

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1944 SCOMM 76: HOUSE SPEC. COMM. EXXON VALDEZ OIL SPILL. 1991-92

161



Alaska State Legislature

Please enter into the record my testimony to the House Special
committee name

committee on Exxon Valdez Settlement dated April 15, 1991
bill/subject

PACE is against the settlement. Because the public has not been given access to scientific spill studies, we have been deprived of our right to make informed decisions upon our future.

We need more time to review what information is available & digest it better & come up with a more suitable solution.

PACE feels there should be a member from the environmental, & fishing group on the Trusteeship Board, so funds are dispensed of in an equitable manner.

PACE feels the subsistence villages have been deprived of their subsistence way of living & no amount of money can make up for that deprivation.

PACE is opposed to the settlement as it stands.

PACE demands the legislature pass a resolution requiring release of the states economic & scientific data.

Signed: Patricia Rosenthal

Testifier

Public Awareness Committee for the Environment

Representing (Optional)

100 Trading Bay #4 Kenai AK 99611

Address

283-7170

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the

House Special
committee name

committee on Environmental Settlement dated April 15, 1991
bill/subject

(Continued)

PACE feels the settlement does not send a message to polluters to clean up their act and prevent spills. Instead, it tells industry that they can buy their way out of a messy problem in the state of Alaska.

If the court finds that the state approved of a faulty contingency plan & failed to enforce it led to damages, the state should pay for these damages.

Whose interests does the state government represent, the bureaucrats or the people?

PACE feels a large sediment, fauna, & tissue study should be done in the Prince William Sound area, so people will know once & for all if the foods that sustain their way of life are safe to pursue or not safe to pursue. Cleanup must be continued! These native villages must not be allowed to perish!

Signed: Patricia Barnett

Testifier

Public Awareness Committee for the Environment
Representing (Optional)

100 Trading Bay # 4, Kenai, AK 99611
Address

283-7170

Phone No.

PO Box 202045
Anchorage, AK 99520
April 21, 1991

Representative Max Gruenberg
PO Box V
Juneau, AK 99811

Dear Max,

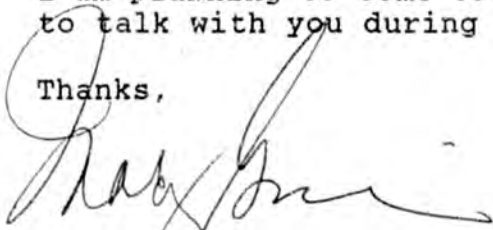
First, I want you to know I have appreciated your many efforts to hold the Hickel Administration accountable to the public and to keep the avenues open for the public during all the changes the Governor is offering.

For the sake of simplicity, I have enclosed copies of comments regarding the proposed settlement with Exxon that I prepared for National Parks and Conservation Association and those prepared by the National Trust for Historic Preservation.

Personally, I think this proposed settlement is a good deal for Exxon. While I can appreciate people wanting to take the money and move on, buying a "pig in a poke" doesn't set well with me. The oil spill itself reminded us how helpless we can feel in response to disaster. I wonder if this proposed settlement is not getting the same response - folks feeling helpless in the shadow of a large, wealthy and powerful corporation?

I am planning to come to Juneau for the last couple weeks and hope to talk with you during that time.

Thanks,

A handwritten signature in dark ink, appearing to read "Mary Grisco", written over the typed name.

Mary Grisco



National Trust for Historic Preservation

April 18, 1991

Thomas A. Campbell, General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce, Room 5818
14th St. and Constitution Ave., N.W.
Washington, D.C. 20230

Re: Proposed Settlement Agreement Concerning the Exxon
Valdez Oil Spill, 56 Fed. Reg. 11636 (March 19, 1991)

Dear Mr. Campbell:

The following comments are submitted by the National Trust for Historic Preservation in the United States (the National Trust) in response to the proposed settlement agreement resolving all civil claims between the State of Alaska, the United States, and Exxon Shipping Company arising out of the March, 1989, Exxon Valdez oil spill. The National Trust's comments address the need for the agreement to permit settlement funds to be applied to the restoration of cultural and archaeological resources on public lands that were injured by the oil spill and related clean-up efforts.

The National Trust, a congressionally chartered private nonprofit organization with over 225,000 members nationwide, is charged with facilitating public participation in the preservation of the nation's historic and cultural resources. The National Trust has a strong commitment to the preservation of our nation's irreplaceable archaeological sites and resources, the protection of which is critical to our ability to understand and learn about our past. If properly studied, these resources can provide important information about human history that is undocumented in any other way.

The National Trust is particularly concerned about the effects of the Exxon Valdez oil spill on the archaeological resources of the Gulf of Alaska region, which is an area that is extraordinarily rich in cultural resources. Past archaeological studies have revealed evidence of Alaska native occupation that may date back 11,000 years. While the area has not been thoroughly inventoried, it is estimated that over ten thousand cultural archaeological sites may exist in this area. As statutes such as the Archaeological Resources Protection Act (ARPA), 16 U.S.C. § 470aa et seq. recognize, these resources are held in trust by the federal government for the use of the nation and for the enjoyment of future generations.

Thomas A. Campbell
April 18, 1991
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resources. This opinion has strong support in relevant case law, principles of statutory construction and logic.

The question of whether the definition of "natural resources" employed by CERCLA or the Clean Water Act was intended to exclude or include cultural resources has not specifically been addressed by the courts. However, other statutory schemes employing the term "natural resources" have been interpreted as extending to cultural resources located on public land. For example, this issue has been raised in the context of the Submerged Lands Act, 43 U.S.C. § 1301 et seq., which transferred to the states title to lands and natural resources beneath navigable waters. At least one court has held that the rights and powers granted to states by the Submerged Lands Act include the right to regulate ownership and recovery of abandoned historic shipwrecks and marine artifacts located on these submerged lands. See Subaqueous Exploration & Archaeology, Ltd. v. Unidentified, Wrecked and Abandoned Vessel, 577 F. Supp. 597, 608 (D. Md. 1983).

Established principles of statutory construction also strongly supports the view that publicly-owned archaeological and cultural resources fall within the broad definition of "natural resources" contained in the settlement agreement, because cultural resources are clearly akin to the items specifically enumerated as natural resources in the definition. See Harrison v. PPG Industries, Inc., 446 U.S. 578, 588 (1980). This can be seen by the fact that damage to archaeological and cultural resources is encompassed within the plain meaning of several of the specifically enumerated items in the definition of natural resource, including "land," "biota," and in the concept of resources "held in trust" by the United States.

First, archeological sites, such as petroglyphs and pictographs (rock or cave drawings), weirs, middens, and submerged stratigraphy, are tangible, physical resources that may include "natural resources" such as rocks, shells, pollen grains, animal bones, carbonized seeds, wood samples, charcoal, and other materials. Moreover, one type of injury to natural resources such as "land" and "biota" caused by the oil spill is injury to and impairment of the significance of archaeological resources. For example, the oil penetration could mask the stratigraphy of a site important to determining the layers of occupation. Changes to soil chemistry could prevent soil testing techniques used to determine the extent of a site. As noted above, the important ability to employ radiocarbon dating techniques may be harmed by the oil spill. Thus, injury to these resources can be considered a type of injury that is specifically included within the definition of "natural resources."

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



National Trust for Historic Preservation

April 18, 1991

Thomas A. Campbell, General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce, Room 5818
14th St. and Constitution Ave., N.W.
Washington, D.C. 20230

Re: Proposed Settlement Agreement Concerning the Exxon
Valdez Oil Spill, 56 Fed. Reg. 11636 (March 19, 1991)

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Thomas A. Campbell
April 18, 1991
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It is already clear that substantial damage to archaeological resources has occurred as a result of the oil spill, and has been documented by preliminary damage assessment studies and clean-up efforts. For example, the recently released report on the results of preliminary government studies revealed injury to at least 26 archaeological sites along the shoreline caused by the oil spill. This report also indicates that significant injury may have occurred to the ability to use radiocarbon dating techniques to contextually date organic materials at these sites. Moreover, reports filed during the clean-up identified incidents such as the unauthorized excavation of artifacts in an eroding shell midden by clean-up workers on the Kenai Peninsula, and numerous other incidents of vandalism and looting. These irreplaceable resources may be irreparably damaged or destroyed by the oil spill and related clean-up activities unless appropriate ameliorative measures are planned, funded, and implemented.

The proposed settlement agreement limits the use of settlement funds to costs incurred by the United States and the State of Alaska in assessing damages to "natural resources" and planning, implementing, and monitoring the restoration, rehabilitation or replacement of damaged natural resources. Proposed Settlement, Para. 10. The settlement agreement uses the following definition of "natural resources" contained in the regulations implementing CERCLA and Section 311 of the Clean Water Act, one of the statutory bases for liability asserted by the lawsuit: "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by, the United States. . . ." Id., Para. 6(c). See 40 C.F.R. § 300.6.

In the National Trust's view, damage to cultural and archaeological resources are encompassed within this broad definition of "natural resources," and should therefore be specifically enumerated in this definition for purposes of clarity. Alternatively, other state statutory and common law provisions on which the State of Alaska's lawsuit was predicated provide a basis for specifically identifying cultural resources as a type of damaged resource covered by the settlement agreement.

Archaeological Resources Are "Natural Resources"

To the extent that the settlement agreement is based on claims asserted under Section 311 of the Clean Water Act, it is our view that the broad definition of "natural resources" contained in the regulations implementing the Clean Water Act does authorize recovery for damage to publicly-owned cultural and archaeological

Thomas A. Campbell
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resources. This opinion has strong support in relevant case law, principles of statutory construction and logic.

The question of whether the definition of "natural resources" employed by CERCLA or the Clean Water Act was intended to exclude or include cultural resources has not specifically been addressed by the courts. However, other statutory schemes employing the term "natural resources" have been interpreted as extending to cultural resources located on public land. For example, this issue has been raised in the context of the Submerged Lands Act, 43 U.S.C. § 1301 et seq., which transferred to the states title to lands and natural resources beneath navigable waters. At least one court has held that the rights and powers granted to states by the Submerged Lands Act include the right to regulate ownership and recovery of abandoned historic shipwrecks and marine artifacts located on these submerged lands. See Subaqueous Exploration & Archaeology, Ltd. v. Unidentified, Wrecked and Abandoned Vessel, 577 F. Supp. 597, 608 (D. Md. 1983).

Established principles of statutory construction also strongly supports the view that publicly-owned archaeological and cultural resources fall within the broad definition of "natural resources" contained in the settlement agreement, because cultural resources are clearly akin to the items specifically enumerated as natural resources in the definition. See Harrison v. PPG Industries, Inc., 446 U.S. 578, 588 (1980). This can be seen by the fact that damage to archaeological and cultural resources is encompassed within the plain meaning of several of the specifically enumerated items in the definition of natural resource, including "land," "biota," and in the concept of resources "held in trust" by the United States.

First, archeological sites, such as petroglyphs and pictographs (rock or cave drawings), weirs, middens, and submerged stratigraphy, are tangible, physical resources that may include "natural resources" such as rocks, shells, pollen grains, animal bones, carbonized seeds, wood samples, charcoal, and other materials. Moreover, one type of injury to natural resources such as "land" and "biota" caused by the oil spill is injury to and impairment of the significance of archaeological resources. For example, the oil penetration could mask the stratigraphy of a site important to determining the layers of occupation. Changes to soil chemistry could prevent soil testing techniques used to determine the extent of a site. As noted above, the important ability to employ radiocarbon dating techniques may be harmed by the oil spill. Thus, injury to these resources can be considered a type of injury that is specifically included within the definition of "natural resources."

Thomas A. Campbell
April 18, 1991
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Second, archaeological and cultural resources on public lands are clearly resources that are "held in trust" by the land managing agencies. On the federal level, this "public trust" principle is exemplified by the Archaeological Resources Protection Act (ARPA), which declares that archaeological resources on public lands are "an irreplaceable part of the Nation's heritage," and specifically empowers federal land managing agencies to protect these resources "for the present and future benefit of the American people." 16 U.S.C. § 470aa(a). Therefore, unlike damage to privately-owned property, cultural resources on public land are held by the land managing agency in trust for the benefit of all generations, rather than for the benefit of a few individuals who may hold them by right of discovery or by purchase.

Finally, excluding publicly-owned cultural resources from eligibility for settlement funds makes no sense. For example, the settlement agreement expressly reserves the rights of third parties to bring actions against Exxon for damages to privately-owned property injured by the oil spill. Proposed settlement, Para. 13(c). Thus, third parties are free under the proposed settlement to sue to recover for oil spill-related damage to archaeological resources located on private lands. Yet the federal government is expressly precluded from bring an action under ARPA, which protects archaeological resources on federal lands from loss and destruction, or any other statute to recover for injury to archaeological resources. *Id.*, Para. 13. This leads to the illogical and inequitable result that, under the settlement agreement, damage to publicly-owned archaeological and cultural resources stands alone as the only type of resource for which oil spill-related injury is absolutely non-compensable, even while the right of private parties to recover for damage to their personal property is carefully preserved.

Accordingly, the National Trust believes that cultural resources can and should be considered "natural resources" under the statutory definition borrowed from CERCLA and the Clean Water Act. We therefore urge you to amend the settlement agreement in order to expressly include cultural resources within the definition of "natural resources" eligible for settlement funds.

The Settlement Agreement Should be Amended to Allow Recovery for Archaeological and Cultural Resources.

In any event, it is unnecessary to even reach the question of whether the CERCLA and Clean Water Act definition of "natural resources" borrowed by the settlement agreement encompass cultural and archaeological resources. Other legal authorities on which the State of Alaska's lawsuit was predicated provide a

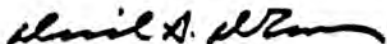
Thomas A. Campbell
April 18, 1991
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basis for specifically identifying cultural resources as a type of injured resource covered by the settlement agreement.

Allowing cultural resources restoration to remain eligible for settlement funds by no means requires or mandates that cultural resources be given priority in terms of funding over other types of resources, nor does it jeopardize other potential restoration projects. It simply allows injury to cultural resources to be evaluated and prioritized along with other natural resources damaged by the oil spill. It also grants the trustee council the discretion they need to carry out their difficult responsibility of allocating limited resources in attempting to restore and repair the enormous damage to our nation's publicly-owned resources caused by the Exxon Valdez oil spill.

Accordingly, we strongly urge that the proposed settlement agreement be expressly amended to allow for recovery to cultural resources on federal land. If you have any questions, please do not hesitate to contact National Trust Assistant General Counsel Andrea Ferster, at (202) 673-4035.

Respectfully submitted,



David A. Doheny
Vice President and General Counsel

cc: Secretary Manuel Lujan, Jr.
Sen. Ted Stevens
Sen. Frank Murkowski
Rep. Gerry E. Studds
Rep. George Miller
Rep. Chester G. Atkins
Rep. Don Young
James Ridenour, Director, National Park Service
Richard B. Stewart, Assistant Attorney General,
Environment and Natural Resources Division
Wendell Willkie, General Counsel,
Department of Commerce
Barbara Herman, Esq.
Judith Bittner, Alaska SHPO
John F. W. Rogers, Chairman, Advisory Council on
Historic Preservation
J. Jackson Walter, President, NTHP
Kathryn Burns, Director,
Western Regional Office, NTHP

Thomas A. Campbell
April 18, 1991
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bcc: Bob Adler, Natural Resources Defense Council
Sarah Chase, Natural Resources Defense Council
Doug Wolf, National Wildlife Federation
Ted Birkedal, Regional Archaeologist, NPS
Mary Grisco, Nat'l Parks & Conservation Ass'n ✓
Wendy Arundale, University of Alaska, Fairbanks
Alaska Association for Historic Preservation
Peter Frid, National Trust Advisor

National Parks and Conservation Association

PO Box 202045
Anchorage, AK 99520
April 17, 1991

Thomas A. Campbell
General Counsel, NOAA
US Department of Commerce
16th & Constitution Ave., NW
Washington, DC 20230

Re: Memorandum of Agreement Between the United States and
the State of Alaska Concerning the Exxon Valdez Oil Spill

Settlement Agreement Concerning the Exxon Valdez Oil Spill
Between the United States, the State of Alaska and
the Exxon Corp., Exxon Shipping Co., and Exxon Pipeline Co.

Dear Mr. Campbell,

I am writing on behalf of the National Parks and Conservation Association (NPCA), the only national non-profit citizens organization that focuses on national park concerns. Our 280,000 members nationally, including over 1,800 in Alaska, promote the protection, preservation and understanding of our nation's National Park System through diverse activities. We appreciate this opportunity to submit comments on the proposed settlement and MOA.

We applaud the efforts of the State of Alaska and the federal Trustee Council to work for a settlement. Protracted litigation not only absorbs needed fiscal resources but diverts attention and those resources from undertaking assessment studies, restoration and reclamation projects and acquisition of equivalent natural resources. The settlement agreement and MOA however need revisited. NPCA is concerned about the financial settlement, the extent of public participation, the extent of culpability and protection and restoration of the natural (including archeological) resources.

FINANCIAL SETTLEMENT

NPCA appreciates the release of "Summary Of Effects Of The Exxon Valdez Oil Spill On Natural Resources And Archaeological Resources March 1991" by the federal government. Economic analysis is not



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Telephone (202) 944-8530 • Fax (202) 944-8535

included; the report states it is "preliminary" and "available data are not fully analyzed and interpreted". It is quite difficult to offer meaningful comments on the amounts listed in the settlement agreement without this analysis and similar information from the State. NPCA has asked the US District Court for public disclosure of the financial information which provides the basis for the \$100 million proposed criminal fine and then opportunity for public comment. NPCA asks the same for the settlement agreement.

Why is a ten year payment schedule proposed for the civil settlement of \$900 million? Scheduling payments for decision making regarding restoration projects seems reasonable, however, a schedule can be set up after receiving lump sum payments. This schedule will reduce the amount to approximately \$508 million in current dollars. This schedule also allows Exxon to take full advantage of tax deductibility for payments, thereby shifting payments to consumers and taxpayers. Why are costs incurred before to be reimbursed from this amount? If these costs are included, the ten year amount could be reduced to a total of \$766 million.

Paragraph 18 (Reopener For Unknown Injury) has merit. However, again, how can NPCA offer meaningful comments about the \$100 million cap without full knowledge of economic analyses?

PUBLIC PARTICIPATION

The State of Alaska continues to withhold studies; the federal government did not release any economic analysis. It is fundamentally wrong to suppress information about damages. Whether the State or federal government is liable to pay any of the damages is a separate matter from the scientific data and economic analysis that quantifies damages. The scientific and economic information do not address which party was at fault. The public cannot make intelligent and informed judgements without information.

The MOA directs the Trustees Council to establish procedures for meaningful public participation (IV.A. 4 and 5). Thus far, these players have met privately, without even allowing the public to listen to their meetings. IV.B.3. also allows the Trustees Council to change designated officials without public consideration. At issue here is faith and trust in our governments to manage our resources. Secrecy, cavalier disregard for public participation and media reports of changing designated officials do little to maintain that faith. These sections need to more specifics and less flexibility for administrative changes.

While NPCA is pleased that half the proposed criminal fine will go to the State, we think the public has a right to review proposed activities and to challenge any that may seem inconsistent with settlement language. The State should not be given unilateral authority to resolve disagreements nor to insulate itself from public debate and scrutiny.

EXTENT OF CULPABILITY

Central to an equitable settlement of any criminal suit is the imposition of a sentence that reflects the seriousness of the offense, that promotes public respect for the law and that serves as a deterrence to future criminal behavior by the defendants and others.

High fines often achieve the goals of fairness and deterrence. Corporations do not go to jail. Corporations can often absorb fines and redistribute their impacts. Corporate structure is such that fines, while necessary and important, may not lead to rehabilitative changes in management. Creative sentencing needs to be drafted to meet this challenge.

Alyeska Pipeline Service Company played a crucial role in the events following the grounding of the Exxon Valdez. Alyeska's failure to comply with oil spill contingency plans contributed to the extensiveness of the damage and to the confusion of roles for various agencies and companies. The opportunity to ascertain whether Alyeska's conduct warrants criminal and/or civil penalties should not be foreclosed.

Paragraphs 20 through 30 need to be re-worked. Sections VII and III.B. also need to be re-worked. There may be a compelling fiscal rationale for the State and the federal government agreeing to not sue each other and to defend against third party suits together, but statutory responsibilities under the Clean Water Act, the Comprehensive Environmental Response Compensation & Liability Act, Bald Eagle Protection Act, Migratory Bird Treaty, Archeological Resources Protection Act and Section 106 of the National Historic Preservation Act need to be clarified before such an agreement can be signed.

RESTORATION AND PROTECTION OF NATURAL RESOURCES

Ultimately, the MOA and settlement agreement are about making whole what the Exxon Valdez oil spill damaged. It is frustrating to have so little information upon which to make reasonable judgments and offer meaningful comments. It is our land, water and air that are at risk when oil is transported. Yet, again the public is being asked to trust government and industry to protect our resources.

MOA; Settlement
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Clearly, the public learned from the Exxon Valdez oil spill that government and industry were not prepared. Without scientific and economic information, NPCA cannot say that government and industry are now working to protect and restore our resources.

NPCA, as do many other individuals and organizations, has many suggestions about how to spend any monies for research, restoration and related activities. The MOA and the settlement agreement do not give any structure or guidance for spending monies. We however will expect to offer such comments once any settlement agreement has provided that information. We have commented on draft restoration plans.

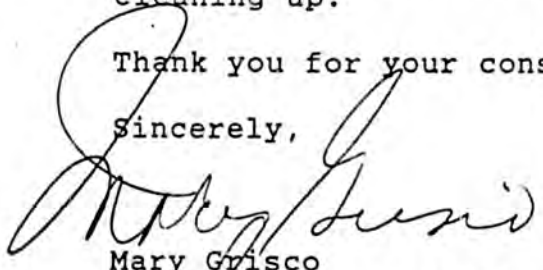
SUMMARY

NPCA chose not to enter litigation following the Exxon Valdez oil spill partly because we expect governments to execute their statutory responsibilities to protect and restore our resources. Without scientific and economic information, NPCA cannot state that the MOA and settlement agreement are in the public's best interest.

For the public to make an intelligent and informed judgement, economic and scientific information needs to be released. Exxon and its companies and Alyeska must be held accountable for their actions. State and federal agencies must also be accountable for their actions. Any settlement should include structure for allocating funds and criteria for what is to be funded. Any settlement needs to act as a deterrent, a clear message to industry and government that prevention costs much less than restoration and cleaning up.

Thank you for your consideration of our comments.

Sincerely,



Mary Grisco
Alaska Regional Director

cc: Barbara Herman, State of Alaska

Alaska Deserves a Fair Settlement
by Rep. Max Gruenberg

When Gov. Hickel returned from Washington D.C. in March, he announced that he had just negotiated with Exxon and the Justice Department the best oil spill civil settlement deal Alaska could expect. Despite the Governor's sincere attempt to negotiate a good deal for Alaska, this settlement was unfair to Alaska and here's why:

- Alaskans would have been excluded from decisions as to how money should be spent on restoration and recovery in spill-hit areas. Instead, a board of federal and state bureaucrats would have unilaterally decided how the money should be allocated. There was no guarantee that the people directly affected by the spill would have had any say in the matter.

- It did not adequately protect the rights of Alaska Natives and other third party groups. Unless loopholes in the settlement were closed, the rights of Alaska Natives to recover damages from Exxon for cultural and subsistence losses could have been restricted. Also, commercial fishermen could have lost their right to recover damages resulting from diminished fish stocks.

- All scientific and economic data could have remained secret without justification. This information should be published so the public can be sure that further damage is minimized, more safeguards can be prepared, and the total impact of the spill can be fully assessed. This will also help prevent unfounded claims by the oil industry of recovery rates in spill areas and verify the toll on wildlife and natural resources.

The House set-up a nine-member bipartisan committee which went over the proposal literally line by line during more than 100 hours of hearings over a period of six weeks. The committee also held hearings in Seward,

Homer, Kodiak and Cordova to hear from people in areas most directly affected by the spill.

In total, 237 Alaskans from all over the the state either wrote or testified about the settlement. Of those, 169 (71 percent) were strongly against the settlement proposal, 14 (6 percent) favored it and the remaining 54 (22 percent) were neutral.

Most committee members felt the settlement weighed too heavily in favor of Exxon by giving the oil giant 11 years to pay the \$900 million settlement. Over time that meant the settlement was really worth only between \$500 million and \$700 million. Meanwhile, Exxon would have continued to profit off money owed to the state.

The House wants a \$700 million payout (what Alaska Attorney General Charles Cole asserted is the real value of the original proposal) within 15 months of the date the judge approves the settlement. Exxon should pay that up front and be done with it.

Under the rejected proposal, the State of Alaska would have subsidized Exxon through state corporate tax write-offs from the settlement worth at least \$5 million. House members thought it was unfair that Exxon should be awarded a \$5 million state tax break. Incidentally, under the agreement, Exxon would have been able to write-off more than \$150 million in federal taxes. The House wanted the agreement modified to prevent Exxon from deducting the civil settlement from its state taxes.

The House also suggested changes so scientific and economic data would be published on a case by case basis unless a court ordered that the data be kept secret.

In addition, The House asked that the public be intimately involved in spending decisions and that the rights of Alaska Natives and other third parties to file claims against Exxon be fully protected.

Other recommended changes would assure that the settlement conforms to the Alaska Constitution by requiring legislative appropriation of monies and that two state legislators be nonvoting members of the trustee board, which will make final spending decisions.

The House suggested the criminal fine be increased to \$500 million, \$100 million going to the state and \$100 million going to the federal government. The rest would go into the civil settlement trust fund for restoration purposes. That would bring the total settlement to \$1.2 billion, a much higher figure than the rejected settlement, but equal to Governor Hickel's goal.

Let's be very clear: the House still wants a fair settlement. The House's suggestions are a road map to making an equitable settlement happen. In rejecting the civil settlement, the House showed that Alaskans have the fortitude to withstand large offers that are really not fair in the long run. True, we took a risk that one of the parties might choose to litigate rather than renegotiate. My colleagues and I felt that was a small risk because litigation is in nobody's best interest.

The Governor made the right decision in putting the settlement before the legislature. He now has a stronger hand to win concessions that protect Alaska's rights, provide fair and adequate compensation and have broad-based popular support. Legislators expect the Governor to honor his word that he will give the public and the legislature opportunity to review and approve the settlement, even if it's a second version. With a little encouragement, Exxon, the Justice Department and the Hickel administration will emerge with a better proposal, one that we all can live with.

Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special on the Exxon Valdez Oil Spill Claims Settlement

May 15, 1991

Joe Gumm? (p. 17 of minutes)?
Kodiak, Alaska 99615

Dear Mr. Gumm:

Thank you for taking the time to testify before the committee and offer your comments on the Exxon Valdez Oil Spill Claims Settlement agreement.

The insight and perspective gained from hearing from the public through public hearings, letters, and public opinion messages 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 the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

apr1291b, HOUSE EXXON

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DRAFT

file copy

Alaska State Legislature

House of Representatives



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
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Official Business

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

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 the public.

I have enclosed a copy of House 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 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

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

April 25, 1991

Editor, New York Times

Sir:

If Judge H. Russel Holland wants REAL deterrence by Exxon or any other oil company against repeating the incompetence that caused the Valdez spill, he will have to do more than reject the \$100 million criminal fine negotiated by Exxon and Washington. He will have to place under a court trust at least \$10 billion of Exxon assets; otherwise, Exxon will pay only criminal penalties and escape all civil damages for destroying a national treasure. By the time suits, delays, and negotiations are through, Exxon will not be ABLE to pay full civil damages, even though Chairman Lawrence Rawl promised America in 1989 that the company would do so.

Should Judge Holland fail to ensure Exxon assets sufficient to pay DOUBLE the currently estimated economic costs to restore Prince William Sound (\$5 billion, from the unreleased report paid for by taxpayers) are taken out of potential mismanagement by the perpetrator, when Exxon finally is called to account, it will not have the ability to pay. By the end of this decade, it and the rest of the U.S. oil industry will have been reduced to minor economic status as gasoline marketers, replaced by Saudi Arabia and Kuwait. Exxon may still have assets and earnings from non-U.S. markets, but collecting outside America would be a lawyer's life work. The scale of the damage rises still; our estimate in 1989 for Congress (Rep. James Scheuer of New York) that the TOTAL could reach \$50 billion is gradually being confirmed by time, and scientific evidence.

The aftermath of the Valdez still follows the path we outlined in an article published April 17, 1989 (CNN reports aired on the 19th), and in our article published in a Palo Alto, CA paper March 6, 1990). We advised Exxon to set aside some \$30 billion for the purpose in April, 1989; it has not, and Exxon shareholders will pay the price for this lack of judgement. Expect suits soon to make public the scientific reports paid for by the taxpayers; when they become public, Congress will be forced to ensure the ability to collect damages from Exxon should Judge Holland not do so.

Cordially,
Norman Higby, 966 Fremont, Menlo Park, CA 94025 (415) 327-6793

Business Monday

Subject of Cable News Network interviews aired April 18-19

COURTESY OF NORM HIGBY

Will spill push oil industry to extinction?

The call came in a week ago from Menlo Park, Calif.

Norman P. Higby, Jr., whom I've never met but who called because a predecessor of mine had written a story about him in 1983, said we ought to think twice about letting the Exxon Valdez sail into Puget Sound for repairs. Before I could interrupt, he said he was fully aware that the ship's owner was planning to take the leaking ship to Portland. But he also understood that the folks in Portland weren't real crazy about the idea, so the next place Exxon would look will be — you guessed it, Seattle.

"Don't let them do it," he insisted. "You'll only be dealing with ghosts."

What followed was a lengthy conversation with a person that has some impassioned, and apparently informed, views about the domestic oil industry — the so-called "ghosts" of which he spoke. The Exxon Valdez — in case you've been locked in your attic for a month — is the supertanker that became impaled on a reef in Alaska's Prince William Sound March 24, dumping 10 million gallons of crude into the environment.

Our conversations — I called him back a few days later — took place before the Port of Portland announced Friday that the Exxon Valdez would arrive there within six weeks for an inspection of its damage. However, Higby pointed out that his arguments against letting the ship into Puget Sound apply equally to proposed oil drilling off the Washington coast.

The oil industry is basically writing checks that it can no longer cash, in terms of the cost of exploration and safe transportation of its product, he said. The Valdez spill will end



up costing more than twice the net worth of both Exxon and Alyeska, the consortium that transports oil from Alaska's North Slope to the sea port of Valdez.

"The (Valdez) accident has demonstrated that the oil industry's infrastructure is gone," said Higby. "The last vestige of it was it can drill in environmentally sensitive areas safely. Now that's gone."

"Nobody wants to deal with a gone industry. In the wake of Valdez, we should not even be considering drilling for oil or natural gas in any environmentally sensitive area for about 30 years, until we know what we're up against in the industry."

NORM HIGBY IS an entrepreneur, author and economic analyst. Mostly he consults with businesses, investors and the government on the economics of oil. He is also chairman and chief executive officer of a Menlo Park fuel research company which has a patent pending on a process for blending alternative fuels like ethanol and methanol with various oil products. The process, he says, would help end this country's dependence on foreign oil supplies.

In other words, he has a vested interest in seeing the current oil industry disappear.

However, his track record for predicting economic events involving oil is unapproached, even by the oil industry. He's quoted often in The Wall Street Journal, which refers to him as an "energy forecaster." He should not be ignored.

Two of his predictions stand out. In a 1981 letter to former White House staffer Michael Deaver, Higby went against popular opinion by projecting a 75 to 80 percent decline in Saudi Arabian oil revenues in this decade. King Fahd would concede as much seven years later.

Higby also predicted — two years before it happened last June — that Saudi Arabia would buy enough of Texaco Inc.'s East Coast operations to make that OPEC country one of the largest gasoline retailers in the eastern United States.

At the time of that transaction, Higby said Chevron would be next to go to Saudi Arabia. But the Valdez incident changed his mind.

"Exxon will be next — it will follow Texaco into Saudi Arabia, because Exxon won't be able to deal (economically)

with this disaster by itself," he said.

Transactions like these, Higby contends, will become evidence that the U.S. oil industry, and ultimately the world's oil industry, is disintegrating — a process he says has been aided tremendously by the Alaskan oil spill. The industry first will be absorbed by a few international oil giants, which themselves will eventually tumble under their own weight.

"Eighty percent of the current domestic oil industry will not be in existence by 2020," Higby said. "We are into a total restructuring of the economics of world oil. The question is which 20 percent will be left when it's all over? I don't know, but I'll bet Exxon won't be one of them."

The direct economic and social impacts of these developments will be tremendous in Washington State, where the oil industry is now seeking permission to drill off the coast.

"Say Saudi Arabia takes over the economics of Exxon, essentially you'll be asking Saudi Arabia to drill oil off the Washington Coast," he said. "And I don't think that's what you had in mind."

AS A NATION we face even more immediate economic costs from the Valdez disaster, according to Higby. He warns that the government should move immediately to ensure Exxon doesn't file for bankruptcy, which would protect the oil company from having to pay debts associated with the spill.

"The government could move to tie up Exxon's assets in a court-issued trust fund, so they'll be available to pay clean-up costs. It's a move that should be made right away," he said.

We actually have three choices, Higby said. 1.) Let Exxon walk away and allow the oil industry to limp along to what Higby calls "its inevitable demise." 2.) Let those responsible pay the price, and then end up spending an equivalent amount of money ourselves rebuilding the industry's infrastructure from scratch. 3.) Spend money on building an infrastructure for safer, alternative fuel sources, with far fewer environmental and economic risks than fossil fuels.

Or put another way by Higby:

"Do we spend \$150 billion building an industry that will be defunct in 50 years? Or do we spend the amount to build an industry that'll get us through the next century?"

Higby is betting his livelihood on the latter. And he predicts we will be as well.

A U.S. appeals court ruled that companies responsible for oil spills generally should pay the full cost of restoring the environment to its condition before the damage occurred. The most immediate result probably will be that Exxon Corp. will face higher costs in its cleanup of Alaska's Prince William Sound. (Story on Page B4)

If Exxon fails to pay, all of us will pay

The Peninsula Times Tribune

Tuesday, March 6, 1990

ON FEB. 22, Exxon U.S.A. and the U.S. Department of Justice proposed a settlement over criminal charges and fines arising from the March 1989 Exxon Valdez oil spill in Alaska. Exxon would pay into an environmental fund the sum of \$500 million, period.

While the Department of Justice assures us this "settlement" does not prohibit, or jeopardize, private suits by Alaska or others, the effect of the proposed settlement is another story. Should the

Exxon has misdirected \$2 billion attempting to clean Alaskan beaches.

deal take place, it would almost certainly create an enormous precedent which would encourage other companies to attempt to settle their cases without a trial. The settlement would be a complete and utter failure. It would be a judgment rendered without proof; even if a

judgment with damages were rendered against the creator of an environmental disaster, no compensation would ever be paid.

EXXON HAS SPENT \$2 billion to date to "clean" Alaskan beaches — and has misdirected 100 percent of it. I outlined for Congress, Exxon and Alaska in June 1989 that the only viable cleanup was to replace all the beach sand/rocks. The Exxon steam hoses had driven oil into the beaches, at least 10 feet deep, for 1,000 miles. It cannot be retrieved. At \$20 million clean-up cost per mile, I calculated a clean-up cost at \$20 billion — without equipment or labor. With these costs added, the grand total would be \$60 billion or 130 percent of Exxon's net worth.

In the recent oil spill off Newport and Huntington beaches, the oil was driven three feet into the sand, without the cold, wind and tidal action of Prince William Sound. I warned in Cable News Network interviews aired last April that to collect, Congress would have to place Exxon in

bankruptcy — and if they did not, or Exxon "walked" (the proposed settlement), the money to restore Alaska would be lost forever. U.S. taxpayers ultimately would pay some inadequate cleanup costs.

THE UNITED STATES is now experiencing what I forecast in this newspaper in a 1982 commentary: a trend toward direct marketing of gasoline rather than crude oil in our state by oil

producers, such as Saudi Arabia with California as the major port of entry. Saudi Arabia bought 23 California gas stations from Texaco in 1988; last fall, British Petroleum (BP America) bought all Mobil gas stations in California. Chevron USA has just announced it will close its U.S. exploration/drilling division, and spend the money searching overseas for cheaper oil.

What Americans are witnessing is the rise of a redefined domestic oil industry: BP and Saudi

Arabia will be the domestic oil industry of the 21st century; the Exxons and Chevrans, by moving explorations overseas, will become foreign firms, and economically insignificant ones at that. For Saudi Arabia to gain marketing dominance in California, Exxon and Chevron must be put out of business. Texaco was merely the first of the dominoes.

IF WE CITIZENS DO NOT demand that Congress ensure Exxon meet the law and pay the full cost of its folly, no oil company will ever be made to pay for demonstrated incompetence, bad faith and abysmal planning. A Washington that quails at the consequences of placing an Exxon into bankruptcy in the future has no chance against Saudi Arabia or Soviet Union that builds a leaky pipeline into San Francisco Bay or off Mendocino. The Saudis, who may own the gasoline market in California by that point, will merely say "We cannot afford to pay; to require us to pay is insulting and will deny America access to Middle East oil." The Washington administration and Congress then in power will roll over and play dead — as dead as the bay would then be.

SHOULD THE READER QUESTION this outcome, recall that, during the late 1970s, OPEC raised the price of its oil from \$11 a barrel to almost \$40, citing it as "punishment for America for its support of Israel, and lack of support for the Arab position in the Middle East." As a result, California and America got 17 percent interest rates and 22 percent inflation by 1981. Compared to the incalculable cost of the loss of the coastline of the West Coast, from Washington to Mexico, as freebooting OPEC producers battle for control of the American market, those earlier "costs" will seem absolute bargains.

Norman Higby publishes the Higby Report and is a resident of Menlo Park.

If Exxon fails to pay, all of us will pay

San Francisco Chronicle

Tuesday, March 6, 1990

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deal take place, it would almost surely create an environment in which the San Francisco Bay, or the Mendocino/Santa Cruz coastline might see similar incidents before 2000. And every oil company will have been rendered "judgment proof," even if a

judgment with damages were rendered against the creator of an environmental disaster, no compensation would ever be paid.

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Norman Higby publishes the Higby Report and is a resident of Menlo Park.

April 18, 1989

Mr. Joe McMillan
Senior Vice President
Exxon U.S.A. Inc.
1251 Avenue of the Americas
New York, N.Y. 10021

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Dear Mr. McMillan:

As a professional courtesy, I would like to extend some support for you and Exxon, in your comments yesterday that the costs Exxon will accumulate subsequent to the Exxon Valdez cannot be translated to consumers as higher prices. You are correct, Exxon cannot so do this.

In recent releases and various interviews, I have disclosed my calculations that the ultimate direct costs to Exxon and the owners of Alyeska will run double your current net worth! When further costs only the Federal government can cover are added, the cost could exceed \$1 trillion over the next couple of decades.

I need not amplify what such a potential means for the securities markets of Exxon, et. al., or the litigation over damages that could last for a decade or more. Exxon's survival is at grave risk.

Please take a friendly piece of advice: immediately place in a trust the sum of \$30 billion--and hope accumulated interest by the end of litigation will cover your costs. A failure to do this will bring consequences Exxon management lacks the capacity to conceive.

The methodology used to calculate these figures is the same used in 1981 to forecast and calculate the subsequent 80% revenue decline of Saudi Arabia, conceded by King Fahd in Dec 1987. Saudi Arabia does not yet see, much less accept, that the revenue loss was a direct consequence in turn of prior strategies and tactics, some still used. Until they make the connection, they will not optimally move to the permanently restructured economic of energy in the future, which will see a fall in the need for oil of 70% by 2050.

An enclosed backgrounder gives some references. I would like your personal acknowledgement of the enclosed. Should Exxon wish to pursue any point, I may be reached as below, but should note my professional consulting fees are very costly, and prepaid.

In the enclosed S.F. Chronicle, I forecast last Sept the subsequent crude oil and product prices seen thru February in northern and central California. The future fluctuations will make these seem mild.

Cordially,

Norman Higby
Norman Higby, Publisher
The Higby Report
966A Fremont Street
Menlo Park, CA. 95025

Enclosures

EXXON COMPANY, U.S.A.

POST OFFICE BOX 2180 • HOUSTON, TEXAS 77252-2180

J. T. McMILLAN
SENIOR VICE PRESIDENT

May 8, 1989

Mr. Norman Higby, Publisher
The Higby Report
966 Fremont Street, No. A
Menlo Park, California 94025

Dear Mr. Higby:

I want to respond to your letter which expressed a number of concerns related to the oil spill in Alaska. I have attached a letter from our Chairman, Larry Rawl, which speaks to your comments concerning the spill and cleanup effort.

However, regarding your comments on pricing, claims that recent increases in crude oil and petroleum prices are largely the result of the Valdez spill are incorrect. Petroleum prices in the United States are impacted by a number of factors, including events well beyond the border of the country. The Alaskan oil spill was one such event that temporarily affected the supply of crude oil to the West Coast of the United States, but its effect on overall U.S. petroleum prices was minimal in relation to other factors. The price of gasoline was increasing prior to the Valdez incident in response to raw-material cost increases, seasonal effects, increased regulations, higher-cost imports, and added state excise taxes.

The idea that Exxon expects the consumer to pay the cost of the spill is completely unfounded. Gasoline prices are set by the interactions of thousands of individual sellers and buyers who operate in a very competitive market. Exxon must price its products at market levels for its dealers and distributors to compete. The marketplace will not permit any unusual costs incurred by a particular supplier, like the costs necessary to clean up the oil spill in Alaska, to be recovered in the marketplace. Those costs must be absorbed by the supplier.

We do not want to lose you as a customer, and we hope that our efforts in Alaska will convince you that we are a responsible company and one with whom you would like to continue to do business.

Sincerely,
Joe M. McMillan

JTM:kc
Attachment

April 4, 1989

Honorable Steve Cowper, Governor
State of Alaska
Office of the Governor
Juneau, Alaska 99801

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Dear Governor:

White House Press Secretary Marlin Fitzwater is quoted by the media today as indicating your proposed closure of the Alaskan oil pipeline is "not in the national interest". Please realize that Washington is more interested in saving a disintegrating oil industry infrastructure than it is in saving Alaska.

In the future world of oil, and the economics it will have, Alaska may be REQUIRED to seize the pipeline by right of eminent domain, as the sole means to you economic, and environmental survival. This might require closing it first; that will come about anyway, as the costs of the Exxon Valdez will range between \$10 billion and \$1 trillion, most of which can be directly charged against Exxon and the owners of Alyeska Pipeline. Neither, nor both, are worth in total the cost of the damage.

Alaska does not know how, but it will have to compete against Saudi Arabia in downstream U.S. markets directly, and be better than the Saudis at doing so. You lack the methodology, the forecasting record and the proper perceptions to do this. Learn them rapidly; the time frame is short.

The record of Washington in forecasting the future of, ramifications of, and changes in the economics of oil is worse than the pathetic record of bureaucratic inertia still demonstrated by the domestic oil industry. We have a world oil infrastructure built on the base that oil is \$80/bl-the assumptions of one and two decades ago. Oil is \$20, on its way to the total elimination, by the end of this century, of the need to refer to a crude oil price at all. Thus, the measurement base evaporates, leaving one to inquire on what basis can a domestic oil industry, still built on \$80 oil, establish any value, or reason to exist? If the U.S. needs a domestic oil industry, it does not mean it needs THIS one. As the Valdez has demonstrated, the ultimate cost of replacing it from scratch, on the economics of the future, will prove far less costly than subsidizing the one that gave us the Valdez.

Washington has effectively walked from Prince William Sound; if it is neither willing to fund the total replacement costs of a new U.S. oil industry, or to subsidize the \$1 trillion in total economic damage caused to Alaska, Alaska is on its own, and should act as it deems best.

Both your office and the National Security Council have acknowledged my accuracy in oil is far superior to either's. My professional consulting services are costly, and usually prepaid; Alaska has already seen the cost of reliance on those who neither learn nor change.

Cordially,


Norman P. Higby, Jr.
966 Fremont Street
Menlo Park, CA. 94025
cc: The White House

April 27, 1989

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Honorable George Bush
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President

New media reported your comments yesterday that the U.S. needs more exploratory drilling--more oil drilling, period--because we need a viable U.S. oil industry to reduce the rising imports of oil. The U.S. may well need a viable energy industry, but that is not the same as saying we need the current one. Since 80% of the current one will not be here by the end of this century in its present form, all is moot.

The problems of the U.S. oil industry, embodied in the Exxon Valdez, are derived from a total infrastructural disintegration. As I comment in the enclosed March 23 Wall Street Journal, the oil industry, and the world economy, has been built to function on the \$80 oil we were assured by the same industry that claimed competence in handling any Alaskan spills would be here by 1985. Oil is \$20, however, and that is the reason the disintegrating oil industry does not work, and cannot be made to.

On April 7, you said Exxon is "fully liable" for the costs of the aftermath of the Valdez. As we indicated in press releases beginning March 30 and in CNN interviews aired April 18 & 19, the costs to Exxon will be DOUBLE ITS TOTAL CURRENT NET WORTH. When costs only Washington can cover are added, the big spill will easily cost the U.S. \$1 trillion.

To calculate these figures, we used the same approach that we used in 1981 to forecast Saudi Arabia would lose 75-80% of its oil revenues in this decade, an event King Fahd conceded in Dec. 1987 had occurred. Mr. Deaver acknowledged our Oct. 20, 1981 forecasts of this--but we are also acknowledged as having written the 1981 book that forecast today's oil markets. Thus, Mr. President, you have ONLY two choices.

No more rapid, or ignominious end could come to your place in history than to permit Exxon to "walk" on some misanalysed "national interest" basis. As Exxon, with present management, cannot correctly implement viable procedures to survive a future it did not forecast, the sole choice for Washington may prove to be to place Exxon under some sort of involuntary bankruptcy, and to do what we advised Alaska Governor Cowper to do: take control off existing Exxon assets to ensure some ability to pay for what it has done. A failure to do so will mean Exxon will escape paying for placing the economy and ecology of an entire state on the endangered species list, even on the route to extinction.

It will prove far less costly to replace Exxon--the U.S. Aramco partners' functions--from scratch than to deal with them in rebuilding a viable U.S. drilling program. Our newsletter in the future will outline how to do so.

Cordially,

Norman Higby, Jr. Publisher
The Higby Report
966 A Fremont Street
Venlo Park, CA. 94025
P.S. We would appreciate acknowledgement of the above.

April 24, 1989

Rep. James Scheuer(NY)
U.S. Congress
2466 Rayburn HOB
Washington, D.C. 20515

NON-PUBLIC
MATERIAL PRIVATE
INFORMATION

FOR YOUR INFORMATION
COURTESY OF NORM HIGBY

Dear Jim:

Pursuant to your request today, here is a rough rundown of the costs Exxon and Alyeska are "fully liable" for after the Valdez. The shares will be the subject of litigation. Some figures I do not have access to, so percentages are used; your staff can easily get the base numbers. Use these on the House floor, and the perceptions of the spill will be altered, and the parameters of the discussion changed forever

I appreciate your giving me public credit. When you are asked how I got the figures, say I used the same approach that enabled me to forecast, in 1981, that Saudi Arabia would lose 75-80% of its oil revenue in this decade --an "implausible event that King Fahd confirmed Dec 1987 had happened(a Dec 30 speech said Saudi oil revenues had fallen by four fifths since 1981). The same forecast is in the enclosed 1981 wire to the White House-I sent the truncated version, the original being four pages.

The total costs chargeable to Exxon and the owners of Alyeska run to double their total current net worths, roughly \$300 billion. Over the next 20 years, Washington may have to pay another \$700 billion or more.

I enclose another copy of my recent letter to Exxon advising them to put \$30 billion in cash in a trust now--and hope it will suffice: it might be deemed the present value of what they may ultimately pay. Not the full amount --practical consideration will limit what CAN be collected.

The Cleanup

Until March 24, the industry, and Washington assumed a competence and capacity by the oil industry it cannot bring to bear when needed. Therefore, we must make the worst case scenarios as the base; anything less than the worst case then becomes more manageable.

Conventional wisdom estimates run up to \$300 million for the surface cleanup of the oil, to make it look as if nothing had happened. Figure \$2-\$3 billion and up to five years, given the progress to date by Exxon. This figure does not cover the downstream costs of cleaning up the aftermath of incompetency or inappropriateness of cleanup methods adapted now for expediency. I would assign a "cost" of \$15 billion, for working purposes. If steam hoses drive oil into beach sand, as well as away from beaches, what of the crabs and shellfish that live IN the sand? Perhaps Exxon should replace the beaches 100% all over Prince William Sound? Ask that Exxon seek bids for this(of course, this is an example, but such questions must be asked).

Salmon and Herring Fishing Industries

I understand these industries total \$200 revenue annually. Assign 100% of the revenues to Exxon for ten years, then re-evaluate. Charge Exxon for 50% of the state and federal welfare costs for 75% of the current employees in the industries, again for ten years. The economic value of plants and equipment, residences and business will fall by at least 50% as fishing declines charge Exxon and Alyeska 50% of the market value prior to March 24 if the

continued

owner keeps the business/plant/house--the funds will cover holding costs. Should the owner want out, Exxon will pay 100% of the value--plus, as a business, ten years income--and Exxon will be required to place said plant, land, business, or residence on public sale in 2001 at whatever value can then be obtained.

Hunting, Tourism

Charge Exxon for 25% of the gross value to Alaska for these industries for ten years, then evaluate. This sum should counter employment and economic dislocations resulting from economic shifts resulting from Valdez.

Native Americans

Many native Americans in Alaska have fishing and other rights now impaired. Assign a value and charge Exxon and Alyeska 75% annually for ten years. For those native Americans employed in industries related to such rights, charge Exxon for salary costs as above for fishing.

Safety and Spill Prevention

Charge Exxon \$20 billion for the complete immediate redesign of all procedures, methods, and technologies used in the conditions found in P.W. --coastal tides, winds in enclosed coastal areas, not long coastlines. Exxon has tried inappropriate methods, unworkable in PWS. The costs will be high since this should have been done a decade ago--when Exxon and others began saying they could handle what just happened. Exxon was unlucky enough, or indifferent enough, to get caught "in the barrel".

\$5 EEL, environmental economics levy

Immediately impose a \$5/bl EEL or environmental economics levy against all transporters, shippers or buyers of Alaskan crude shipped from Valdez. This will begin to impute the economic costs of incompetence in handling oil in environmentally sensitive areas. ALL must pay, but sales of Alaskan crude will fall, since EEL is a competitive disadvantage to buyers. Charge Exxon for the full royalties paid prior to March 24 paid to Alaska on the oil NOT so when sales drop. EEL should have been imposed a decade ago, but the Valdez has exacerbated the ramifications it will bring to sales of Alaskan crude--for which Alaska is ~~XXXXX~~^{due} for the compensation of lost royalties that would otherwise have been absorbed over a longer time frame.

If crude sales at Valdez fall from 1.8MMBD to 1MMBD, Exxon will pay EEL on what it buys at the lower purchase level PLUS 100% of royalties for five years otherwise payable on the lost 800,000BD. EEL to become permanent.

Optional charges directly to Exxon

Future oil markets for Alaskan oil

Alaska will discover its ONLY future competitiveness in oil, due in part to the \$5 EEL, will be to move downstream, and become a direct marketer of products, competing against Exxon--and Saudi Arabia. Exxon and Alyeska should put up \$50 billion to enable Alaska to do this, provided Alaska will

Rep. James Scheuer, April 24, 1989 p3

R&D fund

Exxon and Alyeska--the entire domestic oil industry--should establish a \$50 billion R&D pool of funds--to be used to develop new species, and adapt what will remain of past ones, of fish, wildlife and birds that may eventually rebuild Alaska and PWS as a wilderness habitat. It takes work to put the ecology of an entire region on the endangered species list, if not on the route to extinction (as you noted, Exxon did it all without a Federal subsidy of any nature); this fund will make them pay to build a new one for the region.

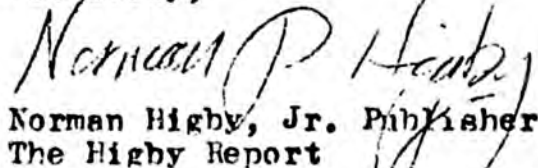
Can it be done? Let us so hope, but we must try--and Exxon/Alyeska must pay. Given some of the damage that may not be recoverable, but become a recurring nightmare, such as the crude oil sunken into underground caverns, even this fund may not be enough.

There is a practical limit to how much can be collected from Exxon, although I know how to collect it and how to enable Exxon to survive to pay it. Still, we have a few ancillary economic costs, which is why I say we may have to force Exxon into involuntary bankruptcy to make sure the incompetents that do not know what they have wrought are not around to commit suicide later. What is Exxon worth as a stock if it owes the sums above? It does have a value, but not with present management, or under any historic securities analysis methodology. What of the lost value to pension and retirement funds and insurance company plans? The loss of dividend income? We can answer all these.

Please let me know when you plan to present this outline on the house floor, since I am constantly revising it in content and as to numbers as I gain access to those I substituted ~~for~~ for. Those in the media, like the Wall Street Journal, would like to interview both of us, and I have referred CNN's Greg Lefevre to your office, although I am sure your contacts are far more extensive.

This will get a hot debate going, but we'll redefine the parameters, and others must play catchup. Yet, the American public gets perspectives it now lacks--but needs to make political and economic judgements later.

Cordially,


Norman Higby, Jr. Publisher
The Higby Report

Enclosures

The Peninsula Times Tribune

Friday, September 14, 1990

Norman Higby

Reopening offshore drilling is the wrong response

SINCE THE IRAQI INVASION of Kuwait Aug. 2, the book of oil has been rewritten. Old perceptions, assumptions, and relationships are being dashed against a reality that almost none anticipated, and fewer correctly comprehended. Except one: offshore oil drilling, California and elsewhere.

The cry has been sounded: we should reconsider permitting drilling off the coast of California, Washington, Oregon, Texas, Florida, the East Coast and in Alaska. "Saddam Hussein will bring supply shortages, ever higher oil and gasoline prices, and make America more vulnerable than ever to an energy crisis." A recent poll showed the number of

Californians who would approve exploration and drilling off the California coast had risen to 50 percent from 38 percent a year ago, provided federal and state safeguards were implemented. This demonstrates an almost total willingness to ignore real prior Iraqi oil market behavior. Californians are right to suspect another gigantic snow job from an oil industry/government to cabal that has, in the words of the American Petroleum Institute, been dead wrong on oil for the entire 1980s

To reconsider drilling would ignore Iraq's prior oil market behavior.

(the API placed me in a handful of "contrarians" who had been correct).

THERE WILL BE no supply shortages arising from Saddam Hussein's actions, although the "dead wrong" are sure to create at least a few. An oil embargo has shifted Saddam's world oil market share,

probably permanently, to other OPEC and non-OPEC oil producers — none of whom has sufficient current oil revenues to satisfy his needs. They are competitors who must fight to win, and then to keep what is a bonus market. Saddam Hussein started, in mid-1985 with price discounts, what became known as the oil price war of 1986. Iraq cheated so blatantly and successfully on its OPEC production quota that OPEC exempted it from 1987-89 from any quota.

Saddam must ultimately win back oil buyers, starting from a market share of zero. His competitors can always underprice him to retain it, and outproduce him with volume supplies. The 1990s will see an oil price war (low prices and surplus availability) to make that of the '80s seem placid. This is the only way for other producers to "defuse" Iraq as a threat.

The Exxon Valdez demonstrated our cabal's incapacity to prevent spills or handle them competently once they occur. And nothing has changed since March 1989, other than 18 months and rhetorical misdirection. Ten years from now, no better record will exist. To "defuse" Saddam Hussein, Gulf producers must dominate oil and gasoline markets to deny him economic revenue: this requires the displacement of the "dead wrong." To return Saddam to his cage, it must become the "domestic" oil industry.

All the rhetoric fears raised about Iraqi control of Mideast oil were raised a decade ago by the "dead wrong" oil industry: about Saudi Arabia ("petrodollars will own the world"), and then about Iran ("we cannot let 70 percent of the world oil reserves fall under the control of an Ayatollah Khomeini").

Before we even consider reopening offshore oil drilling anywhere

for our national and economic security California and America must require a proven track record of performance and willingness to sacrifice. We must require that the oil industry: a) reopen all shut-in domestic oil production, shut down because it was "unprofitable at low oil prices;" b) build new refinery capacity to 1980 levels, to ensure availability of gasoline made from the reinstated production; and c) open all operable but mothballed facilities, built originally on assumptions of \$80 oil (on which money is lost if operated when oil is less than \$35 or so). Chevron's Point Arguello offshore platform in southern California applies here, according to an article in the S.F. Examiner early this year.

If the industry cannot perform and make an unsubsidized "profit" reinstating the infrastructure present in 1980, they are beyond help. If they will not do this to demonstrate capacity, and a willingness to "share the burden" (by eating their errors of judgment in the bottom lines of their annual reports and stock share prices) then even to discuss offshore drilling with them is a threat to U.S. national security.

The California coastline and those of Alaska and all environmental sensitive areas will become late, lamented hostages to the Saddam Hussein Oil Drilling Plan of an oil/government cabal so out of touch with reality it lacks the time to learn how to survive, much less to "share the burden" with the citizens of America. It will be so incapable of learning from past errors that to deal with it risks diverting America from survival in a post-Saddam world.

Norman Higby of Menlo Park publishes the Higby Report, a newsletter on oil, banking and terrorism.

Times Tribune

Friday, September 13, 1985

We've already got more than we can use

SECRETARY DONALD HODEL of the Department of the Interior withdrew his support Tuesday from the agreement reached in July with the California congressional delegation regarding drilling off the California coast. The agreement would have restricted test drilling to 150 selected tracts, and prohibited extensive further exploration until the year 2000. Hodel now wants a vastly more extensive leasing of tracts, and only a five-year moratorium on further exploration. Naturally most members of the California delegation are outraged. But the oil industry believes any agreement prohibiting coastline drilling is not in the "national interest."

The California delegation — and the environmental movement — has been on the defensive on the issue since last spring, in effect letting the department of Energy and Interior and the oil industry define the parameters of the argument — future energy shortages and "independence from unreliable foreign sources of oil" — without really outlining why such arguments are a total misperception of reality, do not fit the future world of oil we will face in the next century and are being undermined by oil industry actions as this is written.

If Interior, Energy, and the oil industry are permitted to proceed on any economic rationale related to that used to oppose the July agreement, Californians will see only this result: The oil industry will raise the "cost" of any oil that reaches world markets to above the value of oil on the market. Whether found in great or small volume, the oil will be irrelevant to any impact on a U.S. need to import oil or refined product. Every citizen of California, must question whether these results are "in the national interest."

THE OIL INDUSTRY ran the "costs" of getting

Norman P. Higby Jr.

new reserves of oil from \$5/bbl in 1973 to roughly \$15 by 1983. They now cite new exploration as not profitable "due to falling oil prices." The widespread industry and DOE forecasts of the last decade — that oil could be up to \$90/bbl by 1983 — were worse than wrong. The consequence was to encourage little attention to costs in getting the "\$90" oil to market. Similar mistakes are made today. Exxon Corp. recently announced a policy of buying back its own stock, reducing the shares outstanding, while enlarging corporate debt to do so. They reason their present reserves have a cost basis of around \$4 or so, and that their own shares are thus an excellent purchase.

It is such logic that is behind oil industry problems. A securities repurchase adds not one new barrel of oil to their reserves. It only raises the debt burden which present reserves must fund — they raise the cost of holding what they already own! Nor are arguments that offshore oil is needed to reduce oil imports valid. This is due in part to the reality that oil imports are no longer related to energy, but to political concerns and foreign and banking policies!

U.S. oil imports of crude and refined product currently run around 4 million barrels a day (MMBD) — half what DOE in late 1982 projected, and about the level I forecast in the Wall Street Journal in January 1983. Even with this import level, half that of 1980, we see continuing surpluses of crude and products. Current demand/consumption patterns will hold through the end of this century — and as

oil producers need revenues, they will continue to create supply surpluses in competition for flat demand markets. The U.S. refining industry has declined by roughly 30 percent and consumption has fallen 25 percent, with the effect that increases in imports above some 2.5 to 3 million barrels a day come at the cost of lost U.S. refinery jobs. Demand will not increase to absorb additional offshore oil: Those who "pay" for it will be U.S. oil employees no longer working.

MEXICO NEEDS crude oil revenues to fund her foreign debt obligations to U.S. banks, and Washington buys Mexican oil for the Strategic Petroleum Reserves to provide financial support and a revenue stream Mexico can get nowhere else. Saudi Arabia, a U.S. ally, has current daily national budgetary expenditures of \$150 million (\$55 billion annually). Her current daily oil revenues run about \$25 million — one sixth of her expenditures! To "protect U.S. access to Middle East oil," Washington has no choice but to provide U.S. market access to these and other allies.

These are political decisions unrelated to U.S. energy needs, but their ramifications will include continued downward pressure on world oil prices and continued availability of supplies. Thus, the basic tenets of the Interior oil lobby logic are rendered invalid.

The California congressional delegation should insist that unless the oil industry develops a far more accurate rationale for further oil exploration and drilling off the coast of California than it now uses, no exploration or drilling be permitted.

Norman P. Higby Jr. is an independent oil-industry analyst based in Menlo Park.

PEN-TYPES

By Jack Russell
Assistant to the Managing Editor

THE WIZARD OF MENLO PARK — That was the title worn proudly by Thomas Edison of Menlo Park, N.J., back in the glory years of inventions. That title, as far as being a prophet for upcoming events, could be placed now on Norm Higby, the oil consultant and Middle Eastern expert from our county's Menlo Park.

Higby predicted in this column two months ago that the Soviet Union would be pulling nearly all of its troops out of the Eastern European bloc countries. Skeptics laughed, but now it all appears to be coming true.

All Foreign Troops Will Soon Leave Europe, Soviets Predict

S.F. Chronicle Associated Press

2/17/90

Washington

The Soviet Union agreed to allow the United States to have more troops in Europe because it expects events to make irrelevant within "a year or two" the newly agreed-upon ceilings, Soviet spokesman Gennady Gerasimov said yesterday.

"We want to lower the level of military confrontation in Europe," said Gerasimov, the Foreign Ministry spokesman, in a telephone interview on National Public Radio's Morning Edition.

"We want it to be zero confrontation, and we want foreign troops to be removed from foreign soil everywhere," he said.

Gerasimov said the Soviets did not accept the U.S. argument that the United States needs to have 30,000 more troops in Europe than the Soviets because of the difficulty in moving forces across the Atlantic in the event of a conflict.

But the Kremlin decided to accept President Bush's proposal to clear the way for a Europe-wide treaty on cutting conventional forces, Gerasimov said.

"The political situation in Europe is changing at such a pace that 4 year or two from now, these figures of 195,000 and 30 additional

thousand will become irrelevant," he said. "This is my hope."

"So as not to stop this process with small obstacles, we decided to make this concession to common sense," Gerasimov said. "...If you want to keep additional troops, it's your taxpayers' money."

He said he had been reading remarks by French President Francois Mitterrand that alliances can exist only if they have enemies, suggesting that the Warsaw Pact and the North Atlantic Treaty Organization "may fade away."

"Today nobody in his right mind can argue that the Soviets want to attack Western Europe," said Gerasimov. "And I hope that nobody in Western Europe or in your country thinks in terms of attacking Eastern Europe or the Soviet Union."

American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005
202-682-8120



Arthur E. Wiese
Public Relations Director

Synopsis of 2 pages

April 29, 1987

Mr. Norman P. Higby, Jr.
966 Fremont Street #A
Menlo Park, California 94025

Dear Mr. Higby:

The late H. L. Mencken used to answer every letter, from the silly to the sublime, that commented on his newspaper columns with a cryptic reply: "Dear sir, you might be right. Sincerely, Henry Mencken." After receiving your note of April 22, I would respond with an amended version of Mencken's formula: Mr. Higby you might be right -- but I greatly doubt it.

Contrarian views of the energy future -- not just yours but those expressed by such prognosticators as Dale Steffes, Arlon Tussing, Steve Hanke and others -- indeed were more correct than the conventional wisdom of the late 1970s about where oil prices and supply would be by the late 1980s. Much of that conventional wisdom -- that the 1980s inevitably would feature a cycle of ever-growing oil demand, sky-high prices and chronic fuel shortages -- was dead wrong.

The record high oil prices of the late 1970s and early 1980s carried in them the seed of the collapse of prices last year. Those high prices produced enormous incentives for exploration and an all-time record for drilling activity and new oil discoveries around the world. They also were a powerful inducement to conservation. Growing supplies and falling consumption inevitably sent prices tumbling despite what many had projected.

Again, Mr. Higby, you might be right. We just believe the weight of the evidence -- which favored your position in the 1979-80 period -- no longer does. We shall see.

Sincerely,

Arthur E. Wiese
Arthur E. Wiese

AEW/gjj

KATHLEEN HARRINGTON

5/6/91

DEAR MAX,

A BIG THANKS FOR
ALL YOUR WORK AND
LEADERSHIP IN THE OIL
SPILL SETTLEMENT REVIEW
COMMITTEE.

BEST REGARDS
K.

Harrington
1242 ST COTTAGE
AUCH 99508

a0646-----

u abx

^PM-Exxon Settlement, 2nd Ld - Writethru, a0636,0538<

^Judge Rejects Part of Exxon Settlement<

^Eds: Leads throughout with reax from Justice Department and Exxon reporting 75 percent jump in first quarter profits. No pickup. Russel in 3rd graf is cq. Also moving on financial wires.< *N.R.*

^By JOHN ENDERS=

^Associated Press Writer=

ANCHORAGE, Alaska (AP) — A federal judge today rejected part of the \$1 billion settlement in the Exxon Valdez oil spill, saying the record \$100 million criminal fine was inadequate.

Under the plea agreement, the Exxon would have paid a \$100 million criminal fine and another \$900 million to settle state and federal civil claims for natural resource damages. The agreement was negotiated by the state of Alaska, the Justice Department and the Exxon Corp.

"The fines which were proposed to me were simply not adequate," said U.S. District Judge H. Russel Holland. "There is no question that the Exxon Valdez oil spill was off the chart."

He said the criminal fines did not adequately reflect the environmental damage done to Prince William Sound, site of the nation's worst oil spill.

In New York, Exxon today reported its profits jumped 75 percent in the first quarter.

Because of the judge's action, Exxon and its shipping subsidiary can withdraw guilty pleas to four misdemeanor criminal pollution charges. At the request of Exxon attorney James Neal, the judge gave the company 30 days to consider what actions it may take.

"It was one of the options the court has," said Neal said after the hearing. "We thought it was a good plea agreement."

Justice Department officials in Washington said in a statement: "We are disappointed that the court would not approve the \$100 million fine and restitution The department continues to believe that the pleas and the fine provided for represent a just and reasonable settlement of the criminal case."

The Justice statement said Holland's decision "threatens the \$1 billion civil settlement to which Exxon has separately agreed."

Holland last month said the criminal and civil agreements were legally separate. It was not immediately clear what effect today's decision will have on the \$900 million civil settlement now pending before the state legislature.

State Attorney General Charles Cole told reporters outside the courtroom that the state intends to pursue the civil settlement. Cole said he still thinks a civil settlement is in the best interest of the state.

The \$900 million fine was to be paid over 11 years, with the money going into a trust to pay for cleanup and restoration of Prince William Sound.

The Exxon Valdez ran aground in the sound in March 1989, spilling nearly 11 million gallons of crude oil. The oil company already has spent \$2.5 billion to clean up the spill.

Exxon, the nation's largest oil company, said earnings rose to \$2.24 billion, or \$1.78 per share in the three months ended March 31, compared with \$1.28 billion, or \$1.01 per share in the year-earlier period.

Exxon's earnings increase was largely attributed to a lag in price movements. Prices at the gasoline pump, which rose with the Persian Gulf crisis, have not fallen as quickly as crude oil prices on the spot market.

u nbx

^PM-AK--XGR-Settlement Reax,807<

^URGENT<

^Lawmakers Surprised by Judge's Rejection of Exxon Plea Bargain<

^By BRIAN S. AKRE=

^Associated Press Writer=

JUNEAU, Alaska (AP) — Alaska lawmakers reacted with surprise today after a judge rejected the federal government's criminal plea bargain with Exxon Corp. over the nation's worst oil spill.

Legislative committees for weeks have been reviewing the billion-dollar settlement of Exxon Valdez litigation, of which the criminal plea bargain was a central part.

"I don't think anybody suspected this would happen," said Sen. Pat Rodey, D-Anchorage and a member of the Senate settlement committee.

"Certainly, conventional wisdom was that the plea agreement would be approved."

Although the federal criminal case was separate from the state and federal government civil litigation, they were linked under the settlement negotiated earlier this year.

Exxon agreed to plead guilty to four misdemeanor pollution charges and pay a \$100 million fine, which U.S. District Judge H. Russel Holland said was inadequate. To settle the civil damage claims, Exxon would pay \$900 million over 11 years for restoration of Prince William Sound.

The waterway was polluted with nearly 11 million gallons of crude oil when the tanker Exxon Valdez ran aground in March 1989.

Lawmakers disagreed over the effect of the judge's decision.

Rodey said the Legislature, which faces a May 3 deadline to approve or reject the settlement, likely will halt its review.

"It's a moot point," he said. "Should we really spend any more time looking at an agreement that's not going to be approved?"

But House Speaker Ben Grussendorf, D-Sitka, said it depends on whether Exxon decides to keep the settlement of the state and federal civil claims on the table.

If Exxon wants to reopen negotiations, the Legislature would have to approve any new settlement in a special session next summer or fall, or wait until its next regular session in January, he said.

The Legislature must end its 1991 session by May 21.

Senate President Dick Eliason, R-Sitka and chairman of the Senate settlement committee, said the state can still deal with Exxon on the civil claims to avoid years of expensive litigation.

"You'd have to renegotiate, certainly," Eliason said. "The state is going to be the loser. We'll find out down the road that this is the best deal we could have made."

Rep. Max Gruenberg, D-Anchorage and chairman of the House settlement committee, said he would ask the panel this afternoon to approve a letter asking the Hickel administration, federal government and Exxon what their plans are. The letter will ask for a response by 2 p.m. Thursday, he said.

The letter will ask if the parties want the Legislature to continue consideration of the civil settlement and if the May 3 deadline for a decision should remain in effect.

Gruenberg said he would like to see the deadline renegotiated.

"This may, in a very strange way, help the process considerably," he said. "It may take some of the pressure off. The deadline has created a lot of artificial pressure."

Gov. Walter J. Hickel was on a jet to Los Angeles and could not be reached for comment.

Hickel spokesman John Manly said the administration hopes the civil settlement can still be approved even if the criminal case remains unresolved.

"We don't think that they're so linked that it's going to affect the civil side of it," Manly said. "The only problem is if Exxon doesn't want to go through with it."

"Nothing's done until it's done. We believe that Exxon feels like they're getting a reasonable deal in this settlement, as the state of Alaska feels it's getting a reasonable deal."

Manly added, however, that the judge's ruling "probably sends a signal that we don't really want sent."

Grussendorf, who said he was leaning toward rejecting the settlement, praised the judge's ruling.

"Judge Holland's lived up to his reputation for being a jurist who's known for his deliberation of the cases before him."

Environmental activist Riki Ott of Cordova also cheered the ruling.

"It's about time somebody called the shots like they really are," said Ott, a leader of the Oil Reform Alliance, an oil industry watchdog group formed after the spill.

The rejection should force the Legislature to look closer at the civil settlement, she said.

"I'm hoping that Judge Holland's decision gives the Legislature an adrenalin shot that carries them through the next nine days to just say 'no.'"

Ott said she would like to see an agreement that makes Exxon pay more and forces the parties to release spill-damage studies that have been kept secret.

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Division of Forest Sciences
School of Agriculture and Land Resources Management
University of Alaska Fairbanks
Fairbanks, Alaska 99775-0080
(907)474-7188

March 26, 1991

Representative Max Gruenberg
attn: Mona Maehara
P.O. Box V
Juneau, Alaska 99811

Dear Mona,

I have enclosed copies of my two articles on the effects of the Exxon Valdez oil spill. I hope this information is of use to the Committee reviewing the proposed terms of the Exxon Valdez settlement agreement. I would appreciate the opportunity to provide comments on the agreement, which I have not yet been able to review.

Sincerely,

Glenn Patrick Juday

Glenn Patrick Juday
Assistant Professor of Forest Ecology, and
Alaska Ecological Reserves Coordinator
tel. (907) 474-6717
FAX (907) 474-7439

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 13, 1991

*Sample
Extra*

Ms. Linda Kryan
1822 Mark Allen Drive
Juneau, AK

Dear Ms. Kryan:

Thank you for taking the time to send me a Public Opinion Message with your comments 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 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 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 the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

A handwritten signature in cursive script, appearing to read "Max F. Gruenberg, Jr.".
Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 15, 1991

Mr. Gary Kompkoff
P.O. Box 650
Cordova, Alaska 99574

Dear Mr. Kompkoff:

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

The insight and perspective gained from hearing from the public through public hearings, letters, and public opinion messages 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 the Senate will see fit to accept most, if not all, of the conditions placed by the House and that the House concerns will be incorporated in future settlements.

Again, my thanks to you for participating in this important public decision.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

May 22, 1991

Ms. Victoria McDonald
P.O. Box 556
Petersburg, Alaska 99833

Dear Ms. McDonald:

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 most, if not all, of the conditions placed by the House will be incorporated in any future settlement.

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

Box 556
Petersburg, AK
April 17, 1991

House Special Committee
P.O. Box V
Juneau, AK 99811

Re: Committee on the Exxon Settlement:

The proposed settlement on the Exxon case should be denied. There are issues that should be addressed before any settlement can be finalized.

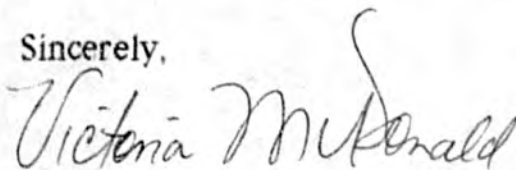
Many of Alaska's natives have not had sufficient time to respond to this issue. This issue seems to have been pushed through without time for studied public input. If major clean up efforts have taken at least two years to complete, public input concerning this disaster ought to have more time granted before completion of the settlement.

Alyeska Pipeline Service is asking to be absolved of all potential wrongdoing. This has serious consequences; large corporations have been allowed to commit crimes and not pay the consequences a private individual would pay. All oil companies in the dispute need to face the consequences of their illegal acts. If the oil companies do not have to pay penalties, there is no deterrent to future spills.

Please reconsider the proposed settlement until the public has more time to respond.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Victoria McDonald". The signature is written in dark ink and is positioned above the printed name.

Victoria McDonald



* * * For Immediate Release * * *

For More Information Contact:

Sarah Chasis, NRDC, New York, (212) 727-4424

Bob Adler, NRDC, Washington, (202) 783-7800

ENVIRONMENTALISTS CRITICIZE EXXON VALDEZ SETTLEMENT

-- Washington, D.C., Thursday, April 18, 1991

Today a coalition of environmental groups filed comments in Washington and Alaska strongly criticizing the proposed settlement reached between Exxon and federal and state agencies. The accord, which would require Exxon to pay \$1.1 billion dollars over an 11 year period and plead guilty to criminal charges, was agreed to in March. The comments will be reviewed by the government trustees who negotiated the settlement.

"We have major reservations about the proposed settlement," said Sarah Chasis, a senior attorney with Natural Resources Defense Council, who submitted the comments on behalf of the environmental groups. "It denies the public access to crucial scientific data collected by the government. It requires Exxon to pay a sum that appears inadequate to rectify the damage done to Prince William Sound, and it releases Alyeska from any liability despite its negligent, perhaps even fraudulent, conduct."

Throughout the negotiating process environmentalists have strongly objected to the government's refusal to release scientific and economic data collected by Exxon, federal and state agencies on the extent of damage suffered by the Sound.

"These data are crucial to evaluating the adequacy of the settlement amount since they represent the measure of the damages to which the public is entitled" said Chasis.

Environmentalists also maintain that the data is needed to inform other important public policy decisions that must assess the benefits and risks of proceeding with oil development and transportation.

Objecting to the settlement amount, environmentalists have pointed out that the long pay-out schedule of eleven years substantially reduces the present value of the settlement money.

- more -

The Congressional Research Service has estimated that the present value of the settlement to the government ranges between \$421 to \$524 million dollars. Moreover, under the terms of the agreement, as little as \$500 million of the \$1.1 billion dollar settlement may be available to repair the environmental damage done to Prince William Sound as a result of the spill, despite reports that damages are in the range of \$3 to \$10 billion dollars.

Another major objection to the proposed settlement is the United State's agreement not to seek criminal charges or civil penalties against Alyeska. Environmentalists have charged that Alyeska contributed to the spill by bungling initial cleanup efforts. According to a Congressional probe, at the time of the spill Alyeska apparently knew it could not implement its own clean-up plan for Prince William Sound and decided to take no corrective action.

"What kind of message does this send to others responsible for oil spill contingency planning and response," said Bob Adler, an attorney with NRDC. "That no matter how grossly negligent they are in implementing their contingency plans and carrying out spill response, they can escape all criminal and civil penalties and liability for natural resource damages?"

The submitted comments also objected to the Memorandum of Agreement (MOA) between the federal and state government, which outlines how the money received from Exxon will be jointly managed by state and federal trustees.

The MOA requires that all decisions relating to the use of the settlement money be made by unanimous agreement between the state and federal trustees. Environmentalists fear that this arrangement will result in innovative but important projects going unfunded. The comments also point out that the MOA shuts out the EPA from the decision making process.

In their comments on the MOA, environmentalists pressed for greater public participation in the restoration process through the establishment of a public advisory group. The advisory group would represent a broad range of those interests adversely effected by the spill and would be responsible for developing and updating an annual restoration plan for the sound. The comments strongly urged that the trustees commit to the advisory group by witting it into the settlement itself.

The environmental groups represented in the comments are Alaska Center for the Environment, Defenders of Wildlife, Greenpeace, National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Prince William Sound Conservation Alliance, Sierra Club, and Trustees for Alaska

May 22, 1991

Martin and Sheila Nickerson
540 West 10th Street
Juneau, Alaska 99801

Dear Mr. and Mrs. Nickerson:

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 most, if not all, of the conditions placed by the House will be incorporated into any future settlement.

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

Martin & Sheila Nickerson
540 West 10th Street
Juneau, Alaska 99801

4/13/'91

Rep. Gruenberg
Dear Legislator,

We urge that you vote to reject the proposed Exxon Settlement. The terms offer too little. It denies the public the opportunity to learn the full extent of the damage. It leaves the State liable for all the secondary suits while holding Exxon harmless (which, after all the affected individuals get through, could end up with nothing for the State). It puts supervision of the fund created by the settlement outside the review of any elected officials and outside the political process. And, by a decision of the present State Administration, it puts all the economic and scientific studies out of public scrutiny. Each of those items causes harm. Together, those terms amount to a bad deal.

Studies made by the State to date support at least a \$3.5 billion dollar settlement on the basis of direct damages alone. The so-called, currently-proposed "\$1.0 billion dollar settlement" actually amounts to less than \$500 million for the state in present value since it will come in to the state over some time. That amounts to inadequate compensation.

Aside from the questionable allegiance of those who negotiated this deal, and apart from the shabby terms, we need to face the full impact of the spill and identify what needs to be done to lessen its impact and prevent it from happening again. There should be additional funding for the Departments of Environmental Conservation, Fish and Game and Natural Resources to identify the effects of the spill over time and to counteract them as much as possible. We should know the full extent of the damage and review the fate of Prince William Sound and the other affected communities for as many years as the impacts are felt. Nothing in this settlement and nothing proposed by those who negotiated it points in the direction of a responsible attitude to this problem or any continuing concern for this tragedy.

We urge that you take a step in the right direction and reject this bad first offer. It does not adequately address the responsibilities of the State.

Yours sincerely, *MA*

Sheila and Martin Nickerson

May 22, 1991

Mr. Martin Hansen
1352 Inlet Place
Anchorage, Alaska 99501

Dear Mr. Hansen:

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, telephone calls, 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 INTAKE FORM

Staff Person: Nancy B Subject: Exxon settlement

Name: Martin Hansen Date: 4-11-91
Resid. Address: 1352 Inlet Place Hm. Phone: 258-1222
Mail Address: " Wk. Phone: 267-1216
City/Zip: ANC 99501 Precinct: 120

SYNOPSIS OF PROBLEM/REQUEST:

Opposed to the settlement - thinks it's
a gift to Exxon + was done without
assessing the damages.

Asked to let Reps Brown, Ellis + Gruenberg
know his thoughts -

ACTION TAKEN:

CONTACTS:

Name: _____ Agency: _____ Phone: _____
Name: _____ Agency: _____ Phone: _____
Name: _____ Agency: _____ Phone: _____

Database Updated? Date: _____

Reply to Constituent? Date Phoned: _____ Date written: _____

Followup/Comments:

May 22, 1991

Ms. Jennifer Nelson
5100 Spruce Creek Circle
Anchorage, Alaska 99516

Dear Ms. Nelson:

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 any future settlement will include 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

April 9, 1991

Jennifer Nelson
5100 Spruce Ck. Cir.
Anchorage, Ak 99516

This is in response to the proposed Exxon settlement, both criminal and civil. Throughout the entire tragedy, Exxon has done nothing but defend itself and attempt to downplay the devastation which occurred. I have yet to see any evidence on their part of genuine concern for what they destroyed through their ignorance, incompetence, and general disregard for the unique environmental treasure chest of this state. The oil spill has forever destroyed the delicate balance of this enriched environment. Exxon's proposed punishment for this travesty is so minute it is unbelievable. The possibility that the company's directors and others responsible will not be forced to serve time in jail after the incarceration sentence they have handed to Alaska is outrageous. The one billion dollar settlement would be laughable if it was not so depressing. This settlement represents one quarter of Exxon's profits for last year alone, not to mention the fact that half of this petty cash qualifies as a tax deduction.

If we are to protect the part of this great state that has not already been destroyed, we must demand retribution that will not only cause great financial hardship to those who are responsible for so much damage and destruction, but will also allow us the financial capabilities to prevent this from happening again. We need to have the ability to develop research and preventative programs as well as state funded wildlife centers for those animals affected by the spill through physical damage as well as destruction of habitat.

If this settlement is approved, Exxon as well as other oil companies will realize that they can get away with murder.

Sincerely,



Jennifer Nelson



RECEIVED APR 15 1991
National Audubon Society

NATIONAL CAPITAL OFFICE

801 PENNSYLVANIA AVENUE, S.E.

WASHINGTON, D.C. 20003

(202) 547-9899

April 11, 1991

The Honorable H. Russel Holland
U.S. District Judge
c/o Clerk of the Court
Room 261
United States District Court
222 West Seventh Avenue
Anchorage, Alaska 99513

Re: United States v. EXXON Corporation and EXXON Shipping Company
No. A90-015 Criminal

Dear Judge Holland:

The following comments are submitted on behalf of Prince William Sound Conservation Alliance, Alaska Center for the Environment, Defenders of Wildlife, Greenpeace U.S.A., National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Sierra Club, and Trustees for Alaska ("the Conservation Groups") in response to the Court's March 22, 1991 Notice inviting public comment on the plea agreement entered into between the parties to the above-captioned proceeding. The Conservation Groups appreciate the opportunity to submit these comments. We are aware that you have offered the public an unusual opportunity to apprise the Court of its views on a criminal matter. But the events that led to the February 1990 ten-count indictment returned by a federal grand jury against EXXON and EXXON Shipping ("defendants") and the resultant consequences of those events for the environment of Prince William Sound and the surrounding area warrant the fullest possible public review of the settlement of the criminal charges against those defendants.

However, this review is hampered by the parties' failure to disclose information in their possession on the impact of the spill on the environment of Prince William Sound, Gulf of Alaska, Cook Inlet, and other affected areas making it difficult to give the Court an informed opinion on the adequacy of the proposed criminal fines.¹ Consequently, we cannot advise the Court with specificity

¹ The recent release by the United States of a 19-page summary of some of the information underlying the proposed settlement agreement does not cure this defect.

on whether the proposed criminal fines will provide restitution for the damage done Prince William Sound and its environs, or are even a "just" punishment for the crimes committed by defendants. This defect taints the entire settlement agreement. We ask the Court to order the release of all relevant information by the parties to the agreement.² Approval by the Court of the criminal plea should await such disclosure, and an opportunity should be given to the public to submit supplemental comments based upon that information.

The Conservation Groups view as central to the settlement of the federal and state governments' claims against defendants the imposition of a substantial criminal sentence. This sentence should reflect the seriousness of the offenses that underlie the federal indictment, provide restitution for damage to the Sound and act to deter future criminal behavior by defendants and other similarly situated businesses. We believe that the proposed agreement will not achieve these goals for the following reasons.

1. The Proposed Criminal Fines Are Insufficient

Based on what is known about the impact of the spill on Prince William Sound and applying basic tenets of criminal sentencing, the Conservation Groups believe the proposed fines are insufficient. We reach this conclusion after examining their correlation to the crimes that have been committed, their projected impact on defendants, and the extent to which they provide restitution for Prince William Sound and the species that depend upon the Sound for their survival.

The proposed criminal fines bear little relationship to the enormity of the crime against the environment committed by the defendants. These crimes are among the most heinous crimes against our environment to date. The crude oil that migrated from the *EXXON VALDEZ* contaminated 1,200 miles of shoreline, four National Wildlife Refuges, two National Parks, one National Monument, and one National Forest. It also destroyed migratory bird habitat, seal and lion haul-out areas, and six salmon hatcheries. According to a summary of natural resource damages from the spill released

Not included are the results of various economic studies. Without this information, the impact of defendants' conduct cannot be quantified.

² At minimum, the Court should order the United States to disclose the information in its possession, because of its special status as a Trustee of public resources.

on April 9, 1991 by the United States,³ several hundred bald eagles and as many as 500,000 birds of various species and several hundred thousand more chicks perished as a result of the spill. As many as 5,500 sea otters and 200 harbor seals may have died. Serious harm was done to at least 26 archaeological sites, and to the hunting and fishing lifestyles of Native villages. Contaminated clams and invertebrates are a continuing source of pollution to sea mammals, and the long-term impacts of the spill on fish and wildlife have yet to be determined.

The proposed criminal fines are significantly lower than those that might have been assessed had the Court elected to apply the Alternatives Fines Act, 18 U.S.C. Sec. 3571(d). Under that law, which the United States implied it would ask this Court to apply, defendants could have been assessed criminal fines at twice the proven pecuniary loss resulting from their criminal conduct.⁴ While such high amounts might not have actually been assessed by this Court, they do provide some measure of the potential seriousness of the crimes.⁵

2. Innovative Sentencing Measures Would Deter Repetitious Behavior

Corporations, particularly ones as large as defendant EXXON,

³ "Summary of Effects of the EXXON VALDEX Oil Spill on Natural Resources," filed with this Court April 8, 1991.

⁴ This would increase defendants' exposure to criminal fines to \$2 billion (twice the amount of civil damages assessed against defendants in the proposed settlement agreement). Depending on the accuracy of recent reports on the results of the State of Alaska's economic studies, this liability could run as high as \$6 billion.

⁵ A substantial criminal fine in this case, however, may deter others in the oil industry from engaging in similar criminal conduct. As there is ample evidence of widespread noncompliance with environmental laws and regulations by this industry, this Court should weigh the broader deterrent effect of high fines in evaluating the adequacy of the proposed fine. *See Inland Oil Spills, Stronger Regulation and Enforcement Needed to Avoid Future Incidents* (General Accounting Office, February 1989) (GAO/RCED-89-65).

pose particular challenges with respect to imposing sentences.⁶ Fines, even substantial ones, are rarely sufficient to induce behavioral reform.⁷ This fact is clearly illustrated in the instant case where the management of defendant EXXON has not only consistently refused to acknowledge any culpability or remorse for the havoc it wrought on the environment, but views the \$1.1 billion settlement agreement as a "cost of doing business."⁸ This unrepentant attitude makes it unlikely that defendants will take action to avoid a repetition of the events that caused this catastrophe. Therefore, the Court should consider the imposition of supplemental "innovative" sentencing measures to achieve a deterrence objective.⁹

We ask the Court to consider placing defendants on probation. Probation is particularly appropriate in sentencing a corporation where the goal is not to drive it out of business, but to preserve it as a constructive member of society, and where fines alone may not reform corporate behavior. Creative probation conditions can be tailored to each category of offense and to the characteristics of the offender to achieve the rehabilitation of defendants.

In this case, the Court could include as a condition of probation, or as a free-standing measure, a requirement that defendants' facilities be subjected to a periodic environmental audits by a court-appointed independent auditor. Such an audit could be designed to identify specific improvements in defendants'

⁶ Corporations do not go to jail and can absorb fines, because of their sheer wealth -- in no case more true than here -- and their ability to pass them on to customers. See F. Grad, *Treatise on Env't'l Law* at 2-555.

⁷ See Coffee, *Corporate Crime and Punishment: A Non-Chicago View of the Economics of Criminal Sanctions*, 17 *Am.Crim L. Rev.* 419, note 20 at 468, 475-76 (1980); Bower, "On the Amoral Organization" in *The Corporate Society*, 178, 197 (R. Marris ed. 1974).

⁸ Chairman of the Board of EXXON Corporation Rawls recently compared the total cost of the settlement to the cost of opening two offshore oil and gas wells.

⁹ See United States Sentencing Commission Proposed Amendments to the Sentencing Guidelines for the United States Courts. 54 *Fed. Reg.* 47056 (November 8, 1990).

equipment and operating practices to prevent a recurrence of the events that led to their conviction, and of other possible environmental problems as well. Environmental audits, like probation, can be viewed as a tool to "rehabilitate," rather than merely to punish environmental violators; analogous to community service requirements imposed on convicted drunk drivers.

3. Exculpation of Alyeska Pipeline Service Company

Conservation Groups object to the release of Alyeska Pipeline Service Company and its owner companies from any culpability under federal law arising from the events that unfolded after the grounding of the *EXXON VALDEZ*. Alyeska's failure to comply with the oil spill contingency plan in effect on March 24, 1989 significantly compounded the environmental damage that eventually occurred. According to material recently submitted to this Court by Rep. George Miller, Vice Chairman of the Committee on Interior and Insular Affairs, U.S. House of Representatives, Alyeska and its owners had knowledge of Alyeska's inability to respond to an oil spill in Prince William Sound, and failed to take remedial action.¹⁰

In light of this information about Alyeska and its owner companies' conduct, it is clearly not in the public interest for the United States to waive its right to pursue criminal as well as civil and administrative penalties against them. Alyeska and its owner companies gained access to environmentally sensitive lands to build the Trans Alaska Pipeline System, and then set out on a course of deceiving the public about their capacity to comply with the undertakings they had made to gain this privilege. If this portion of the agreement is approved, they will not be held accountable for their misconduct. The Court should strike that part of Paragraph IIIA that exculpates Alyeska and its co-owners.

4. Alaska Should Not Be Insulated From Review

The Conservation Groups protest the insulation of Alaska from any administrative or judicial review of its actions under Paragraph IVA. Not only does the public have a right to review those actions and to challenge any that are inconsistent with the agreement, but the United States and this Court should not waive their authority to enforce the provisions of the agreement. Paragraph IVB is unenforceable, and should be struck by the Court.

¹⁰ April 8, 1991 letter from Rep. George Miller to Hon. Russel Holland and Hon. Stanley Sporkin, filed in No. A90-015 CR, A91082 Civil, A91083 Civil, A91081 Civil, 3AN-89-6852 Civil, 91-484 SS Civil.

We appreciate your consideration of these comments and hope that they will be helpful in your evaluation of the plea agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Hope M. Babcock', with a long, sweeping horizontal line extending to the right.

Hope M. Babcock
General Counsel
National Audubon Society

On behalf of Conservation Groups



Oil Reform Alliance



The Oil Reform Alliance strongly opposes the Exxon Valdez settlement and urges legislators to do the same because

IT SETS BAD PRECEDENT

- * There is much more than money at stake. The settlement should send a strong signal to potential spillers that they will be held to the highest degree of criminal culpability and financial accountability for oil spills.
- * The settlement should modify the behaviour of potential spillers, but the oil industry is lobbying as strongly as ever against increased reform. The industry is actively working to weaken oil spill planning and response standards and financial responsibility (through the 567 draft regulations and introduction of HB196, respectively).
- * The settlement gives away the farm. Instead of building public trust, this settlement shakes the foundation of our trust. It will be very difficult for the ORA to support future oil and gas developments unless the state takes forceful steps to hold spillers accountable and proves itself a regulator capable of balancing responsible development with public concerns and environmental protection.

IT LETS CRIMINALS OFF THE HOOK

- * The total cost to Exxon, after tax, is less than \$425 million in 1991 dollars. The cost to Alyeska is zero. Congressman George Miller discovered that the Alyeska owners decided in June 1988 that Alyeska could not and would not respond to oil spills past Valdez Narrows - contrary to their public promises. Alyeska and responsible officers should be exposed to substantial criminal penalties.
- * The U.S. Justice Dept. waives its rights to pursue criminal charges against Alyeska and its owner companies, AND its rights to pursue civil or administrative penalties against these same parties.
- * The largest U.S. settlement for environmental damages was the Allied Chemical case at \$13 million or 10% of Allied's earnings that year. Exxon's yearly sales are over \$100 billion.

IT IS A BAD DEAL FOR NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

- * The settlement holds hostage future spill-related scientific studies and restoration projects. Until a settlement is reached, there are no funds available to continue state and federal scientific studies or initiate restoration projects. Legislators should work out a funding mechanism for this type of work immediately, either

through direct appropriations or a state loan. The Oil Pollution Act of 1990 created a billion dollar renewable fund to avoid precisely this dilemma.

- * Continued scientific studies are critical to the public's understanding of spill impacts. Life cycles of some species, such as salmon and herring, are such that full impacts will not even be known for several more years. Scientists at the Woods Hole Oceanographic Institute have studied the West Falmouth oil spill for over twenty years and are still reporting effects to the biota and the environment.
- * Federal summaries of scientific studies show natural resource damages were up to twice as severe as previously estimated and long-term damage may be extensive. Although all economic data are still held secret, leaked estimates range from \$3 to \$10 billion.
- * The settlement must outline in detail how funds can be spent to prevent "an institutional feeding frenzy." Funds should be spent on projects for restoration, rehabilitation or enhancement as stated in the Clean Water Act.
- * The trustee system inspires no public confidence. Two state trustees stated they did not intend to spend much money on land acquisition, despite public support and precedence for this idea. (The recent settlement for the Arther Kill spill included \$5 million for land acquisition.) Another potential trustee is a co-conspirator of the Alyeska owner companies' plan not to clean up spills past Valdez Narrows - a plan that carries criminal liability overtones.
- * Funds for environmental restoration, research and monitoring will dribble out over a ten year period. The payment schedule does not include compounding interest and it is tax deductible. The payment schedule successfully impedes capital heavy mitigation projects such as land acquisition.
- * Future - and past! - cleanup expenses should be assessed directly to the spiller, not included in the settlement. Natural resources could well be the loser in competition for funds with past and future cleanup projects.

IT IS A BAD DEAL FOR THIRD PARTY VICTIMS (THE PUBLIC!)

- * The settlement drives a wedge between the State and its injured citizens by requiring governments to act in defense of each other if one is sued. Citizens will be forced to sue the State to recover compensation for the State's "percentage of fault" as decided by a jury (AS 9.17.040).

The Oil Reform Alliance also requests a new settlement be worked out and it should start with release of scientific and economic studies and full public participation.

The next spill - and there will be a next spill: it is part of the risk we take for our oil dependency - the public will look back to the voting record on this settlement. We will ask what you did to impress upon spillers that they would be held accountable for oil spills.

THINK AHEAD! VOTE "NO" ON THIS SETTLEMENT!



Oil Reform Alliance



SEWARD FRI 7:30-10:00 * HOMER SAT 9-12 * KODIAK SAT 4:30-7:30
CORDOVA SUN 12-4 * JUNEAU STATEWIDE MON 3:30-6:30

Final public hearings on the EXXON VALDEZ settlement are this weekend. Strong public outcry opposing the settlement is needed to influence legislators' vote.

OPPOSE THE SETTLEMENT BECAUSE - IT LETS CRIMINALS OFF THE HOOK

- * The total cost to Exxon, after tax, is less than \$425 million in 1991 dollars. The cost to Alyeska is zero. Congressman George Miller discovered that the Alyeska owners decided in June 1988 that Alyeska could not and would not respond to oil spills past Valdez Narrows - contrary to their public promises. Alyeska and responsible officers should be exposed to substantial criminal penalties.
- * The U.S. Justice Dept. waives its rights to pursue criminal charges against Alyeska and its owner companies, AND its rights to pursue civil or administrative penalties against these same parties.
- * The largest U.S. settlement for environmental damages was the Allied Chemical case at \$13 million or 10% of Allied's earnings that year. Exxon's yearly sales are over \$100 billion.

IT IS A BAD DEAL FOR NATURAL RESOURCE DAMAGE ASSESSMENT

- * Less than \$775 million will be available over a ten year period to pay for environmental restoration, research and monitoring. The payment schedule does not include compounding interest and it is tax deductible.
- * Federal summaries of scientific studies show natural resource damages were up to twice as severe as previously estimated and long-term damage may be extensive. All economic data is still held secret, but leaked estimates range from \$3 to \$10 billion.
- * The settlement should spell out how funds can be spent to prevent "an institutional feeding frenzy." The recent settlement for the Arther Kill spill included included \$5 million for land acquisition.
- * Future - and past! - cleanup expenses should be assessed directly to the spiller, not included in the natural resource damage assessment.

IT IS A BAD DEAL FOR THIRD PARTY VICTIMS (THE PUBLIC)

- * The settlement drives a wedge between the State and its injured citizens by requiring governments to act in defense of each other if one is sued. Citizens will be forced to sue the State to recover compensation for the State's "percentage of fault" as decided by a jury (AS 9.17.040).

DEMAND A NEW SETTLEMENT BE WORKED OUT and it should start with release of scientific and economic studies and full public participation.

Now is your chance to tell Legislators you don't want this deal, you want a new deal - and you want it ASAP!

DAVIS WRIGHT TREMAINE

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

DAVID W. OESTING
(907) 257-5323

April 13, 1991

Via-Facsimile
(907) 235-3140

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

Re: The Exxon Valdez Oil Spill

Dear Representative Gruenberg:

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

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

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

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

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

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

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

Very truly yours,

DAVIS WRIGHT TREMAINE

David W. Oesting

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 218
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Ms. Renee Purpura
P.O. Box 243
Homer, Alaska

Dear Ms. Purpura:

Thank you for taking the time to send me a Public Opinion Message concerning the Exxon Valdez Oil Spill Claims Settlement agreement.

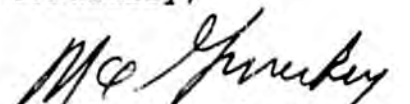
The concern you raise about areas outside of Prince William Sound which were affected by the oil spill is a valid one. The subject was discussed many times during our committee meetings and public hearings. The administration, through Attorney General Cole and Commissioner of Fish and Game Rosier, publicly assured the committee that settlement monies can and will be used for restoration of all spill affected areas, not just those within Prince William Sound.

As you are no doubt aware, the committee and the Alaska House of Representatives made the difficult decision of rejecting the proposed settlement. 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. It is my 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 making your voice heard in this important public decision.

Cordially,


Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE GRUENBERG

NAME: MS. RENEE PURPURA

TITLE:

ADDRESS: P.O. BOX 243

CITY: HOMER

ZIP: 99603

PHONE: 235-8822

BILL NO:

SUBJECT: EXXON VALDEZ OIL SPILL CLAIMS SETTLEMENT

MESSAGE: WHY IS THE MEDIA, GOVERNOR HICKEL, AND THE LEGISLATURE ONLY
CONCERNED WITH THE SETTLEMENT BEING IN PRINCE WILLIAM SOUND
AND NOT OTHER COMMUNITIES SUCH AS KODIAK, ENGLISH BAY, ETC.

I FEEL THE MEDIA IS ONLY CONCERNED WITH PRINCE WILLIAM SOUND.
WHERE DO YOU STAND ON THIS?

POMID: 17092030

DATE: 91/04/15

TIME: 09:20:30

LIONAME: VALDEZ INFORMATION OFFICE

COPIES: REPRESENTATIVES

DONLEY
DAVIDSON
NAVARRE
KUBINA
HUDSON
ULMER
BARNES
G.PHILLIPS

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 23, 1991

A. William Saupe, Esq.
Ashburn & Mason
1130 West Sixth Avenue, Suite 100
Anchorage, Alaska 99501

Dear Bill:

Thank you for copying me on your eloquent letter sent to the Governor's Assistant Press Secretary. I enjoyed it immensely!

The legislative session ended yesterday, and I'll be heading home to Anchorage in a few days. As you are probably aware, the Legislature passed House Concurrent Resolution No. 38 on May 21, which requests the Governor to resume negotiations with Exxon. I hope most, if not all, of the conditions adopted by the House will be incorporated into a new settlement. I have enclosed a copy of both resolutions for your file.

Again, thanks for your support.

Cordinally,

A handwritten signature in dark ink, appearing to read "Max".

Max F. Gruenberg, Jr.
Chairman

Enclosures:

HCR 29
HCR 38

ASHBURN AND MASON
LAWYERS

A PROFESSIONAL CORPORATION
1130 WEST SIXTH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501

MARK E. ASHBURN
LEWIS F. GORDON
JULIAN L. MASON III
JOHN C. McCARRON
DONALD W. McCLINTOCK III
A. WILLIAM SAUPE
KIRSTEN TINGLUM

TELEPHONE
(907) 276-4331
—
TELECOPIER
(907) 277-8235

April 25, 1991

John Manly
Assistant Press Secretary
Office of the Governor
Pouch A
Juneau, AK 99801

RE: Daily News Article of April 24, 1991

Dear Mr. Manly:

In the enclosed article you are quoted as saying that Rep. Gruenberg's opposition to the proposed spill settlement and skepticism about the administration's poll results are motivated by his desire to keep his fellow lawyers busy for 10 to 15 years.

I know your job requires you to be an advocate for the settlement. I respect and understand that. I, too, am an advocate for my clients. ~~I am not an advocate for more work for lawyers. I am an advocate for the State of Alaska. Your statement revealed a serious misunderstanding of the facts.~~ As a lawyer representing a number of Alaskan fish hatcheries, fish processors, tourist businesses and fishermen's organizations, I feel compelled to explain to you what effect the settlement will actually have on the work to be done by lawyers and on the claims of their clients.

First, the settlement (unfortunately) makes more work for lawyers not less. By cutting the private plaintiffs out of the deal and leaving them to fend for themselves, the State prolongs their struggle for compensation against rich, powerful and very patient adversaries.

Second, by failing to obtain agreement from Exxon that it would not seek to shift blame onto the State, the State has forced private plaintiffs to sue the State. Otherwise, they risk having Exxon try to shift a portion of the blame to the State by "trying the empty chair," thereby diminishing the plaintiffs' ability to receive full and fair compensation for their damages. If, for example, Exxon convinces the jury that the State was liable for 20 percent of the damages, that's 20 percent the plaintiffs could never recover. The settlement thus makes the State a defendant in suits by its own citizens when

Mr. John Manly

April 25, 1991

Page 2

it wasn't before and doesn't have to be. Before the settlement, private plaintiffs and the State were allied against Exxon and Alyeska.

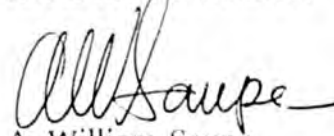
Third, Attorney General Cole has stated that the State will "vigorously pursue" civil claims against Alyeska, in spite of the settlement with Exxon. This will keep State and Alyeska lawyers as busy as if there had been no settlement.

In sum, the proposed settlement probably will increase the amount of work for lawyers. It will also weaken the ability of numerous Alaskans, who suffered substantial losses as a result of the spill, to receive prompt compensation.

If you had something else in mind that I am missing, please let me know.

Very truly yours,

ASHBURN & MASON



A. William Saupe

AWS/nk

cc: Rep. Gruenberg

4/24/91

Anchorage Daily News

Poll draws fire

58% back spill deal in survey

By DAVID POSTMAN
Daily News reporter

JUNEAU — The headline on the press release read "Alaskans Support Exxon Settlement" Tuesday when Gov. Wally Hickel learned the results of a statewide poll on the deal he cut with the federal government and Exxon Corp.

But the poll is more political trick than scientific study, says House Majority Leader Max Gruenberg, D-Anchorage. Gruenberg, who heads a special House committee reviewing the proposed settlement, questioned the timing of the poll, its accuracy and the use of \$4,000 in state money to pay for it.

"I'm very suspicious," Gruenberg said.

The governor's office was equally suspicious of Gruenberg's motives.

Hickel's deputy press secretary, John Manly, said Gruenberg, a family law attorney, is just looking out for his brethren in the bar.

"My personal opinion is, I think Gruenberg is upset because we cut a bunch of lawyers out of 10 or 15 years of work," Manly said, referring to the expected protracted litigation if the case is not settled. He said Gruenberg "is not a bad guy... just misguided."

Hickel paid Dittman Research of Anchorage to poll 536 Alaskans on six administration proposals, including the settlement of the Exxon Valdez lawsuits.

According to Dittman's report, 58 percent of those polled think the legislature should approve the settlement, 29 percent think it should not and 13 percent are unsure.

In his press release, Hickel said that shows overwhelming support for his deal.

Not so, says Gruenberg.

"They are trying to put the gloss of public approval on this," Gruenberg.

Gruenberg said Hickel was trying to counter the overwhelming negative testimony the legislature has heard about the proposed settlement.

He also said the way the question was asked ignored the drawbacks of settling with Exxon.

POLL: Survey shows 58% in favor of oil-spill settlement

Continued from Page B-1

The question was: "The Hickel Administration, the federal government and Exxon have negotiated a settlement that would have Exxon pay approximately one billion dollars over the next 10 years as payment for state and federal natural resource damage claims related to the oil spill. Do you think the state legislature should or should not approve this settlement?"

Gruenberg said that ignores the fact that the true value of the settlement is much less than \$1 billion because of the long payment schedule and does not men-

tion what legal rights the state would have to give up if the settlement becomes final.

Gruenberg said he thinks Hickel is trying to get out of his commitment to reject the settlement if it is not approved by the legislature. He thinks if the legislature votes the settlement down, Hickel will sign it anyway, claiming wide public support.

"I have serious questions as to whether he will keep his word," he said.

Tuesday was the day Gruenberg's committee was scheduled to take its final vote on the settlement. That

was postponed, but Gruenberg said Hickel held the results from last week to make a splash Tuesday.

"I don't believe it is a coincidence," he said. "The intent is to influence the vote of the legislature."

The pollster, Dave Dittman, said the governor's office had preliminary results last week but didn't have the full report until Monday.

Manly said there was nothing nefarious in the timing of the press release and said no one should be surprised that the governor's office was trying to promote its position.

Dittman defended the

question and said he thinks it accurately reflects what Alaskans think about the settlement.

"I'm kind of sympathetic with Max's position," Dittman said. When someone gets information that contradicts what he believes, Dittman said, "it's kind of natural to be critical of it."

Dittman said legislative hearings do not give an accurate portrayal of public attitudes.

"People who go to public meetings in Cordova and so forth are the activist element," he said. "They don't hear from the general public."



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
DISTRICT 14

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7737
(907) 561-2036
BOX V
JUNEAU, ALASKA 99811
(907) 465-3438

March 22, 1991

Dr. Joe Sonneman, Esq.
324 Willoughy Avenue
Juneau, AK 99801

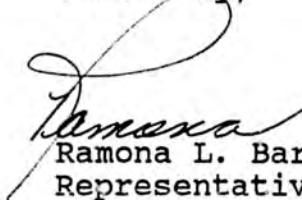
Dear Joe,

Your March 22 letter concerning the swearing of witnesses who might appear before the Special Settlement Review Committee of the Legislature expresses a concern which has been in my own thinking. I agree with your assertions.

Accordingly I have, by copy of this letter, asked Majority Leader Rep. Max Gruenberg to ask Speaker Ben Grussendorf to grant the Special Committee subpoena powers for possible use in connection with its hearings.

Joe I appreciate the advantage of your knowledge and research on the subject. Perhaps you'll attend some of the hearings.

Sincerely,


Ramona L. Barnes
Representative

cc: Rep. Max Gruenberg

RLB:p-m

Law Office of Joseph A. Sonneman, Ph.D., Esq.

324 Willoughby, Juneau, Alaska 99801

PH: (907) 463-2624 FAX: (907) 463-3802

Representatives Max Gruenberg, Dave Donely, Ramona Barnes, Cliff Davidson, Bill Hudson, Gene Kubina, Mike Navarre, Gail Phillips, Fran Ulmer
Senators Dick Eliason, Sam Cotten, Lloyd Jones, Jalmar Kerttula, Pat Rodey, Drue Pearce

March 22, 1991

Dear Special Settlement Review Committee Members:

re: Sworn Witnesses

You may find it wise, when witnesses other than your own employees come before you with testimony about the settlement or its origins or purposes, to swear in those witnesses.

Congress' House Commerce & Energy Subcommittee routinely swears in witnesses appearing before it. According to the Subcommittee's press secretary, that has always been the Subcommittee's practice since it was formed by Speaker Rayburn in the 1950's. The reason for using only sworn testimony is to ensure that people tell the truth, he said; some people have been convicted of perjury for lying to the Subcommittee.

I mentioned this concept to Rep. Gruenberg, who correctly perceives that the usual folkways of the Alaska Legislature do not ordinarily result in witnesses before legislative committees being sworn.

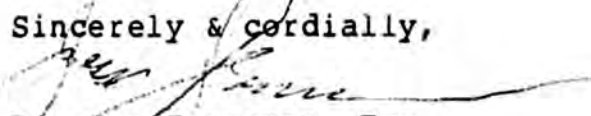
But this situation is far from usual or ordinary.

- 1) You serve on SPECIAL committees.
- 2) Some witnesses likely to appear before you may be your opponents in lawsuits, especially if you decide not to approve the proposed settlement.
- 3) Other witnesses may be those who helped structure a proposed settlement agreement in secret, who repeatedly refused to answer questions posed by the House Judiciary Committee, and who intentionally created an agreement that gave control over a \$900 million dedicated fund to the Executive rather than to the Legislative branch.
- 4) The amount of money involved is so large that otherwise honorable witnesses might be induced to shade the truth, if not sworn.

Of course, some witnesses may choose not to testify if you require sworn testimony. You may then have to use subpoena powers as well. But you are in the big leagues now, with suits, damages, and potential settlements of this magnitude. According to the Subcommittee's press secretary, subpoenas both compel and protect witnesses, especially protecting 'whistle-blowers', friendly witnesses, or those concerned about their future careers.

Subpoena and swear your witnesses.

Sincerely & cordially,


Dr. Joe Sonneman, Esq.

[Representing only myself]

April 18, 1991

APR-18-91 THU 14:49

LAW OFFICES 330 L STREET

FAX NO. 9072786571

P. 01

Dear Senators and Representatives:

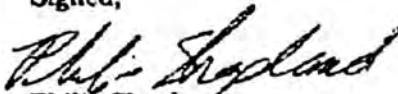
If the proposed settlement between the State of Alaska and Exxon Corporation over the damages stemming from the Exxon Valdez oil spill is approved by the legislature, it will be a tragedy of even greater proportions than the oil spill itself, and will be recorded by history as one of the greatest thefts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

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

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

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

Signed,



Philip Shapland
Anchorage, Alaska

CONSTITUENT REPORT

District 11

Subject: Exxon settlement

Date: May 10, 1991

Name: Sandy Smith

H. Phone: refused to give

Res. add: 4631 Juneau #6

W. Phone: refused to give

Mail add: 4631 Juneau #6, Anch

Zip: 99501

Synopsis of problem/request: Unhappy with Rep. Gruenberg's role in the rejecting of the Exxon settlement. Believes it will cost the state millions of dollars and was based on a "political grudge" against the Governor.

Action taken: Encouraged her to give me her mailing address so that when I passed her message on to Rep. Gruenberg he would be able to respond to her. She gave me her address, after some reluctance, but would not give her phone number.

Contacts:

Name _____	Agency _____	Phone _____
Name _____	Agency _____	Phone _____
Name _____	Agency _____	Phone _____

Followup/Comments:

Staff name *Nancy P. Bock*



May 7, 1991

Max Gruenburg
P. O. Box V
Juneau, AK 99811

Dear Max Gruenburg,

I am deeply disappointed with the actions of our Legislature, particularly the Democratic members of the House. Their refusal to accept the terms and conditions of the Exxon settlement negotiations in good faith by our Governor and Attorney General is simply politics and greed. Considering the risk, costs and time involved in litigation I believe they have made a grave error that will cost our state more than we could ever hope to gain. We are already perceived by the lower 48 as greedy Alaskans who want to feather our own nest with the dollars. This latest action only serves to enforce this conception.

If the state is ever to become a viable entity in the business work we need to put this behind us and proceed with more important issues that concern all Alaskans, not just a few environmentalists and a bunch of greedy fisherman.

Maybe its time we had a Republican majority in the House so we can get on with building our state for all the people and not just a few cry babies.

I have enclosed a news article that exemplifies what we should be doing as a state instead of pursuing the politics of settlement.

Very truly yours,

Alaska Mechanical, Inc.



Roger Sires
President

RS:glm

ALASKA MECHANICAL INC.

MAIL - P.O. BOX 203649, ANCHORAGE, ALASKA 99520 ■ PHONE (907) 349-8502 ■ FAX (907) 349-1324
MAIN OFFICE - 8540 DIMOND "D" CIRCLE, ANCHORAGE, ALASKA 99515

Alaska State Legislature

House of Representatives

Official Business



P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Ms. Carol C. Smith
601 Chena Ridge Road
Fairbanks, Alaska 99709

Dear Ms. Smith:

Thank you for the kind words expressed in your April 25 letter, and for the information about the Dittman Research poll.

?? I thought you would find the comparison between the Dittman poll results on the oil spill settlement the statistics of the committee interesting. It should be noted that the committee did not commission a poll, but merely tallied the opinions expressed in letters and public hearings.

I have also 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, thank you for taking the time to write on this important public issue.

Cordially,

Max F. Gruenberg, Jr.
Chairman

*Enclose Coupon form
of 2d HCR*

Enclosure: HCR 29 am
News Releases - Governor and House Majority

601 Chena Ridge Rd
Fairbanks, Alaska 99709
April 25, 1991

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

Dear Sir,

Bully for you. Enclosed is copy of a letter I wrote to Dittman Research after being surveyed by phone AND copy of reply to my letter from David Dittman himself. This research firm certainly seems not to be impartial. Have you ever been surveyed by them? I can tell you that the questions asked and the tone of their surveys are geared most definitely to produce the desired results.

I am most grateful too to Judge Holland for his brave decision in this Exxon settlement. I believe in applauding integrity in our elected officials. Keep up the good work. I do hope this bit of evidence is helpful to you. Perhaps you would find it more to the point to obtain a copy of the specific questions asked in this "survey".

Thank you,

Carol C. Smith

Carol C. Smith

enc.

*you will note this exchange was in 1988
before the Exxon Valdez oil spill disaster
but the arrogant tone of Dittman's reply
reinforces my contentions — big oil companies
feel they can cover any contingency with
a few jobs, paying fines, conducting surveys
or buying Madison Avenue public relations ads.*

p.s. And my age bracket, first name, length of residency in Alaska have no bearing on these opinions. I want to see the results of this questionnaire in the Daily News Miner with the number of persons surveyed and precisely who funded it. This money might better be spent with a random mailing asking for comments with postage paid reply.

601 Chena Ridge
Fairbanks, Alaska 99709
August 30, 1988

Ditman Associates
8115 Jewel Lake Road
Anchorage, Alaska 99502

Dear Sir or Madam,

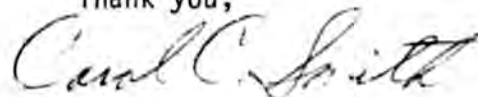
Last night I was called by one of your telephone solicitors I am disturbed that she was not able to tell me: 1) Who requested the survey? 2) Would the results be published? 3) How many people were being surveyed? 4) For what purpose?

From my viewpoint, the questions seemed to be aimed at determining how effective the oil companies slick advertising techniques are working so they can revamp and try some new techniques. Let me tell you that in my opinion, and I hear many more people express the same, we deeply resent the money contributed to our politicians and to causes the oil companies deem popular, the ads with which they pat themselves on the back and the tremendous amount of money for these obvious public relations gimmicks.

Count me among those environmentalists who decry the rape of our non renewable resources, the cover up of pollution and toxic spills and, more than all else, the irreversible damage to our Alaskan way of life. Our Inuit and Athabaskan people are ravaged by the despair and frustrations of an economic lifestyle which has penetrated their old ways and made them obsolete. These people desperately need our help to overcome the disease of alcoholism, the despair which spawns suicide and violence. They have become the "niggers of the North". We should treasure their old ways and help preserve them instead of encroaching our economy and values on their lives and land for generations to come. Alaska is the last place in this United States left to right the wrongs of our past history in dealing with wilderness and native peoples. Unfortunately we have a state government dedicated to "anything for economic growth" who lull us with rhetoric to appease the current crisis in employment.

You can pass on all my comments and I sincerely hope you do. I am against oil exploration or any other exploitation in national parks, federal or state land. Repeal the E.L.F. Please reply with answers to my questions.

Thank you,



Carol C. Smith.

DRC
DITTMAN RESEARCH CORPORATION
DRC BUILDING
8115 JEWEL LAKE ROAD
ANCHORAGE, ALASKA 99502
(907) 243-3345

September 29, 1988

Carol C. Smith
601 Chena Ridge
Fairbanks, Alaska 99709

Dear Ms. Smith,

Thank you for your note and concerns. (original enclosed)

In the interests of preventing any element of bias, our interviewing personnel are not aware of the sponsors of the surveys prior to their completion. This is an industry standard among public opinion and marketing research firms. Most public opinion surveys are privately sponsored on a confidential basis throughout Alaska, so the results are not usually published in newspapers or shown on television.

The sample size varies depending on the scope of the sample "universe" -- nation-wide surveys usually include 1,200-1,500 respondents, while state-wide surveys in Alaska generally include around 500 respondents distributed on a geographical basis.

Historically, mail-out surveys of the public-at-large are generally known to be inaccurate reflections of collective opinions because of the high non-response rate, and postage-paid replies seem to have little effect in increasing the response rate to an acceptable level.

The age, sex, length-of-time in Alaska and occupational data are important to identify the composition of the sample and are used to be certain each age group, gender category, etc., are included in their correct proportion.

ARCO Alaska was the sponsor of the survey which included your views, and that was the purpose -- to learn the views of a random sample of Alaskans throughout the state -- and we appreciate your participation very much.

please read on →

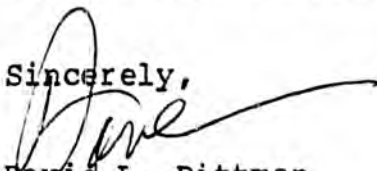
PAGE 2

CAROL C. SMITH
SEPTEMBER 29, 1988

On a separate and personal note, it's my opinion that your views are stunningly narrow. From my perspective, I don't know what you eat, or how you buy it; I don't know if you have children or if they attend school; I don't know if you've ever gone to a hospital, library, museum or attended a concert; I don't know if you've ever had reason to call upon a paramedic, policeman or a fireman; I don't know how you heat your home, or if you power a chainsaw; I don't know what fuels your vehicle or if you even drive on public roads -- but if you participate in any of these advantages of modern civilization, you do so as a direct beneficiary of Alaska's petroleum industry. You can't have it both ways -- you can't have high standards of education, health and safety without economic development, and since taxes from the oil industry provide approximately 90% of the state budget, eliminating petroleum development would have the direct result of reducing state services by 90% -- so which departments and state services would you recommend doing away with first? -- and where would you cut next, and next, and next to get down to the final 10%? And after you've reduced public services by 90%, you can start eliminating the United Way program, petroleum-supported grants, scholarships, endowments, gifts, contributions, and so on. As you can see, by the time you were finished, Alaska would be a pretty miserable place to live in.

Again, thank you for your nice note, and I do appreciate the opportunity to include your views in the results.

Sincerely,



David L. Dittman
President and Research Director
Dittman Research Corporation of Alaska

DLD:jb

HOUSE CONCURRENT RESOLUTION NO. 29 am
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON THE EXXON VALDEZ OIL SPILL CLAIMS SETTLEMENT

Amended: 5/2/91
Introduced: 5/2/91
Referred: Today's Calendar

A RESOLUTION

1 Relating to the proposed Exxon Valdez oil spill settlement.

2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 WHEREAS the Attorney General has negotiated an "Agreement and Consent Decree" and a
4 "Memorandum of Agreement and Consent Decree", both signed March 12, 1991, and relating to the
5 settlement of State v. Exxon Corporation, et al., No. 89-06852 (Alaska Superior Court, Third Judicial
6 District), and of State v. Exxon Corporation, et al., No. A91-083 (United States District Court, District
7 of Alaska); and

8 WHEREAS under the terms of the proposed settlement the legislature has been granted an
9 opportunity to review the settlement and to express its approval or disapproval of it; and

10 WHEREAS the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement has
11 carefully reviewed the proposed settlement, and has concluded that it should be disapproved unless
12 certain changes are made;

13 BE IT RESOLVED by the Alaska State Legislature that the proposed settlement is disapproved
14 as written; and be it

15 FURTHER RESOLVED that the parties to the proposed settlement are requested to amend the
16 proposed settlement in the following respects:

(1) to provide for the payment of at least \$100,000,000 in settlement of civil claims

1 within 90 days of the date the settlement is approved and, in addition, at least \$600,000,000 in settlement
2 of civil claims within one year thereafter;

3 (2) to provide for a plea agreement establishing a criminal fine of at least \$500,000,000,
4 with at least \$100,000,000 of the fine to be remitted on payment of that amount to the State of Alaska
5 as restitution for economic losses incurred by the state as a result of the oil spill, and with at least
6 \$300,000,000 of the fine to be remitted on payment of that amount into the trust fund established in the
7 civil settlement, as restitution for damages to natural resources;

8 (3) to provide that there shall be no deduction from state taxes of any amounts payable
9 under the settlement;

10 (4) to provide for membership of two members of the legislature as ex officio nonvoting
11 members of the trustee board governing the operation of the trust fund established in the civil settlement;

12 (5) to provide that the state's share of the funds recovered in the settlement shall be
13 subject to appropriation into the trust fund and, if constitutionally required, expenditures from the trust
14 fund of the state's share shall be subject to appropriation by the Alaska State Legislature;

15 (6) to provide that if the trust fund is found to be an unconstitutional dedicated fund, the
16 civil settlement shall in all other respects be maintained;

17 (7) to provide that the funding decisions of the trustees of the trust fund shall be made
18 with input from a broad-based citizens' advisory board, that the trustees shall comply with Alaska law
19 regarding open meetings, public records, and adoption of regulations, and that the trust fund shall be
20 subject to oversight and auditing by the General Accounting Office and by the Legislative Budget and
21 Audit Committee;

22 (8) to provide that scientific and economic data obtained by the state shall be released
23 unless the state demonstrates that the data is privileged, and that release of the information would
24 materially and substantially harm the state's case in pending litigation;

25 (9) to clarify that third-party claims and claims for damages to archaeological resources
26 are not diminished or extinguished;

27 (10) to require the parties to enter good faith negotiations to resolve the claims of third
28 parties; and

29 (11) to delete the "reopener" clause; and be it

30 **FURTHER RESOLVED** that copies of this resolution shall be sent to the Honorable H. Russel
31 Holland, Chief Judge, United States District Court for the District of Alaska; Jack G. Clarke, Senior
32 Vice-President, Exxon Corporation; Richard Stewart, Assistant Attorney General, Environmental and
Natural Resources Division, United States Department of Justice; the Honorable Walter J. Hickel,
Governor of the State of Alaska; and to the Honorable Charles F. Cole, Attorney General of the State
of Alaska.

FORUM / LETTERS

Spill settlement lacks a key element: fairness

By REP. MAX GRUENBERG

When Gov. Hickel returned from Washington, D.C., in March, he announced that he had just negotiated with Exxon and the Justice Department the best civil-settlement deal Alaska could expect from the oil spill. Despite the governor's sincere attempt to negotiate a good deal for Alaska, this settlement was unfair to Alaska and here's why:

- Alaskans would have been excluded from decisions as to how much money should be spent on restoration and recovery in spill-hit areas. Instead, a board of federal and state bureaucrats would have unilaterally decided how the money should be allocated. There was no guarantee that the people directly affected by the spill would have had any say in the matter.

- It did not adequately protect the rights of Alaska Natives and other third-party groups. Unless loopholes in the settlement were closed, the rights of Alaska Natives to recover damages from Exxon for cultural and subsistence losses could have been restricted. Also, commercial fishermen could have lost their right to recover damages resulting from diminished fish stocks.

- All scientific and economic data could have remained secret without justification. This information should be published so the public can be sure that further damage is minimized, more safeguards can be prepared, and the total impact of the spill can

be fully assessed. This will also help prevent unfounded claims by the oil industry of recovery rates in spill areas and verify the toll on wildlife and natural resources.

The House set up a nine-member bipartisan committee which went over the proposal literally line by line during more than 100 hours of hearings over a period of six weeks. The committee also held hearings in Seward, Homer, Kodiak and Cordova to hear from people in areas most directly affected by the spill.

In total, 230 Alaskans from all over the state either wrote or testified about the settlement. Of those, 169 (67 percent) were strongly against the settlement proposal, 11 (6 percent) favored it and the remaining 31 (23 percent) were neutral.

Most committee members felt the settlement weighed too heavily in favor of Exxon by giving the oil giant 11 years to pay the \$900 million settlement. Over time that meant the settlement was really worth only between \$500 million and \$700 million. Meanwhile, Exxon would have continued to profit off money owed to the state.

The House wants a \$700 million payout (what Alaska Attorney General Charles Cole asserted is the real value of the original proposal) within 15 months of the date the judge approves the settlement. Exxon should pay that up front and be done with it.

Under the rejected proposal, the state of

Alaska would have subsidized Exxon through state corporate tax write-offs from the settlement worth at least \$5 million. House members thought it was unfair that Exxon should be awarded a \$5 million state tax break. Incidentally, under the agreement, Exxon would have been able to write off more than \$150 million in federal taxes. The House wanted the agreement modified to prevent Exxon from deducting the civil settlement from its state taxes.

The House also suggested changes so scientific and economic data would be published on a case-by-case basis unless a court ordered that the data be kept secret.

In addition, the House asked that the public be intimately involved in spending decisions and that the rights of Alaska Natives and other third parties to file claims against Exxon be fully protected.

Other recommended changes would assume that the settlement conforms to the Alaska Constitution by requiring legislative appropriation of monies and that two state legislators be nonvoting members of the trustee board, which will make final spending decisions.

The House suggested the criminal fine be increased to \$500 million, \$100 million going to the state and \$100 million going to the federal government. The rest would go into the civil settlement trust fund for restoration purposes. That would bring the total settlement to \$1.2 billion, a much higher

figure than the rejected settlement, but still equal to Gov. Hickel's goal.

Let's be very clear: the House still wants a fair settlement. The House's suggestions are a road map to making an equitable settlement happen. In rejecting the civil settlement, the House showed that Alaskans have the fortitude to withstand large offers that are really not fair in the long run. True, we took a risk that one of the parties might choose to litigate rather than renegotiate. My colleagues and I felt that was a small risk because litigation is in nobody's best interest.

The governor made the right decision in putting the settlement before the legislature. He now has a stronger hand to win concessions that protect Alaska's rights, provide fair and adequate compensation and have broad-based popular support. Legislators expect the governor to honor his word that he will give the public and the legislature opportunity to review and approve the settlement, even if it's a second version. With a little encouragement, Exxon, the Justice Department and the Hickel administration will emerge with a better proposal, one that we all can live with.

□ Rep. Max Gruenberg of Anchorage is the House Majority Leader.

May 22, 1991

Ms. Carol C. Smith
601 Chena Ridge Road
Fairbanks, Alaska 99709

Dear Ms. Smith:

Thank you for the kind words expressed in your April 25 letter, and for the information about the Dittman Research poll.

I thought you would find the comparison between the Dittman poll results on the oil spill settlement the statistics of the committee interesting. It should be noted that the committee did not commission a poll, but merely tallied the opinions expressed in letters and public hearings.

I have also 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, thank you for taking the time to write on this important public issue.

Cordially,

Max F. Gruenberg, Jr.
Chairman

Enclosure: HCR 29 am
News Releases - Governor and House Majority

Alaska State Legislature

House of Representatives



Official Business

P.O. Box V
State Capitol, Rm. 216
Juneau, Alaska 99811
(907) 465-3718

House Special Committee on the Exxon Valdez Oil Spill Claims Settlement

May 22, 1991

Charles W. Trowbridge
P.O. Box 0013
Palmer, Alaska 99645

Earl Clabo
537 E. Fern Avenue
Palmer, Alaska 99645

Dear Mr. Trowbridge and Mr. Clabo:

Thank you for sending me a copy of your proposed research project for the oil-impacted areas of Prince William Sound.

If you have not already done so, I would suggest that you contact Ernie Piper, State On-Scene Coordinator for the Valdez Oil Spill Response effort, 2550 Denali Street, Suite 705, Anchorage, Alaska 99503 (phone 265-4600). Mr. Piper will be able to advise you on the procedure for submitting funding requests for scientific research.

Cordially,


Max F. Gruenberg, Jr.
Chairman

Charles W. Trowbridge
P.O. Box 0013
Palmer, AK 99645
907-746-3536

Earl Clabo
537 E. Fern Avenue
Palmer, AK 99645
907-746-2454

April 17, 1991

TO: Representative Max Gruenberg

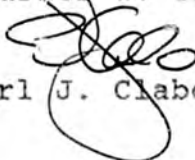
Enclosed is a proposed working research project for Prince William Sound regarding tidal zone cleanup of crude oil. The project was developed by using proven agricultural methods, and modifying them to the marine environment.

We would both be very happy to discuss details of this project with you. The disaster of the Exxon Valdez has deemed it necessary to develop new research and technology. We feel we have a very sound and cost effective project, and would appreciate any support that you could provide.

It should be noted, that \$70,000,000.00 has been spent in research to determine the problem that oil is on the beach, and it is time work related research should start to rehabilitate the Sound. You can reach either of us at the above numbers or our fax number is 907-746-3772.

Sincerely,


Charles W. Trowbridge


Earl J. Clabo

CWT:rht