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Lawmakers fault Hickel's negotiating

Exxon deal worth only half
of sum sought, report claims

■ Fishermen, coastal towns grow wary as bigger
players near settlements in Exxon oil spill fight A9

■ Coastal Native villages condemn Hickel spill
negotiations, threaten to block deal A9

By DAVID FUTCH

TIMES WRITER

JUNEAU — Legislators, left out of negotiations to settle Exxon oil spill lawsuits, are heating up their criticism of the governor for not telling them the details of settlement talks.

The Boston Globe and Wall Street Journal quoted unnamed sources citing details of settlement terms this week that legislators have been unable to pry from Gov. Walter J. Hickel and state Attorney General Charles Cole.

Both officials have refused to discuss details of the talks.

"Frankly it makes me angry to see that we learn far more information from the Boston Globe and the Wall Street Journal than we have been able to learn in Alaska," said Sen. Arliss Sturgulewski, R-Anchorage.

Hickel originally proposed that Exxon pay \$1.2 billion to settle state and federal government lawsuits stemming from the March 1989 spill from the Exxon Valdez tanker in Prince William Sound.

But the Journal report published Thursday placed the value of the settlement at less than \$1 billion because Exxon would pay out the money over a period of time rather than in one lump sum.

The newspapers reported payments would span a decade with a \$200 million payment up front to set up a fund to restore the Sound.

The Globe said the payments would be tax deductible, with the initial payment followed by \$160 million the second year and \$80 million a year for eight years.

The \$160 million would cover costs incurred by the state and federal government because of the spill, the Journal story said.

Money would be allocated by three federal trustees and one state trustee, the Journal said. Exxon and federal officials would not comment on the reports.

Critics say the installment plan, because of inflation, would net the state far less money in real terms than the \$1 billion reportedly being sought by Hickel.

"In real terms it's about half of Hickel's proposed \$1 billion settlement. And we don't even know what we're settling on," said Rikd Ott, a con-

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Hickel



Sturgulewski

Reports

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mercial fisherman and leader of the Oil Reform Alliance, a group formed after the spill to lobby for changes in oil industry practices.

Hickel would not discuss specifics of the settlement Thursday, but denied legislators were being left out of talks taking place in Washington, D.C., where Cole is meeting with federal officials.

"They (legislators) are not being left in the dark," Hickel said. "We're doing the best thing we can. We're trying to solve a very difficult problem."

Hickel has proposed settling state civil and federal criminal lawsuits against Exxon for \$1.2 billion. Much of the money would buy private timber area in Prince William Sound and establish a conservation area and marine park there.

At least one lawmaker, Rep. Cliff Davidson, D-Kodiak, said he felt like "a legislative mushroom" in the dark without a clue about the latest direction of settlement talks.

"Nobody knows what's going on. None of us," Davidson said. "If the governor is feeling good about this settlement, I wish he would tell us why because we (legislators) have spent the last two years on this thing and there's a lot of pain."

"I've had my eyes open all along and I haven't seen a piece of information that I can go to the bank of my constituency and say we're being taken care of."

Rep. Max Gruenberg, D-Anchorage, made a move Thursday to bring the process into the open.

At a House Judiciary Committee meeting Thursday, Gruenberg offered a bill requiring any settlement proposal be given to

the Legislature for review.

The bill would allow lawmakers to prevent a settlement if they decide it is not in the public's best interest.

The bill gives the Legislature opportunity to review a proposed settlement for 60 days.

If necessary, a special session could be called to further study a settlement proposal. Details of a settlement would become public, the bill says.

"I don't want to comment on the settlement until I've seen it," Gruenberg said. "My mind is open."

Gruenberg and the House Judiciary Committee are scheduled to hold a meeting with the attorney general today to discuss the settlement.

Sen. Sturgulewski said Thursday that besides legislators, the people most affected by the spill, including residents and fishermen who live and work near the Sound, have been left out of negotiations.

Sen. Pat Pourchot, D-Anchorage, said there is an inherent danger involved with having only three or four people involved in the negotiations.

The result could be someone forgetting certain aspects that should be included in the final deal, Pourchot said.

"They are not going to bring a full range of views in and structure a deal trying to accommodate all these people," Pourchot said.

Hickel's acting press secretary Harry Gamble said the governor has offered to talk with key legislators at their convenience.

There is a caveat. Gamble said he has no idea how much detail Hickel can give to legislators.

"If we negotiate this in the press or bring in other groups we're likely to be in court for eight or 10 years," Gamble said.

This report includes material from the Associated Press.

Judge: Criminal counts tied into spill deal

By DAVID WHITNEY

Daily News reporter.

WASHINGTON — A federal judge in Washington Monday disclosed for the first time that criminal charges against Exxon Corp. arising from the 1989 oil spill in Prince William Sound are wrapped into an impending settlement of civil damage claims.

The federal government, U.S. District Judge Stanley Sporkin said, is "resolving certain criminal claims" in conjunction with the damage settlement.

Sporkin's remarks came at a

hearing where federal attorneys tried to persuade him to lift a temporary ban preventing Alaska and the federal government from settling the civil damages with Exxon.

Sporkin, who put the ban into effect last week, is considering an order giving himself the authority to decide whether a civil settlement with Exxon would violate the rights of Alaska Native groups who have sued to stop it. Five Native villages and three Native village corporations contend a settlement would compromise their

case for monetary damages to restore lands upon which they depend for subsistence.

Alaska Attorney General Charles Cole, who has been involved in the settlement negotiations and in the past has said the criminal case was not part of it, refused comment on Sporkin's disclosure Monday that the criminal charges are part of the settlement.

"I heard what you heard," he said.

Justice Department spokeswoman Amy Casper could not be reached for comment.

With Exxon's criminal trial scheduled to start April 10 in Anchorage, there may not be enough time to first run a proposed settlement through the legal hoops Sporkin is considering.

The Justice Department said last Friday that it would submit the settlement as a consent decree to an Alaska federal court if Sporkin would lift his ban on the settlement signing. That commitment called for a 30-day review period during which interested parties could present their objections. If the review period had

begun Friday, it would have ended just three days before the scheduled start of the trial.

But the review period hasn't begun yet, because Sporkin didn't lift the signing ban. Instead, on Monday he directed attorneys for the Justice Department and the Native villages to present him with an order, to which both sides agreed, under which he would keep jurisdiction over the case to make sure Native interests were protected.

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JUDGE: Impending spill deal resolves 'certain criminal claims'

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That could mean that the settlement would not be implemented until well after the Exxon criminal trial is scheduled to begin, even if Sporkin found that Native interests were protected.

Without the certainty that a favorable damage settlement would be sustained by a court, the incentive for Exxon to admit to criminal conduct and pay a fine for causing the spill could evaporate.

The Justice Department presented Sporkin with the proposed orders late Monday. One would dismiss the Natives' case, as the government wants, while the other would prohibit federal attorneys from entering into a settlement

that would impair the rights of third-party plaintiffs, including the Native villages.

But Lloyd Miller, an attorney for the Native villages who sued in Sporkin's court, said his clients aren't satisfied even with the second proposed order, because the state of Alaska is not included in it, the language is too narrow and there is no requirement that the state and federal governments make public any of the scientific studies and damage assessments done since the spill.

Gaining access to that data is a key goal of the alternative order the Natives will ask Sporkin to sign today, he said.

"If this is submitted as a consent decree, the judge will be faced

with the difficult decision of whether this settlement is fair," Miller said. "It seems the only possible means of making the assessment is for the court to have at its disposal the information compiled by the state and federal government."

Assistant Attorney General Richard B. Stewart, in a submission to the court late Monday, made clear that the Justice Department felt Sporkin was overstepping his judicial powers. He cited judicial interference in not only the civil damage settlement but also the prosecution of the criminal case.

"The United States maintains its position that the court lacks jurisdiction to supervise the prose-

cutorial and settlement authorities of the Attorney General," Stewart wrote.

"In light of this jurisdictional position, the government cannot consent to any order of this court other than an order which dismisses the case," Stewart said.

Dismissal of the case is exactly what Sporkin was not inclined to do. He indicated Monday that the Natives' lawsuit would remain before him until he was satisfied that the settlement did not violate their interests.

In his filing to Sporkin Monday afternoon, Stewart disclosed that a proceeding is scheduled for today before Anchorage U.S. District Judge H. Russel Holland, who is in Arizona this week attending a ju-

dicial conference.

Miller said Holland's office assured him the criminal case would not be settled in the closed-door Tucson conference, regardless of Sporkin's ruling.

"It's not surprising to me that given the events of the last few days, the parties to the criminal case would meet with Judge Holland and give him a sense of what is happening," Miller said. "With the 30-day comment period, a settlement would be back up against a clock to sign."

C Daily News reporter George Frost contributed to this story.

How were several criminal claims wrapped into the civil damage claims settlement? which ones & why?

Is the expense tax-deductible ("yes, can deduct \$900 m cleanup payments but not the \$100m fine")
 How was \$1 billion figure arrived at?
 How much is it in taxpayers dollars after 10 yr. payment plan?

How will money be spent?
 Reimburse state expenses to state?
 Reimburse 470 "fund"?

Feds. have some studies to release
 separate from State's?
 Will feds release theirs?
 The state?

How does settlement affect other pending suits?
 Indian villages
 33ermen
 etc.

Who all has suits pending?
 Raw 332 tax part of settlement
 States portion? Dropped claims?
 Municipalities free to pursue it on their own
 Reopeners clause - what would it take?
 state Dropped suit against Alyeska Pipeline Service Co. for environ. damage when signed two settlements - why?



Spill deal OK'd

Claims settled for \$1 billion

By DAVID POSTMAN 3.13.91
 Daily News reporter

JUNEAU — Government criminal and civil claims against Exxon were settled early today, a deal that calls for the giant oil company to pay \$1 billion in installments stretching into the next century.

"Yes, we signed it and, yes, this is a very, very good thing for the people of the state of Alaska," Gov. Wally Hickel said from Washington, D.C., after he, federal officials and Exxon executives signed the agreement at a midnight meeting at the U.S. Justice Department.

Hickel would not discuss the settlement except to say, "It's the very best we could do after 60 days of intense negotiations. I'm happy with it."

The money would be used to pay for spill cleanup, restoration of the Sound, scientific studies and reimbursement of government spill costs. A hundred million dollars would be for a criminal penalty to be split between the state of Alaska and the federal government, according to a National Oceanic and Atmospheric Administration "fact sheet" on the settlement obtained by the Daily News. The rest of the money will be administered by a group of state and federal officials.

Even though it's signed, the deal is far from final. The agreement calls for a 30-day public comment period and, according to the NOAA document, "Each government has the right to withdraw its consent to the settlement agreement within 15 days after the close of the public comment period if the comments disclose facts indicating the agreement is not in the public interest."

During the past three months, the settlement has gone from nothing more than an idea of Hickel's, through weeks of intense negotiations, and into what

Please see Back Page, SPILL

Trustees
of Acct:

Reps. from NOAA - lead trustee
EPA - Dept.
Interior
Ag.
ADF & G
ADEC
AK AG

State gets \$90 M up front
plus 1/2 of \$100 M fine so \$140 M now
\$150 M more at beginning of next fiscal year
then \$100 M: same time next year (Oct. 1)
remaining \$50 M to be pd. over next 7 yrs.
(\$135 M is to cover past expenses including clean-up and scientific research)
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Exxon

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for weeks. He had said the settlement would be for about \$1.2 billion.

"The governor and I are both pleased with the results of the meeting tonight," Cole said this morning.

The final deal reportedly is for \$1 billion in settlement, with a clause to reopen suits for up to \$100 million on damage the spill caused that is not yet known, for a total of \$1.1 billion.

The state and federal government will evenly split the \$100 million fine, and the state will also get \$90 million up front, for a total of \$140 million immediately, officials said.

According to sources close to the settlement, the next payment will be \$150 million due at the beginning of the next fiscal year, Oct. 1. Then, the next payment will be \$100 million at the same time next year, with the remaining \$50 million to be paid out

over seven years.

Those details were confirmed by several high-level sources who did not want to be identified.

The money will be administered "under some kind of joint restoration fund" for Prince William Sound, said Hickel deputy press secretary Eric Rehmann.

Hickel wants to spend the money on restoration and a marine theme park in the Sound, heavily damaged when the Exxon Valdez dumped 11 million gallons of crude oil at Elkh Reef almost two years ago.

Trustees of the account will include representatives from the federal National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Departments of Interior and Agriculture, as well as the state Department of Fish and Game, the Department of Environmental Conservation and attorney general's office, sources said.

EPA will be the lead trustee, they said.

About 30 people, mostly lawyers, reportedly attended the closed meeting. They included

Hickel, Cole, Hickel aides James Rockwell and Rehmann, and officials from Exxon, NOAA, EPA, Justice and Transportation Secretary Samuel Skinner.

Exxon Corp. chairman Lawrence Rawl was also there.

Hickel said he and Rawl were congenial and cooperative. Hickel said Rawl told him, "I didn't think it could be done."

The meeting was held so late to accommodate a deal Hickel and Rawl made at the beginning of talks in January.

"The governor and chairman Rawl had made a deal that neither of them would do anything without the other," Rehmann said. Rawl was called Tuesday and flew in for the late-night meeting.

Earlier Tuesday, a U.S. District Court judge allowed a settlement to be signed by lifting a restraining order he placed last week. In its place, Judge Stanley Sporkin issued an order stating an agreement must provide that Alaska Natives can "prosecute fully the suits they have initiated against Exxon and Alyeska (Pipeline Co.) just as if no settle-

ment existed."

Three Native village corporations and five Native villages sued last week to prevent a deal from being signed. They said their rights to sue Exxon might be bargained away in the deal.

Sporkin told Justice Department attorneys that Exxon cannot escape meeting its obligations to the Natives. State and Exxon representatives were not at Sporkin's hearing.

"It is not a situation where anybody can get out cheap," Sporkin said. "If anybody believes that, they are making a terrible mistake."

Sporkin told the Justice Department to live up to its pledge not to infringe on Native rights.

"Eell haah no fury like a judge scorned," he warned.

Natives were happy. "The judge is very serious in his concerns and I'm pleased with his order," said Don Emmal of English Bay Corp.

However, Natives failed to win assurances they would be entitled to see government studies on how the spill affected lands they have chosen under a federal

lands act.

Details of the clause protecting Natives were not available Tuesday night.

"Obviously it was resolved to the acceptance of every party," Rehmann said.

Exxon earlier Tuesday reportedly balked at signing, unhappy with Sporkin's order.

Exxon defense attorneys and federal prosecutors talked via telephone with Anchorage federal judge Russel Holland, who was in Arizona, Natives attorney Sam Fortier said.

Holland was set to oversee the criminal case against Exxon next month in Anchorage. Exxon had been charged with five criminal counts.

Cole had said repeatedly throughout negotiations the criminal case was not related to the civil settlement talks.

Sporkin said in court Monday the federal government, though, was "resolving certain criminal claims" in conjunction with the civil settlement.

Hickel and Cole were set to leave Washington today and arrive Thursday in Juneau, when

they were to address a joint session of the Legislature, Rehmann said.

Rumors of an imminent settlement circulated throughout Juneau early Tuesday afternoon. Before knowing the deal was final, lawmakers reacted to word of a possible deal.

Rep. Max Gruenberg, D-Anchorage and chairman of a special committee to monitor spill talks, said legislation is in place that would give lawmakers power to approve or deny a settlement.

House Speaker Ben Grussen-dorf, D-Sitka, commended Hickel for his hard work in pursuing a deal but stopped short of calling for legislative approval.

"If we feel that Alaskans out there who have potential litigation are accommodated and we're not dragged into court, it may be the settlement isn't so bad," Grussen-dorf said.

Times writers E. Michael Myers in Washington and Dirk Miller in Juneau contributed to this report.

The Washington Post

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The Exxon Valdez Settlement

FISH ARE back in great numbers in Alaska's Prince William Sound, and last summer's catch was large. The sea otters appear to be flourishing again. It's been two years since the Exxon Valdez ran aground on a reef in the sound and lost a quarter of a million barrels of crude oil into the water. The damage has not been entirely repaired. There are, for example, carpets of tar buried under some of the beaches, and no one knows precisely what effect they will have on the ecology. But two years' experience with cleaning up the mess has given federal and Alaska state authorities a fairly clear idea of the size of the job that remains. That has enabled them to negotiate this week's settlement of damages with some assurance that the money will cover the decade of work ahead.

Exxon has spent more than \$2 billion on the cleanup so far. In this settlement it has committed itself to a further \$900 million in damages, to be spent by a committee of federal and state officials. At the end of that time, Exxon will be liable for another \$100 million if restoration requires work not now anticipated. In addition, the company has pleaded guilty to a series of criminal charges and will pay a fine of \$100 million, of which half will go to Alaska as restitution.

The alternative to this settlement was litigation.

The trial was scheduled to have begun next month. The state and federal governments were clearly right to have chosen negotiation instead. It means that both sides will save enormous legal costs—money that might better go into ecological protection. It means that there will be a dependable flow of funds for restoration, beginning immediately. If the question were left to a long quarrel in the courts, no one would know how much might eventually be paid, or when. The Amoco Cadiz spilled a much larger amount of oil into the Atlantic off the French coast in 1978, and damages from that wreck are only now beginning to be paid.

Many questions about the impact of the Valdez spill are still unanswered. State and federal authorities hope to establish a scientific institute in Prince William Sound that, in the course of answering them, will make itself a major contributor to marine research. The cleanup money will do more than scrub tar off rocks.

This settlement sets sound and healthy precedents for responsibility in a kind of disaster in which, until recently, there would have been little recognition of any damage to the public and little chance of compensation. Perhaps, in the political sense, it will also set a useful precedent for the current case—larger and legally much more complex—of the oil spill in the Persian Gulf.

AP Associated Press

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^AP-Exxon-Who Won^

^All Sides Seen Victorious in Exxon Settlement^

^An AP Analysis^

^By LAURIE ASSEO-

^Associated Press Writer^

WASHINGTON (AP) - Exxon Corp. isn't getting off lightly in paying a \$1 billion settlement over the 1989 Exxon Valdez oil spill. But it is getting a chance to begin closing the books on a costly public relations nightmare.

For its part, the Justice Department won a significant victory by persuading Exxon to plead guilty to criminal charges while avoiding years of litigation and the inherent risk of losing.

"I don't think there are any losers here," said Warren M. Shimmerlik, a New York investor relations adviser for several oil companies, not including Exxon. "I think this is an issue that really needed to be put to rest."

Some environmentalists complained that the \$900 million Exxon agreed to pay Wednesday may not provide enough money to fully clean and restore plant and animal life in Alaska's Prince William Sound.

But, said Eric Jorgensen, an attorney for the Sierra Club Legal Defense Fund in Juneau, "There is a great benefit to settling. The money is in hand and it can be used now for the environment."

Exxon agreed to plead guilty to four misdemeanor charges and pay a record \$100 million criminal fine plus \$900 million to complete the cleanup - the largest amount ever paid for environmental damage.

The settlement amount is higher than the \$700 million figure that was being discussed last year when talks broke down.

In exchange for the misdemeanor pleas, the Justice Department agreed to dismiss two felony counts that charged Exxon with "willfully and knowingly" failing to make sure the Exxon Valdez was manned by mentally and physically competent pilots.

Exxon Chairman L.G. Rawl told reporters his company had been ready to contest the case, but decided "a long and costly legal confrontation would benefit no one." The company already has spent \$2.5 billion to remove oil from the sound and its shores.

Rawl said Exxon could deduct the \$900 million cleanup payments from its income taxes, but not the fine.

The settlement could begin resolving much of Exxon's image problem related to the oil spill, said Simon Trimble, an international oil analyst for the Lehman Brothers brokerage firm in New York.

"In the short term it would seem that the Justice Department has won a very large settlement," Trimble said. "In the longer term Exxon may have won by removing the large part of the litigation that would have drawn public comment over a number of years."

"Exxon has been made to pay a full price for the damage that was done. That is a very positive point for the American public," which might have wound up paying more for the cleanup if a smaller company had created the spill, Trimble said.

By settling now, Exxon also saves "the drain on creative efforts in a corporation, which are the things that create profits," said Sheila Hollis, a Washington attorney and chairwoman of the American Bar Association's coordinating group on energy law.

And prosecuting the felony counts may have presented difficulties, said Assistant Attorney General Richard B. Stewart, head of the environment division.

Cont'd

The government would have had to prove that Exxon Corp., as the parent of Exxon Shipping, was criminally liable for intentionally allowing the Valdez to sail with an incompetent crew. The issue of parent corporate liability has not been tested such in criminal cases, Stewart said.

Exxon still faces private civil suits from environmentalists and others who want Prince William Sound restored to its original state.

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The Dallas Morning News

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Exxon settles spill case

\$1 billion deal to cover fine, Alaska cleanup

By Maria Halkias

Staff Writer of The Dallas Morning News

Exxon Corp. settled criminal and civil claims arising from the nation's largest oil spill by agreeing to pay record-setting restitution for environmental violations, officials said Wednesday.

A \$1 billion settlement with the federal government and the state of Alaska was signed about midnight Tuesday in Washington by Lawrence G. Rawl, Exxon chairman and chief executive officer.

The fine — to be paid over 10 years — is in addition to more than \$2 billion that Exxon has spent to clean up Alaska waters and coastlines after the Exxon Valdez supertanker spilled more than 10 million gallons of oil into Prince William Sound on March 24, 1989.

The nation's largest oil company agreed to plead guilty to four misdemeanors and to pay a criminal fine of \$100 million plus \$900 million to restore environmental damage.

Exxon was prepared to defend itself, Mr. Rawl told reporters at the company's Irving headquarters Wednesday. "However, we have agreed to the settlements because they are in the best interests of Exxon shareholders and employees."

The plea bargain prohibits the Justice Department from bringing additional criminal charges against Exxon or any of its officers.

The government also gave up the right to prosecute Alyeska Pipeline Service Co. for allegedly failing to meet government requirements that it have an emergency oil spill cleanup plan.

Alyeska, owned by a consortium of oil companies operating on Alaska's North Slope, had piped the crude oil to the Exxon Valdez at the port of Valdez shortly before the accident.

Although not required by law, the civil settlement will undergo a 30-day public comment period in Alaska. A federal court must also approve the settlement.

In Washington, Attorney General Dick Thornburgh said the deal "represents a clear and unmistakable signal to those engaged in environmental crime that their activities are not going to go unnoticed and unprosecuted."

At the same news conference, Environmental Protection Agency Director William Reilly said he was pleased with the settlement.

"America has never seen an oil spill so large and destructive and in such a beautiful pristine environment," Mr. Reilly said.

The funds provided by Exxon "assure that necessary activities will be carried out and monitored to restore Prince William Sound," he said.

Similarly, said Jay D. Hair, president of the National Wildlife Federation: "The large settlement and criminal plea will send a strong message

to polluters. However, no one can claim victory over a disaster which will impact people and the environment for decades to come."

Of the \$100 million criminal fine that Exxon and its Exxon Shipping unit agreed to pay, the U.S. Treasury will receive \$50 million and Alaska the other \$50 million as restitution for environmental damage.

The \$100 million penalty "is by far the largest single environmental criminal recovery ever exacted," Mr. Thornburgh said. And the aggregate \$1 billion payment "is by far the largest single amount ever paid as a result of environmental violations."

The settlement has a reopener clause under which Exxon may have to pay an additional \$100 million for natural resource damages not currently foreseen.

The \$900 million civil settlement will be paid over a 10-year period. It will go toward an environmental restoration program administered by a joint federal-state trustee council, as well as for reimbursement for past and continuing federal and state cleanup and research efforts.

Any future cleanup costs that Exxon incurs will be credited against its annual restitution, which begins with a \$90 million payment into the trust fund.

All costs associated with the Exxon Valdez spill, except the \$100

million criminal fees, are viewed as tax-deductible operating expenses, Mr. Rawl said — leaving taxpayers to indirectly shoulder some costs.

The settlement "will not have a noticeable effect" on the company's financial results because reserves for the payments had been set aside for the last two years, Mr. Rawl said.

"I've been disappointed and angry since March 24, 1989. I was angry that this happened to us," he said. "It has distracted us from doing more productive work. . . . We took the responsibility and we did the job."

Twice in the last two years, the federal government attempted to negotiate a settlement with Exxon after the U.S. Justice Department's indictment on Feb. 27, 1990, of Exxon and its shipping subsidiary.

Negotiations reopened in January after Alaska Gov. Walter J. Hickel called Mr. Rawl and invited him to the first of several meetings.

Mr. Hickel called the agreement "a good settlement" for his state, the federal government, Exxon and the environment.

"I'm glad this is behind us," Mr. Hickel said in Washington.

U.S. District Judge Stanley Sporkin of Washington on Tuesday afternoon set aside an earlier order temporarily blocking completion of a settlement.

The judge had halted negotiations between Exxon, the federal government and Alaska to review claims by five native Alaskan villages that they were improperly locked out of the negotiations.

The villagers had filed suit this month, asserting that a settlement could prevent them from recovering financial damages caused by the Exxon Valdez spill.

The accord will not end Exxon's legal troubles in Alaska; about 200 separate suits are pending against the company. But the agreement settles major suits brought by the federal government and Alaska.

The company said those suits aren't expected to be as material as those just concluded.

Exxon agreed to plead guilty to a misdemeanor violation for the death of migratory birds killed by the oil spill.

Exxon's Bill for Spill

\$1B in damages and fines in Valdez oil accident

By Stephanie Saul
WASHINGTON BUREAU

Washington — Exxon Corporation yesterday agreed to pay \$1 billion in civil damages and criminal fines for the March, 1989, Valdez accident, in which the tanker struck a reef and spilled more than 11 million gallons of crude oil into Alaska's Prince William Sound, spoiling 700 miles of shoreline and killing thousands of birds, fish and mammals.

Attorney General Dick Thornburgh said yesterday that the agreement was the largest environmental settlement in history.

The \$1 billion settlement includes \$100 million in criminal fines. By pleading guilty to a total of four misdemeanors, Exxon and its subsidiary, Exxon Shipping Co., avoided a possible conviction on two felony charges included in the February, 1990, federal indictment against them.

The companies had been scheduled to go to trial April 10 in Anchorage.

"The extraordinary size of the fine and the fact that this resulted in guilty pleas is significant," Thornburgh said, because it sends a message that "answering for environmental spoilage cannot be done by simply paying damages."

The \$900 million in civil damages will be paid during 10 years under the agreement. Exxon also could be responsible for up to \$100 million in additional damages if unforeseen environmental problems occur, under a "reopener" clause in the agreement.

Thornburgh said the money will be spent for additional cleanup and both short- and long-term restoration projects in Prince William Sound and the Gulf of Alaska, the areas damaged by the spill. Of the total, \$135 million is committed for past expenses, such as cleanup and scientific research.

Last year, the Justice Department had been willing to agree to a \$700 million settlement, but the State of Alaska said it was inadequate and blocked the deal.

Exxon Chairman Lawrence G. Rawl said the company had agreed to the settlement because it was in the best interest of Exxon shareholders and other involved parties. "A long and costly legal confrontation would benefit no one," Rawl said yesterday.

Rawl said other than \$100 million in criminal fines, all other costs will be tax deductible. And he said the agreement will have no noticeable effect on the company's

financial results because reserves have already been established to pay the penalties.

Exxon says it already has spent \$2.5 billion for cleaning up and reimbursing state, federal and local governments for their cleanup efforts.

The company has said the amounts previously paid out already exceed its insurance coverage.

Oil industry consultant Scott Jones of Philadelphia's AUS Consultants said the settlement avoids legal fees in the tens of millions of dollars.

"I think, certainly within Exxon and certainly within the oil community of Alaska, in general, to get this thing settled and behind the industry is a strong positive step," Jones said.

Environmentalists generally reacted positively to the settlement but expressed several reservations.

"The large settlement and criminal plea will send a strong message to polluters," said National Wildlife Federation President Jay D. Hair. But Hair said his group could not fully embrace the deal, partly because it did not require the public release of scientific data on the spill, collected both by Exxon and the government. EPA Administrator William K. Reilly said, however, that his agency's data would be available.

Exxon still faces a number of private civil suits in connection with the oil spill, as does

the Valdez' captain, Joseph J. Hazelwood of Huntington.

Witnesses said Hazelwood was drinking on shore the day the Valdez left port. But he was acquitted by an Alaska jury last year of criminal mischief, reckless endangerment and operating a vessel while intoxicated. The jury convicted him of a less serious charge of negligent discharge of oil. He was sentenced to 1,000 hours of community work in Alaska and a \$50,000 fine. Hazelwood has appealed.

Of the original criminal charges against Exxon and Exxon Shipping, the parent company agreed to plead guilty to one misdemeanor, admitting that it killed migratory birds in violation of federal law.

Exxon Shipping agreed to plead guilty to three misdemeanors, admitting that it negligently discharged pollutants without a permit; that it negligently discharged refuse matter and that it killed migratory birds.

Of the \$100 million in fines, \$50 million will go into the federal treasury and \$50 million will go to Alaska coffers.

The civil settlement must be approved by a federal judge after a 30-day public comment period. Within 10 days after the approval, Exxon will pay the government its first installment of \$90 million on the civil fine.

On Sept. 1, 1992, Exxon will pay another \$150 million. It will pay \$100 million on Sept. 1, 1993, and \$70 million a year until the final payment on Sept. 1, 2001.

The Hartford Courant

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Exxon agrees to pay record fine in spill

 By JAMES ROWLEY
 Associated Press

WASHINGTON — Exxon Corp. settled government claims arising from the nation's worst oil spill by agreeing Wednesday to pay a record \$100 million fine for four environmental crimes and to spend \$900 million to clean up Alaska's coast.

The largest settlement of an environmental damage case in U.S. history was reached after Exxon already spent \$2.5 billion on the cleanup. The fine is 20 times the previous record of \$5 million paid by Allied Chemical in 1976 for dumping Kepone into the James River in Virginia, officials said.

The civil settlement and guilty pleas to the four misdemeanors will avert lengthy court fights over the grounding March 24, 1989, of the tanker Exxon Valdez, which spilled more than 10 million gallons of oil into Prince William Sound.

Attorney General Richard L. Thornburgh said the deal with the federal government and the state of Alaska "represents a clear and unmistakable signal to those engaged in environmental crime that their activities are not going to go unnoticed and unprosecuted."

The record criminal fine, involving one misdemeanor charged against Exxon and three charged against its Exxon Shipping Co. subsidiary, shows that "answering for environmental spoilage cannot be done simply by paying damages," the attorney general said.

Proceeds from the fine will be split 50-50 with the state of Alaska to help finance the cleanup. By law, the federal share goes into the general treasury.

"I think it's a good settlement for the state of Alaska, it's a good settlement for the federal government... it's a good settlement for the environment," said Alaska Gov. Walter Hickel, who was governor 23 years ago Wednesday when the discovery of Alaska oil was announced.

Exxon's sales totaled more than \$107 billion last year and it reported earnings of more than \$5.1 billion.

Under the proposed consent decree, which needs court approval after a 30-day public comment period, Exxon would pay \$900 million over the next 10 years to a trust fund administered by federal and state officials.

The fund would be used to pay for costs of the continued cleanup by Exxon.

After 10 years the trustees could seek \$100 million more for any remaining environmental damage from the oil spill, which killed countless birds, fish and mammals.

By settling instead of going to court, the Bush administration and Alaska get cleanup money now and avoid "spending the next decade feathering the nests of corporate and government lawyers," said Thomas L. Sansonetti, the Interior Department solicitor.

The settlement means that more cleanup money "will be available years earlier than any recovery that

could have been secured through full litigation," said William K. Reilly, head of the Environmental Protection Agency.

The settlement "allows us to turn our full attention, finally, to the tasks of restoration," he said.

The deal settles all civil claims against Exxon by the state of Alaska and any that the federal government might have filed. It does not end the private lawsuits filed by property owners, fisherman and businesses.

The settlement was reached late Tuesday after a federal judge in Washington lifted an order halting discussions until he was assured that claims of five native Alaskan villages would not be compromised.

Environmental groups had mixed reactions.

"They did well on the criminal side. That's a very hefty criminal figure. Our concern is with the civil



RICHARD L. THORNBURGH
 A signal to pollsters

fine," said Sarah Chasis, a senior lawyer for the Natural Resources Defense Council.

Chasis expressed disappointment that \$135 million of what Exxon will pay covers past cleanup expenses.

"You're really diminishing the pot for long-term research and restoration," she said. "We want to make sure the environment is made whole. We have serious questions as to whether this agreement would accomplish that goal."

Others said it was hard to evaluate the settlement because scientific data on the extent of the damage has not been made public.

"On the one hand it's the largest settlement of its kind ever," said Douglas Wolf, a lawyer for the National Wildlife Federation. "The downside is that we don't know if that was an appropriate amount for this spill because it was the largest one ever."

Rep. George Miller, D-Calif., said the House Interior water and power subcommittee has scheduled a hearing April 8 because "the Congress and the public will have many questions about the Exxon settlement."

Exxon and its shipping subsidiary had faced a criminal trial April 10 in federal court in Anchorage on two felony and three misdemeanor counts arising from the oil spill.

Exxon Chairman L. G. Rawl, who signed the deal at the Justice Department, said in a statement that the company had been ready to contest the civil and criminal charges.

"However, we have agreed to the settlements because they are in the best interests of Exxon shareholders and all other involved parties," he said. "A long and costly legal confrontation would benefit no one."

Rawl said Exxon could deduct the

Cont'd

\$900 million cleanup payments from its income taxes, but not the fine.

The two felony counts that will be dismissed accused Exxon of "willfully and knowingly" failing to make sure that the Exxon Valdez was manned by mentally and physically competent pilots.

Joseph Hazelwood, the ship's captain, was accused of drinking before the tanker left the port of Valdez, but he was acquitted of state charges that he operated the ship while intoxicated.

Exxon agreed to plead guilty to a misdemeanor violation for the death of migratory birds killed.

Exxon Shipping also agreed to plead guilty to the Migratory Bird Treaty Act violation. The Exxon subsidiary also will plead guilty to violating the Clean Water Act and the Refuse Act by negligently dumping oil into Prince William Sound.

Los Angeles Times

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Exxon Agrees to Pay \$1-Billion for Alaska Spill

By RONALD J. OSTROW
TIMES STAFF WRITER

WASHINGTON—Exxon Corp. agreed Wednesday to pay \$900 million in damages and a \$100-million criminal fine for the Exxon Valdez oil spill in Alaska two years ago in a settlement hailed by Atty. Gen. Dick Thornburgh as "by far the largest single amount ever paid as a result of environmental violation."

The settlement with the state of Alaska and the federal government includes a reopener clause under which Exxon may incur up to \$100 million in additional damages for natural resource effects not now foreseen.

The agreement, spelled out in a consent decree filed in federal court Wednesday, remains subject to the approval of a federal court in Alaska.

By agreeing to plead guilty to misdemeanor crimes, Exxon and its subsidiary, Exxon Shipping Co., will avoid going to trial next month on felony as well as misdemeanor charges. The trial would have further tarred the oil giant's reputation for the unprecedented damage the oil spill caused to Prince William Sound.

The Exxon Valdez tanker ran aground on a reef in the sound on March 24, 1989, spilling some 11 million gallons of crude oil and fouling more than 700 miles of Alaska's shoreline, national wildlife refuges and national parks. More than 36,000 migratory birds, including 100 or more bald eagles, and many other species of wildlife died as a result of the spill.

The settlement, announced here by Thornburgh and Alaska Gov. Walter J. Hickel, was praised by government and corporate officials for averting what promised to be a protracted court fight and channeling hundreds of millions of dollars into clean-up and restoration operations.

"We have a winner—environmentally, psychologically and financially," Hickel said.

Interior Department solicitor Thomas L. Sansonetti said that officials faced a choice of either settling now so that funds could be applied to clean-up and restoration or "spend the next decade feathering the nest of corporate and government lawyers."

Environmental groups, while praising some parts of the settlement, expressed concern about other aspects of the deal, such as its failure to require release of scientific and economic data that would help measure the true cost of the spill.

Under terms of the proposed agreement, Exxon's \$100-million criminal fine will be divided evenly by the federal government and Alaska, with the state's \$50 million to be applied to the cost of restoring damaged natural resources.

The \$900 million in civil damages is to be paid over the next 10 years to federal and state trustees. Of the total, \$135 million will cover past expenses, including clean-up and scientific research.

Exxon Chairman Lawrence G. Rawl noted that the company will be able to deduct the \$900 million in civil damages in calculating its corporate income taxes, although the \$100-million criminal fine is not deductible.

Since the spill, Exxon estimates that it has spent \$2.2 billion on cleaning up Prince William Sound and the Gulf of Alaska. The \$1-billion settlement would be over and above that amount.

Les Rogers, an Exxon spokesman, declined to disclose the after-tax cost of the settlement or its present value, which would take into account the fact that the money will be paid in increments through 2001.

Rogers described that information as "proprietary," adding: "We have elected not to make it available." The agreement provides that six government agencies—three federal and three state—will decide how to allocate settlement funds to restore Prince William Sound and the Gulf of Alaska. Those decisions will affect \$765 million in damage funds remaining after past expenses are deducted.

Thornburgh noted that the federal government and Alaska are asking the federal court to allow a 30-day public comment period on the settlement—an opportunity for public reaction not required by law.

Jay D. Hair, president of the National Wildlife Federation, said that the \$1-billion settlement and criminal plea "will send a strong

message to polluters," but added: "No one can claim victory over a disaster which will impact people and the environment for decades to come."

John Adams, executive director of the Natural Resources Defense Council, criticized the failure to require release of scientific information. "Because much of the scientific and economic data will not be released, we cannot know whether the amount of the settlement fully vindicates the right of the public and the environment," he said.

William K. Reilly, administrator of the Environmental Protection Agency, said that the federal trustees who will help decide how to spend the settlement funds plan to release their data "forthwith."

Rep. George Miller (D-Martinez), acting chairman of the House Interior and Insular Affairs Committee, said that Congress and the public will raise many questions about the settlement.

Miller said that he plans a hearing April 8 to examine such questions as whether the rights of Alaska natives and other injured parties are protected, whether Exxon should be required to release all scientific data and whether settlement funds will be used to acquire timber rights and other natural resources as part of the restoration effort.

A Justice Department attempt to settle the case in February, 1990, before Exxon and its shipping subsidiary were indicted on the felony and misdemeanor charges fell through when top Alaska officials refused to endorse the settlement.

Thornburgh noted that the earlier settlement proposal fell \$400 million short of the amount contained in the final deal.

Exxon and Exxon Shipping were indicted Feb. 27, 1990, and charged with felony violations of the Ports and Waterways Act and the Dangerous Cargo Act, along with misdemeanor violations of the Clean Water Act, the Refuse Act and the Migratory Bird Treaty Act.

Under the plea agreement, Exxon will plead guilty to the Migratory Bird Treaty Act misdemeanor, while Exxon Shipping will plead guilty to all three misdemeanors.

Settlement helps Hickel woo support

Democrats wary; governor claims victory over Exxon

By DAVID POSTMAN
Daily News reporter

JUNEAU — Gov. Wally Hickel Thursday tried to turn his success in getting a proposed settlement of the Exxon Valdez lawsuits into legislative and popular support for his other programs.

In a rare mid-session speech to a joint session of the legislature, Hickel reported on the Exxon settlement announced Wednesday and said he was now ready to "resolve many other of Alaska's great challenges."

He said nothing new about the settlement in the 15-minute televised speech. He used the forum to ask the legislature to support his proposed solution to the subsistence crisis and the mental-health trust lands controversy. Recapping his State of the State Address, he also talked about opening the Arctic National Wildlife Refuge to oil drilling, said the operating budget needs to be cut and asked for support for his public works bill.

"Let's face it, the governor was not addressing the legislative body tonight," said House Speaker Ben Grossendorf, D-Sitka. "The governor was using it as a forum to talk to the Alaska public ... and trying to pull the public to support other issues."

When asked if he thought he was on a roll from the Exxon settlement, Hickel said, "I've been on a roll since I was born." Grossendorf and other lawmakers praised Hickel and Attorney General Charlie Cole

Please see Page E-3, HICKEL.

HICKEL: Governor claims victory on spill

Continued from Page E-1

for their hard work in getting a settlement. But some questioned whether it was a good deal and they were split on whether the accomplishment would do Hickel any good on his legislative agenda.

"I think it will help," Sen. President Dick Eliason, R-Sitka, said. "There's no question about it, he is a leader. He is the most optimistic man in Juneau. As Ronald Reagan used to say, he can dig through a pile of manure and find a pony in there somewhere."

Senate Majority Leader Rick Holford agreed, saying, "Governor Hickel is a big-picture governor. This is exactly the kind of issue he can shine in, and if he can do that with some of these other big issues, he will be doing very well."

Rep. Terry Martin, R-Anchorage, one of the governor's biggest boosters, said Hickel has set an example.

"It puts a good, positive picture on everything," he said. "People realize we can get things done."

Democrats were less sure. "I don't think there is linkage with any of those things," Rep. Johnny Ellis, D-Anchorage, said. "His perceived victory with Exxon is somewhat mixed, and I don't think he should expect it to help him on other issues."

Rep. Mike Navarro, D-Ketchikan, said the public may now perceive Hickel as a "can-do governor" but that won't help in the legislature.

"The easy thing to do right now is jump on the bandwagon and say, 'Hah, we settled the Exxon Valdez case.' But it's incumbent on this legislature to fully examine this settlement."

Natives' battle against Exxon will continue, leaders assert

By T.A. BADGER
The Associated Press

Alaska Native groups whose lands and livelihoods were affected by the Exxon Valdez oil spill said Thursday they will find a way to make the oil giant pay for the damage.

Chugach Native leaders meeting in Anchorage said they have not given up on their efforts to compel Exxon Corp. to pay off claims from the spill that dumped 11 million gallons of oil into Prince William Sound in 1989.

"We were impacted economically and socially, as well as the effect on our subsistence lifestyle," said Karen Schwartz of the Mount Marathon Native Corp. "The spill ruined something so beautiful, so much a part of our lives."

They also said they feel betrayed by the state and federal governments because they were left out of negotiations with Exxon that resulted in a proposed \$1 billion settlement of criminal and civil claims reached this week.

"They had an opportunity to include us and get our claims taken care of, but this

wasn't done," said Pat Norman, president of the Port Graham Village Corp. "Regardless of what has happened, Exxon has to pay for what they have done."

Exxon spokesman Karsten Rodvik said Thursday the company would not comment on the Native claims.

Five Native villages and three Native corporations sought to block the settlement in federal court in Washington last week, contending their rights could be negotiated away without their participation.

U.S. District Judge Stanley Sporkin allowed the settlement as long as Native rights were protected.

Natives have a variety of state and federal lawsuits pending against Exxon and the Alyeska Pipeline Service Co., which operates the trans-Alaska pipeline.

Lloyd Miller, a lawyer representing Alaska Natives in class-action lawsuits, said that, because the settlement won't take effect until it is signed by a federal judge, it is not too late to take into consideration the right of Natives to participate.

the best interest of this state."

In the first critical comments about the settlement from a legislative leader, Grossendorf said it does not appear to be a good deal for the state. He said while the settlement was announced as a \$1 billion deal, it is really much less because Exxon has 10 years to pay it.

"From a dollars and cents point of view, it doesn't make sense," he said. "I feel the Exxon negotiators probably put themselves in a better position than the state of Alaska."

But Grossendorf said there are other considerations than just how much

said there is a value to "putting this behind us" as long as the hundreds of private plaintiffs suing Exxon are not hurt by the deal.

Rep. Tom Noyer, D-Fairbanks, a member of the House Resources Committee, said he thinks the settlement will probably be approved, but he was disturbed to hear Exxon Chairman Lawrence Rawl say the settlement payment would be of little consequence to the oil giant.

"It's just another day at the office for Exxon," he said. "If it doesn't hurt the polluter, what does it do to send a signal? They are on the easy-payment plan here."

become final until after a 30-day public comment period and a 15-day period during which either the state or federal governments could pull out of the deal. Eliason and Grossendorf said they will create committees to hold joint hearings on the proposal.

In his speech, Hickel said the settlement "is a victory for Alaska, environmentally, financially and psychologically." He asked the legislature to quickly approve it.

"Together, let's send a signal to the federal government and to the nation that we as a people are ready to put this tragedy behind us."

TV or not TV?

Legislature's television plan bad news

The Legislative Council has a bad idea, and legislators might shell out almost half a million dollars for it.

The council, which manages the legislature's internal affairs, approved a proposal Tuesday to spend \$458,000 to provide Alaskans with two hours of daily coverage of the legislature. The program would be available to 20 Alaska cable TV systems. A half-hour version also would be broadcast over the Rural Alaska Television Network.

The legislature would buy the equipment necessary for the show for about \$171,000. The rest of the appropriation would pay for the staff to put the show on the air. The council believes the legislature could be broadcasting by late April.

The Alaska Legislature is remote from most Alaskans, and Alaskans should have much better information about their government's activities. But this expensive show won't help them very much.

The coverage apparently will follow C-Span's much-praised live television coverage of floor action in Congress. But C-Span, (which isn't owned by the government) supplements its floor coverage with coverage of committee hearings, interviews with lawmakers, call-in shows, and a variety of interpretive discussions with journalists, lawmakers and scholars.

If, as Sen. Fred Zharoff says, Alaska legislators don't want "any journalistic play-by-play coverage," then all Alaskans will get from television is live floor sessions in which talking heads plow through the daily introduction of guests, the disposition of new bills, messages from the governor, and committee meeting announcements, occasionally punctuating these routine activities with one floor activity that does matter — voting.

The Senate hasn't had a significant open debate on the floor in years. In the Senate, issues are decided in committee meetings and in private. The House — it's true — has spirited discussions from time to time, but Alaskans will have to fight their way through hours of legislative tedium before discovering nuggets of interesting debate.

Clearly the legislature is in a bind when it spends money on media coverage of itself. It's impossible to keep 60 lawmakers happy and still provide Alaskans with news. Under the guidance of the legislature, television coverage becomes either propaganda or drivel.

State-paid television coverage of the legislature can't be a priority when the governor is busy cutting almost every other budget. Lawmakers will be tempted mightily to vote yes when the legislative Council's TV bill comes to the floor. But let's hope they take a look at what's wrong with the bill and vote no.

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State plans to reduce Kenai River guide numbers with bid system

By JOE HUNT

TIMES WRITER

The state plans to cut the number of Kenai River guides over the next five years by requiring competitive bids for a reduced number of guiding permits, state officials say.

The plan, spurred on by the Hickel Administration, is expected to be introduced Thursday at a meeting of the Kenai River Special Management Area Advisory Board in Kenai. The details have been kept secret, though state park officials have acknowledged por-

tions of the plan.

The number of salmon-fishing guides on the Kenai River has nearly doubled from 1985 to 1990, with 310 permits issued last year. Another 20 permits were issued to non-fishing raft guides.

State parks director Neil Johannsen would not say what the new guide limit will be, but he confirmed it will allow more than the 171 guides who fished the river five years ago.

Special competitive bid rules will give experienced guides an advantage over newcomers, Johannsen said. "It will be very heavily weighted on experi-

ence vs. money," he said. "We want to avoid a situation in which the deep pocket can buy a permit."

The bid plan reportedly places 50 percent of the weight on experience, 25 percent on qualifications and 25 percent on bid price. "I wouldn't go so far as to say we'll grandfather existing guides, but those with the most experience guiding on the river will be in a position to win bids for the permits," Johannsen said.

Guiding permits will be good for five years as compared to the yearly fee structure currently used. A minimum bid will be set.

The state plan relies heavily on attrition over the five-year period to achieve the reduction goal. It also discourages weekend guides and non-resident guides, Johannsen said.

Reducing the number of guides has been a goal of the guiding industry as well. But that group has not been able to reach agreement on how it should be done. "Everyone in the fishing community is seeing there are just too many people out there," said Jeff King, president of Cook Inlet Professional Sport-fishing Association.

The guiding group recently endorsed

a plan to reduce their numbers through attrition.

Guides say they are nervous about the plan. "Can some guy bid enough money to make his 25 percent more valuable than my experience?" King asked.

There are many problems the parks division is not considering, said Rod Bergt, a longtime Seldovia guide. Lowering the number of river permits will likely lead to more black market guides, he said. Those people either ac-

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Guides

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cept guiding fees on the side or they work around the law to provide guiding services without calling themselves guides, he said.

Large operators which hire several guides to work for them will be at a disadvantage. Each guide has to bid for his own permit and if an experienced guide leaves one business to work for himself, the operator will have a

hard time replacing him, the guides said.

"If they're trying to bring in a new guide, they'd be out of luck," Johannsen said.

Concern over the Kenai River's capacity for fish has renewed the call for limiting guides. The Kenai River advisory board debated the issue last summer and voted to start a two-year study to determine the natural limits and the more subjective human tolerance level on the river.

Gov. Walter J. Hickel took a personal interest in the issue and

called for an immediate limit to the guides. The plan will have a 45-day comment period and will not become effective until the 1993 fishing season.

That is too soon for some guides and members of the advisory board. "I think this is a knee-jerk reaction to politics and what I think it needs is a real comprehensive plan that takes into account all the users," King said.

Limiting guides will only solve part of the problem, said Daniel Doshier, president of the advisory board. It will not solve the

crowded conditions on the river, he said. For every guide boat removed from the river, a new boat will be added carrying non-guided anglers, he said.

Doshier said he agreed with the advisory board's decision to study the social carrying capacity.

Board member Loretta Breeden said she is glad the administration is moving ahead with some plan. "Studies are a bureaucratic way of putting things on the shelves," she said. "We have a governor who is listening to the people."

Exxon deal takes Alyeska off hook for some claims

By CHARLES WOHLFORTH
Daily News reporter

The state dropped its case against Alyeska Pipeline Service Co. for damaging the environment in the Exxon Valdez oil spill when it settled its case this week against Exxon.

Attorney General Charlie Cole said the state will still pursue its case against Alyeska for other kinds of damages related to the spill. But claims other than damage to natural resources are unlikely to cost Alyeska nearly as much.

Alyeska spokeswoman Mamie Isaacs said the com-

pany is not sure what issues remain in the suit and seemed surprised that Cole still planned to push the case. She said Alyeska has not engaged in settlement talks, but, "I would anticipate that shortly we will be approaching the state."

The state sued Alyeska and its seven owner companies — including Exxon — in August 1989, after Alyeska's halting, ineffective early cleanup of the March 24, 1989, spill.

The tanker Exxon Valdez spilled nearly 11 million gal-

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lons of oil in Prince William Sound, the nation's worst tanker spill. Alyeska's failed cleanup didn't live up to promises the company had made in its state-filed oil spill contingency plan and other documents.

The state and federal government settled suits against Exxon for the spill Tuesday. In the settlement, which must be approved by the courts and the legislature, the state and federal governments promised to drop all civil claims against Exxon for the spill in exchange for \$900 million, payable over the next 10 years. Exxon settled also federal criminal charges for \$100 million. The two deals were a package.

To wipe out claims against Exxon, the state also agreed to drop all natural

resource claims against Alyeska and to rebate Exxon part of any money it may later win from Alyeska in court for anything else related to the spill. Exxon owns 20 percent of Alyeska and will receive 20 percent of any judgment Alyeska has to pay to the state.

Cole said Exxon lawyers insisted on those terms in negotiations because they expected that if the state were to win natural resource claims against Alyeska, Alyeska would in turn sue Exxon to get the money back.

"Exxon said, 'We don't want to pay twice for resource damage claims,'" Cole said. "We want to pay once, and that's here and now."

"We didn't think our chances looked good of re-

covering more than \$600 mil-

lion, so therefore we thought that it made good sense," Cole said.

Most of the suit against Alyeska deals with natural resource damages, but Barbara Herman, assistant attorney general, said the state can still fight for its unreimbursed cleanup costs and for punitive damages.

The Exxon settlement is already paying the state up to \$72 million in reimbursement for its costs in the cleanup, scientific damage assessment and litigation. The federal government will get \$62 million for those costs, for a total of \$132 million.



VALDEZ SPILL

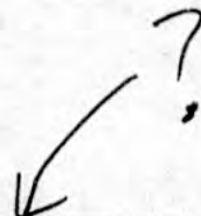
Herman said some unreimbursed costs will remain but would not say how much.

According to a state Department of Fish and Game memo last fall, the two governments expected to spend \$100 million total on the litigation and damage assessment by now. And the Department of Environmental Conservation is owed \$11 million for all of the state's spill response work not already paid for by Exxon.

Local governments are also seeking a few million dollars in lost raw fish tax from Exxon because its oil spill closed salmon fishing seasons in their areas. Herman said the local governments are free to pursue that money on their own in court, but the state, which collects the tax on their behalf, dropped its part of the claim.

The state's suit against Alyeska also claims damages for harm to the state's economy by the spill and for the emotional distress of residents. It demands payment of social and mental health workers to compensate for the emotional distress. And it mentions statutory penalties for the spill, but those would come to thousands of dollars.

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SPILL SETTLEMENT: State, federal government, Exxon agree

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government officials are calling the largest environmental damage settlement in history.

It was Hickey's personal diplomacy and public prodding that got the talks started. It was, according to state Attorney General Charlie Cole, Hickey's "personal knowledge of Prince William Sound" and "subjective sense about an acceptable settlement" that came up with an original settlement proposal of \$1.2 billion — not reliance on any of the myriad of scientific and economic studies being done on spill damage.

The \$100 million criminal fine against Exxon is much less than the federal government had said it expected to win in court.

When Exxon was indicted one year ago, U.S. Attorney General Richard Thornburgh said at a press conference that the government was throwing "the environmental book at Exxon" and that fines could reach more than \$600 million under a federal law that allows the government to collect twice the amount of money it spent on costs associated with the cleanup and claims paid by the defendants.

Environmentalists and attorneys representing clients with cases against Exxon criticized the settlement as too low.

"It seems like we're not going to have a big enough pot of money to do any realistic restoration so it will be interesting to see where the money winds up going to and whose projects get funded," said Riki Ott, a commercial fisherman and founder of the Oil Reform Alliance, which pushes for stronger oil spill laws.

"It sounds horrendously low to me," said Dave Oesting, a coordinating counsel for private plaintiffs suing Exxon.

But Oesting said that, without access to the scientific studies and economic damage models used to arrive at the \$1 billion figure, "which the state has assiduously refused to provide, one can only speculate."

"My perception is it was a just a dart

HOW THE EXXON-VALDEZ OIL SPILL SETTLEMENT WILL BE DISTRIBUTED

To be paid immediately \$190 million

-  \$100 million criminal fine, \$50 million will be given to the state as restitution.
-  \$25 million to continue science programs.
-  \$15 million for restoration projects.
-  \$50 million to be paid to trustees and Coast Guard for past cleanup expenses.

FY 1992

-  \$150 million to be used to return Prince William Sound to its pre-spill condition.

FY 1993 and beyond

-  \$660 million to be paid over a period of years beginning in FY 1993

Total: \$1 billion

throw by Governor Hickey," Oesting said.

Eric Jorgenson, managing attorney for the Sierra Club Legal Defense Fund, agreed it's hard to judge the settlement without seeing the confidential studies, but said, "Obviously, Exxon did some very hard bargaining."

Rep. Cliff Davidson, D-Kodiak, said he thought settling with Exxon was "better than a pile of attorneys' bills" and that he was glad the public will have a chance to comment.

"But I'd like to know if all America will pay for this, because if it's all tax-deductible, where is the penalty?"

The settlement with its long payout also seemed low to John Loomis, an associate professor of environmental studies and agricultural economics at the University of California at Davis and an expert in assessing environmental damage.

"It's like an interest-free loan to Exxon," Loomis said.

The Exxon Valdez ran aground on Bligh Reef in Prince William Sound on March 24, 1989, shortly after its captain, Joseph Hazelwood, left the bridge to do paperwork in his cabin. The National Transportation Board has said Hazelwood was drunk at the time, but in court he was convicted only of negligent discharge of oil.

Wildlife by the tens of thousands were killed by the thick oil that gushed from the tanker into the Sound. Much of that oil seeped deeply into the rocky beaches of the once-pristine waterway where the state claims it remains today.

Under the settlement plan, Exxon would immediately deposit \$190 million into an interest-bearing account, according to a draft press release prepared by NOAA, one of the federal agencies involved in the settlement talks.

Of that first installment, \$100 million would be a criminal fine paid in exchange for the federal government's dropping its criminal charges against Exxon Corp. and its subsidiary, Exxon Shipping Co. The companies were indicted last year on five criminal counts from the spill.

Half the fine would go to the state as restitution for the nearly 11 million-gallon spill that coated hundreds of miles of shoreline in oil. The agreement also calls for \$25 million of the first year's payment to be spent on continuing scientific studies into the spill and \$15 million for restoration projects.

The remaining \$50 million of the first installment, according to the NOAA docu-

ment, would be used to reimburse the state and federal governments for past spill-related costs. That falls far short of the \$190 million that Cole has said the state and federal governments are owed. The two governments have also spent more than \$100 million on studies and legal fees.

Exxon would pay another settlement installment of \$150 million by October of this year to be used "in restitution efforts aimed at returning Prince William Sound to its pre-spill condition."

In fiscal year 1993, Exxon would begin paying off the remaining \$660 million. The NOAA fact sheet does not specify the exact payment schedule, but says it will take nine years.

The agreement includes a clause that would allow the governments to reopen the case after a 10-year restoration period if new damage is discovered. The additional claims could not exceed \$100 million.

The way was cleared for the settlement Tuesday afternoon when U.S. District Judge Stanley Sporkin lifted a temporary restraining order sought by Alaska Natives who contended that the federal government was settling their rights to recover damage to lands and wildlife which upon which they depend for subsistence.

Sporkin's ruling was hailed by the Natives as a victory because the judge's order precluded the settlement from jeopardizing any of their rights to compensation even if it meant that Exxon would have to pay twice for some damages — once in the settlement and again to the Natives.

In a stern warning to government attorneys, Sporkin said that if a settlement did wind up harming the villages' right to sue Exxon, "Hell hath no fury like a judge scorned. ... It's not fair, it's not right and it's not American."

Daily News reporters George Frost and David Whitley contributed to this story.

It's a deal: \$1.1 billion

State, Exxon sign spill settlement

By JAY CROFT
and DAVID FUTCH 3/13/91
TIMES WRITERS

The state and federal government signed a \$1.1 billion oil spill settlement with Exxon officials at a secret midnight Tuesday meeting in Washington, D.C.

"The deal was signed tonight," Alaska Gov. Walter J. Hickel said early this morning from Washington.

Officials for all three parties gathered at the U.S. Justice Department at 11:30 p.m. EST. The deal was signed at "11:45-ish," Hickel said.

About 15 minutes later, Justice Department and Exxon attorneys signed a deal regarding the five criminal counts against Exxon, a source close to negotia-

tions said. That involved a \$100 million fine, sources said.

Details of the criminal case deal were to be announced at a news conference this morning at the Justice Department, officials said.

"This is a very good deal for the state of Alaska, the federal government and the environment of Prince William Sound," Hickel said today about 12:30 a.m. EST.

"I'm pleased with the results of the talks. Exxon should be commended. The federal government should be commended. And I know Charlie Cole should be commended."

Cole, Alaska's attorney general, has been in Washington negotiating a settlement off and on.

See Exxon, page A9

Exxon critic to head panel on spill pact

Times
3-15

TIMES WASHINGTON BUREAU

WASHINGTON — A major Exxon critic in the U.S. House of Representatives said Thursday he will hold a hearing next month on the company's \$1 billion out-of-court Prince William Sound oil spill settlement with Alaska and the federal government.

Rep. George Miller, D-Calif., vice chairman of the Interior and Insular Affairs Committee, planned the oversight hearing on April 8. Rep. Don Young, of Alaska, is the senior Republican on the committee.

"The Congress and the public will have many questions about the Exxon settlement," Miller said.

Miller has criticized Exxon's general record in cleaning the waters and miles of shoreline damaged when the Exxon Valdez hit Bligh Reef, spilling nearly 11 million gallons of crude March 24, 1989.

Miller's criticisms include Exxon's resistance to releasing all scientific data involving oil damage assessments. Director William Reilly of the Environmental Protection Agency said Wednesday, however, that such information will be released to the public soon.

EPA spokesman Robin Woods said the information is not expected to be released for "several weeks."

Alaska Attorney General Charles Cole, the chief state negotiator, says the state will withhold release of its data, definitely because of other suits involving the oil spill.

Miller said he also will examine "whether the rights of Alaska Natives and other injured parties are protected" by the agreement signed Tuesday night by Gov. Walter J. Hickel, Attorney General Dick Thornburgh and other federal officials, and Exxon Chairman Lawrence G. Rawl.

Five Native villages and three Native corporations sought to be included in the talks because of concern the three parties would negotiate away their private claims.

Hickel said all private groups may sue for separate damages, but a U.S. District judge issued an order Tuesday stating that the Natives' legal ability to sue Exxon could not be compromised.

Miller gave no indication of whom he will call as witnesses, but Hickel and Rawl could well be among them. They met four times on the agreement, which was largely negotiated by Cole and representatives of Exxon and the Justice Department.

state to
withhold
scientific data

Welfare post 3.18.91 goes to Hickel team player

Governor's press aide says appointment not unusual

By DIK MILLER

TIMES CAPITAL BUREAU

JUNEAU — A panel of Gov. Walter J. Hickel's supporters that was reviewing applicants for a top welfare reform job ultimately chose one of its own for the position.

Health and Social Services Commissioner Ted Mala and Jan Hansen, who directs the welfare reform coordinator, say there was no pressure exerted in the hiring of Sandy Armstrong. Armstrong started the \$54,288-a-year job about two weeks ago.

"My feeling at this time is she got the job because the division was comfortable and felt she could do it," Mala said. "I was prepared to not take the recommendation if they were not comfortable."

Hansen said she interviewed Armstrong and decided to hire her.

"I made the selection, and I didn't do it with any pressure," Hansen said. "There were times, frankly, that I was concerned because there was the recommendation."

The volunteer transition team was reviewing applicants for positions within the department, Armstrong said.

Armstrong said she did not participate in the meeting where her qualifications were discussed.

"I feel very comfortable there is no conflict," Armstrong said.

The department transition team, which Mala called an advisory group, was recommended by Hickel and Lt. Gov. Jack Coghill. Advisory teams were formed for nearly every department.

Mala said he did not sit in on interviews but was aware the group was questioning candi-



'My feeling at this time is she got the job because the division was comfortable and felt she could do it.'

Ted Mala

in child support laws. Her most recent job was at the Juneau Recovery Unit, the city's chemical and alcohol dependency treatment center.

She is on the steering committee for the National Council for Children's Rights and also served with Hansen on the Family Support Task Force, created by the Legislature in 1988.

Armstrong said that at a transition panel meeting she was asked to explain to members the duties and responsibilities of the welfare coordinator.

Soon after, Armstrong was notified that the team had unanimously recommended her for the job. Armstrong, 45, is a founding member of the Alaska Dads and Moms, which advocates changes

Coghill wrote a letter recommending Armstrong be placed on a transition team.

"I have known Sandy for the last three years since she has served as the volunteer citizen lobbyist for Alaska Dads and Moms, and I am impressed about her knowledge of the federal and state laws concerning child support enforcement," Coghill wrote in the Jan. 2 letter.

dated March 15, 1991, of Hickel's transition team.

Armstrong is one of the focus candidates of the transition team. Hickel and Coghill expressed strong views against abortion and child support practices during their campaign.

"I heard and felt a deep concern for families," Armstrong said.

Harry Gamble, Hickel's acting press secretary, said it has not been uncommon for the governor or the Cabinet to hire transition team members.

See Welfare, back page

Welfare

Continued from page B1

"They are people he trusts, respects and has a great deal of confidence in," Gamble said. "In that particular department, I suppose that philosophy would carry over in health and social services."

THE WALL STREET JOURNAL

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TECH EDITION

TUESDAY, FEBRUARY 19, 1991

WHITE OAK, MARYLAND

Exxon Confirms Waste Water Charges; Move May Impede a Valdez Settlement

By ALLANNA SULLIVAN

Staff Reporter of THE WALL STREET JOURNAL

Exxon Corp. acknowledged that it has shipped tanker waste water to Alaska.

While the company said the shipments and subsequent tanker-to-tanker transfers of so-called tank washings were within federal guidelines, such a disclosure could further entangle attempts to settle litigation stemming from the Exxon Valdez oil spill two years ago. Exxon, Alaska and the federal government have been engaged in talks for several weeks in efforts that could settle the state's civil case and possibly the federal government's criminal case. The allegations, which have drawn Environmental Protection Agency scrutiny, raise "the possibility of further complicating the settlement," said Jay Keritula, chairman of Alaska's Senate Finance Committee.

The parties were on the verge of settlement late last week, but pressure from some state officials and environmentalists unhappy with the terms of the possible settlement may be slowing the process. Indeed, some Alaskan lawmakers are considering legislation that would preclude a settlement until state legislators scrutinize the agreement. Gov. Walter J. Hickel had proposed that Exxon pay \$1.2 billion to settle; it appears the company has asked to provide payments over a period of years that would devalue the amount.

Allegations regarding waste water specifically focus on the transfer of so-called tank washings from the Exxon Galveston, a lightering tanker, to the supertanker Exxon Valdez on Aug. 4, 1988. The washings were then transported up to Valdez, Alaska, where they were treated in the ballast water-treatment plant owned by Alyeska Pipeline Services Co.

The charges were contained in a letter sent last week by former oil-tanker broker Charles Hamel to EPA head William Reilly and U.S. Attorney General Richard Thornburgh. In the letter, Mr. Hamel says that before any settlement is concluded, Exxon should be asked to stop such shipping practices. Mr. Hamel, who is engaged in a dispute over mutual business arrangements he has with Exxon and other oil companies, claims that Exxon insiders told

him of the wrongdoing.

Beyond hearsay, however, a document turned up by Alaskan attorneys in preparation for the state's civil case against Exxon makes reference to the transfer. The handwritten document is a set of instructions from the second mate to another second mate who was boarding the vessel to relieve him. It says specifically that the Exxon Valdez will unload its crude oil to the Exxon Galveston but not until "after we take 50,000 barrels of tank washings from [the Exxon Galveston]."

Pressed for a response to the charges, Jim Pitts, a spokesman for Exxon, said that "yes, there was a transfer . . . all wash water returned to the Exxon Valdez as ballast and returned for treatment to the ballast water treatment plant in Alaska were in compliance with permits from EPA."

Exxon declined to identify what type of cleaning agent was being used to clean the oil storage tanks of the vessels other than to say that the tanks were cleaned with hot water and a very small amount of detergent. The oil company also declined to say what materials were contained in the tank washings following the cleaning.

But the company did say that the practice of transferring tank washings to tankers en route to Alaska "wasn't uncommon" and that all such transfers involved washings of ships handling Alaskan crude oil. Indeed, individuals familiar with the transport of crude oil said that other oil companies engage in the same practice and that it's still continuing.

But EPA officials said such moves are violations of federal law.

The EPA permit that authorizes operation of Alyeska's ballast water treatment plant in Valdez allows small amounts of cleaning agents to be present in the ballast water injected into the plant by arriving supertankers. But EPA officials presumed that such tank washings would be the result of cleanings of the supertankers themselves, which en route to Alaska aren't permitted to eject the waste water.

"But deliberately stopping a supertanker and putting the washings into its ballast; there's no way the permit authorizes that kind of discharge," says Harold Geren, chief of water permits for EPA in Seattle, which has jurisdiction over the Alyeska plant.

Exxon said it has shipped tanker waste water to Alaska. The disclosure could further entangle attempts to settle litigation stemming from the Exxon Valdez oil spill in 1989.
(Story on Page A-6)

Mr. Geren says that EPA has already started to look into what is contained in those cleaning wastes. Mr. Geren says that Alyeska has volunteered to scan the ballast water at the treatment plant for toxic pollutants. "We need to know what is in the waste water," he said, adding that tank washings can contain toxic wastes, such as heavy metals.

Experts say that any damage to the port of Valdez depends on the amount and constituency of the chemicals going into the water. The ballast water treatment plant was designed to separate oil from water and then eject the treated water back into Valdez Harbor. Individuals familiar with the design of the plant say that any unanticipated substances, such as certain heavy metals, could travel through the plant and into Valdez Harbor undetected.

Riki Ott, a sediment toxicologist who is also heading up a coalition of Alaskans seeking reform of oil industry practices, said that the Port of Valdez was recently declared environmentally "impaired." Its degeneration is from long-term abuse unrelated to the Exxon Valdez spill that never fouled the harbor's waters, she says. To be sure, Valdez is in better shape than many commercial harbors in the U.S., but "we've had the first warning sign that something has gone wrong," she says.

SCOMM

77:69

SENATE RESOLUTION NO. 6**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY THE SENATE RULES COMMITTEE**

Introduced: 3/18/91
Made a Special Order of Business

A RESOLUTION

1 Establishing a Senate Special Committee on the Exxon Valdez Oil Spill Claims Settlement.

2 BE IT RESOLVED BY THE SENATE:

3 WHEREAS justice requires that Alaska be adequately compensated for the damage done to it
4 as a result of the oil spilled from the T/V Exxon Valdez in March of 1989; and

5 WHEREAS the Agreement and Consent Decree in United States v. Exxon, et al., and State of
6 Alaska v. Exxon, et al., signed by the parties on March 12, 1991, allows the United States or the State
7 of Alaska to withdraw its consent to the Agreement if the Alaska State Legislature fails to approve the
8 Agreement within 45 days from the date that notice of the Agreement is published in the Federal
9 Register;

10 BE IT RESOLVED by the Senate that a Senate Special Committee on the Exxon Valdez Oil
11 Spill Claims Settlement is established to study the proposed Agreement and related documents; and be
12 it

13 FURTHER RESOLVED that the President of the Senate shall determine the number of senators
14 to be members of the committee, shall appoint the members, and shall designate a member to chair the
15 committee; and be it

16 FURTHER RESOLVED that the Senate Special Committee on the Exxon Valdez Oil Spill
17 Claims Settlement shall hold, in addition to its own meetings, joint meetings with a like House

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO: HR 4

Revision Date: _____
Title: Establishing a House Special Comm.
on the Exxon Valdez Oil Spill claims settlement.
Sponsor: House Rules
Requestor: House Rules

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Legislative Operating Budget
Component: Session Expenses
Legislative Operating Budget

COMPONENT SERIAL NO: 782 & 796

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact. Expenditures for this special committee will be absorbed within the existing Session Expenses and House Operating Budget.

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Phone: 465-3850
Date: 3/15/91

Approved By: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Date: 3/15/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HOUSE RESOLUTION NO. 4**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY THE HOUSE RULES COMMITTEE**

Introduced: 3/18/91

Referred: Today's Calendar

A RESOLUTION**1 Establishing a House Special Committee on the Exxon Valdez Oil Spill Claims Settlement.****2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:**

3 WHEREAS justice requires that Alaska be adequately compensated for the damage done to it
4 as a result of the oil spilled from the T/V Exxon Valdez in March of 1989; and

5 WHEREAS the Agreement and Consent Decree in United States v. Exxon, et al., and State of
6 Alaska v. Exxon, et al., signed by the parties on March 12, 1991, allows the United States or the State
7 of Alaska to withdraw its consent to the Agreement if the Alaska State Legislature fails to approve the
8 Agreement within 45 days from the date that notice of the Agreement is published in the Federal
9 Register;

10 BE IT RESOLVED by the House of Representatives that a House Special Committee on the
11 Exxon Valdez Oil Spill Claims Settlement is established to study the proposed Agreement and related
12 documents; and be it

13 FURTHER RESOLVED that the Speaker of the House of Representatives shall determine the
14 number of representatives to be members of the committee, shall appoint the members, and shall
15 designate a member to chair the committee; and be it

16 FURTHER RESOLVED that the House Special Committee on the Exxon Valdez Oil Spill
17 Claims Settlement shall hold, in addition to its own meetings, joint meetings with a like Senate

1 committee for the purpose of receiving public testimony on the proposed Agreement; and be it

2 **FURTHER RESOLVED** that the House Special Committee on the Exxon Valdez Oil Spill
3 Claims Settlement shall report to the House of Representatives by the 35th day after the Agreement is
4 published in the Federal Register the committee's recommendation that the House approve or disapprove
5 the proposed Agreement, and that the committee is terminated on the 46th day after the Agreement is
6 published in the Federal Register.

1 committee for the purpose of receiving public testimony on the proposed Agreement; and be it

2 **FURTHER RESOLVED** that the Senate Special Committee on the Exxon Valdez Oil Spill
3 Claims Settlement shall report to the Senate by the 35th day after the Agreement is published in the
4 Federal Register the committee's recommendation that the Senate approve or disapprove the proposed
5 Agreement, and that the committee is terminated on the 46th day after the Agreement is published in
6 the Federal Register.

WORK ORDER REQUEST FORM

W.O. [17] LS-1023

KEYWORDS: COMMITTEES, LEGISLATIVE

ASSIGNED: Cook

LITIGATION

OIL/GAS

REQUEST FOR: Resolution

TAKEN BY: Cook

SUBJECT: Special Committee on Exxon Settlement

REQUESTED FOR: SEN ELIASON

BY: Sheila

PHONE: 465-4916

DELIVER TO: Sen. Eliason. Cap 111

INSTRUCTIONS: Duplicate of 7LS-1022, creating a special committee on the Exxon Valdez Oil Spill Claims Settlement. See attached.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []

AUTHORIZED TO CONFER WITH Doug Rickey

RETURN

TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED

IN 03/15/91 DUE

TYPED: Draft Date

Final Date

PROOFED DELIVERED

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Sponsor Blank

Request for DRAFT

ALASKA STATE LEGISLATURE SENATE

SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE
LABOR & COMMERCE COMMITTEE
RESOURCES COMMITTEE
RULES COMMITTEE
CHAIRMAN, SPECIAL COMMITTEE ON
DOMESTIC & INTERNATIONAL
COMMERCIAL FISHERIES



P.O. BOX 143
SITKA, ALASKA 99835

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

FAX (907) 465-4928

FAX TRANSMITTAL SHEETNUMBER OF PAGES (Including transmittal sheet): 3DATE: 3/15/91TO: Senator Dick Eliason, Owyhee
Plaza Hotel, Boise IdahoTO FAX: (208) 336-3860FROM: Sheila Peterson, Senator Eliason's
OfficeFROM FAX: ⁽⁹⁰⁷⁾465-4928COMMENTS: Senator Eliason will be arriving
this afternoon. Would you please give
him this fax when he arrives? Thank
you —

If you have any problems receiving this message, please call

Sheila ⁽⁹⁰⁷⁾ in Senator Dick Eliason's office, 465-4916.

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

BY .

Introduced:

Referred:

A RESOLUTION

1 Establishing a House Special Committee on the Exxon Valdez Oil Spill Claims Settlement.

2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:

3 WHEREAS justice requires that Alaska be adequately compensated for the damage done to it
4 as a result of the oil spilled from the T/V Exxon Valdez in March of 1989; and

5 WHEREAS the Agreement and Consent Decree in United States v. Exxon, et al., and State of
6 Alaska v. Exxon, et al., signed by the parties on March 12, 1991, allows the United States or the State
7 of Alaska to withdraw its consent to the Agreement if the Alaska State Legislature fails to approve the
8 Agreement within 45 days from the date that notice of the Agreement is published in the Federal
9 Register;

10 BE IT RESOLVED by the House of Representatives that a House Special Committee on the
11 Exxon Valdez Oil Spill Claims Settlement is established to study the proposed Agreement and related
12 documents; and be it

13 FURTHER RESOLVED that the Speaker of the House of Representatives shall determine the
14 number of representatives to be members of the committee, shall appoint the members, and shall
15 designate a member to chair the committee; and be it

16 FURTHER RESOLVED that the House Special Committee on the Exxon Valdez Oil Spill
17 Claims Settlement shall hold, in addition to its own meetings, joint meetings with a like Senate

- 1 committee for the purpose of receiving public testimony on the proposed Agreement; and be it
2 **FURTHER RESOLVED** that the House Special Committee on the Exxon Valdez Oil Spill
3 Claims Settlement shall report by April 22, 1991, to the House of Representatives the committee's
4 recommendation that the House approve or disapprove the proposed Agreement, and that the committee
5 is terminated on May 4, 1991.

As it can't be determined exactly when the settlement will be published, the 1st date will read "the 35th day after the settlement is published" + the second date will be "the 46th day after the settlement is published."

DRAFT

HOUSE RESOLUTION NO. ____

BY THE HOUSE RULES COMMITTEE

Establishing a House Special Committee on the Exxon Valdez Oil
Spill Claims Settlement

WHEREAS justice requires that Alaska be adequately compensated for the damage done to it as a result of the oil spilled from the T/V EXXON VALDEZ in March 1989; and

WHEREAS the Agreement and Consent Decree in United States v. Exxon. et al., and State of Alaska v. Exxon. et al., signed by the parties on March 12, 1991, allows the United States or the State of Alaska to withdraw its consent to the Agreement if the Alaska State Legislature fails to approve the agreement within forty-five days from the date that notice of the Agreement is published in the Federal Register;

BE IT RESOLVED by the House of Representatives that a House Special Committee on the Exxon Valdez Oil Spill Claims Settlement is established to study the proposed Agreement and related documents, and to report the House of Representatives the Committee's recommendation that the House approve or disapprove the proposed Agreement; and be it

FURTHER RESOLVED that the speaker of the House of Representatives shall determine the number of representatives to be members of the committee, and shall appoint the members and designate a member to chair the committee; and be it

FURTHER RESOLVED that the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement shall hold, in addition to its own meetings, joint meetings with a like Senate committee for the purpose of receiving public testimony; and be it

FURTHER RESOLVED that the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement shall report to the House the committee's recommendation of approval or disapproval of the Agreement no later than _____, 1991; and be it

FURTHER RESOLVED that the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement is terminated on _____, 1991.

Los Angeles Times

DATE: 3-14-91

PAGE: 1

Exxon Agrees to Pay \$1-Billion for Alaska Spill

By RONALD J. OSTROW
TIMES STAFF WRITER

WASHINGTON—Exxon Corp. agreed Wednesday to pay \$900 million in damages and a \$100-million criminal fine for the Exxon Valdez oil spill in Alaska two years ago in a settlement hailed by Atty. Gen. Dick Thornburgh as "by far the largest single amount ever paid as a result of environmental violation."

The settlement with the state of Alaska and the federal government includes a reopener clause under which Exxon may incur up to \$100 million in additional damages for natural resource effects not now foreseen.

The agreement, spelled out in a Consent decree filed in federal court Wednesday, remains subject to the approval of a federal court in Alaska.

By agreeing to plead guilty to misdemeanor crimes, Exxon and its subsidiary, Exxon Shipping Co., will avoid going to trial next month on felony as well as misdemeanor charges. The trial would have further tarred the oil giant's reputation for the unprecedented damage the oil spill caused to Prince William Sound.

The Exxon Valdez tanker ran aground on a reef in the sound on March 24, 1989, spilling some 11 million gallons of crude oil and fouling more than 700 miles of Alaska's shoreline, national wildlife refuges and national parks. More than 36,000 migratory birds, including 100 or more bald eagles, and many other species of wildlife died as a result of the spill.

The settlement, announced here by Thornburgh and Alaska Gov. Walter J. Hickel, was praised by government and corporate officials for averting what promised to be a protracted court fight and channeling hundreds of millions of dollars into clean-up and restoration operations.

"We have a winner—environmentally, psychologically and financially," Hickel said.

Interior Department solicitor Thomas L. Sansonetti said that officials faced a choice of either settling now so that funds could be applied to clean-up and restoration or "spend the next decade feathering the nest of corporate and government lawyers."

Environmental groups, while praising some parts of the settlement, expressed concern about other aspects of the deal, such as its failure to require release of scientific and economic data that would help measure the true cost of the spill.

Under terms of the proposed agreement, Exxon's \$100-million criminal fine will be divided evenly by the federal government and Alaska, with the state's \$50 million to be applied to the cost of restoring damaged natural resources.

The \$900 million in civil damages is to be paid over the next 10 years to federal and state trustees. Of the total, \$135 million will cover past expenses, including clean-up and scientific research.

Exxon Chairman Lawrence G. Rawl noted that the company will be able to deduct the \$900 million in civil damages in calculating its corporate income taxes, although the \$100-million criminal fine is not deductible.

Since the spill, Exxon estimates that it has spent \$2.2 billion on cleaning up Prince William Sound and the Gulf of Alaska. The \$1-billion settlement would be over and above that amount.

Les Rogers, an Exxon spokesman, declined to disclose the after-tax cost of the settlement or its present value, which would take into account the fact that the money will be paid in increments through 2001.

Rogers described that information as "proprietary," adding: "We have elected not to make it available." The agreement provides that six government agencies—three federal and three state—will de-

cide how to allocate settlement funds to restore Prince William Sound and the Gulf of Alaska. Those decisions will affect \$765 million in damage funds remaining after past expenses are deducted.

Thornburgh noted that the federal government and Alaska are asking the federal court to allow a 30-day public comment period on the settlement—an opportunity for public reaction not required by law.

Jay D. Hair, president of the National Wildlife Federation, said that the \$1-billion settlement and criminal plea "will send a strong

message to polluters," but added: "No one can claim victory over a disaster which will impact people and the environment for decades to come."

John Adams, executive director of the Natural Resources Defense Council, criticized the failure to require release of scientific information. "Because much of the scientific and economic data will not be released, we cannot know whether the amount of the settlement fully vindicates the right of the public and the environment," he said.

William K. Reilly, administrator of the Environmental Protection Agency, said that the federal trustees who will help decide how to spend the settlement funds plan to release their data "forthwith."

Rep. George Miller (D-Martinez), acting chairman of the House Interior and Insular Affairs Committee, said that Congress and the public will raise many questions about the settlement.

Miller said that he plans a hearing April 8 to examine such questions as whether the rights of Alaska natives and other injured parties are protected, whether Exxon should be required to release all scientific data and whether settlement funds will be used to acquire timber rights and other natural resources as part of the restoration effort.

A Justice Department attempt to settle the case in February, 1990, before Exxon and its shipping subsidiary were indicted on the felony and misdemeanor charges fell through when top Alaska officials refused to endorse the settlement.

Thornburgh noted that the earlier settlement proposal fell \$400 million short of the amount contained in the final deal.

Exxon and Exxon Shipping were indicted Feb. 27, 1990, and charged with felony violations of the Ports and Waterways Act and the Dangerous Cargo Act, along with misdemeanor violations of the Clean Water Act, the Refuse Act and the Migratory Bird Treaty Act.

Under the plea agreement, Exxon will plead guilty to the Migratory Bird Treaty Act misdemeanor, while Exxon Shipping will plead guilty to all three misdemeanors.

The Hartford Courant

DATE: 3/14/91

PAGE: 1

Exxon agrees to pay record fine in spill

By JAMES ROWLEY
Associated Press

WASHINGTON — Exxon Corp. settled government claims arising from the nation's worst oil spill by agreeing Wednesday to pay a record \$100 million fine for four environmental crimes and to spend \$900 million to clean up Alaska's coast.

The largest settlement of an environmental damage case in U.S. history was reached after Exxon already spent \$2.5 billion on the cleanup. The fine is 20 times the previous record of \$5 million paid by Allied Chemical in 1976 for dumping Kepone into the James River in Virginia, officials said.

The civil settlement and guilty pleas to the four misdemeanors will avert lengthy court fights over the grounding March 24, 1989, of the tanker Exxon Valdez, which spilled more than 10 million gallons of oil into Prince William Sound.

Attorney General Richard L. Thornburgh said the deal with the federal government and the state of Alaska "represents a clear and unmistakable signal to those engaged in environmental crime that their activities are not going to go unnoticed and unprosecuted."

The record criminal fine, involving one misdemeanor charged against Exxon and three charged against its Exxon Shipping Co. subsidiary, shows that "answering for environmental spoilage cannot be done simply by paying damages," the attorney general said.

Proceeds from the fine will be split 50-50 with the state of Alaska to help finance the cleanup. By law, the federal share goes into the general treasury.

"I think it's a good settlement for the state of Alaska, it's a good settlement for the federal government... it's a good settlement for the environment," said Alaska Gov. Walter Hickel, who was governor 23 years ago Wednesday when the discovery of Alaska oil was announced.

Exxon's sales totaled more than \$107 billion last year and it reported earnings of more than \$5.1 billion.

Under the proposed consent decree, which needs court approval after a 30-day public comment period, Exxon would pay \$900 million over the next 10 years to a trust fund administered by federal and state officials.

The fund would be used to pay for costs of the continued cleanup by Exxon.

After 10 years the trustees could seek \$100 million more for any remaining environmental damage from the oil spill, which killed countless birds, fish and mammals.

By settling instead of going to court, the Bush administration and Alaska get cleanup money now and avoid "spending the next decade feathering the nests of corporate and government lawyers," said Thomas L. Sansonetti, the Interior Department solicitor.

The settlement means that more cleanup money "will be available years earlier than any recovery that

could have been secured through full litigation," said William K. Reilly, head of the Environmental Protection Agency.

The settlement "allows us to turn our full attention, finally, to the tasks of restoration," he said.

The deal settles all civil claims against Exxon by the state of Alaska and any that the federal government might have filed. It does not end the private lawsuits filed by property owners, fisherman and businesses.

The settlement was reached late Tuesday after a federal judge in Washington lifted an order halting discussions until he was assured that claims of five native Alaskan villages would not be compromised.

Environmental groups had mixed reactions.

"They did well on the criminal side. That's a very hefty criminal figure. Our concern is with the civil



RICHARD L. THORNBURGH
A signal to pollsters

fine," said Sarah Chasis, a senior lawyer for the Natural Resources Defense Council.

Chasis expressed disappointment that \$135 million of what Exxon will pay covers past cleanup expenses.

"You're really diminishing the pot for long-term research and restoration," she said. "We want to make sure the environment is made whole. We have serious questions as to whether this agreement would accomplish that goal."

Others said it was hard to evaluate the settlement because scientific data on the extent of the damage has not been made public.

"On the one hand it's the largest settlement of its kind ever," said Douglas Wolf, a lawyer for the National Wildlife Federation. "The downside is that we don't know if that was an appropriate amount for this spill because it was the largest one ever."

Rep. George Miller, D-Calif., said the House Interior water and power subcommittee has scheduled a hearing April 8 because "the Congress and the public will have many questions about the Exxon settlement."

Exxon and its shipping subsidiary had faced a criminal trial April 10 in federal court in Anchorage on two felony and three misdemeanor counts arising from the oil spill.

Exxon Chairman L. G. Rawl, who signed the deal at the Justice Department, said in a statement that the company had been ready to contest the civil and criminal charges.

"However, we have agreed to the settlements because they are in the best interests of Exxon shareholders and all other involved parties," he said. "A long and costly legal confrontation would benefit no one."

Rawl said Exxon could deduct the

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\$900 million cleanup payments from its income taxes, but not the fine.

The two felony counts that will be dismissed accused Exxon of "willfully and knowingly" failing to make sure that the Exxon Valdez was manned by mentally and physically competent pilots.

Joseph Hazelwood, the ship's captain, was accused of drinking before the tanker left the port of Valdez, but he was acquitted of state charges that he operated the ship while intoxicated.

Exxon agreed to plead guilty to a misdemeanor violation for the death of migratory birds killed.

Exxon Shipping also agreed to plead guilty to the Migratory Bird Treaty Act violation. The Exxon subsidiary also will plead guilty to violating the Clean Water Act and the Refuse Act by negligently dumping oil into Prince William Sound.

Newsday

DATE: 3/14/91

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Exxon's Bill for Spill *\$1B in damages and fines in Valdez oil accident*

By Stephanie Saul
WASHINGTON BUREAU

Washington — Exxon Corporation yesterday agreed to pay \$1 billion in civil damages and criminal fines for the March, 1989, Valdez accident, in which the tanker struck a reef and spilled more than 11 million gallons of crude oil into Alaska's Prince William Sound, spoiling 700 miles of shoreline and killing thousands of birds, fish and mammals.

Attorney General Dick Thornburgh said yesterday that the agreement was the largest environmental settlement in history.

The \$1 billion settlement includes \$100 million in criminal fines. By pleading guilty to a total of four misdemeanors, Exxon and its subsidiary, Exxon Shipping Co., avoided a possible conviction on two felony charges included in the February, 1990, federal indictment against them.

The companies had been scheduled to go to trial April 10 in Anchorage.

"The extraordinary size of the fine and the fact that this resulted in guilty pleas is significant," Thornburgh said, because it sends a message that "answering for environmental spoilage cannot be done by simply paying damages."

The \$900 million in civil damages will be paid during 10 years under the agreement. Exxon also could be responsible for up to \$100 million in additional damages if unforeseen environmental problems occur, under a "reopener" clause in the agreement.

Thornburgh said the money will be spent for additional cleanup and both short- and long-term restoration projects in Prince William Sound and the Gulf of Alaska, the areas damaged by the spill. Of the total, \$135 million is committed for past expenses, such as cleanup and scientific research.

Last year, the Justice Department had been willing to agree to a \$700 million settlement, but the State of Alaska said it was inadequate and blocked the deal.

Exxon Chairman Lawrence G. Rawl said the company had agreed to the settlement because it was in the best interest of Exxon shareholders and other involved parties. "A long and costly legal confrontation would benefit no one," Rawl said yesterday.

Rawl said other than \$100 million in criminal fines, all other costs will be tax deductible. And he said the agreement will have no noticeable effect on the company's

financial results because reserves have already been established to pay the penalties.

Exxon says it already has spent \$2.5 billion for cleaning up and reimbursing state, federal and local governments for their cleanup efforts.

The company has said the amounts previously paid out already exceed its insurance coverage.

Oil industry consultant Scott Jones of Philadelphia's AUS Consultants said the settlement avoids legal fees in the tens of millions of dollars.

"I think, certainly within Exxon and certainly within the oil community of Alaska, in general, to get this thing settled and behind the industry is a strong positive step," Jones said.

Environmentalists generally reacted positively to the settlement but expressed several reservations.

"The large settlement and criminal plea will send a strong message to polluters," said National Wildlife Federation President Jay D. Hair. But Hair said his group could not fully embrace the deal, partly because it did not require the public release of scientific data on the spill, collected both by Exxon and the government. EPA Administrator William K. Reilly said, however, that his agency's data would be available.

Exxon still faces a number of private civil suits in connection with the oil spill, as does

the Valdez' captain, Joseph J. Hazelwood of Huntington.

Witnesses said Hazelwood was drinking on shore the day the Valdez left port. But he was acquitted by an Alaska jury last year of criminal mischief, reckless endangerment and operating a vessel while intoxicated. The jury convicted him of a less serious charge of negligent discharge of oil. He was sentenced to 1,000 hours of community work in Alaska and a \$50,000 fine. Hazelwood has appealed.

Of the original criminal charges against Exxon and Exxon Shipping, the parent company agreed to plead guilty to one misdemeanor, admitting that it killed migratory birds in violation of federal law.

Exxon Shipping agreed to plead guilty to three misdemeanors, admitting that it negligently discharged pollutants without a permit; that it negligently discharged refuse matter and that it killed migratory birds.

Of the \$100 million in fines, \$50 million will go into the federal treasury and \$50 million will go to Alaska coffers.

The civil settlement must be approved by a federal judge after a 30-day public comment period. Within 10 days after the approval, Exxon will pay the government its first installment of \$90 million on the civil fine.

On Sept. 1, 1992, Exxon will pay another \$150 million. It will pay \$100 million on Sept. 1, 1993, and \$70 million a year until the final payment on Sept. 1, 2001.

The Dallas Morning News

DATE: 3-14-91

PAGE: 1

Exxon settles spill case \$1 billion deal to cover fine, Alaska cleanup

By Maria Halkias

Staff Writer of The Dallas Morning News

Exxon Corp. settled criminal and civil claims arising from the nation's largest oil spill by agreeing to pay record-setting restitution for environmental violations, officials said Wednesday.

A \$1 billion settlement with the federal government and the state of Alaska was signed about midnight Tuesday in Washington by Lawrence G. Rawl, Exxon chairman and chief executive officer.

The fine — to be paid over 10 years — is in addition to more than \$2 billion that Exxon has spent to clean up Alaska waters and coastlines after the Exxon Valdez supertanker spilled more than 10 million gallons of oil into Prince William Sound on March 24, 1989.

The nation's largest oil company agreed to plead guilty to four misdemeanors and to pay a criminal fine of \$100 million plus \$900 million to restore environmental damage.

Exxon was prepared to defend itself, Mr. Rawl told reporters at the company's Irving headquarters Wednesday. "However, we have agreed to the settlements because they are in the best interests of Exxon shareholders and employees."

The plea bargain prohibits the Justice Department from bringing additional criminal charges against Exxon or any of its officers.

The government also gave up the right to prosecute Alyeska Pipeline Service Co. for allegedly failing to meet government requirements that it

have an emergency oil spill cleanup plan.

Alyeska, owned by a consortium of oil companies operating on Alaska's North Slope, had piped the crude oil to the Exxon Valdez at the port of Valdez shortly before the accident.

Although not required by law, the civil settlement will undergo a 30-day public comment period in Alaska. A federal court must also approve the settlement.

In Washington, Attorney General Dick Thornburgh said the deal "represents a clear and unmistakable signal to those engaged in environmental crime that their activities are not going to go unnoticed and unprosecuted."

At the same news conference, Environmental Protection Agency Director William Reilly said he was pleased with the settlement.

"America has never seen an oil spill so large and destructive and in such a beautiful pristine environment," Mr. Reilly said.

The funds provided by Exxon "assure that necessary activities will be carried out and monitored to restore Prince William Sound," he said.

Similarly, said Jay D. Hair, president of the National Wildlife Federation: "The large settlement and criminal plea will send a strong message

to polluters. However, no one can claim victory over a disaster which will impact people and the environment for decades to come."

Of the \$100 million criminal fine that Exxon and its Exxon Shipping unit agreed to pay, the U.S. Treasury will receive \$50 million and Alaska the other \$50 million as restitution for environmental damage.

The \$100 million penalty "is by far the largest single environmental criminal recovery ever exacted," Mr. Thornburgh said. And the aggregate \$1 billion payment "is by far the largest single amount ever paid as a result of environmental violations."

The settlement has a reopener clause under which Exxon may have to pay an additional \$100 million for natural resource damages not currently foreseen.

The \$900 million civil settlement will be paid over a 10-year period. It will go toward an environmental restoration program administered by a joint federal-state trustee council, as well as for reimbursement for past and continuing federal and state cleanup and research efforts.

Any future cleanup costs that Exxon incurs will be credited against its annual restitution, which begins with a \$90 million payment into the trust fund.

All costs associated with the Exxon Valdez spill, except the \$100

million criminal fees, are viewed as tax-deductible operating expenses, Mr. Rawl said — leaving taxpayers to indirectly shoulder some costs.

The settlement "will not have a noticeable effect" on the company's financial results because reserves for the payments had been set aside for the last two years, Mr. Rawl said.

"I've been disappointed and angry since March 24, 1989. I was angry that this happened to us," he said. "It has distracted us from doing more productive work. ... We took the responsibility and we did the job."

Twice in the last two years, the federal government attempted to negotiate a settlement with Exxon after the U.S. Justice Department's indictment on Feb. 27, 1990, of Exxon and its shipping subsidiary.

Negotiations reopened in January after Alaska Gov. Walter J. Hickel called Mr. Rawl and invited him to the first of several meetings.

Mr. Hickel called the agreement "a good settlement" for his state, the federal government, Exxon and the environment.

"I'm glad this is behind us," Mr. Hickel said in Washington.

U.S. District Judge Stanley Sporkin of Washington on Tuesday afternoon set aside an earlier order temporarily blocking completion of a settlement.

The judge had halted negotiations between Exxon, the federal government and Alaska to review claims by five native Alaskan villages that they were improperly locked out of the negotiations.

The villagers had filed suit this month, asserting that a settlement could prevent them from recovering financial damages caused by the Exxon Valdez spill.

The accord will not end Exxon's legal troubles in Alaska; about 200 separate suits are pending against the company. But the agreement settles major suits brought by the federal government and Alaska.

The company said those suits aren't expected to be as material as those just concluded.

Exxon agreed to plead guilty to a misdemeanor violation for the death of migratory birds killed by the oil spill.

AP Associated Press

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^All Sides Seen Victorious in Exxon Settlement<

^An AP Analysis<

^By LAURIE ASSEO=

^Associated Press Writer=

WASHINGTON (AP) - Exxon Corp. isn't getting off lightly in paying a \$1 billion settlement over the 1989 Exxon Valdez oil spill. But it is getting a chance to begin closing the books on a costly public relations nightmare.

For its part, the Justice Department won a significant victory by persuading Exxon to plead guilty to criminal charges while avoiding years of litigation and the inherent risk of losing.

"I don't think there are any losers here," said Warren M. Shimmerlik, a New York investor relations adviser for several oil companies, not including Exxon. "I think this is an issue that really needed to be put to rest."

Some environmentalists complained that the \$900 million Exxon agreed to pay Wednesday may not provide enough money to fully clean and restore plant and animal life in Alaska's Prince William Sound.

But, said Eric Jorgensen, an attorney for the Sierra Club Legal Defense Fund in Juneau, "There is a great benefit to settling. The money is in hand and it can be used now for the environment."

Exxon agreed to plead guilty to four misdemeanor charges and pay a record \$100 million criminal fine plus \$900 million to complete the cleanup - the largest amount ever paid for environmental damage.

The settlement amount is higher than the \$700 million figure that was being discussed last year when talks broke down.

In exchange for the misdemeanor pleas, the Justice Department agreed to dismiss two felony counts that charged Exxon with "willfully and knowingly" failing to make sure the Exxon Valdez was manned by mentally and physically competent pilots.

Exxon Chairman L.G. Rawl told reporters his company had been ready to contest the case, but decided "a long and costly legal confrontation would benefit no one." The company already has spent \$2.5 billion to remove oil from the sound and its shores.

Rawl said Exxon could deduct the \$900 million cleanup payments from its income taxes, but not the fine.

The settlement could begin resolving much of Exxon's image problem related to the oil spill, said Simon Trimble, an international oil analyst for the Lehman Brothers brokerage firm in New York.

"In the short term it would seem that the Justice Department has won a very large settlement," Trimble said. "In the longer term Exxon may have won by removing the large part of the litigation that would have drawn public comment over a number of years."

"Exxon has been made to pay a full price for the damage that was done. That is a very positive point for the American public," which might have wound up paying more for the cleanup if a smaller company had created the spill, Trimble said.

By settling now, Exxon also saves "the drain on creative efforts in a corporation, which are the things that create profits," said Sheila Hollis, a Washington attorney and chairwoman of the American Bar Association's coordinating group on energy law.

And prosecuting the felony counts may have presented difficulties, said Assistant Attorney General Richard B. Stewart, head of the environment division.

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The government would have had to prove that Exxon Corp., as the parent of Exxon Shipping, was criminally liable for intentionally allowing the Valdez to sail with an incompetent crew. The issue of parent corporate liability has not been tested much in criminal cases, Stewart said.

Exxon still faces private civil suits from environmentalists and others who want Prince William Sound restored to its original state.

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The Washington Post

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3/15/91

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The Exxon Valdez Settlement

FISH ARE back in great numbers in Alaska's Prince William Sound, and last summer's catch was large. The sea otters appear to be flourishing again. It's been two years since the Exxon Valdez ran aground on a reef in the sound and lost a quarter of a million barrels of crude oil into the water. The damage has not been entirely repaired. There are, for example, carpets of tar buried under some of the beaches, and no one knows precisely what effect they will have on the ecology. But two years' experience with cleaning up the mess has given federal and Alaska state authorities a fairly clear idea of the size of the job that remains. That has enabled them to negotiate this week's settlement of damages with some assurance that the money will cover the decade of work ahead.

Exxon has spent more than \$2 billion on the cleanup so far. In this settlement it has committed itself to a further \$900 million in damages, to be spent by a committee of federal and state officials. At the end of that time, Exxon will be liable for another \$100 million if restoration requires work not now anticipated. In addition, the company has pleaded guilty to a series of criminal charges and will pay a fine of \$100 million, of which half will go to Alaska as restitution.

The alternative to this settlement was litigation.

The trial was scheduled to have begun next month. The state and federal governments were clearly right to have chosen negotiation instead. It means that both sides will save enormous legal costs—money that might better go into ecological protection. It means that there will be a dependable flow of funds for restoration, beginning immediately. If the question were left to a long quarrel in the courts, no one would know how much might eventually be paid, or when. The Amoco Cadiz spilled a much larger amount of oil into the Atlantic off the French coast in 1978, and damages from that wreck are only now beginning to be paid.

Many questions about the impact of the Valdez spill are still unanswered. State and federal authorities hope to establish a scientific institute in Prince William Sound that, in the course of answering them, will make itself a major contributor to marine research. The cleanup money will do more than scrub tar off rocks.

This settlement sets sound and healthy precedents for responsibility in a kind of disaster in which, until recently, there would have been little recognition of any damage to the public and little chance of compensation. Perhaps, in the political sense, it will also set a useful precedent for the current case—larger and legally much more complex—of the oil spill in the Persian Gulf.

The New York Times

 DATE: 3/15/91
 PAGE: B1

Exxon to Pay Up to \$15 Million for Spill

By ALLAN R. GOLD

The Exxon Corporation has agreed to spend \$10 million to \$15 million on environmental improvements to New York Harbor in an effort to avoid litigation stemming from a 567,000-gallon oil leak into the Arthur Kill 14 months ago, environmental groups and a government official said yesterday.

But the agreement, which is expected to be announced as early as next week, was immediately attacked by two environmental groups as inadequate, with a spokeswoman for one of the groups saying the deal "probably is not going to compensate for the damage that occurred."

Under the settlement, Exxon would spend \$5 million to buy environmentally sensitive land in the Staten Island area. It would also

pay for restoration of wetlands along the Arthur Kill, where the oil leaked, and reimburse government agencies for legal and administrative costs, said a government official familiar with the settlement who spoke on condition of anonymity.

The official said Exxon would also have to spend "quite a hunk of change" to improve its safety procedures for oil handling.

By reaching the agreement, the company would avoid costly litigation and possible criminal charges arising from investigations of the pipeline leak, which fouled the New Jersey and New York coastlines.

Yesterday, representatives of Exxon, the New Jersey Attorney General, the New York State Department of Environmental Conservation, and New York City's Department of Environmental Protection declined

to comment on details of the settlement.

Carol Ash, regional director of the New York State Department of Environmental Conservation, said there would be an announcement soon regarding the Exxon spill.

But Nina Sankovitch, a senior project attorney for the Natural Resources Defense Council, a nonprofit environmental group, assailed the settlement. She said it would not cover damage suffered by the harbor's recreational users or subsistence fishermen, nor reimburse business losses sustained when the Arthur Kill was closed to shipping traffic.

On Tuesday night, Exxon reached a \$1.1 billion settlement with the state of Alaska and the Federal Government for the Exxon

Valdez oil tanker spill of March 1989.

For months, Exxon has been in talks with Federal, state and local governments to settle litigation stemming from the New York Harbor spill. Exxon has been trying to avoid criminal indictments and settle civil suits by New York City and Elizabeth, N.J.

On Jan. 1, 1990, an underwater pipeline connecting Exxon plants in Linden, N.J., and Bayonne, N.J., leaked heating oil into the Arthur Kill, a narrow waterway separating New Jersey from Staten Island. Oil coated the marshy shorelines, killing nearly 700 birds. An oil sheen reached south toward Raritan Bay, north to Newark Bay and east along the Kill van Kull.

The spill drastically reduced breeding of the wading birds that have been making a dramatic comeback in the area, a study released yesterday by a non-profit environmental research center has found.

In the first study to be published on the spill's impact, the Manomet Bird Observatory of Massachusetts observed delayed nesting last spring, among snowy egrets and glossy ibises and much higher mortality rates for young birds. The higher-than-expected death rates could result in smaller future populations of snowy egrets or local extinction if breeding adults abandon the harbor, the study found.

Killifish Suffering

"It will take a long time to recover, to get back to where we were," Dr. Katharine C. Parsons, a biologist who conducted the Manomet study, said yesterday. Dr. Parsons has been compiling information about aquatic birds living in the Arthur Kill and Kill van Kull since 1985. The Exxon spill was about a third of the oil that leaked into the harbor from leaks, barge groundings and other sources in 1990, she said.

At a news conference yesterday in Manhattan, she said the study also found big reductions in the harbor's minnow-like killifish, an important food for wading birds and bigger fish. The result, she said, was that only 46 percent of the expected number of snowy egret chicks, for example, hatched.

New Jersey's Department of Environmental Protection directed Exxon to pay \$651,250 toward Manomet's study of bird population damage.

Study Encourages Exxon

Donald D. Esch, manager of government relations for Exxon at the Bayway Refinery in Linden, said the Manomet study contained "an awful lot more good news than bad news." He said the results were "not atypical" of company-sponsored findings, and noted that it found that wading birds increased 23 percent overall from 1989 to 1990, to a total of 1,156.

But Dr. Parsons said it was not clear

how many will return this year, although the wading birds have proved resilient. They return from the south between March 15 and April 1, the New York City Audubon Society said.

Scientists have been astounded by the return of herons, egrets and ibises to the heavily industrialized Arthur Kill and Kill van Kull since the 1970's.

Before improvements in sewage treatment were made in the early 1970's, aquatic animals requiring oxygen, like fish and crabs, could not survive there. Within a few years, wading birds began to colonize the area because their food had come back.

Today, herons and egrets in New York Harbor are 40 percent of all coastal wading birds in New Jersey. New York and Connecticut, the Manomet study said.

Spill deal OK'd

Claims settled
for \$1 billion

By DAVID POSTMAN 3.13.91
Daily News reporter

JUNEAU — Government criminal and civil claims against Exxon were settled early today in a deal that calls for the giant oil company to pay \$1 billion in installments stretching into the next century.

"Yes, we signed it and, yes, this is a very, very good thing for the people of the state of Alaska," Gov. Wally Hickel said from Washington, D.C., after he, federal officials and Exxon executives signed the agreement at a midnight meeting at the U.S. Justice Department.

Hickel would not discuss the settlement except to say, "It's the very best we could do after 60 days of intense negotiations. I'm happy with it."

The money would be used to pay for spill cleanup, restoration of the Sound, scientific studies and reimbursement of government spill costs. A hundred million dollars would be for a criminal penalty to be split between the state of Alaska and the federal government, according to a National Oceanic and Atmospheric Administration "fact sheet" on the settlement obtained by the Daily News. The rest of the money will be administered by a group of state and federal officials.

Even though it's signed, the deal is far from final. The agreement calls for a 30-day public comment period and, according to the NOAA document, "Each government has the right to withdraw its consent to the settlement agreement within 15 days after the close of the public comment period if the comments disclose facts indicating the agreement is not in the public interest."

During the past three months, the settlement has gone from nothing more than an idea of Hickel's, through weeks of intense negotiations, and into what

Please see Back Page, SPILL

SPILL SETTLEMENT: State, federal government, Exxon agree

Continued from Page A-1

government officials are calling the largest environmental damage settlement in history.

It was Hickel's personal diplomacy and public prodding that got the talks started. It was, according to state Attorney General Charlie Cole, Hickel's "personal knowledge of Prince William Sound" and "subjective sense about an acceptable settlement" that came up with an original settlement proposal of \$1.2 billion — not reliance on any of the myriad of scientific and economic studies being done on spill damage.

The \$100 million criminal fine against Exxon is much less than the federal government had said it expected to win in court.

When Exxon was indicted one year ago, U.S. Attorney General Richard Thornburgh said at a press conference that the government was throwing "the environmental book at Exxon" and that fines could reach more than \$600 million under a federal law that allows the government to collect twice the amount of money it spent on costs associated with the cleanup and claims paid by the defendants.

Environmentalists and attorneys representing clients with cases against Exxon criticized the settlement as too low.

"It seems like we're not going to have a big enough pot of money to do any realistic restoration so it will be interesting to see where the money winds up going to and whose projects get funded," said Riki Ott, a commercial fisherman and founder of the Oil Reform Alliance, which pushes for stronger oil spill laws.

"It sounds horrendously low to me," said Dave Oesting, a coordinating counsel for private plaintiffs suing Exxon.

But Oesting said that, without access to the scientific studies and economic damage models used to arrive at the \$1 billion figure, "which the state has assiduously refused to provide, one can only speculate."

"My perception is it was a just a dart

HOW THE EXXON-VALDEZ OIL SPILL SETTLEMENT WILL BE DISTRIBUTED

To be paid immediately: \$190 million

-  \$100 million criminal fine; \$50 million will be given to the state as restitution.
-  \$25 million to continue science programs.
-  \$15 million for restoration projects.
-  \$50 million to be paid to truckers and Coast Guard for past cleanup expenses.

FY 1992

-  \$150 million to be used to return Prince William Sound to its pre-spill condition.

FY 1993 and beyond

-  \$660 million to be paid over a period of years beginning in FY 1993

Total: \$1 billion

throw by Governor Hickel," Oesting said.

Eric Jorgenson, managing attorney for the Sierra Club Legal Defense Fund, agreed it's hard to judge the settlement without seeing the confidential studies, but said, "Obviously, Exxon did some very hard bargaining."

Rep. Cliff Davidson, D-Kodiak, said he thought settling with Exxon was "better than a pile of attorneys' bills" and that he was glad the public will have a chance to comment.

"But I'd like to know if all America will pay for this, because if it's all tax-deductible, where is the penalty?"

The settlement with its long payout also seemed low to John Loomis, an associate professor of environmental studies and agricultural economics at the University of California at Davis and an expert in assessing environmental damage.

"It's like an interest-free loan to Exxon," Loomis said.

The Exxon Valdez ran aground on Bligh Reef in Prince William Sound on March 24, 1989, shortly after its captain, Joseph Hazelwood, left the bridge to do paperwork in his cabin. The National Transportation Board has said Hazelwood was drunk at the time, but in court he was convicted only of negligent discharge of oil.

Wildlife by the tens of thousands were killed by the thick oil that gushed from the tanker into the Sound. Much of that oil seeped deeply into the rocky beaches of the once-pristine waterway where the state claims it remains today.

Under the settlement plan, Exxon would immediately deposit \$190 million into an interest-bearing account, according to a draft press release prepared by NOAA, one of the federal agencies involved in the settlement talks.

Of that first installment, \$100 million would be a criminal fine paid in exchange for the federal government's dropping its criminal charges against Exxon Corp. and its subsidiary, Exxon Shipping Co. The companies were indicted last year on five criminal counts from the spill.

Half the fine would go to the state as restitution for the nearly 11 million-gallon spill that coated hundreds of miles of shoreline in oil. The agreement also calls for \$25 million of the first year's payment to be spent on continuing scientific studies into the spill and \$15 million for restoration projects.

The remaining \$50 million of the first installment, according to the NOAA docu-

ment, would be used to reimburse the state and federal governments for past spill-related costs. That falls far short of the \$160 million that Cole has said the state and federal governments are owed. The two governments have also spent more than \$100 million on studies and legal fees.

Exxon would pay another settlement installment of \$150 million by October of this year to be used "in restitution efforts aimed at returning Prince William Sound to its pre-spill condition."

In fiscal year 1993, Exxon would begin paying off the remaining \$660 million. The NOAA fact sheet does not specify the exact payment schedule, but says it will take nine years.

The agreement includes a clause that would allow the governments to reopen the case after a 10-year restoration period if new damage is discovered. The additional claims could not exceed \$100 million.

The way was cleared for the settlement Tuesday afternoon when U.S. District Judge Stanley Sporkin lifted a temporary restraining order sought by Alaska Natives who contended that the federal government was settling their rights to recover damage to lands and wildlife which upon which they depend for subsistence.

Sporkin's ruling was hailed by the Natives as a victory because the judge's order precluded the settlement from jeopardizing any of their rights to compensation even if it meant that Exxon would have to pay twice for some damages — once in the settlement and again to the Natives.

In a stern warning to government attorneys, Sporkin said that if a settlement did wind up harming the villages' right to sue Exxon, "Hell hath no fury like a judge scorned. ... It's not fair, it's not right and it's not American."

☐ Daily News reporters George Frost and David Whitney contributed to this story.

2

It's a deal: \$1.1 billion

State, Exxon sign spill settlement

By JAY CROFT
and DAVID FUTCH 3/13/91

TIMES WRITERS

The state and federal government signed a \$1.1 billion oil spill settlement with Exxon officials at a secret midnight Tuesday meeting in Washington, D.C.

"The deal was signed tonight," Alaska Gov. Walter J. Hickel said early this morning from Washington.

Officials for all three parties gathered at the U.S. Justice Department at 11:30 p.m. EST. The deal was signed at "11:45-ish," Hickel said.

About 15 minutes later, Justice Department and Exxon attorneys signed a deal regarding the five criminal counts against Exxon, a source close to negotia-

tions said. That involved a \$100 million fine, sources said.

Details of the criminal case deal were to be announced at a news conference this morning at the Justice Department, officials said.

"This is a very good deal for the state of Alaska, the federal government and the environment of Prince William Sound," Hickel said today about 12:30 a.m. EST.

"I'm pleased with the results of the talks. Exxon should be commended. The federal government should be commended. And I know Charlie Cole should be commended."

Cole, Alaska's attorney general, has been in Washington negotiating a settlement off and on

See Exxon, page A9

Exxon

Continued from page A1

for weeks. He had said the settlement would be for about \$1.2 billion.

"The governor and I are both pleased with the results of the meeting tonight," Cole said this morning.

The final deal reportedly is for \$1 billion in settlement, with a clause to reopen suits for up to \$100 million on damage the spill caused that is not yet known, for a total of \$1.1 billion.

The state and federal government will evenly split the \$100 million fine, and the state will also get \$90 million up front, for a total of \$140 million immediately, officials said.

According to sources close to the settlement, the next payment will be \$150 million due at the beginning of the next fiscal year, Oct. 1. Then, the next payment will be \$100 million at the same time next year, with the remaining \$500 million to be paid out

over seven years.

Those details were confirmed by several high-level sources who did not want to be identified.

The money will be administered "under some kind of joint restoration fund" for Prince William Sound, said Hinkel deputy press secretary Eric Rehmann.

Hinkel wants to spend the money on restoration and a marine theme park in the Sound, heavily damaged when the Exxon Valdez dumped 11 million gallons of crude oil at Elkhorn Reef almost two years ago.

Trustees of the account will include representatives from the federal National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Departments of Interior and Agriculture, as well as the state Department of Fish and Game, the Department of Environmental Conservation and attorney general's office, sources said.

EPA will be the lead trustee, they said.

About 30 people, mostly lawyers, reportedly attended the closed meeting. They included

Hickel, Cole, Hinkel aides James Rockwell and Rehmann, and officials from Exxon, NOAA, EPA, Justice and Transportation Secretary Samuel Skinner.

Exxon Corp. chairman Lawrence Rawl was also there.

Hinkel said he and Rawl were congenial and cooperative. Hinkel said Rawl told him, "I didn't think it could be done."

The meeting was held so late to accommodate a deal Hinkel and Rawl made at the beginning of talks in January.

"The governor and chairman Rawl had made a deal that neither of them would do anything without the other," Rehmann said. Rawl was called Tuesday and flew in for the late-night meeting.

Earlier Tuesday, a U.S. District Court judge allowed a settlement to be signed by lifting a restraining order he placed last week. In its place, Judge Stanley Sporkin issued an order stating an agreement must provide that Alaska Natives can "prosecute fully the suits they have initiated against Exxon and Alyeska (Pipeline Co.) just as if no settle-

ment existed."

Three Native village corporations and five Native villages sued last week to prevent a deal from being signed. They said their rights to sue Exxon might be bargained away in the deal.

Sporkin told Justice Department attorneys that Exxon cannot escape meeting its obligations to the Natives. State and Exxon representatives were not at Sporkin's hearing.

"It is not a situation where anybody can get out cheap," Sporkin said. "If anybody believes that, they are making a terrible mistake."

Sporkin told the Justice Department to live up to its pledge not to infringe on Native rights.

"Hell hath no fury like a judge scorned," he warned.

Natives were happy. "The judge is very serious in his concerns and I'm pleased with his order," said Don Emmal of English Bay Corp.

However, Natives failed to win assurances they would be entitled to see government studies on how the spill affected lands they have chosen under a federal

lands act.

Details of the clause protecting Natives were not available Tuesday night.

"Obviously it was resolved to the acceptance of every party," Rehmann said.

Exxon earlier Tuesday reportedly balked at signing, unhappy with Sporkin's order.

Exxon defense attorneys and federal prosecutors talked via telephone with Anchorage federal judge Russel Holland, who was in Arizona, Natives attorney Sam Fortier said.

Holland was set to oversee the criminal case against Exxon next month in Anchorage. Exxon had been charged with five criminal counts.

Cole had said repeatedly throughout negotiations the criminal case was not related to the civil settlement talks.

Sporkin said in court Monday the federal government, though, was "resolving certain criminal claims" in conjunction with the civil settlement.

Hinkel and Cole were set to leave Washington today and arrive Thursday in Juneau, when

they were to address a joint session of the Legislature, Rehmann said.

Remors of an imminent settlement circulated throughout Juneau early Tuesday afternoon. Before knowing the deal was final, lawmakers reacted to word of a possible deal.

Rep. Max Gruenberg, D-Anchorage and chairman of a special committee to monitor spill talks, said legislation is in place that would give lawmakers power to approve or deny a settlement.

House Speaker Ben Grussendorf, D-Sitka, commended Hinkel for his hard work in pursuing a deal but stopped short of calling for legislative approval.

"If we feel that Alaskans out there who have potential litigation are accommodated and we're not dragged into court, it may be the settlement isn't so bad," Grussendorf said.

Times writers E. Michael Myers in Washington and Dirk Miller in Juneau contributed to this report.

SCOMM

77:70

SPECIAL COMMITTEES ON EXXON SETTLEMENT

SENATE

Eliason, Chairman 4916

Kerttula 3771

Jones 3743

Rodey 3793

Halford 4958

Cotten 3711

Pearce 4993

HOUSE

Gruenberg, Chairman 4968

Donley, Vice Chr. 3892

Davidson 3715

Navarre 3779

Kubina 4853

Hudson 3744

Ulmer 4947

Barnes 3438

Gail Phillips 2689

WORK ORDER REQUEST FORM

W.O. [17] LS-1053

KEYWORDS: COURTS ASSIGNED: Finley

LITIGATION

OIL/GAS

REQUEST FOR: Research/OP TAKEN BY: Barnes

SUBJECT: Exxon Settlement

REQUESTED FOR: SEN ELIASON BY: Sen. Eliason PHONE: 465-4916

DELIVER TO: Sen. Eliason, Cap 111

INSTRUCTIONS: Review the Exxon agreement to ascertain whether it is complete and appropriate from a legal and technical standpoint, and identify what matters are left open under the terms of the settlement.

OBTAIN	SPECIAL DRAFTING INSTRUCTIONS ATTACHED [] AUTHORIZED TO CONFER WITH _____ RETURN _____ _____ TO REQUESTOR APPROVED: <u>X</u> DIRECTOR, LEGAL SERVICES
REVIEWED _____ IN <u>03/19/91</u> DUE _____ TYPED: Draft _____ Date _____ Final _____ Date _____ PROOFED _____ DELIVERED _____	SPECIAL INSTRUCTIONS to TYPING/PROOFING _____ _____ Request for FINAL

ALASKA STATE LEGISLATURE SENATE

SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE
LABOR & COMMERCE COMMITTEE
RESOURCES COMMITTEE
RULES COMMITTEE
CHAIRMAN, SPECIAL COMMITTEE ON
DOMESTIC & INTERNATIONAL
COMMERCIAL FISHERIES



P.O. BOX 143
SITKA, ALASKA 99835

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

FAX (907) 465-4928

M E M O R A N D U M

TO: Tamara Cook, Director
Legal Services Division
Legislative Affairs Agency

FROM: Senator Dick Eliason, Chairman *Dick Eliason*
Senate Special Committee on the Exxon Valdez Oil Spill
Claims Settlement

DATE: March 18, 1991

RE: Exxon Settlement

The recently signed Agreement and Consent Decree between the federal government, the State of Alaska, and Exxon is now before the Legislature for approval or disapproval. The House and Senate have each formed special committees to review the agreement and to make recommendations to their respective bodies regarding the question of approval. I am chairing the Senate's special committee.

On behalf of the Senate special committee, I would like to make the following request of the Legal Services Division: Please review the Exxon Agreement to ascertain whether it is complete and appropriate from a legal and technical standpoint, and identify what matters are left open under the terms of the settlement to some discretionary action by the State of Alaska and therefore might be subject to influence or recommendation by the Legislature.

The special committees will be meeting separately and jointly during the next several weeks. We would appreciate your response as soon as possible so that the committees will be able to consider your comments along with the other evidence and testimony we will be hearing.

Thank you.

FIRST MEETING OF THE SENATE EXXON SETTLEMENT COMMITTEE

I. Approach to review of settlement

Legal and financial analysis of settlement

How to handle questions that arise?

Public Testimony

Who does committee want to hear from?

Specific people to invite for testimony?

Statewide teleconference for general public

How many, how long?

Joint with House committee?

Timeline for committee's work

Resolution establishing committee requires

recommendation back to full Senate by April 22

So have 4 and a half weeks, with Easter in middle

Set tentative meeting schedule at least for the next week plus any teleconferences

II. Legal overview

Call attention to memos in folders

Overview by Pam Findley (Assistant Revisor) and
Tam Cook (Director) of Legislative Legal Services.

Ask Doug Bailey about Rike Steiner's comments re: Exxon's willingness to pay \$550M plea bargain 1yr. ago (He met w/ Frank Jorrosi - their prob. was that they wanted it for restoration not all as a fine - no tort write-off)

Draft bill to require that Trustees only meet in public

Senate Teleconference Testimony:

Asst. Prof. of Ecology - can't we divide data into what has to be kept secret for lawsuits & release the rest so good science can go on?
Is there \$ for long-term monitoring & research?

Joe Sonneman is a "public interest litigant regarding dedicated funds." - related to the spill settlement??

Rike Steiner - w/ Sea Grant (on sabbatical)

Had asked for 2 b. up front - as endowment
Should approve settlement, release the data,

hold state ^{resources} ~~trustee~~ fees to the five, spend \$ on equivalent ^{resources} habitat, etc., not on more clean-up (use 470 fund ~~for~~ clean-up).

\$50 M penalty should be appropriated immediately:

Buy Fish Bay right away, Kachemak Bay state park, area around Kitoi Hatchery, etc

Give legal direction to Trustees -

use most of \$ for acquisition of equiv. resources

Citizen's
Community
Emergency Response Committees

Possible bills:

- • Trustees must meet in public, not private
- • Leg. must confirm or OK the Gov's appointments to the Trustees
- • Appropriation the \$ to avoid const. problem
- • Trustees must bring their spending plans before the leg. for approval before they sign off on them.

Check out what **DEC** has said recently
re: not pursuing more clean-up or whatever

Oil-spill answers raising questions

NEW INFO: New questions

Settlement's OK still appears likely

By CHARLES WOHLFORTH
Daily News reporter

New information about the damage and cause of the Exxon Valdez oil spill released Monday and Tuesday created more questions about the pending \$1 billion settlement of state and federal lawsuits against Exxon, and more doubt about whether it will be approved.

Some legislators who will vote on the settlement said they have new questions and doubts, but they still predicted the legislature will approve it.

Tuesday, Rep. George Miller, D-Calif., said in a letter to the judges considering the settlement that Alyeska Pipeline Service Co. decided a year before the 1989 Exxon disaster not to prepare for a spill of its kind. That is relevant to the settlement because the agreement drops most state and federal claims against Alyeska with no compensation from the company.

And Monday, the federal government released a summary of oil-spill studies by federal and state scientists that showed the oil caused

worse and longer-lasting damage than had been publicly acknowledged. Alaska Attorney General Charlie Cole had resisted releasing the information because he said it could hurt the state in court.

Legislators were not surprised by the new scientific information as were environmentalists and other outside experts, probably because lawmakers had confidential briefing on the subject a couple of months ago. But the public release did influence some legislators.

"I imagine there are some people out there who are going to be asking some questions now about if the settlement is a good deal for the state," said Rep. Gene Kubina, D-Valdez, who has said it is not. "I predicted before that the settlement would pass. Now, it's up in the air. More people are asking questions, for sure."

Rep. Mike Navarre, D-Kenai, said he still expects the settlement to be approved, although he hasn't decided

Please see Page B-2, NEW INFO

Continued from Page B-1

how he will vote. He said the legislature must first have the state's economic data on the damage of the spill, which have not been released. He expects to get the information in a confidential session. "We have to," he said. "If we can't ... it would make it more suspect."



The state resisted the release of the information, but the federal government did it anyway.

Lloyd Miller, an attorney for Alaska Natives in the spill cases, said the private litigants would have gotten the data anyway in the trial discovery process. But he said the information would "make a lot of difference in the settlement approval" by federal judges.

The judges — Russel Holland and Stanley Sporkin — have authority to allow or reject the settlement. For either to turn it down would be unusual, but Lloyd Miller said it could happen.

"The whole thing is unprecedented, so I think Judge Holland and Judge Sporkin are operating in new territory, and it's quite dangerous to predict what they might do," Miller said.

Holland asked for public comment before making his decision on the Exxon criminal plea bargain, and the federal government is collecting comments on the civil settlement. After the new information was released, some of the comments were bound to be negative.

"The Sound is not healthy," said Miller, the Natives' attorney. "Our clients have been saying that for months and months and months and no one has been listening and no one has been believing it."

Deb Donahoe, an attorney for the National Wildlife Federation, said her organization at first supported the settlement, but now is strongly against it and plans to tell the judges so.

"Up until now, no data has been available to judge it. Our initial impression was that it was as good as we could get, but now the closer we get to it the more flaws we see," Donahoe said.

Greenberg said it is too soon to judge the political impact of the new information, but said he was "quite concerned" about Miller's allegations against Alyeska, because the settlement drops most of the Alyeska case.

Greenberg, an attorney, said release of the scientific information will help private parties in their suits against Exxon, Alyeska and the state, but he said it also may help the state by acting as advertising for the rest of its data — private litigants may now be more willing to settle their suits against the state in return for the details of the studies.

Michael Dean, a spill study director the Alaska Department of Fish and Game, said the state has more information to release, but probably not much that would be of interest to the general public.

"Specific details of the state's were not released," he said, but added, "the overall gist is there."

Sam suggests that to avoid prob. of continuing approps (dedicated funds) we could determine present day value of settlement & have Exxon pay that amount this year, make leg. approps of it to Trust Fund

- #10. No further fees agnst Exxon
Have been spending \$1 million/mo. to pursue litigation agnst Exxon.
w/o settlement state will pay approx \$12-15 million annually for next 5-6 yrs. (maybe longer) State could spend \$75-100 million total in litigation costs
To defend agnst recently filed 17 lawsuits

He will provide ^{details} later:

Figures on the \$72 million

Net unreimbursed restoration \$35

Unreimbursed assessment 17.5

" litigation + 20

72.5

He admits to reducing it slightly
at end of negotiations

Currently working on RSA
w/Exxon for clean-up.
How does the settlement change
that arrangement? Better or worse?

Could legisl. set up statute to
establish procedures for appointment
of trustees?

Questions yet to ask:
What does AG see as
pros & cons of this settlement?

4-6-91

Senate Exxon
Comm.

Statewide Teleconf.

CORRECTION

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

4-6-91

Senate Exxon
Comm.

Statewide Teleconf.

Transcript of
Grunberg's question
and AG's response
re: his willingness to
take leg.'s suggestions
back to Exxon & feds.

Ms. Hessi -Whitner
Oil Spill Response Office

Settlement is unacceptable
 at their regional level
 even if fine for
 "the State."

LEGISLATIVE TELECONFERENCE NETWORK



SIGN-IN SHEET

SPONSOR: Senate ~~Finance~~ Special Comm on Exxon Settlement
 SUBJECT: Exxon Valdez Settlement
 START/END TIME: 10:00a-4:00p DATE: 4-6-91

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	Chip Thomas / Self	#2 Marine Way Juneau	—	✓		✓
2	Joe SONNEMAN / SELF	324 W. CAUGHEY, JUNEAU	463-2624	✓		✓
3	David Vandenberg	Box 22151 Juneau 99802	463-3366	✓		✓
4						
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FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

MAR 27 1990

UNITED STATES OF AMERICA,

Plaintiff

v.

EXXON CORPORATION

and

EXXON SHIPPING COMPANY,

Defendants

SUPERSEDING
INDICTMENT

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By [Signature] Deputy

Criminal No. A 90-015

Count I: Clean Water Act
Vio. 33 U.S.C. §§ 1311(a),
1319(c)(1)

Count II: Refuse Act
Vio. 33 U.S.C. §§ 407, 411

Count III: Migratory Bird
Treaty Act

Vio. 16 U.S.C. §§ 703,
707(a)

Count IV: Ports and Waterways
Safety Act

Vio. 33 U.S.C. § 1232(b)(1)

Count V: Dangerous Cargo Act
Vio. 46 U.S.C. § 3718(b)

COUNT ONE

The grand jury charges that:

1. Defendant EXXON CORPORATION is a corporation incorporated under the laws of the State of New Jersey.
2. Defendant EXXON SHIPPING COMPANY is a corporation incorporated under the laws of the State of Delaware. At all times pertinent to this indictment, EXXON CORPORATION was the sole shareholder of EXXON SHIPPING COMPANY, and EXXON SHIPPING COMPANY had a single director who reported to Exxon USA, a division of EXXON CORPORATION.
3. EXXON SHIPPING COMPANY was incorporated in 1973.

Superseding
INDICTMENT

In 1982, EXXON SHIPPING COMPANY took over the functions of the Marine Department of Exxon USA, the primary purpose of which was to transport petroleum products for Exxon USA. EXXON CORPORATION or its affiliates were the source of all of EXXON SHIPPING COMPANY's initial assets and personnel, and EXXON CORPORATION continued to be the primary source of capital for EXXON SHIPPING COMPANY at all times pertinent to this indictment.

4. At all times pertinent to this indictment, EXXON SHIPPING COMPANY operated oil tankers for the benefit of EXXON CORPORATION; one such tanker was the Exxon Valdez. EXXON CORPORATION guaranteed the debt issued by EXXON SHIPPING COMPANY to build the Exxon Valdez.

5. At all times pertinent to this indictment, EXXON SHIPPING COMPANY's headquarters were in Houston, Texas, in the same building that housed the headquarters of Exxon Company USA. EXXON CORPORATION provided all of the computer, medical, accounting, administrative, and legal services used by EXXON SHIPPING COMPANY. EXXON CORPORATION set policies for EXXON SHIPPING COMPANY regarding capital expenditures, personnel, employee compensation, alcohol abuse, and contracting.

6. At all times pertinent to this indictment, the president of EXXON SHIPPING COMPANY reported to a vice-president of Exxon Company USA. All major investments by EXXON SHIPPING COMPANY were subject to the approval of EXXON CORPORATION.

7. At all times pertinent to this indictment, EXXON SHIPPING COMPANY was acting for the benefit of EXXON CORPORATION, and within the scope of authority granted it by EXXON

CORPORATION.

8. At all times pertinent to this indictment, EXXON SHIPPING COMPANY employed "able seamen" and officers aboard the Exxon Valdez who were responsible for the operation, direction, and control of the Exxon Valdez.

9. On March 23, 1989, at approximately 9:20 p.m., the Exxon Valdez departed from the Port of Valdez, Alaska carrying 53 million gallons of crude oil owned by EXXON CORPORATION, bound for an EXXON CORPORATION facility in Long Beach, California.

10. On March 23, 1989, shortly before midnight, the Exxon Valdez deviated from the designated shipping lanes in Prince William Sound. These lanes are used by ships entering or leaving the Port of Valdez, Alaska, and establish a route for the passage of ships.

11. After the Exxon Valdez deviated from the designated shipping lanes, the master left the ship's bridge. The ship then proceeded under the direction of an officer who lacked the required Coast Guard certification for pilotage in Prince William Sound, and a ^{Kagen} helmsman who was known by EXXON SHIPPING COMPANY to be incompetent at performing his assigned duties.

12. On March 24, 1989, shortly after midnight, the Exxon Valdez ran aground on Bligh Reef, a well-known and well-marked navigational hazard, and discharged more than ten million gallons of crude oil into Prince William Sound.

13. From March 24, 1989 through November 9, 1989, crude oil that discharged from the Exxon Valdez migrated more

than 700 miles from Bligh Reef, contaminating the waters and shorelines of Prince William Sound, the Gulf of Alaska, Kenai Fjords National Park, the Katmai National Park and Preserve, the Aniakchak National Monument and Preserve, the Alaska Peninsula National Wildlife Refuge, the Alaska Maritime National Wildlife Refuge, the Becharof National Wildlife Refuge, the Kodiak National Wildlife Refuge, the lower Kenai Peninsula, the Barren Islands, Kodiak Island, Shelikof Strait, and other parts of the Alaska Peninsula, causing the death of more than 36,000 migratory birds, including more than 100 bald eagles, and numerous other varieties of wildlife.

14. On March 24, 1989, in the District of Alaska, and elsewhere, defendants EXXON CORPORATION and EXXON SHIPPING COMPANY did negligently cause pollutants, namely more than ten million gallons of crude oil, to be discharged from a point source, namely the tank vessel Exxon Valdez, into Prince William Sound, a navigable water of the United States, without a permit, all of which is in violation of and contrary to Title 33, United States Code, Sections 1311(a) and 1319(c)(1).

COUNT TWO

The grand jury further charges:

1. Paragraphs one through thirteen of Count I are realleged as if set forth in full herein.

2. On March 24, 1989, in the District of Alaska and elsewhere, defendants EXXON CORPORATION and EXXON SHIPPING COMPANY unlawfully did throw, discharge and deposit, and did cause, suffer and procure to be thrown, discharged and deposited, refuse matter, namely more than ten million gallons of crude oil, from a ship, namely the Exxon Valdez, into Prince William Sound, a navigable water of the United States, without a permit, all in violation of and contrary to Title 33, United States Code, Sections 407 and 411.

COUNT THREE

The grand jury further charges:

1. Paragraphs one through thirteen of Count I are realleged as if set forth in full herein.

2. From on or about March 24, 1989 to on or about September 25, 1989, in the District of Alaska and elsewhere, the defendants EXXON CORPORATION and EXXON SHIPPING COMPANY, without being permitted to do so as required by law, did kill migratory birds, all in violation of and contrary to Title 16, United States Code, Sections 703 and 707(a) and Title 50, Code of Federal Regulations, Section 21.11.

COUNT FOUR

The grand jury further charges:

1. Paragraphs one through thirteen of Count I are realleged as if set forth in full herein.

2. On March 23 and March 24, 1989, in the District of Alaska and elsewhere, defendants EXXON CORPORATION and EXXON SHIPPING COMPANY did willfully and knowingly violate a regulation prescribed under Title 33, United States Code, Chapter 25, in that defendants, being the owners of the tank vessel Exxon Valdez, and the master of the Exxon Valdez, acting as the agent of the defendants, did willfully and knowingly fail to ensure that the wheelhouse of the Exxon Valdez, while underway, was constantly manned by persons who directed and controlled the movement of the vessel, each of whom was competent to perform that duty, all in violation of and contrary to Title 33, United States Code, Section 1232(b)(1), and Title 33, Code of Federal Regulations, Section 164.11(b).

COUNT FIVE

The grand jury further charges:

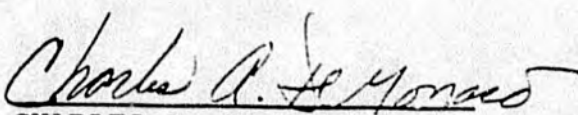
1. Paragraphs one through thirteen of Count I are realleged as if set forth in full herein.

2. On March 23 and March 24, 1989, in the District of Alaska and elsewhere, defendants EXXON CORPORATION and EXXON SHIPPING COMPANY did willfully and knowingly violate a regulation prescribed under Title 46, United States Code, Chapter 37, in that defendants did employ and cause persons to be engaged on the crew of the tank vessel Exxon Valdez, knowing such persons to be physically and mentally incapable of performing the duties assigned them, all in violation of Title 46, United States Code, Section 3718(b), and Title 46, Code of Federal Regulations, Section 35.05-20.

A true bill,


Foreperson


MARK R. DAVIS
Acting United States Attorney


CHARLES A. De MONACO
Assistant Chief
Environmental Crimes Section
U.S. Department of Justice

Budget Summary for the Exxon Valdez Oil Spill Damage Assessment - 1991

Budgeted costs for projects from 3-1-91 through 2-29-92.

STUDY NO.	STUDY TITLE	LEAD AGENCY	BUDGET
Marine Mammals			
2	Killer Whale	NOAA	\$186,000
4	Sea Lion	ADF&G	24,000*
5	Harbor Seal	ADF&G	94,200
6	Sea Otter Injury	DOI	810,800
	subtotal		\$1,115,000
Terrestrial Mammals			
3	River Otter & Mink	ADF&G	\$377,300
4	Brown Bear	ADF&G	76,000
6	Mink Reproduction	ADF&G	8,500*
	subtotal		\$461,800
Birds			
1	Beached Bird Survey	DOI	\$313,000
2	Census/Seasonal Distribution	DOI	220,000
3	Seabird Colony Surveys	DOI	530,000
4	Bald Eagles	DOI	255,000
11	Sea Ducks	DOI	178,900
	subtotal		\$1,496,900

Budget Summary for the Exxon Valdez Oil Spill Damage Assessment - 1991
(continued)

Budgeted costs for projects from 3-1-91 through 2-29-92.

STUDY NO.	STUDY TITLE	LEAD AGENCY	BUDGET
Fish/Shellfish			
1	Salmon Spawning Area Injury	ADF&G	\$288,000
2	Eggs/Pre-emergent Fry Sampling	ADF&G	259,000
3	Coded-wire Tagging	ADF&G	1,075,000
4	Early Marine Salmon Injury	ADF&G NOAA	136,400 172,000
5	Dolly Varden Injury	ADF&G	325,100
7	Salmon Spawning Area Injury, Outside PWS	ADF&G	15,000*
8	Egg & Pre-emergent Fry Sampling, Outside PWS	ADF&G	15,000*
11	Herring Injury	ADF&G	558,000
13	Clam Injury	ADF&G	147,000
15	Injury to Shrimp	ADF&G	moved to Subtidal
17	Injury to Rockfish	ADF&G	moved to Subtidal
18	Trawl Assessment	NOAA	40,000*
24	Injury to Demersal Fish	NOAA	moved to Subtidal
27	Sockeye Salmon Overescapement	ADF&G	334,300
28	Run Reconstruction	ADF&G	175,100
30	Database Management	ADF&G	175,800
		subtotal	\$3,715,700

Budget Summary for the Exxon Valdez Oil Spill Damage Assessment - 1991
(continued)

Budgeted costs for projects from 3-1-91 through 2-29-92.

STUDY NO.	STUDY TITLE	LEAD AGENCY	BUDGET
Technical Services			
1	Hydrocarbon Analysis	DOI NOAA	\$550,000 2,000,000
3	Mapping	DOI ADNR	300,000 656,300
		subtotal	\$3,506,300
Archaeology			
1	Archaeological	ADNR USFS	\$688,600 103,000
		subtotal	\$791,600
	SUBTOTAL FOR SCIENCE PROJECTS		\$18,238,800
Peer Reviewers/Chief Scientist			
	Department of Agriculture		\$772,000
	Department of Interior		772,000
	National Oceanic and Atmospheric Administration		772,000
	SUBTOTAL FOR PEER REVIEWERS/CHIEF SCIENTIST		\$2,316,000
Economics			
1	Commercial Fisheries Losses	FEDERAL	\$265,500
5	Recreation Uses Damage	FEDERAL	390,400
6	Subsistence Losses	FEDERAL	532,100
7	Intrinsic Value Loss	FEDERAL	1,964,600
8	Research Program Damage	FEDERAL	104,900
10	Petroleum Products Price	FEDERAL	271,300
	SUBTOTAL FOR ECONOMICS		\$3,528,800
Restoration Planning			
	State of Alaska		\$2,968,000
	Environmental Protection Agency		1,267,000
	Department of Interior		300,000
	Department of Agriculture		525,000
	National Oceanic & Atmospheric Administration		425,000
	SUBTOTAL FOR RESTORATION		\$5,485,000**

Budget Summary for the Exxon Valdez Oil Spill Damage Assessment - 1991
(continued)
Budgeted costs for projects from 3-1-91 through 2-29-92.

STUDY NO.	STUDY TITLE	LEAD AGENCY	BUDGET
Coastal Habitat			
1A	Intertidal Studies	USFS	\$5,100,000
1B	Intertidal Studies	NOAA	68,000
		subtotal	\$5,168,000
Air/Water			
2a	Injury to Subtidal	DEC NOAA	moved to Subtidal moved to Subtidal
2b	Deep Water Benthos	ADF&G	moved to Subtidal
3	Hydrocarbon in Water	DEC NOAA	moved to Subtidal moved to Subtidal
6	Oil Fate and Toxicity	NOAA	moved to Subtidal
Subtidal			
1	Hydrocarbon Exposure, Microbial and Meiofaunal Community Effects (A/W 2a)	DEC NOAA	\$139,800 295,000
2	Injury to Benthic Communities:	ADF&G	592,500
3	Bio-availability and transport of hydrocarbons (A/W 3)	DEC NOAA	196,200 150,000
4	Sediment Toxicity Bioassays (A/W 6)	NOAA	125,000
5	Injury to Shrimp (F/S 15)	ADF&G	50,000
6	Injury to Rockfish (F/S 17)	ADF&G	120,000
7	Injury to Demersal Fish (F/S 24)	ADF&G NOAA	80,000 235,000
		subtotal	\$1,983,500

Summary for the Exxon Valdez Oil Spill Damage Assessment - 1991
(continued)
Budgeted costs for projects from 3-1-91 through 2-29-92.

STUDY NO.	STUDY TITLE	LEAD AGENCY	BUDGET
	Oil Spill Public Information Support		
	Department of Agriculture		\$614,000
	Department of Interior		1,739,000
	National Oceanic and Atmospheric Administration		599,000
	SUBTOTAL FOR OIL SPILL PUBLIC INFORMATION SUPPORT		\$2,952,000
	Overhead		
	State of Alaska		\$1,037,200
	Department of Agriculture		600,000
	Department of Interior		300,000
	National Oceanic and Atmospheric Administration		900,000
	Environmental Protection Agency		200,000
	SUBTOTAL FOR OVERHEAD		\$3,037,200
	GRAND TOTAL		\$35,557,800

* These studies are being funded for the completion of data analysis and final report preparation.

** Restoration implementation projects may be conducted this summer depending on resource availability. (See FR 88, 98, March 1, 1991.)

BUDGET SUMMARY FOR THE EXXON VALDEZ OIL SPILL BY AGENCY

State of Alaska	\$10,612,300
Department of Agriculture	7,714,000
Department of Interior	6,268,700
National Oceanic and Atmospheric Administration	5,967,000
Environmental Protection Agency	1,467,000
All Federal Agencies (Economics)	3,528,800

GRAND TOTAL

\$35,557,800

PART V: RESTORATION PLANNING

RESTORATION PLANNING

OBJECTIVES

The goal of the restoration planning effort is to identify appropriate measures that can be taken to restore natural resources injured by the EVOS. Specific objectives are:

- A. Identify or develop technically feasible restoration options for natural resources and services potentially injured by the EVOS;
- B. Determine the nature and pace of natural recovery of injured resources, and identify where direct restoration measures may be appropriate;
- C. Incorporate an approach to restoration that where appropriate, focuses on recovery of ecosystems rather than on the individual components of those systems;
- D. Identify costs associated with implementing restoration activities, in support of the overall natural resource damage assessment process; and
- E. Encourage, provide for, and be responsive to public participation and review during the restoration planning process.

DEFINITION

For any injury, there are three types of possible restoration activities:

1. direct restoration refers to measures in addition to response actions, usually taken on site, to directly rehabilitate an injured, lost, or destroyed resource;
2. replacement refers to substituting one resource for an injured, lost, or destroyed resource of the same or similar type; and
3. acquisition of equivalent resources means to compensate for an injury to a resource by substituting another resource that provides the same or substantially similar services as the resource injured, lost, or destroyed.

Determining the adequacy of natural recovery is fundamental to the choice of a restoration activity. In some cases the Trustees may determine that it is most appropriate to allow natural recovery to proceed without further intervention.

1990 RESTORATION ACTIVITIES

The Trustee agencies and EPA initiated several small-scale field studies to evaluate the feasibility of restoration techniques. Results from these studies will help to determine the costs and effectiveness of full-scale restoration projects. Several technical support studies were also initiated to provide information needed to evaluate or carry out some potential restoration activities. These studies were described in the 1990 State/Federal Natural Resources Damage Assessment and Restoration Plan for the Exxon Valdez Oil Spill, August 1990 (available at the OSPIC) and preliminary results are summarized below.

1990 RESTORATION FEASIBILITY STUDIES

1. Reestablishment of *Fucus* in Rocky Intertidal Ecosystems

Lead Agency: EPA

Early observations indicated that *Fucus*, a marine plant (rockweed) found on rocky shorelines in the intertidal zone throughout the oil spill area, was extensively damaged by both the spilled oil and cleanup efforts. If the natural recovery of *Fucus* could be significantly accelerated or enhanced, it would benefit the recovery of associated flora and fauna on intertidal rocky shores.

Specific objectives of this study were to identify the causes of variation in *Fucus* recovery at and near Herring Bay, Knight Island in PWS; to document the effects of alternative cleaning methods on *Fucus*; and to test the feasibility of enhancing the reestablishment of *Fucus*. Although results are preliminary it appears that *Fucus* recovers most slowly at intensively cleaned sites and almost no recovery occurs where tar cover persists.

2. Reestablishment of Critical Fauna in Rocky Intertidal Ecosystems

Lead Agency: USFS

This feasibility study was designed to compare the rates of faunal recovery in rocky intertidal communities, and to demonstrate the feasibility of restoration of these communities by enhancing recolonization rates for such key species as limpets and starfish. Recolonization rates for these organisms and for the rockweed, *Fucus*, may limit the natural rates of recovery for the entire community. Parameters examined included the presence or absence of common intertidal species on impacted and reference sites, population dynamics of several species of invertebrates, larval settlement on oiled versus unoled surfaces, and differences in algal grazing by limpets between oiled and reference sites. One of the preliminary results indicates that heavy predation of several

species of transplanted invertebrates was probably due to the lack of cover usually provided by *Fucus*.

3. Identification of Potential Sites for Stabilization and Restoration with Beach Wildrye

Lead Agency: DNR

This study was designed to identify sites with injury to beach wildrye grass and to recommend restoration measures. Beach wildrye grass is important in the prevention of erosion in the coastal environment and is a key component of supratidal habitats in locations throughout the oil spill area. Erosion resulting from loss of beach wildrye can lead to the destabilization and degradation of wildlife habitats and of cultural and recreational sites. Results from survey work conducted in 1990 in PWS indicate injury to several beach wildrye communities.

4. Identification of Upland Habitats Used by Wildlife Affected by the Oil Spill

Lead Agency: FWS, ADF&G

A diversity of birds, mammals, and other animals were killed by the spill or injured by contamination of prey and habitats. Many of these species are dependent on aquatic or intertidal habitats for activities such as feeding and resting, but many also use upland habitats. Protection of upland habitats from further degradation may reduce the effects of the oil on injured fish and wildlife populations, and thereby speed their recovery. This study focused specifically on marbled murrelets and harlequin ducks, two species known to have been affected by the spill and known to use upland habitats.

Based on surveys of 140 streams, preliminary results of the harlequin duck study indicate that this species nests along larger-than-average anadromous fish streams, with moderate gradients and clear waters. Preliminary results on murrelets suggest that murrelets use north facing slopes, and inland areas at the heads of bays. Open bog meadows, especially at the heads of bays, appear to be used as flight corridors to upper wooded areas.

5. Land Status, Uses, and Management Plans in Relation to Natural Resources and Services

Lead Agency: DNR

The objective of this study is to locate, categorize, evaluate, and determine the availability of maps, management plans, and other resource documents relevant to restoration planning throughout the oil spill region. Resource materials identified will assist in planning for implementing site-specific restoration activities,

including direct restoration, replacement, and the acquisition of equivalent resources.

To date, a variety of documents, maps, and management plans have been identified and are being evaluated; other resource materials are being located. This preliminary project will be completed in Spring 1991. A second phase is under consideration.

1990 Technical Support Projects

1. Peer Reviewer Process for Restoration Feasibility Studies

Lead Agencies: ADF&G, DEC, DNR, DOI, DOA, NOAA, EPA

This project provided funds to ensure that scientists with expertise on natural resource restoration were available to provide peer review of restoration feasibility projects and other restoration planning studies and activities.

2. Assessment of Beach Segment Survey Data

Lead Agency: DNR

The objective of this project is to review and summarize beach survey information (obtained through oil spill response activities) to assist in planning for and implementing site-specific restoration activities, particularly in the area of direct restoration. This study was initiated late in 1990 and continues.

A master database is being created from that portion of the beach surveys relevant to restoration. The primary sources of this information are DNR and DEC. Data from local and regional governments as well as non-governmental sources will also be reviewed and integrated into the system as appropriate. This preliminary project will be completed in Spring 1991.

3. Development of Potential Feasibility Studies for 1991

Lead Agencies: ADF&G, EPA

This project provided for the orderly development of additional feasibility studies including: a) monitoring "natural" recoveries; b) pink salmon stock identification; c) herring stock identification/spawning site inventory; d) artificial reefs for fish and shellfish; e) alternative recreation sites and facilities; f) historic sites and artifacts; and g) availability of forage fish. Feasibility study proposals are currently under consideration including the above topics.

1991 RESTORATION PLANNING ACTIVITIES

The fundamental purpose of restoration planning is to identify, evaluate, and then recommend potential restoration implementation activities, in consultation with technical experts and the public.

The NRDA studies and other sources (e.g., Shoreline Assessment Program, and other agency surveys not connected with the oil spill) provide information on species, habitats, and ecosystems in need of restoration. In 1991, as damage assessment results are synthesized, the RPWG will consult with the principal investigators, agency experts, and outside peer reviewers to review the nature and extent of oil spill injuries in relation to the biology and ecology of the injured resources. A key goal in this process will be to identify life history requirements, limiting factors, and environmental processes that are especially sensitive or that may be enhanced. In turn, this will lead to the identification of potential restoration activities.

Once potential restoration implementation activities have been identified, they must be evaluated in terms of technical feasibility, environmental benefit, cost, and other factors. In 1991, the RPWG will continue to evaluate the restoration options identified thus far (e.g., those presented in RPWG's Restoration Planning Following the Exxon Valdez Oil Spill: August 1990 Progress Report), as well as new options that are suggested through public and technical consultations.

While some potential restoration implementation activities are readily evaluated, others require more detailed review and study. In some cases, the RPWG will recommend that restoration science studies (feasibility, monitoring, or technical support) be conducted to test the efficacy of particular options or to gather basic information necessary to evaluate or implement an option (e.g., biological or resource assessment data). Several such studies were carried out in 1990. Subject to additional technical review and availability of funds, some restoration science studies and implementation projects are being considered in 1991. If these studies or projects are carried forward they will be outlined in a Federal Register notice later this spring. Additional information on the Trustees' plan to implement restoration projects in 1991 was provided in the March 1, 1991, Federal Register, (56 FR 8898).

The RPWG also expects to further evaluate restoration approaches. For example, the RPWG will review different management systems for protecting marine habitats (e.g., National Marine Sanctuary Program, Alaska Marine Parks). Another example would be to carry out economic and environmental analyses of restoration alternatives.

as information about injuries becomes available, and as potential restoration actions are evaluated, further implementation activities may be recommended.

Literature Review

The scientific literature and information from other oil spills will provide background information that is helpful in restoration planning. In 1991, the RPWG expects to synthesize previously identified literature on restoration (see Appendix B, August 1990 Progress Report). The RPWG will also complete previously initiated syntheses of literature on species and ecosystem recoveries following natural and human-induced environmental disturbances.

Monitoring

Information on the adequacy of natural recovery is central to determining whether to implement restoration activities or to allow injured resources to recover on their own. The literature reviews described above will provide background information for such considerations, while damage assessment studies will provide current data on the status of resources injured by the EVOS. In 1991 the RPWG expects to recommend several monitoring studies to be carried out in the field in 1991 and to develop protocols for evaluating the effectiveness of any restoration projects that are implemented. The RPWG also will continue efforts to develop a comprehensive plan for long-term ecological monitoring that could be implemented in the oil spill environment following resolution of damage claims.

Public Participation

In 1990, the RPWG emphasized broad scoping activities to invite suggestions from the public about potential restoration activities and priorities. Public participation will continue to be important in 1991, with increased emphasis on evaluating and determining the importance of restoration alternatives. The RPWG is interested in, and available for, meetings with individuals or constituency groups. There also will be consideration of additional activities, such as publications and workshops in 1991. Requests and suggestions from the public are invited.

Scientific Review

Technical review is essential to the scientific integrity of the restoration planning process. As needed, the RPWG draws upon experts from academic institutions, public agencies, and private organizations (e.g., consulting firms, non-profit organizations) as sources of advice and criticism in planning feasibility and technical support studies, and in evaluating and recommending

restoration activities. In 1991, the RPWG will continue to place emphasis on scientific review, including participation by peer reviewers.

BIBLIOGRAPHY

Trustee Council. 1990. 1990 State/Federal Natural Resource Damage Assessment and Restoration Plan for the *Exxon Valdez* Oil Spill; August, 1990. 360pp plus appendices.

Restoration Planning Work Group. 1990. Restoration Planning Following the *Exxon Valdez* Oil Spill; August 1990 Progress Report. 80 pp.

BUDGET

The following restoration planning budget does not include the 1991 costs of any potential restoration implementation projects.

Salaries:	\$835.0
Travel:	250.0
Supplies:	20.0
Equipment/Office:	75.0
Contractual Services:	
Literature Review	125.0
Scientific Review	100.0
Public Participation	30.0
Restoration Options Analysis	200.0
Report Publications	25.0
Restoration Science Studies:	<u>3,875.0</u>
Total Planning Activities Budget:	\$5,485.0