

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
1982 SCOMM 77: SENATE SPEC. COMM. EXXON VALDEZ OIL SPILL. 1991

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"The objective of the Alyeska Oil Spill Contingency Plan is to minimize damage to the environment...in the event of an oil spill...the resources of [Alyeska] are organized in a preplanned manner to assure rapid and effective response to any oil spill emergency. This manual outlines the techniques which will be in accordance with state-of-the-art oil spill cleanup technology. [Emphasis added.]"⁴

In section 102 of the contingency plan, Alyeska promised that it is the policy of the owner companies to fully comply with the laws and to take "every reasonable action" to minimize environmental damage from oil spills:

"It is the policy of the eight owner companies, constituting the Permittees under the Federal Right-of-Way Grant and the Lessees under the State Right-of-Way Lease and represented by their agent, Alyeska Pipeline Service Company, to take every reasonable action to prevent oil spills and, if they occur, to minimize environmental damage. Alyeska will comply with the relevant pollution laws for the protection and conservation of environmental resources. [Emphasis added.]"⁵

Alyeska also promised in section 102 of the contingency plan that it will be fully prepared to implement the contingency plan even in the event of a major oil spill:

"Regularly scheduled training programs will be conducted....The objectives of this training program are:....To maintain the Plans as fully operable working documents [and] To update the Plans to reflect state-of-the-art capability....Full scale, company-wide field exercises will be held at least once per year to insure overall readiness for response to large scale oil spills.... [Emphasis added.]"

⁴ Section 101, Alyeska Pipeline Service Company Oil Spill Contingency Plan General Provisions (January, 1987).

⁵The "relevant pollution laws" according to Alyeska are: "Alaska Statute Title 46, and 18 AAC75, and the National Oil and Hazardous Substances Pollution Contingency Plan, and any revisions thereof, as issued by the Council on Environmental Quality (CEQ) under the authority of the Federal Water Control Act [sic], as amended (Public Law 92-500). Alyeska Policy and these plans are intended to be written and executed so as to comply with the Grant and Agreement of Right-of-Way and the Right-of-Way lease with the United States of America and the State of Alaska, respectfully. Alyeska Pipeline Service Company will ensure that the National Contingency Plan is followed during any spill event." p.1-1

Alyeska further promised in section 102 of the contingency plan that, as agent for the owner companies, it will effectively direct and conduct cleanup operations, including those related to any spill in Prince William Sound:

"[C]leanup operations within the areas of liability and responsibility [imposed by law] will be conducted by Alyeska as Agent for the Owner companies and will be conducted in a manner as not to require assumption of control of such cleanup operations by federal or state officials....Alyeska will direct cleanup operations of spills resulting from...[O]peration, involving tankers carrying or destined to carry crude oil transported though the Trans-Alaska Pipeline System, occurring at Valdez terminal, in Port Valdez, Valdez arm or Prince William Sound. [Emphasis added.]"

Promises Versus Performance

In an addendum to its Oil Spill Contingency Plan in 1982, Alyeska informed the Alaska Department of Environmental Conservation that, in the event of a spill in Prince William Sound, the "[e]stimated time of completion of spill cleanup of a 100,000 barrel spill would be less than 48 hours."⁶

At the urging of the State of Alaska's Department of Environmental Conservation, Alyeska reluctantly included a response scenario for a 200,000 barrel spill in the 1987 Oil Spill Contingency Plan for Prince William Sound. "Alyeska believes it is highly unlikely a spill of this magnitude would occur."⁷

This Prince William Sound response scenario assumed that the spill would occur 30 miles from the Valdez terminal and that weather conditions would be conducive to oil spill cleanup. The contingency plan called for equipment, including a barge, to be in place within 5 hours after the spill.

⁶Letter from B.L. Hilliker, manager, environmental protection and government reports, to Alaska Department of Environmental Conservation, dated June 22, 1982, reprinted in "Investigation of the Exxon Valdez Oil Spill," Part I at p. 894.

⁷ Oil Spill Contingency Plan Prince William Sound (January 1987), p.3-54. By letter to the Alaska Department of Environmental Conservation dated October 23, 1986, Alyeska predicted that the probability of a 200,000 barrel spill occurring in Prince William Sound would be once in 241 years. "Investigation of the Exxon Valdez Oil Spill," Part I at p. 834.

Alyeska's Prince William Sound contingency plan predicted that 35 percent of the oil would be recovered from the water (70,000 barrels), 30 percent recovered from shoreline cleanup, 30 percent to disperse naturally or evaporate, and only 5 percent to remain in the environment.⁸

Yet when the Exxon Valdez spilled some 260,000 barrels on March 23, 1989 the cumulative total of oil recovered within the first 72 hours was less than 3,000 barrels. As one example of the response failure, the equipment barge which the contingency plan relied upon was damaged and unloaded at the time of the spill. The barge did not reach the spill site for more than 14 hours, even though the contingency plan called for it to be on the scene within five hours. Based on my investigation, there were clearly not sufficient quantities of dispersants or application equipment available to make up for the utter failure of the mechanical recovery effort.⁹

Even under extraordinarily good weather conditions for the first three days, Alyeska did not have equipment or resources to contain and collect even a fraction of the amount specified in the contingency plan. The failure of Alyeska's cleanup response in the first 72 hours significantly contributed to the ultimate environmental impacts of the spill, since winds of over 70 miles per hour spread the slick completely out of control (more than 40 miles from Bligh Reef) by the fourth day.

The Exxon Valdez spill would eventually soil over 1,000 miles of Alaska's coastline, inflict one of the worst wildlife disasters in our nation's history, and disrupt the lives of thousands of Alaskans who depend on the natural resources of this region.

As the Alaska Oil Spill Commission concluded, "[p]ublic pronouncements by Alyeska and its owners that the company employed the best available technology and committed adequate resources to safety purposes turned out to be false."¹⁰

Exxon and the Alyeska Owner Companies Knew That Alyeska Was Not Equipped to Effectively Respond To An Oil Spill in Prince William Sound.

My investigation revealed that Alyeska was on notice in 1984 that its own personnel believed they were incapable of effectively responding to an oil spill in Prince William

⁸Oil Spill Contingency Plan Prince William Sound (January 1987) at p. 3-56.

⁹"Investigation of the Exxon Valdez Oil Spill, Prince William Sound, Alaska", Part I at p. 303.

¹⁰Final Report of the Alaska Oil Spill Commission (February 1990) at p.135.

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Sound. James K. Woodle, former commander of the U.S. Coast Guard's Marine Safety Office in Valdez, and marine superintendent at the Valdez terminal, informed Alyeska's President George M. Nelson that:

"Serious doubt exists that Alyeska would be able to contain and clean-up effectively a medium or large size oil spill....Response to any spill beyond the limits of Valdez narrows should not be attempted with present equipment and personnel. [Emphasis added.]"¹¹

A series of documents, which I have enclosed, reveal that Alyeska by 1988 -- one year prior to the Exxon Valdez oil spill -- had reached the same conclusion as James K. Woodle: it was seriously unprepared for an oil spill in Prince William Sound.

On April 18, 1988, W.D. Howitt, then Alyeska's Valdez Marine Terminal Superintendent, wrote to the Marine Services Subcommittee -- comprised of representatives of the owner companies, including Harvey Borgan of Exxon Shipping -- to inform them of a meeting in Bellingham, Washington on May 18, 1988. "Oil Spill Response Equipment" was listed on the agenda [Exhibit A].

On April 28, 1988, Howitt wrote to the Marine Services Sub-committee members with additional information for the May 18 meeting [Exhibit B]:

"The first part of the information package contains the T.L. Polasek briefing that was presented to the Operations Subcommittee on April 6-7, 1988, at the quarterly meeting. The briefing is the result of an action item from January's meeting during which a concern was raised by ARCO on Alyeska's capability to respond to oil spills at midpoint of Prince William Sound. [Emphasis added.]"¹²

¹¹Letter from James K. Woodle dated April 15, 1984 concerning operations of the Marine Department, Alyeska Marine Terminal, Valdez, Alaska, reprinted in "Investigation of the Exxon Valdez Oil Spill," Part I at p. 179 and 890.

¹²Howitt's letter also states that purchases of clean-up equipment for Alyeska, as recommended by Jeff Shaw of Arco, would be discussed at the May 18th meeting. In a document with the heading "Alyeska Equipment Project (for oil spill cleanup)" dated March 22, 1988, Jeff Shaw recommends: 1) a large oceangoing skimmer; 2) a 10,000 barrel barge; 3) an adds pack; 4) fast spill response vessels; 5) a destrail skimmer with power pack; and 6) an additional 5,000 feet of sea quality boom. [Exhibit D] In addition, a separate document indicates that the marine subcommittee members discussed an advanced skimmer recovery system which could operate in open waters, the "Dynamic Inclined Plan Oil Vessel." [Exhibit E]

Theo L. Polasek's (Alyeska's Vice President of Operations) briefing on April 6-7 for the Operations Subcommittee was entitled "Oil Spill Issues -- Status of Action Items from January Owners Meeting." [Exhibit C] The topic of "Alyeska's Response Capability to Spills at midpoint of Prince William Sound" is included under the heading "ARCO/Alyeska Response Equipment Discussions." What follows is a comparison of the equipment available to the "Clean Sound" Cooperative in Puget Sound, Washington. According to the document, Clean Sound's spill cleanup methodology is "immediate, fast response to spill, at any location, with boom to contain, exclude, and/or divert oil."

By contrast to the equipment available to Clean Sound, Polasek's briefing on "Present Alyeska Prince William Sound Capability" notes that "no new skimming vessels purchased since 1977." The list of Alyeska equipment is clearly deficient by comparison to Clean Sound.

Polasek's briefing on Alyeska's Prince William Sound cleanup response equipment includes the following indictment of Alyeska's capability to meet its obligations under its own Oil Spill Contingency Plan:

"Immediate, fast response to mid-point of Prince William Sound not possible with present equipment complement." (emphasis added)

Exxon and the Alyeska Owner Companies Failed to Improve Alyeska's Oil Spill Response Capabilities Before the Exxon Valdez Spill on March 23, 1989.

Theo Polasek's briefings to the owner company representatives in April and May 1988 outlined the deficiencies in Alyeska's equipment including the fact that "no new skimming vessels had been purchased since 1977."

When Polasek testified, under oath, at a hearing I chaired in Valdez on May 7, 1989, he acknowledged that: "the equipment in this plan was similar to the plan in 1977. We increased the amount of boom and take [sic] other actions, but essentially that was the same equipment decided upon."¹³

Polasek's briefing includes a reference to the planned acquisition of a 10,000 barrel tank barge by late 1988. In fact, this oil spill barge -- the "Betty-K" -- was stored in Washington state for the winter of 1989 and was not available in the Exxon Valdez cleanup.

¹³"Investigation of the Exxon Valdez Oil Spill, Prince William Sound," Part I at p. 155.

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Moreover, Polasek's briefing refers to a "mobile contingency command center with communications repeaters" which would be installed by "mid 1988." In fact, such a system was not in place at the time of the Exxon Valdez spill.

Exxon and the Alyeska Owner Companies Secretly Decided that Alyeska Would Not Respond to an Oil Spill In Prince William Sound in the Manner Prescribed in the Contingency Plan.

According to a June 30, 1988 telex from Roger A. Gale, Manager, Marine Operations, Sohio Oil (now BP) to Polasek of Alyeska, the Marine Services Subcommittee decided to make five recommendations to the Owners Committee as part of an "acceptable compromise" [Exhibit F]:

First, the "current stockpile of clean up equipment is adequate" for spills at the terminal, but "should be maintained to the highest state of readiness."

Second, for spills in Prince William Sound, additional equipment should be purchased of the "type best suited for near shore and beach operations."

Third a large barge (50-100,000 barrel capacity) equipped with ocean boom and skimmers was needed.

Fourth, a "study of the best and quickest methods of moving the barge around" including predeployment in Prince William Sound.

Fifth, that Alyeska and the owners "press" state and federal officials for "preapproval to use chemicals on a widespread basis."

However, on July 6, 1988, Stanley Factor, Vice President, Chartering and Evaluations, Arco Marine, Inc., objected to Roger Gale's recommendations because the owners had already decided that Alyeska would not respond to spills in Prince William Sound in the manner required by the Oil Spill Contingency Plan [Exhibit G]:

"Arco Marine Inc. does not agree with this telex nor do we concur that this represents the thoughts of the subcommittee.

"At the owners committee meeting in Phoenix, it was decided that Alyeska would provide immediate response to oil spills in Valdez Arm and Valdez Narrows only. Further efforts in the Prince William Sound would be

limited to the use of dispersants and any additional effort would be the responsibility of the spiller. [Emphasis added.]"¹⁴

Conclusion

At my subcommittee's hearing on May 7, 1989 in Valdez, Theo Polasek testified under oath on Alyeska's behalf that "[w]e fulfilled our promises in that [oil spill contingency] plan. We have not broken our promises to the people of this State."¹⁵

But the evidence I have set forth indicates that Alyeska broke the law as well as its promises to the State of Alaska and the Congress.

For example, section 309(c)(4) of the Clean Water Act (33 U.S.C. section 1319(c)(4)) provides that substantial criminal penalties may be imposed upon any corporation or responsible corporate official that files information with Federal authorities with knowledge that the documents contain material misstatements.¹⁶ In addition, criminal penalties may be imposed on any person who knowingly submits false information to any agency of the United States under 18 U.S.C. section 1001.¹⁷

Thus, since Alyeska knew that it could not and would not respond to an oil spill in Prince William Sound as required by its oil spill contingency plans, Alyeska and any responsible officer could be exposed to substantial criminal penalties.

However, the Department of Justice has not even filed any criminal charges against Alyeska or its owner companies other than Exxon. Furthermore, in the proposed Criminal Plea Agreement, the United States would waive its rights not only to pursue any

¹⁴The Chairman of the Owners Committee at the time was Darrell Warner, President of Exxon Pipeline Company.

¹⁵"Investigation of the Exxon Valdez Oil Spill," Part I at p. 169.

¹⁶ A fine of up to \$10,000, or a prison term of up to two years or both may be imposed under this section.

¹⁷A fine of up to \$10,000, or a prison term of up to five years, or both, may be imposed under this section.

criminal charges against Alyeska and its owner companies, but also waive its rights to pursue civil or administrative penalties against Alyeska and its owner companies.¹⁸

The proposed Agreement and Consent Decree also provides generous protection for Alyeska. The United States and the State of Alaska both waive their rights to raise claims against Alyeska for natural resource damages in Paragraph 20. In addition, should either government recover any amount from Alyeska for claims of any kind, Exxon is entitled to be reimbursed for 20.34 percent of the governments' recovery (this figure represents the percentage ownership by Exxon of Alyeska). Yet Alyeska, including its shareholders and owner companies other than Exxon Pipeline, expressly reserves their rights to sue the United States or the State of Alaska in Paragraph 19 of the proposed settlement agreement.

In my view, the inclusion of Alyeska in the proposed Criminal Plea Agreement and in the proposed settlement Agreement and Consent Decree is contrary to the public interest. Based on the evidence, it is inconceivable that the Department of Justice would waive its rights to pursue criminal claims, and virtually all civil claims, against Alyeska.

In sum, the proposed Exxon settlement fails to hold Alyeska accountable to the public for its wrongdoing and fails to serve as a deterrent for similar conduct in the future.¹⁹

After extensive debate about the environmental risks, the Trans-Alaska Pipeline System was approved in 1973 by only a one-vote margin in the U.S. Senate. In exchange for access to environmentally sensitive public lands, the Congress was assured by Alyeska and the owner companies that the pipeline system would be operated in a safe and environmentally sound manner, using state-of-the-art technology.

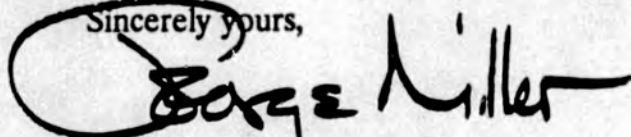
¹⁸ Section III.A. of the Plea Agreement states that "[t]he United States agrees not to seek additional criminal charges or any civil or administrative penalties.... against Alyeska Pipeline Service Company or any of its shareholders or owner companies or present or former shareholder representatives, for any violation of federal law arising out of the grounding of the 'EXXON VALDEZ,' the resulting oil spill, the containment or cleanup of that spill, or its or their conduct in connection with the preparation or submission of oil spill contingency plans or related, by Alyeska Pipeline Service Company to the federal or state government...." p.5.

¹⁹Under Alaska law, punitive damages are awarded for the public policy reasons of punishment and deterrent when the defendant's conduct was outrageous, reckless, or malicious. In this instance, there is clear and convincing evidence that Alyeska's conduct merits the award of punitive damages.

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The oil industry betrayed its own promises and deceived the Congress with respect to operations of Alyeska and the Exxon Valdez oil spill. Without a commitment by the Department of Justice to prosecute this intentional deception, how is it that Congress and the people of the State of Alaska can rely on such assurances in the future?

Sincerely yours,



GEORGE MILLER
Vice Chairman

cc:

The Honorable Walter J. Hickel, Governor, State of Alaska
The Honorable Ben Grussendorf, Speaker, Alaska House of Representatives
The Honorable Richard Eliason, President, Alaska Senate
The Honorable Senator Ted Stevens
The Honorable Senator Frank Murkowski
The Honorable Representative Don Young
The Honorable Richard L. Thornburgh, Attorney General, U.S. Department of Justice
The Honorable Manuel Lujan Jr., Secretary, U.S. Department of the Interior
The Honorable Samuel K. Skinner, Secretary, U.S. Department of Transportation
The Honorable Edward R. Madigan, Secretary, U.S. Department of Agriculture
The Honorable William K. Reilly, Administrator, U.S. Environmental Protection Agency
The Honorable John A. Knauss, Undersecretary for Oceans and Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce
Members, Committee on Interior and Insular Affairs

Alyeska pipeline

SERVICE COMPANY

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April 18, 1988

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Gentlemen:

A meeting of the Marine Services Sub-Committee will be held May 18, 1988, in Bellingham, Washington.

Present agenda items are:

- Oil Spill Response Equipment (including a demonstration of large skimmer vessel by John Weichert of Clean Sound Co-op.)
- Port Information Manual status.
- Berth Equipment and Repair and Upgrade Schedule.

An information package will be mailed to confirmed attendees for review prior to the meeting.

The meeting will be held at Nendel's Hotel in Bellingham, the Compass Room, commencing at 8:00 am. The skimmer demonstration will commence at 1:00 pm, departing from the small boat harbor.

Roger Gale has informed me that there will be a joint meeting of the Operations Sub-Committee and the Marine Services Sub-Committee on the previous day, May 17th, at the same location. The agenda for this meeting will be advised separately.

Rooms have been blocked for May 17th at Nendel's Hotel, (206)671-1011, and must be confirmed by individual attendees. Arrangements have been made for a continental breakfast and luncheon buffet to be served in the meeting room on May 18th.

For travel planning; Bellingham is approximately 2 hours North of Sea-Tac airport by car or is served by commuter airlines, PSA, Horizon Air, and San Juan Air.

Please reply to C. F. (Chuck) O'Donnell (907)835-6526, indicating attendance or additional agenda items.

Regards,



W. D. Howitt
Valdez Marine Terminal Superintendent

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Subject: Meeting Agenda and Information Package

As referenced in my April 18, 1988 meeting notification, an information package is enclosed concerning the agenda items for the upcoming Marine Service Subcommittee Meeting in Bellingham, Washington on May 18, 1988.

The first part of the information package contains the T. L. Polasek briefing that was presented to the Operations Subcommittee on April 6-7, 1988, at the quarterly meeting. The briefing is the result of an action item from January's meeting during which a concern was raised by ARCO on Alyeska's capability to respond to oil spills at midpoint of Prince William Sound. The specific concern stated was the use of the Terminal tugs for the response effort, thereby directly affecting the Terminal's ability to continue vessel loading operations. Alyeska and ARCO personnel visited the Clean Sound Oil Spill Cooperative because of the similarities/comparability of Puget Sound and Prince William Sound operating environments. The briefing summarizes the group's findings.

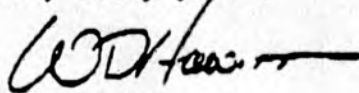
You will note that the briefing makes no recommendations with regard to additional equipment purchases. Mr. Jeff Shaw, ARCO, is prepared to discuss his specific recommendations during the meeting.

The Marine Services Subcommittee has been requested to review the alternatives, and recommend a course of action to the Operations Subcommittee.

The second agenda item covers the present status of the revised Port Information Manual. Enclosed you will find the financial responsibility statements that were presented to the Owners Committee and the Legal Subcommittee for incorporation into the revised manual. A final version of the statement that will be used in the manual will be issued before our meeting, and a distribution schedule of the new manual will be discussed at that time.

The third agenda item covers the Berths and Ballast Water Treatment Plant repair and upgrade schedule for this coming summer. Enclosed you will find a definition of scope and a implementation schedule for each of these projects.

Very truly yours,



W. D. Howitt
Superintendent
Valdez Marine Terminal

CFOD/WDH/pkk

cc: C. F. O'Donnell
L. D. Shier
T. L. Polasek

enclosures

OIL SPILL ISSUES

T. L. Polasek
April 6-7, 1988

OIL SPILL ISSUES

Status of Action Items from January Owners Meeting

- **Pursue Advance Approval for Dispersant Use**
 - **Regional Response Team (RRT) has issued first Draft of "Prince William Sound Guidelines" for review.**
 - **Most of Port Valdez and all of Tanker Lanes included in "Zone 1" where dispersant is approved for use, with consent of senior Federal official, USCG Captain of Port.**
 - **Follow up meetings scheduled.**

- **Expedite "ADDs Pack" AFE**
 - **AFE sent to Owners on March 4, 1988.**
 - **Approvals received from ARCO, Exxon, and Mobil.**
 - **Procurement package being prepared.**

OIL SPILL ISSUES

- **Conduct Survey of Commercial Ships Available for Oil Spill.**
 - **Preliminary Survey completed.**
 - **Several Hundred fishing vessels, fleet tenders, and supply boats available in Valdez and Cordova (45 ft. to 120 ft. lengths)**
 - **Several "Rig Tender" oil platform supply and service boats available in Kenai/Homer area (18 to 25 hours travel).**
 - **Four tour boats in Valdez (85' to 100') available for personnel support.**
 - **Availability of all dependent on season.**
 - **Private operators.**
 - **Will pursue negotiating rates for "on season" and "off season".**

OIL SPILL ISSUES

- **Desk Top ARCO/Alyeska Drill**
 - **Drill scheduled for May 3 and 4, 1988.**
 - **Located at Valdez Civic Center and other contingency sites in area.**
 - **Federal/State agencies will participate.**
- **Expeditious Clean-up Cost Reimbursement Procedures.**
 - **Proposed language and section revisions to the Port Information Manual sent to Legal Subcommittee.**
- **USCG Spill Take Over if Responsible Party Unwilling.**
 - **Informal discussions held with Valdez Coast Guard.**
 - **Coast Guard has no problem with concept**
 - **Would continue to use Alyeska as prime "Contractor".**
 - **Discussions with Alaska DEC will be necessary and revision to approved contingency Plan may be required.**
- **Discuss Oil Spill Response Equipment List with ARCO.**
 - **Discussions held.**
 - **Joint tour of "Clean Sound" facilities and equipment during March**
 - **Report follows in this presentation.**

**ARCO/Alyeska
Response Equipment Discussions**

**T. L. Polasek
April 6-7, 1988**

Response Equipment Discussions

- **Alyeska Response Capability to Spills at midpoint of Prince William Sound.**
 - Amount/Type of containment of boom.
 - Oil skimming vessels.
 - Fast response boats.
- **Equipment and Operating Plan Developed by "Clean Sound" Cooperative for Puget Sound.**
- **Similarities/Comparability of Puget Sound and Prince William Sound Operating Environments.**
 - Weather
 - Sea states and currents
 - Environmental sensitivity
 - Distances and access
 - Spill volume history/exposure

Response Equipment Discussions

Clean Sound

- **Non-profit, unincorporated organization of Oil and Oil Transportation Companies.**
- **All expenditures by Co-op funded wholly by the member companies.**

ARCO	Union	SPC Shipping
Mobil	US Oil & Refining	Olympic Pipeline
Shell	Foss Maritime	Trans-Mountain Pipeline
Texaco	Chevron	Four others
- **Clean Sound owns equipment and employs small staff.**
- **Contractors utilized for equipment maintenance and operation.**
- **Agreements with contractors assure quality of qualified operators and maintenance personnel**
- **Equipment staged at commercial facilities in five locations: Bellingham, Anacortes, Seattle, Port Angeles, and Tacoma.**

Response Equipment Discussions

Clean Sound

- Major Equipment and Materials

- 6 each fast response boats (27' to 34'): Each equipped with 1000 foot "Zoom" Boom, sorbent materials, and radar. May be equipped with small, portable hydraulic skimmers.**
- 1 each 42' fast response boat: Equipped with "Destroil" skimming system and 600 gallons recovered oil storage. Has bow door and is capable of beach landing.**
- 3 each 30' work boats: Medium speed response with 1000 foot "Zoom" boom and portable disk skimming units.**
- 1 each tank barge: 12,000 BBL capacity with 60' reach deck crane, 2 diesel powered pumps and tankerman's office/shelter.**
- 10 each highway trailers/vans (32' to 40'): Stocked with booms, sorbents, tools, skimmers, bird scare cannons.**
- 1 each Mobile Command Post: 34' Traller with charts, maps, contingency plans and communications equipment.**

Response Equipment Discussions

Clean Sound

Major Equipment (continued)

- 3 each "Belt Type" skimmer vessels (34' to 40'): Self-powered, twin hull units rated at 300 to 350 gpm recovery rates.
- 1 each 60' skimmer vessel: Catamaran hull with two each belt recovery units rated at 600 gpm total. Designed for all weather operations in all areas of Puget Sound.
- 1 each 75' skimmer vessel: Seagoing vessel designed for sustained operations with minimum crew. Has debris recovery and handling devices. Recovery is 500 gpm with 12,000 gallons on board storage.
- 6000 feet of Kepner "Sea Curtain".
- 30,000 feet of Bennett "Zoom Boom" compactable boom.

Response Equipment Discussions

Clean Sound

- Spill Cleanup Methodology

- Immediate, fast response to spill, at any location, with boom to contain, exclude, and/or divert oil.**
- After boom deployment, immediately begin light skimming operations with small units carried on response beats.**
- Follow up with large, self-propelled, high efficiency skimmers as required.**
- If necessary, deploy land-based support equipment to spill site for continued work.**
- Use contracted helicopters for spill recon and direction of vessel operations.**

Response Equipment Discussions

Present Alyeska Prince William Sound Capability

- **All equipment and material staged at Valdez Terminal.**
- **Alyeska employees are prime operators with back-up manpower from Northland Maintenance.**
- **Alyeska equipment maintenance contractor performs maintenance.**
- **Expenditures funded by Owner Companies.**
- **Mission: To immediately respond and perform initial cleanup of oil spills from vessels in the TAPS trade in Prince William Sound.**

Exposure magnitude: Approximately 940 tankers per year, from 30,000 to 265,000 DWT, transiting and loading in a non-congested area with high environmental concern.

Response Equipment Discussions

Present Alyeska Prince William Sound Capability

- **No new skimming vessels purchased since 1977.**
- **Work boat upgrade/replacement program in progress.**
- **Response Complement:**
 - **Fast response boats with sorbent boom and light duty skimmers.**
 - **Medium capacity self-propelled skimmer vessels.**
 - **Deck barge with sea skimmer and boom.**
 - **10,000 BBL tank barge (late 1988)**
 - **Airborne dispersant delivery (late 1988)**
 - **Contracted tug boats.**
 - **Mobile contingency command center with communications repeaters (mid-1988).**

Response Equipment Discussions

Alyeska

- **Present Major Equipment and Materials.**
 - **5 each fast response boats (21' to 26'):** Equipped with sorbent booms. May be equipped with portable hydraulic skimmers.
 - **2 each 26' work boats:** For support and supply delivery.
 - **2 each "Belt Type" skimmer vessels (36' and 45'):** Self-powered, twin hull units, rated at 300 GPM recovery.
 - **5 each Vikoma Sea Pack units:** 8000 total feet inflatable boom. Units must be towed to site by tugs.
 - **1 each deck barge:** 16,000 foot harbor boom packed in containers and Vikoma 240 EBL/hr sea skimmer. Must be towed to site by tugs.
 - **3 each 19' work platforms:** Powered by small outboards for calm water use.

Response Equipment Discussions

Alyeska

- **Prince William Sound Cleanup Methodology**
 - **Immediate, fast response to mid-point of Prince William Sound not possible with present equipment complement.**
 - **Dispatch available aircraft for recon and spill cleanup direction.**
 - **Dispatch equipment sets pulled by Crowley tugs and line boats.**
 - **Obtain additional USCG and commercial resources to continue cleanup and relieve Crowley tugs.**
 - **Turn over spill to responsible party or USCG after initial activities complete.**

ALYESKA EQUIPMENT PROJECT
(for oil spill cleanup)

RECOMMENDED PURCHASES

1. LARGE OCEAN GOING SKIMMER, SIMILAR TO THE CLEAN SOUND VESSEL THE NORTH SOUNDER. THIS VESSEL SHOULD BE LARGE ENOUGH TO KEEP THE CREW OUT OF THE WEATHER. THE VESSEL SHOULD HAVE RADAR, BUNKS, GALLEY AND A HEAD, CAPABLE OF A FEW DAYS OF OPERATION WITHOUT RETURNING TO PORT.

THE NORTH SOUNDER IS A BELT TYPE SKIMMER WHICH EVIDENTLY WORKS WELL. I SUGGEST THE SYSTEM THAT McLORI MAKES BE INVESTIGATED.

2. 10000 BARREL BARGE IS NEEDED TO HANDLE OIL THAT IS PICKED UP DURING A SPILL. A SPILL > 5000 bbls, ADDITIONAL BARGES WOULD BE REQUIRED. THE ADDITIONAL BARGES COULD COME FROM SEATTLE, AND BE ON SCENE IN 96 HOURS.

THE DESIRED BARGE SHOULD HAVE CLEAR WORKING SPACE SIMILAR TO CLEAN SOUNDS, CLEAN ONE. ROOM FOR A HELICOPTER PAD WOULD BE USEFUL. SOME "BUNK HOUSE" SHELTERS WOULD BE HANDY FOR EXTENDED CLEANUPS TO HOUSE THE CREWS.

3. ADDS PACK NEEDED. I UNDERSTAND THAT ALYESKA HAS ALREADY STARTED THIS PURCHASE.
4. FAST SPILL RESPONSE VESSELS ARE NEEDED, SUCH AS SEEN AT THE MUNSON BOAT YARD. ALSO, IT IS IMPORTANT TO HAVE A SHELTERED CABIN AND RADAR.
5. DESTROIL SKIMMER WITH POWER PACK, TO BE ABLE TO QUICKLY GET A SKIMMER ON SCENE OR SET UP IN AREAS WHERE THE VESSEL SKIMMERS CANNOT APPROACH. THIS HAS THE CAPABILITY TO USE FROM THE FAST SPILL RESPONSE VESSELS.
6. ADDITIONAL 5000 FEET OF SEA QUALITY BOOM.

JEFF SHAW 3/22/88

JBF DIP MODEL 5001A

DYNAMIC INCLINED PLANE
OIL RECOVERY VESSEL

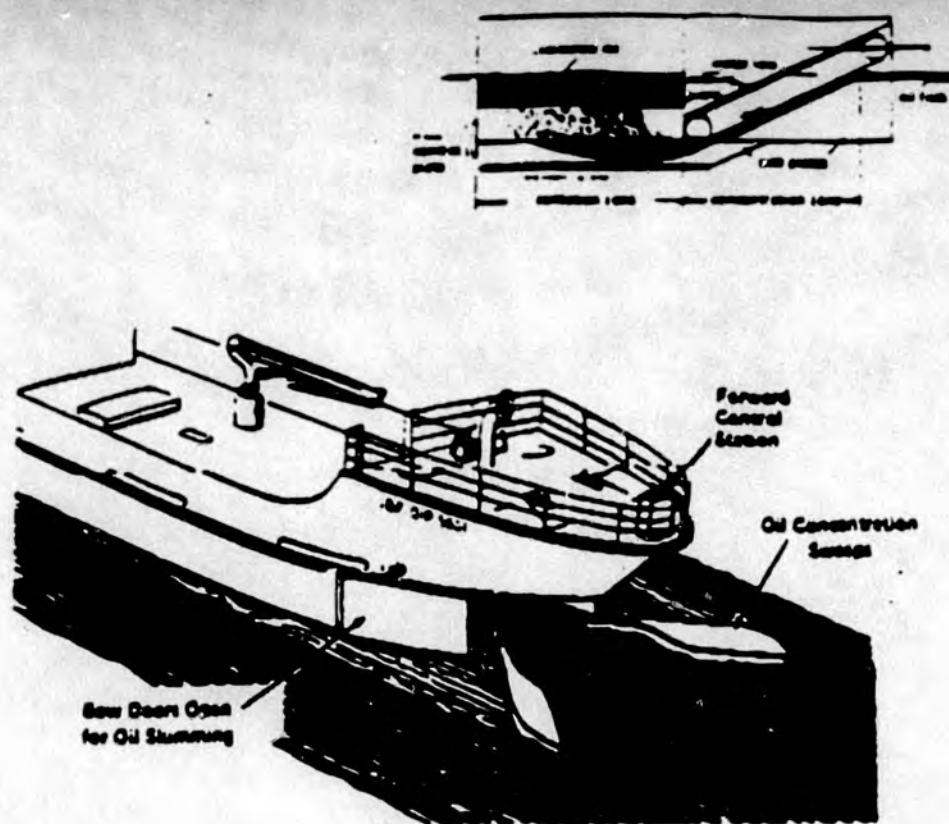


Figure 1-1. JBF DIP Concept and Oil Concentration Sweeps

1-1 PURPOSE OF SYSTEM/DIP CONCEPT

The JBF Model 5001A recovery system is designed to pick up spilled oil and debris from the water's surface. A conveyor forward of the oil recovery system first removes floating debris while water and oil flow through the open-mesh conveyor belt. The oil collection system then collects the oil, separates it from the water, and collected oil can then be pumped into on-board storage tanks from which it can subsequently be pumped to barges or to deckside receiving tanks. The cargo pump and valving system are also designed to allow collected oil to be pumped directly from the collection well to a barge or tank alongside. The vessel is self-propelled and is equipped with a complete and independent power system to drive all collection and pumping systems.

The DIP Model 5001A system is based on the concept (Figure 1-1) of collecting oil under the surface of the water, thus reducing the effect of waves. As the system moves through the water, the oil is forced to follow the surface of a moving inclined plane to a collection well underneath the hull. Buoyant forces cause the oil to surface in the well, forcing water out the bottom. When a sufficiently thick oil layer has collected, it is pumped into storage tanks. Separation occurs automatically and no water is collected.

The vessel can be used in both protected waters and in the more open waters. It can be used in a wide variety of operating modes that require stationary or self-propelled oil-skimming capability. The wide aperture formed by the sweep system makes it extremely effective against oil slicks in open waters. The skimmer can also be used successfully as a float in boom mooring systems or as a means of picking up oil contained within a boomed-off area.

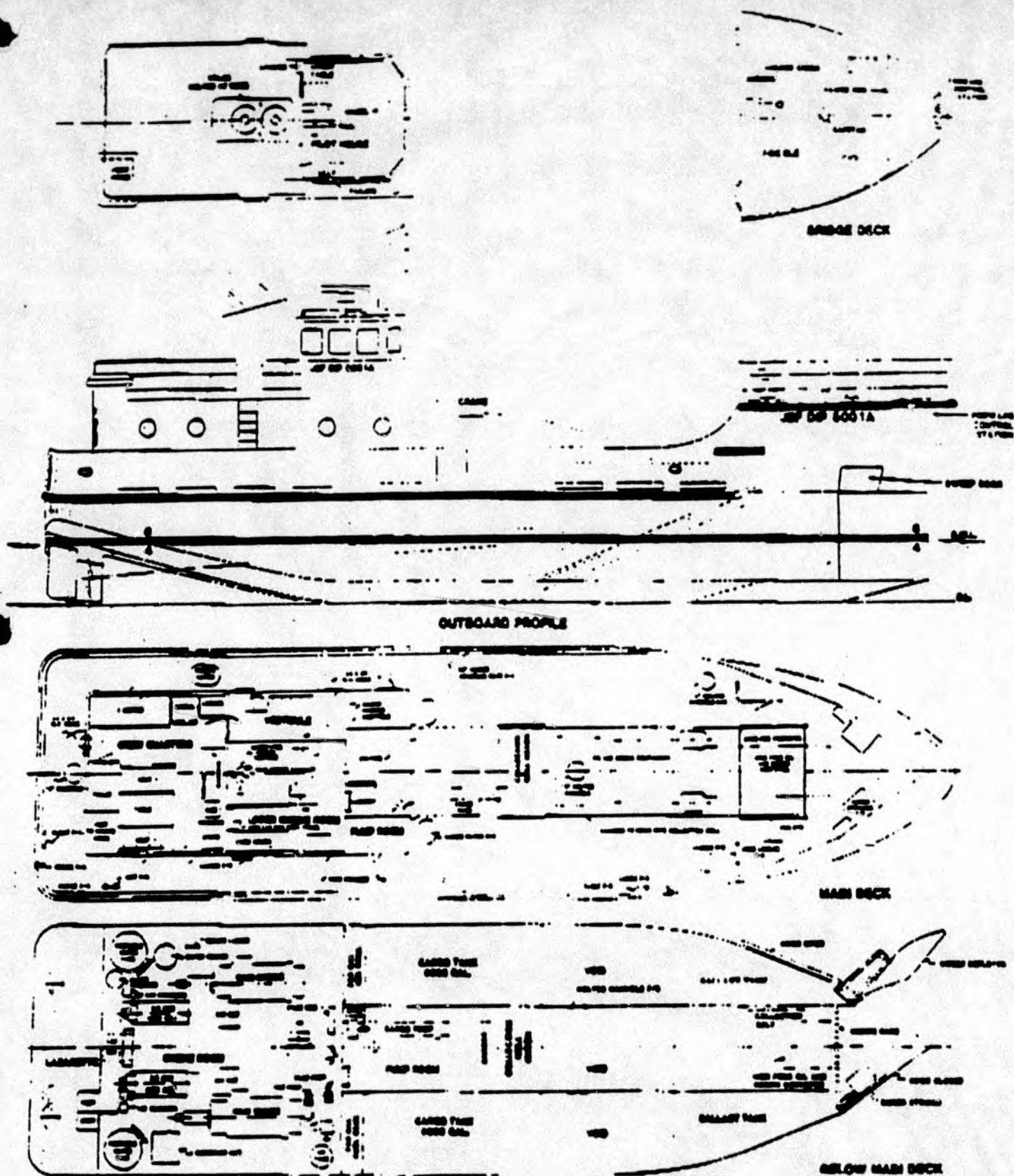


Figure 1-2. DIP 5001A Profile and Arrangements

EXHIBIT F

AT

RE: ALYESKA OIL SPILL EQUIPMENT

A REVIEW OF THE HISTORY OF OIL SPILLS AT THE VALDEZ TERMINAL LEADS THE COMMITTEE TO THE CONCLUSION THAT THE CURRENT STOCKPILE OF CLEAN UP EQUIPMENT IS ADEQUATE. FROM THAT CONCLUSION, THE MARINE SUBCOMMITTEE'S FIRST RECOMMENDATION SHOULD BE THAT THE CURRENT STOCKPILE OF EQUIPMENT MUST BE MAINTAINED TO THE HIGHEST STATE OF READINESS, AND SHOULD BE REPLACED WITH SIMILAR EQUIPMENT AS AND WHEN APPROPRIATE. PRIOR TO ANY ACTUAL EQUIPMENT RENEWALS, A CAREFUL REVIEW OF ALL TECHNOLOGICAL IMPROVEMENTS SHOULD BE UNDERTAKEN. APPROPRIATE REPLACEMENT EQUIPMENT SHOULD THEN MEET BEST AVAILABLE TECHNOLOGY STANDARDS.

WHILE THE ISSUE OF WHETHER A SPILL IS MORE LIKELY TO OCCUR AS A RESULT OF EITHER A COLLISION OR STRANDING IS A VEXING ONE. IT IS QUITE CLEAR THAT A DIFFERENT TYPE OF CLEAN UP EQUIPMENT WOULD BE REQUIRED IN EITHER CASE.

IT IS NOT UNREASONABLE TO ASSUME THAT ANY COLLISION LIKELY TO RESULT IN AN OIL SPILL WOULD MOST PROBABLY OCCUR IN MID-CHANNEL AND, THEREFORE, BE IN RELATIVELY OPEN WATER. WHEREAS A STRANDING BY DEFINITION WOULD PROBABLY BE ON A LEE SHORE, WHERE EQUIPMENT DESIGNED PRINCIPALLY FOR OPEN WATER WOULD BE OF LIMITED VALUE. THEREFORE, THE MARINE SUBCOMMITTEE'S SECOND RECOMMENDATION SHOULD BE THAT ANY ADDITIONAL EQUIPMENT PURCHASED BY ALYESKA FOR THE PURPOSE OF ENHANCING SPILL RESPONSE AVAILABILITY IN PRINCE WILLIAM SOUND SHOULD BE OF THE TYPE BEST SUITED FOR NEAR SHORE AND BEACH OPERATIONS.

CONSIDERING THE LACK OF REAL BEACH THROUGHOUT PRINCE WILLIAM SOUND, THE NEED FOR A STABLE WORKING PLATFORM AND FLOATING STORAGE FOR RECOVERED MATERIAL MAKES THE ACQUISITION OF BARGE WITH SUBSTANTIAL DECK SPACE AND TANK VOLUME A PRIORITY. AGAIN, BECAUSE THE CLEAN UP ACTIVITY IS LIKELY TO BE CLOSE INSHORE WITHOUT A BEACH, WORK BOATS MOUNTED ON THE BARGE WILL BE REQUIRED FOR DEPLOYING BOOMS AND SKIMMERS, ETC.

THE MARINE SUBCOMMITTEE'S THIRD RECOMMENDATION SHOULD BE THAT A BARGE (50-100 FEET) OUTFITTED WITH VARIOUS LENGTHS AND TYPE OF BOOM (INCLUDING OPEN WATER BOOM), SKIMMERS (LARGE, SMALL AND VISCOUS), CRANE AND WORKABOUTS BE ACQUIRED. DEPLOYMENT AND/OR PRE-STAGING OF THE BARGE ARE REALLY SEPARATE ISSUES, BUT ISSUES THAT SHOULD BE ADDRESSED AT THIS TIME IF A PURCHASED BARGE IS TO BE EFFECTIVE. OUR FOURTH RECOMMENDATION SHOULD BE THAT ALYESKA UNDERTAKE A STUDY OF THE BEST AND QUICKEST METHODS OF MOVING THE BARGE AROUND AND WHETHER THE BARGE SHOULD BE PRE-DEPLOYED IN A SAFE COVE SOMEWHERE BETWEEN ROCKY POINT AND THE NARROWS. THE STUDY SHOULD ALSO DETERMINE WHETHER OR NOT PERSONNEL FROM MIDDLE ROCK, INC. (THE PILOT BOAT SERVICE) COULD BE EFFECTIVELY AND ECONOMICALLY EMPLOYED IN MAINTAINING THE PRE-DEPLOYED BARGE.

THE IMPORTANCE OF CHEMICAL DISPERSANTS SHOULD NOT BE IGNORED AND THE SUBCOMMITTEE'S FINAL RECOMMENDATION SHOULD BE THAT ALYESKA, AIDED BY THE OWNER COMPANY'S AS APPROPRIATE, CONTINUE TO PRESS STATE AND FEDERAL AUTHORITIES FOR PRE-APPROVAL TO USE CHEMICALS ON A WIDE SPREAD BASIS. THE OWNERS COMMITTEE HAS APPROVED THE PURCHASE OF AN ADDS PACK AND DISPERSANTS CONTINGENT ON OBTAINING STATE AND FEDERAL PRE-APPROVAL.

I BELIEVE THE FOREGOING REPRESENTS AN ACCEPTABLE COMPROMISE OF THE SLIGHTLY DIFFERING VIEWS EXPRESSED BY THE TASK GROUP MEMBERS. THE OPERATIONS COMMITTEE IS DUE TO MEET ON JULY 6 AND THEREFORE I WOULD APPRECIATE YOUR ADVISING ME BY TELEX, COPIED TO THEO POLASEK (TELEX: 09025127 -- ANSWER BACK; TRANSPICEANG) AT ALYESKA, NO LATER THAN JULY 5 THAT YOUR COMPANY CAN SUPPORT ALL FIVE RECOMMENDATIONS.

ROGER A. GALE
MANAGER, MARINE OPERATIONS
SOMIO OIL, CLEVELAND

CC: F. G. GARIBALDI
J. P. G. CROXSON

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ROGER A. GALE
SOMIO OIL.
CLEVELAND, OHIO

MSG NBR 016

EXHIBIT G

REF: YOUR TELEX 6/30/88 - ALYESKA OIL SPILL EQUIPMENT

ARCO MARINE, INC. DOES NOT AGREE WITH THIS TELEX NOR DO WE CONCUR THAT THIS REPRESENTS THE THOUGHTS OF THE SUB-COMMITTEE.

AT THE OWNERS COMMITTEE MEETING IN PHOENIX, IT WAS DECIDED THAT ALYESKA WOULD PROVIDE IMMEDIATE RESPONSE TO OIL SPILLS IN VALDEZ ARM AND VALDEZ NARROWS ONLY. FURTHER EFFORTS IN THE PRINCE WILLIAM SOUND WOULD BE LIMITED TO THE USE OF DISPERSANTS AND ANY ADDITIONAL EFFORT WOULD BE THE RESPONSIBILITY OF THE SPILLER. THE DELAY IN PURCHASING THE AODS PACK IS INEXCUSABLE; NO FURTHER APPROVAL WAS REQUIRED.

THE OWNERS ALSO DIRECTED ALYESKA TO REVIEW ITS ADMINISTRATIVE AND EQUIPMENT PLANS TO MEET THE INITIAL RESPONSE. IN OUR OPINION THE ADMINISTRATIVE PLAN MEETS ALL CRITERIA FOR A SUCCESSFUL CLEANUP. ON THE OTHER HAND, THE FINDINGS WERE THAT SOME ADDITIONAL EQUIPMENT WAS NEEDED TO MEET THE INITIAL NEEDS OF SPILL CLEANUP, IN PARTICULAR ADDITIONAL LARGER WORK BOATS. ALYESKA HAS REVIEWED THEIR EQUIPMENT NEEDS AND SUBMITTED A PROPOSAL. ARCO MARINE, INC. SUPPORTS ALYESKA'S RECOMMENDATION AND NOT THOSE AS OUTLINED IN THE TELEX.

STANLEY FACTOR,
VICE PRESIDENT, CHARTERING & EVALUATIONS
ARCO MARINE, INC.

CC: THEO POLASEK

ARCOMAR 5-LGB

TRANSPIPE AHG

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MEMORANDUM

TO: The Cabinet
All Administrative
Services Directors

DATE: April 20, 1989

Special Staff Assistants
Regional Offices
Office of the Governor

PHONE: 465-3616

FROM: Mike Nizich *MN*
Director, Division of
Administrative Services
Office of the Governor

SUBJECT: Valdez Oil
Spill Expense
Reimbursement
Agreement

Attached is a copy of the Expense Reimbursement Agreement reached by Exxon Shipping Company and the State of Alaska during the April 18 meeting in Juneau. All agencies are to follow the expense submission procedures outlined in my April 3 memo. All agencies reimbursement and direct payment claims are to be submitted through the Office of the Governor, Division of Administrative Services. The only agency exception to this routing process is the Department of Environmental Conservation.

Again, claims to be submitted are for those expenses directly related to mitigating the effects of the oil spill. As stated in paragraph one of the agreement, consequential damage claims will be addressed at a future date.

Any equipment that is purchased for oil spill clean-up and reimbursed for or paid by Exxon is the property of Exxon. All agencies must be able to identify such equipment for future return to Exxon. In order to avoid possible repayment to Exxon for lost equipment, please ensure that detailed property inventories are maintained.

April 20, 1989

As paragraph three of the Expense Reimbursement Agreement specifies, Exxon has agreed to process claims within 10 days of their receipt of the documentation. Any claims that are rejected by Exxon will be scrutinized by DEC for payment from their Oil and Hazardous Substance Release Response Fund. Exxon rejected claims that do not meet the criteria for payment from DEC's fund will be returned to the originating agency. Agencies are responsible for maintaining complete records of their rejected claims. The Department of Law will request those records at a later date for litigation purposes.

Please call me if you have any questions or need assistance.

cc: Garrey Peska

Attachments

ACE 153801

STATE OF ALASKA - EXXON SHIPPING COMPANY
EXPENSE REIMBURSEMENT AGREEMENT

The State of Alaska and Exxon Company U.S.A. (a division of Exxon Corporation) as contractor for Exxon Shipping Company, agree to the following:

1. The State of Alaska ("State") may submit invoices to Exxon Shipping Company ("Exxon") as the State incurs expenses, debts, or obligations of any type, except damage assessment expenses (collectively "invoices") due to the oil spill from the M/V EXXON VALDEZ.

2. The State may submit invoices to Exxon for direct payment to the vendor, or the State may pay the vendor or use operating funds and seek reimbursement from Exxon by filing an invoice with Exxon. "Vendor" as used here includes, without limitation, any administrative agency of the State as well as any political subdivision of the State. Subject to the terms of this agreement, overhead will be payable on an incremental cost basis as described in paragraph 8 of the "Procedures For Payments/Accounting" which is attached as Exhibit A.

3. Exxon agrees that it will, within ten (10) days from the date Exxon receives an invoice from the State, either: a) pay the invoice directly to the vendor identified by the State, if the State has not paid the invoice; b) reimburse the State, if the State has already paid the invoice; or c) notify the State that Exxon will not pay the invoice. Exxon agrees that it will process all invoices pursuant to the "Procedures For Payments/Accounting" which is attached as Exhibit A.

4. By entering into this agreement, the State does not waive, release or acknowledge satisfaction of any claim or cause of action it may have against Exxon or any other party for penalties, civil assessments, damages or costs attributable to the oil spill from the M/V EXXON VALDEZ. The State specifically reserves the right to bring any action, civil or criminal, it may have against Exxon or any other party. The State agrees that it will not include any invoice paid by Exxon under this agreement as part of any future claim or demand on Exxon.

5. By entering into this agreement, Exxon does not admit any violation of law nor does it admit liability for any penalties, civil assessments, damages or costs attributable to the M/V EXXON VALDEZ oil spill or obligate itself to pay any invoices submitted by the State. However, Exxon is obligating itself to process all such invoices submitted by the State hereunder in accordance with this agreement.

6. The State agrees that Exxon may audit the State's contracts, records and other documentation (including the State's vendors' records and documentation) associated with any expense or invoice which Exxon pays directly or for which Exxon reimburses the State. In the event that such an audit determines that Exxon has overpaid a third party vendor, the State will assist Exxon's efforts to seek recovery from the vendor, including assigning or subrogating its contractual

rights against third party vendors to Exxon to allow Exxon to identify and recover any overpayment; provided, however, that the State is not obligated to bring suit in its own name against any third party vendor. In light of the State's agreement to assist, Exxon agrees that it will not seek reimbursement from the State for any third party vendor overpayment. Exxon and the State agree to expend their best efforts to resolve by mutual agreement any overpayments made to reimburse the State's own expenses that may be revealed by audits conducted pursuant to this paragraph.

7. In the event that a court or other judicial or administrative body should determine that Exxon was not liable for any penalties, civil assessments, damages, or costs attributable to the M/V EXXON VALDEZ oil spill, Exxon's right to recover from the State or its vendors funds paid pursuant to this agreement shall be limited to that specified in paragraph six above.

8. This agreement shall be executed in two counterparts, each of which shall be an original, but both of which when taken together shall constitute one and the same instrument.

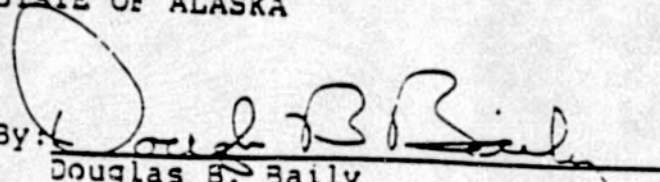
Dated: _____

EXXON COMPANY U.S.A. (A DIVISION OF
EXXON CORPORATION) AS A CONTRACTOR
FOR EXXON SHIPPING COMPANY

By: _____

Dated: April 21 1989

STATE OF ALASKA

By: 
Douglas S. Bailly
Attorney General

2697n

*State/ Exxon Shipping Co Expense :
Reimbursement Agreement.*

Exhibit A to Expense Reimbursement Agreement

PROCEDURES FOR PAYMENTS/ACCOUNTING
FOR THE STATE OF ALASKA'S RESPONSE
EXPENSES FOR THE M/V EXXON VALDEZ OIL SPILL

Expenses incurred by the State of Alaska as a result of the M/V EXXON VALDEZ oil spill will be processed by Exxon pursuant to the terms of the Expense Reimbursement Agreement. Exxon and the State agree to devise an accounting and payment process which promptly pays or reimburses State expenditures and which is consistent with the accounting processes of both Exxon and the State. Therefore, a Joint Financial Response Coordination Group is formed to ensure expeditious processing of invoices for State and vendors' expenditures (as defined in the Expense Reimbursement Agreement) incurred as a result of the M/V EXXON VALDEZ oil spill.

The Financial Response Coordination Group will consist of State and Exxon personnel organized to account for, process, and pay these expenditures. Participation of personnel from both organizations will: (1) facilitate prompt payments; (2) eliminate duplicate processing of documents, to the extent possible; and (3) minimize disputed costs. Further, the coordination during document processing will provide easy access, for both parties, to the appropriate decision level for items in question.

The Financial Response Coordination Group ("FRCG") will

conduct operations to account for, process, and pay for invoices for State and vendors oil spill expenditures as follows:

1. The State and Exxon will be responsible for supervising the FRCG. The FRCG will consist of Exxon's Accounting and Control Manager in Valdez and the State's representatives.
2. Exxon will provide the staff necessary to account for and process the invoices submitted by the State, as well as all materials, equipment and supplies needed to perform this accounting, review and payment process.
3. All State requests for payment will be submitted by the State's representative to the FRCG for review and processing.
4. Processing will include supporting payment or reimbursement requests by appropriate documentation such as invoices, contracts, purchase authorizations, personnel documentation, appropriate State approval for the expenditure being reviewed, or other substantiation linking the expenditure to the State oil spill response.
5. Because of the unusual nature and magnitude of the emergency that precipitated State expenditures, it has not always been possible to follow normal procurement procedures for all expenditures and obligations.

Therefore, documentation of approval by an appropriate State official, along with an invoice, will serve as adequate support for submission of items procured by means other than normal procedures. Additional State approvals may be obtained during this review and processing period. However, nothing in this paragraph shall preclude Exxon from conducting audits pursuant to paragraph six of the Expense Reimbursement Agreement.

6. Exxon may request additional justification from the State during this review and processing period. If, after appropriate decision levels have been contacted, Exxon still has objections regarding an expenditure, the amount in question will be placed in an "Adjust and Hold" status. Under these circumstances, the State may pay the expenditure and the State reserves the right to assert the expense as a claim against Exxon or any other party at a later date, pursuant to the terms of the Expense Reimbursement Agreement. Nothing in this paragraph shall preclude Exxon from making partial payment on an invoice and reserving the balance for the Adjust and Hold status.
7. Exxon and the State will develop a spreadsheet to track expenditure review information. This spreadsheet will address all payment and cost

information data specified by both Exxon and the State. The spreadsheet shall include, but is not limited to, the following:

- A. Invoice information
 - 1. Log-in date
 - 2. Invoice date
 - 3. Vendor
 - 4. Payee
 - a. Vendor
 - b. State
 - 5. Invoice number
 - 6. Review responsibility
 - 7. Invoice amount
- B. Review results
 - 1. Review date
 - 2. Adjust and hold
 - 3. Amount payable
- C. Payment information
 - 1. Exception amount
 - 2. Total paid
 - 3. Exxon check number
 - 4. Check date

It is recognized that the FRCG may change the specific format of the spreadsheet from time to time, but the spreadsheet shall as a minimum contain the above information.

8. Pursuant to the terms of the Expense Reimbursement Agreement, the State may submit for reimbursement invoices for reasonable overhead costs incurred as a result of the M/V EXXON VALDEZ oil spill. For the purposes of this agreement, "overhead costs" are defined as those costs incremental to normal State operations such as overtime, temporary personnel, office equipment and supplies, travel expenses, or other out of pocket expenditures which were directly related to the oil spill.
9. Exxon shall promptly review and process payment for invoices submitted by the State in no more than 10 days from the day the invoice is received by Exxon.
10. Exxon will make expeditious payment upon State invoices, as requested by the State, by either direct payment to the vendor or the State, or by wire transfer to the First Pennsylvania Bank, Philadelphia, Pennsylvania, ABA # 031000024 (attention: Catherine Jacobs) for credit to the State of Alaska account # 881-462-6.
11. Exxon will, on a daily basis, print a hard copy of the spreadsheet described in paragraph 7 above. Exxon will on a daily basis: provide two copies of the spreadsheet to the Department of Environmental

Conservation, Valdez, Alaska; and maintain one copy at
Exxon's Valdez office.

Acknowledged:

By: *[Signature]*

Date: *April 21, 1989*

By: _____

Date: _____

2680n

Exhibit "A" to State of Alaska/Exxon Shipping Co.
Expense Reimbursement Agreement

**THORGRIMSON
SHIDLER
GATES & ELLIS**

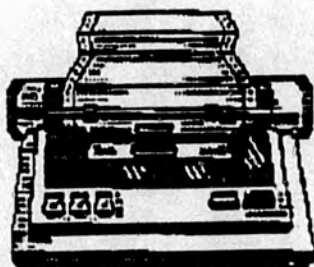
ATTORNEYS AT LAW

F. 175
SUITE 400
420 L STREET
ANCHORAGE, AK 99501-1907
TELEPHONE: (907) 276-1969
FACSIMILE: (907) 276-1365**TELECOPY COVER LETTER**TO: Charles ColeAT: Dept. of Law, JuneauTELECOPY NO: 907-463-5295FROM: Craig Tillery and Joe DonohueDATE: April 11, 1991 TIME: 5:45

FACSIMILE NO: (907) 276-1365

Total Number of Pages (Including cover letter): 5

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COMMENTS: This is the best copy we
could find.

REFERENCE NO: _____

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MEMORANDUM OF AGREEMENT

AMONG

**EXXON SHIPPING COMPANY, THE STATE OF ALASKA
AND THE UNITED STATES ACTING BY AND THROUGH
THE DEPARTMENT OF AGRICULTURE,
THE DEPARTMENT OF THE INTERIOR, AND
THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OF
THE DEPARTMENT OF COMMERCE**

This agreement by and between EXXON SHIPPING COMPANY (EXXON) and the State of Alaska, the United States Department of Agriculture, the United States Department of the Interior, and the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce (hereinafter referred to as Trustees), is entered into in recognition of the common interest of the Trustees in the determination of the likely costs or expenses necessary to be incurred for restoration, replacement, or loss of use of natural resources damaged or destroyed as a result of the discharge of oil from the tanker Exxon Valdez which resulted from its grounding on March 24, 1989, and the need to provide immediate funding to the Trustees to conduct such activities.

I. INTRODUCTION

On March 24, 1989, the tanker Exxon Valdez struck Bligh Reef in Prince William Sound, approximately 25 miles from Valdez, Alaska. The tanker was grounded and its hull damaged. As a result, a quantity of crude oil was released from the vessel into the waters of Prince William Sound.

II. SCOPE

This agreement provides the terms by which Exxon agrees to provide \$15 million to fund the activities which the Trustees undertake, through the efforts of their own personnel, contractors, and any other participant under the direction and

3

use of natural resources, or any other causes of action or requests for relief, either administratively or judicially, as well as any criminal liability, or any claims, causes of action, or requests for relief in admiralty, arising from the oil released from the tanker Exxon Valdez. Payment by Exxon will not be deducted from nor applied to any liability Exxon may otherwise have.

B. Nothing in this agreement is intended or shall be construed to be an admission by Exxon or by the Trustees in any dispute or action between the parties to this agreement or between Exxon or the Trustees and a third party. Nothing in this agreement is intended or shall be construed as a waiver by Exxon or the Trustees of any defenses in any subsequent legal action, or of any other rights or remedies.

VI. NATURAL RESOURCE DAMAGE ASSESSMENT PLAN

The Trustees shall prepare and implement a plan of study to assess the likely costs or expenses to be incurred for restoration, replacement or loss of use of natural resources. The Trustees will not have a firm estimate of the cost of the assessment until the Plan is completed. The Plan shall identify and document the use of the scientific and economic methodologies to study short- and long-term impacts that are intended to be used during the assessment. Exxon shall be given an opportunity to participate in the development of the Plan consistent with the provisions of 43 C.F.R. § 11.32.

VII. INITIAL DISBURSEMENT

A. Exxon independently covenants to pay \$15 million to the Trustees. Exxon shall within three (3) working days of the execution of this agreement provide \$8.5 million in immediately available funds to the Trustees which will be deposited into an appropriate account in the United States Treasury, which account the Trustees shall designate, for the Trustees' use to reimburse and fund natural resource damage assessment activities. Upon receipt of these funds by the Trustees, \$2 million will be available to each Trustee for use in activities in connection with the assessment of the likely costs or expenses to be incurred for restoration, replacement, or loss of use of natural resources affected by the oil released from the tanker Exxon Valdez. The initial disbursement does not reflect the respective obligation of the Trustees, nor does it prejudice the manner of future disbursements to be agreed upon by the Trustees.

ACE 11516

CORRECTION

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

ACE
COPY

MEMORANDUM OF AGREEMENT

AMONG

**EXXON SHIPPING COMPANY, THE STATE OF ALASKA
AND THE UNITED STATES ACTING BY AND THROUGH
THE DEPARTMENT OF AGRICULTURE,
THE DEPARTMENT OF THE INTERIOR, AND
THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OF
THE DEPARTMENT OF COMMERCE**

This agreement by and between the EXXON SHIPPING COMPANY (EXXON) and the State of Alaska, the United States Department of Agriculture, the United States Department of the Interior, and the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce (hereinafter referred to as Trustees), is entered into in recognition of the common interest of the Trustees in the determination of the likely costs or expenses necessary to be incurred for restoration, replacement, or loss of use of natural resources damaged or destroyed as a result of the discharge of oil from the tanker Exxon Valdez which resulted from its grounding on March 24, 1989, and the need to provide immediate funding to the Trustees to conduct such activities.

I. INTRODUCTION

On March 24, 1989, the tanker Exxon Valdez struck Bligh Reef in Prince William Sound, approximately 25 miles from Valdez, Alaska. The tanker was grounded and its hull damaged. As a result, a quantity of crude oil was released from the vessel into the waters of Prince William Sound.

II. SCOPE

This agreement provides the terms by which Exxon agrees to provide \$15 million to fund the activities which the Trustees undertake, through the efforts of their own personnel, contractors, and any other participant under the direction and

ACE 11514

3

control of the Trustees, or through other Federal or state government agencies, in association with the assessment of costs or expenses for restoration, replacement, or loss of use of natural resources affected by the oil released from the tanker Exxon Valdez.

III. AUTHORITIES

This agreement is entered into in connection with the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.; Executive Order 12580 of January 23, 1987, 52 Fed. Reg. 2923 (January 29, 1987); 40 C.F.R. Part 300, Subpart G. (1988); and 15 U.S.C. §§ 1525 and 1526. Monies provided by Exxon under this agreement are being paid for purposes described herein. The following officials or their designees act on behalf of the public as state and Federal Trustees for natural resources affected by the oil released from the tanker Exxon Valdez:

- the Commissioner for the Department of Fish and Game, acting on behalf of the Governor of the State of Alaska,
- the Secretary of Agriculture,
- the Secretary of the Interior, and
- the Under Secretary for Oceans and Atmosphere, Administrator of the National Oceanic and Atmospheric Administration, acting on behalf of the Secretary of Commerce.

IV. PARTIES BOUND

The provisions of this agreement shall apply to and be binding upon the parties to this agreement, their agents, successors, and assigns.

V. RESERVATION OF RIGHTS

A. Exxon is not hereby released from any potential civil liability, including but not limited to claims for restoration, replacement, or loss of use of natural resources, claims for costs for assessments for restoration, replacement, or loss of

ACE 11515

use of natural resources, or any other causes of action or requests for relief, either administratively or judicially, as well as any criminal liability, or any claims, causes of action, or requests for relief in admiralty, arising from the oil released from the tanker Exxon Valdez. Payment by Exxon will not be deducted from nor applied to any liability Exxon may otherwise have.

B. Nothing in this agreement is intended or shall be construed to be an admission by Exxon or by the Trustees in any dispute or action between the parties to this agreement or between Exxon or the Trustees and a third party. Nothing in this agreement is intended or shall be construed as a waiver by Exxon or the Trustees of any defenses in any subsequent legal action, or of any other rights or remedies.

VI. NATURAL RESOURCE DAMAGE ASSESSMENT PLAN

The Trustees shall prepare and implement a plan of study to assess the likely costs or expenses to be incurred for restoration, replacement or loss of use of natural resources. The Trustees will not have a firm estimate of the cost of the assessment until the Plan is completed. The Plan shall identify and document the use of the scientific and economic methodologies to study short- and long-term impacts that are intended to be used during the assessment. Exxon shall be given an opportunity to participate in the development of the Plan consistent with the provisions of 43 C.F.R. § 11.32.

VII. INITIAL DISBURSEMENT

A. Exxon independently covenants to pay \$15 million to the Trustees. Exxon shall within three (3) working days of the execution of this agreement provide \$8.5 million in immediately available funds to the Trustees which will be deposited into an appropriate account in the United States Treasury, which account the Trustees shall designate, for the Trustees' use to reimburse and fund natural resource damage assessment activities. Upon receipt of these funds by the Trustees, \$2 million will be available to each Trustee for use in activities in connection with the assessment of the likely costs or expenses to be incurred for restoration, replacement, or loss of use of natural resources affected by the oil released from the tanker Exxon Valdez. The initial disbursement does not reflect the respective obligation of the Trustees, nor does it prejudice the manner of future disbursements to be agreed upon by the Trustees.

B. The remaining \$6.5 million shall be provided by Exxon in \$1 million increments to reimburse the designated United States Treasury account within five (5) days of receipt of notice by the Trustees or the lead Trustee that balance of said account has been depleted to less than \$0.3 million. Nothing shall release Exxon of the independent obligation to pay \$15 million under the terms of this Section.

VIII. ADDITIONAL DISBURSEMENTS

In the event that expenses for the natural resource damage assessment exceed the initial \$15 million provided pursuant to Section VII, the Trustees will request that Exxon provide additional funds to the above account. The parties recognize that additional funds may be necessary to complete the damage assessment. Exxon agrees to give any such request its prompt consideration, but is not bound to act favorably upon such request by the terms of this agreement.

IX. EXCESS DISBURSEMENTS

If the funds provided by Exxon under Sections VII and VIII exceed the actual cost of conducting the natural resource damage assessment, then such excess shall be credited toward Exxon's responsibility for replacement or restoration of the natural resources which are affected by the released oil from the tanker Exxon Valdez. Exxon's agreement to this Section is not an admission and does not contravene Section V. B.

IX. GENERAL

A. This agreement in no way affects or relieves Exxon of its responsibility to comply with any applicable Federal, state, or local law, regulation, or permit.

B. Information disclosure requests made to any Trustee shall be governed by applicable Federal and state laws and regulations.

C. It is the intent of the parties that the clauses of this agreement are severable, and should any part of this agreement be declared by a court of competent jurisdiction to be invalid, the other parts of this agreement shall remain in full force and effect.

X. MODIFICATION

Any modification of this agreement shall be in writing, executed by all the parties.

This agreement can be executed in one or more counterparts, all of which shall be considered the original document.

IN WITNESS WHEREOF, the parties hereto have hereunto signed this agreement on the day and year appearing opposite their signatures.

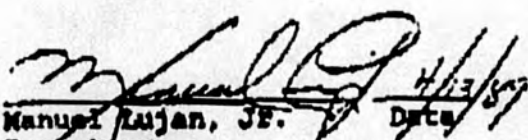
EXXON:

Frank J. Iarossi Date
President
Exxon Shipping Co.

TRUSTEES:

Don W. Collinsworth Date
Commissioner
Department of Fish and Game,
State of Alaska

Clayton E. Yautter Date
Secretary
United States Department
of Agriculture



Manuel Lujan, Jr. Date
Secretary
United States Department
of the Interior

William E. Evans Date
Under Secretary for Oceans
and Atmosphere, Administrator
of the National Oceanic and
Atmospheric Administration,
United States Department of
Commerce

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CASES FILED AGAINST THE STATE

- | | | |
|-----|--|-------------|
| 1. | Daniel De Nardo v. Exxon | 3AN-91-2256 |
| 2. | Laura M. Schafer v. Exxon | 3AN-91-2275 |
| 3. | Howard H. Winkelmann v. Exxon | 3AN-91-2276 |
| 4. | W. Findlay Abbott v. Exxon | 3AN-91-2280 |
| 5. | Molitor, v. Exxon | 3AN-91-2327 |
| 6. | Don Marino v. Exxon | 3AN-91-2328 |
| 7. | The Native Village of Chenega Bay,
v. State of Alaska | 3AN-91-2344 |
| 8. | Jerald D. Eidem, v. Exxon | 3AN-91-2356 |
| 9. | Michael M. Bullock, v. Exxon | 3AN-91-2368 |
| 10. | Chugach Alaska Corporation,
v. State of Alaska | 3AN-91-2405 |
| 11. | Robert W. Musser v. Exxon | 3AN-91-2429 |
| 12. | CI Seafood, Inc. v. Exxon | 3AN-91-2440 |
| 13. | Donald W. Johnson, v. Exxon | 3AN-91-2463 |
| 14. | Mark Chandler, v. Exxon | 3AN-91-2464 |
| 15. | David P. Harville, v. Exxon | 3AN-91-2465 |
| 16. | Todd B. Adams v. Exxon | 3AN-91-2466 |
| 17. | Joseph Wade Banta v. Exxon | 3AN-91-2467 |

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Our Fax Number: (907) 278-7022

FAX TRANSMITTAL LETTER

THE INFORMATION CONTAINED IN THIS FAX IS CONFIDENTIAL AND/OR PRIVILEGED. THIS FAX IS INTENDED TO BE REVIEWED INITIALLY BY ONLY THE INDIVIDUAL NAMED BELOW. IF THE READER OF THIS TRANSMITTAL PAGE IS NOT THE INTENDED RECIPIENT OR A REPRESENTATIVE OF THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, DISSEMINATION OR COPYING OF THIS FAX OR THE INFORMATION CONTAINED HEREIN IS PROHIBITED. IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE AND RETURN THIS FAX TO THE SENDER AT THE ABOVE ADDRESS. THANK YOU.

WALTER J. HICKEL, GOVERNOR

REPLY TO: NEW ANCHORAGE
PHONE: (907) 278-5100

☒ 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1984
PHONE: (907) 278-3580
FAX: (907) 278-3697

☐ KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1588
FAX: (907) 456-1317

☐ P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Charles E. Cole

LOCATION: AGO - Juneau

FAX NUMBER: 463.5295

TOTAL NUMBER OF PAGES 14 INCLUDING COVER LETTER.

COMMENTS: DELIVER DIRECTLY TO CHARLIE COLE

Attached is the copy of the (1) dollars/gallon demand letter and
(2) Exxon-State reimbursement agreement. I am still looking for documentation.

DATE SENT: 4/11/91

TIME: 4:43 p.m.

FROM: Craig J. Tilley
Assistant Attorney General - Anchorage

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL:

bonita nipper or Mary Deaver at (907) 269-5274.

relating to the April, 1989 ~~Exxon~~ reimbursement by Exxon
to the trustee for damage assessment (see MORA at Article X)

P. 2/14
COPY**STATE OF ALASKA****STEVE COWPER GOVERNOR****DEPARTMENT OF LAW****OFFICE OF THE ATTORNEY GENERAL**P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 485-3800

April 25, 1989

Mr. Frank Iarossi, President
Exxon Shipping Company
800 Bell Street
Houston, Texas 77002-7426

Re: T/V EXXON VALDEZ Oil Spill

Dear Mr. Iarossi:

I recently spoke with your counsel, Mr. Serdahely, concerning the oil spill and the future legal relations between the State of Alaska and Exxon. Obviously, both the state and Exxon have a mutual interest in avoiding expensive and protracted litigation in those areas where agreements may be reached. To that end, the state is pleased that the costs-billing arrangement with Exxon is moving forward. Moreover, the state hopes that it can, in the short term, reach agreement with Exxon on a determination of interim penalties and civil assessments, and, in the long term, a final resolution of all penalties, assessments, damages and restoration. I would like the proposal made in this letter to serve as the basis for the first, cooperative step towards achieving that goal.

The state is entitled to recover civil penalties under AS 46.03.758 for the discharge of oil from the T/V EXXON VALDEZ, without regard to fault and independent of other rights of action and theories of damages. Those penalties are calculated pursuant to Department of Environmental Conservation regulations which implement the statute, and which may be found at 18 AAC 75.500 - 18 AAC 75.570. The civil penalties scheme outlined in the regulations establishes a per gallon penalty based on the sensitivity of the receiving environment and toxicity, degradability, and dispersibility of the discharge. The "base" penalty thus calculated is subject to a multiplier for,

discharges of oil which are caused by the gross negligence or intentional act of the discharger, or when the court finds that the discharger did not take reasonable measures to contain and cleanup the discharged oil

.

AS 46.03.758(b)(2). A deduction is allowed for any oil removed from the environment under a prompt and proper cleanup operation. AS 46.03.758(f). I am proposing that Exxon make an interim pay-

ACE 1287327

Mr. Frank Iarossi, President
Exxon Shipping Company

April 25, 1989
Page 2

ment of the minimum base penalty likely to be assessed under the statute.

In order to establish that minimum base penalty, I have made certain assumptions which simplify calculations. I have assumed that 10,000,000 gallons of crude oil were spilled into a marine environment, that so far none of the oil has entered or will enter more sensitive freshwater environment, and that none of the oil has been or will be removed by Exxon. I have also assumed that the API gravity of the spilled crude is 27 degrees. Using those assumptions, the formula and resulting minimum base penalty I calculate is as follows:

$$\begin{aligned}
 & \$2.50/\text{Gallon} \\
 \times & 10,000,000 \text{ gallons} \\
 \times & (.675 + .555 + 0.5)/3 \text{ (toxicity,} \\
 & \text{degradability and dispersibility factors)} \\
 = & \$14,425,000.00 \text{ approximate minimum base} \\
 & \text{penalty}
 \end{aligned}$$

The regulatory basis for the formula is as follows:

$$\begin{aligned}
 \$2.50: & \text{Receiving environment per gallon factor.} \\
 & [18 \text{ AAC } 75.520(a)(1): 18 \text{ AAC } 75.570(1)] \\
 0.675: & \text{Toxicity factor.} \\
 & [18 \text{ AAC } 75.540(2)(D): \\
 & 18 \text{ AAC } 75.570(2)(A)(11)] \\
 0.555: & \text{Degradability factor.} \\
 & [18 \text{ AAC } 75.550(2)(D): \\
 & 18 \text{ AAC } 75.570(2)(B)(11)] \\
 0.5: & \text{Dispersibility factor.} \\
 & [18 \text{ AAC } 75.560(2)(D): \\
 & 18 \text{ AAC } 75.570(2)(C)(11)] \\
 27 \text{ (Assumed API} & \text{gravity)}/30: \text{Multiplier for toxicity.} \\
 & [18 \text{ AAC } 75.570(2)(A) \text{ and note}] \\
 30/27 \text{ (assumed} & \text{API gravity): Multiplier for degradability.} \\
 & [18 \text{ AAC } 75.570(2)(B) \text{ and note}]
 \end{aligned}$$

As with any other monies owed the state as a consequence of the spill, the total penalty, including the minimum

ACE 1287328

Mr. Frank Iarossi, President
Exxon Shipping Company

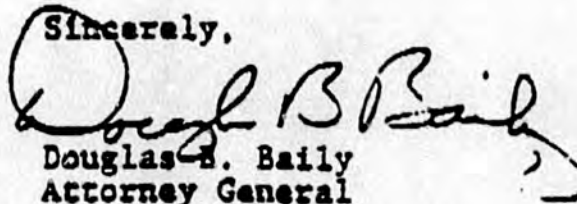
April 25, 1989
Page 3

base penalty, will accrue prejudgment interest under AS 45.45.010 at the statutory rate in effect while the money is due and owing, a rate now set at 10.5% per annum.

The state requests that your company make an immediate interim payment to the state for the minimum base penalty calculated above, with interest to date of payment, which would serve as a credit against any final sum Exxon will be determined to owe the state for damages and penalties. In requesting the payment, the state would not insist on an admission of liability or waiver of defenses on Exxon's part. The state reserves the right to recalculate the minimum base penalty as future investigation or events justify, and may alter the assumptions upon which the calculation is based. Further, the state expressly does not waive its right to pursue other remedies or penalties, including those penalties calculated using the multiplier under AS 46.03.-758(b)(2).

Immediate payment provides Exxon with at least three distinct advantages. It stops the accrual of substantial prejudgment interest on the base penalty portion of the total sums that will be owed to the state by Exxon under this statute. Second, it sends an early, clear signal from Exxon to the public, the Governor, the Alaska Legislature, Congress, and President Bush that Exxon is serious in its expressed acceptance of an element of responsibility for the consequences of the oil spill. Finally, it will be an important, first step on the difficult road of avoiding protracted litigation between the state and Exxon, enabling both parties to direct their immediate, cooperative efforts to cleaning up the spill, aiding the affected communities and people, and restoring Prince William Sound to its former pristine condition.

Sincerely,



Douglas B. Bailly
Attorney General

DBB/lg

cc: Douglas J. Serdahely, Esq.
John F. Clough, Esq.

ACE 1287329

**STATE OF ALASKA - EXXON SHIPPING COMPANY
EXPENSE REIMBURSEMENT AGREEMENT**

The State of Alaska and Exxon Company U.S.A. (a division of Exxon Corporation) as contractor for Exxon Shipping Company, agree to the following:

1. The State of Alaska ("State") may submit invoices to Exxon Shipping Company ("Exxon") as the State incurs expenses, debts, or obligations of any type, except damage assessment expenses (collectively "invoices") due to the oil spill from the M/V EXXON VALDEZ.

2. The State may submit invoices to Exxon for direct payment to the vendor, or the State may pay the vendor or use operating funds and seek reimbursement from Exxon by filing an invoice with Exxon. "Vendor" as used here includes, without limitation, any administrative agency of the State as well as any political subdivision of the State. Subject to the terms of this agreement, overhead will be payable on an incremental cost basis as described in paragraph 8 of the "Procedures For Payments/Accounting" which is attached as Exhibit A.

3. Exxon agrees that it will, within ten (10) days from the date Exxon receives an invoice from the State, either: a) pay the invoice directly to the vendor identified by the State, if the State has not paid the invoice; b) reimburse the State, if the State has already paid the invoice; or c) notify the State that Exxon will not pay the invoice. Exxon agrees that it will process all invoices pursuant to the "Procedures For Payments/Accounting" which is attached as Exhibit A.

4. By entering into this agreement, the State does not waive, release or acknowledge satisfaction of any claim or cause of action it may have against Exxon or any other party for penalties, civil assessments, damages or costs attributable to the oil spill from the M/V EXXON VALDEZ. The State specifically reserves the right to bring any action, civil or criminal, it may have against Exxon or any other party. The State agrees that it will not include any invoice paid by Exxon under this agreement as part of any future claim or demand on Exxon.

5. By entering into this agreement, Exxon does not admit any violation of law nor does it admit liability for any penalties, civil assessments, damages or costs attributable to the M/V EXXON VALDEZ oil spill or obligate itself to pay any invoices submitted by the State. However, Exxon is obligating itself to process all such invoices submitted by the State hereunder in accordance with this agreement.

6. The State agrees that Exxon may audit the State's contracts, records and other documentation (including the State's financial records and documentation) associated with any expense or invoice which Exxon pays directly or for which Exxon reimburses the State. In the event that such an audit determines that Exxon has overpaid a third party vendor, the State will assist Exxon's efforts to seek recovery from the vendor, including assigning or subrogating its contractual

rights against third party vendors to Exxon to allow Exxon to identify and recover any overpayment; provided, however, that the State is not obligated to bring suit in its own name against any third party vendor. In light of the State's agreement to assist, Exxon agrees that it will not seek reimbursement from the State for any third party vendor overpayment. Exxon and the State agree to expend their best efforts to resolve by mutual agreement any overpayments made to reimburse the State's own expenses that may be revealed by audits conducted pursuant to this paragraph.

7. In the event that a court or other judicial or administrative body should determine that Exxon was not liable for any penalties, civil assessments, damages, or costs attributable to the M/V EXXON VALDEZ oil spill, Exxon's right to recover from the State or its vendors funds paid pursuant to this agreement shall be limited to that specified in paragraph six above.

8. This agreement shall be executed in two counterparts, each of which shall be an original, but both of which when taken together shall constitute one and the same instrument.

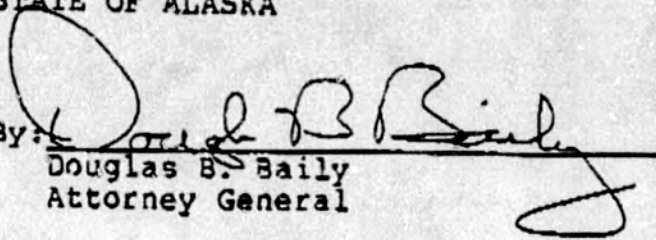
Dated: _____

EXXON COMPANY U.S.A. (A DIVISION OF
EXXON CORPORATION) AS A CONTRACTOR
FOR EXXON SHIPPING COMPANY

By: _____

Dated: April 21, 1989

STATE OF ALASKA

By: Douglas B. Baily
Attorney General

2697n

State/Exxon Shipping Co Expense
Reimbursement Agreement.

Exhibit A to Expense Reimbursement AgreementPROCEDURES FOR PAYMENTS/ACCOUNTING
FOR THE STATE OF ALASKA'S RESPONSE
EXPENSES FOR THE M/V EXXON VALDEZ OIL SPILL

Expenses incurred by the State of Alaska as a result of the M/V EXXON VALDEZ oil spill will be processed by Exxon pursuant to the terms of the Expense Reimbursement Agreement. Exxon and the State agree to devise an accounting and payment process which promptly pays or reimburses State expenditures and which is consistent with the accounting processes of both Exxon and the State. Therefore, a Joint Financial Response Coordination Group is formed to ensure expeditious processing of invoices for State and vendors' expenditures (as defined in the Expense Reimbursement Agreement) incurred as a result of the M/V EXXON VALDEZ oil spill.

The Financial Response Coordination Group will consist of State and Exxon personnel organized to account for, process, and pay these expenditures. Participation of personnel from both organizations will: (1) facilitate prompt payments; (2) eliminate duplicate processing of documents, to the extent possible; and (3) minimize disputed costs. Further, the coordination during document processing will provide easy access, for both parties, to the appropriate decision level for items in question.

The Financial Response Coordination Group ("FRCG") will

conduct operations to account for, process, and pay for invoices for State and vendors oil spill expenditures as follows:

1. The State and Exxon will be responsible for supervising the FRCG. The FRCG will consist of Exxon's Accounting and Control Manager in Valdez and the State's representatives.
2. Exxon will provide the staff necessary to account for and process the invoices submitted by the State, as well as all materials, equipment and supplies needed to perform this accounting, review and payment process.
3. All State requests for payment will be submitted by the State's representative to the FRCG for review and processing.
4. Processing will include supporting payment or reimbursement requests by appropriate documentation such as invoices, contracts, purchase authorizations, personnel documentation, appropriate State approval for the expenditure being reviewed, or other substantiation linking the expenditure to the State oil spill response.
5. Because of the unusual nature and magnitude of the emergency that precipitated State expenditures, it has not always been possible to follow normal procurement procedures for all expenditures and obligations.

Therefore, documentation of approval by an appropriate State official, along with an invoice, will serve as adequate support for submission of items procured by means other than normal procedures. Additional State approvals may be obtained during this review and processing period. However, nothing in this paragraph shall preclude Exxon from conducting audits pursuant to paragraph six of the Expense Reimbursement Agreement.

6. Exxon may request additional justification from the State during this review and processing period. If, after appropriate decision levels have been contacted, Exxon still has objections regarding an expenditure, the amount in question will be placed in an "Adjust and Hold" status. Under these circumstances, the State may pay the expenditure and the State reserves the right to assert the expense as a claim against Exxon or any other party at a later date, pursuant to the terms of the Expense Reimbursement Agreement. Nothing in this paragraph shall preclude Exxon from making partial payment on an invoice and reserving the balance for the Adjust and Hold status.
7. Exxon and the State will develop a spreadsheet to track expenditure review information. This spreadsheet will address all payment and cost

information data specified by both Exxon and the State. The spreadsheet shall include, but is not limited to, the following:

A. Invoice information

1. Log-in date
2. Invoice date
3. Vendor
4. Payee
 - a. Vendor
 - b. State
5. Invoice number
6. Review responsibility
7. Invoice amount

B. Review results

1. Review date
2. Adjust and hold
3. Amount payable

C. Payment information

1. Exception amount
2. Total paid
3. Exxon check number
4. Check date

It is recognized that the FRCG may change the specific format of the spreadsheet from time to time, but the spreadsheet shall as a minimum contain the above information.

8. Pursuant to the terms of the Expense Reimbursement Agreement, the State may submit for reimbursement invoices for reasonable overhead costs incurred as a result of the M/V EXXON VALDEZ oil spill. For the purposes of this agreement, "overhead costs" are defined as those costs incremental to normal State operations such as overtime, temporary personnel, office equipment and supplies, travel expenses, or other out of pocket expenditures which were directly related to the oil spill.
9. Exxon shall promptly review and process payment for invoices submitted by the State in no more than 10 days from the day the invoice is received by Exxon.
10. Exxon will make expeditious payment upon State invoices, as requested by the State, by either direct payment to the vendor or the State, or by wire transfer to the First Pennsylvania Bank, Philadelphia, Pennsylvania, ABA # 031000021 (attention: Catherine Jacobs) for credit to the State of Alaska account # 881-462-6.
11. Exxon will, on a daily basis, print a hard copy of the spreadsheet described in paragraph 7 above. Exxon will on a daily basis: provide two copies of the spreadsheet to the Department of Environmental

Conservation, Valdez, Alaska; and maintain one copy at
Exxon's Valdez office.

Acknowledged:

By: [Signature]

Date: April 21, 1989

By: _____

Date: _____

2680n

Exhibit "A" to State of Alaska/Exxon Shipping Co.
Expense Reimbursement Agreement

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77:29

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Our Fax Number: (907) 278-7022

FAX TRANSMITTAL LETTER

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- REPLY TO: NEW ANCHORAGE**
PHONE: (907) 276-8100
- ☒ **1031 W 4th AVENUE SUITE 200**
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3897
- ☐ **KEY BANK BUILDING**
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1588
FAX: (907) 458-1317
- ☐ **P.O. BOX K— STATE CAPITOL**
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3500
FAX: (907) 463-5285

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Charles E Cole
LOCATION: AGO - Juneau
FAX NUMBER: 463-5295

TOTAL NUMBER OF PAGES 6 INCLUDING COVER LETTER.

COMMENTS: Deliver Directly to A.G. Cole

This is an unsigned copy of the \$15m deal with Exxon for CERCLA reimbursement. We are looking for a signed copy and for writings (which may not exist) re Trustee split of money

DATE SENT: 4/11/91 TIME: 5:05

FROM: Craig Tillery
Assistant Attorney General - Anchorage

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL:

bonita nipper or Mary Deaver at (907) 269-5274.

MEMORANDUM OF AGREEMENT

AMONG

EXXON SHIPPING COMPANY, THE STATE OF ALASKA
AND THE UNITED STATES ACTING BY AND THROUGH
THE DEPARTMENT OF AGRICULTURE,
THE DEPARTMENT OF THE INTERIOR, AND
THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OF
THE DEPARTMENT OF COMMERCE

This agreement by and between the Exxon Shipping Company (Exxon) and the State of Alaska, the United States Department of Agriculture, the United States Department of the Interior, and the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce (hereinafter referred to as Trustees), is entered into in recognition of the common interest of the Trustees in the determination of the likely costs or expenses necessarily to be incurred for restoration, replacement or loss of use of natural resources damaged or destroyed as a result of the discharge of oil from the tanker Exxon Valdez which resulted from its grounding on March 24, 1989, and the need to provide immediate funding to the Trustees to conduct such activities.

I. INTRODUCTION

On March 24, 1989, the tanker Exxon Valdez struck Bligh Reef in Prince William Sound, approximately 25 miles from Valdez, Alaska. The tanker was grounded and its hull damaged. As a result, a quantity of crude oil was released from the vessel into the waters of Prince William Sound.

II. SCOPE

This agreement provides the terms by which Exxon agrees to provide \$15 million to fund the activities which the Trustees undertake, through the efforts of their own personnel, contractors, and any other participant under the direction and control of the Trustees, or through other federal or state government agencies, in association with the assessment of costs or expenses for restoration, replacement or loss of use of natural resources affected by the oil released from the tanker Exxon Valdez.

ACE 1263188

III. AUTHORITIES

This agreement is entered into in connection with the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.; Executive Order 12580 of January 23, 1987, 52 Fed. Reg. 2921 (January 29, 1987); 40 C.F.R. Part 300, Subpart G. (1988); and 15 U.S.C. §§ 1525 and 1526. Monies provided by Exxon under this agreement are being paid for purposes described herein. The following officials or their designees act on behalf of the public as state and federal Trustees for natural resources affected by the oil released from the tanker Exxon Valdez:

- the Commissioner for the Department of Fish and Game, acting on behalf of the Governor of the State of Alaska,
- the Secretary of Agriculture,
- the Secretary of the Interior, and
- the Under Secretary for Oceans and Atmosphere, Administrator of the National Oceanic and Atmospheric Administration acting on behalf of the Secretary of Commerce.

IV. PARTIES BOUND

The provisions of this agreement shall apply to and be binding upon the parties to this agreement, their agents, successors, and assigns.

V. RESERVATION OF RIGHTS

A. Exxon is not hereby released from any potential civil liability, including but not limited to claims for restoration, replacement or loss of use of natural resources, claims for costs for assessments for restoration, replacement or loss of use of natural resources, or any other causes of action or requests for relief, either administratively or judicially, as well as any criminal liability, or any claims, causes of action, or requests for relief in admiralty, arising from the oil released from the tanker Exxon Valdez. Payment by Exxon will not be deducted from nor applied to any liability Exxon may otherwise have.

B. Nothing in this agreement is intended or shall be construed to be an admission by Exxon or by the Trustees in any dispute or action between the parties to this agreement or between Exxon or the Trustees and a third party. Nothing in this agreement is intended or shall be construed as a waiver by Exxon or the