inlet View • South Addition • Thunderbird Terrace
Eastridge • Penland Park • Airport Heights • Government Hill

printed on recycled paper

Post, 3/20/91, "Value of Intangible Losses From *Exxon Valdez* Spill Put at \$3 Billion."]

5. Did any representative of the state make any representation to Exxon or any other party that the state would not disclose the state's economic studies?

6. Please provide for the committee copies of memoranda prepared by the Department of Law for state representatives to the restoration planning work group interpreting the definitions of restoration found in federal laws and regulations.

7. Could forested habitat or timber rights in or near the Kachemak Bay State Park be an "equivalent resource" as that term is used in the federal definition of restoration?

8. Why is the state's claim under the TAP liability fund being kept secret from the public?

9. Is it the view of the administration that state employees may be employed in restoration activities funded by the settlement without appropriation by the legislature of the funds to cover their salaries?

10. Is it the view of the administration that the trustees may enter into contracts independent of state laws and procedures governing government contracting?

11. Is the Governor precluded from appointing a member of the legislature to serve as a Trustee?

Your assistance with this request is appreciated.

August 6, 1989

"ZERO TOLERANCE FOR EXXON AND THEIR POLICIES..."

Editor:

We'd like to enlighten Exxon concerning a few of the serious problems this community has experienced over the past few months, due to the double "enemy" as we now see it: the oil spill, AND Exxon's irresponsible management and lack of foresight.

We have a salmon purse seine and herring gillnet operation in Kodiak. Normally, by this time of year, we're feeling relatively "whole": spiritually, physically, emotionally, socially, and economically. Contrary to John Harrington's now laughable promise of "Exxon will make you whole," you presently have on your hands several hundred boat owners, permit-holders, hundreds of crewmembers, and throngs of villagers and community members who are feeling the pinch, and who are not addressed fairly in your claims process, who feel emotionally fried, who've had their lifestyle, hopes, and dreams disrupted this summer and for probably years to come, and have lost hope in being able to work honestly this year, to get off Exxon's claims dole.

Whether Exxon intentionally, or unintentionally created this bogus operation is not the issue. The reality is, you did. Exxon's oil spill nearly five months ago has cost us dearly. It took away our opportunity to make a living and Exxon's management of this crisis in Kodiak has created serious discrepancies by giving some (non-residents included,) the opportunity to work on top of a claim, and others the only other option: to sit through a bleak summer even as the oil continued to pour down the Shelikof, to bombard our beaches, and to ultimately take our fishery from us.

In retrospect what you have done, is to doubly deny us the chance for employment. Your "windows of opportunity" did not include room for impacted Kodiak residents (especially the salmon and herring fleet.) An equal opportunity for clean-up work was not even offered, even through the beaches and waters are as seriously oiled as they were in May, if not worse.

You did not take care of and "make whole" the impacted fishermen as you did in Prince Williams Sound where every vessel was put on charter, where they even had a salmon fishery. It's obvious that Kodiak's salmon season is devastated by your spill and you could see the necessity to put only twenty seine boats to work in mid-July as our openings were going down the tubes. These twenty boats volunteered to democratically rotate so that others could earn a living and do something to take care of the problem. That seems like a real simple idea. But, Exxon still doesn't get it.

Your system of irresponsible management has penalized the fisherman who wanted to fish from April on, and keep their lifestyle undisrupted, as

most herring and salmon boats tried to do. Trying to get on a charter was full-time frustrating "job," and also took you out of the fishery. There were no "lists," in fact, some boats moved backwards in position for being hired. Your system gave lucrative charters to some vessels in April, May, and on who had nothing to lose from the closures and cancellation of the herring and salmon seasons. You lacked the foresight to see that Kodiak's circumstances justified a massive clean-up effort, just like Prince William Sound's.

Since April 13th, we have been trying to adjust to the effects of your spill through the mounting pressure and stress. Herring fishing areas were shut down, prices for herring plummeted, we lost crew in May to VECO. "Test" boats were sent out in May before the halibut opening to see if we would even have an opening. The herring fleet continued to fish in unnatural circumstances, in the face of many growing problems right along side chartered vessels of the same size who had no qualms relating about the Exxon "gravy train."

In May, John Harrington continued to deny that our beaches were oiled, or that it would cause problems for the salmon fishery.

We continued to herring fish. By the time the halibut announcement rolls around, the entire mainland, some west side and north end bays are closed.... not from harvest, but from the effects of Your Spill.

By June, we're under a tremendous strain. A few of the chartered vessels who didn't have herring permits and didn't halibut fish come off charter to go salmon fishing with a good Exxon "season" in their pockets, which would equal any good salmon year.

By June, we were to be ready for the regular salmon openings and were put on one day notice until the 23rd of June. We had no choice but to stay "on notice." We could not seek other employment. Exxon and VECO had a file of hundreds of boats ready and willing to clean up Exxon's mess.

Yet, Exxon continued to push for a normal harvest under their rules, with "dirty fish tenders," etc., and Harrington continues to invalidate the seriousness of the oil. Seiners are told there are no openings for work, for boats of their size.

By June, large vessels, villagers, and set notters have negotiated clean-up work with Exxon and yet Exxon still refuses to take a serious look at several hundred seiners that are ideally suited to travel and clean-up their own waters!

Finally, when the larger vessels start whining about their contracts, the seiners can no longer stand it, and unify, and ingeniously show Exxon how to clean-up their own oil. Exxon responds by hiring twenty more vessels out of an idle fleet to show us how "serious" they are about cleaning up our beaches.

So, by August 6, it's obvious to all to us how poorly you've managed this crisis (as the culprits of this tragedy) to compound a disaster in March into a living nightmare in August, for our community and island.

Your claims process tries to fit a variety of people into your niche, and doesn't address the myriad of circumstances which beset people, especially fisherman who are inherently diverse, and have changing seasons. Your hiring process has guaranteed some a "double season" and the chance to upgrade substantially in the same fishery, yet sets others back into the stone ages economically.

Instead of magnanimously trying to help the communities and individuals involved, you've filled our lives with turmoil and uncertainty by disrupting us emotionally, socially, and economically. Your policies have been successful in that respect.

In all tragedies, the true human spirit emerges in the form of courage, dignity, honesty, pride, and in our case the love for our island and its wildlife. That you can't take from us. We will be a stronger community even after you've pulled out, leaving us holding the bag. because you've taught us how to unify, and showed us our strengths and weaknesses which includes the danger of complacency.

We need to look for solutions by seriously pursuing other alternative energy sources, and by conserving fuel. We'll have to make difficult choices to undo our dependency on oil, and we won't forget the nation's worst oil spill (to date.)

Sincerely,

Lacey Berns
Chris Berns
F/V Tanaga

The Honorable Max Gruenberg
Chairman, Exxon Valdez Settlement Committee
P.O. Box V
Juneau, Alaska 99811

April 14, 1991

Dear Mr. Gruenberg and Committee Members:

Thank you for the opportunity to speak to you in person in Kodiak on April 13, 1991. The subject of Exxon still upsets many of us. I tried to present a reasonable opinion about the proposed settlement. However, judging from the comments that night and my personal feelings about Exxon, many of us are far from "recovered" from the trauma.

Do I "trust" Exxon? Emphatically and absolutely not. And I'll relate to you our personal experiences especially regarding the issue of "trust." My family is still deeply angry with Exxon. You want to know specifics? We have come away from our experience in 1989 with deep emotional and financial scars.

My husband has fished in Kodiak since the 1970's. We had a tremendous salmon (seine) season in 1988 and went into 1989 ready to fish, after spending most of our '88 earnings for new equipment and refurbishing the boat for salmon. Then the oil hit. Exxon and VECO slowly took over the clean-up and gradually hired mostly large (non-salmon) vessels, paying exorbitant rates. Over the next few months our salmon season slipped away from us. The salmon seine vessels which did end up on a charter made \$200,000 to \$300,000, plus a claim (which equalled around \$3-500,000.00). This translated into brand new vessels for the 1990 salmon season. We knew that would happen and we fought all summer to get a charter, or to preferably go fishing. Exxon wouldn't hire very many seiners so

~~so~~ most of the Kodiak seine fleet sat idle all summer. Gillnetters in Olga Bay participated in the only fishery conducted on Kodiak and made millions! The tragedy in this set of unfortunate circumstances for people us is: we were prevented from working, either on charter or fishing, and we were paid through our "claim" about 1/4 of what we made in 1988.

Yet, we were promised throughout the summer of '89 by Exxon: "WE WILL MAKE YOU WHOLE!" John Harrington (Exxon rep.) re-stated this over the course of several months. Yet, we fought and argued with Exxon in town meetings to put all of us to work-we stopped short of begging. I repeatedly wrote and called agencies or people that I thought would intervene in this fiasco and never received an ounce of "help." The replies were: "Your problem will have to be settled through litigation," or "Your letters need editing"; !! For someone like my husband who had devoted his adult life to salmon fishing--this was an emotionally wrenching experience. For many reasons, I hope to God we never have another oil spill.

And, since 1989 we've watched Exxon's charter/claim system make a huge impact in the Kodiak salmon fishery by artificially financing a large upgrade in the fleet. We've watched people buy land in Hawaii, build new homes, buy permits, and vessels, new gear and equipment from these artificial dollars. Our claims amount was less than average because of the 1987 salmon season-my husband fished 1/2 the summer. So as far as economic and emotional damage I couldn't begin to put a price tag on the damages, or put into

words how I feel about Exxon now--2 years later--and there's no end in sight for the "little people" in this very raw deal. So much for "making us whole."

Please find enclosed just a few of the letters I wrote from June, 1989 on. These document our anger, powerlessness, and frustration, and anguish in dealing with this corporation. My letters over the past two years may have been read, but I have yet to see some concrete results. I realize this packet is rather lengthy, but your committee should consider individual experience pertinent to the State's settlement with Exxon, especially regarding critical issues such as "trust" and "good faith."

Sincerely,

Lacey Berns

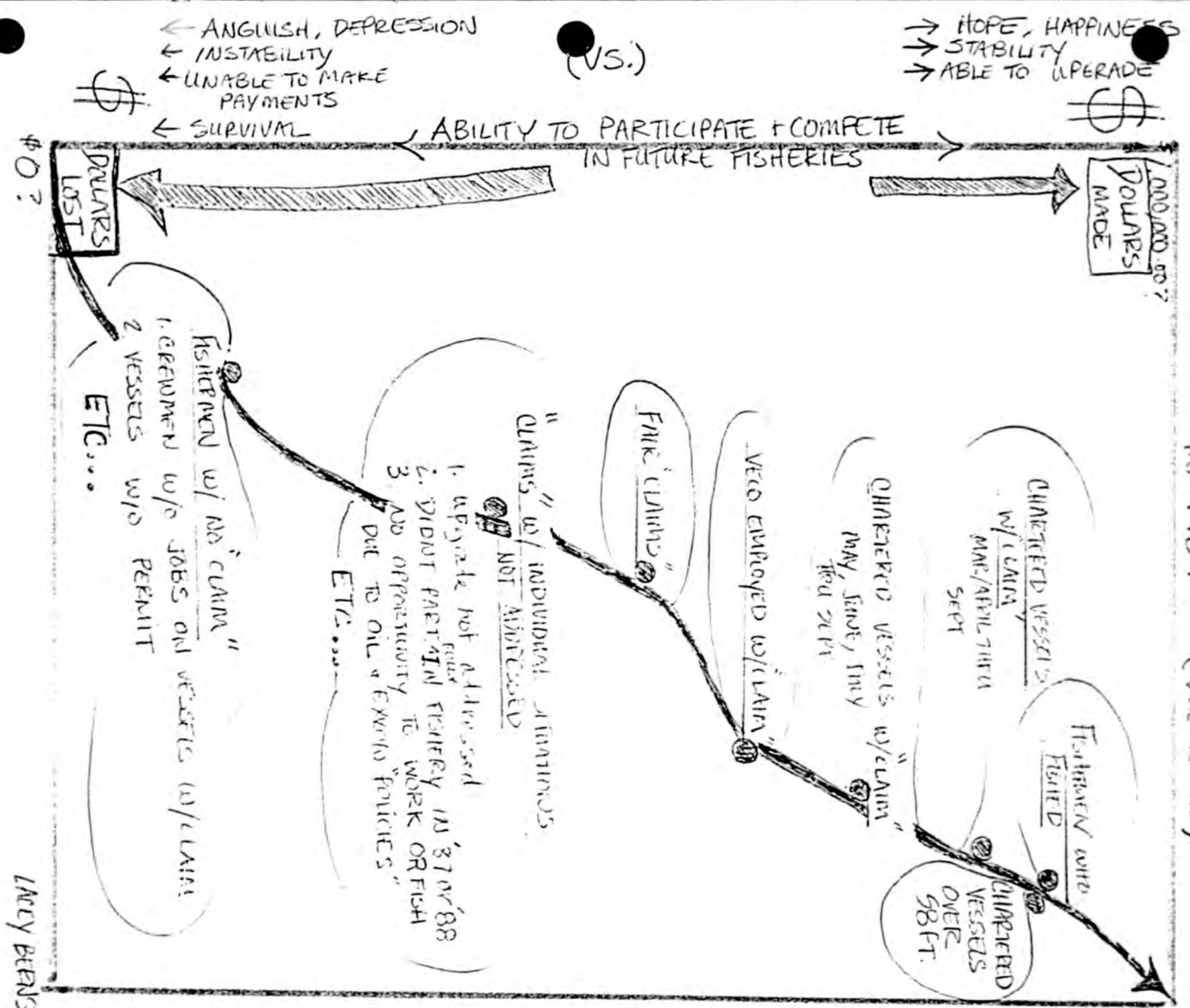
Lacey Berns

Box 26

Kodiak, Alaska 99615

486-5091

THE INEQUITABLE ECONOMIC TREATMENT OF AK. FISHERMEN IN 1989 (DUE TO OIL)



(A HIERARCHY OF DAMAGES)
BY DISTRIBUTION OF
MONEY

LUCY BEENS

9/29,89

We are presenting this idea to several State agencies, fishing associations, and Legislators in the hopes of developing a program which will address the needs of spill-affected fishermen in Alaska. This is a serious, state-wide problem.

We need to know, or to let these agencies know, the extent and magnitude of individual situations. We see this program as a partial solution to the economic inequities Exxon created in their handling of the clean-up.

To develop this program, or one similar, these agencies will need input, and criteria. We are asking the State of Alaska, in the aftermath of this disaster, to survey the situation, assess the problem, and develop suitable, positive programs to help us.

If you are interested in pursuing this idea, please feel free to write or call us, or any of the following people.

*Sincerely,
Chris and Lacey Berns
4V Tanaga
Box 26
Kodiak, Ak. 99615*

Governor Steve Cowper
Office of the Governor
Juneau, Alaska 99811

Bob LeResche, Mike Harmon
Alaska Oil Spill Coordinating Office
PO Box AV
Juneau, Alaska 99811
Phone: 465-2062

Martin Richard
Division of Investments
Dept. of Commerce and Economic Development
PO Box DI
Juneau, Alaska 99811
Phone: 465-2510

Jerome Selby
Borough Mayor
710 Mill Bay Road
Kodiak, Alaska 99615

Cliff Davidson, House of Reps.
112 Mill Bay Rd.
Kodiak, Ak. 99615

Fred Zharoff
PO Box 405
Kodiak, Alaska 99615

Matt Jamin, Attorney
324 Carolyn Ave.
Kodiak, Alaska 99615
Phone: 486-6024

Fisherman's Claims Office (UFMA)
1321 Mill Bay Road
Kodiak, Alaska 99615
Phone: 486-7678

Currently, there are serious hardships developing for a group of fishermen in Alaska due to Exxon's management of the oil spill clean-up. What has occurred is a hierarchy of damages which will seriously handicap our businesses in the future. This group of fishermen, which includes crewmembers, vessel owners, and permit-holders:

1. Did not receive an Exxon charter
2. Did not have the opportunity to fish
3. They are not receiving a fair claim in the fact that their individual situations are not addressed.
4. It now appears that a fair resolution of this situation awaits us in the court system, which could mean years of waiting.

The opportunities for a fair settlement in this system are becoming narrower, thus leading to a bleak outlook on our future participation in the salmon fishery. Whereas, some fishermen actually benefitted from the oil spill, others were dealt a substantial economic blow, and are now handicapped in ~~the~~^{their} futures. Whereas, in a normally competitive and fair fishery, every fisherman starts the season with a "clean slate" and can compete within this healthy context, there has occurred during the oil clean-up a destructive, and demoralizing range of policy-making procedures. It has created a class structure in the same profession:

1. The chartered vessels received monies, plus a claim enabling them to progress economically.

2. Fishermen (including setnetters in Olga Bay) "lucky" enough to participate in a fishery made fortunes, allowing them to progress economically.
3. Individual claims are inconsistent, based on a mere 2 years of records which does not take into account many variables. This has made some claims fair, and some far below what would have been expected in a normal fishery. Therefore, some fishermen will progress economically and some won't.
4. Interim-financing from the State of Alaska while we wait for the court settlement will allow these affected fishermen the same opportunity to advance.

This group of fishermen has experienced severe anguish and economic hardship and needs the State's attention. Therefore, we are proposing that the State of Alaska assist this group by making funds available before 1990, in the form of low-interest loans. A program such as this will enable these people to have the same opportunity to progress economically in the same fishery, which will alleviate some of the economic damage we are facing. Exxon's policies have disastrously proliferated in our lives for over six months, and will continue to haunt us if the State of Alaska does not intervene to help us to overcome this adversity.

We feel it is now the State's responsibility and duty, to help its' residents and businesses adjust and recover because Exxon is not showing any willingness or the ability to address

our individual cases. Unless action is taken, we will undoubtedly face future salmon seasons unable to compete on equal ground with people in the same profession. We will only be able to subsist. The people who were on charter, who fished, or who are receiving fair compensation will quickly gain ground. Damage from the 1989 oil spill will be compounded in future years unless we receive interim assistance. We cannot afford to wait for the court settlements to fairly distribute compensation and address our needs today. Therefore, we are calling your attention to this overlooked group of fishermen.

Sincerely,

Chris Berns

permanent { Lacey Berns
Box 26, Kodiak, Alaska
99615
-or-
attending { 2084 Buttermilk Ln.
school { Arcata, Calif. 95521
until { (707) 826-9430
May 1990 { FV Tanaga

Feb. 4, 1990

Jay Mathews
Washington Post
1150 15th St NW
Washington, D.C. 20070

Dear Mr. Mathews,

I am compelled to write you and your paper concerning the article printed in the S.F. Chronicle on Jan. 29th.

The article gives the false impression that the Lopez couple is typical of how fishermen were treated last summer. On the contrary, in Kodiak, which was the hardest hit economically, we did not fish one day, we did not work "on charter" one day, and have not even been adequately addressed in our "claims." We are still waiting for our "4th payment." Exxon has not adjusted our run total which turned out to be 22 million fish, well over the 14 million they are basing their interim payments on.

This article is upsetting and fills me with

continuing anger and bitterness over the way Exxon has handled this fiasco. We would have been happy to work last summer but were forced to sit idly as our largest run went upstream, and as Exxon doled out the lucrative charters to boats not even involved in the Kodiak salmon fishery.

If you must write articles about this tragedy, please try to convey an adequate picture of other communities. Kodiak fishermen were treated much differently than those in Prince William Sound... much as if our area was not as important, or as needy.

I have enclosed several letters written during this emotional summer.

In our particular case, we have been deeply affected by the shortsightedness of their "claims" system and are scrambling to make payments, unable to live as we were living before the spill. Our claim is $\frac{1}{5}$ of what we made in 1988 - if you want to understand how Exxon treated fishermen

you need to know that the Lopez's were
very lucky to have fished and receive a charter.
Please feel free to write or call
if you have any questions.

Sincerely,

Lacey Berns
2084 Buttermilk Lane
Arcata, Ca. 95521

707-826-9430

Mixed Emotions in Alaska

As Exxon Captain's Trial Begins

By Jay Mathews

Washington Post

Valdez, Alaska

Tom and Doris Lopez fervently wish that the Alaska oil spill had never happened, but as they enjoy their new bedroom and television room, spruce up their new fishing boat and reminisce about their recent California vacation, it has become clear that the spill brought them more money than they had ever seen.

When jury selection begins today in Anchorage in the trial of Joseph Hazelwood, the captain charged with running the oil tanker Exxon Valdez onto a reef 25 miles from here last March, this village will be awash in mixed emotions.

An oil-spill boom has obscured bitterness toward Exxon, the tanker's owner, almost as completely as record winter snows have covered the gritty streets and petroleum-stained boats in Valdez with a white blanket several feet thick.

Doris Lopez, relaxing in the lounge of the refurbished community college, said, "I visualize all these Exxon executives sitting around a table saying, 'We will spend \$2 billion and pay off all these people and, when we get finished, they won't be able to say anything.'"

Neighbors' C

A critic of Exxon despite her family's financial success, she was confronted by a neighbor who is happy with the company and "wanted to know what made me think I spoke for people in Valdez."

Few here express much ill will toward Hazelwood, charged with one count of criminal mischief and other spill-related offenses that could bring as many as seven years in prison and \$61,000 in fines. Valdez residents blame the system, oil executives and government officials who created the conditions that caused the spill and failed to begin the cleanup in the crucial first hours of March 24.

144 dead bald eagles — 1,016 dead otters, lost fishing days and disrupted salmon-spawning patterns.

Sandra Cesarini, awaiting a crucial meeting on claims by her seafood processing company against Exxon, considers hers one of the few Valdez businesses that actually suffered from the spill of nearly 11 million gallons of oil in Prince William Sound.

"Most merchants probably tripled their business" from the influx of oil executives, cleanup crews, scientists and journalists, she said. Joe Bridgman, spokesman for the Alaska Department of Environmental Conservation (DEC), said some mer-

Many merchants tripled their business from the influx of out-of-state visitors

chants "literally became millionaires."

Bills Covered

Although they look forward to normalcy, most people here seem quietly grateful that Exxon and nature had enough resources left to provide work and cover the bills. And, although most have lost little income and many found bank accounts suddenly fat, they say they would trade it all for the simpler lives they led before the spill.

Michelle Hahn O'Leary, a fisherman in nearby Cordova, had about as much income from Exxon claims and limited salmon catches in 1989 as she did in the year before the spill. But during long days of forced inactivity as she attended spill-related meetings in Anchorage and Washington, punctuated by dashes through airports with heavy luggage, she aggravated a knee injury and spent eight weeks this summer recovering from surgery.

couples who have agreed to meet periodically with Washington Post reporters to discuss how the spill has affected them.

All say they realize that it will be some time before Exxon, which has spent \$2 billion on the cleanup, will return to being little more than a name on some of the tankers picking up oil from the terminal of the Trans-Alaska Pipeline.

Lawsuits Against Exxon

The three couples are involved, as are most people on the sound, in a series of private and government lawsuits against Exxon and Alyeska Pipeline Co., a consortium of oil companies, that may not be resolved for a decade.

If this were any other year, Tom Lopez, 33, and his wife Doris, 23, would be celebrating a professional triumph. They grossed \$428,000 this year. Even after paying taxes and heavy expenses for their two fishing permits and salaries for their crews, their net income was twice that of last year.

For \$1,000, they sold the gill-net boat that they had contracted to help in the cleanup — "It's now an oil-soaked piece of rotten wood," Doris Lopez said — and bought a new, faster gill netter, the "Blue Jay," for \$15,000. They had enough money left to attach a new bedroom and television room to their trailer at the foot of the mountain that looms over the town. They took their elder son Thomas, 4, to Disneyland.

But, as fishermen, they did not like what they had to do to earn most of this money. They made \$250,000 renting their gill-net boat to Exxon and doing other spill-related chores but only by pleading with company officials and watching closely for every opportunity.

Yet, to their surprise, by the end of the shortened season in August, the couple had gathered in \$141,000 worth of fish. Exxon paid them \$37,000 in compensation for lost fishing revenue.

The Lopezes said that with luck they could have made just as much

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
ALASKA OIL SPILL COORDINATING OFFICE

Lacey Berns

November 30, 1989

Chris and Lacey Berns
Box 26
Kodiak, AK 99615

Dear Mr. and Mrs. Berns:

On behalf of Governor Cowper, thank you for your letter concerning programs to assist fishermen affected by the EXXON VALDEZ oil spill. I understand that Mike Harmon has responded over the telephone to the points raised in your letter of September 19, but I also wanted to reply personally.

If I understand it correctly, your letter questions the fairness of the Exxon commercial fishery claims process and alleges that Exxon vessel chartering practices will place those fishermen who did not receive a charter at an competitive disadvantage in the future. Your solution to these perceived inequities is a low-interest loan program for those fishermen who did not receive an Exxon charter as well as those who did not receive a "fair" claim. Your letter articulates the feelings of other fishermen I have talked to about the Exxon vessel contracting system and claims process and I understand your frustration. However, I cannot offer you much assistance.

First, the state has no power nor desire to dictate the contractual practices of any private sector company in its relations with other private parties. While vessel contracting practices during the spill clean-up may have seemed inequitable, they apparently did not violate any state laws. And, absent a charter for every commercial fishing vessel in Alaska, I do not see how total fairness could have been achieved.

Second, Alaska also has no authority to formally intervene on behalf of fishermen in the claims settlement process. This office was heavily involved in attempting to informally assist the various commercial fishermen's organizations in negotiating the current claims process and most of those organizations appear satisfied with the result. While the two-year rule may not have been acceptable to all, a majority concurred.

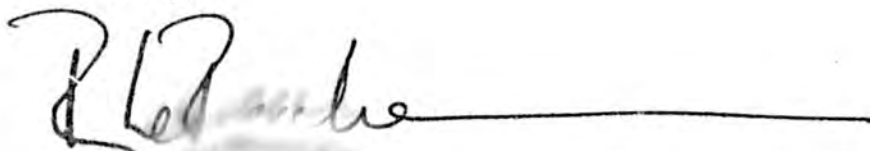
Finally, the kind of loan program you suggest would be fraught with legal difficulties. There would be just no way to fashion a state loan program which would achieve the result you seek. To do so, it would have to bar loans to fishermen who received charters. It also would have to distinguish between fishermen who received "fair" settlements and those who received "unfair" settlements. I hope you understand that would be an impossible task. On the other hand, a program which did not make those distinctions would simply maintain the dislocations you want the state to redress.

I also understand your frustration about the delays inherent in the judicial process. The fact remains, however, that your recourse is the same as that of the State of Alaska and your fellow small businesses—engage an attorney and file a lawsuit or join one of the several "class action" lawsuits.

I do not wish to minimize the psychological and emotional injuries you have suffered because I am sure they are very real. Only legal counsel can determine whether or not they are sufficient for a legally enforceable claim.

In the meantime, however, you should explore the possibility of a Small Business Administration loan. The SBA is currently accepting loan applications from businesses who have suffered economic hardship as a result of the oil spill.

Sincerely,

A handwritten signature in dark ink, appearing to be "Robert", followed by a long horizontal line extending to the right.

Robert

Oil Spill

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
ALASKA OIL SPILL COORDINATING OFFICE

August 16, 1989

Lacey Berns
Chris Berns
Box 26
Kodiak AK 99615

Dear Chris and Lacey:

Governor Cowper has asked me to respond to your kind letter concerning the Exxon Valdez oil spill in Prince William Sound. We have received thousands of cards and letters from all over the world, expressing anger, sorrow and disappointment over this disaster. We also have received thousands of letters like yours, recommending ways to mitigate damage from the spill.

Resolution of issues you raised are crucial. Rest assured, Alaska is committed to doing whatever is necessary to prevent another Exxon Valdez, including insuring that the clean-up of crude oil is made as environmentally safe as humanly possible.

I want to thank you for sharing your feelings. During the next few months, as we continue to fight this disaster, many of us will have to deal with our emotions and exhaustion. It is comforting to know that your wishes are with us. Like you, I hope that this tragedy can, at least, be a lesson for vigilant stewardship in the future.

Sincerely,

A handwritten signature in cursive script that reads "Robert LeResche".

Robert LeResche,
State Oil Spill Coordinator

U.S. Department
of Transportation
United States
Coast Guard



Commandant
United States Coast Guard

MAILING ADDRESS:

COMDT (G-MER-TF)
WASH., DC 20593-0001
Phone: (202) 267-0010

16465

Mr. Lacy Berns
Box 26
Kodiak, AK 99615

25 SEP 1989

Dear Mr. Berns:

On behalf of President Bush, this is in response to your letter of June 14, 1989, concerning the EXXON VALDEZ oil spill. Your views are appreciated. I want you to know that the Coast Guard is doing everything possible to minimize the impact of this incident on our environment as well as develop ways of preventing such disasters.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard H. Crawford".

RICHARD H. CRAWFORD
Captain, U.S. Coast Guard Reserve
Valdez Oil Spill Task Force
Marine Environmental Response Division
By direction of the Commandant

Editor
The Anchorage Times
820 W. 4th Ave.
Anchorage, Alaska 99501

May 29, 1990

Dear Editor:

I'd like to comment on your April 29th editorial regarding the National Wildlife Federation's message to Exxon's shareholders. My husband and I have resided in Kodiak and fished commercially for 30 years, ~~and~~ d. Although our lives were not totally "destroyed" by ~~the~~ spill, I'd like to inform your newspaper (which was purchased ~~by~~ all know, by oil spill profits), that hundreds of ~~the~~ Kodiak suffered emotionally and financially. We were not among the "spillionaires" who reaped incredible profits in the dirty business of cleaning our precious, gooey coastline. We did not fish, we were not allowed to work, and our lives are forever affected by Exxon's tragic mistake and methods of "compensation." We witnessed VECO's gluttonous method of managing the clean-up, reaping for itself millions of dollars in profits. Why, enough to buy its own forum in the Anchorage Times. How convenient.

If your stated purpose is "to present a balanced, accurate, and impartial news report..." then I dare you to print this, and I expect you to do a little more research on Alaskans in other communities who are not quite as thrilled about an "oil spill as a tool of economic recovery." You certainly don't represent the viewpoint of hundreds of previously hard-working commercial fishermen who anxiously sat out the season of 1989.

Sincerely,

Lacey Berns, FY TANAGA

Box 26

Kodiak AK 99615

907-456-4738

June 2, 1990

Dear Editor:

A comment on the controversy surrounding offshore oil development and the oil industry in general. As a resident of Alaska for 22 years, a "victim" of Exxon's tragic mistake last year, and as a woman whose family depends on commercial fishing in Kodiak, I feel qualified to further educate Californians on this matter.

In the aftermath of the oil spill, Exxon promised to clean our coasts. They didn't finish the job and paid a sub-contractor, VECO, to manage the task. VECO walked away with millions of dollars in profits. Exxon promised "to make us whole", to compensate us for the agonizing reality of losing a salmon season. They have since refused to pay Kodiak fishermen the full value of the enormous catch we would've harvested, had there been a ^{season} ~~harvest~~. They have "nickle and dimed" us by cutting our prices per lb., by denying that our fish weigh a certain amount in these calculations, and by denying that we would've caught certain fish that normally pass through Kodiak waters! In essence, not only did Exxon create a calamity for us as fishermen in the spill itself, but have since refused to negotiate in good faith for adequate compensation.

As for "pristine" coastlines, Exxon is now dabbling in "bioremediation"--spraying down still oiled beaches with chemical fertilizers! A process which is still experimental.

Many Alaskans testified in November at a Citizens Commission Hearing, sponsored by the National Wildlife Federation

the Natural Resources Defense Council, the Wildlife Federation of Alaska, and the Windstar Foundation, voicing their rage, frustration, and the TRUTH about Exxon and their oil spill. The facts are available in a free booklet entitled, "The Day the Water Died" from the Alaska Natural Resource Center, 750 W. 2nd Ave., Suite 200, Anchorage, Alaska 99501.

I urge you to consider these testimonies before placing your coastline and future in the hands of the oil industry and their "promises."

Sincerely,

Lacey Berns
Box 26
Kodiak, Alaska 99615
907-486-4738

or
707-826-9430 until June 14

3/21/90

Jamies, Ebell, Bodger, & Gentry
323 Carolyn
Kodiak, AK. 99615

Dear Matt and Duncan,

Our claim does not adequately reflect Chris' ability to "catch fish". According to our records (CFEC), there were many loopholes which have allowed Exxon to make inequitable payments to fishermen.

In 1987, Chris leased our vessel to Brian Wilson to go herring fishing as the price of herring was good ^(@2200/ton) enough to "give it a try." Thus, Chris had 2 salmon deliveries in June when there were actually 22 fishing days. Chris fished a total of 17 days for salmon in 1987 due to extenuating circumstances. In August, our daughter became ill with viral meningitis and was hospitalized. Chris came to town from Old Harbor in the middle of an opening, the height of the (Aug. 11 or 12)

pink run in that district, to see if she was okay. He brought the boat in. It was an emergency and he lost valuable fishing time. He also stopped salmon fishing early in 1987 to prepare for and do gear work for the King Crab season which would begin on Sept. 20th in the Bering Sea, on the FV Little Ann. This was a ^{prior} commitment.

In 1988, Chris fished 38 days, every opening he possibly could. He ultimately geared up ^(see our CCF expenditures) investing a large amount of 1988's earnings back into the boat and gear to put most of his energy into the 1989 salmon season. We invested \$70-80,000 into the boat because we were sure that we could equal or surpass 1988's earnings. Thus far, we have been severely disappointed and adversely affected by Exxon's methods of dispersing claim money. Because of 1987's amount - which was based on 3 unusual circumstances - our claim is less than adequate and does

not reflect Chris' catch ability. (*see Catch records).

Exxon's failure to pay us an "ADEQUATE" claim, plus their failure to pay Kodiak a post season run strength adjustment has continually put stress and pressure on our finances and mental health since last summer. We waited from August until February for our 4th payment. Our bank account reached a low point of about \$1500⁰⁰. Since I am in school and not able to work at this point, it was extremely stressful. Chris was forced to get a job tanner fishing in January - a job he had previously "retired" from. All of this, because we were "dependent" on Exxon to "make us whole"? Previous to the oil spill, we had plans to buy another home in Kodiak and/or get a different boat. Those plans could not be carried out, after our claim amount

reached severely low proportions. We received
 @ \$51,000 from Exxon in 1989, with The same
 amount of expenses incurred just as if we had
 gone salmon fishing. We have a
 \$ 14,000 business loss for fishing in 1989
 due to This extraordinary method of "payment." We
 have never incurred a loss before 1989.
 (*See 1989 TAXES).

As we have previously asserted, our
 ability to compete and survive in The Kodiak
 fishing industry has been severely hampered.
 As we have watched other fishermen upgrade,
 buy new boats, houses, etc. from Veco and
 Exxon claim money, we have been helpless
 to stay on our course for our fishing business.
 When some members of a population or
 profession receive more than others, it
 increases their ability in future fisheries, to
 do better ^{and} to compete on a stronger basis.

As always, we appreciate your time and
 effort in carrying this message to Exxon,
 in The legal sense. Thanks -

Lacey Berns
 2084 Buttermilk Ln.
 Arcata, CA 95521

9-89

Director
State of Alaska
Dept. of Commerce and Economic Dev.
P.O. Box DI
Juneau, Alaska 99811-0802

Sept. 10, 198

Dear Mr. Richard,

We appreciate The State's offer to help impacted fishermen, by extending The due date for our payments. We aren't sure whether we'll need This extension, however we would like your department to know exactly how the oil spill and Exxon's management of The clean-up affected us. So, I've enclosed a copy of one letter I wrote to The Kodiak Daily Mirror in August which helps to explain part of The problem.

Because we were not able to be hired as part of The clean-up effort, although Exxon did hire large vessels and setnetters, we are now in a position to have to "catch up" economically. Some seiners were hired in Kodiak and because of The exorbitant rates paid to chartered vessels, have now had Their most profitable seasons EVER. Where does That leave The person, like my husband, who has worked in The Kodiak salmon industry for 20 years, who has gillnetted for 11 years, and seined for 9 years? Many of The chartered vessel

owners can, at This moment, afford to buy a new vessel outright. A greater percentage of Kodiak seiners ~~are~~^{are} in our position of wondering if we'll be able to make payments, or to pay taxes, or to buy new gear for next year's "possible" season. ^{because} Exxon stifled the hiring process in May.

Let me explain to you how many ways this effected us:

- ① The price drop for salmon is not reflected in the interim payment for salmon claims.
- ② We put over \$70,000 of new gear and equipment into our vessel between 1988 and 1989. My husband worked for 5 months on this project. This is not reflected in the claims formula.
- ③ If ~~y~~ our salmon season was cancelled because of the presence of oil in our waters, why did Exxon not see the need to hire as many people as possible ESPECIALLY Kodiak purse seiners, to hasten the clean-up?? Why were we forced to sit around all summer tormented by Exxon's management of this crisis?
- ④ The "charter" situation has allowed some Kodiak fishermen the opportunity to upgrade, & has put them in a completely different financial category. Meaning that,

in future years, we will be competing with these same vessels, in the same waters. How can Exxon create an artificial economy such as this, which penalizes the person who could not get a job, or go fishing? Exxon created huge, disastrous inequities in their management of the clean-up. Should we be burdened by their incompetence and ignorance for years? Will Exxon be ultimately responsible to those who will suffer because of their policies?

- ⑤ Exxon has ignored the fact that over \$6 million fish returned to the Kitoi Hatchery on Kodiak, on top of the pre-season forecast. Fish we would have been able to catch, market, and be paid for. Our harvest in 1989 would have been stupendous.
- ⑥ Because of the presence^{of} oil, only one area was open - Olga-Moser Bay - where^{only} setnetters can ~~only~~ fish at this time. Normally, purse seiners are allocated a percentage of the catch which this year went entirely to setnetters, but because Cape Attak was closed, purse seiners did not have the opportunity. These setnetters had "multi-hundred" thousand dollar seasons because of this situation.

4

Furthermore, ADF+G allowed seiners to harvest subsistence fish in Olga Bay by emergency order. Perhaps, due to The extraordinary circumstances This summer, ADF+G could have issued an emergency order to allow seining ^{in Olga Bay} for commercial purposes? It was definitely an emergency situation. Kodiak seiners have been hit The hardest by These inequities, and would undoubtedly have opted to go fishing rather Than vegetate. I'm writing This letter to you as an informative tool which you might be able to use. We are angry and bitter over Exxon's management of The spill in Kodiak. We especially feel That Exxon should not have had The control over The clean-up and our lives which They had. The State should be aware of This.

Sincerely,

Lacey Berns

permanent

{ Box 26
Kodiak, Ak. 99615

temporary
while attending
school

{ 2084 Butternut
Arcata, Ca. 95521

BIXBY, COWAN & GERRY

Attorneys At Law

P.O. BOX 790

705 2ND AVENUE

CORDOVA, ALASKA 99574

(907) 424-5999

FAX # (907) 424-5357

April 15, 1991

My name is Bill Bixby; I am with the law firm of Bixby, Cowan & Gerry. We represent almost 1,300 commercial fishermen who suffered damage as a result of the Exxon Valdez oil spill.

I have listened to a tele-conference held in Cordova wherein Attorney General Cole seemed to be a little annoyed that individuals who testified asked him questions which were prepared by attorneys. Mr. Cole's position was that the attorneys could address those questions in court and therefore it was somewhat "wrong" for clients to pose those questions to him.

This is only a ploy from Attorney General Cole's part to avoid answering tough questions about the settlement. Mr. Cole knows full well that attorneys such as myself have no standing to bring a motion in court to object to the settlement. It would be akin to any of you on the committee trying to voice an objection of a settlement of an auto accident case of mine. The judge would ask you what business you had sticking your nose into my business.

The problem of standing aside there are also time constraints. The legislature must take action approving or disapproving the settlement in the very near future. As far as I'm aware there are no court hearings scheduled on this matter before the legislature must take action. The tough questions dodged by Mr. Cole must be answered before then if we are to know the meaning of the agreement.

Finally, there is nothing wrong with a client asking you or the Attorney General about the consequences this agreement will have on him. Like most of you, my clients are not lawyers. They can read the agreement but really do not understand the consequences of some of the language in it. Once their attorneys have explained what consequences the language of the agreement could have on them, you can bet your bottom dollar that none of them would ever vote for anyone who approved this settlement in its uncertain form.

Now let me discuss the gravest concern that I have regarding this settlement. It deals with language found in

paragraph 13(c) of the settlement agreement. That paragraph states:

Nothing in this agreement shall affect or impair the following:

c. The rights and obligations, if any, of legal entities or persons other than governments who are the holders of any present right, title, interest in land or other property interest affected by the oil spill.

When attorneys in our office first read that paragraph we had concerns as to the consequences of this paragraph. Our concerns became even greater when Exxon confirmed our suspicions as to how they would interpret this paragraph. We have been told by Exxon that they will not owe money to any fisherman for any damage done to the natural resource (i.e., fish) after the agreement has been adopted by the State. Under their interpretation they have paid the owner (the State) for damage done to the resource. Therefore, they do not have to pay the fishermen except for damages that have been presently accrued to the fishermen. In short, Exxon will not have to pay for damages to the 1991 salmon runs and every salmon run thereafter to fishermen who utilize the resource because they will claim that they have paid the owner (the State) for the damage already via their settlement agreement.

The following example will illustrate the problem. Suppose a client of mine has damages that once they are totally calculated amount to \$100 (for illustrative purposes only). Of that \$100 my client suffered \$30 worth of damage for 1989 and 1990. Under the terms of this agreement my client would only be able to recover the \$30 of damages he has accrued in 1989 and 1990 but will not be able to recoup the rest of his losses as that part of his case has already been settled by the State.

In Cordova, Bobby VanBrocklin posed this question to Attorney General Cole. Mr. Cole referred Bobby to paragraph 32 of the agreement. The last sentence of paragraph 32 says:

Nothing in this agreement, however, is intended to affect legally the claims, if any, of any person or entity not a party to this agreement.

Mr. Cole's reference to this sentence did not truly answer Mr. VanBrocklin's question. He again side-stepped the issue. Going back to my example of the fisherman who suffered \$100 worth of damage, this sentence still gives my client the right to go after his \$30 but still does not allow him to seek the total amount of damage he suffered by the oil spill because of paragraph 13(c) limitations.

Attorney General Cole needs to be pinned down and a definite answer received as to the answer to this question. Does paragraph 13(c) mean that commercial fishermen have no claim for damage to the fish runs after the agreement has been adopted? The agreement needs to be changed to reflect that the fishermen still have the right to go after the total damages incurred by them, i.e., both present and future damages, without interference by the State's settlement agreement.

All we ask is that the agreement reflect this in writing or by having Mr. Cole and all the other parties stipulate to this in open court.

In summary, if this agreement interferes with the right of fishermen to receive total compensation for the damages they have suffered, and will suffer in the future, it needs to be rejected.

Best regards,

William Bixby
BIXBY, COWAN & GERRY

WB/jam

May 22, 1991

Ms. Marian Callahan
540 "L" Street
Anchorage, Alaska 99501

Dear Ms. Callahan:

Thank you for taking the time to contact my office about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that most, if not all, of the conditions placed by the House will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

CONSTITUENT REPORT

District 12

Subject: Exxon settlement

Date: May 7, 1991

Name: Mariam Callahan

H. Phone 272-6967

Res. add 540 L Street

W. Phone _____

Mail add 540 L Street, Anchorage

Zip: 99501

Synopsis of problem/request: Pleased with performance of all the House Democrats for rejecting the Exxon settlement. It was put together too fast, was too easy on Exxon and ignored lots of Alaskans.

Followup/Comments:

Staff name *Nancy Bobcock*

April 15, 1991

Sandra Clark
6766 Double Tree Court
Anchorage, Ak 99516
(907) 346-2800

House Special Committee
On Proposed Exxon Settlement
P.O. Box V
Juneau, Ak 99811

The comments contained in the attached copies of various letters to the editor, pretty well expresses the opinion of most knowledgeable Alaskans as to the role the State played in the Exxon "Valdez" incident.

The attached portion of Alyeska's oil spill contingency plan clearly shows that the effects of the spill were just as should have been expected under the circumstances as shown in the State approved plan.

The quicker the State can get this settlement behind it, the better off it will be.

Very truly yours,

A handwritten signature in cursive script that reads "Sandra Clark".

Sandra Clark

State bumbled cleanup

Dear Editor:

I would like to add a little more to your excellent editorial of Friday, Feb. 2, and Hugh Cunningham's column of Sunday, Feb. 4, regarding the continuing mass of oil spill misinformation that pours forth from both the Department of Environmental Conservation, and our chief executive — the "lame tur-

I observed DEC's handling of the oil spill in Kodiak far over seven months, and the fact they made a numerical error saying 224 beaches were deeply fouled when it's really only two beaches, is probably closer than most of the statistical information they've presented as a result of their 10 months of "scientific research."

The Kodiak DEC office during the spill consisted of some 40 people — the largest collection of non-Alaskan hippy types to be seen since Woodstock — all "supervised" by a man whose previous experience with the department had been as a restaurant inspector in Anchorage.

This amazing group punched in their time cards at 6 a.m. and punched out at midnight — seven days a week for six months. During that time they played cards and computer games, slept, ate and flew around the country sightseeing, fishing, taking pictures, and occasionally collected samples and figures that no one on earth will ever be able to figure out.

They also had wild parties, wrecked a state vehicle, refused to consult with the natives of the six Kodiak villages on any pertinent issue — were unable to handle even a simple phone call, and only the fact that God protects fools and drunks kept some of them from getting killed. Their second supervisor, who replaced the restaurant inspector after he's "lost" several hundred miles of beach, did break a few bones preforming silly tricks.

As far as the Kodiak office is concerned, I personally doubt that one true or usable piece of information was developed in the entire 10 months they've spent getting rich at state expense. As a witness to their action, I also believe that the blame for any long-term environmental damage should be laid firmly on DEC's doorstep. They hampered and restricted the cleanup — over extended their authority with Exxon, Veco and the Coast Guard and showed more ignorance and stupidity than this world has seen since the Titanic set sail without enough life boats.

It certainly makes me wonder if Alaska will be able to survive the remaining months of Cowper's administration.

Laura "Sasha" Hughes
Sitka

Time to fire Kelso

Dear Editor:

I am totally outraged about the Department of Environmental Conservation employees and their so-called overtime pay. If any of those union rip-off artists worked 12 1/2 hours a week, I'll eat my hat. That would be 17.35 hours a day, seven days a week, leaving only 6.65 hours for a meal, a bath and sleep. Come on, what kind of nonsense are these people trying to shove down our throats? Not only are they overpaid in the first place, but to see them sticking it to the Alaskan people for \$10,000 to \$18,000 a month is totally abominable.

The papers say their boss, Steve Provant, is concerned and that his boss, Bob LeResche, is investigating. But they don't go directly to the problem of the entire DEC and that's with their loud-mouthed leader, Dennis Kelso. This is the man who should shoulder all the blame and should actually be fired for allowing his people to gouge the people of Alaska.

Dennis Kelso is the man whose early decisions in the spill not only exacerbated cleanup efforts but also probably did more damage to the beaches than the oil did, over the advice of scientists. I might add.

This is the man who had never even set foot in Valdez in all the time he was on the payroll until after the spill.

If we can prosecute the guy who was asleep in the back seat for what the man behind the wheel did, we can surely demand Dennis Kelso's pink slip.

Larry W. Phillips
6711 Lunar Drive

The Juneau

Dear Editor:

Perhaps some new light can be shed on the Exxon Valdez grounding. We Alaskans all got a black eye from this accident. Captain Hazelwood and Exxon have been highlighted.

Are we so naive as to overlook the real cause of the wreck? I personally find it appalling that one man is being held responsible for embarrassing the state of Alaska. Where were the safeguards that were supposed to be in place to prevent this very thing? In theory we had agencies whose sole function was monitoring and ensuring that this couldn't happen. But if it did, it could be contained!

Hopefully no one at the Department of Environmental Conservation and the U.S. Coast Guard was hurt in the stampede to distance themselves from exposure of their neglect.

I've seen enough oiled birds and otters to gag. Let's see some coverage of those agency directors that pulled their heads out of the sand and got to higher ground. Buzzards aren't native to Alaska, but at the Daily News they are in abundance and gorging on the oil industry!

Don Whitehead
Anchorage

Kelso bears much of blame

There has been a preponderance of misleading stories written by the Anchorage Daily News lately alluding to the premise that Alyeska was unable to handle the Exxon Valdez oil spill as promised. Most of these stories appear to be based on information and complaints furnished by the DEC and its commissioner, Dennis Kelso.

If Mr. Kelso had bothered to read the Alyeska Oil Spill Contingency Plan before approving it (it was reported he did not), he would have known the following:

1. The plan clearly shows that if a spill of this magnitude did occur, and the use of dispersants and burning were not immediately allowed, the amount of oil reaching the shoreline would be just like it was in this case.

2. The plan further states that even under the most ideal conditions, in a spill only 1/65th the size of that of the Exxon Valdez, 40 percent of all the spilled oil would reach the shoreline and would require approximately two months to clean up.

By approving this plan, the DEC approved of the expected consequences. Remember, this plan was 100 percent DEC-required, -administered and -approved.

In spite of all of the attempts to whitewash, praise, and glorify Mr. Kelso and the DEC, the only conclusions that can be drawn from all of the evidence are:

1. If Dennis Kelso did indeed not read the plan before he approved it, he should be immediately fired.

2. If, in light of Dennis Kelso's remarks as to the inadequacy of the plan, he did read it and then still approved it, he should be immediately fired.

— Sandra Clark

Pumping up the numbers

Dear Editor:

Did you ever wonder why oil is discovered, produced, transported and processed in barrels but only spilled in gallons? Because bigger numbers sound much more dramatic!

So goes the governor's DEC report on oil penetration of Prince William Sound beaches (the misstatements were uncovered and reported in The Anchorage Times Feb. 1).

Mr. Kemelovitch made lame excuses and stated, "the figures are definitely approximate" and "these measurements are approximate by the way you measure them."

Then why measurements in centimeters? Elementary, my dear Watson, look at the big numbers!

Now no one will deny that any oil spill no matter what size is serious. But let's get real and put things in perspective! I'm 21,000,000 minutes old but I sure as heck wasn't born yesterday.

Marvin Ebner
Starling AT 2-16-90

An end to smokescreens

Dear Editor:

Many people in the state are currently focusing on the projected future revenue shortfalls which will be caused by decreasing oil revenue, but there is another large liability looming on the horizon that appears to go unnoticed by the general public.

State statutes place protection of the environment in Alaska as the responsibility of the Department of Environmental Conservation (i.e., Dennis Kelso). Therefore because DEC was lax in working effectively with Alyeska and Exxon in the containment of the Valdez oil spill, the state will have to share part of the responsibility.

The lawsuits filed against the state so far are probably just the tip of the iceberg. Once the public finds out that claims filed against Exxon will be paid by both Exxon and the state, the "only" mouse will really hit the fan.

Kelso can hide a while longer behind the smoke screen that he continues to throw up, but he better remember one thing — there is no smoking allowed in the courtroom!

James Blalock
Anchorage

Paying the piper AT 2-17-90

Dear Editor:

I noted the other day that Exxon has countersued the state. It seems that after the state insisted that Exxon spend \$2 billion on the spill, washing rocks, they then sued Exxon for damages. Exxon, of course, counter-sues saying that the state prevented them from using dispersants or burning before the spill got out of hand. Therefore, the state should reimburse them for most of their \$2 billion cost.

What happens five or six years from now when this mess finally emerges from the court system and Exxon wins? Those of us still here will have to come up with \$2 billion, plus interest, plus attorney fees, etc. Mr. Cowper and Mr. Kelso will probably be living in California saying, "Gee, that's too bad," while we spend our Permanent Fund paying off the debt.

I think it is time to start focusing on all the bad guys in this mess, not just Exxon. Cowper and Kelso have not contributed anything positive to the problem. In fact, they became part of the problem.

I think we should hold these guys accountable now. Why is Kelso still DEC commissioner? Why is Cowper not being taken to task for his actions? We Alaskans who were here when these two clowns came to Alaska will be here after they leave, paying the bills for their actions.

Bob Bell
2610 Curlew Circle

Questions on DEC overtime

I would like to pose several questions to the state Department of Environmental Conservation. I hope they will use this public forum to reply.

The issue is not about the overtime wages paid to employees of the department working, presumably, on the Exxon tanker spill. My questions are:

1) What were the employees doing of such importance to justify the massive use of overtime, much in the winter months?

2) If the work was essential, why was the overtime eliminated just when the public learned of the issue?

3) If the overtime was non-essential, then how was it authorized in the first place?

4) Who is to pay this overtime: the public or Exxon?

ADN 1-31-90 David G. Hendrickson

Prince William Sound Tanker Casualty: Spill Amount 200,000 Barrels

Alyeska Pipeline Service Company has been requested to respond to a scenario of a 200,000-barrel spill in Prince William Sound. APSC believes it is highly unlikely a spill of this magnitude would occur. Catastrophic events of this nature are further reduced because the majority of tankers calling on Port Valdez are of American registry and all of these are piloted by licensed masters or pilots. Nonetheless, should such an incident occur, the following is our overview of the initial response to that scenario. Attached is an oil spill trajectory of the oil movement. A spill of this magnitude would require considerable resources and logistical operations, the minute details of which are not included in this scenario because the details are not useful in long-term response planning. This scenario will not address the circumstances responsible for the loss of cargo or of the fate of the tanker. Once a tanker is immobilized, the U.S. Coast Guard will determine future movement of the vessel.

Assumptions

The following assumptions are made in presenting the response to the scenario: The sea state and weather conditions are in and remain in a state conducive to oil containment and cleanup. For example, winds less than 15 knots, sea state less than 5 feet, currents less than 1.6 knots, waves less than 2 feet, visibility equal to or greater than 2 miles.

The spill incident occurs through some failure of the tanker crude tanks and does not discuss other disaster possibilities such as collision or fire.

Conditions

In addition to the above assumptions on sea state, the weather is assumed to be conducive to oil spill cleanup and remains in this mode for the response actions. For this particular scenario and trajectory input, the date of June 22 at 6:00 a.m. was chosen for the spill incident with winds from the east at 5 knots. The location is 60° 30' 5" North, and 147° 2' 0" West longitude. The tanker has a cargo amount of 550,000 barrels. The trajectories show two possibilities—one is an instantaneous spill of 200,000 barrels and a second is a 10,000 barrel per hour spill that continues for 20 hours. Figure 306-6 shows the trajectory oil spill movement. It is approximately 30 miles to the site from the Valdez Terminal; an average speed of 12 knots is used to determine the travel time to the area for the Crowley tugs. An approximate speed of 8 knots is used for towed equipment and 20 knots for the workboats without tows. Figure 306-4 is a summary of equipment capacity and response times. Figure 306-5 is a table of equipment in the first response effort.

Immediate Response Actions

On notification of the pollution incident, the following response actions would be simultaneously initiated. The closest empty or light loaded tanker will be directed to the spill site with an estimated maximum arrival time of 12 hours. The initial response would include moving containment booms, skimmer equipment, support equipment and personnel to the site. Additional backup personnel and equipment from the pump stations along the line would be mobilized. Private commercial vessels from the Valdez small boat harbor would be employed to assist in booming and logistical support. Aircraft in Valdez would be employed to assist in the response with overflights, communication or logistics. This would immediately be backed up with air support from our eleven on-call flight services contractors. APSC would request U.S. Coast Guard Pacific Strike Team assistance through the Valdez U.S. Coast Guard office. In addition, all oil spill contractors in the state of Alaska would be asked to mobilize and move to the site as soon as possible to respond to the spill. Also, a request to the local cooperatives, CIRO and Alaska Clean Seas, would be made for any additional equipment that they could supply to this area. See Figure 607-1 for a summary of air transport response times and Figure 607-2 for vessel response times. A request would be made to the Association of Petroleum Industry Co-op Managers to respond with available equipment and personnel that can be located in the West Coast area. The International Bird Rescue Research Organization would be immediately requested to mobilize and prepare for movement to Prince William Sound. A request would be made immediately to the OSC to apply dispersants to the oil slicks. Biebert Aviation and other dispersant contractors would be requested to mobilize in Valdez and be prepared to apply dispersants. A request to open-burn slicks on the ocean and debris and oil on the shoreline would also be made immediately to the OSC.

to open-burn slicks on the ocean and debris and oil on the shoreline would also be made immediately to the OSC.

It is expected the agencies response actions would include the following: The regional response team would be immediately mobilized. The decision process on dispersant application would be begun immediately. There would be a joint meeting between the U.S. Coast Guard, EPA, Alyeska, Alaska Department of Environmental Conservation, U.S. Fish and Wildlife Service and possibly other government entities, to keep all affected parties apprised of the situation and, hopefully, to facilitate the decision making on the response alternatives.

As a result of the initial coordination meeting, it was decided certain response priorities would have to be made as this would be a long-term impact and cleanup situation.

The trajectories indicate that oil will threaten Eleanor Island, Naked Island, Lone Island, Perry Island and the Pigot Bay area, Culross Island and the Main Bay area shorelines. Although it is unlikely oil will reach Main Bay, as a precaution the fish hatchery will be boomed immediately. Some of the exclusion area numbers 79 through 92 may be impacted by the oil movement. The first areas of consideration would likely be exclusion areas 81, 82 and 83.

Second considerations would include areas 79, 80, 89, 90, 91 & 92, and third consideration would likely be sites 84 through 88. These sites are considered sensitive, primarily because they are salmon spawning areas. Additional sites or other areas may have a higher priority, depending on the oil movement and other additional information that may become available. The oil spill trajectory indicates the above priorities are likely to be the most significant. This information is listed in Section 300. One of the oil spill response contractors would be directed to Whittier with the sole task of providing exclusion booming in these areas with the above-listed priority, unless other priorities were agreed to among the agencies and Alyeska at the coordination meeting.

300

PRINCE WILLIAM SOUND SCENARIO RESPONSE TIMES

Vessel	Storage Cap. (bbls)	Recovery Rate (bbls/hr)	Vessel Speed/Prep Time (knts) (hrs)		Travel to Spill with Prep Time (hrs)
Tugs	N/A	N/A	12	0	2.5
2 Mooring Launches	N/A	N/A	8	0.5	3
Towing:					
Marco Class V	40	428			
Marco Class VII	80	428			
2 Vikoma Seapacks	w/ 1500' boom each				
2-21' Monarks	N/A	N/A	20	0	1.5
1-26' Monark	N/A	N/A	20	0	1.5
1-26' Monark	N/A	N/A	8	0.25	2.75
Towing:					
1 Vikoma Seapack	w/ 1500' boom				
Tug & Contingency					
Barge with/	4700	N/A	8	2.5	5.0
Sea Skimmer	N/A	536			
Equipment	1976 (bladders)				
Towing:					
2 Vikomas	w/ 1500' boom each				

PRINCE WILLIAM SOUND SCENARIO
RESPONSE TIMES

Figure 306-4

Distribution of Oil

It is estimated that approximately 50% of the oil will be recovered at sea, either directly after the spill or at a later time by being washed off of the rocks, contained and skimmed off of the water. Approximately 15 percent of the spill will evaporate during the time it is moving toward the shoreline and prior to removal. Of the oil that remains approximately 15 percent of the oil will be recovered from the shore, primarily by washing the oil off of the rocks and recovering it on the water. Fifteen percent of the oil will naturally disperse and approximately 5 percent will remain in the environment.

Environmental Considerations

Along with the salmon spawning areas and the sea bird colony areas there are some purse seine and drift gill net areas around Esther Island in the Port Wells area. There is also some ground fish activity on the west side of Naked Island, Eleanor Island, Ingot Island and the Port Wells area.

Section 600 of the Prince William Sound Contingency Plan gives us the Sea Bird colony areas that would likely be impacted by a spill of this nature. The Naked Island group, Eleanor Island, Bald Head Criss Island, Dutch group, Perry Island, Fool Island, Egg Rock, and Esther Rock are likely impact areas of the sea bird colonies. There is a possibility that Smith Island and Little Smith Island sea bird colonies may also be impacted with a slight wind change. The most likely effective protection of the sea bird colonies is to prevent the oil from impacting the shore lines at all. This can be done of course only by dispersing the oil at sea, or allowing an open burn of the oil at sea. Since the timely application of dispersants is so important it is necessary that the decision process for allowing dispersant application be approved prior to an incident such as this. It will allow the oil industry to stockpile the necessary dispersants and application means so that resources such as the sea bird colonies can be protected in the most reasonable manner.

This has been a brief initial response to the spill scenario of a 200,000 barrel catastrophic event. There would, of course, be a long term cleanup of the spill on the various beaches of Prince William Sound. In reviewing the aspects of this size spill it becomes very apparent how important it is to have dispersants approved so that they can be used very effectively to prevent the continuing input of oil into the small bays and shorelines in Prince William Sound. Burning also has to be looked at as a very good alternative to the cleanup in Prince William Sound on the various inlets and bays in which oil may accumulate.

May 8, 1991

Governor Walter J. Hickel
P.O. Box A
Juneau, Ak 99811-0101

Dear Governor Hickel,

Well, try as you might, by the looks of the budget, it appears that you were unable to talk any sense into our irresponsible legislators. It is a shame for all Alaskans that the Democrats and the few Republicans who have defected, can't fulfill their fiscal responsibilities.

The end of the the legislative session is sort of like spring breakup. Things heat up, and all of the trash that has accumulated over the winter is exposed. And as usual, the budget is the biggest pile of trash to emerge.

I know that the veto is not the preferred way to go, but the legislature has left no other choice. They could have made fairly painless cuts where you suggested, or anywhere else their little hearts desired. Now, they should be held accountable for any drastic measures that must be taken.

Feel free to use the enclosed red pen on the legislature's behalf. I probably won't necessarily like it, but I am perfectly willing to accept any cuts directly or indirectly affecting me and my family.

Very truly yours,



Jerry Celey
6766 Double Tree Court
Anchorage, Ak 99516

cc: All Legislators



April 26, 1991

The Honorable Max Gruenberg, Chairman
House Special Committee on Exxon Settlement
Post Office Box V
Juneau, Alaska 99811

Dear Representative Gruenberg:

I am writing to formally protest the exclusion of Valdez from your committee's recent round of meetings in southcentral coastal communities. We in Valdez could develop paranoia when it comes to relations with the State if we were not mentally resilient. In looking at the list of other meeting sites, Valdez was conspicuous by its absence.

I understand the constraints of time and distance your committee must have been under and I sincerely appreciate your coming to the region to gather input. However, for the record, I would like to note that no town can hold a candle to us in terms of impact of the oil spill on municipal services. We were not "oiled" by the Exxon Valdez, but our community exploded during the spring and summer of 1989 as a result of the spill. Our population tripled, with adequate housing lagging far behind the demand, crime was up 600%, our sewage treatment plant was handling 4 to 5 times its normal volume, temporary buildings sprung up overnight, employee availability and salaries became irreparably skewed, our economy was severely disrupted, and other symptoms of gross impact were manifest. These same things happened in other places, but not nearly to the degree they occurred here. We are probably guilty of not complaining enough about the extraordinary impacts that happened here. Again, we pride ourselves in our ability to respond to these unexpected events and bounce back from misfortune.

We believe a Valdez meeting would have given your committee another important perspective that it did not receive in other venues. I believe the City and your committee are both poorer for the oversight.

Best wishes in your deliberation on this vital issue.

Sincerely,

Lynn Chrystal
Mayor

LC:DG:blp

xc: Representative Gene Kubina

*In favor of
Settlement*

April 18, 1991

TO: Representative Max Gruenberg, Chairman, House Special
Committee on the Exxon Valdez Oil Spill Claims Settlement.

FROM: Kieran E. Donahue
Scientific Diver, IMS/SFOS (UAF)
5243 A. Broadway
Eielson AFB, Alaska 99702

(ph.) 907-372-3359

SUBJECT: Testimony - Exxon Valdez Oil Spill Claims Settlement

April 18, 1991

To: Representative Max Gruenberg, Chairman, and Members, House
Special Committee on the Exxon Valdez Oil Spill (EVOS) Claims
Settlement

Rm. 216, Capitol

P.O. Box V

Juneau 99811

From: Kieran E. Donahue, Student of Natural Resources
Management, and Scientific Diver for the Institute of Marine
Science, University of Alaska Fairbanks (UAF).

I would like to offer testimony on the proposed Exxon Valdez
Oil Spill Claims Settlement Agreement. It is my opinion that
the state of Alaska should accept the 9.9 million dollars that
Exxon Corporation has agreed to pay. However, in the best
interest of Prince William Sound, I would encourage that part
of the settlement money be used to: (1) Establish a Long-Term
Monitoring program for Prince William Sound and (2) the
publication of all scientific data related to the oil spill.

I offer the perspective of a university research student who
has been involved in different aspects of scientific research,
in both fresh water and marine ecosystems, for over six years.
I was a Field Supervisor/Scientific Diver for the coastal

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 2

habitat assesment project(subtidal) that was performed under a contract with the Institute of Marine Science(IMS)/UAF.

I am not offfering my testimony on behalf of IMS, but I draw upon my experiences and work with other scientists in developing my analysis and recommendations.

PART I LONG TERM MONITORING

The United States is in danger of losing an important national historic and scientific asset.

A.Prince William Sound and South Coastal Alaska are special.

Prince William Sound(PWS) is one of the last intact coastal environments that remains in the world. The Sound is a world class ecological resource, and is one of the most biologically productive and diverse systems of its kind in the world. In order to insure that PWS remains a productive and healthy area, a long term monitoring program should be established.

B.Relationships are complex.

I don't believe enough attention has been given to integrated approaches involving the PWS system as a whole, including terrestrial, intertidal, and subtidal components. At

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 3

the present time, many agencies spend money and time studying the individual resources of PWS. These agencies are responding to their missions and doing what they can individually. But this fragmented effort needs to be consolidated, coordinated, and focused into an integrated approach to long term monitoring. There stands before us now a chance to pull this effort together and fill the gaps by using some of this money from the claims settlement.

C. Good information and insight is needed to make the best management decisions.

For a long term ecological monitoring program to provide useful information, managers and scientists must together define the key information needed to understand and track the health of a system. Sometimes simple measurements can be made at intervals, but it is important to maintain the effort to provide for continuity so that the measurements are meaningful.

Monitoring can be done for a variety of reasons. As an example, some of the key variables I would recommend for monitoring include:

1. Primary Producers
 - a. Kelp
 - b. Laminaria and Agarum
 - c. Plankton

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 4

2. Harvested Species

- a. Salmon
- b. Herring
- c. Halibut

3. Keystone Species or Species of Special Interest

- a. Shellfish (eg. Sea Urchins)
- b. Sea Otters
- c. Orcas

D. The importance of monitoring primary producers as an example of species interrelationships.

Primary producer species such as kelp not only provide food for certain organisms, but they also provide habitat at both large and small scales. Kelp beds are hiding places for small fish such as juvenile salmon. They also provide a place for herring to attach their egg sacs. A healthy marine system requires healthy and abundant Kelp.

The EVOS may have threatened the productivity of PWS in an unexpected way. Kelp beds are heavily grazed by sea urchins. Sea otters, however, eat the urchins and keep their numbers in check. Without otters (killed by the spill) the system will see an increase in the sea urchin population. Sea urchins can now overgraze the kelp beds of PWS causing a drastic decline in the

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 5

kelp population and productivity. The loss of kelp beds will reduce the habitat for spawning herring and cover for small salmon. This in turn may have an adverse effect on the fishing industry by limiting the number of fish that can be harvested, thus adversely effecting the economic balance of the area.

From this example, it is possible to see the integrated relationship of organisms within the system and why it is important to understand whether a system is healthy or not.

To help us make the right decisions in managing PWS we need to "take the pulse" of the system. In order to accomodate the questions and concerns that have been raised, and others like them, base line data needs to be gathered and formulated. The size of the base line data needed can only be obtained through a long term moitoring program.

PART II: PUBLICATION OF BASE LINE DATA

Monitoring can be simple when it is hooked up to a deep understanding.

A. Importance of Base Line data

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 6

- 1.) Managers have a responsibility to base management decisions on a firm understanding of resource conditions and possible human impacts on the public resources they manage.
- 2.) We don't need to study or monitor everything in the system. However, there is so little known about the natural ranges of species within the PWS ecosystem that extensive work needs to be done to establish this information. Only if normal limits of individual species are known can abnormal conditions be readily identified in time to take corrective action.
- 3.) One example of base line data that has proven to be very effective is population dynamics of selected organisms--the ways in which populations change.

Population dynamics accurately reflect ecosystem conditions because organisms integrate the effects of a vast array of ecological factors, including predation, competition, and environmental conditions that are expressed as changes in readily measured population parameters.

Population dynamics permit predictions into the future providing early warning of adverse conditions through

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 7

changes in parameters such as age structure and recruitment.

Population dynamics provide information at the species and population level, which is the level at which most management controls operate. Therefore the monitoring information is directly applicable to management concerns.

B. Existing and Continuing Base Line Data For PWS.

Following the EVOS, an effort of unprecedented magnitude by state and federal governments and Exxon to study the effects of the spill, was set in motion. Among those efforts are state and federal Natural Resource Damage Assessment studies designed to measure injuries to natural resources, including birds, mammals, fish and other wildlife, and marine and terrestrial habitats.

Some of the studies that have been done to date in the terrestrial, intertidal, and subtidal zones of PWS, are the most intensive studies of their kind ever done in the Northern Pacific. But they will be of little value if they remain secret.

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 8

and if they are not pulled together and key components continued.

I strongly recommend that all damage assessment base line data be released from secrecy once a settlement agreement is reached. To not allow the scientific community to publish and release the data they have gathered and analyzed in the last two - three years after the spill is absurd. These data are a crucial starting point in formulating a base line of biological information in PWS. The loss of this critical information will have long reaching detrimental effects on establishing a quality monitoring program in PWS. It can not be stated strongly enough, that, only if normal limits of species are known can abnormal conditions be readily identified in time to take corrective action.

In summary, I believe that;

Instead of wasting time and money in court, it is my opinion that the state of Alaska should accept the money being offered in the settlement agreement as long as an adequate sum of that money is set aside in an endowment fund (or something comparable) to put in place, and support, a long term monitoring and study program in PWS.

By establishing what exists in a system we will be better prepared to recognize and adress problems when they arise.

Exxon Valdez Oil Spill Claims Settlement Kieran Donahue page 9

Monitoring over time can give managers a firm understanding of resource conditions given that all parameters have been given a chance to be explored.

If a long term ecological monitoring program is going to provide useful information, managers and scientists must be allowed to utilize every possible tool at their disposal.

Base line data have been gathered and analyzed. It is now time to release and review that information so that the best possible management decisions can be made.

There will be other problems for PWS, why not make the best of this bad situation by doing something positive and preparing for the future.

DAVIS WRIGHT TREMAINE

LAW OFFICES

SUITE 1100 • 150 WEST 11TH 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. Oestling

STATE OF ALASKA
House of Representatives
District 27

Representative Cliff Davidson
Chairman
House Resources Committee



Box V, Juneau, AK 99811
(907) 465-2487
Box 746, Kodiak, AK 99615
(907) 486-8250

TO: Representative Max Gruenberg, Chair
House Special Committee on the Exxon Valdez Settlement

FROM: Representative Cliff Davidson

DATE: 23 April 1991

SUBJECT: Disapproval of Settlement Unless Modified

Below are some conditions that I believe the Committee should support as we take up consideration of disapproval without these conditions in the settlement:

1) All factual information accumulated during the course of the Exxon Valdez oil spill scientific studies, whether done by Exxon or the governments of Alaska or the United States must be made available immediately upon the final approval of this settlement.

This may be the most important element in the restoration of the faith of our citizens in government. That should be one of the primary public policy goals in resolving this tragedy. It is clear that the current settlement does just the opposite and this provision is essential to the restoration of a measure of justice and openness in this process.

2) The payment of the full amount of the settlement should occur over 3 years, not 10 years.

If Exxon wants to resolve this situation as soon as possible, this will do it quicker. As a sweetener, I propose that we eliminate the reopener clause. Its effectiveness was limited and it only served to artificially inflate the apparent value of the settlement.

3) Delete those provisions which provide that Exxon can set off cleanup expenses against the settlement.

Settlement for the damages caused by Exxon's mistakes should not relieve Exxon of the responsibility of continuing the cleanup to the satisfaction of both the state and federal governments.

4) Prior to final agreement, there should be a better definition of how the Trustees will be selected, under what rules of procedure

they will operate, how the public process will operate and what kinds of projects will qualify for funding.

These are very important provisions that should not matter to Exxon, thus they will not affect the overall settlement. I am unclear as to how they should be worked into our disapproval of the settlement, but feel strongly that they should be.

5) Alyeska should not be mentioned in the settlement.

Alyeska was not a party to the negotiations and they should not be absolved from culpability.

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7628

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE

CHAIR
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

TO: Rep. Max Gruenberg, Chair,
and Members of the House Special Committee on the
Exxon Valdez Oil Spill Claims Settlement

FROM: Rep. Johnny Ellis *JE*

RE: Comments on the Exxon Settlement

DATE: April 26, 1991

In the aftermath of Judge Holland's decision regarding the criminal plea in the suit between Exxon and the federal government, I understand the Committee will proceed as planned with deliberation on the civil suit, at least until any of the parties give notice that they are withdrawing. Although I am not a member of the Special Committee, I would like to offer my comments regarding the proposed civil settlement.

You may have noted in a recent Anchorage Times article that I was one of two legislators who has decided to vote against the proposed settlement. The article was correct if the the choice for legislators is to simply take it or leave it. However, I see no reason why the legislature can not set its own list of conditions for acceptance of the settlement. **I encourage the Committee to adopt the position that the settlement be rejected unless certain changes are made.**

I would be willing to vote for the settlement if it included the following changes:

1) PAYMENT UP FRONT OR WITH INTEREST OVER TIME

If we accept \$900 million as the settlement figure (which is much lower than the preliminary damage assessment figures), then the state should receive it in one lump sum or with interest if paid over time. The expectation created by the Governor is that the settlement figure would be around \$1 billion and not \$500 million, which is the approximate present value amount.



2) DAMAGE ASSESSMENT INFORMATION SHOULD BE MADE PUBLIC

The settlement should be written to ensure that all damage assessment information is released to the public. While the Attorney General has a legitimate need to protect the government's interest by withholding this information, the legislature has a broader interest in representing the people of Alaska who have a right and a need for the information.

3) PUBLIC/LEGISLATIVE APPROVAL OF TRUST FUND EXPENDITURE

The settlement needs to provide for an ironclad guarantee that the Alaskan public is allowed to participate in decisions regarding the restoration process and use of the settlement monies. Perhaps the legislature's approval should be required which has the advantage of helping to avert constitutional (dedicated fund) challenges.

4) RECOVERY OF LOST TAX REVENUES

The state should receive immediate payment for lost tax revenues related to the oil spill in addition to the restoration monies. This includes \$19-33 million in lost petroleum tax and \$5-6 million in lost fish tax revenues, as estimated by the Legislative Research Agency.

cc. all House members

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7628

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE



*To Max
FROM ANDY*

CHAIR
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

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and Members of the House Special Committee on the
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cc. all House members

ALASKA CONFERENCE OF MAYORS

PRESIDENT 1991

Robert B. Brodie
Mayor, City of Kodiak
(907) 486-8635

217 SECOND STREET, SUITE 200

JUNEAU, AK 99801
(907) 586-1325 Fax 463-5480

VICE PRESIDENT

Dan Keck
Mayor, City & Borough of Sitka
(907) 747-3294

April 16, 1991

"OILED" MAYORS SUBCOMMITTEE

Robert B. Brodie, Chairman
Box 1397, Kodiak, AK 99615
(907) 486-8642 Fax 486-8600

SECRETARY/TREASURER

Gary L. Davis
Mayor, City of Soldotna
(907) 262-9107

Governor Walter J. Hickel
Pouch A
Juneau, AK 99811-0101

Dear Governor Hickel:

I am writing on behalf of the "Oiled Mayors" of Alaska regarding the pending EXXON VALDEZ oil spill settlement.

First I would like to begin by thanking you and Attorney General Cole for meeting with us during our trip to Juneau in March of this year. As a result of this meeting and the continued dialogue between our staffs I feel progress was made in clarifying our respective positions.

We appreciate the modifications which were made to the EXXON Settlement Agreement which reflected some of the Oiled Mayors concerns. But I feel obligated to bring to your attention several of our continuing concerns.

The legal staff of the Oiled Mayors continue to review the technical aspects and implications of the agreement and will communicate those concerns in a separate letter. Those concerns reflect our desire to clarify how certain sections of the EXXON settlement will impact our own situations.

A major concern that we would like to raise is one that was broached at our February meeting and continues to haunt us. This is the matter of the make up of the Exxon Settlement Trustee Council. The fact is that the 3 federal and 3 state trustees are all representatives of natural resource agencies. A substantial representation of these groups is not inappropriate in light of the fact of the wide spread damage caused by EXXON'S oil on Alaska's environment. But we must continue to ask who is the representative of the "human resources"? Specifically we refer to the cannery worker, businessman, fisherman, subsistence user and landowner affected by the spill.

April 16, 1991
Governor Hickel

It is our contention that these groups can be no better represented than by a member of local government. It was the local governments that stood alone in the early days of the EXXON spill. It was the local governments that stood alone and dealt with the tremendous influx of clean up activities. It was the local governments that still stand alone in dealing with the aftermath of damage now that EXXON is long gone.

Through out this process of dealing with EXXON'S arrogance, VECO'S incompetence, the Federal government's indifference and the state's impotence the Oiled Mayors have steadfastly refused to publicly criticize the Coast Guard or the State's efforts. Rather we have chosen to pursue the role of quiet diplomacy in dealing with our elected officials and administration agencies.

Consequently we feel that the Oiled Mayors have a legitimate basis for requesting that a **seventh** seat be established on the Trustee Council to include a member of local government. I would suggest that the ranks of the Oiled Mayors would provide no better source for such a representative.

I believe that this change would go along way in relieving another concern which is that there still remains a perception that Prince William Sound continues to be the center of the spill universe. No sooner had the announcement of the settlement been made than EPA Secretary Riley made the statement to the effect "now that a settlement has been reached we can now go about the business of rebuilding Prince William Sound".

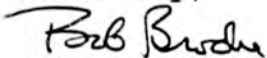
Those of us in Alaska recognize that EXXON'S oil had far reaching effects throughout the Gulf of Alaska and that in all fairness the entire area should be given appropriate consideration in the restoration process. It is through the inclusion of the municipal representative on the Trustee Council that this point can be brought home.

I recognize that this is not a new topic but we feel that now is the time to formally bring forth this reasonable request. We will be espousing this doctrine to a number of agencies, legislators and interested parties in state and federal government.

April 16, 1991
Governor Hickel

I look forward to discussing this further with you during the next visit of the mayors to Juneau April 25 and 26. If you or your staff have any questions please do not hesitate to get in touch with me or our legal council Mr. Matt Jamin.

Sincerely,



Bob Brodie, Mayor
City of Kodiak
President, Alaska State Conference of Mayors
Chairman, Alaska's "Oiled Mayors"

cc:DNR,ADF&G,ATTNY GEN.,AK SENATE & HOUSE MEMBERS, DEPT'S
OF INTERIOR, EPA, TRANSPORTATION, USCG, CONGRESS, MEDIA

anchorage printing INCORPORATED

Rep Max Gruenberg
Chair- House Special Committee
on Exxon Valdez Oil Spill Claims
PO Box V
Juneau, Ak. 99811

Dear Representative Gruenberg;

21 March 1991

I am interested in offering the state a method of receiving public input into the settlement claim against Exxon recently accepted by the Hickel administration.

Within two or three weeks I can have a four or eight page tabloid designed, printed and inserted statewide into more than two dozen newspapers covering the entire state population. Because of our unique setup, I am able to logistically get this important information to the voters in time for the legislative committees to get a firm reaction from the people of this state.

If you would care to know the details of my proposal, please give me a call. I would be more than happy to provide a single price for handling the entire project.

Many thanks for your consideration.

Sincerely,



Patrick Foster
Anchorage Printing



patrick foster
coordinator of
special services

anchorage printing, incorporated
3110 spenard road
anchorage, alaska 99503
272-2213 ■ fax 272-2105

May 22, 1991

Sheila K. Gottehrer
Executive Director
Regional Citizens' Advisory Council
601 West Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2254

Dear Sheila:

Thank you for taking the time to write to me about the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that any future settlement will incorporate most, if not all, of the conditions placed by the House.

Again, my thanks to you for participating in this important public decision. Your comments were greatly appreciated.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am



REGIONAL CITIZENS' ADVISORY COUNCIL

April 11, 1991

Representative Max Gruenberg
P. O. Box V
Juneau, Alaska 99811

Dear Representative ^{Max}Gruenberg:

The citizens represented by the Regional Citizens' Advisory Council (RCAC) encourage you to do all that is within your power to see that the Exxon Valdez Damage Assessment studies become a part of the public record. More than \$70 million of public funds have been invested to collect invaluable information necessary to understand the damage caused to Alaskan coastal ecosystems by oil spills; Alaskans have the right to know the impacts to their resources.

Enclosed is RCAC Resolution 91-5 stating the Council's support for the full disclosure of Damage Assessment studies. RCAC requests your support.

Sincerely,

Sheila K. Gottehrer
Executive Director
Regional Citizens' Advisory Council

A The Regional Citizens' Advisory Council (RCAC) was established in response to the Exxon Valdez oil spill to be a regional citizens' oversight organization. Alyeska Pipeline Service Company, the operator of the Trans Alaska Pipeline Terminal at Valdez, worked cooperatively with the citizens affected by the spill to form RCAC. Members include representatives of communities throughout the region as well as Native villages and corporations, the commercial fishing industry, conservation organizations, the state chamber of commerce, and regional fishery associations.

Q How was RCAC established?

A After the spill the state required Alyeska to submit an aggressive new prevention and response (contingency) plan. The Alaska Oil Spill Commission had strongly recommended increased citizen involvement. RCAC emerged from this process, incorporating as a nonprofit to ensure independence. The resulting contract with Alyeska requires that it provide an annual budget of \$2 million for "as long as oil flows through the line" and ready access to all its facilities. The federal Oil Pollution Act of 1990 reinforced this action and specified details.

Q Why is RCAC needed?

A A major lesson learned from the Exxon Valdez spill is that oil transportation is a risky business, and the people who bear the burden of that risk must be involved at all levels of decision making. Too often we have been adversaries working against one another rather than citizens cooperatively seeking progress and improvements. No substitute exists for local knowledge, experience, and commitment.

Q What is the structure of RCAC?

A A sixteen-member board and staff accomplishes its goals primarily through three working committees:

- Oil Spill Prevention and Response
- Port Operations and Vessel Traffic Systems
- Terminal Operations and Environmental Monitoring

Additionally, the Scientific Advisory Committee, comprised of scientists and technical experts, reviews research proposals and advises the working committees and the council on technical issues.

The contract specifies that RCAC committees will perform independent research and monitoring of oil spill prevention and response efforts, tanker safety, and environmental effects of terminal operations. RCAC uses this information to develop recommendations for environmental safeguards to Alyeska and government regulatory agencies.

Q What is the purpose of RCAC?

A RCAC involves local citizens in spill prevention and fosters a long-term partnership between government, industry, and communities in the region.

The Exxon Valdez oil spill received worldwide attention for months, but nowhere were people more shocked and stunned than in the picturesque communities and villages of Prince William Sound and the Gulf of Alaska. How could this have happened? Who was to blame? Could the spill have been avoided? What could be done to minimize chances of this ever happening again?

Residents of the region knew that only their commitment could guarantee that everything possible would be done to prevent a future spill of this magnitude. They responded to the March 1989 disaster, cleaning up thousands of barrels of oil. Logically, these are the people best qualified for prevention and response planning, but they lacked funding, resources, and access to do the job.

The Regional Citizens' Advisory Council was designed to overcome these barriers to citizen participation in contingency planning. We believe that we have.

Mission Statement

"To ensure the safe operation of the Trans Alaska Pipeline Terminal and the crude oil tankers served by the terminal so that environmental impacts associated with the terminal and tanker fleet are minimized."

RCAC members

- Alaska State Chamber of Commerce
- Chugach Alaska Corporation
- City of Cordova
- City of Homer
- City of Kodiak
- City of Seldovia
- City of Seward
- City of Valdez (2)
- City of Whittier
- Cordova District Fishermen United
- Kodiak Island Borough
- Kenai Peninsula Borough
- Kodiak Village Mayors Association
- National Wildlife Federation
- Prince William Sound Aquaculture Corporation

RCAC committees

- Oil Spill Prevention and Response (OSPR)
- Port Operations and Vessel Traffic Systems (POVTS)
- Scientific Advisory (SAC)
- Terminal Operations and Environmental Monitoring (TOEM)

We welcome your inquiries. For additional information and details, please contact:

Sheila Gottehrer, Executive Director
Regional Citizens' Advisory Council
601 W. Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2254
907/277-7222 • FAX/277-4523

REGIONAL CITIZENS' ADVISORY COUNCIL
601 West Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2254



What is the
Regional
Citizens'
Advisory
Council



REGIONAL CITIZENS' ADVISORY COUNCIL

Resolution 91-5

EXXON VALDEZ DAMAGE ASSESSMENT STUDIES

WHEREAS, the United States and Alaska State governments undertook scientific studies under the authority of Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and the Clean Water Act to assess the damages of the *Exxon Valdez* oil spill; and

WHEREAS, these studies involve the expenditure of public funds in the amount in excess of \$70 million; and

WHEREAS, the information from these studies will not only assess the damages in the short term but are designed to predict long term impacts; and

WHEREAS, it is the business of the Regional Citizens' Advisory Council to understand and to promote the understanding of damages caused by oil spills in order to strengthen public commitment to the prevention of future spills;

NOW, THEREFORE, BE IT RESOLVED that the Regional Citizens' Advisory Council ask the Governor of the State of Alaska, the Attorney General of the United States and the Attorney General of the State of Alaska to release all of the information generated by the National Oceanic and Atmospheric Administration, United States Coast Guard, U.S. Fish and Wildlife Service, Alaska Department of Fish and Game, Alaska Department of Environmental Conservation; and

BE IT FURTHER RESOLVED that in the spirit of cooperation and public education the Regional Citizens' Advisory Council asks that Exxon also release all information generated by their damage assessment studies.

Certification

This resolution was duly adopted by the RCAC at an RCAC meeting held March 22, 1991 by the following vote:

Ayes 10 Nays 0 Abstain 0

Marilyn Leland, Secretary

Chris Gates, President



Volume 1 Number 1

Spring 1991

Council celebrates first birthday

Members gather in Valdez at first annual meeting

The Regional Citizens' Advisory Council held its annual meeting in Valdez March 20-23. It has been a year full of challenges and accomplishments. RCAC incorporated December 29, 1989, signed its contract with Alyeska February 9, 1990, established a council and committees, completed projects and work products, set up an office, and hired staff.

The annual meeting agenda was full. New members were elected, committees reported, and policy decisions were made; but most importantly, residents of Prince William Sound and the Gulf of Alaska had an opportunity to meet with members and staff to ask questions and discuss their concerns. We want to hear from you, so if you couldn't be there, please write, call, or fax us.

RCAC members

Alaska Chamber of Commerce, Stan Stephens
Chugach Alaska Corporation, Keith Gordaoff
City of Cordova, Scott Sterling
City of Homer, Tony Joslyn
City of Kodiak, Leslie Smith
City of Seldovia, Tim Robertson
City of Seward, Chris Gates
City of Valdez, Bill Walker and Jason Wells
City of Whittier, Lynda Hyce
Cordova District Fishermen United, Marilyn Leland
Kenai Peninsula Borough, Frank Mullen
Kodiak Island Borough, Wayne Coleman
Kodiak Village Mayors Association, Ray Jones
National Wildlife Federation, Ann Rothe
Prince William Sound Aquaculture Corporation, John McMullen

What is the Regional Citizens' Advisory Council?

The Regional Citizens' Advisory Council (RCAC) was established in response to the Exxon Valdez oil spill to be a regional citizens' advisory and oversight organization. Alyeska Pipeline Service Company, the operator of the Trans Alaska Pipeline Terminal at Valdez, worked cooperatively with the citizens affected by the spill to form RCAC. Members include representatives of communities throughout the region as well as native villages and corporations, the commercial fishing industry, conservation organizations, the state chamber of commerce, and regional fishery associations.

A major lesson learned from the Exxon Valdez spill is that oil transportation is a risky business, and the people who bear the burden of that risk must be involved at all levels of decision making. No substitute exists for local knowledge, experience, and commitment. Too often we have been adversaries working against one another rather than citizens cooperatively seeking progress and improvements. RCAC involves local citizens in spill prevention and fosters a long-term partnership between government, industry, and communities in the region.

After the spill the state required Alyeska to submit an aggressive new prevention and response (contingency) plan. The Alaska Oil Spill Commission had strongly recommended

See Council page 8

REGIONAL
CITIZENS'
ADVISORY
COUNCIL

I n t e r V i e w



Jim Hermiller, president and CEO,
Alyeska Pipeline Service Co.

Jim Hermiller came to Alaska in May 1989 from Cleveland-based BP Oil, a subsidiary of BP America Inc., as executive vice president and CEO. He was named president of Alyeska in October 1989.

What were the biggest challenges when you joined Alyeska?
I think there were three things that were difficulties at Alyeska. Rethinking contingency planning following the Exxon Valdez oil spill, that was a big issue, the corrosion along the pipeline, and the company's organization.

You were an early supporter of RCAC.
Before the legislation [Oil Pollution Act of 1990], citizen involvement already was written in to the Alyeska plan. At that time we had a vision of this. We thought they would help to facilitate the contingency plan, review it, and then be on board to see how the plan was carried out. At that time it was called the Alyeska Citizens' Advisory Council. The legislation resulted in an expanded charter for the organization.

RCAC has provided written comments on both the state and Alyeska's contingency plans. Has that proved helpful to Alyeska?

RCAC's comments were particularly well focused, well defined. They were the best we received. We'll always have differences determining what's necessary. This will go on.

What do you see as the main function of a group like RCAC?
It's an advisory group, and that's different than oversight. An advisory group doesn't take responsibility for actions that might occur. The character of RCAC changes with the membership; what each member entity's mission is, what its charter is.

There is a contract, yes, but it's a contract of trust. We want to trust RCAC to do what is best, objectively best. They have to weed out subjective agendas. Alyeska has to supply information and make good decisions based on the input supplied to us in return.

Do you see RCAC providing a model for advisory groups to industry?
Clearly, what we have here is a major departure from what's been done elsewhere—at least for our kind of development. I'm sure others are watching us to see how things work out. I imagine they are interested in the structure.

What has changed for Alyeska since the spill?
Well, we have a citizens' advisory group, for one thing, and more regulations. It's difficult to do anything without being second-guessed.

Let's assume Day 1 Spill 2, how would things be different?
A lot of people ask that. It's hard to look back and judge in today's light. We have escort vessels. Not instant response, but we have rapid response. Another Exxon Valdez, and all bets are off. We go under a planning standard of 250,000 barrels in seventy-two hours, but in reality we know with another spill that size and all the variables—weather, season, position of the ship—there can never be guarantees.

People are going to be right there, almost immediately. We're spending \$50 million each year on this. The point to make clear is that the most likely spill had been thought to be 1.700 barrels, and that was very clear in the plan that was in place.

What message would you leave our constituents with?
That this is a two-way street. We need to be effective in educating each other, understanding each other's viewpoint. No surprises. The relationship is young, and these changes occur incrementally. We just need to keep going.

"We want to trust RCAC to do what is best, objectively best."

ELDER SPEAK

CITIZEN OVERSIGHT

by Walt Parker

Walter B. Parker chaired the Alaska Oil Tanker Standards Task Force (1975-77) was co-chair of the Joint Federal-State Land Use Planning Commission for Alaska (1976-79), commissioner of the state highway department, and chaired the Alaska Oil Spill Commission in 1989-90.

The Alaska Oil Spill Commission decided early in its deliberations to concentrate on prevention of future spills. It did not overlook its legislative mandate to recommend better response to future spills; but it was obvious in the wake of the wreck of the Exxon Valdez that prevention measures were the most cost effective and best protected the environment. In the end the most difficult question was: How can we guarantee that these new systems

do not degrade and become largely inoperative as they did between 1979 and 1989?

The commission sought to insert some mechanism into the system that would be as its principal goal the safety of the marine transportation system, an institution that would not be led away from this goal by other organizational concerns.

Eventually, the commissioners decided that the missing ingredient was a group of concerned local residents who would be given a statutory mandate to provide citizen oversight of both



See Parker, page 8

Cook Inlet RCAC takes shape

Thanks council and staff for organizational assistance

by Frank Mullen, acting CIRCAC executive director and RCAC council member

The Cook Inlet Regional Citizens' Advisory Council (CIRCAC), called for in the Oil Pollution Act of 1990, has been taking shape over the winter. Many of you who were involved in or observed the formation of the Prince William Sound RCAC will recall the sometimes arduous process of organization and will know that our council is attempting to implement many of the same concepts and policies that the Prince William Sound RCAC struggled with a year ago.

CIRCAC has spent most of its time to date working on articles of incorporation, bylaws, establishing committees, goals, objectives, and infrastructure and negotiating a contract with Cook Inlet Spill Prevention and Response, Inc. (CISPRI). This process remains unfinished as of this writing. Our bylaws are very close to final form and may be adopted by the council in March.

The council has spent most of its time so far establishing an identity for this group of thirteen citizens and building a working relationship with CISPRI, the oil industry's organization in the Cook Inlet area. CISPRI is a newly formed consortium of oil producers that has organized to meet the many new requirements for spill prevention and response.

CIRCAC intends to organize under Section O of the Oil Pollution Act of 1990 as a voluntary council. We have received interim funding from CISPRI and have been working hard for two months on a long-term funding agreement.

As CIRCAC has grown, we have looked to RCAC for guidelines and guidance. Sheila Gottehrer, executive director, and her staff have helped us answer many questions as we struggle to life. Many thanks from our council to yours for your assistance!

OBSERVER

EDITOR-IN-CHIEF
Sheila K. Gottehrer

EDITOR
Judith Bragan

DESIGN & TYPOGRAPHY
Illusions Too

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Hal Gage

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Van Cleve Printing

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Contingency Plan Steering Committee opens channels of communication

The development of the Prince William Sound Tanker Spill Prevention and Response Plan turned out to be an enormous task for both Alyeska, which prepared the plan for the state, and the state, which had to review and approve it. Following months of stalemate about how to handle the plan, Alyeska proposed that all outstanding issues be placed on the table and that a group of affected and interested parties sit down together to work things out.

In June 1990 such a group assembled and agreed to work through the difficulties of formulating and improving contingency plans for Prince William Sound. The original members added the Alaska Department of Environmental Conservation (ADEC), the Coast Guard, and the Regional Citizens' Advisory Council (RCAC) to their "working group."

By late summer 1990 the Prince William Sound Tanker Association (owners/operators/charterers in the TAPS trade) joined the working group. Each member's contingency plans would include, by contract, the Prince William Sound Tanker Spill Prevention and Response Plan.



The working group has grown into the "Steering Committee" with six technical working groups. The group's purpose has not changed—namely, to work cooperatively and honestly with all interested and concerned parties to research, discuss, and resolve technical issues of the Prince William Sound contingency plans.

The conduct of the Steering Committee (and its technical working groups: prevention and navigation; initial response equipment; oily waste disposal; dispersants, burning and bioremediation; nearshore response and shoreline cleanup; plan coordination) is governed by a ten-point protocol. Their essence is to open communications among participants, provide technically supportable conclusions and recommendations, and no surprises. These protocols paved the way toward settling previously unresolved issues.

The foundations for a productive Steering Committee parallel those of the Regional Citizens' Advisory Council: To encourage a partnership in the definition, research, solution, and implementation of difficult and important projects required for effective contingency planning. After nine months and the investment of thousands of hours, progress has been made.

Sitting down together at the table has established a process that makes that result much more likely.

NOTE: You can expect to see the Steering Committee's final reports late in 1991.

"The First Amendment made confidence in the common sense of our people and in the maturity of their judgment the great prebate of our democracy."

William O. Douglas

RCAC-Alyeska contract defines good citizenship

Scott Sterling, RCAC council member, City of Cordova

The RCAC-Alyeska contract attracts wide attention because it creates an innovative relationship between community and industry. In effect for as long as oil flows through the Trans Alaska Pipeline System, the contract consists of more than legalities—it is a mutual commitment to good citizenship.

Under the contract Alyeska involves local citizens, through RCAC, in the process of forming oil spill contingency plans, monitoring of industry practices, and issuing advice on important issues. Of equal importance is Alyeska's promise to respect the absolute independence of RCAC while providing adequate funding for its work. Alyeska also must open its records, facilities, and personnel and respond promptly to RCAC's inquiries. Funding is guaranteed at \$2 million a year for the first three years of the contract.

RCAC is a nonprofit Alaska corporation operated by its sixteen members. Members comprise diverse interests—municipalities; the state chamber of commerce; and fishing, Native, and conservation groups with thousands of individual constituents throughout Prince William Sound and the Gulf of Alaska. Each member selects a representative to sit on the RCAC board of directors, called the council, which is responsible for the overall conduct of the organization.

RCAC's work is centered on broad-based committees with specific missions. Separate committees monitor oil spill prevention, response, and cleanup planning, Valdez terminal operations and environmental monitoring, Port Valdez operations and vessel traffic systems, and legislation. Another committee critically reviews scientific studies and research proposals. All committee members are unpaid volunteers. Keeping the organization moving is the job of a competitively selected executive director and staff.

The RCAC-Alyeska contract took effect in February 1990. Though some growing pains persist, since that time RCAC's committees have heavily influenced the Alyeska oil spill contingency plan, critically reviewed the TAPS trade tanker fleet and Coast Guard vessel tracking systems, commissioned scientific studies of pollution in Port Valdez, and testified at legislative oversight hearings on the TAPS trade. During the rest of 1991 the group will also focus on public education, long-term research projects, and improved oil spill drills and legislation.

RCAC's democratic structure emphasizes community concerns and citizen involvement. Gaining informed understanding of the complex legal, financial, and environmental issues confronting the TAPS trade is a daunting task. Making sound, objective judgments about those issues requires honest and occasionally spirited debate. We accept these facts. We also accept the fact that from time to time we will make mistakes. We are most mindful, however, of the fact that by honoring the RCAC-Alyeska contract, we honor the sobering lessons of the Exxon Valdez disaster and create a precedent for other good individual and corporate citizens to follow.

“Gaining informed understanding of the complex legal, financial, and environmental issues confronting the TAPS trade is a daunting task. Making sound, objective judgments about those issues requires honest and occasionally spirited debate.”



Why a newsletter?

by Sheila Gottehrer, executive director

RCAC's objective in launching this new letter matches that of our mission statement: To ensure the safe operation of the Trans Alaska Pipeline Terminal and the crude oil tankers served by the terminal so that environmental impacts associated with the terminal and tanker fleet are minimized. We want the Observer to inform, educate, and connect people both in and outside the region to sources of information. Our goal is to create a forum for pertinent information exchange and opinion on the issues.

We want to hear from you. This must be a two-way street to be most effective. We solicit

your feedback in the form of news items and letters to the editor. In other words we want this to be your newsletter. Let us know what you want and need in the way of information, and we'll try to supply it. We hope that our efforts will minimize ongoing pollution and prevent future catastrophic spills ... and if another spill occurs, response and cleanup equipment and procedures are the best they can be. Your help and support are valuable.

To these ends we dedicate all of our efforts, but especially through this newsletter, which we hope will be a conduit for information from and to our many constituencies. We must stay connected if we are to formulate informed opinions and improve our decision making on issues of importance to all of us who live in this region.

When you see the Observer in your pile of mail we want you to reach for it, knowing that what you will find inside is concise, well-written, objective, and factual—in short, that it's what you need.

Port Operations and Vessel Traffic Systems (POVTS) Committee

Capt. Stan Stanley, staff

POVTS (acronym pronounced "povits") continues to evolve but concentrates on providing technical advice to the council and information to the public on all relevant port and tanker operations in Prince William Sound. Tankers are the committee's key concerns, including their construction, repair, and operation; however, port operations and the Vessel Traffic System present distinctly separate considerations as well, as do weather and pilotage factors.

Currently, we are in the information-gathering stage, but the committee intends to become more pro-active in the future. POVTS has been operating for six months and is working on other projects.

Committee members reviewed proposed changes in the Vessel Traffic System and asked the Coast Guard for more information regarding its decision to utilize a dependent surveillance system in Prince William Sound. Members reviewed vessel escort procedures and sent letters to shipping agencies and pilots

seeking their views on the desirability of a tug attached during a portion of tanker transit. Committee members observed the operation of tractor and conventional tugs in Puget Sound and will report their findings to the full council.

Early in 1991 the committee commissioned Jim Dickson, Safety Officer at the Sullom Voe Harbor Authority, Shetland Isles, to report on oil spill prevention actions as appropriate for Alaska and Prince William Sound. The second draft of his report is being circulated for public review until 22 April 1991. POVTS commented to the Pilots Board on the draft pilotage study issued by the Alaska Office of Management and Budget. Members reviewed the Coast Guard's proposed double-hull regulations and its report on TAPS tanker fleet structural integrity and submitted position papers to the council. The group also obtained a copy of a National Research Council report on the effects of reduced manning aboard vessels and began consideration of this issue.

Scientific Advisory Committee (SAC)

Thea Lefkowitz, staff

Much of RCAC's annual budget of \$2 million plus funds research and provides for monitoring of Alyeska's operations. The Scientific Advisory Committee expects to dedicate much of its time to reviewing requests for proposals (RFPs) advanced by the other committees and the council. The committee has considered several draft RFPs, ranging from biological baseline monitoring to modeling socioeconomic impacts of oil spills to testing the capabilities of cleanup equipment. The council makes final decisions about all RFPs.

SAC is well prepared to handle the flood of proposals RCAC expects in response to a variety of RFPs. Its seven members cover disciplines ranging from chemical engineering, air-quality chemistry, meteorology, seabird biology, mathematics, limnology, oceanography, and fisheries. Committee members are well versed in project planning and management and have prepared and evaluated many proposals. Their background and expertise allow them to judge not only for scientific merit, but also for feasibility and applicability to Alaska environments.

In addition to its responsibilities to advise the council and the technical committees, SAC recommends research priorities. Toward that end, committee members will prepare a forecast of critical research issues pertaining to safe oil transport by TAPS for the coming decade. As long as oil flows through the pipeline and tankers ply the waters of Prince William Sound, rigorous and ambitious research will be essential to protection of the coastal environment and the people whose livelihoods depend on its resources.

Oil Spill Prevention and Response (OSPR) Committee

Joe Banta, staff

OSPR (acronym pronounced "osprey") focuses on prevention, safety, citizen involvement, use of local knowledge and resources, and building an information base about TAPS trade issues related to the prevention of and response to crude oil spills in Prince William Sound.

Committee members prepared extensive comments on appendices of the Alyeska Contingency Plan (A. Scenarios; D. Training; and E. Community and Fishing Vessel Involvement). The council has requested written response from Alyeska. OSPR also reviewed the Alaska Department of Environmental Conservation's draft Prevention and Contingency Plan and retained two experts to comment as well. OSPR recently drafted a resolution to the council,

which it approved, concerning the 72-hour transition and nearshore response issues. Additionally, RCAC representatives to the Alyeska Contingency Plan Steering Committee and its working groups have adopted the OSPR position in their deliberations.

Members of the committee recently authorized a literature search for an RFP on "Safe Spill"—a nontoxic, biodegradable crude oil substitute. The committee is moving ahead with commissioning "white papers" for briefings in several key areas and has identified potential experts for papers on small-boat technology, risk assessment, and bioremediation. Other subjects of interest to the committee include dispersants, fire control in Port Valdez, beach cleanup techniques, and oily waste disposal.

Terminal Operations and Environmental Monitoring (TOEM) Committee

Joe Bridgman, staff

TOEM's (acronym pronounced "tow 'em") primary purpose is to identify pollution, to monitor environmental impacts of terminal and tanker operations in Prince William Sound, and to communicate committee findings to the public. TOEM has solicited a critical analysis of the design and modeling of Alyeska's air monitoring program in Valdez, which measures ambient levels of hydrocarbons and human exposure to them. The committee retains a consultant to inventory actual and potential sources of environmental pollution stemming from terminal and tanker operations and to install relevant data into a computerized matrix for easy access.

With the help of the Scientific Advisory Committee, TOEM will draft a request for proposals for a report on the likely fate and effects of hydrocarbons emitted into the air during tanker loading at the Alyeska terminal. A comprehensive environmental monitoring program comprises significant scientific effort requiring extensive field work over several years. Most current committee work is in preparation for this task.

Currently the committee is planning a series of public meetings in Prince William Sound communities to hear the public's environmental concerns about oil industry activities. We expect these meetings to take place in late fall, so watch for notice in your local newspaper or call our Valdez or Anchorage office for details.



Mission Statement

"To ensure the safe operation of the Trans Alaska Pipeline Terminal and the crude oil tankers served by the terminal so that environmental impacts associated with the terminal and tanker fleet are minimized."

Council

continued from page 1

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- Port Operations and Vessel Traffic Systems

- Oil Spill Prevention and Response

- Terminal Operations and Environmental Monitoring

The Scientific Advisory Committee, comprised of scientists and technical experts, reviews research proposals and advises the working committees and the council on technical issues.

RCAC's contract with Alyeska specifies that RCAC committees will perform independent research and monitoring of oil spill prevention and response efforts, tanker safety, and environmental effects of terminal operations. RCAC uses this information to develop recommendations for environmental safeguards to Alyeska and government regulatory agencies.

Parker

continued from page 1

the regulators and the regulated—government and industry. The thought was that "those who have the most to lose will pay the most attention."

Congress already had received proposals from Prince William Sound and Cook Inlet oversight groups. The commission backed those efforts but also recommended creation of the state Citizens' Oversight Council on Oil and Other Hazardous Substances as the rest of the state had been overlooked. Regional and local councils were already mandated by the legislature. The relationship between federal and state sponsored councils should be both independent and supportive since they have common goals but may have different ideas on how to achieve those goals.

Now, as a result of congressional and state action, we in Alaska have an impressive array of oversight councils. We should remain vigilant against becoming part of the problem, however, especially after our vision and memory fade over time. The transportation of large amounts of crude oil through Alaska waters will probably continue for the next fifty years, at least. Over time, it will be easiest to go along with those who want to do the minimum in maintaining safety standards. The Alaska Oil Spill Commission considered citizens' councils the chief weapon against government apathy and bottom-line industry standards.

As we approach the second anniversary of the Exxon Valdez spill, we can expect to hear from those who want to forget about what happened and return to the old ways. We must stand firm. Citizen councils clearly provide knowledgeable continuity to spill protection for Alaska. Those with the most to lose do pay closest attention.

May 22, 1991

Nancy Gross
City Manager
City of Cordova
P.O. Box 1210
Cordova, Alaska 99574

Dear Nancy:

Thank you for the kind words expressed in your April 20 letter. The insight and perspective gained from hearing from the public during the public hearings in Cordova, Homer, Seward and Kodiak were invaluable to us in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. As you are no doubt aware, the resolution has been transmitted to the Alaska State Senate, which referred it to the Senate Special Committee on Oil and Gas and the Judiciary Committee. It is our hope that any future settlement will include most, if not all, of the conditions placed by the House.

Again, my thanks to you for all your help and hospitality while we were in Cordova.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

CITY OF CORDOVA



April 20, 1991

Representative Max Gruenberg
Alaska House of Representatives
P.O. Box V
Juneau, Ak 99811

Max
Dear Representative Gruenberg:

Mayor Van Brocklin has asked me to thank you for bringing the House Select Committee on the Exxon Valdez settlement to Cordova last week for a hearing. We all appreciate your thoughtful consideration of the testimony here and in Juneau. This is a monumental issue for us, financially, psychologically, and emotionally.

You were very impressive with the way you kept the comments on track and to the point. In such a charged atmosphere it is difficult to keep a cool head, but you have done an outstanding job.

The City of Cordova and the people of Prince William Sound and all the oil affected areas are depending on you to make sure we are protected in this matter. we sincerely appreciate your help.

Yours, truly,

Nancy
Nancy Gross
City Manager

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(607) 463-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Ms. Patricia Garoutte
Public Awareness Committee for the Environment
100 Trailing Bay #4
Kenai, Alaska 99611

Dear Ms. Garoutte:

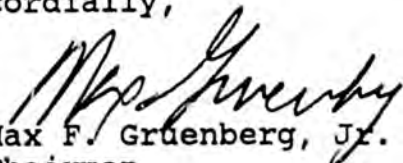
Thank you for taking the time to submit written testimony on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through letters, POM's and public hearings were invaluable to the committee and the entire House of Representatives in making the difficult decision on acceptance or rejection of the proposed settlement. In the end, we felt strongly that the settlement should not be accepted without a number of conditions designed to protect and meet the concerns voiced by a majority of our citizens.

I have enclosed a copy of House Concurrent Resolution 29 passed by the Alaska House of Representatives on May 2. The resolution was then transmitted to the Alaska State Senate, which did not act on it. The Legislature favors a re-negotiated settlement over litigation, and yesterday adopted House Concurrent Resolution 38, requesting that the Governor resume negotiations with Exxon. It is my hope that most, if not all, of the conditions placed by the House will be incorporated in any future settlement.

Again, thank you for your comments and making your voice heard on this important issue.

Cordially,


Max F. Gruenberg, Jr.
Chairman

TELECOPY COVER SHEET

Kanai Peninsula Legislative Information Office

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TO: Rep Gruenberg, (H) sp. Comm on Exxon Valdez spill claim's settlement

ATTR: _____ FAX: _____ PHONE: _____

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